

TITLE 404 COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH  
DEVELOPMENTAL DISABILITIES

CHAPTER 11 SPECIALIZED DEVELOPMENTAL DISABILITIES PROVIDER CONTRACTING

11-001 BILLING AND PAYMENT PROCEDURES: The Department determines and publishes billing and payment procedures for delivery of specialized community-based DD services. Providers are paid by rates set by the Department.

11-001.01 If the provider identifies an error by either the provider or the Department, the provider must submit a request for correction within 90 days after the end of the state fiscal year.

11-002 SUBCONTRACTS: Only agencies and programs certified by the Department may enter into subcontracts for specialized services.

11-002.01 Provider Responsibility Regarding Subcontracts: The provider must ensure that:

1. The services to be delivered through a subcontract are permitted under 404 NAC;
2. Policies and procedures include a section that addresses development, training, oversight, and service monitoring components for subcontracted services;
  - a. Subcontractors will have the same qualifications, staff training and service provision expectations as employees of the provider.
  - b. Service provision monitoring of the subcontractor's performance is completed on-site at a minimum of one time per month;
3. Copies of subcontracts are submitted to the Department prior to utilization of the subcontractor's services; and
4. Subcontracts are subject to the requirements of relevant statutes, regulations, and other policies and procedures of the Department.

11-002.01A The Department will consider noncompliance with state and federal statutes and regulations regarding services on the part of a subcontractor as noncompliance on the part of the provider.

11-002.02 Subcontractor Responsibility Regarding Subcontracts

11-002.02A The subcontractor has no independent, contractual relationship with the Department. The Department is not responsible for withholding.

11-002.02B The subcontractor does not serve as the legal guardian of the individual served. The subcontractor must not be an immediate family member of the individual served.

11-003 DATA COLLECTION AND REPORTING: Each specialized DD provider must maintain data, statistics, schedules, reports, and other information as required by 404 NAC and the contract.

11-003.01 Provision of Information: The provider must, upon request, submit data, statistics, schedules, reports, and other required information to the Department or other regulatory entities, whether federal, state, or local.

11-003.02 Payroll: The provider must maintain documentation of front line staff and supervisors payroll.

11-004 DEPARTMENT ACCESS: Each provider must allow access to records, must provide copies of documents upon request, and must allow access to the provider's operations for on-site review by the Department or other regulatory entities, whether federal, state, or local.

11-004.01 The Department will not authorize an alternative compliance procedure for 404 NAC 11-004 or any of its parts.

11-005 FISCAL ACCOUNTABILITY: Each provider must have fiscal and budgetary financial systems that provide accounting for funds administered by and disbursed from the Department. Fiscal accountability must be consistent with generally accepted principles and standards set by the American Institute of Certified Public Accountants (AICPA).

11-005.01 Accounting System: The accounting system must:

1. Produce a complete, annual financial report;
2. Permit ready accountability of all sources of funding from the respective funding source;
3. Effect proper control of salaries and wages;
4. Produce payroll vouchers or statements for salaries and wages which:
  - a. Are prepared at the end of each pay period;
  - b. Show the employee's:
    - (1) Name;
    - (2) Position number;
    - (3) Gross salary;
    - (4) Taxes; and
    - (5) All other deductions or contributions; and
  - c. Are approved by the appropriate authority of the provider;
5. Maintain itemized records of:
  - a. Personnel compensated in whole or in part with room and board;
  - b. Charges for benefits;

- c. Expenditures for technical assistance;
  - d. Cost of the operation of programs;
  - e. Rent;
  - f. Equipment leasing expenses; and
  - g. Maintenance costs for of facilities and services;
6. Maintain accounting records in sufficient detail to allow for the calculation of the cost of services provided.

11-005.02 Annual Audit: The provider must contract with a certified public accountant licensed to practice in the State of Nebraska for an annual independent audit of its financial operations. This audit must be conducted using generally accepted auditing standards set by the AICPA Government Auditing Standards (Yellow Book), single Audit Act, and Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations as applicable as determined by the provider and its auditor.

11-005.02A Audit Report: The audit report must be submitted to the Department within 180 days of the end of the provider's fiscal year. At a minimum, the audit report must include:

1. A review of receipts and disbursements;
2. A review of cash control procedures;
3. An audit of the provider's income statement, balance sheet, source and use of funds statement;
4. An accounting of lease agreements or mortgages;
5. A review of the cash balance on hand at the beginning and at the end of the fiscal year; and,
6. Any and all written communications received by the provider from an auditor related to the provider's internal control over financial reporting requirements and communication with those charged with governance, including those in compliance with or related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance*.

11-005.02B The provider must prepare and submit a plan to the Department to address audit exceptions

11-005.02C Exception: In lieu of the independent, detailed audit, a provider with a total annual operating budget of less than \$200,000 may submit a detailed financial statement providing a review of receipts and disbursements, including a statement explaining the source and use of funds, and a statement of fund balances. The format of the financial statement will be determined by the Department. An audit by the Department may be conducted to verify this statement. The provider must make available to the Department, upon request, financial records supporting the detailed financial statement.

11-005.02D Failure To Comply: The Department will arrange for an independent audit of the provider's operations if the provider fails to comply with this section. In that event, the provider must pay the cost of the audit.

11-005.03 The Department will not authorize an alternative compliance procedure for 404 NAC 11-005 or any of its parts.

11-006 COMPLIANCE AUDITS: All providers must permit the Department, the U.S. Department of Health and Human Services, and any other duly authorized agent or governmental agency to perform audits and/or inspections of its records.

11-006.01 The provider must retain financial records and the contract for a period of six years following the termination of a contract to assure compliance with its terms, and/or to evaluate the provider's performance.

11-006.02 Compliance audits may result in:

1. Continuation of the contract;
2. Reduction in or reimbursement of funds;
3. Probationary status;
4. Termination, in whole or in part, of a contract, or;
5. Any combination of the above.

11-006.03 The provider may be required to prepare and submit a plan to the Department to address audit findings.

11-007 REQUESTS FOR HEARING: The provider, by filing a petition in accordance with the Department's rules and regulations adopted and promulgated under the Administrative Procedure Act (APA) (Neb. Rev. Stat. §§ 84-901 to 84-920), may seek administrative review and adjudication of any decision, which directly affects the provider that has been rendered by the Department. A provider may appeal decisions related to the delivery of specialized services, decisions regarding state or federal funding levels, reporting or records, or the administration, interpretation, application, suspension, or termination for cause of the current contract. The provider may also appeal the Department's application of the Developmental Disability Services Act and Title 404 as it applies to the provider's contract.