

## Final Rule Stakeholder Call

### Topic: Overview of the Rule and work so far

7-20-2016

#### Noon Call (110 participants on the line)

1. Can you provide clarification about how many onsite interviews will be done with Medicaid participants as there are concerns about confidentiality and the need for a release of information?
  - a. When onsite visits are done, what happens at the site will depend on what is found during the review. Assessors have a release of information to conduct interviews and anyone has the right to refuse to be interviewed.
2. Most guardians are not going to be present during the interviews. Will there be a follow-up visit after the onsite assessment to conduct interviews?
  - a. The State will not make a follow-up visit.
3. How can someone be involved in the workgroups?
  - a. Needs a concise answer
4. Are person centered support plans (PCSP), day services, adult care homes, and dementia settings going to be considered needing heightened scrutiny without an onsite review?
  - a. The State knows those are areas of concern that could be considered. The State wants to work with the workgroup to determine how to work with each of these situations or settings, how some settings that might need heightened scrutiny are community based, and how can to ensure integration into the community for those not fully compliant.
5. **Comment:** Other states are looking at sheltered workshops and in conversations with providers in Kentucky, sheltered workshops are not in full compliance but are partially compliant and not considered needing heightened scrutiny. CMS has set the floor on this issue and we're asking the State that we as a state are not going to be displacing and taking people away from services they enjoy by over scrutinizing settings.
  - a. CMS is clear on this issue and all states are taking a different approach. That's why the State needs to take a look at what is happening in Kansas and why the State wants to have a stakeholder workgroup to talk through those issues, as not all sheltered workshops are the same. In summary, the State is not looking to be more restrictive than what the rule says.
6. At the public forum you wanted comments from groups on the transition plan by July. Is that still applicable?
  - a. The State wants comments and will try to take comments on the calls. The things we talked about today are part of the transition plan. The State is also putting all the public comments and responses in the transition plan documents. The State will take comments up and until the time that we get the State into compliance. After the State submits the transition plan, it has to get approval from CMS. Typically, States get initial approval prior to final approval. If CMS wants more information, they will ask for it before giving final approval.

7. During the last round of stakeholder meetings, we were told a consumer and family survey would be sent out? We (CDDOs and providers) would like to have a general idea what questions are being asked and were told that the survey would be made available to us. Is that still the plan?
  - a. The State was given the list yesterday and has the survey. The plan is to send it out and also post it online including when the mailing will happen.
8. What do you see the CDDOs role in the final rule settings assessments?
  - a. There were some CDDO representatives at the onsite assessment training that have volunteered to help conduct onsite assessments. What the State wants to do is mitigate conflict of interest, so a CDDO representative or anyone else who might have a conflict of interest, will not be assessing someone in their service area. However, they might be involved with assessing an adult care home or other setting in their service area.
9. If there are issues relating to providers in the CDDOs network, will the CDDO be made aware of that somehow?
  - a. There is ongoing discussion about continuing to have meetings surrounding this issue. 30 days after onsite assessment, providers would be notified of the findings. There has been discussion about sharing this with the CDDOs which providers who were or were not complaint. There has also been discussion about if that would be done in a meeting or if we'd send a letter to the CDDO when sending one to the provider. The State would like feedback on how to best approach this issue.
10. I would like clarification on who is conducting assessments?
  - a. Any volunteer may conduct an onsite assessment at any setting type. They will not be looking a regulation compliance as they would on other surveys conducted by the State. These assessments are looking at the individuals' experience in the setting. The person(s) conducting the assessment don't have to be an expert in any particular field to use the tool, which was discussed during the training.
11. We understood that the people involved in IDD would not be allowed to do IDD assessments? Is that flexible?
  - a. It is flexible, but an IDD provider will not assess someone in their service area.
12. Could you give us a ball-park of how many onsite assessments will need to be completed and if you have enough people to complete them.
  - a. I can't give you a number today because the State is currently comparing the lists of sites that completed the attestation survey and our complete provider list. There is a group of providers that asked for assessments on their attestation survey and those settings will be visited along with settings that are attached to an institution. While the State can't give an exact number of settings today, I can tell you that I think we have enough people to complete the process.
13. When the State conducted the onsite assessment trainings in Salina, what kinds of issues were highlighted? What kinds of issues were addressed that might need a transition plan?
  - a. The training covered the process, communication, the expectations of the group assessing, and a lot on the tool itself. The individuals conducting assessments are not being asked to make a judgement. They will make observations based on their training and tool but will not make a determination, simply report what they saw. This will be turned over to the State staff to make a determination about compliance.

14. Do you have an idea how soon the assessors will be contacted and notified that they will be doing assessments with their team?
  - a. We expect that to start within the next week. The teams will then be in contact with providers to let them know they're planning the assessment.
15. What would you see as the final outcome for you? The optimal outcome? What's the goal in this?
  - a. The optimal outcome is to be in compliance with the rule. Looking at the final rule and making sure the HCBS recipients have the same community opportunities that a person not receiving HCBS services would have. I think that's always been a goal for Kansas.
16. What kind of ongoing reporting will be provided to stakeholders regarding the onsite assessments?
  - a. The State will have reporting on the settings on compliance, those that can come into compliance, those with heightened scrutiny, and those that are not home and community based settings. Reports will be posted on the KDADS webpage ([http://www.kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)/hcbs-waivers](http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers)) This includes all of the PowerPoints, reports, and anything else we do. The State wants to inform people as much as possible; which is why there will now be conference calls and another round of meetings.
17. What kinds of numbers are you looking for from CDDOs?
  - a. The State may need assistance from CDDOs regarding fully compliant settings, settings receiving heightened scrutiny, settings that do not and cannot meet final rule compliance. The data needed includes the number of settings, how many served (0-4, 5-16, 16-99, and 100+), and how does that setting comply if heightened scrutiny. The State will post it on the KDADS webpage ([http://www.kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)/hcbs-waivers](http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers)) to help CDDOs prepare in helping identify that information.
18. What can you expect next?
  - a. Next steps are getting the consumer and family survey out, conducting onsite assessments, working with providers to create transition plans for those who need help coming into compliance, and providers submitting their transition plans to the State.
19. In terms of the settings assessment, what is the role of the MCO?
  - a. There are a few things, first the State will be working with them to assist with the assessments and provide assistance to providers. Some MCO representatives were at the training and will be participating in the onsite assessments. The State also hopes that care coordinators, CDDOs, and adult care homes will notify the State if they see an issue or are concerned that a setting is not fully-compliant with final rule.
20. I wanted to know if other teams are working on the components necessary for the person centered support plan (PCSP)?
  - a. The Final Settings Rule Workgroup will have a subgroup that will focus on PCSP. If you have ideas, you can send them to the team.
21. When someone is not in compliance, will they receive help creating a transition plan? Will an interview with the client occur before transitioning?
  - a. There are a few things that could happen here. Some sites will be able to become compliant with a transition plan. Others will not be HCBS and not able to become HCBS.

Those transitions where a person has to move from that setting will be done in conjunction with the care team to help them transition to another provider.

22. What about those unable to work? What are their needs and what does the plan say?
  - a. CMS says not everyone is required to work, what is required is that the PCSP shows they are given choice.
23. How are we supposed to serve those individuals who do not want to do day service integration or employment?
  - a. That's part of figuring out what the individual wants to do, what's available, and giving them choice while documenting those things in the PCSP. There is an awareness about circumstances where there's an assessed need that may conflict with the final rule and as long as it's in the PCSP, it's okay. However, when there is discussion around day services the State recognizes that there needs to be more discussion about what those will look like going forward.
24. How do we integrate day services into the community?
  - a. That question and finding answers is the feedback that the State is looking for and welcomes comments on how to achieve integration.
25. **Comment from State:** State has until March 17<sup>th</sup>, 2019 to come into compliance.
26. If someone is retirement age, does compliance mean that they are given choice of activities and opportunities?
  - a. Yes.

#### **Evening Call (16 participants on the line)**

1. How does this impact a family with an HCBS IDD client that lives in the family home?
  - a. CMS says that individuals receiving services in their home are presumed compliant with the rule.
2. The information request you were talking about? Are those going to be posted on the website?
  - a. The State will post "notes" from the calls on the Final Rule site at ( [http://www.kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)/hcbs-waivers](http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers) )
3. Is there consistency in PCSP across the state? Is there any more information about who needs a PCSP and if there's going to be a consistent process?
  - a. Right now, the State sees a variety of PCSPs. Under final settings rule, all HCBS recipients will be required to have a PCSP. The stakeholder group that meets will work to move Kansas toward consistency across the waivers.
4. Is there a timeline for when all who are on a waiver will need a plan completed?
  - a. Compliance must be achieved by March 2019.
5. The MCO and Care Coordinator said they don't need our PCSP, supporting documents, or needs assessment for funding.
  - a. The final rule says all receiving HCBS will be required to have a PCSP and it should reflect that individual, their voice, and their needs.