

CDDO Meeting 10/19/17 Minutes

Present:

On Phone:

- I. Welcome/Roll Call – Amy Penrod, Paula Morgan
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- II. Review of August 24 minutes – Paula Morgan
 - Only changes were the spelling of Nicole’s name. Corrected and now posted on the website.
 - Up to date now with the posting of the last year’s minutes
- III. Review Action Log – Paula Morgan
 - No questions
- IV. Sharing Living – Cliff Sperry, SEK
 - Would like to see workgroup reestablished. Began looking at this in 2014. Last meeting in early 2017 with Brad. Manual still a draft. Implementation seems accepted, so should get group back together.
 - Codi – working with legal. What really needs to happen is for the manual to be turned into regulations. Manual will be interim until that happens. In the process of working with Legal on that now. Trying to get it consistent with IDD regulations. Amy and Codi need to meet with leadership to see if there’s any further work needed on manual.
 - Cliff – think there is some value in getting the group back together. A lot of background info in the manual likely wouldn’t need to be put in regulations, which may be where the value lies.
 - Sue – moratorium question: Is it in place and how long will it be?
 - Codi – still in place, probably until regulations are in place, but I can check with the Secretary.
- V. KDADS Processes and Practices – Colin McKinney
 - At the local level, hearing that there are interpretations taking place. Have heard that LPNs can’t delegate authority to staff in the homes. Heard new interpretations of what is required on an informed consent form that doesn’t match what’s in the regs. Where are these interpretations coming from and is there a way to soften the roll out?
 - Codi – if I could get some specific examples, if you’ve got a notice of filing that is inconsistent? The LPN to Rn question has come up a few times and the regulations have no mention of an RN. We’ve been asked a few times and we always tell the provider to check with the Board of Nursing. If Field Staff are providing different information, I need to know who so they can be educated.
 - Cliff – statute speaks specifically to the issue.
 - Codi – we wouldn’t be citing anything like that specifically mentioning LPN and RN.
 - Cliff – a lot of times, when someone with KDADS credentials tells us to do something, we do it. Can you look at those notices before they go out?
 - Codi – if you have a particular staff that is saying something, let me know so I can speak with them and get this straightened out.
 - Cliff – can there be more of a system in place for how these interpretations are disseminated?
 - Sunflower Connection – quarterly newsletter for nursing homes and assisted living, information on CMS and statewide changes/interpretations. Considering putting something together

similar for the HCBS side. Looking to hire a licensing administrator to assist with this. Could also include Program updates as well.

- Jerry – would there be value in, when we put out the minutes for these meetings, to call out the specific nursing piece?
- Codi – I would hope the minutes can serve that purpose. My official response would be that we can't make a determination on that
- Codi – regarding the TCM issues with institutional settings, I believe there were questions regarding whether transitions would include a jail or not. Provider received a notice of finding with that. Discussed at a meeting with Johnson County in August or September. I'll follow up with her. A jail is an institutional setting but not in this instance.
 - Johnson County will email Codi more information on the issue for review.
- Conflict of interest – recently, the field staff have been looking for something saying that the court had approved. Statute talks about that when the court appoints it will consider workload and potential conflict of interest. What the policy is looking for is in the statute. When you have a court appointed guardian, the judge is required to look at potential conflicts of interests. If anything changes after, they are required to review it and send an approval or denial of that. That's what we're looking for. Do all judges do that? Some may not. But we need that approval back. We need to see something that says the court approves based on these changes in circumstance.
 - Amy – this doesn't always require a hearing. Sometimes it's just a review and approval. There should still be an acknowledgment of the receipt of the documentation. 59-30-84 talks about the court receiving the report and confirming or denying it.
 - Can you clarify...the MCO and the FMS have to have a copy. Do the providers have to maintain a copy as well?
 - Codi – will need to get back to you on that.
 - There was some interpretation about a guardian who works at the day program, but doesn't provide services to that client at the day program, does the provider have to have it as well? If yes, will it need to be kept in the client file or the employee file?
 - Codi – I will get back to you.
 - Colin – is “does not personally providing the services”, is that an out?
 - Codi – I will get back to you on that.
 - Robert – is there a timeframe for revising?
 - Amy – we have a draft we've started working on, got it partway through approval, and then concerns were raised and it was slowed down to have concerns addressed. Going to update policy, but I need to make sure all aspects are ready to be updated and we have some workable language that provides an understanding and time to prepare.
 - Jamie Price – we were told that the policy would not change significantly by Angela De Rocha.
 - Mary Rose – will you address the DPOA issues with the conflict of interest policy, since they're not appointed?
 - George – the most recent draft does address those representatives not appointed by a court. Another question is would the policy change substantial? Not substantially, but to provide clarification and direction.

- It was my understanding that Janelle said two things – if a provider employs a guardian, but does not provide services to the client, they do have to have the paperwork on hand. Also, a guardian cannot self-declare that they have a conflict
- Sherry – I had asked for the compliance timeline after the policy is approved. My concern is that it's going to be a widespread issue because back in the 90s, we had so many people in need of guardianship that employees would step up. Having to go through this conflict of interest process may dissuade people from remaining guardians.
 - Amy – it is our plan that there would be a compliance timeline built into the policy, because we want to make sure we give you guys enough time.
- Sherry – how long will it take to get a court date? Have you spoken to the courts to prepare them for all this?
 - Amy – it is my understanding that the report does not require a hearing. That it can be reviewed and approved without a hearing.
 - Sherry – it was our understanding that there would need to be an initial hearing.
 - Amy – I'm unclear how many would require this versus the review.
- Is the stamp from the court sufficient?
 - Codi – is it stamped received or approved? That is the question.
 - Sue – the courts don't know what they're supposed to be doing with all this. Guardians aren't hearing back, they get back something stamped received but nothing else.
 - Amy – we can point out to the courts that it's part of statute so they need to do it.
- Lorraine – I think the whole system really needs to be looked at. Inconsistent across the state. Only 2 counties we work with really understand it (Johnson and Wyandotte). It's taking months or sometimes years. It's supposed to be the MCO responsibilities at least for FMS and the FMS are doing it themselves.
- Mary Rose – Janelle told me that a stamp of approval is not enough, that there would need to be something specific from the courts.
- Sherry – Q did a training about this and she included some information about a hearing and had indicated working with the courts. I can send it to you if you can't find it, maybe.
 - George – was that a PowerPoint?
 - Sherry – there were a lot of PowerPoints that day, so it might have been.
- the additional part about TCM and community service providers and the separation between the two – when will there be more information/clarification?
 - Codi - ensuring TCM entities are not supervised directly by the same person supervising community services. Make sure there is a clear distinction that there is a different person overseeing each. This is why we're asking for org charts.
 - Amy – clarification will come with this conflict of interest policy.

- Codi – in some areas, you have minimal people willing to be guardians or providers, and it can be difficult. But there are situations where someone becomes a guardian and takes advantage of it. There's no way to regulate only for those people. We're dealing with vulnerable adults and children and want to make sure they're safe. We're working towards consistency with the statute.
- Cliff – Janelle clearly said that only the court can appoint, that a guardian cannot self-declare a conflict.
 - Codi – that is in statute, talks about the court delegating. I did write it down but want to make sure I can give you the statute number. The problem is that the guardian doesn't have the authority to delegate a representative. It has to be the court.
 - Isn't the delegated rep supposed to relieve that conflict?
 - Yes. We're discussing who can appoint.
- In the FMS manual, it says that the form filled out to designate a representative is sufficient, without court, and can self-identify a conflict and designate a rep, so the manual may be in conflict with the statute as well.

VI. Background Checks – Jerry Michaud, DSNWK

- Issue with timely processing. Was hoping we could talk about where we're at now on the system? The pressure point the providers are feeling are that, when it doesn't happen quickly, we have staff walking away.
 - Amy- unfortunately it's not a quick fix.
 - Codi – the statute allows for conditional employment but the waivers do not. Amy is working with CMS to get that allowed. The process itself, that we do, is that when it is submitted online, it goes straight to KBI. Depending on when it's submitted, there is typically 2 business days before they process it. Then it comes back over and we download and batch it out. If there are no convictions, it's processed right away. If there is a hit, then we pull it, look at it, go through each hit, and look at the convictions to see if they're permitted or not, and then create and send the letters to the appropriate people. That's if it's done. If there is an arrest but no conviction on file, we have to write to the court for information. This sometimes takes a while. There has been some communication that the website is acting up. We have a support request out to them. The CNA registry info is up to date and out there. The process is good. The convictions slow things up. Future-wise, the KanCheck system, which is a nationwide search, when you put someone in it would automatically look through our system and DCFs, and if there's no hits, you're fine to go into the background check process. A hit would tell you immediately and you wouldn't need to go further.
 - Amy – there is a conference call scheduled to discuss the conditional employment piece. Anytime you need to make changes with CMS it takes a while. We're trying to attack it from a few angles. We're looking into an MOA with CDDOs to provide some sort of flexibility for, say, an employee who doesn't and won't ever drive maybe not needing the DMV check.
 - Sherry – at the KanCare governor's advisory meeting, Angela de Rocha indicated that on the DCF checks they're sometimes taking 3-4 months. She also indicated we could all personally call her and that she could hand-walk them through.

- is there an ability to actually view the background check? Were they previously viewable?
 - Melissa – for the adult care home, it’s available, but with HCBS is more limited. Can check with Codi to see what determines how much information is released.
 - Sherry – it’s the juvenile record that can’t be released.
 - George – is this in reference to self-directed who are also the employer? Since they are the employer of record, they should have the right to that information. But there could be some protected information that is still unavailable.
 - Jerry – bigger question: who is the employer of record?
 - Cliff –It has been established by the IRS that the person self-directing (receiving services) is the “employer,” not an FMS, guardian, etc.
 - Amy – Codi is looking into finding guidance on that. We also noted the overall desire to have the CDDOs be available to take those fingerprints.

VII. MR-1 Forms – Kathy Brennon, Tri-Valley

- Do we still need to use this form?
 - Paula – appendix B7 of the approved waiver indicates that the CDDO, and the entity responsible for performing the evaluations, will collect the choice forms and maintain them for a minimum of 3 years?
- Can we update the form? Have patients who are offended by some of the language on them.
 - Sherry – we need to update the language because it’s not clear that choosing ICF doesn’t mean you will get ICF. When you have that discussion with a family, and you really explain it, it doesn’t really come across as a choice. It’s misleading.
- Is there an expectation is done annually? It used to only be initial.
 - Paula – the language in the waiver states “prior to enrollment.”
- Amy – we will look at reviewing the language/form.
- The form also mentions self-directing. You may want to remove that. And, is that 3 years from date of signing, or for when they stop services?
 - Paula – it doesn’t specify, but I would interpret as point of signature.
- Ricky – can you give us an example of when this form would be valuable to us after it has been signed?
 - Amy – I don’t know if I can provide one right now, but we could get that information to you. If you’re asking if we think the form is of value, we can look into that, but it is in the waiver so we have to do it as long as it’s there.
 - Paula – the value may lie in proof they were given the choice and that they signed it.
 - Ricky – but if we’re only keeping it three years and they stay in service longer than that, we no longer have the proof.
 - Paula – it says a minimum of 3 years. There is nothing saying you can’t keep it indefinitely.
- Is there a commitment to revise the form?
 - Paula – yes. I will look at the form with leadership and get back to you.
- Kathy – it is my understanding that the form has to be archived for 7 years after that three-year period.
 - Amy – we can review that. We were quoting what it says in the waiver.
- Jerry – if you need some feedback on the draft, there are probably people here willing to look at it.

- VIII. Rights Pursuant to DD Reform Act – Nicole Hall, Butler and Elizabeth Schmidt, Harvey-Morgan
 - In article 64, we have to share the rights annually with individuals, but that information is not available anywhere.
 - Melissa – we have a peer review area specifically on the website. We can link the document there. There was a workgroup, to our understanding, where a draft was created, but none of us have that document. If someone has it and can send it to us, we can review it, or we can look at reviewing it and post something.
 - Angela – the regulations indicate the rights in Article 63, and that’s what we generally share.
 - Melissa – we had thought there was a more general statement that we haven’t found captured anywhere.
 - Sherry – are you only speaking of the gatekeeping rights?
 - Melissa – yes.
 - Nicole – I’m still confused why it’s different, gatekeeping and what is sent to everyone.
 - Melissa – we can take a look at it.
 - Angela – is it really just about informing them about community services if they choose to engage in them?
- IX. KanCare Clearinghouse – Kathy Brennon, Tim Cunningham
 - Tim – applications denied by the clearinghouse because they couldn’t read the client signature. Is there anything you can do to help us?
 - A my – I can take it to Medicaid leadership meeting and hopefully get some response or resolution that way.
- X. MFEI-IDD Update – KDADS
 - Paula – the question is, on the tool, how many CDDOs feel like they could do an online tool and how many would need an offline version they could just upload?
 - We would need both. (General consensus)
- XI. IDD System Capacity – Amy Penrod, Cindy Wichman
 - Amy – referring to the capacity report. At the last meeting, we had just received. Have now had time to look it over. Now also ready to send out to CDDOs. Note: while reviewing, we did notice some gaps in the information that made us kind of question how the report in and of itself will be valuable in forming some of our future decisions and path forward. We will send it to you. We are analyzing it and determining what additional data is needed to make it more meaningful. It tells a lot about what’s happening now, but we’re missing information on how many people were out there needing services. Perhaps in your review, you’ll have some feedback or ideas. The intention is to get this sent out to you tomorrow.
 - Dee – we recognize that there are gaps because we weren’t allowed to collect all the data that we recommended. We just want to see what was collected, what was valuable. Where are the CDDOs in your review process?
 - Amy – we haven’t started that process, we’re just noticing that the data doesn’t tell the whole story. When you receive it, you can look at it and provide us that feedback, and we’ll make some decisions moving forward.
 - SEKS – there is some information that we have no way of gathering. There were a few questions that we knew we had no way of finding out.
 - Amy – and we understand that. It was unclear to me, looking at it, what we were hoping to do with it.

- Dee – I would be happy to have a conversation with you about this. I worked with Brandt on this originally. It's a requirement in the CDDO contract. It's our way of trying to drill down to what capacity really looks like. In the previous year, we had 4 CDDOs provide that information.
 - Jerry – in terms of system administration and community partners, anytime there is a waiting list, it's helpful to be able to get that 30,000-foot view and seeing where the gaps lie.
- XII. Waiting List Offers – Paula Morgan
- In looking at what we've done since February, we have made 374 offers. May had 76% acceptance. August-200 offers. 146 accepted, 24 declined, 30 outstanding.
 - What date did you get to?
 - 7/1/2010
 - Jerry – with only 40 remaining openings, are you still going to the list?
 - Amy – we still have a few people who missed the deadline calling in. Once we have a full picture of the declines, we will have a conversation with fiscal to run our budget and do another pull.
 - Paula – we had someone who had accepted wait list funds in 2016 but never moved forward with services. Called recently to see if it was still valid. Yes.
- XIII. ISP Effective Date – Cindy Wichman
- Been giving a lot of thought to come up with different scenarios for how the ISP effective date could affect people, especially people with a change in tier (from 5-0). Trying to play out what that would look like, what it does to their appeal period, what happens should the appeal go against the participant. We're spending a lot of time figuring out what the different scenarios could be and how having different ISP dates impacts.
 - Paula – what do we do in the event of going from tier 5-0. The impact. If you have an example of that impact, please send it to Cindy, Amy, and I so we can look at them, run them through the traps, and see if we can find a solution.
 - Sherry – at the meeting, we discussed Cindy looking into how the TA waiver does it. The MCO can determine if someone is not going to be eligible and they can contact the CDDO and work on a transition. We were looking into making that work here. Did Cindy work on that?
 - Paula – I'll mark that as a follow-up for her.
 - You're referring only to those situations where someone moves from a tier 5-0?
 - Amy – any tier moving to a tier 0.
 - Angela – you have the KMAP bulletin that the tier change becomes effective the month of the change, but no guidance for when there is no tier change. Making the ISP effective date the same as the first date of the birth month (the old way). What should be the ISP date in that instance?
 - Paula – I will follow up.
- XIV. Next Meeting Dates – Paula Morgan
- Next meeting date – January 18, 2018.
- XV. Cathy Crocker – organizational-based vision cards for folks not being issued in Johnson County. Providers are sending out emails telling people their vision cards are no longer effective.
- Amy – I haven't heard anything about this issue. Haven't seen anything come out from DCF.
 - Sherry – it really is driven by whether the organization is for-profit or not-for-profit.

- It's been an issue for a while. DRC is involved. Johnson County DCF is interpreting it differently depending on organization's status.