

Final Rule Stakeholder Call

Topic: Systemic Gaps in Final Rule

3/15/2017

Noon call (67 participants on the line)

State Staff on the call: James Bart, Carri Proffit, Kerrie Bacon, Cindy Wichman,

1. My adult daughter gets personal attendant services (PAS) under home and community based services (HCBS), do I have to get a tenant landlord agreement for her or not?
 - a. Based on our initial assessment activities, family homes were not included as it does not pose a risk for complying with final rule.
2. The issues and/or gaps noticed from attestation, have any been confirmed from the site visits?
 - a. We have found that most was confirmed through the onsite visit process that we have done thus far. Some of that initial data was shared on the last call (March 1st). We did seem to find a trend that what providers attested to agreed with what was seen and heard from providers in the field.
3. Given all of this, what are the next steps that are going to occur?
 - a. Right now, today, final cleanup is nearly done on the updated statewide transition plan (STP). On past calls we were hoping to be closer to March 1st on the submission date. We are close to having it revised and ready to submit for initial approval. Our hope is to have it submitted to the Centers for Medicare and Medicaid Services (CMS) near the first of April. Once we have approval or some type of feedback from CMS about what they need to give us the approval, it will aid us in moving forward with the design of the learning collaborative. We are looking at a peer-to-peer model facilitated by WSU along with KDADS staff and focus on the systemic gap areas, talk about these issues, provide technical assistance, direction on how to remediate the issues, and get into the specifics of here's what we know, and what do we need to do about it. That's where we are in terms of next steps.
4. The last information we had, the letters went out to providers acknowledging [onsite assessments] were done. There was no addressing the apparent or suspected non-compliance. Will there be any direct communication about what was seen as non-compliance?
 - a. This question is timely. Based on what is in the updated version of the statewide transition plan (STP), providers will get more specific guidance, if needed, on where they are and what will need more work. Most have an idea of where the risk is for them. The statewide transition plan (STP) does have a component that addresses remediation and a basic framework for how that would occur.
5. Providers shouldn't expect follow-up from the original onsite assessments?
 - a. There is nothing more to be done in the immediate future. In the long-term, there will be. Once we are assured by CMS that we are moving in the right direction, we'll be focusing on the individual providers, on the specific issues, and working with providers to find strategies for remediation. We are finding compliance issues fall into broad categories. The remediation that needs to be done can be done through policy changes, some regulatory changes, and we're hoping we can remediate on a broad scale, notwithstanding some needs that will be addressed on a 1 to 1 provider level.

6. Acknowledging the letter you spoke of, when would we be seeing that? We haven't seen anything since our onsite visit.
 - a. The letter went out at the end of February. We know there have been firewall issues or we haven't had right contact information. If you have not received your acknowledgement letter, I am trying to update my contact information. If you'd please email me directly so it's updated, I will take care of that for you.

Evening Call (6 participants on the line)

State Staff on the call: Cindy Wichman HCBS Director

1. A fundamental piece of the rule and what it's all about is the that people will have the right to choose and get their choice. They aren't getting their choice and I'm concerned about this and the phasing out of the Money Follows the Person (MFP) grant. Is that going to be addressed somewhere in [the statewide transition plan] and how are we going to be addressing that?

- a. I'm working on the final edits on the statewide transition plan and we are trying to address that. While it doesn't speak to MFP directly, what I can add is that choice of setting and people who are wanting to go into a different setting of their choosing is addressed in the final rule and in the transition plan. I can explain where. It would be in the person centered service plan (PCSP) process.

The managed care organization (MCO) and support team members important to the person will be involved in the in the development of the service plan, as explained in the in the managed care regulations. What is made very clear is that the PCSP needs to be driven by the person receiving services, held in an environment and setting of their choosing, and that there is clear evidence they are supported in what they desire for themselves.

Indirectly, the ending of the MFP grant itself is still going to be addressed through the PCSP as part of the managed care regulations and service choice/access which also feeds into the final rule. I understand and appreciate the concern as Kansas tries to figure out how we'll sustain transitions that occurred under MFP.

2. Anything to add structure to that. I'm concerned as to how it applies to nursing facilities. We've found that all processes run by manage care organizations (MCOs) and other facilities is not adequate. Adding language that requires referrals to other agencies, which is part of money follows the person (MFP) would help beef that up.
 - a. Agreed, and another element is ongoing monitoring. Just because we've reached this point doesn't mean this is the finish line. It is a journey as we seek to allow people to live in the least restrictive setting possible in line with their preferences. As we move down the path, if we're not making the progress we'd like to see, as a system of stakeholders all coming onto the scene with experience and responsibilities, if any member doesn't get what they'd like to see with the statewide transition plan (STP) and beyond we need to make amendments and adjustments to move it in line with Kansans

needs. I think you raise an important point and we would like to do what we can to assure the nursing facility referrals are occurring and remediate ongoing need for improvements. We will continue to look at this going forward.

3. Take a look at the numbers provided by KDADS or someone at the state. The number of people in the money follows the person (MFP) program are less than half of the prior year. It's very disconcerting and it's less than a year before the program has ended.

- a. I am familiar with the statistics you're to and it's less than what we'd like to see.

4. Could you tell us where you think we are as a state in percentage on those in compliance and those out of compliance? How far along the path are we?

- a. I can try to go over some information that we talked about on the last call. First I want to reiterate that the state of Kansas is considering any setting that is currently licensed and in good standing as in compliance. If the Centers for Medicare and Medicaid Services (CMS) comes tomorrow, that is the message we're providing. Our intention is not to dramatically render [providers] non-compliant and displace people.

First, if you're licensed and good standing you're in good shape at this stage of the game. Most providers are attesting that they aren't confident they meet landlord tenant law; others have environmental concerns. It's our belief they can be remediated without substantial burden and other issues can be addressed through person centered service planning (PCSP).

Based on data in last call, and we discussed very preliminary numbers from the very first attestation data that is still in analysis. They "are what they are" and seem to align with other states we've taken a look at. On the provider attestation survey:

- 723 settings that were included in the sample (some were multiple settings for same provider)
 - 132 or 18% attested to being fully compliant
 - 591 or 82% felt were not or partially compliant with 1 or more of the standards
- 70 of 529 (13%) of residential attested to be compliant
- 62 of 194 (32%) of non-residential settings attested to being compliant
- 51 of 723 requested heightened scrutiny

That can be concerning, but it is consistent with other states and maybe a little better than other states.

From our consumer surveys, (300 individuals) receiving HCBS, in general they reported their services seem largely consistent with choice and satisfaction. The largest thing they said "yes" to was having a care plan (93.3%) and receiving day services in the same place (57%). It's hard to conclude much from this. Regarding satisfaction with home and

community based services (HCBS) overall, 82% responded that they were satisfied or strongly satisfied, 89% responded that they felt their culture or heritage was respected. Only 31% felt they had a good ability to get job opportunities or employment. I want to thank WSU for their rigorous work on it.

We're early in process, but gives us a framework of understanding to know where Kansas is now. It also tells us Kansas is in line with other states who are at the same place who haven't gotten initial approval from the Centers for Medicare and Medicaid Services (CMS). I feel good about next plan and I'm hopeful they will grant us initial approval due to the work from the stakeholders, WSU, and provider networks.

5. This is clearly a process as this folds out, are you planning a road map on a website, quarterly report, a chart, or something like that for those of us who are interested so we can keep track as the process unfolds in an easy way?
 - a. You think like the Centers for Medicare and Medicaid Services (CMS). They want states to give them a timeline and milestones and note when they are achieved, delayed, or met early. Once we revise the transition plan, they want it on the website it, including the timelines and how we're gauging them. We'll continue to have biweekly calls, plan to have additional trainings involving person centered service planning (PCSP), policy, a lot of touch points in the process, and places for providing input.