

KDADS/CDDO/Stakeholders Meeting Minutes

August 24, 2017

Location: 9:30 am – 12:00 pm New England Building Center Basement Conference Room 503
Kansas Ave. Topeka, KS 66603 Phone: (785) 296-0935

Facilitators: Amy Penrod, Cindy Wichman, Paula Morgan

Roll Call: All CDDOs are represented in person on the conference call or both. KDADS staff present are: Paula Morgan, Amy Penrod, Karla Werth, Melissa McDaniel, Janelle Lyon, Colin Rork, Linda Young, Kimberly Feldt, Cindy Wichman, George Van Hoozer. Also present were representatives from Advocare, a provider, Tim Wood/Tim Graham/Chris Gunn - InterHab;

Review of Minutes: The minutes from the April 20, 2017 meeting were reviewed. Cliff Sperry with the CDDO of SE Kansas, requested the minutes of these meeting be sent out closer to the end of the meeting. Paula, Cindy, and Amy are working out a checklist system to prepare for the CDDO business meeting including the presentations at the meeting. They will include this in the checklist. KDADS wants to post the minutes as quickly as possible after the end of the meeting. Jerry Michaud moved to approve the minutes and Kathy Montgomery seconded. Motion passed. Minutes approved.

Review of Action Log: The action items still pending from the April 20, 2017 meeting were reviewed. There was a question about the color coding on the Action Log and Paula said black means completed, green means it is not completed.

A question was asked about the status of the Conflict of Interest policy and George said the Conflict of Interest policy is tied to the IPC/CSP policy. KDADS is currently seeking internal guidance on the IPC/CSP policy. CMS completed their review and KDADS received a response 30 - 45 days ago. The Conflict of Interest memo on the website is still to be followed. Dee Nighswonger from Sedgwick County CDDO received guidance from their QMS staff asking to send out the Conflict of Interest policy to affiliates and letting them know the QMS staff will be holding them to the requirements in the policy. Janelle indicated when they were told about the policy in 2015, the providers were to get a stamp on their documentation indicating the papers were submitted. The determination from the court was the information that is missing. KDADS Legal department said the guardian is going to have to petition the court when the annual/special report is submitted and the courts will determine if there is/is not a conflict of interest. The federal regulation that is referenced in the Conflict of Interest policy (42 CFR 441.301) is for all HCBS providers, not just FMS providers. If a court appointed legal guardian is providing services for a HCBS recipient and getting paid to provide those services, that is potentially a conflict of interest. The new policy that is drafted will address the issues and we can anticipate a policy coming out (as a redraft) within the next few weeks. The redrafted policy will come out with a new comment period. KDADS committed to sending a draft of the policy (as per the contract) before it goes out for comment. The plan is to have the Conflict of Interest policy done before the end of the calendar year.

If CDDOs have questions, route them to Janelle so she can address. If someone has received the determination from the courts that there is not a conflict of interest, then they don't need a designated representative. This determination needs to be made annually through the courts. It was suggested that the MCOs need training because the QMS is not involved with the FMS providers, the MCOs work with the FMS providers. There is a large number of providers who are out of compliance, however there would be a reasonable amount of time allowed to become in compliance. If the provider has taken no steps to be in compliance, then QMS will push for compliance. In situations where the guardian or DPOA is getting paid to provide HCBS services to the individual, then they would have to seek this documentation from the court system. Typically this information is maintained in the individual's records, normally along with the guardianship paperwork. In a situation where the individual is receiving licensed day/residential services and a guardian works for the organization, KDADS noted this would also require the above mentioned mitigating steps. Those who are self-directing their services through a FMS provider, more work is need. Eileen Doran, Shawnee County CDDO, asked if a guardian used a designated representative she had the understanding that they don't have to request a conflict of interest finding from the courts - as they have assigned these functions to another. Janelle responded that the guardian would still needs to get the court's determination on the conflict of interest. The process of use of a designated representative would indicated that the guardian has been found to have a conflict of interest by the courts and needs a designated representative.

Janelle gave the following example: Day/Residential provider - one of the staff working for the provider is guardian of person receiving day services from the provider, but does not receive residential services from the provider. The guardian works at the day service provider so they need to get the court documents. If guardian doesn't necessarily work with the person in the day program, the guardian is still required to get the conflict of interest documentation from the courts.

The KDADS licensing people are further along in following up on conflict of interest than the MCOs are on the FMS and Self-directed services side. Sedgwick County said there was an understanding that the FMS providers would review the documentation of the guardians. The MCO is the one who will be responsible for this and it was tied to FMS. KDADS will need to follow up on this as they had not heard of this.

Chris Gafford - There is a federal regulation that states all of this information, but there is no official KDADS policy. The Conflict of Interest policy that is written addresses FMS Providers and the MCO, but it is applicable to all HCBS providers. The policy is not clear and we need that before we can hold people accountable to complying with the policy. It was pointed out the current policy doesn't speak to DPOA and it gives the option of designated representative.

Amy Penrod and George VanHoozer will discuss revisions to the policy and will get it out as quickly as possible. If CDDOs have questions on this policy they should send them to KDADS - Janelle Lyon. There is a willingness for the CDDOs to assist in developing a policy that takes a commonsense approach and meets the intent of the regulations. There might be a number of CDDOs who would be interested in assisting KDADS with this policy.

We walked through the rest of the Action Log - It was suggested we include a discussion on how to address minute taker in the future. Currently the KDADS Administrative Assistant position is vacant and they hope to have someone hired in the near future. DSNWK/CDDO agreed to take the minutes for this meeting today. We may want to alternate minute taking between the CDDOs and KDADS (prior practice).

Crisis Process Training - Paula Morgan shared that an invitation will be sent out to the CDDOs to see if there is time available in September to train on the Crisis Process.

Effective Date of ISP: Nicole Hall, Butler County CDDO stated the ISP must be updated the first of the month following the date of the BASIS being done. Following this process creates some concern if a person becomes a tier 0 on the 25th of the month and their funding ends effective on the 1st of the following month. In this scenario, this only allows the family 5 days to seek alternate services. Another issue is related to the 30 day appeal process. Cindy Wichman felt the 30 day appeal process stands and no reduction or change in services should occur until the appeal is resolved, so that would address the loss of eligibility. Cindy said the problem is that we cannot pay HCBS funds for a person who is not categorically eligible for HCBS (Tier 0) and we may want to get the MCO onboard to work with the member on transition services, looking for other community options, etc., that would meet the person's need. Nicole indicated the ISP is done immediately and the ISP changes are being made even while the person could be planning to appeal, although the person may not have appealed yet. Tim Wood, InterHab representative, suggested that there should not be a change within the 30 day appeal period if go from a HCBS tier to a tier 0. Sherry Arbuckle, Sedgwick County CDDO, felt this was already happening in the TA waiver and suggested KDADS will want to look at the TA waiver. Cindy said they will need to take it back to see what the action will be and if KDADS allows a 30 day appeal period without changing the reimbursement. They will need to determine what funding stream will be used to pay for the services during the 30 day appeal period. Cathy Montgomery, Achievement Services CDDO, asked why could there not be a policy change that would address the payment for the time in the appeal process.

Cindy will look at holding the existing tier in place for an additional 30 days and we would have to consider that this would apply for all tiers that would change from a funded tier to a tier 0. It was suggested this may be very similar to the loss of Medicaid eligibility and holding open their Medicaid for 90 days. Amy indicated KDADS will look at verbiage to achieve the goals that make it clear and workable in practice and cover this with the MCOs.

Money Follows the Person: Sherry Arbuckle, Sedgwick requested an update on MFP Transition. Amy Penrod indicated KDADS is very close to getting a policy out on the MFP transition process, since the federal program officially ended. KDADS stopped doing transitions with the federal program on June 30, 2017, however, if a person was in process on June 30th, KDADS is still processing those under the previous federal plan. The replacement state process, KDADS indicated they will be following a process very similar to the Crisis Process in place today. If an individual is in an institution and wants out of the facility to be placed in the community, that would meet the crisis criteria. KDADS has been working with the MCOs on the goals of moving people out of the institutions (including nursing homes). If the draft policy is approved by KDADS at the meeting on Monday, August 28, 2017 then KDADS will send out

information through the CDDO network. Any CDDO with a question they can contact Larry Kelly at KDADS to find out if a person was approved for the MFP process prior to June 30th. Sherry Arbuckle questioned the setting size requirement for people who were not in the pipeline as of June 30, 2017. George indicated the new state process won't be as strict as the MFP program and it will have more flexibility (regarding setting size). There is no change in the TCMs being able to bill 90 days prior to the person leaving the institution. Moving from an institution setting will be across all setting, however the most impact will be on IDD and PD because it allows people to bypass the wait list.

Background Checks: Kathy Brennon, Tri- Valley CDDO, requested clarification on the need for national criminal history background checks. Melissa McDaniel said the national background check is not required at this time. The provider would be required to run the seven background checks as identified in the background check memorandum dated January, 2017.

Melissa McDaniel said KDADS now has a more formal process for the exception process to findings from the criminal background check process. It is available online and Health Occupations Credentialing (HOC) processes these. There is a link to the exception request form on the HOC's webpage. The employee/potential employee can provide additional documentation from former employers and character references. It is available for anyone to use. If granted, it is a permanent exception for the specific offense only. Do not send requests directly to Amy or Mellissa as had been the previous approach. These must be mailed to HOC. For people who have expunged the offense from their record, the employer must wait for the official KDADS letter before bringing someone back on staff. The expected timeline on receiving a response to an exception request remains unknown. KDADS shared that multiple inquiries regarding status serves only to slow the overall process down. CDDOs expressed the importance of expediting the processing given the pressures to secure employees quickly.

Conditional Terms of Employment - Secretary Keck is working with the legal department on what can and can't be done. He feels that as long as the individual is not providing a direct service to an individual, they could be employed, however there is the requirement to wait for legal to determine how to proceed.

There is still difficulty with the timeliness of the APS and CPS checks. Amy indicated there have been having conversations with DCF about the timeliness of the checks. Some providers are receiving the results of the APS background checks through the mail instead of by email, and CDDOs struggle to understand why that is happening. The results would be received quicker if they were emailed instead of going through USPS. Amy and Melissa will follow up on this concern.

CDDOs and 3161s: Kathy Brennon asked if there was an update to the MR-1 question that Brandt was going to check on. Amy Penrod indicated she is not familiar with the issue, but she will follow up on it.

Several years ago we received training and we were told we need to do 3161s. The MCOs are saying they will do the 3161s. The CDDOs need to do a 3161 when a person goes to a tier 0, an address change, or if a person moves out of state. If the person is on Medicaid, CDDOs need to send to the Clearinghouse and Paula Morgan. If the person is not on Medicaid and has these

changes, CDDOs should only send to Paula Morgan. MCO will do this form whenever there is a HCBS termination. When CDDO is sending a 3161s send to the Clearinghouse, copy the MCO and Paula Morgan. Clarity was offered regarding TCM only changes - This is addressed by only putting in KAMIS. Paula will send out the most updated 3161 form.

There was a question about whether utilization monitoring is still occurring? KDADS said this is being done periodically. Amy has a list of those who have not used their HCBS services for a period of time, but she wants to follow up prior to assuming the list is current. Sherry Arbuckle asked if there is a way to communicate information to MCOs more formally with a copy to Paula if the CDDO is recommending closure. Paula recommended using the 3161 as the communication tool.

Provider Numbers Background On Purpose For Request: Jerry Michaud, DSNWK CDDO, said recently there was a request that came out from Janelle asking for the names of providers who are newly licensed providers. Jerry was wondering why KDADS was requesting this information from the CDDOs when KDADS is the licensing agency for all those providers and believed to already have the information. He indicated having context with communications like this is helpful, when communication have an impact on our system. Janelle shared the context regarding the licensed providers explaining she requested the information from the CDDOs because she would have had to dig through each provider file to find it. She has a spreadsheet of licensed providers, but as a license is updated, the effective date are changed. KDADS' system hasn't tracked this but they were working on it. Amy committed to having her and her staff provide information on the reasons for any future requests.

IDD System Capacity: Dee Nighswonger, Sedgwick County CDDO, provided an update on the IDD System Capacity. Last year CDDOs collaborated on System Capacity process and made a recommendation. The CDDOs worked with WSU on a digital survey and all 27 CDDOs responded. WSU was preparing an aggregate report for KDADS and we had requested a copy of that report. KDADS has received the aggregate report and Amy will send the aggregate report to the 27 CDDOs. Dee requested the aggregate report be added to this agenda (as a standing agenda item) for each meeting so we can discuss it. We need to debrief on the results of the survey process. We may need to add some additional measures and consider including those that were dropped off and revise those that are included. Amy will add capacity on the agenda as a standard item. KDADS was agreeable to having a debriefing on the survey results and they were willing review those items removed last time and discuss their value. Dee visited with WSU on holding a debriefing meeting and they are willing. Sedgwick County would be willing to take the lead on a debriefing meeting. We would like to do around the September or October time frame to allow for collection of additional data in time for the March deadline.. KDADS is willing to partner with WSU, so all agreed to proceed forward. It was thought to target a face to face meeting with virtual meeting capability. Workforce issue is a critical issue in our field, a vital part of the capacity plan.

Wait List additions/closures, and 3160s by KDADS: Paula Morgan, KDADS reported if the CDDO has a waitlist addition or closure, send a 3160 to Paula for processing. If they are not showing up, send Paula a notice. Any changes with the wait list the CDDO needs to send a note to Paula. If removing someone from the waitlist as a voluntary removal, get some type of documentation, signed and dated by the person stating why they desire to be removed. Review

with the person that they understand they are being taken off the waitlist and they agree to it (by their signature). If removing someone from the waitlist, upload the 3160 and the supporting document through the IDD Utility Upload. Cottonwood CDDO has an excellent document regarding removal from the waiting list. Angela Drake was asked and said she will share the document with the CDDOs. 3160 referral documents have been received from KDHE and Paula checks the waitlist to see if the person is on the waitlist. If so, then she sends a note back to KDHE letting them know the person is on the waitlist. If not, then she sends it to the CDDOs to follow up. KDHE uses the waiver request information from the individual/family to determine who receives it.

Children Turning 5 Assessments: Paula Morgan said for children turning 5 and having their first assessment completed, she needs to do a manual entry on these because she needs to look at these to ensure the requested date is on or after the child's 5th birthday. If the child is added before age 5, this could impact their waiting list eligibility.

IDD Children Turning 18- Medicaid/Social Security Application Impact: KDHE is reminding the CDDOs to give information to families to apply for disability benefits at Social Security prior to child turning 18 years old. Typically this is a process that is handled through the transition process in the schools. Angela has a helpful brochure and she is willing to share this one as well with the CDDOs. The CDDOs should remind TCM providers to discuss this with persons who are getting ready to transition.

Supported Employment: Paula Morgan reported the easiest way to obtain a VR Closure letter is to have a release form for VR which allows the CDDO, KDADS, MCO receive a copy of the closure letter. The service provider could also have a release.

KDADS is moving forward to offer funding for 200 people on the waiting list, to bring them into services. Paula will be working with the CDDOs. The requested date is now 1/27/2010. The ability to offer people from the waiting list funding is a result of attrition, review of the rate of spend, etc. These are not new spots (new funds), but this is good news for those 200 people who have been waiting. KDADS can evaluate at any time whether to move people off the waitlist. Amy will continue to monitor as the months go by. There were 114 offers in February 2016 and 60 offers in May 2016 and there is about a 75% acceptance rate. When CDDOs receive the information they need to verify the addresses as quickly as possible.

CDDO Representatives for the Stakeholder Meeting - Clarification was requested regarding the recent communication that went out listing certain topics to discuss as a small group and to do some brainstorming. Not having the context, there has been questions about the purpose. Amy said they have been working with NASDDDS (National Association of State Directors of Developmental Disabilities Services) on this and they came up with an agenda. Once the representatives are determined, then KDADS will share the agenda. There are two representatives from CDDOs and two providers.

Setting Meeting Dates For 2018: The meetings dates for the KDADS CDDO Business meeting have generally been set during the contract negotiation process. With the contracts extended, this step had not yet taken place. Jerry Michaud suggested we stay with the same pattern as we

have traditionally followed for the meetings (3rd Thursday during the months of January, April and August). Those dates for 2018 would include:

- Thursday -- January 18, 2018 (9:30am - Noon)
- Thursday -- April 19, 2018 (9:30am - Noon)
- Thursday -- August 16, 2018 (9:30am - Noon)

Acknowledgement & Thanks: Cindy Wichman thanked Paula Morgan and Amy Penrod for chairing the meeting today.

Meeting Adjournment: The meeting was adjourned at 12:15 PM.