

## Final Rule Stakeholder Call

### Topic: Final Rule Rebalancing

4/19/2017

Noon call (56 participants on the line)

Today's speaker: Cindy Wichman, Director of Community Services and Programs

1. Has the revised STP been submitted yet?
  - a. The final or modified version of the STP has been submitted and we are awaiting their initial round of feedback in terms of next steps.
2. What is the timeline for CMS to provide feedback to you?
  - a. I can reach out to the KS team and find out what their timeline is.
3. I understand the historical rebalancing that we've done, but what does this new rebalance look like for our future? I know that we've got to do the housing and vocational programs, but what else are we supposed to be rebalancing?
  - a. I think you identified a few of the areas that present an elevated level of risk; day service settings currently operating and with respect to employment, work centers or sheltered workshop settings, often for persons with IDD. The expectation is that they have greater opportunities for employment that look like opportunities for persons without disabilities would expect and enjoy.

Areas that have received attention and/or have been identified through the onsite assessments include:

- Residential agreements that conform to the landlord and tenant act, giving people certain appeal rights that would be enjoyed by persons who are not in some HCBS settings; and,
- Person centered service planning (PCSP) that would be a consumer driven process as much as possible with it expanded to other waivers where it was not required in the past including the FE waiver, and PD waiver. This is different than the IDD person centered support plan, but it marries well with the service plan like the FE waiver as one example. PD waiver. IDD has the support plan that marries with the support plan.

These are just some examples of areas that have been identified as needing attention.

4. What kind of support are community employment agencies giving to this change in getting folks out into community employment?
  - a. I think that there are some innovative approaches in community based programs, the actual details I can't speak to. Some providers have emailed me the innovative practices they are doing to get people out more than before. We are planning opportunities for you to hear more from them about what they are doing in their work towards compliance. That call is scheduled for May 17, 2017 and is called Emerging Practices for

Compliance. We're hoping to use the majority of that time for providers to share with us what they're doing to work toward compliance with the final rule.

5. Is the state aware of other states that have tried to get their sheltered workshops approved in some manner rather than attempt to have completely integrated employment? In reality, integrated employment is not for everyone. Some persons can be employed in the community and some cannot, and some only for a short period of time due to their abilities. Will Kansas attempt to retain some of the less integrated models to assist those that can only do so much?
  - a. As far as other states, a provider sent me some links to what is currently happening in Pennsylvania. They have been able to retain much of the work center employment model and their state is pushing providers to offer a progressively higher percentage of integrated community employment activities. Phase 1 might require 25% more community employment activity than what is occurring now, the next phase 50%, and phase 3 requiring 75% more than the baseline. That's only one example that I've recently learned more about.

Regarding where Kansas is headed, we're going to have to comply. On the last call we spoke about the statewide transition plan (STP) as being key turning point. We have a lot of good information and recommendations from the stakeholder groups about what work should look like about day programs, including how to continue to respect choice while also complying with what the rule dictates. I would say that once we have approval and CMS says we're moving in the right direction, we will be able to take concrete steps and use public input to make modifications. We will also use the peer-to-peer learning collaborative model to take those steps. One of those learning collaboratives will focus on day programs and work activities.

I do think Kansas will take part of the feedback on day programs and blend them with what is required under final rule to comply while working to not be too disruptive to the folks we serve.

6. When you look at the CMS final rule and what has been seen so far in Kansas, in terms of vocational rehabilitation and employment, the terms opportunity, offering, and choice are key words. Opportunity, in a way, implies a person's choice and that includes if they choose not to do or cannot. They are key things and we all know that. This all goes back to the federal thing – and I'm not sure where the interpretation came from that there has to total integration. Kansas is trying not to disrupt the lives of stakeholders, but there is going to be disruption and nobody knows for how many. What is clear is that not 100% of persons with IDD can participate in integrated employment. That is a fact.
7. I believe all of this is on a continuum toward community for all. There are some that have done a full conversion: Vermont, Massachusetts, New Hampshire, and Tennessee in the process now. I know a provider, in Tennessee, that has an organization with 3-4 sheltered employment settings and 350 participants who are all in the process of going to community based employment settings. I haven't been there to see it, but I am told they are very excited about it. The managers are now working on managing 100s of locations, and that is a challenge for them. As we move forward, think about it as it takes time in the process.

8. I hate to be the one to ask a sore question or the voice of concern. I'm aware of only one (1) state that has final approval with a half-dozen that are trying to get through. The only one is Tennessee and they have figured out a way to continue to utilize workshops in the spectrum of services. Where this extra direction is coming from? I don't think I agree with the previous commenter's comments that we're all on a continuum or in agreement to provide community based services. I am in agreement that we are focused on a spectrum of supports that meet them where they are and grow them from where they are, and not shoehorn them into somewhere that is not where they are at. When some states are brought up, and when they eliminate, it is important to ask if we are certain of the success of those types of approaches. We need to ask if some of the stories and reports of those individuals who have lost some of their supports. Those people are sitting at home instead of in another setting; is that the right solution for them? Cindy, I appreciate your comments. I hope you we keeping an open mind, not overreacting, and looking at what is being approved by other states.
9. I would like to commend the previous commenter for his speaking the truth and his comments. I think they're spot on. We should collectively think about them. We serve an aging demographic in this state and folks with all kinds of needs. I support where the previous commenter is coming from.

**KDADS wants to remind anyone who is interested in what's happening with other state's transition plans to visit the Medicaid HCBS State Transition Plan page located at:**  
<https://www.medicaid.gov/medicaid/hcbs/transition-plan/index.html>

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

1. With this rebalancing, are we still looking at people that are still in the workforce age bracket that are wanting to work and having to make accommodations and providing them in the proper settings for them to have integration? Is that what I'm understanding?
  - a. Yes. When people graduate from high school, often they are referred to a work center with several people with disability. With Kansas being an employment first state, we want them to explore employment first. Rebalancing shifts resources away from congregate work centers and moves them towards individualized opportunities and goals.
2. I could see that working with the right team for some of those in my community, one person who has been successful has an autism spectrum disorder. I could see where on person might be successful doing one task while another works a normal job and is content and happy.
  - a. When we apply a rebalancing formula, there would be a system that had more resources devoted to that instead of them going directly to a work center alongside others with conditions such as autism spectrum disorder, and then moving to employment from there. I'm not saying that prevocational services aren't good for some people, because they are, but under employment first we want them to have an

opportunity at integrated employment first. Then, they can move to prevocational services if that employment situation isn't working out.

3. In our school system, we have youth that are challenged and they come in with a paraprofessional, and volunteer in the assisted living facility learning a task. They do housekeeping and learn other skills so they can do that skill later and we don't have to staff that position in the nursing home. Sometimes they will do dishwashing or work as tray aides, but they are working with them because they have a one-to-one need. This gives them a skill they can take to work somewhere like in a grocery store, the library, and other places in community.
  - a. School systems are a great partner and will continue to be an important partner in the future. Where in Kansas are you located?
    - i. Montgomery County (Southeast Kansas).
4. Future topic request: Residential and assisted living facilities – areas of non-compliance or in need of remediation that are not the need for a lease that meets the requirements of the landlord-tenant act.