



Proposed Changes to the IDD and TBI Programs Posted for Public Comment

Public Comment Period: 11/1/18

Posted: 11/1/18

Ends: 11/30/18

KDADS 503 S. Kansas Ave, Topeka, KS 66603 www.kdads.ks.gov TEL: 785-368-6246 FAX: 785-296-4986

Following is a summary of the proposed changes in the HCBS renewals for the **Intellectual/Developmental Disability (IDD)** and **Traumatic Brain Injury (TBI)** programs. Instructions are also included on how to provide public comments

Proposed changes are open to public comment and feedback effective 11/01/18 through 11/30/18. Public comments regarding the proposed changes will be reviewed by KDADS. The proposed waiver renewal applications will be amended if necessary prior to submission to CMS for approval.

The final renewal application will be submitted to CMS no later than 12/31/18 and posted to the KDADS website at [https://kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)](https://kdads.ks.gov/commissions/home-community-based-services-(hcbs)).

The draft renewals for each program are available online for public comment until 11/30/18. You may access the documents three ways:

- **Online:** [https://kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)](https://kdads.ks.gov/commissions/home-community-based-services-(hcbs))
- **In Person:** At your local Community Developmental Disability Organization (CDDO), Aging and Disability Resource Center (ADRC), or Center for Independent Living (CIL).
- **By Email:** Anita.Flewelling@ks.gov

Comments can be submitted to KDADS **during the comment period** the following ways:

- **By Phone:** On the following dates call: 877-400-9499, enter participant code 176-923-1304
November 13th 1:00 p.m. – 2:00 p.m. and 6:00 p.m. – 7:00 p.m.
November 14th 1:00 p.m. – 2:00 p.m. and 6:00 p.m. – 7:00 p.m.
- **By Email:** Anita.Flewelling@ks.gov (include either “IDD Public Comments” or “BI Public Comments” in the subject line)
- **By Mail:** KDADS, Attn: HCBS Program Waiver Renewals
503 S. Kansas Ave, Topeka, KS 66603
- **By Fax:** 785-296-0256, Attn: HCBS Program Waiver Renewals

After the public comment period ends, a summary of responses will be available online. Any changes to the renewal application and the summary of responses will be provided to CMS as part of the renewal submission.

The standard public comment period for the Waiver Renewals is November 1st – November 30, 2018. You can provide public comment to KDADS anytime throughout the comment period. Tribal nations are reminded that public comments are extended to December 30, 2018 and in-person consultation may be requested.



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KDADS is proposing the following changes to both the IDD and TBI programs:

HCBS Settings Rule and Statewide Transition Plan

Over the five-year life of the proposed waiver renewals, Kansas will continue implementation of the HCBS Settings Rule and Statewide Transition Plan. HCBS provider settings may need to make changes to achieve full compliance with the Settings Rule by March 17, 2022. Settings that are unable to comply or choose not to comply will no longer be able to provide HCBS after that date. Persons receiving services may need to choose a new provider—one willing and able to comply with the Settings Rule. Kansas is confident that most providers will be able to comply.

HCBS Transition Policy

The Money Follows the Person (MFP) grant program ended on 06/30/17. The MFP structure for transitions from an institutionalized setting to a community setting via waiver supports was modified to become the HCBS Transition process as indicated in policy. This process rolled qualified Psychiatric Residential Treatment Facilities (PRTF) placements into its structure. Former reserved capacity numbers for the MFP grant program and the PRTF transitions were combined to form the basis for the new reserve capacity numbers for the HCBS Institutional Transitions.

Conflicts of Interest

It is KDADS' intention that all conflicts of interest provisions are consistent with the KDADS Conflict of Interest Policy and compliant with federal law. KDADS staff continues to review the waiver to ensure that all provisions are consistent and compliant with these guidelines prior to its submission to CMS.

Capable Persons

It is KDADS' intention that capable person language is consistent with its current practice and compliant with federal law. KDADS staff continues to review the waiver to ensure that all provisions are consistent and compliant with these guidelines prior to its submission to CMS.



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KDADS is proposing the following changes to both the IDD and TBI programs (continued):

Miscellaneous

Waiver language was updated to include KDADS' policies and procedures, as appropriate

Enhanced Care Services (ECS) language updates

All references to Sleep Cycle Supports in the previously approved waivers have been updated for the ECS language throughout the waiver.

Fair Hearing Section

Appendix F: Fair Hearing section has been updated with new Fair Hearing timeframes for appeals for both waivers, as well as clarification for IDD assessor mailing of assessment tier 0 resulting in an adverse action for the participant.

Background Check Language

Background check language has been updated to incorporate changes since the previous waiver amendment in 2016.

Changes specific to the IDD Program

- **CDDO Affiliation Requirement**
 - All HCBS IDD waiver services have been updated to include the CDDO affiliation requirement.

- **Foster Care Setting Limitation Definition**
 - Definition for foster care setting limitation of two (2) waiver participants has been clarified. Wherever HCBS children's residential services are accessed, the setting may not serve no more than two (2) children unrelated to the waiver participant. Exceptions may be granted only as outlined in state policy.

Changes specific to the IDD Program (continued)

- **Day Services Exception Request Process**
 - Day Services exception request process is now included in the waiver. It is found in Appendix C: Participant Services, Day Supports.

Changes specific to the TBI Program

- **Name Change**
 - The proposed waiver would be called the Brain Injury Waiver.
- **Legislative Proviso**
 - The 2018 Kansas Legislature included a proviso in the budget bill directing KDADS to include acquired brain injuries (ABIs) into the current TBI waiver. The proviso also directed that the amended waiver serve children under the age of 16. Policy and procedural changes surrounding this expansion will emerge through the stakeholder engagement process and will be phased in over the five-year life of the waiver. The former traumatic brain injury waiver will migrate away from a strictly rehabilitative waiver to one that is both habilitative and rehabilitative in nature.
- **Assistive Services**
 - The definition of assistive services has been broadened to include additional criteria. More people may be able to meet the threshold for this critical service. Details can be found in Appendix C of the renewal application, under Participant Services, Assistive Services.
- **Determining Progress**
 - Previous access to the waiver was limited to four years. Individuals who receive services through the proposed BI waiver may continue to do so until it is determined that they are no longer making progress in rehabilitation or require therapies to maintain independent living skills. Progress will be reviewed and documented every six months through a formal review process to determine if the needs are being met by the program and the participant is continuing to make progress. Progress will

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Changes specific to the TBI Program (continued)

be reviewed utilizing a State approved standardized instrument that identifies goals and measures outcomes SMART (specific, measurable, achievable, realistic, time-oriented) tool.

- **Pediatric Assessment Tool**

- To expand services to children under the age of 16, KDADS will identify and adopt a pediatric assessment tool – with stakeholder input.

- **Institutional Equivalent Change**

- The proposed BI waiver is requested to provide home and community-based waiver services to individuals who, but for the provision of such services, would require the institutional level of care. Under the former TBI waiver, Traumatic Brain Injury Rehabilitation Facilities (TBIRF) were considered the equivalent institutional level of care. Since TBIRFs do not serve children, the institutional equivalent will include hospitals as defined in 42 CFR §440.10 in addition to TBIRFs specifically.

- **EPSDT Coverage**

- EPSDT stands for Early and Periodic Screening, Diagnostic and Treatment services. As part of its proposed BI waiver, Kansas will explore what services are available through EPSDT to determine what extended coverage can be allowed without overlap or duplication.

- **Transitional Living Skills Services**

- Qualifications for Transitional Living Skills providers will be expanded to help enlarge the pool of available providers and improve access to service.

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