

## Final Proposed Changes to HCBS Programs Following Public Comment Period – December 31, 2014

Public Comment Period: **Posted:** November 10, 2014 **Ended:** December 20, 2014  
KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* 785-296-4986 \* [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

The proposed changes were open to public comment and feedback from 11/10/14 through 12/20/14. Public comments/ inputs regarding the proposed changes were reviewed by KDADS leadership. The final proposal is summarized in this document and will be posted to the KDADS website at [www.kdads.ks.gov](http://www.kdads.ks.gov).

The final summary of the proposed changes in the HCBS renewals effects the following programs:

- Frail Elderly
- Intellectual/Developmental Disability
- Physical Disability
- Traumatic Brain Injury

**Additional summaries of changes affecting individual waiver renewals are also available at: [www.KDADS.ks.gov](http://www.KDADS.ks.gov)**

**Specific to the HCBS Transition Plan:** The **draft** renewals, which include the Transition Plan for Home and Community-Based Services (HCBS) Settings and proposed changes for each HCBS Program's renewal were available online at [www.KDADS.ks.gov](http://www.KDADS.ks.gov) for public comment until December 20, 2014. Only the areas of proposed changes identified in the summary document were available for public comment.

Access to these documents was provided in three ways:

- **Online:** [www.KDADS.ks.gov](http://www.KDADS.ks.gov) – on the home page
- **In Person:** At your local Community Developmental Disability Organization (CDDO), Aging and Disability Resource Center (ADRC) or Center for Independent Living (CIL).
- **By Email:** [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov), *Subject Line:* HCBS Renewal Information Request

The following opportunities were provided for submission of comments and feedbacks:

- **In Person:** November 12<sup>th</sup> -14<sup>th</sup> from 10-12 and 2-4 in Wichita, Hays, and Lawrence
- **By Phone:** 785-296-4986 or 785-296-3473

*On the following dates call:* 1-866-620-7326, code 4283583031  
**November 17<sup>th</sup>** from 11 am to 12 pm and 5:30 pm to 6:30 pm  
**December 4<sup>th</sup>** from 12:00 pm to 1:00 pm

- **By Email:** [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov) – **Subject:** HCBS Renewals Public Comments
- **By Mail:** KDADS, Attn: HCBS Programs, 503 S. Kansas Ave, Topeka, KS 66603.
- **By Fax:** 785-296-0256, Attn: HCBS Programs

After the public information sessions, an online survey was made available for individuals, providers, and stakeholders to submit comments and questions to KDADS. A summary of responses is being posted online along with this document. The summary of responses and any changes to the proposals is being provided to CMS as part of the renewal submission.

# Summary of Proposed Changes to HCBS Programs

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

**The following proposed changes were open for public comment.** Language specific to these proposed changes were presented in person, via conference call and posted on the KDADS website at [www.kdads.ks.gov](http://www.kdads.ks.gov). The public was provided various opportunities to submit suggestions for changes, questions, comments and concerns at public events, online, in-person or email to the [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov) email box.

1. Standardized Definition of Attendant Care Services across all HCBS programs
2. Added language about change of functional eligibility assessment tool
3. Proposed Change to FMS Model and Service Definition
4. Proposed Requirement of Background Checks for All Services and Assessors
5. Proposed Addition of Prohibited Offenses Language to All Services
6. Updated language from consumer/individual/person/beneficiary to participant
7. Proposed Language Applicable to All HCBS Services For the Purpose of Mitigating Conflict of  
Between Guardian and Consumer.
8. Proposed Language Applicable to All HCBS Services For the Purpose of Mitigating Other  
Conflicts of Interests.
9. Updated language from Functional Assessment Instrument (FAI) to Functional Eligibility  
Instrument (FEI) (excluding IDD)
10. Proposed Language Allow Military Individuals and Immediate Family to Bypass Waitlist Upon  
KDADS Approval.
11. Clarified Service Plan Development; and Roles and Responsibilities of MCO (made the roles and  
responsibilities more clearly defined)
12. Updated projected numbers of annual unduplicated individuals served.
13. Kansas Response to DOL Rule
14. Proposed Reserve Capacity to Serve Waiver Eligible Participants Admitted to an Institution for a  
Temporary Stay
15. Consider proposing standardizing definition of monthly utilization requirements for HCBS  
programs.
16. Proposed Standardized WORK Program Transition Language for all HCBS program

**I. KDADS Final Proposed Changes Submitted to CMS for Approval after public comments. On December 31, 2014, Kansas requested CMS approval to implement the following major changes submitted for each HCBS program renewal application:**

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

1. The State received a number of comments related to the proposed change of provider qualifications for personal care services (PCS) about the change in minimum age limitation and requirement of a high school diploma or GED. The majority of the comments were related to the impact of the change on provider capacity, the use of peers to support activities in the community and that there are a significant number of individuals currently providing supports who have neither a GED nor a high school diploma.

In response to these comments the State is proposing a standardized definition for Personal Care Services (PCS) across all HCBS programs. Kansas will use one definition of personal care services for all HCBS program operated by Kansas. The provider qualification for the IDD, PD and TBI programs will be changed to state the following:

- Must be 18 years of age; **OR** have a high school diploma or GED
- Must meet background check requirement
- Must be in compliance with the capable person policy

2. Based on no significant concerns or feedback received regarding the proposed change of functional eligibility assessment tool for the FE, PD and TBI programs, the State will proceed with the proposal to proceed with the FEI.

3. The State received a number of comments related to the proposed change to the financial management services about the changing role of the FMS provider, the use of the term “fiscal employer agent,” a requirement for consumers/guardians to obtain a federal employer identification number and how the changes were impacted by the new federal regulations.

Kansas sought additional clarification from CMS regarding the proposed changes and made adjustments that were presented during the public comment sessions. Based on the comments, feedback and requested clarification to the proposed FMS Model for support of participant-direction, the State will proceed with requesting CMS approval of the change as originally proposed.

4. The State proposed requiring background checks for all HCBS providers and received limited comments related to background check requirements. The majority of comments or questions were related to who bears the cost associated with the background checks, if a worker can be hired if they do not have a clear background, and whether the consumer can choose to hire a person without complete a background check.

Based on the comments received, the comments were in favor of enhanced background check requirements, therefore, the State will move forward with requesting approval from CMS of this requirement. Additional information and clarification on the changes will be shared in HCBS Policy, FAQs and ongoing public information sessions.

5. The state is proposing adding a list of Kansas Prohibited Offenses language to provider qualifications for all HCBS programs. Public comments were minimal regarding this proposal. The majority of the responses were positive and related to a need for greater oversight in this area. The second most common comments were related to what happens if a consumer refuses to comply with the background requirements or chooses to hire someone with a prohibited offense anyway.

Based on the comments received, the comments were in favor of identifying prohibited offenses, therefore, the State will move forward with requesting approval from CMS of this requirement. Additional information and clarification on the changes will be shared in HCBS Policy, FAQs and ongoing public information sessions.

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

6. The State proposed language applicable to all HCBS services for the purpose of mitigating conflict of interest and received significant concerns and responses regarding the proposal as it related to targeted case management, MCO conflicts and guardianship, including alternative ways to remain in control of a consumer's care, such as securing Durable Power of Attorney or separating the "employer of record" from the "manager/worker" providing services and use of administrative firewalls to separate the two entities. In response to public comments, the State is proposing the following language for review and approval.

Consistent with 42 CFR 442.301, the State will ensure policies; processes and protocols are in place to support the person-centered planning process and to mitigate potential conflicts of interest. CMS reviewed and approved the KanCare service planning process during the transition to managed long-term services and supports, so KDADS understands that process to be compliant with the regulations on person-centered planning and potential conflicts. KDADS has requested technical assistance from CMS to ensure that all other elements of the HCBS programs are compliant with CMS conflict of interest regulations.

7. The State proposed language applicable to all HCBS providers related to guardianship and received significant comments from providers, consumers and stakeholders based on concerns that guardians should be paid to provide supports, and the public-interest concern that the same person directing the care should not also be providing that care. The State has proposed the following language.

A court appointed legal guardian is not permitted to be a paid provider for the participant unless a court determines that all potential conflict of interest concerns have been mitigated in accordance with KSA 59-3068. It is the responsibility of the appointed or proposed guardian to report any potential conflicts to the court and to maintain documentation regarding the determination of the court.

A copy of the special or annual report in which the conflict of interest is disclosed will be provided to the State or designee.

If the court determines that all potential conflict of interest concerns have not been mitigated, the legal guardian can:

- a. Select another family member or friend to provide the HCBS services to the participant. If a family member or friend is not available, the participant's selected MCO or FMS provider can assist the legal guardian in seeking alternative HCBS service providers in the community; OR
- b. Select another family member or friend (who is not a legal guardian or DPOA) as a representative to develop or direct the plans of care. In that case, the MCO will obtain the participant's written consent of delegated representative to act on behalf of participant, initially and annually thereafter; OR
- c. Select other legal guardian or activated DPOA to serve as the appointed representative to act on behalf of the participant.

An exception to the criteria may be granted by the State when a participant/guardian lives in a rural setting and the nearest agency-directed service provider available to provide services is in excess of 50 miles from the participant residence.

The State has requested additional technical assistance from CMS.

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

8. The State proposed changing language regarding changing the reference to the FE, PD and TBI eligibility assessment instrument to functional eligibility Instrument and received limited responses and no opposition.

The State will proceed with the requested change as originally proposed for public comments to CMS for approval.

9. The State proposed language allowing military individuals and immediate family to bypass waitlist upon KDADS approval, and the response was overwhelmingly positive and favorable.

The State will proceed with the requested change as originally proposed for public comments to CMS for approval.

10. The State proposed language related to clarifying the service plan development and roles and responsibilities of MCOs and received favorable responses related to holding the MCOs accountable, improving transparency on roles and responsibilities, and giving more guidance to the MCOs.

The State will proceed with the requested change as originally proposed for public comments to CMS for approval.

11. The projected numbers of annual unduplicated individuals served for each HCBS program being renewed has been submitted to CMS for approval. There were no comments or questions.

The State will proceed with the requested change as originally proposed for public comments to CMS for approval.

12. The State proposed changes to the HCBS Programs related to the new regulations from the US Department of Labor and State received significant concerns and a number of questions related to the DOL Rule.

As of December 31, 2014, the DOL Final Rule was temporarily stayed until January 15, 2015. The court will continue to hear from both parties in the case and additional information and possible delays are being considered. In the meantime, Kansas will continue to work with DOL and IRS to ensure compliance with federal requirements and continue to address the public concerns. At this time, the State is not proposing any changes to services that may be potentially impacted by the DOL rule. Ongoing information will continue be provided on KDADS public website on any new developments at [www.kdads.ks.gov](http://www.kdads.ks.gov) .

13. The State proposed reserve capacity to serve waiver eligible participants admitted to an institution for a temporary stay and received favorable public comments in support of this change. This will allow consumers to remain program eligible up to 90 days from date of admission without having to reapply for services.

The State will proceed with the requested change as originally proposed for public comments to CMS for approval.

# **KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14**

Public Comment Period:

**Posted:** November 10, 2014

**Ended:** December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

14. The State proposed changes to the requirements to standardized definition of monthly utilization requirements for HCBS programs and received limited responses that were mostly favorable.

The State is seeking guidance from CMS to assist with this definition; the final policy language will be presented to the public for 30-day review period.

15. Public comments and feedbacks received regarding the proposed standardized WORK program transition language for all HCBS program were minimal and mostly favorable.

The State will proceed with the requested change as originally proposed for public comments to CMS for approval.

## **Summary of final proposed changes to individual HCBS programs**

### **Summary of final proposed changes to Physical Disability (PD) program renewal:**

1. Eligibility language modified and clarified to include documentation requirements
  - a. In the event the disability determination does not clearly indicate a “physical disability”, the State will allow for the provision of additional documentation to support the individual’s physical disability. The documentation provided must have relevant information to support the person’s physical disability.

KDADS Response: The public comments for the documentation requirement were overall positive and very minimal comments regarding this specific proposal. Therefore, KDADS will submit the proposed additional eligibility language as indicated above to CMS for final approval.

2. KDADS proposed that participants receiving services on the HCBS-Physical Disability program and is turning 65 years of age would transition to the HCBS-Frail Elderly program; the transition requirement is consistent with other programs with maximum age limit. The current eligibility language allows participants currently on the HCBS-Physical Disability Program over the age of 65 the option to remain on the HCBS-Physical Disability Program, KDADS proposed to remove this option.

KDADS Response: The public comments for the maximum age transition to the Frail Elderly program proposal were diverse. The primary concern for the proposed change was related to the difference in reimbursement for Personal Care Service workers. The proposed change does not impact the service option as the services remain the same for both programs. However, KDADS will not be submitting this proposed change to CMS for approval.

### **Summary of final proposed changes to Frail Elderly (FE) program renewal**

1. KDADS proposed to add alternative options to meal delivery and meal preparation under the HCBS/FE program. The service may be accessed as a substitute for assessed needs for meal preparation provided by personal care attendant; this service may be provided as an alternative option to one hour of personal care services for the purpose of meal preparation. Access to alternative meal option is subject to assessed need for meal preparation by the managed care health plan.

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

- a. This service must not duplicate Meals on Wheels or meals that may be accessed through the Older Americans Act (OAA) or through other local resources available to the participant at no cost.
- b. The need for alternative meal option may be as a last resort at the request of the participant.

KDADS Response: During the August sessions, participants and stakeholders voiced concern for meal options when a participant reach the maximum age limit on the HCBS-Physical Disability (PD) program and will be required to transition to the HCBS-FE program. This proposal was developed as a result of the public comments. During the November public sessions, the public responded positively to the alternative meal option proposal, as result KDADS will submit the proposed change to CMS requesting approval.

2. Participants receiving services on the HCBS-PD program would transition to the HCBS-FE program when they reach age 65; the transition requirement is consistent with other programs with maximum age limit. However, those currently on the HCBS-PD Program over the age of 65 at the time of implementation have the option to remain on the HCBS-PD Program.

KDADS Response: The public comments for the maximum age transition to the Frail Elderly program proposal were diverse. The primary concern for the proposed change was related to the difference in reimbursement for Personal Care Service workers. The proposed change does not impact the service option as the services remain the same for both programs. However, KDADS will not submit this proposed change to CMS for approval.

## Summary of final proposed changes to Traumatic Brain Injury (TBI) program renewal

1. KDADS proposed additional language to the eligibility requirement, requiring demonstration of rehabilitative progress.
  - a. The following language will be added as part of the level-of-care reevaluation process: “The individual must show the capacity to make progress in their rehabilitation and independent living skills. Progress reviews are conducted every six months based upon the progress reporting documentation gathered using the standardized tool developed by KDADS with MCO and stakeholder input.”

KDADS Response: The public submitted several comments regarding the rehabilitation progress proposal. Comments focused on the progress reporting documentation and the agency/party responsible for determining progress. Following review of the comments, KDADS will proceed with submission of the above proposal to CMS for final approval.

2. KDADS proposed the additional requirement of KDADS review of supporting TBI documentation requirement as part of the program eligibility review process.

KDADS Response: Public comments and questions were submitted regarding proposal for TBI documentation. The public comments expressed concern for participants who may have difficulty obtaining TBI supporting documentation. Following review of public comments, the following language will be added as part of the eligibility requirement in order to provide further clarity for TBI program eligibility:

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

Participant must, “Have a documented traumatic brain injury that is clinically evident or physician’s documented need for services as a result of a TBI; a traumatically-acquired head injury caused by an external physical force, such as blunt or penetrating trauma or from accelerating-decelerating forces. The injury must temporarily or permanently impair an individual’s behavioral, cognitive or physical functions.”

Some common factors that may result in trauma to the brain include, but are not limited to, the following:

- Falls, which involve a forceful blow to the head, not generally consistent with concussion or minor injury
- Motor vehicle accidents with resulting head trauma
- Struck by/against, including collision with a moving or stationary object
- Assaults, repeated blows to the brain

\*Eligibility for a consumer that has experienced one of more of these factors is not guaranteed and KDADS may request additional documentation to support the diagnosis of a traumatic brain injury prior to program approval.

The individual must meet the level of care required for Traumatic Brain Injury Rehabilitation Facility placement, determined by the KDADS-approved Rehabilitation Intake Assessment and functional assessment. Final eligibility approval for admission to the TBI program is subject to program manager’s review and approval. The state will require professional assessment for documentation that is unclear or questionable for eligibility purposes.

The individual must show the capacity to make progress in his or her rehabilitation and independent living skills. (Progress is evaluated every six months and as deemed necessary by the MCO, using the standardized instrument developed by KDADS and the MCO with stakeholder input.)

The individual must not have a primary diagnosis of I/DD or SPMI. If a traumatic brain injury is obtained prior to the age of 22, the individual may be considered developmentally disabled and will be referred to the Community Developmental Disability Organizations (CDDOs) prior to TBI screening. CDDOs are required to assess all persons with developmental disabilities for the I/DD Program.

If aged 21 or younger, a TBI waiver participant must have a KAN-Be-Healthy (EPSDT) screening completed on an annual basis.

3. KDADS proposed to add language that will require a licensed professional (physician or neuropsychologist) assessment in cases where the documentation does not clearly support a traumatically-acquired brain injury.

KDADS Response: KDADS has reviewed the public comments submitted regarding this proposal and will submit the above proposal to CMS for final review.

4. KDADS is updating Level of Care criteria to be consistent with current Program Policy Manual

KDADS Response: The public comment/ feedback requested clarification as to the proposal. The level of care criteria will include language from the policies and procedure manual referring to need for I/DD program, determination when the injury occurred before the individual reached age 22. “The participant must not have a primary diagnosis of I/DD or SPMI. If a traumatic brain injury is obtained prior to the



# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

age of 22, the individual may be considered developmentally disabled and will be referred to the Community Developmental Disability Organizations (CDDOs) prior to TBI screening.” CDDOs are required to assess all persons with developmental disabilities for the I/DD Program. The proposal will be submitted to CMS for final approval.

5. KDADS proposed a requirement for all HCBS-TBI providers to complete KDADS approved training curriculum

KDADS Response: The public submitted comments regarding reimbursement of KDADS training. KDADS is submitting the above proposal to CMS for final approval.

KDADS is responding to a request to allow a provider with a Master’s Degree in Special Education to provide cognitive therapy services through the HCBS-TBI program in the participant’s home.

- a. For clarification purposes, KDADS will support the rules and regulation of the certification/licensing board. According to the certification/licensing board for professionals with a Master’s degree in Special Education, providers serving in a school environment can provide these services if the provider has a certification in Special Education by the Kansas State Department of Education. In such a circumstance, the provider must have a Master’s degree in Special Education, complete KDADS-approved training curriculum, and comply with State statutes, rules, and regulations.

KDADS Response: KDADS received clarification comments regarding the provider requirements for behavioral and cognitive therapists. Consistent with the certification/licensing board requirement, a provider meeting the above qualification can only provide services in a school environment and is not qualified to provide cognitive therapy under the HCBS-TBI program. As a result of the clarification request, KDADS has modified the provider requirements following conversations with the Behavioral Sciences Regulatory Board (BSRB) and Kansas Department of Education (KDOE) to be consistent with BRSB and KDOE therapist requirements. KDADS has referred providers with therapy licensure questions to BSRB/KDOE and will continue with the above submission to CMS for final approval.

- b. TBI providers or provider assistants are not permitted to be dual providers for the same consumer on the following services:
  - Personal Care Attendant (PCA) and Transitional Living Specialist (TLS)
  - Transitional Living Specialist (TLS) and Therapeutic Services (including behavioral, cognitive, speech-language, physical, and occupational)
  - Multiple therapeutic services (including behavioral, cognitive, speech-language, physical, and occupational)

KDADS Response: No public comments were submitted regarding the above proposal; therefore, KDADS will submit the above proposal to CMS for final approval.

6. KDADS is providing clarification on state regulations and statutes allowing therapy services to be provided under supervision of a Medicaid enrolled qualified provider.
  - a. In accordance with statutes and regulations (KSA 100-29-16), physical therapy services may be provided by a physical therapist assistant under the supervision of an enrolled licensed physical therapist provider..

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

The physical therapy provider will follow compliance requirements specified by the Kansas Board of Healing Arts (KBHA).

The licensed physical therapist is responsible for providing, upon request from the State, the following:

- Comprehensive list of the selected tasks performed by the physical therapy assistant
- Documentation of education, training, experience, and skill level of the physical therapist assistant
- Documentation of the setting in which the care is being delivered to the consumer
- Documentation of the complexity and acuteness of the consumer condition or health status

Requirements for physical therapy assistant:

- o Must have the appropriate level of education and certification (100-29-2 & 100-29-3)
- o Must be at least eighteen years of age or older
- o Must reside outside of the program recipient's home
- o Must be a Medicaid enrolled provider or an employee of a Medicaid enrolled provider.

KDADS Response: The public submitted comments related to incorrect Statutes/Regulations. KDADS reviewed all listed statutes and regulations for all therapy services and made the necessary changes. Therefore, KDADS will submit the above proposal to CMS for final approval.

7. KDADS proposed transition from TBI to another program if a participant no longer meets program eligibility requirements, is not making rehabilitative progress, or has reached the age limit for the program (age 65).

Participants that turn 65 while receiving TBI program services may continue receiving services as long as the participant continues to make rehabilitative progress.

Any participant that does not show rehabilitative process in program services, including those participants who are approaching the age of 65, may be eligible to transition to the appropriate program provided the participant meets the established criteria. Participants transitioning from the TBI program who no longer meet the TBI program eligibility criteria to remain on the program will transition to the program they are eligible for and may bypass the waitlist at the time the determination was made.

KDADS Response: KDADS is submitting the above proposal to CMS for final approval.

8. KDADS has modified the TBI Addendum to ensure that the Addendum supports an individual's need for rehabilitation services in an institutional setting as a result of a TBI

KDADS Response: No comments were submitted regarding this proposal; therefore, KDADS will submit the above proposal to CMS for final approval.

# KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14

Public Comment Period:

Posted: November 10, 2014

Ended: December 20, 2014

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

## Summary of final proposed changes to Intellectual/Developmental Disability (I/DD) program renewal:

1. Add language for a \$300 annual maximum limitation for maintenance or repair of a previously purchased Assistive Service.

KDADS Response: Based upon no public comments relating to this proposal. KDADS has submitted the proposed change to CMS for review and approval.

2. Kansas has standardized the definition of Personal Care and removed the Alternative Service Title of "Personal Assistant Services" See Final Summary of HCBS Program Proposals

KDADS Response: Based upon the public comments relating to this proposal. The standard definition of Personal Care services will be standardized across waivers. KDADS will proceed with submission of proposed change to CMS for review and approval.

3. Also related to Attendant Care and Supportive Home Care language and redefined under Personal Care Services;
  - a. Language has been removed related to Personal Services providers being reimbursed for up to 20 hours per calendar year to allow for payment to Personal Services attendants to attend training opportunities.
  - b. Language related to Attendant Care and Supportive home care maximums with an average maximum has been removed.
  - c. Retainer service language for Personal Services and Supportive Home Care has been eliminated.
  - d. The minimum age for Personal Services and Supportive Home Care providers has been changed from 16 to 18 and language regarding a requirement of a high school diploma or GED has been added.

KDADS Response: Based on public comments, KDADS has modified the proposed language to say "providers must be at least 18 years of age OR have a high school diploma or GED" and this language been submitted to CMS for approval.

4. Functional Eligibility Instrument

As a follow up to the October 2014 statewide public information session's presentation of KDADS contract with University of Kansas to conduct a study of the current functional eligibility assessment instrument for the FE, PD, TBI program; and possible inclusion of the current BASIS eligibility assessment instrument for I/DD in to the study in 2015. Beginning in 2015, KDADS is considering an addendum to the contract with Kansas University (KU) to evaluate the current I/DD functional assessment instrument (BASIS) for demonstrated reliability and validity and propose recommendation to KDADS as to whether the assessment should be incorporated into the standardized eligibility instrument (MFEI).

KU will assess the level of care eligibility for the HCBS-I/DD population, seek input from assessors, stakeholders and entities that work with HCBS-I/DD population as subject matter experts, and seek recommendations for consideration. Once the contractor has concluded their study, recommendations will be submitted to Kansas for review and approval.

As part of the work plan, a draft of the standardized eligibility instrument will be developed based upon input collected the assessors, stakeholders, and entities who work with the HCBS populations with a targeted date of July 1, 2015. The draft standardized eligibility instrument will be tested and administered with the current functional eligibility instrument during a four to six month time period. Following the

# **KDADS Final Summary of Proposed Addition or Changes for Submission 12/31/14**

Public Comment Period:

**Posted:** November 10, 2014

**Ended:** December 20, 2014

---

KDADS 503 S. Kansas Ave, Topeka, KS 66603 \* [www.kdads.ks.gov](http://www.kdads.ks.gov) \* P: 785-296-4986 \* F: 785-296-0256 \* E: [HCBS-KS@kdads.ks.gov](mailto:HCBS-KS@kdads.ks.gov)

conclusion of the testing, the standardized eligibility instrument will be refined and adjusted based on data collected during the field testing until a final version of the final eligibility instrument is developed. Input from assessor, stakeholder, and entities who work with HCBS populations will continue to be gathered throughout the process and planning webinars about the eligibility instrument will be provided for additional providers and the public. Once the eligibility instrument has been finalized, an in-depth training on the instrument will be provided to assessors. KDADS will review the impact to I/DD program eligibility prior to implementation of function eligibility instrument.

Following final decision of a revised statewide eligibility assessment instrument, Kansas will develop a work plan to implement a phase in assessment process to include dual assessment using the current assessment tool and the new statewide assessment instrument in order to evaluate outcome. Kansas anticipates a phase-in implementation off the new statewide assessment instrument to begin by 2016. In order to comply with CMS requirement, Kansas will be submitting an amendment for the HCBS program to include the revised statewide assessment instrument for CMS review and approval 90 days prior to planned implementation.

**KDADS Response:** Based upon the public comments, the State will continue its process for developing an alternative standardized eligibility instrument for IDD services.