# NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
# GUIDANCE DOCUMENT

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**Department of Health and Human Services**
# Division of Developmental Disabilities
# Incident Follow-up Guide
5/1/2022

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# Introduction

The instructions in this guide are intended for providers of Medicaid Home And Community-Based Services (HCBS) Developmental Disabilities (DD) Waiver services. This guide outlines current requirements for follow-up on reportable incidents: when follow-up must be completed, timelines for completing follow-up, what follow-up must include, and how follow-up is documented and submitted to the Department of Health and Human Services Division of Developmental Disabilities (DDD). Requirements are not changing with this guide, but rather this guide is intended to better support providers in completing their follow-up of reportable incidents.

Follow-up includes an initial review and, depending on the nature of the incident and the initial review, may include a more thorough full investigation. The purpose of incident follow-up is to assess whether supports and services were being provided as required immediately before, during, and after the incident, and to determine whether any further action should be taken to ensure the safety of the participant and others or reduce the frequency and severity of reportable incidents over time.

By completing the follow-up outlined in this guide, a provider has met the regulatory requirements for an investigation of each reportable incident (404 NAC 4-008.01.5.c).

# When is Incident Follow-up Required?

Follow-up **must** be completed for **every** reportable incident (*each* medium and high general event report (GER) submitted in Therap).

Definitions for reportable incidents and instructions for completing the initial GER can be found in the Incident Reporting and GER Guide. **All** incidents defined as reportable in the Incident Reporting and GER guide must be reported to DDD as outlined in the guide.

No follow-up is required for non-reportable incidents a provider chooses to document in a low GER or elsewhere.

# Timelines for Completing Required Incident Follow-up

The required follow-up must be completed and a summary submitted **in writing** to DDD according to the instructions in this guide within **14 calendar days of the *submission* of the initial GER** in order to meet regulatory requirements. There are *no* exceptions to this timeline, including when the 14th calendar day is a weekend or holiday. When this occurs, the written summary must still be submitted within 14 calendar days of the submission of the initial incident report.

When the follow-up is delayed for any reason, the reason for the delay must be documented in the summary of the follow-up. For example, when law enforcement or Adult Protective Services (APS) are investigating an allegation of abuse, neglect, or exploitation, they may ask the provider to put their investigation on hold until the law enforcement or APS investigation can be completed. When this occurs, it should be documented in the follow-up summary.

# Who Completes Incident Follow-up?

The provider who submits the GER is responsible for the completion of the follow-up outlined in this guide. The provider may assign any employee or contractor to be responsible for incident follow-up; this person is called "the investigator" in this guide.

The investigator must:

- Have any knowledge, experience, or training needed to complete a thorough review and make recommendations to ensure the safety of the participant and others, and reduce likelihood of future incidents;
- Have no involvement in the reported incident under review; and
- Be free from conflict of interest in order to objectively and impartially review the incident and incident report.

# Incident Follow-up Requirements

Incident follow-up must meet the minimum requirements outlined in this section to meet the regulatory requirements for investigation (404 NAC 4-008.01.5.c). Depending on the nature and severity of the incident, some incidents may require only an initial review, while others may require a full investigation.

The incident follow-up must answer the following questions:

- Is the information in the GER complete and accurate?
- Were all applicable laws, regulations, waiver requirements, and DDD policies followed?
- Were all agency policies and procedures followed?
- Was the participant's Individual Support Plan (ISP) followed?
- Are all the participant's needs and risks adequately addressed by the supports in the current ISP? When not adequately addressed, did this contribute to the incident?
- Are there any patterns or trends of similar incidents over the past six months?
- Was any action taken at the time the incident occurred to maintain the safety and wellbeing of the participant?

The incident follow-up must also include recommendations to address any concerns or contributing factors identified.

See *Guidelines for Answering Follow-up Questions* for a description of what should be considered in answering these questions.

## Ensure Safety

The first step in incident follow-up is to ensure the safety of the participant while follow-up is ongoing. The investigator should review the incident and action taken to confirm the provider's actions immediately after the incident were adequate to protect the participant and others. Action taken to protect the participant may include separating involved staff or other participants, temporary safety plans, or other actions, based on the nature of the incident.

When appropriate actions were not taken to protect the participant and others at the time of the incident, this must be addressed by the provider immediately upon being identified by the investigator.

## Initial Review

The initial review is completed for **all** reportable incidents, regardless of type or severity.

- The initial review *must* include review of the approved GER and the relevant portions of the participant's ISP, at a minimum.
- It may also include review of other supporting documentation and interviews with staff and participants involved, as needed, to answer the follow-up questions listed above.
  - o When the investigator requires additional information to answer the follow-up questions, it is not required that they complete a full investigation. However, the investigator should review any

additional documentation or interview any participants or staff involved to get the information needed to answer the follow-up questions.

## Full Investigation

A full investigation is required:

- For all reported incidents in the following categories:
  - Participant deaths;
  - Incidents of suspected or alleged abuse, neglect, or exploitation; and
  - Use of prohibited practices;
- When the initial review indicates:
  - A full investigation is needed to ensure the safety of the participant due to the circumstances or severity of the incident;
  - Staff involved did not follow applicable laws, regulations, requirements, agency policies, or the participant's ISP, and the incident may have been prevented had staff followed all policies and requirements as written; or
  - Staff did not follow applicable laws, regulations, requirements, agency policies, or the participant's ISP, and the initial review indicates it is not an isolated occurrence; or
- When directed to complete a full investigation by the participant's team or DDD immediately following the incident or upon reviewing the summary of the initial review.

When a full investigation is required, the investigator must:

- Complete all initial review requirements;
- Interview all staff involved in the incident;
- Interview all staff who witnessed the incident or others who may have relevant information;
- Interview the participant(s) involved in the incident, unless the ISP team has determined that it may be potentially traumatic or result in a behavioral episode to interview them;
- Review all potentially relevant documentation, including:
  - Daily logs/T-logs from the days surrounding the incident;
  - Behavior support plans (BSP)/habilitation plans and data from the days surrounding the incident;
  - Recent medical documentation from physicians/hospitals treating the participant;
  - Medical protocols/plans and data from the days surrounding the incident;
  - Staff logs, mileage logs, medication administration records (MARs), or any other documentation kept by the provider which could have relevant information; and
  - Photographs, audio or video evidence.

## Recommendations

The investigator must make recommendations to address **all identified concerns or contributing factors discovered during the course of the incident follow-up.** For example, policies not followed or the participant's plan not implemented as written.

- Recommendations for the agency provider may include, but are not limited to:

  - Providing training/education to staff involved in the incident;
  - Providing training/education to all staff working at a specific site or agency-wide;
  - Review of staffing for a specific participant or at a specific site;
  - Review of provider policies and procedures for potential revision; and
  - Suggested modifications of environments.

- Recommendations for Service Coordination or the ISP team may include, but are not limited to:

    o Consider review and revision of the participant's plan and/or supports;
    o Consider referral for medical care, medication review, or therapy; and
    o Consider referral for new assessments.

Recommendations must include timeframes for completion to ensure all identified concerns are addressed in a timely manner to ensure the safety of the participant and others.

The follow-up on all recommendations must be documented in the follow-up summary to demonstrate that the responsible personnel reviewed the recommendations and either took action to address the identified concern or provided justification for why the recommended action was not taken.

Upon quality assurance review by DDD, the provider or ISP team may be required to take additional actions to remediate any issues that were not adequately addressed.

# Documenting Incident Follow-up

There must be written documentation of all aspects of incident follow-up, including:

- All information gathered, through review of documentation and interviews, which is not already documented in the GER;
- A summary of the review of the follow-up questions and any concerns identified;
- Any other issues identified during the course of incident follow-up; and
- Recommendations for addressing all concerns identified.

**It is required for written documentation of the incident follow-up to be submitted to DDD using the *GER Resolution* form in Therap.**

- Some providers have their own forms for documenting incident follow-up.
- When a provider wants to continue using their own existing form to document incident follow-up, but does not want to duplicate documentation in the *GER Resolution*, the provider may attach the completed form documenting the incident follow-up to the *GER Resolution*, as long as:

    o The attached form covers **all** required documentation outlined in this guide.
    o The follow-up questions and answers are all entered into the *GER Resolution* in the *Notes* section of the *Resolution Summary*.
    o All recommendations made by the investigator and progress towards addressing those recommendations is entered in the *GER Resolution* in the *Recommendations* section.

# Required Notifications

**When incident follow-up is complete, the investigator must notify the participant's Service Coordinator (SC) *via S-Comm*.** This notification is the agency provider's evidence the incident follow-up summary was submitted to DDD (as required in 404 NAC). This notification is used by DDD to assess whether the provider met the required timelines in submitting documentation.

- When the provider makes revisions to the *GER Resolution* form after the form is "closed" and the SC has been notified, the SC must be notified of the changes made.

    o This requirement does not apply to updates made to the *GER Resolution* form to document completion of recommendations made by the investigator.

The provider must also notify the participant and their guardian(s), when applicable, of the outcome of the follow-up.

# Guidelines for Answering the Follow-up Questions

In order to answer the follow-up questions, the investigator will review the initial GER, the participant's ISP, and other relevant documentation, interview staff and participants involved in the incident, and review relevant statutes, regulations, agency policies, and guidelines. The investigation should include the collection and review of **all** available information needed to answer the questions and make recommendations to address any identified concerns.

## Is the information in the GER complete and accurate?

The investigator should consider:

- Does the GER contain all necessary information or is additional information needed?
- Are there any inconsistencies or inaccuracies in the GER?

*When any issues with the GER are identified, the investigator must review additional documentation, complete interviews with staff and participants, and review evidence to resolve any inconsistencies or conflicting information, and correct any inaccuracies.*

Additional documentation may include:

- ISP;
- Safety Plan;
- Behavior Support Plan;
- Other safety or medical plans/protocols;
- Relevant medical documentation such as physician contact forms or discharge instructions;
- T-Logs; and
- Past GERs and GER Resolutions for similar incidents.

## Were all applicable laws, regulations, waiver requirements, and DDD policies followed?

This question relates to things that occurred which **directly** relate to the incident being reviewed, including immediately before, during, and immediately after the incident.

The investigator should consider:

- Were any supports or interventions used during the incident prohibited by state law, state regulations governing developmental disabilities services, or Medicaid HCBS DD Waiver requirements?
- Did any employee or contractor of the agency provider allegedly commit abuse, neglect, or exploitation of a child or vulnerable adult in violation of state law?
- When the incident involved potential abuse, neglect, or exploitation, was a report made to the Abuse/Neglect Hotline or law enforcement, as required by state law?
- When any potentially restrictive measure was used, was it in accordance with state regulations governing developmental disabilities services? This includes whether it was used with approval from the ISP team, consent from the participant/guardian, and approval from a rights review committee?
- When any staff have a professional license or certification, were they compliant with relevant laws/regulations which govern their licensed or certified role? This includes medication aides or nurses.
- When the incident took place in a licensed facility, were all licensure regulations for the facility followed?

*When it is identified any applicable law, regulation, waiver requirement, or DDD policy was **not** followed, the provider is responsible for taking action to address the identified issue, based on the recommendation of the investigator.*

## Were all agency policies and procedures followed?

This question relates to things that occurred which **directly** relate to the incident being reviewed, including immediately before, during, and immediately after the incident.

The investigator should consider whether any applicable agency policies and procedures were not followed, such as those related to:

- Use of restraint or emergency safety intervention;
- Emergency preparedness;
- Medication administration;
- Provider-wide seizure protocol;
- When to consult with provider medical staff; and
- When to consult with a supervisor, on-call supervisor, or administrative staff.

*When it is identified any applicable agency policy or procedure was **not** followed, the provider is responsible for taking action to address the identified issue, based on the recommendation of the investigator.*

## Was the participant's ISP followed?

This question relates to things that occurred, which **directly** relate to the incident being reviewed, including immediately before, during, and immediately after the incident.

The investigator should consider:

- Did staff provide supervision of the participant as outlined in the ISP?
- Did staff follow the participant's behavior support plan?
- Did staff follow the safety plan?
- Did staff follow any other procedures/plans/protocols outlined in the ISP?
- Were all supports and interventions used correctly (for example, used at the right time, in the right situation, in the right way, etc.)?

*When it is identified any supports or services were **not** provided as specified in the ISP, the provider or ISP team are responsible for taking action to address the issue, based on the nature of the issue and the recommendation of the investigator.*

- When the issue is related to staff training or with parts of the ISP written by the provider (such as a safety plan or habilitation program), the provider is responsible for addressing the issue.
- When the issue is related to how the needed supports and services are documented in the ISP (for example, when the ISP does not contain sufficient information to correctly implement needed supports/interventions or is written in a way that is difficult for staff to understand), the ISP team is responsible for addressing the issue.

## Are there participant needs or risks that contributed to the incident and may not be adequately addressed by current supports?

The investigator should consider whether the incident could have been prevented or minimized if different supports or interventions were identified in the ISP to address the participant's needs/risks. This could include:

- New interventions not currently in the ISP

- Changes to current interventions to better meet the participant's needs

*When it is identified changes to the participant's current supports may be beneficial in preventing or reducing future incidents, the ISP team is responsible for reviewing the participant's plan to determine if revision is appropriate, based on the recommendation of the investigator.*

## Are there any relevant patterns or trends of similar incidents, circumstances, or other factors over the past six months?

The investigator should review all reportable incidents for the participant over the past six months to determine if there have been other incidents similar to the incident being investigated.

When there have been similar incidents, the investigator should consider:

- Are there any common factors/patterns to the similar incidents?

  o This could include similar times of day, days of week, staff present, peers present, location, activity, etc.

- Does the frequency of similar incidents appear to be increasing, decreasing, or remaining the same?

  o When the frequency is increasing or remaining the same, the investigator should review actions taken in response to the previous incidents to determine if different actions or changes to the participant's plan may be more effective going forward.

*When any trends, patterns, increasing frequency, etc. is identified in review of similar incidents, the provider or the ISP team is responsible for taking action to address the issue, based on the recommendation of the investigator.*

- When the issue is related to staff training, parts of the plan written by the provider (such as a safety plan), or other factors under the provider's control, the provider is responsible for addressing the issue.
- When the issue can be addressed through review of or changes to the participant's plan, the ISP team is responsible for addressing the issue.

## Were all needed actions taken at the time of the incident to ensure the safety of the participant and others?

Based on the nature of the incident, it may be necessary to take immediate action to ensure the safety of the participant, including changes to staffing/personnel, modification of the environment, seeking medical attention, or contacting law enforcement.

The investigator reviews action taken immediately after the incident. When it is identified that needed action was not taken to maintain the participant's safety, the investigator is responsible for immediately notifying the appropriate staff to ensure action is taken to maintain the participant's safety as soon as possible.

*The provider is responsible for taking action when no action was taken at the time of the incident, based on the recommendation of the investigator.*

# Submitting Required Documentation in Therap

**Documentation of the required follow-up for each reportable incident must be submitted using the *GER Resolution* form in Therap.** When a provider completes follow-up on a reportable incident but does not submit documentation of the follow-up as outlined in this guide, the provider has not met the regulatory requirements to submit documentation of an investigation to DDD.

To document the investigation, go to the *Individual* tab in Therap and select *Unaddressed GERs* under *GER Resolution.*

In the list of unaddressed GERs, select the GER for which investigation is being documented and click *Next*.

| Individual | Care | | Issue Tracking |
|---|---|---|---|
| | | | My Issues |
| Health | T-Log | New \| Search \| Archive | |
| Agency | General Event Reports (GER) | New \| Search | **Letter** |
| | | | New |
| Billing | | New \| Unaddressed GERs \| | Search |
| | GER Resolution | Open Resolutions \| | |
| | | Open Investigations \| Search | **Classes** |
| Admin | Multi-Individual Event (MIE) | New \| Search | Overdue |
| Agency Reports | Witness Report (GER) | Search | Due |
| | | | Sign up |
| | | | View Sign ups |
| Individual Home Page | ISP Data | New \| Search \| Report \| Search Report \| Data Count Report \| Archive | View Results/Notes |
| | | | Training History |
| | | | Training Profile |

In the *GER Resolution* form, the *GER Information* section contains the participant's information, date of the event in the linked GER, and a link to the GER.

Before beginning to complete subsequent sections of the *GER Resolution* form, be sure the linked GER is the same GER for which investigation is being documented.

**GER Information**

| | |
|---|---|
| Individual Name | John Smith |
| Date of Birth | 12/29/1979 |
| Event Date | 08/12/2019 |
| Approve Date | 08/12/2019 |
| GER Form ID | GER-CANNE-HAE3SFJBHMULD |
| MIE Form ID | The corresponding GER is not linked to an MIE |
| Notification Level | High |
| Abuse/Neglect/Exploitation Suspected? | No |

In the *General Information* section:

- *Date Opened* is the date incident follow-up was started.
- *Date Closed* is the date incident follow-up was finished and SC notified via S-COMM.
- *Was this a critical event?* should be marked *Yes* for all follow-up of reportable incidents. When a provider chooses to complete a *GER Resolution* form for low GERs, this would be marked *No*.
- *Is an investigation needed?* should be marked *Yes*.
- When the reported incident involves suspected/alleged abuse, neglect, or exploitation, and it was accepted for investigation by CFS, the next two items **must** be completed.

  - o Under *Abuse/Neglect/ Exploitation Types*, select the option from the dropdown which most closely corresponds to the reported incident.
  - o Under *Findings,* select *Abuse, Neglect,* or *Exploitation* when the incident was substantiated. When CFS determined no abuse/neglect/exploitation took place, select *Unsubstantiated.*
  - o When the investigation by CFS is not complete when the GER resolution is due, this should be documented in the body of the report.

In the *Investigators* section:

- *Name* is the name of the assigned investigator.
- The provider may choose to document who assigned the investigator and when, but it is not required.

In the *Investigators' Narratives* section, the investigator provides a summary of the information reviewed during the incident follow-up, including documentation reviewed and witnesses interviewed.

- Any documentation or photographs reviewed should be summarized under the *Evidence* category.
- Any witnesses providing information should be summarized under the *Interviews* category.
- Other information should be entered under the *Other* category.

The summary doesn't need to be lengthy or comprehensive, but should include all information relevant to any concerns identified or conclusions reached by the investigator.

A separate record should be added for each document reviewed, person interviewed, etc.

In the *Involved Persons* section, the provider may choose to list people involved in the incident, but it is not required, as this information is in the GER.

**Investigators' Narratives**

Action Type    - Please Select -

Comments

Add

**Involved Persons**

Name    - Please Select -

Involvement Type    - Please Select -

Comments

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In *Resolution Summary*, the investigator provides a summary of the incident follow-up and any identified concerns.

- *Narrative*: A summary of the relevant points of the incident follow-up and any conclusions reached by the investigator.
- *Notes*: The seven Follow-up Questions and the answers identified in the course of incident follow-up. When any questions identify an issue or concern, those issues and concerns must be summarized.

  - When a provider chooses to use an existing form to document the summary of investigation, this section must still be completed.

- *Staff Actions*: Summary of any provider action taken related to the incident, including any actions already taken to address recommendations of the investigator.

**Resolution Summary**

Narrative

Notes

Staff Actions

In *Recommendations*, all the investigator's recommendations should be listed. At a minimum, the recommendation and the person responsible for addressing it must be documented.

When a recommendation has been addressed, *Date Completed* should be filled in.

A separate record should be added for each recommendation.

When a provider chooses to use an existing form to document the summary of the investigation, this section must still be completed.

**Recommendations**

| | |
|---|---|
| Recommended By | - Please Select - |
| Date Recommended | MM/DD/YYYY |
| Person Responsible | Other / If Other |
| Date Completed | MM/DD/YYYY |
| Recommendations | |

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In *Supporting Documents*, the provider may attach any additional information, documents, or photographs they deem relevant.

- When the provider chooses to use an existing form to document the summary of the investigation, it is attached here.

*Comments* can be used for any information that does not fit in elsewhere in the GER Resolution form.

**Supporting Documents**

The total size of all attachments cannot exceed 10 MB

Add File    Scan File

**Comments**

| | |
|---|---|
| Comments | |

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