



Proposed Changes to Kansas HCBS Programs

Request for Public Comments

Public Comment Period: **Posted:** November 1, 2015 **Ends:** November 30, 2015
KDADS 503 S. Kansas Ave, Topeka, KS 66603 * www.kdads.ks.gov * 785-296-4986 * HCBS-KS@kdads.ks.gov

Public Comment Period Opens November 1, 2015.

The State of Kansas is requesting comments and feedback between 11/01/2015 and 11/30/2015 on proposed changes to HCBS Programs. The proposed changes are summarized in this document and will be posted to the KDADS website at [http://kdads.ks.gov/commissions/csp/home-community-based-services-\(hcbs\)/hcbs-program-renewal-information](http://kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-program-renewal-information).

The proposed changes will affect the following HCBS programs:

- Frail Elderly (FE)
- Intellectual/ Developmental Disability (IDD)
- Physical Disability (PD)
- Technology Assisted (TA)
- Traumatic Brain Injury (TBI)

Accommodations/Alternative Formats: Individuals who need accommodations to access this information can contact Laura Leistra at 785-296-4980 or email HCBS-KS@kdads.ks.gov. Alternative formats may be requested through KDADS and non-electronic versions of this document may be available from your provider on request.

The following proposed changes are open for public comment. Language specific to these proposed changes will be presented via conference call and posted on the KDADS website at www.kdads.ks.gov. The public will be offered various opportunities to submit suggestions for changes, questions, comments and concerns online, in-person or via email to HCBS-KS@kdads.ks.gov. Information relating to conference call opportunities will be posted on the KDADS website, sent out via the email list serve, and made available through your provider.

1. **Specific to Frail Elderly, Intellectual Developmental Disability, Physical Disability and Traumatic Brain Injury Programs:**
 - a. Revised **sleep cycle support** service definition and rate adjustment for the purpose of complying with the recent federal Department of Labor (DOL) Final Rule, including changing the name of the service to **Enhanced Care Service (ECS)**.
 - i. *Appendix C* - The sleep cycle support service definition has been modified and reference to sleep cycle has been changed to Enhanced Care Service.
 - ii. Enhanced Care Services (ECS) is available to participants who demonstrate an assessed need for a minimum of 6 hours of additional care beyond the 12-hour personal care services (PCS) limitation within a 24-hour period and the assessed need cannot be met by the use of personal emergency response services (PERS), informal support or other services.
 - b. Specific to participant direction and employer authority, the following appendices have been amended:
 - i. *Appendix E* - Under participant authority, the selection of co-employer has been changed to reflect the current model of the participant as the common law employer.
2. **Specific to Traumatic Brain Injury and Physical Disability Programs:**
 - a. Kansas updated Personal Care Services (PCS) limitations to be consistent with other HCBS programs operated under Kansas.
 - i. *Appendix C* – The PCS limitation has been modified to be consistent with other HCBS programs operated under Kansas.
 - ii. The limitation for PCS increased from 10 hours to 12 hours per 24-hour period. The need to exceed the 12 hours is subject to the individual’s assessed needs per PCS policy.

3. Specific to Technology Assisted Program following initial public comments in February 2015:

- a. Statewide Transition Plan
 - i. The proposed TA HCB Setting Transition Plan timeline has been amended to be consistent with the Statewide Transition Plan, which will assess and ensure all Kansas provider settings meet the requirements of the HCBS Final Setting Rule within 5 years.
- b. Clarification
 - i. General language changes from individual, consumer, or beneficiary to participant, consistent with CMS language for program recipient.
 - ii. Expectation of MCO's role in person-centered planning and service plan development
 - iii. Plan of Care development process, including referencing the (MATLOC) instrument in addition to the MCO's needs assessment for determining the level of service needs.
 - iv. Service definition/ limitations for person care services and specialized medical care services.
- c. Additions
 - i. Military Exception: KDADS has included language that if there is a waiting list, military individuals and their immediate dependent family members who have been determined program eligible may bypass waitlist upon approval by KDADS.
 - ii. Background Check: Adding the list of prohibited offenses for the purpose of direct service worker qualified background checks. New language: "Any provider or provider assistant found identified to have been substantiated for prohibited offenses as listed in KSA 39-970 & 65-5117 is not eligible for reimbursement of services under Medicaid funding."
- d. The FMS service definition will be modified to reflect the Kansas hybrid model, which will be referred to as the Fiscal/ Employer Agent (F/EA). Under the Kansas FMS model, the participant is the sole employer of the worker and has full authority of managing the worker, including determining worker's wage within specified wage range, hiring, firing, training, and managing the worker. The FMS provider's key responsibilities are to provide administrative functions such as payroll and tax withholding, information and assistance services, and employer supports for participants.
 - i. Propose new language for children in state custody served on the TA program: Children in foster care will only receive agency-directed care while in custody of the State. Foster parents and agencies of children (with disabilities not just IDD) in the state's custody will continue to have the opportunity to choose the providers of services for agency-directed services. The transition plan and timeframe will coincide with the transition plan for the federal EIN.
 - ii. Modified language relating to incidences leading to involuntary termination of an individual's choice to participant direct.
 - iii. Propose reserve capacity to maintain waiver eligibility for individuals admitted into an institution on a temporary basis up to 90 days.
 - iv. Consistent with all HCBS programs managed by Kansas, TA waiver program will adopt the proposed language for the purpose of mitigating conflict of interest between a guardian and consumer (inserted in Service Definition of Personal Care Services Appendix C).

Related Information:

Personal Care Policy: <http://www.kdads.ks.gov/docs/default-source/CSP/HCBS/HCBS-Policies/kdads-standard-policy-personal-care-services.pdf?sfvrsn=0>

Summary of Public Comments

Following the end of the public comment period, a summary of KDADS responses to public comments will be posted on the KDADS website. The summary of responses and any changes made as a result of public comments will be submitted to CMS as part of the proposed amendment.