CROSS-DISABILITIES ADVISORY COUNCIL

Hybrid Meeting

Thursday, JUL 23, 2026

9:31 a.m. – 4:30 p.m.

Cross-Disability Advisory Council Members Present: Darcy Andahl, Kirsten Dvorak, Kyle Erickson, Andrea Hansen, Julianne Horntvedt, Kayla Johnson, Paul Kolstoe, Kevin Miiller, Iman Moore, Katynka Morrissette, Jonathan O'Konek, Vicki Peterson, Lorena Poppe, Danielle Robbins
Cross-Disability State Agency Representatives Present: Jackie Adusimilli, Kathy Barchenger, Kayla Fender, Mary McCarvel-O'Connor
Guests Present: Ben Hawkins, Erin Leveton, Kathy Miiller, Erin Moore, Jillian Salmon

WELCOME and ADMINISTRATIVE MATTERS

- The meeting was called to order at 9:31 am.

GENERAL BUSINESS

- Role Call

- APPROVAL OF CDAC JUN Minutes
  - Kevin Miiller opened the floor for discussion on the "ND-CDAC Minutes 25JUN26 DRAFT"
  - Motion: It was moved by Kayla Johnson and seconded by Lorena Poppe to approve the 25JUN26 Minutes
  - Vote (Yes): Darcy Andahl, Kirsten Dvorak, Andrea Hansen, Julianne Horntvedt, Kayla Johnson, Paul Kolstoe, Katynka Morrissette, Jonathan O'Konek, Vicki Peterson, Lorena Poppe, Danielle Robbins
  - Vote (No): none
  - Motion carried

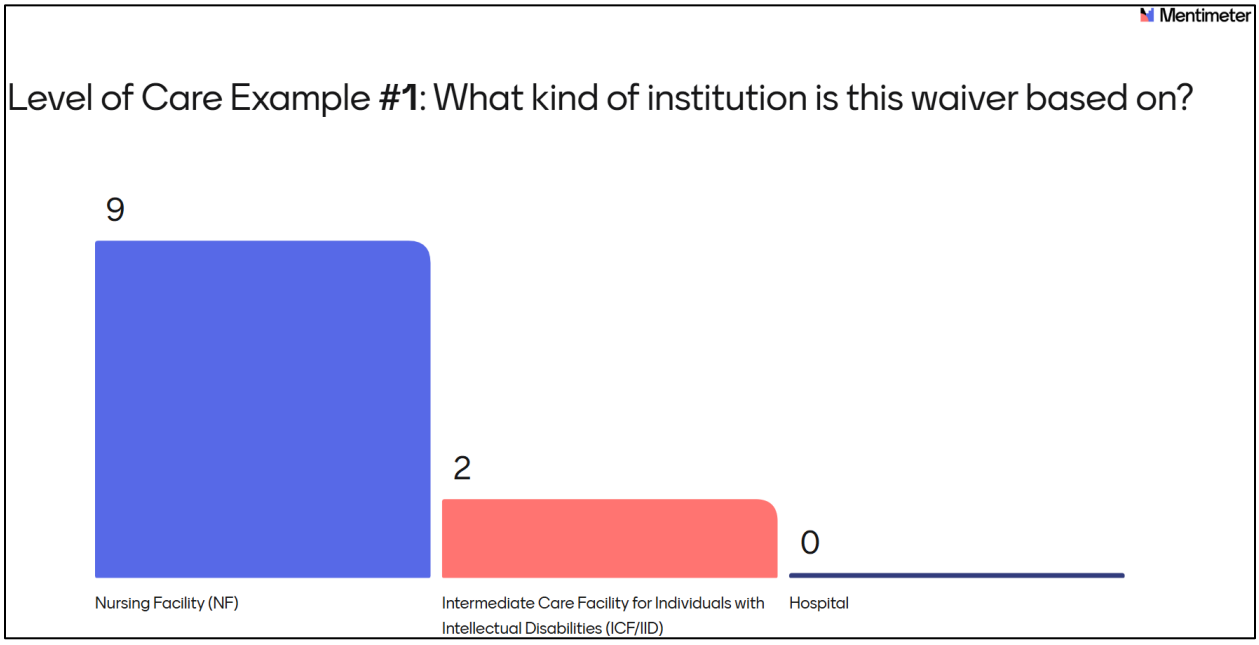
- APPROVAL OF CDAC's Public Comment Thank You Letter
  - Kevin Miiller opened the floor for discussion on the "CDAC Thank You Letter All Public Comment Sessions"
  - Motion: It was moved by Jonathan O'Konek and seconded by Julianne Horntvedt to approve the thank you
  - Vote (Yes): Darcy Andahl, Kirsten Dvorak, Andrea Hansen, Julianne Horntvedt, Kayla Johnson, Paul Kolstoe, Katynka Morrissette, Jonathan O'Konek, Vicki Peterson, Lorena Poppe, Danielle Robbins
  - Vote (No): none
  - Motion carried

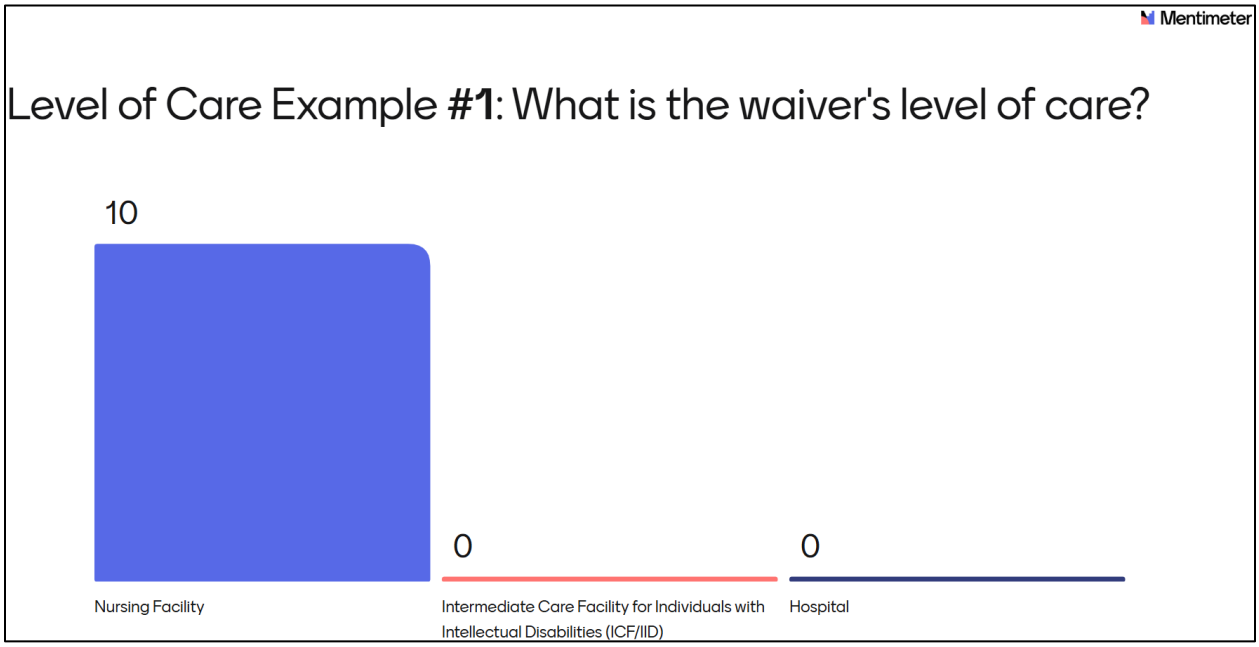
WELCOME ACTIVITIES

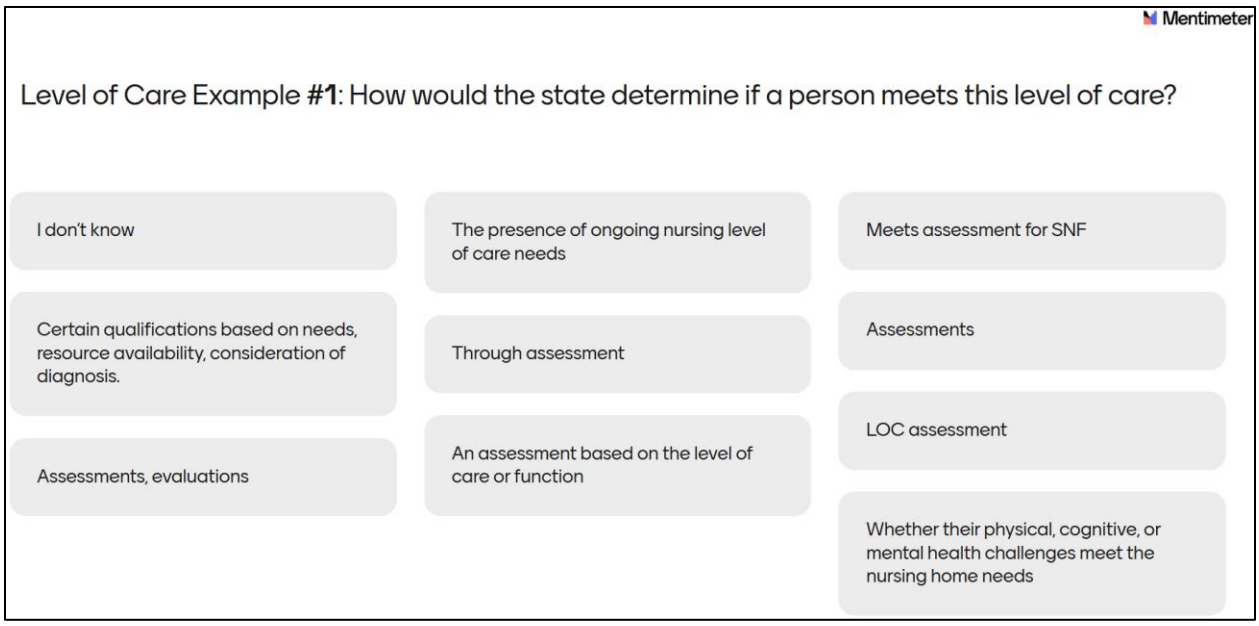
- Members talked about answers to some of the questions they submitted after the June CDAC meeting. These questions reflected anything they wanted a reminder on or still didn't know well after a year of serving on CDAC.
  - Members talked about the reapplication and appeal process if a child is found ineligible for waivered services.

LEVEL OF CARE (LOC) REFRESH – KEY CONCEPTS

- Members talked about how Medicaid waivers are an important way that states provide additional supports to people in their homes and communities.
- Members were reminded that eligibility for waivers is tied to demonstrating a need for an institutional LOC. States must identify at least one LOC (such as Nursing Facilities or Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs)) for the waiver.
    - Members discussed examples of types of institutions in North Dakota that can be licensed as ICFs, including some community provider group homes.
- Members completed a Menti survey exercise where they were given a description of a waiver and then they had to answer some questions about that waiver's LOC.



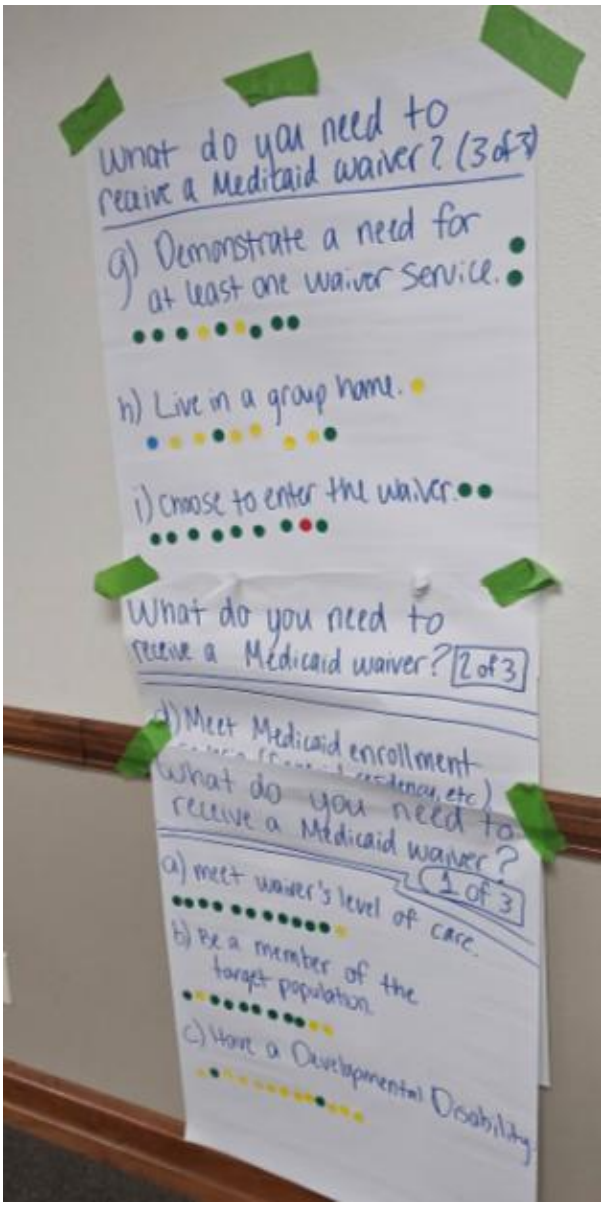




LOC REFRESH – MULTIPLE LOC ON A SINGLE WAIVER

- Members discussed how multiple LOC can be served within a single waiver, which answered some of their survey questions from June. Wisconsin was cited as an example of a state using this model.
    - Members also talked about how waivers can reserve capacity for different populations in a waiver, but not necessarily cap the number of people who can meet a certain LOC on the waiver.

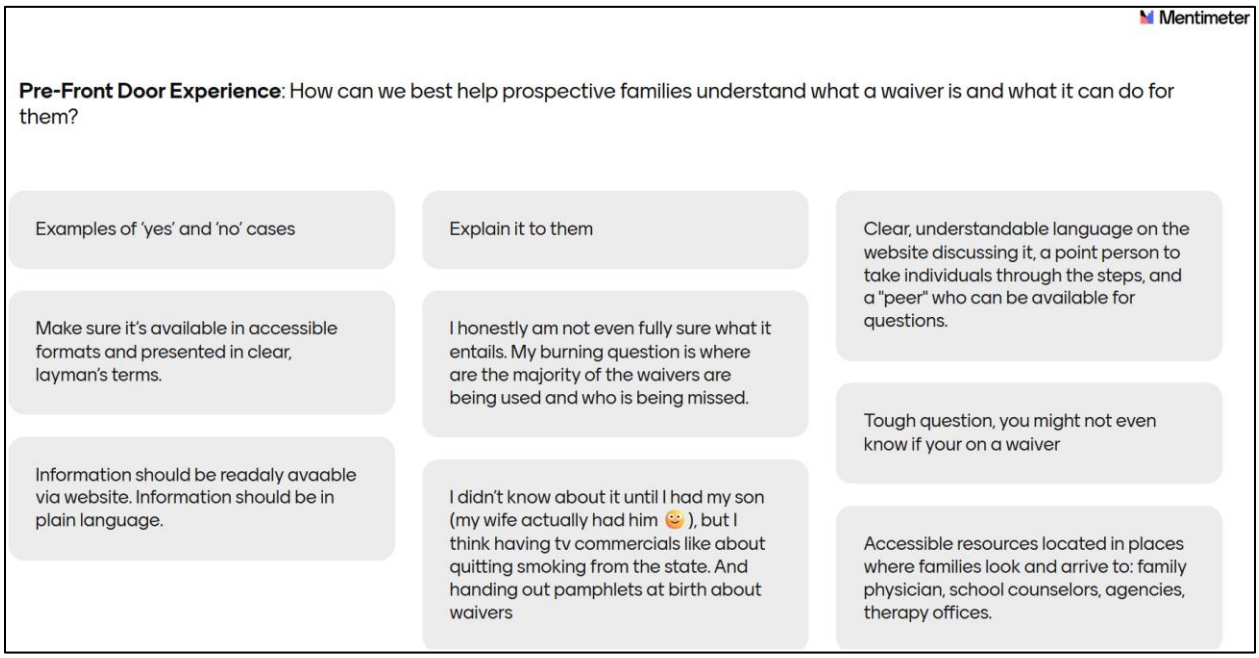
LOC REFRESH – FEDERAL RULES ON ELIGIBILITY

- Members reviewed federal requirements about eligibility for Medicaid waivers.
- Members participated in an exercise where they could rate whether something was required to be found eligible for a waiver.
  - Members were given stickers to assign their vote:
    - **Green** meant **yes**, this is always required for eligibility.
    - **Yellow** meant **sometimes** this was required for eligibility.
    - **Red** meant **no**, this is never required for eligibility.
    - **Blue** meant **not sure** whether this was required for eligibility.
  - 

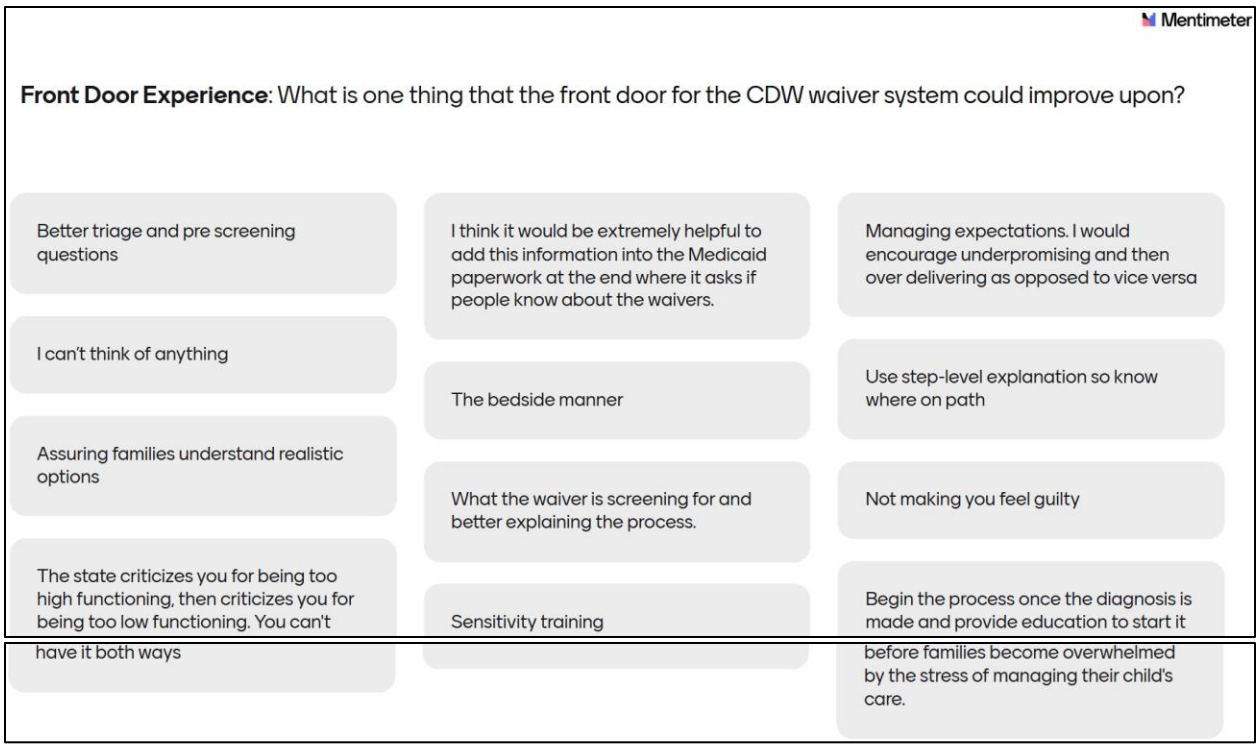
- After this exercise, members noted that waiver systems are complex and difficult for families to navigate, and that knowing all the rules for eligibility can be challenging.
- Members learned some things about waiver eligibility in this process:
  - Receiving SSI is never a requirement for waiver eligibility
  - Applicants must always be eligible for Medicaid to get on a waiver, but once they demonstrate they qualify for waivered services the income restrictions for their Medicaid enrollment change.
  - Automatic enrollment by condition or any other factor alone is not permitted by federal requirements.

FRONT DOOR TO WAIVERS

- Members talked about the “front door” access to waiver programs.
  - Members were reminded about CDAC 1.0’s recommendations on the “front door” and how those will be carried forward, not changed.
- Members discussed strategies for helping families understand what a waiver is and what services it provides, as part of the “pre-front door” process.
  - Members identified advertising and outreach channels including school systems, special education services, Indian health clinics, and behavioral health providers.
  - Members noted that families often do not know about available resources and services, and that confusion about where to seek help is common.
- Members completed a Menti survey where they shared their experience about the “pre-front door.”

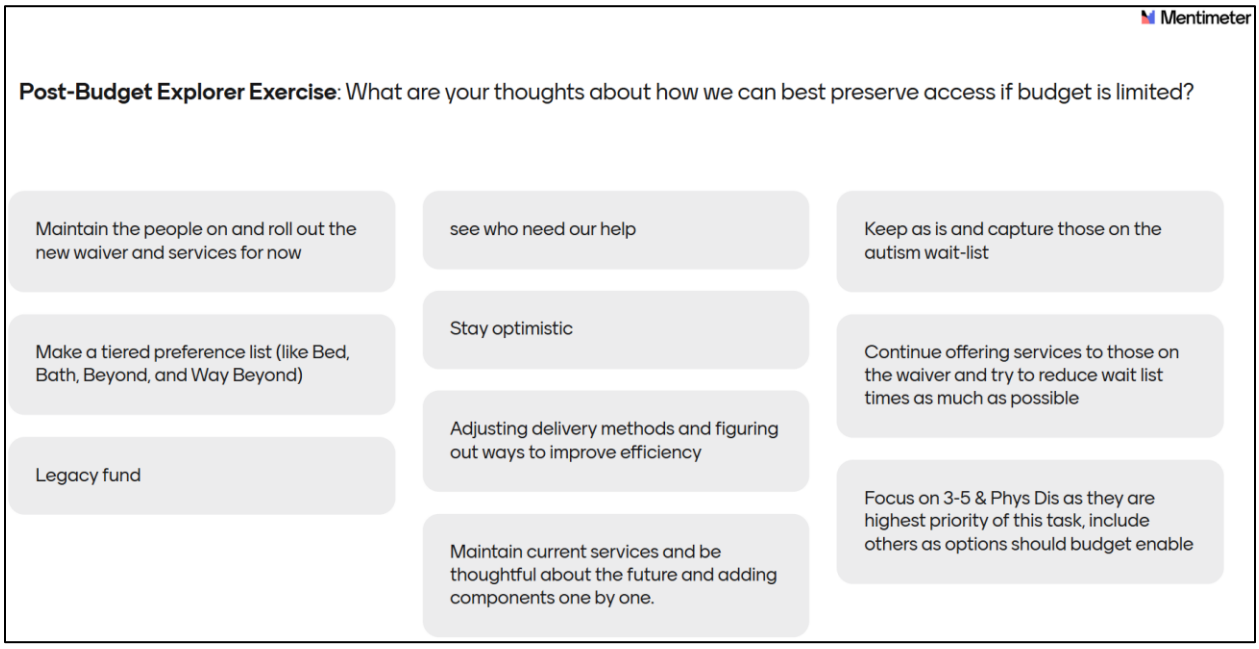


- Members discussed challenges families face in the “front door” once they apply for waivered services, including long wait times for evaluations, unclear steps in the application process, and unrealistic expectations about immediate service availability after waiver approval.
  - Members discussed potential improvements to the process, including clearer communication about eligibility, better explanation of application steps, and managing expectations about service timelines.
  - Members noted the importance of addressing stigma and shame around disability and accessing services.
  - Members discussed the role of community organizations, child advocacy centers, and family support networks in connecting families to information and services.
- Members completed a Menti survey where they shared their thoughts on opportunities to improve the “front door.”


Mentimeter
Front Door Experience: What is one thing that the front door for the CDW waiver system could improve upon?
Better triage and pre screening questions
I can't think of anything
Assuring families understand realistic options
The state criticizes you for being too high functioning, then criticizes you for being too low functioning. You can't have it both ways
I think it would be extremely helpful to add this information into the Medicaid paperwork at the end where it asks if people know about the waivers.
The bedside manner
What the waiver is screening for and better explaining the process.
Sensitivity training
Managing expectations. I would encourage underpromising and then over delivering as opposed to vice versa
Use step-level explanation so know where on path
Not making you feel guilty
Begin the process once the diagnosis is made and provide education to start it before families become overwhelmed by the stress of managing their child's care.

BUDGETING FOR WAIVERS

- Members had some of their June survey questions about the budget process and next steps answered.
- Members spent time in a "budget explorer" tool, which helped them see more directly what the potential costs and impacts of certain policy decisions for the CDW could be.
    - The purpose of this exercise was to have CDAC start thinking about how they might have to make difficult decisions on what guidance to share with HHS for developing the CDW, based on different budget amounts the state might get for the waiver.
    - The exercise was also meant to show how difficult it is for HHS to make hard policy decisions when additional funding isn't available.
    - The exercise relied on a lot of assumptions that may not reflect final numbers, but it helped start brainstorming discussions.
    - The Governor's budget won't be released until December, so this exercise is preparing CDAC for similar exercises they'll do to share guidance with HHS on the CDW once they know the available funding.
- Members shared their thoughts on what policy decisions they thought they should prioritize in different potential budget circumstances and asked good questions about what tradeoffs could be made with different hypothetical options.
    - Members were reminded that CDAC 1.0's recommendation to serve more people before serving existing people more is the foundation that the CDW will be built off and will be carried through in CDAC 2.0.
- Members completed Menti survey questions to document their takeaways and initial thoughts from the budget exercise, specifically what guidance they might share with HHS on the CDW if the budget is limited.



PUBLIC COMMENT 1
Carl Young

Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''dynamic random access memory devices (specifically DDR5 generation DIMM and high bandwidth memory (HBM)), products containing the same (such as servers, computing systems, and storage systems), and components thereof'';

(3) Pursuant to Commission Rule 210.50(b)(l), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. l337(d)(l), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Netlist, Inc., 111 Academy Way, Suite 100, Irvine, CA 92617

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd., 129 Samsung-ro, Yeongtong-gu, Suwon, Gyeonggi-do, 443–742, Republic of Korea

Samsung Electronics America, Inc., 6625 Excellence Way, Plano, TX 75023

Samsung Semiconductor, Inc., 6625 Excellence Way, Plano, TX 75023

Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043

Super Micro Computer, Inc., 980 Rock Ave., San Jose, CA 95131

NVIDIA Corp., 2788 San Tomas Expressway, Santa Clara, CA 95051

Broadcom Inc., 3421 Hillview Avenue, Palo Alto, CA 94304

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: July 15, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–14535 Filed 7–17–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Clarification on Department of Justice Guidance Titled, ''Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans With Disabilities Act and Olmstead v. L.C.''

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Notice; clarification.

SUMMARY: The Department of Justice (the Department) is issuing this document to clarify that the guidance issued by the Department on June 22, 2011, and last updated February 28, 2020, titled ''Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead* v. *L.C.*'' (*Olmstead* Guidance), and similar guidance documents are not enforceable. In addition, the Department plans to revisit the *Olmstead* Guidance in light of the Supreme Court's decision in *Loper Bright Enters.* v. *Raimondo*, 603 U.S. 369, 400 (2024), to assess whether the *Olmstead* Guidance is consistent with the single best meaning of the relevant statutory text. The Department will not rely upon the *Olmstead* Guidance in its enforcement of Title II of the Americans with Disabilities Act (ADA).

FOR FURTHER INFORMATION CONTACT: Luis E. Perez, Director, Disability Rights Section, Civil Rights Division, 202–320–6683.

SUPPLEMENTARY INFORMATION: On June 22, 2011, the Department issued a guidance document titled, ''Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead* v. *L.C.*'' [1] The *Olmstead* Guidance states, ''To assist individuals in understanding their rights under Title II of the ADA and its integration mandate, and to assist state and local governments in complying with the ADA, the Department of Justice has created this technical assistance guide.'' It provides eighteen questions and answers regarding enforcement of the Supreme Court's decision in *Olmstead* v. *L.C.*, 527 U.S. 581 (1999).

The *Olmstead* Guidance concludes: ''Guidance documents posted to this website are not intended to be a final agency action, have no legally binding effect, and have no force or effect of law. The documents may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.'' [2] This is consistent with Supreme Court jurisprudence, which has held that guidance documents ''do not have the force and effect of law.'' *Perez* v. *Mortgage Bankers Ass'n*, 575 U.S. 92, 97 (2015) (quoting *Shalala* v. *Guernsey Mem'l Hosp.*, 514 U.S. 87, 99 (1995)). Despite the non-enforceable nature of the *Olmstead* Guidance, numerous courts have treated the *Olmstead* Guidance as authoritative. *See Davis* v. *Shah*, 821 F.3d 231, 263 (2d Cir. 2016); *Pashby* v. *Delia*, 709 F.3d 307, 322 (4th Cir. 2013); *Waskul* v. *Washtenaw Cnty. Cmty. Mental Health*, 979 F.3d 426, 460–61 (6th Cir. 2020); *Steimel* v. *Wernert*, 823 F.3d 902, 914 (7th Cir.

[1] U.S. Dep't of Just., *Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead* v. *L.C.*, *ADA.gov* (last updated Feb. 28, 2020), *https://www.ada.gov/resources/olmstead-mandate-statement/* [*https://perma.cc/65V6-QGXW*].

[2] *See also* U.S. Dep't of Just., Just. Manual § 1–19.000 (last updated Apr. 2022), *https://www.justice.gov/jm/1-19000-limitation-issuance-guidance-documents-1* [*https://perma.cc/E35H-F7FF*].

For those interested in reading the policy brief by Carl Young, please contact Carl directly.

Potential Implications of the June 18, 2026 DOJ Office of Legal Counsel Memo for Home and Community-Based Services in North Dakota

Federal Policy Brief Prepared for Staff of Congresswoman Julie Fedorchak

Prepared by

Carl Young, Principal Author
Bismarck, North Dakota

Joel Sheagren, Secondary Author and Editor
Blaine, Minnesota

July 2026

North Dakota-only analysis

This brief evaluates potential implications for North Dakota residents who rely on HCBS and related community-based supports.

PUBLIC COMMENT 2
Denise Harvey

Protection & Advocacy Project
400 E. Broadway, Suite 409
Bismarck, ND 58501
701-328-2950
1-800-472-2670
TTY

July 22, 2026

Cross Disability Advisory Council
Attn: Kevin Miiller, Facilitator

Dear Mr. Miiller,

The North Dakota Protection & Advocacy Project (P&A) is the leading civil rights organization for North Dakotans with disabilities of all ages, including children with serious emotional disturbance and developmental disabilities. P&A is committed to equality and inclusion for individuals with disabilities in all aspects of life and provides an array of services to ensure this becomes a reality.

P&A is a member of the ND Children's Cabinet. P&A has identified issues that include a siloed system, lack of providers/services, and lack of funding streams as main issues when serving youth with serious emotional disturbance (SED). P&A believes it's critical that a full array of services be provided in a timely manner for these youth to include prevention and early intervention, mental health treatment, access to safe/crisis beds, respite, and a second set of hands. This will also assist in preventing more costly institutional placements that take youth away from their homes.

Statistics from Kids Count North Dakota September 2024 show that mental health conditions for youth have worsened in the past five years, with 23% of children and adolescents in the state experiencing one or more mental health conditions. For youth with a mental health condition, proven treatments exist, yet 46% of these children in ND do not receive treatment.

Testimony has been provided recently to the Cross Disability Advisory Council; families of children with disabilities should not need to choose between payment for mental health treatment and going into debt to cover these costs, feeding their family, and being able to maintain their employment and housing.

P&A appreciates the work being done by the Cross Disability Advisory Council in considering the needs of children with all types of disabilities, including mental illness. We urge the Cross Disability Advisory Council to include children with mental health conditions/SED as an eligible population in the new Cross Disability Medicaid Waiver and to provide the array of services that will meet the needs of these youth.

Thank you for your consideration, and I am glad to answer any questions.

Sincerely,

Denise Harvey, Program Director

Behavioral Health Planning Council, public comment in follow-up to position statement

Good afternoon Chair and members of the Cross Disability Advisory Council.

My name is Denise Harvey, and I am speaking today on behalf of the North Dakota Behavioral Health Planning Council.

First, I want to thank you for the opportunity to comment and for the thoughtful work that has already gone into developing this waiver. We recognize the tremendous opportunity before us. Bringing together services that have historically operated separately has the potential to make life significantly easier for children and families with complex needs.

Our Council has submitted written comments for the record. Rather than reading those comments, I'd like to simply highlight the themes that consistently emerged from our discussions.

The first is that **families experience systems—not programs.**

When a child has both developmental and behavioral health needs, families don't think in terms of agencies or eligibility categories. They simply need help. Yet today they often encounter different eligibility rules, different intake processes, different paperwork, and different answers depending on which door they happen to walk through first.

Many eventually become discouraged—not because services don't exist, but because the path to those services is simply too difficult to navigate.

That leads to our second message: **reduce complexity wherever possible.**

Whether through better alignment of eligibility, fewer duplicative assessments, stronger coordination between systems, or clearer communication when someone doesn't qualify for one program but may qualify for another, every step that reduces administrative burden increases the likelihood that families remain engaged.

Third, we encourage intentional attention to both **children with co-occurring developmental and behavioral health conditions and children with mental illness.**

Too often these children don't fit neatly into one system or another. The waiver represents an opportunity to intentionally design supports that recognize the whole child rather than asking families to navigate fragmented systems.

Finally, we encourage continued investment in a true **"no wrong door"** approach.

Families often describe the period immediately following a diagnosis as one of the most overwhelming times they experience. Having a knowledgeable navigator—or at minimum a coordinated process that helps families understand what comes next—can make the difference between successfully accessing services and simply giving up.

Ultimately, the recommendations we've shared are not about creating more programs. They're about making existing systems work better together.

We appreciate that this waiver is still being designed with important feedback from others like the BHPC. The Behavioral Health Planning Council stands ready to continue working alongside the Cross Disability Advisory Council to ensure that behavioral health considerations remain integrated throughout the waiver development process.

Thank you for your time, for your willingness to listen, and for your commitment to improving outcomes for North Dakota's children and families.

7/23/26

PUBLIC Q&A

- Due to public comment time remaining after each person's 5 mins, Carl Young and Denise Harvey were asked questions by CDAC2 members.

ADJOURNMENT

- The meeting was adjourned at 4:30 p.m.