Brain Injury (BI) Waiver
MFEI-LOC Assessor Training

July 8, 2019
Training Content

- HIPAA and PHI
- BI Policy
- MFEI Manual
- Paper Back-up
- KAMIS
HIPAA
Health Insurance Portability and Accountability Act

Created to:

• Standardize the electronic exchange of clinical and administrative data.

• Improve security of individual health information.

• Safeguard the confidentiality of Protected Health Information (PHI) and protect the integrity of health data.
Covered Entities include, but are not limited to:

**Health Care Providers**
- Doctors, hospitals, etc.

**Health Plans**
- Kansas Medicaid
- Medicare
- State Employee Health Plan

**Health Care Clearinghouses**
- Entities that transfer data on behalf of providers or plans

**Hybrid Entities**
- A single legal entity where only some of the divisions or programs meet the definition of a Covered Entity (KDHE and KDADS).

See 45 CFR 164.103
PHI is health information collected from an individual, created or received by a covered entity and:

- Relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and

- That identifies the individual;

- There is a reasonable basis to believe the information can be used to identify the individual.
Privacy Rule

The Privacy Rule protects all PHI held or transmitted by a covered entity or its business associate in any form or media, whether electronic, paper or oral.

- The rule provides a standard level of privacy protections of Protected Health Information (PHI).

- The rule permits more stringent state laws to remain in effect. State laws that are contrary are preempted by the Federal law. (45 C.F.R. §160.203)

- The rule limits how PHI may be used or disclosed

- A Covered Entity may not use or disclose PHI, except as permitted or required by the Privacy Rule.

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Privacy Rule

Who can you disclose PHI to? Covered Entities are required to disclose PHI to:

- The individual who owns the PHI

- The Secretary of the U.S. Department of Health and Human Services (HHS) for HIPAA investigations and compliance with the Privacy Rule.

- Covered Entities are permitted to use or disclose PHI with a valid authorization from the individual.
Privacy Rule

• Unless an exception is met, in order to use and/or disclose PHI, an authorization must be in writing. To have a valid authorization the following must be including in the written document:

  • Description of the PHI to be used or disclosed that identifies the PHI in a specific manner
  • Specific description of who can use the PHI
  • Specific description on who the covered entity can provide the PHI to
  • Specific description of each purpose of the request
  • Expiration date
  • Signature of the individual or personal representative

(Continued on to next slide)
The following statements must also be included in an authorization:

• Inform the individual they have the right to revoke the authorization at any time

• Whether participation is condition on signing authorization

• Potential for information to be re-disclosed by a person or entity receiving the PHI

• A copy of the authorization must be provided to the individual

• Your division/commission should have a standard authorization form to use

• If you have a question regarding authorization forms you should contact the KDADS’ Legal Division
Covered Entities are permitted to use and disclose PHI without authorization for essential health care functions:

- Treatment
- Payment
- Operations

See 45 CFR 164.506
• The Office of Civil Rights (OCR)

• CMS
  – Investigates and enforces transactions and code set violations

• DOJ
  – Investigates Privacy Criminal complaints

• State Attorney Generals have authority to bring claims under HIPAA
  – Kansas Attorney General Office has chosen to not participate

• FOR MORE INFORMATION:
  – The Office for Civil Rights enforces
  – The HIPAA Privacy Rule
  – The HIPAA Security Rule
  – The confidentiality provisions of the Patient Safety Rule

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BI Eligibility Policy establishes the eligibility requirements for the Home and Community Based Services (HCBS) Brain Injury (BI) waiver.

See KDADS website for the BI eligibility policy
BI Eligibility

Ages 0 to 3

- Resident of Kansas
- Medicaid Financial Eligibility
- Active habilitation/rehabilitation BI need
- Ages 0 to 3 do not require the MFEI Functional Eligibility Assessment
- BI diagnosis document from a Qualified Medical Professional
- No diagnosis Document? Submit Brain Injury Program Eligibility Attestation Form Completed by a Qualified Medical Professional
- Chromosomal/Congenital diagnosis is a DISQUALIFIER!
• Resident of Kansas

• Medicaid Financial Eligibility

• Active habilitation/rehabilitation BI need

• Ages 4 to 64 must complete the MFEI Functional Eligibility Assessment

• BI Diagnosis Document from a Qualified Medical Professional

• No diagnosis Document? Submit Brain Injury Program Eligibility Attestation Form Completed by a Qualified Medical Professional

• BI injury sustained before Age 22? Offer referral to CDDO for IDD waiver assessment

• Chromosomal/Congenital diagnosis is a DISQUALIFIER!

• Meet the Level Of Care (LOC) required for hospital or TBIRF placement
  – LOC score of 25 or higher; OR
  – Minimum score of 26 in the Cognition, ADL, IADL and Continence areas; OR
  – Minimum score of 24 in the Behavior/Emotional and Cognition areas
FAQs on Eligibility

• What is a Chromosomal/Congenital diagnosis DISQUALIFIER?
  – A chromosomal/congenital disqualifier from the BI waiver indicates that an applicant's diagnosis shows that the brain injury was acquired at birth. It is a condition present at birth that may have physical, intellectual, or developmental implications.
  – These conditions may result from genetic or chromosomal disorders.

• How do I know if waiver applicant has a Chromosomal/Congenital DISQUALIFIER?
  – Check the diagnosis. REMEMBER, BI diagnosis document from a Qualified Medical Professional is a waiver eligibility requirement

• What do I do if a waiver applicant has a Chromosomal/Congenital DISQUALIFIER?
  – The applicant could still quality for the Intellectual and Developmental Disability (I/DD) waiver, and depending on whether the brain injury led to physical injuries, may also qualify for the Physical Disability (PD) waiver. REFER THEM!

• Who determines ELIGIBILITY?
  – Kansas Department for Aging and Disability Services (KDADS) DETERMINES functional and program eligibility.

• NOTE: ADRC shall not perform a functional assessment for an individual on the WAITING LIST unless a REFERRAL is received from the BI Program Manager

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ADRCs
Within five (5) business days of receiving a referral, ADRC shall contact the individual and/or the individual’s legal guardian to complete a FACE-TO-FACE assessment.

Eligibility
ADRC shall complete two copies of the LOC Outcome Form and obtain the individual or legal guardian’s signature, upload a copy of the signed form into KAMIS and shall provide the INDIVIDUAL WITH A COPY OF THE SIGNED FORM. The form can also be included as an ATTACHMENT in MFEI. Complete Sections I and II of the 3160 and upload into the BI Upload Utility.

Notice
KDADS shall send a Notice of Action (NOA) with eligibility determination to the individual and the 3160 to KDHE within five (5) business days from receipt of all documentation.

Assessment
Medical documentation shall be requested from the individual. Follow ELIGIBILITY CRITERIA in this training or in the BI Eligibility Policy. NO DOCUMENTATION? ASSIST or have individual's Administrative Case Manager (ACM) assist the individual in requesting medical records or completing the Attestation Form completed by a Qualified Medical Professional.

KDADS
The BI Program Manager shall complete a review of the functional assessment and supporting documentation to determine waiver eligibility.
### Reassessments

**S.M.A.R.T. Goals**

**S.M.A.R.T.**

S.M.A.R.T. goals, developed by the provider, individual, and MCO, are used to track **HABILITATIVE AND REHABILITATIVE PROGRESS** in independent living skills.

**PROGRESS**

The participant must show the capacity to make **HABILITATIVE/REHABILITATIVE PROGRESS** toward maintaining their independent living skills to remain on the waiver.

**REVIEW**

Participants will have a formal review to determine if the waiver services are meeting their **Habilitation/Rehabilitative needs PROGRESSIVELY**. Formal reviews shall take place every SIX MONTHS OR MORE FREQUENTLY as deemed necessary by the MCO or as requested by the participant.

**TRANSITION**

If a participant no longer shows habilitative/rehabilitative need or progress the MCO shall conduct choice with the participant to evaluate their interest in transitioning to another HCBS Waiver.

A functional assessment is considered current for 365 days after the assessment has been completed.

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Assessor Qualification

In addition to ADRC qualifications

- Assessors must participate in MFEI-LOC Training

- Pass the competency exam by 80%

- If an assessor does not pass the competency exam on the second attempt, they must contact their supervisor and KDADS for additional training and support before a third attempt.

- Assessors who are not certified will not have access to the MFEI-LOC Software system.
The MFEI-LOC **must** be administered by SOFTWARE

- MFEI is not longer hand calculated
- The software **CALCULATES** the score and **DETERMINE** if minimum score requirements were met.

The paper assessment is only allowed in the following circumstances:

- MFEI-LOC software stops working
- Computer equipment failure *(with proof that steps are being taken to address the equipment failure)*
- If the assessor must complete an unscheduled/urgent assessment
- Assessment where computers/laptops are not allowed *(e.g. correctional facilities or mental health institutions)*
- If the paper version is needed as a **disability** accommodation
- The MFEI Software Manual can be found on the KDADS website under the Providers Menu and then the Manuals and Instructions menu item.
If/when software fails

- Immediately inform your ADRC, and the KDADS ADRC Manager

- The paper version of the MFEI-LOC will be released on a limited basis. The software is required and to protect interRAI copyright

- ADRCs will be provided with a limited quantity of paper assessments; when additional copies are needed, ADRCs should contact the ADRC program manager.

- Example of when an assessor can use a paper assessment:
  - While Tom, an assessor, is completing a scheduled offline assessment for Mrs. Doe in her home, the family requests that Mrs. Doe husband Mr. Doe also receive an assessment. The assessor (Tom) has time to complete a second assessment but did not download an assessment for Mrs. Doe husband before leaving the office because it was not scheduled in advance. Tom decides to use a paper assessment.
Kansas Assessment Management Information System (KAMIS) information is on the KDADS website (www.kdads.ks.gov) under the Providers menu then Manuals and Instructions.

Key Chapters for Review:

Chapter 5 – Person Search
• How to search for your Customer

Chapter 6 – Person Administration
• How to add a new Customer or update Customer information

Chapter 7 – Form Selection
• How to select the MFEI Assessment in KAMIS
FOR MORE INFORMATION CONTACT:

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