

To: CDDOs

From: Community Services and Programs Commission

CC: Aquila Jordan, Director, Gina Meier-Hummel, Commissioner, Shawn Sullivan, Secretary

Date: December 1, 2013

Re: Procedure for Enforcement and Revocation of Licensure Actions

Authorities: K.S.A. 75-33076, K.S.A. 39-1801 et seq., K.A.R. 30-63-13 and K.A.R. 30-63-14

INFORMATION MEMORANDUM

Enforcement Procedures

When the commissioner determines that the provider has failed to comply with the plan of correction within thirty (30) days of the date of the plan, or within the deadline established, any or all of the following enforcement actions may be imposed:

- I. **Civil monetary penalties.**
Reference K.A.R. 30-63-13(d)(3)(a).
- II. **Cessation order:** An order that the provider shall cease providing specified services and shall make necessary arrangements to have any person or persons then receiving services transferred to another provider.
Reference K.A.R. 30-63-13(d)(3)(B).
- III. **Suspension or revocation of license per K.A.R. 30-63-14.**
Reference K.A.R. 30-63-13 (d)(3)(c).

Suspension and revocation procedures

Any license issued may be suspended or revoked before the expiration date for failure to comply with regulatory requirements.

Before revocation, a written notice of the intent to revoke along with appeal rights shall be sent to the provider by registered mail, along with a copy of the commissioner's determination to suspend the license during the proceedings and may also be hand-delivered to the provider.

The license may be **suspended** during the revocation proceedings upon the commissioner's written determination that the continued operation of the provider during the revocation proceedings would constitute

imminent danger to the health, safety or welfare of any person who would be receiving services from the provider during the revocation.

Reference K.A.R. 30-63-14(b). If suspension is ordered, the provider shall immediately cease providing services. Reference K.A.R. 30-63-14(c)(3).

The provider may timely appeal the revocation which will stay the revocation, but shall **not stay any suspension** of the license during the pendency of the appeal unless an order of stay is issued following a hearing.

KDADS shall give such notice **as is practicable** to persons who are required to comply with the order. The order is effective when issued.

The provider shall assist in the smooth and orderly transition of individuals and may be required to maintain services for people in place during the transition to assure health and welfare needs of the individual are met until alternative services can be secured.

Reference K.S.A. 39-1807.

The provider shall give all individual consumers' Person Centered Support Plans, Behavior Plans, Health Records, Medication records, medications and any and all other paperwork related to the care of the individuals receiving services to the new provider as well as all the consumers' personal belongings.

The Targeted Case Managers (TCMs) shall work with the individual, guardian, family and service providers to determine how the move will take place including timing of the transfers and identification of who will be responsible for the move of the individual and their personal belongings.

IV. **Emergency Orders.**

Reference K.S.A. 39-1807 and K.A.R. 30-63-13(f).

If the commission finds noncompliance creates a situation of imminent danger to the health, safety, or welfare of any person or persons. Any Emergency Orders shall specify:

- 1) The actions that the provider shall take;
- 2) The reason the commissioner has determined an emergency order is needed; and
- 3) Notice that the provider will be given an emergency hearing regarding an emergency order if requested within 15 days.

Emergency Order Procedures

A. Upon issuance of emergency order, the KDADS Quality Program manager or designee will notify the relevant CDDO of the emergency order by telephone.

B. The CDDO with KDADS staff will immediately notify the Targeted Case Managers (TCMs) for the effected individual consumers.

C. The TCM and CDDO staff should check for capacity of providers.

D. Responsibilities of TCMs include the following:

1. Notification of consumers, families and guardians and beginning the process of facilitating and effectuating placement for individual consumers.

2. Targeted Case Managers will assist individuals with transition from one provider to another or from one service area to another. Individual Choice should be offered but the emergency situation takes precedence and the person may be moved temporarily to ensure the health and welfare of the individual and choice offered at a later time.

3. The TCM shall provide the consumer, guardians and families of choices of available residential providers, FMS agencies and day providers.

4. The TCM shall work with providers, consumers, guardians and families for a smooth transition. The TCM shall make arrangements for the move of individual and personal belongings along with all pertinent paperwork required to provide care to the individual.

5. The TCM shall follow up with the individual and the provider to assure the transition is appropriate.

6. If the individual or guardian was not afforded choice at the time of the emergency placement the TCM will meet with the individual, guardian or legal representative to offer choice and seek appropriate placement as soon as possible or within 30 days.

E. All individual consumers shall be moved prior to TCMs CDDO and KDADS staff leaving the premises of the formerly licensed provider.