

## Final Rule Stakeholder Call

### Topic: Remediation & Systemic Assessment Report

3/1/2017

#### Noon call (80 participants on the line)

1. If a provider has several different sites (residences) and one site is determined to be non-compliant, how is that is going to affect licensing? How is that going to work?
  - a. I would say that if there's multiple sites and the majority are in good shape and one that has room for improvement, program staff from the waiver program or someone with Program Integrity would want to get 1:1 with the provider to see what to do to get them in compliance. Would likely be an individualized plan focused on the affected provider.
2. It is my understanding that the Final Rule is looking at settings and we've been told that a site could not be compliant and the provider would not be penalized for other sites. Other states have providers with multiple sites have handled this. How is Kansas going to handle remediating providers with multiple sites where one site is not compliant?
  - a. Kansas will be handling this partly through site specific remediation as part of ongoing survey and credentialing. If you have examples of how it was handled in other states, we'd like the info.
3. You referenced a CMS PowerPoint at the beginning of the presentation. If it's not on the KDADS website, will it be posted on the HCBS final rule info?
  - a. We'll work on getting posted for folks to have as a resource.
4. We are still having difficulty getting definite guidance on Final Rule and requirements when we aren't a 14c subminimum wage certificate holder. We pay everyone minimum wage. We're having difficulty finding info where we fit in this. We have community non-work access, community access, offer access to community. They want to work. They're having difficulty.
  - a. I think employment is going to be a big issue that the Learning Collaborative is going to have to address and the thought is that it would be a peer to peer model with providers identifying and elevating the issues to come up with a comprehensive strategy. I think it would be a good topic. If you have specific examples you can send them to me, the more specific the issues that folks have concerns about the better.
5. Question – people /agencies, if you don't have a subminimum wage certificate are you still subject to Final Rule? We still have a workshop, are we still required to comply? Can't find anything.
  - a. You can send me specific information and who you have talked to and the facts you received as we form the Learning Collaborative to establish an approach moving forward. If you receive HCBS funding, you have to comply with the Final Rule but I'd like to know more to help form the learning collaboratives.
6. We've had an assessment a few months ago. When can we expect to hear back from KDADS? We don't know if we're in compliance or not?
  - a. If you'd provide me with your email and contact info and contact me directly, I can look into it. Yesterday we reached out all providers who had settings assessments and if you didn't get contacted I'll look into that and get you some feedback.

7. We requested an onsite assessment for heightened scrutiny, an assessor came into both locations back in August – so we've had months of not knowing the outcome. The assessor took copies of policies and procedures and went through the cross-walk. Went 4-6 months and not knowing what changes needed to be made.
  - a. Providing feedback in this process is a weak area that we are working to streamline and shore up to come into compliance by 2019. The 1 on 1 needs to be a go-to person when we have questions as we move through the transition and needs to be looked at.
8. People doing the onsite observations for compliance need to be mindful of the settings they are coming into. They (settings) are serving a wide group of people; seniors who don't care to work. Some of the things (requirements) become unrealistic. There has to be discernment on the facilities. Some assisted living facilities have kitchenettes and residential healthcare, but there may be concerns about having food always available. There's always food in the home but they have their own refrigerators. Requirements may get so picky and structured and may not be applicable to what happens in real life. I'm thinking about the group that I'm with. We have residential healthcare and assisted living. Some guidelines are a sticky situation. No, they don't have food in their room, yes, they have coffee bar and but they have access to food 24/7 but having 24/7 access may mean they can't have food out all the time due to the safety for some residents. The group going out in the day, there needs to be an activity provided for those not doing the activity. There's black and white and there is a lot of grey. The wording could be a stumbling block and could be an issue for reimbursement and staffing. We're not able to facilitate two people doing activities and we can't have people having food out and taking it back to their rooms. It's a gray area to bring us into compliance. How are we going to train compliance to meet the "test" questions?
  - a. The Final Rule is intended to ensure services are individualized, any time there are safety concerns needing modifications, those can be noted in the Person Centered Service Plan.
9. Final rule is not individualized, that is the problem. It is based on congregate settings.
10. How is notification to providers who received an onsite assessment going to be made? A letter to the agency, call, or email?
  - a. We have prepared and sent an acknowledgement via email. Some of the addresses came back as undeliverable. Some may be due to agency firewalls. If you did not get an email, please contact me [Cindy Wichman] directly.
11. Do you know what particular staff the emails are going to? Directors, service people, or specific people?
  - a. Would be the email provided to me by the teams who did the onsite review who had the address. If we didn't have another, would go to the other info systems at the State's disposal for the next best contact.
12. It seems the congregate setting is the issue (with the Final Rule) and that you figure out how to provide individualized services in a congregate setting, in that environment.

#### **Evening Call (10 participants on the line)**

1. From the visits that have been completed – if we haven't received feedback – who do we contact?

- a.** There was a blanket communication that went out yesterday. We used the contact info that was provided by the review team or next best contact. Some bounced back as undeliverable. If you have not received an acknowledgement by the state, email me directly so I can acknowledge you directly and update our contact information.
- 2.** With the new federal administration looking at old unfunded federal mandates, and with the 2 to 1 rule espoused federal – have you reached out the Health and Human Services Secretary and do you know if they're looking at the Final Rule?
  - a.** Like everyone else, I did see on twitter, Governor Brownback met with Secretary Price 1 on 1. I also watched the presidential address relative for every new regulation that two need to be retired. Until we receive direct guidance that it has been substantially altered, we'll proceed with Final Rule implementation as though nothing has changed. With the rapidly approaching deadline and without specific guidance to the contrary, we are moving forward on the final rule. I'm not aware of any particular outreach activities.