To: Nebraska Division of Developmental Disabilities
From: Kierstin Reed, Chief Executive Officer LeadingAge Nebraska
Re: Public Comment on Proposed Changes to the Aged and Disabled (AD) Waiver and Traumatic Brain Injury (TBI) Waiver
Date: January 2, 2026

LeadingAge Nebraska is a nonprofit association representing approximately eighty aging services providers across the state, including nursing homes, assisted living communities, and Home and Community-Based Services (HCBS) providers serving individuals through Nebraska's Medicaid waiver programs.

We appreciate the opportunity to comment on the proposed changes to the AD and TBI Waivers (Draft NE.018.08.00). While we understand the need to modernize waiver language and align services with current practices, several proposed changes will **reduce access to care, destabilize families, and increase Medicaid costs** by shifting individuals into more expensive institutional settings.

Terminology Updates – Appendix B-5 (Evaluation/Reevaluation of Level of Care):
The change from "assisted living" to "supported residential living" is understandable. However, the waiver must clearly state that supported residential living **may only be provided in a licensed Assisted Living facility**. While Title 175 is referenced throughout the waiver, the limitation of this service to a licensed setting is not explicit and creates risk of misinterpretation in service authorization and delivery.

Individual Cost Limit (Appendix B-2: Individual Cost Limit):

The waiver proposes a hard cap at **175% of the Institutional Cost Limit ($161,766)** and requires service reductions or referrals to institutional care when needs exceed this amount.

Although DHHS has stated that approximately 95% of participants fall below this threshold, **no analysis has been provided regarding participants who exceed the cap** or the impact of this change on those individuals.

For participants with needs above 175%, this policy will **increase Medicaid spending**, not reduce it. These individuals typically have significant medical complexity and:

- Do not qualify for assisted living
- Require nursing facility placement
- Often cost **more in institutional settings** than they do under current waiver services

This cap replaces individualized, cost-effective decision-making with an arbitrary limit that will push a small number of high-need participants into **more expensive care settings**.

Requested Alternatives (Appendix B-2):

1. Set the limit at the **highest level currently utilized**.
2. Apply the 175% cap **prospectively to new applicants only**.
3. Allow for **individual exceptions** for high-need participants where home-based care remains the most cost-effective option.

Limits on Personal Care and LRI Personal Care (Appendix C: Participant Services):

The waiver proposes new combined limits:

- **40 hours/week** for live-in caregivers
- **70 hours/week** for non-live-in caregivers

Currently, LRI Personal Care allows up to **112 hours per week** for live-in caregivers. This proposal represents a **64% reduction** in caregiving support for families providing intensive, daily care. This change alone will increase the number of participants requiring a higher level of care because it devalues the services being provided by in-home caregivers and will prevent them from being able to continue this valuable service.

DHHS has acknowledged there is **no way to identify how many participants will be affected**, yet this change will have immediate and predictable consequences:

- Families will be unable to maintain care at home
- Caregivers will be forced into outside employment
- Participants will move into nursing facilities due to lack of support

LRI Personal Care is among the **most cost-effective services in the waiver**. Reducing access will not eliminate need—it will **shift costs to higher-priced institutional care**.

Requested Alternatives (Appendix C):

1. Maintain the current **112-hour weekly maximum** for Personal Care and LRI Personal Care.
2. Require **targeted review** when use exceeds **84 hours/week (75%) for three consecutive months**.
3. Allow families to provide Personal Care hours in place of Companion services, which are often less useful and more expensive when delivered by agencies.

Natural Supports Are Not a Viable Substitute:

(Appendix C – Service Definitions; Appendix D – Person-Centered Planning)

The waiver emphasizes reliance on "natural supports," and public statements have suggested families should rely on **other family members, churches, and neighbors**.

This is **not a viable or realistic policy expectation**.

Natural supports are **intermittent and voluntary**—such as help with errands or occasional meals. They are not a substitute for:

- Daily assistance with bathing, toileting, eating, and dressing
- Constant supervision and redirection for safety
- Management of complex medical needs

Churches, neighbors, and extended family **cannot provide scheduled, daily, hands-on care**, nor can they replace the consistency required for individuals with significant disabilities. Expecting this level of support ignores:

- Workforce shortages already affecting HCBS providers
- Caregiver burnout and family financial instability
- The reality that many families have already exhausted informal support networks

Ongoing caregiving for individuals who are totally dependent is **not natural support**. It is skilled, continuous labor that fills a systemic gap in the service delivery system.

System-Wide Impact:

Workforce (Appendix C):
Nebraska does not have the workforce capacity to absorb the loss of paid family caregiving. Reducing these services removes care from the system—it does not replace it.

Placement Availability (Appendix B & C):
Medicaid nursing facility placements are increasingly difficult to secure due to closures and inadequate reimbursement. Many affected participants—especially those with complex medical needs or pediatric populations—will have **few or no placement options** in Nebraska.

Shifting Costs (Appendix B &C):
These changes shift costs, increase institutional reliance, and reduce access—without addressing underlying system constraints. Our nursing homes in Nebraska are closing at an alarming rate due to the inadequate reimbursement rates. Many of them also need to limit their capacity due to workforce shortages.

LeadingAge Nebraska urges DHHS to reconsider the proposed cost caps and service limits in the AD and TBI Waivers. These changes undermine family stability, increase institutional placements, and raise overall Medicaid costs—while relying on supports that do not exist at the scale required.

We support thoughtful modernization of the waiver. However, rigid caps and reduced caregiving hours are not aligned with Nebraska's workforce realities, provider capacity, or the stated goal of supporting individuals in their homes and communities.

We respectfully request DHHS modify these proposals to preserve flexibility, recognize the true role of family caregivers, and maintain access to cost-effective home-based care.