KDADS ADCSP PUBLIC COMMENT MATRIX (V1.1) 7/14/2020

Waiver	FE	Date	10/1/2018 to 10/31/2018
Policy Name (if Applicable):	NA		

#	Sender	Public Comment	KDADS Response
1	Other Stakeholder	Appendix C: Does the frail elderly team consist of a case manager to oversee those service, and if so, will they also transition to the community support services with the KanCare proposal? Who writes their plans? Who oversees their program?	There are no Case Manager's (TCM) for the FE waiver. That function was moved to the MCOs at the start of KanCare. MCOs write the Person-Centered Service Plans for the FE waiver. KDADS and the MCOs are responsible for monitoring the FE waiver program and servcie delivery.
2	Other Stakeholder	Appendix B: I was looking at the old performance measures regarding the 12-month annual performance review measure and it looks like in the new performance measures that it is being removed. Is this true that KDADS is not going to be looking for an annual assessment on site?	KDADS will still be tracking and reviewing this information. It is somply not required to be reported to CMS.
3	Other Stakeholder	Appendix C: About services offered on the FE waiver, you said Enhanced Care Service sleep cycle is offered on the FE waiver and has the same definition as service on the PD waiver, IDD and the TBI waiver, but there are additional criteria for the FE waiver folks. They have to meet five of the six listed criteria; my question is why? The only purpose seems to make it really hard for people to get that care on the FE waiver. My proposal is to get rid of them, it's called the Crisis Criteria on the waiver. I was just wondering could you speak to it, or consider getting rid of it? It would seem to make sense to make it the same across all waivers. There doesn't seem to be anything in particular about the folks on the FE waiver, why they would be more subject to this as opposed to someone on the TBI waiver or IDD waiver. That's just my comment or suggestion.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
4	Other Stakeholder	Appendix C: I would like to suggest that KDADS use the upcoming FE waiver renewal to consider removing the current "Crisis Criteria" that greatly restricts participants' access to enhanced care services. This criterion serves no purpose other than to arbitrarily restrict this service on this waiver.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
5	Other Stakeholder	Appendix B: My questions are related to the level of care assessments, and what you are no longer required to do. If the ADRCs continue to remain at the AAA that makes sense to me. If there is a new contractor will you begin again and again reviewing level of care assessments and whether or not they are appropriate or accurate? The reason I'm asking is that the ADRCs have some history and experience with this. If we find ourselves looking at a new contractor, we may want to have a higher level of scrutiny.	Comment is noted. The State cannot comment on future contracts or procurements.
6	Other Stakeholder	Appendix C: This is related to providers, on the performance measure specific to providers, what are the changes trying to address? Is there some intersection with network adequacy?	This question is unclear. The waiver does not have any performance measures related to service providers.
7	Other Stakeholder	Appendix C: This is just a comment having to do with older adults and dementia, and not adding services to the waiver. Last year there was a group convened by governor, there are recommendations out there about additional services need for people with dementia. We know that people with dementia are at increased risk for institutionalization when care givers are not able to sleep at night and they shouldn't be caring for someone all day. So particularly for the enhanced night service, whether that is in the home or out of the home, if we look at 24-7-day services or looked at more sleep cycle support in home that would make a huge impact for people with dementia not being institutionalized.	We will continue to take steps to attain small- and large-scale improvements to our waiver services within the scope of our limited resources. This request presents us with a fiscal impact beyond the scope of our limited resources.
8	Other Stakeholder	Appendix G: On page 11 the performance measure for waiver participants that have a disaster back up plan, how do you measure that?	Numerator= number of plans that were reviewed that included a disaster backup plan Denominator= total number of plans that were reviewed

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9	Other Stakeholder	Appendix G: On the issue of restraint one of the issues we are concerned about was the use of antipsychotic drugs on people with dementia. Is that addressed as a chemical restraint? Is that something that you will be looking at? It's a growing issue in the community, about 5% increase in a 4-year period.	The FE waiver does not currently allow for any type of Restraint, Seclusion or Restrictive Intervention. It is unclear what this question is asking.
10	Other Stakeholder	Appendix E: I am showing pg 141 and 143 FMS is not clarified on with (whether) it is self directed or agency directed. a. What exactly is meant by "FMS may be furnished as a waiver service or as an administrative activity". b. On pg 145 it says that a 10 day notice of discontinuing FMS (when), the manual for FMS says 30 day notice as you cannot get everything setup or finalized from FMS to FMS in a 10 day window and cannot have 2 FMS providers within the same month. c. (why does) pg 161-166 repeats itself on the Conflict of Interest? d. Is the Agency and Self Directed FMS procedure code going to be the same or different from each other? The reimbursement rate the same?	FMS is a fiscal intermediary service for individual's who want to self direct all or a portion of their HCBS services. A. There are two ways FMS can be provided. Either as a waiver service or as an administrative activity. How the State chooses to define FMS impact the percent of funding the federal government provides as well as rules around who can and cannot proivde the service. B. State agrees this should be changed to 30 days in the waiver C. The State willr review and remove any duplicated Conflict of Interest language. D. FMS is only self-directed.
11	Other Stakeholder	I am requesting that the home modification lifetime limit be changed from $7,500 for a lifetime limit to $10,000 for an annual limit for the FE waiver. This would standardize this benefit across these two waivers. Below are my comments: Home modification lifetime limit of $7,500 need to be changed to an annual limit of $10,000 because of: Member needs For example, members are forced to choose between an accessible shower OR a ramp because both would exceed the limit.... Administrative issues People change MCOs on an annual basis. Since that is annual – limit should be annual MCOs are reluctant to proceed with a home modification because they cannot track if a member had prior services completed.... Results When people have the at home modifications they need, they stay at home longer. This is a financial benefit to the state and a personal benefit to the member The exceptional home modification companies provide an Occupational Therapist in addition to a contractor in the members home...	An increase in the lifetime limit will require an increase in the waiver appropriation from the Legislature. KDADS will discuss this during the next budget planning cycle.
12	Other Stakeholder	Kansas state law gives people the right to self-direct HCBS services. The proposed language treats the statutory right to self-direction as if it is an option, with agency direction as the option for "all" services. Services offered under this waiver ought to maximize control over decision making and self-direction to the greatest extent possible. A robust public input process should include the following: - Invite community members, advocates, and providers to help draft the state's proposal - Offer an anonymous "suggestion box" online and through other means - Provide ample notice in advance of public meetings. - Include specific outreach to solicit input from Direct Support Workers, including assistance with expenses associated with participation - Include specific outreach to solicit input from consumers, including assistance with expenses associated with participation.	Services that require professional licensure (nursing, therapies, etc.) must be supervised by a professional. As such, they cannot be self-directed. The State appreciates the input on how we may be able to conduct more robust pulic input.
13	Other Stakeholder	Appendix A: It should be clarified that the only provider training MCOs conduct is related to administrative functioning in each of their individual portal "systems." The inference in this section is that the MCOs are providing any meaningful ongoing training or support towards building community capacity and that is simply not true.	This is outside the scope of this waiver. Comment has been sent to KDHE.
14	Other Stakeholder	Appendix B: The increased protected income level has been approved by the Kansas Legislature. It would be ideal if the agency would select the option to use the 150% of SSI, or clarify in this section that the amount was set by the Legislature at $1,177, that efforts to index or change the amount are ongoing, but under no circumstances will the amount revert back to less than $1,177.	Comment noted. The Protected Income Limit Increase will be addressed in an amendment.

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15	Other Stakeholder	Appendix C: The First Data Authenticare © system does not have a mechanism for consumers to independently check on the time clocked in and out of the system, particularly the phone system. With the exception of paper back up logs or correction forms, the consumer does not have any ability to "approve" or "sign off on" worker time or the reported tasks performed. Requirements of consumers where they do not have any meaningful ability to comply because the State contractor system is inaccessible are at best, misleading, and unfair; at worst, they are a violation of consumers' rights to self-direct or discriminatory.	The State's new contract with Authenticare will include visualization of time in and time out as well as an authorization balance via the mobile application. This information will be visible to both the employer and the worker.
16	Other Stakeholder	Appendix C: While the spirit and intent of this language is laudable, it could have the effect of "holding hostage" the necessary accommodation/modification request of a tenant who's ability to remain in their home and community depend on the proposed modifications. The requirement to "hold in place" the accommodation exceeds the requirements of federal fair housing law. If tenants encounter issues with landlords blocking home modifications, consumers should be referred to advocacy organizations such as a Center for Independent Living or the Disability Rights Center of Kansas to enforce federal and state fair housing rights. Applying the boilerplate background check language does not make sense. Which HCBS providers are being required? The general contractors? If them, how is this accomplished; who pays for their background checks? It does not make sense that the language would be referring to Centers for Independent Living or Home Health Agencies since they are not the providers in this section, they are merely the conduits for payment to the general contractors performing the actual work.	The State notes this comment. There will be an amendment addressing Assistive Services in the near future. Background checks for HCBS providers are required under K.S.A. 39-2009
17	Other Stakeholder	Appendix C: The requirements in the Enhanced Care Service description that the service can only be provided in the consumer's home would mean that the only place people with disabilities could ever sleep would be at home. They could not go visit family for an overnight stay, or take a vacation, or travel for work if an overnight stay were necessary. This effectively makes the folks who rely on this service "home bound". If the intent is that the worker should remain with the consumer, wherever they are sleeping, that could be clarified without sentencing the person using ECS to only sleep in their own home ever.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
18	Other Stakeholder	Appendix C: Self-direction is only available for workers who are performing limited Instrumental Activities of Daily Living, and who supervise/prompt the consumer through the Activities of Daily Living. This is a violation of Kansas self-direction laws and is not a service definition that existed prior to this application. The notion that a person is wholly capable of self-directing any type of service needed to maintain independence at age 64 years and 364 days, and loses that ability on the stroke of midnight of their 65th year of life is completely ridiculous. Making FE Waiver consumers move to the agency-directed Level II option with required RN oversight is a violation of the spirit and the intent of the Waiver programs in Kansas.	Only Level 1 PCS can be self-directed as the other levels require either a HHA license or a RN.
19	Other Stakeholder	Appendix C: When the previous iteration of this service, "sleep cycle support" was eliminated and then converted to a "crisis service" under previous administrations, the immediate impact was to place several people who had been long time consumers of our agency, and who only used the overnight supports, in institutions. The purpose of these programs are to maximize independence; limiting this one service to crisis exceptions, when the service itself contains many limitations otherwise (scope, duration, available providers) is inconsistent with this goal and has empirically resulted in institutional placements.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
20	Other Stakeholder	Appendix C: Other waivers (PD, TBI of note) do not limit Enhance Care Service to crisis-only. Removing a service for someone upon the advent of their 65th year of life is arbitrary and could be the difference between remaining in the community, or moving to an institution.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
21	Other Stakeholder	Appendix C: The State of Kansas could eliminate the well-documented and much-decried background check process for self-directing consumers by simply selecting "No" in both the sections referenced above. To the extent agencies are required to comply with background checks to maintain licenses, the language in the Waiver should reflect that practice and requirement.	Background checks for HCBS providers are required under K.S.A. 39-2009

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22	Other Stakeholder	Appendix E: Budget Authority should be offered alongside Agency with Choice to support consumer self-direction, choice, and agency. The Topeka Independent Living Resource Center supports recommendations for the Grassroots Advocates for Independent Living submitted to this Waiver Application Proposal that promote the move from the Fiscal/Vendor model recently deployed in Kansas to a system that offers both full employer rights through Budget Authority, and a more supportive model of service management through the Agency with Choice model. The current Fiscal/Vendor model does not meaningfully promote self-direction, choice or control over decision-making.	This suggestion has been noted
23	Other Stakeholder	Appendix F: The process and the construction of this section is terribly confusing, as is the actual grievance/appeal/fair hearing process as it is experienced by the beneficiaries using the programs and systems. It would help to begin the section by defining the terms: Action, Grievance, Appeal, and Fair Hearing. This could clarify at the outset that the grievance process is an informal process internal to each MCO, and can be used for seeking redress for alleged wrongdoing not related to an "Action." It could explain that an appeal is a more formal process internal to the MCOs used to ask for reconsideration of an Action, or reconsideration of a grievance. And it could clarify that the Fair Hearing process is the formal process taken outside of the MCO, which can be a "first step" in challenging an adverse Action, or can be a review of the results of an appeal. Even better, a flow chart of some sort could be used for the application and made available so the folks using the system could have a clear line and understanding of how the process to redress issues with the private contractors goes.	This suggestion has been noted
24	Other Stakeholder	Background Checks – Mandatory background checks (beyond those required by Medicaid) should be optional for individuals who self-direct their HCBS. At the very least, a system should be implemented so that a self-directing consumer has the option to acknowledge a Direct Support Worker's background and waive liability. The current background check requirements are a barrier to individuals who are supposed to be the Sole Employer of their DSWS and potentially makes the State of Kansas a co-employer through the regulation of who can be hired.	Background checks for HCBS providers are required under K.S.A. 39-2009
25	Provider	Self-Direction – RCIL encourages the State of Kansas to strengthen language regarding MCO staff increasing participants' knowledge and awareness of their right to self-direct and supporting participants' choice to self-direct their services.	The comment has been noted
26	Provider	Financial Management Services (FMS) – RCIL wishes to commend the State of Kansas for keeping FMS as a "waiver service" in-order to sustain consumers' choice to self-direct their HCBS and maintain an adequate network of qualified providers. Local FMS providers deliver Information & Assistance to consumers in addition to their payroll services, which assists the consumer in being successful when exercising their right to direct their own care.	The comment has been noted
27	Provider	DSW Retainer Payments – RCIL would like to encourage the State of Kansas to include DSW Retainer Services for all of the waivers. Currently, this is only available for the IDD Waiver in Kansas and meant to assist participants who self-direct their care in retaining their current Direct Support Worker(s) when the participant is hospitalized, in a nursing facility or an ICF/IDD facility. Other states include DSW Retainer Services to help retain qualified DSWs that cannot afford to go without pay when the participant is briefly out of the home.	The suggestion has been noted
28	Provider	Fraud – Perhaps the Waivers aren't the appropriate place to address this but RCIL would like suggest the State of Kansas create an environment that encourages providers to report all instances of suspected fraud without hesitation by holding them harmless when the fraud is committed by others (participants and/or DSWs). Although RCIL reports all instances of suspected fraud, it does so at the risk of financial harm to itself because funds are recouped from the FMS providers by the MCOs even when the FMS provider's involvement is only the entity reporting the issue.	This suggestion has been noted

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29	Other Stakeholder	I am writing to request that the home modification benefit amount be reconsidered from the current rate of $7500 lifetime to $10,000 annual. Missouri and Ohio are 2 states (that I know of) who offer this limit and had a lot of success with keeping members safely at home.	An increase in the lifetime limit will require an increase in the waiver appropriation from the Legislature. KDADS will discuss this during the next budget planning cycle.
30	Other Stakeholder	Of real interest is 24/7 adult "day" services access. Not having that or easier access to sleep support/Enhanced care services greatly increases the likelihood of an older adult being institutionalized – often with negative outcomes. Just to reiterate my comments from yesterday between 2012 and 2016 a national study found that the anti-psychotic drug use rate on older adults with dementia increased from 15% to 21% - so a significant move in the wrong direction with these drugs, hence my comments about how that is included in tracking on "restraints" in the waiver data. I have many resources for additional learning on this issue if you are interested at any point. Also I have a request – a gentleman at the training brought up that on the FE waiver there are 6 criteria to be eligible for enhance care support and 5 on the PD waiver. Can you direct me to where on the KDADS site I can find that kind of specificity to each waiver?	We will continue to take steps to attain small- and large-scale improvements to our waiver services within the scope of our limited resources. This request presents us with a fiscal impact beyond the scope of our limited resources. There are no additional requirements for access to ECS on the PD waiver.
31	Other Stakeholder	Enhanced Care Services is available to PD waiver recipients without a crisis or exception request, but if that person wants to transition to the FE waiver at age 65, do they get to keep the Enhanced Care services already in place or do they have to go through the crisis criteria and meet that to continue to receive that service? In addition, why does someone on the FE waiver have to meet crisis criteria for this service, but not on the PD waiver?	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
32	Other Stakeholder	I checked on the status of the bill that would codify in law a person's ability to identify others who can help them make decisions as needed. The bill is HB 2034 and is still on General Orders in the Senate. I thought it had been folded into a conference committee and passed, but it has not. It could still be passed when the legislature returns on May 1. The DD Council led the effort to get this legislation passed. Steve Gieber, director of the council, can provide lots of information about the bill and the reasons its needed. Barb	Comment is noted
33	Other Stakeholder	Appendix A: The MCOs, or their designee, are responsible for conducting a comprehensive needs assessment, developing the Person-Centered Service Plan, including State Plan services and FE waiver services, offers provider choice, choice between self-or agency direction, conducts provider credentialing, provider training, monitoring of service delivery and participation in the comprehensive state quality improvement strategy for the program. In other words, the MCO does both the service planning and the allocation of hours and services after the Aging and Disability Resource Center (ADRC) does the initial intake and functional eligibility assessment. This process sets up an inherent conflict of interest when MCOs oversee the service planning and allocation of hours and services. They are profit-driven insurance companies that benefit financially if services are limited. This conflict of interest is exacerbated when a consumer has to complete an appeal with the MCO before requesting a State Fair Hearing.	Comment is noted
34	Other Stakeholder	Appendix B:The waiver application states it will serve 7,038 (unduplicated) persons a year. The most recent monthly waiver data posted on the KDADS website for March 2019 shows the monthly number of persons eligible to receive services at 4,617. Over the past year, this monthly number has ranged from a high of 4,697 in March 2018 to a low in February 2019 of 4,584. While we can't compare an unduplicated annual number to a monthly number of persons eligible for services, we do know the number of persons served by the HCBS FE waiver has decreased under KanCare. Prior to the implementation of KanCare, the average number of persons served each month by the FE waiver was 5,823. That's a decrease of 1,239 persons compared to the February low of 4,584. Serving fewer older adults at a time when the number of Kansans over 65 is on the rise, defies logic. Factoring in the increasing number of persons with dementia, it becomes even more critical for the waiver to ensure that the unique needs of older Kansans and their caregivers are addressed.	KDADS is aware of the factors that have contributed to the decrease in persons served by the FE waiver.

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		While the State agencies (KDHE and KDADS) have not identified the causal factors for fewer FE waiver recipients served, it is incumbent for the viability of this program as an alternative to institutionalization, for the State to identify and make public the reasons, in order to address them. We can hypothesize that there are fewer resources directed to making the public aware of the HCBS FE program and how it works; on-going, uncorrected obstacles to eligibility determinations and lack of retro-activity for HCBS as exists for institutional care; and serious workforce shortages, combined with reimbursement and conflict of interest policies which act to dissuade or fail to support family caregivers, which singly or in combination may drive down usage for frail elders needing long-term supportive services.	
35	Other Stakeholder	Appendix B: Post Eligibility Treatment of Income i. The dollar amount for the allowance is $727 $1,177. Excess income will only be applied to the cost of 1915(c) waiver services. (Under 2/7 and 4/7) The Kansas Legislature has approved this increase and it is expected to be approved by the governor. We will continue to advocate with KDADS and KDHE to index the amount to 150% of SSI. We would request the KDADS clarify in this section that the amount was set by the Legislature at $1,177 (which is 150% of SSI), and that efforts to index or change the amount are ongoing, but under no circumstances will the amount revert back to less than $1,177.	Comment noted. The Protected Income Limit Increase will be addressed in an amendment.
36	Other Stakeholder	Appendix B: The waiver states that the ADRC will inform individuals and/or their legal representative of feasible alternatives under the waiver and give the choice of institutional or HCBS services. In reality, access to such options are often severely limited or non-existent. For example, many counties have no home health agency, no adult day services, or dental care providers. Most Assisted Living Facilities (ALF) Homes Plus, Residential Health Care Facilities (RHCF) won't accept Medicaid. Rather than the "robust" network of HCBS providers and services promised by the State in 2013 with the introduction of KanCare, these are but a few of the barriers which make the promise of "choice" an empty one. For older HCBS participants to be served successfully and offered freedom of choice which has meaning will require the 1115 Demonstration Project and its contractors to address its failure to provide for a robust network of services and providers.	This comment is outside the scope of the 1915 c waiver
37	Other Stakeholder	Appendix C: Adult Day Care: As currently defined, Adult Day Care largely fails to meet the needs of individuals with early- to mid-stage (and perhaps later) dementia and of similar illnesses. Adults with dementia are at high risk for institutionalization at the point in time when an available family caregiver (spouse or adult child) is unable get adequate sleep or accomplish tasks outside the same room as the person with dementia. This may occur when memory loss advances and the person has agitation, sleeplessness, continuous movement or other manifestations which results in the caregiver needing to be with the person pretty much all the time. Institutionalization for a person with dementia far too often results in the person being placed in a "locked unit" to assure her/his safety and in Kansas has also resulted in the serious over/misuse of anti-psychotic drugs to control disease manifestations. Requiring the person with dementia to move into a new environment with persons unfamiliar to them is a significant trauma and most often results in immediate declines for the individual's function and health. We offer a few suggestions to meet the needs of the growing number of Kansans living with dementia and the serious lack of access in many areas of the state. Expand 24/7 accessibility and availability to adult day care rather than limiting it to the traditional 8 to 5 workdays during the week. Address community access to adult day care 24/7, expand adult day care and include reimbursement for redirection, cuing, maintenance of function, exercise/restorative movement and other similar tasks which are appropriate and needed for persons with dementia and should be defined by the person-centered planning service. Encourage utilization and provide funding for oversight in adult day settings of volunteers from school, civic, and church-based volunteer programs as a means to provide varied and more meaningful activity and engagement of and "mainstreaming" of persons with dementia. Encourage creative pilots which would allow	We will continue to take steps to attain small- and large-scale improvements to our waiver services within the scope of our limited resources. This request presents us with a fiscal impact beyond the scope of our limited resources.

		families to alternate/rotate informally providing supervision to persons with dementia. Encourage "break time club" approaches pioneered by the Shepherd's Center in North Kansas City MO which offers specific programming and engagement sort of like the "Mother's Day Out" child supervision model.	
38	Other Stakeholder	Appendix C: The First Data Authenticare system does not have a mechanism for consumers to independently check on the time clocked in and out of the system, particularly the phone system. With the exception of paper back-up logs or correction forms, the consumer does not have any ability to "approve" or "sign off on" worker time or the reported tasks performed. Requirements of consumers where they do not have any meaningful ability to comply because the State contractor system is inaccessible are at best, misleading, and unfair; at worst, they are a violation of consumers' rights to self-direct or discriminatory.	The State's new contract with Authenticare will include visualization of time in and time out as well as an authorization balance via the mobile application. This information will be visible to both the employer and the worker.
39	Other Stakeholder	Appendix C: The FE renewal application includes no offerings to help a person with dementia as he/she loses language function such as electronic communication devices that can be picture based or word based depending on progression of dementia. There are no offerings for electronic monitoring inside the house or in the yard for use by spouse caregiver or GPS for tracking an individual who might wander out of the house. These options could offer more autonomy to for the individual. Such devices would also provide for a greater level of safety, oversight and flexibility for older spouse caregivers. As the FE waiver is proposed, assistive services do not allow for external modification to create an enclosed outdoor area. This would be a reasonable offering for a person with dementia to have unimpeded outdoor access. It also appears that the background check requirements would extend to contractors doing home remodels. This seems outside of normal expectations and beyond typical for such a contractor. Making Assistive Services available only through a crisis exception and with criteria requiring a prior stay in a facility (from temporary or to transition out) does not meet the unique needs of persons with dementia, nor the goal of the waiver to serve elders in the least restrictive, home setting.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services, and Assistive Services. Additional stakeholders input would be valuable in revising these services.
40	Other Stakeholder	Appendix C: The prohibition of a spouse as paid personal care service provider does not take into account shrinking familial networks due to age related death, geographic relocation, insufficient workforce, etc. While the waiver is to promote independence these kinds of policies promote institutionalization without nuance and context. In addition to the spouse not being able to be paid to be the care provider, the Durable Power of Attorney (DPOA), who also may be a family member, is not allowed to be the paid care provider. Again, this could broaden and expand the pool of caregivers, providing help to caregivers who struggle to balance work, home and caregiving responsibilities.	The suggestion has been noted
41	Other Stakeholder	Appendix C: Limiting self-direction to Level 1 PCS essentially removes self-direction for FE waiver recipients. This means that self-direction is only available for workers who are performing limited instrumental Activities of Daily Living, and who supervise or prompt the consumer through ADLs. This violates Kansas self-direction laws and is not a service definition that existed prior to this application. Making FE waiver consumers move to agency-directed Level II options with oversight of an RN because they reach age 65 violates the spirit and the intent of the waivers. As a practical matter, it means that agency-directed services will not be accessible to many older Kansans given the extremely limited access both in numbers and geography to agency-directed service providers. The result of this policy is increased weight toward institutionalization.	Services that require professional licensure (nursing, therapies, etc.) must be supervised by a professional. As such, they cannot be self-directed. The State appreciates the input on how we may be able to conduct more robust pulic input.
42	Other Stakeholder	Appendix C: To access these services, a person must meet the exception and qualify through various criteria, few of which reflect the unique needs of older adults with a progressive dementia illness. The waiver could be responsive to these needs and reduce the likelihood of higher cost, more restrictive institutional care by adding or adjusting the criteria to reflect needs that would make it more responsive.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.

		The need for supports that would maintain a mobile adult with dementia at home would require piecing together Comprehensive Support Services, Personal Care Services, and Enhanced Care Services (sleep support). But it may take all 3 to total 24-hour care or something approaching that level of care for the person to receive care at home. Providing a higher level of care in the home benefits an older adult with dementia by reducing "transfer trauma," disorientation, agitation, and accompanying declines in function and well-being which regularly result from transitions. A higher level of care at home will likely be cost neutral or at lesser cost. Comprehensive Support is non-medical and is especially appropriate for the engagement and redirection a person with advancing dementia. The waiver as proposed does not address the unique needs of persons with dementia and dementia-like illnesses only in "exceptional" instances. This section also notes that Comprehensive Support can occur only during the participant's normal waking hours. It is unclear in the renewal application if this is intended to convey morning through evening or if it extends to the sleep-disturbed hours of a person with dementia who may be experiencing sundowning. This same section states the service must be provided by a home health agency, ALF, Home Plus or a RHCF. It is unclear if this means a Class A (traditional home health) or Class B/HCBS provider or Class C/home care agency, or encompasses all 3 classes, A, B, & C.	
43	Other Stakeholder	Appendix C: The application allows only one unit with a maximum of 6 hours within a 24-hour period. A person with dementia is likely to be cared for by a spouse or adult child who, of course, needs 8 hours of sleep to stay functioning and healthy. If this sleep cycle support/enhanced care service is the service that is needed -- not bathing, dressing etc., the waiver as configured, providing only 6 hours, is insufficient. This restriction without other offsets increases the likelihood of institutionalization for the person who primarily needs sleep cycle support. The definition of this service states that it must be provided "…during the consumer's normal sleeping hours in the participant's place of residence." This essentially makes the consumer "home bound;" unable to travel, visit family, take a vacation, etc. It should be clarified that the worker serves the consumer wherever they are sleeping, not restricting that service to their place of residence only. Other waivers, such as those serving persons with Brain Injury and Physically Disabilities do not restrict this service to a "crisis service." Limiting it to "crisis only" puts older adults at a greater risk of institutionalization – is discriminatory and inconsistent with the goal of serving people in their homes.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services, and Assistive Services. Additional stakeholders input would be valuable in revising these services.
44	Other Stakeholder	Appendix C: The section on telehealth doesn't reference it being available for aging mental health issues or for dementia as one of the multiple chronic conditions which this service could be to help manage for the older adult waiver participant. We request that the waiver address this limitation.	This comment is not clear
45	Other Stakeholder	Appendix C: We request and strongly recommend that targeted case management be reinstated as a service under the FE waiver. TCM, in combination with self-direction increases access for persons in rural areas. TCM would be a significant service for those with dementia wishing to remain at home, which KanCare recognized for persons with intellectual/developmental disabilities waiver. TCM services have proven to be a benefit for persons receiving LTSS and helps them delay or avoid institutionalization.	There are no Case Manager's (TCM) for the FE waiver. That function was moved to the MCOs at the start of KanCare. MCOs write the Person-Centered Service Plans for the FE waiver. KDADS and the MCOs are responsible for monitoring the FE waiver program and servcie delivery.
46	Other Stakeholder	Appendix C: The recent "one-size fits all" changes to the background check process, in practice fits no one well, particularly persons who self-direct. To the extent agencies are required to comply with background checks to maintain licenses, the language in the waiver should reflect this practice and requirement	Background checks for HCBS providers are required under K.S.A. 39-2009
47	Other Stakeholder	Appendix C: The first table of waiver services provided in regarding assisted living facility services does not include "assistive services." We request the inclusion of assistive services in this physical setting and inclusion of devices which extend communications capacity for persons with dementia and similar progressive diseases who will be helped by these devices	Comment noted

		as their language and/or other functional skills diminish. We also request inclusion of GPS tracking devices for persons with dementia as he/she will benefit from greater autonomy of movement as well as reduced danger to personal safety from location disorientation which occurs with memory loss.	
48	Other Stakeholder	Appendix C: Facility Capacity Limit should read: "No more than twelve (12)."	Comment is unclear
49	Other Stakeholder	Appendix D: Person Centered Plan (b) and (c) should read "eligibility for the FE waiver…" and "Each participant found eligible for the FE waiver…"	Changes made
50	Other Stakeholder	Appendix F: Under the bulleted list of circumstances under which an appeal can occur, it reads, "Members will receive a Notice of Action in the mail if an Action has occurred." It defines an action as "the denial of services or a limitation of services, including the type of service, the reduction suspension, or termination of a service you have been receiving; the denial in whole or part of payment for a service; or the failure of the health plan to act within established time requirements for service accessibility." The Notice of Action is required to include the reason for the action taken, which is not included in the statement above. The KEESM states: "Adequate Notice means a written notice that includes a statement of what action the agency is taking, the reasons for the intended agency action, the specific manual references supporting such action, an explanation of the individual's right to request a fair hearing, and the circumstances under which assistance may be continued if a fair hearing request is made. All notices must be adequate." The introduction of the term "appeal" in this context is confusing. A "grievance" is defined on page 150 – "an expression of dissatisfaction about matter other than an Action." Residents in licensed adult care homes which are not nursing facilities, do not have guaranteed the right to appeal when a facility provides a written notice of an involuntary discharge or transfer (provided at 30 days before termination). The right to appeal an involuntary transfer or discharge does exist for residents of nursing facilities, creating an unfair and inconsistent foundation of rights for older adults on the waiver in an assisted-type facility versus in the nursing facility. To make the regulations equitable for consumers in all facility settings we request inclusion of this right for consumers in assisted-type settings.	This comment is not clear
51	Other Stakeholder	Appendix G: A significant problem in justice for older adults who are abused, neglected and exploited is the failure to engage all tools available including Adult Protective Services, the KDADS survey unit, and law enforcement to provide for a thorough, effective, and timely investigation, intervention, and appropriate actions. Older adults suffering abuse have a 300% increased risk of death within 18 months. The FE waiver offers no directive or indication of the importance of KDADS/DCF Adult Protective Services notifying law enforcement related to abuse, neglect or exploitation (ANE), suspected or confirmed, of an HCBS waiver recipient whether in a facility or at home. The waiver states that agencies have 24 hours to investigate. If law enforcement is not noticed right away, evidence may/will be lost, destroyed or contaminated, eliminating justice for the person harmed and potentially allowing the person causing the harm to be free to harm again. The proposed waiver states no requirement, reference or direction for APS or the survey unit to work cooperatively with law enforcement in suspected ANE situations/investigations. Not informing law enforcement eliminates tools which might help a victim which are available to law enforcement, but not to APS or the survey unit, such as criminal conviction, court ordered monetary or property restitution, or provide the basis for monetary damages accesses through a civil lawsuit. The practice set out in the proposed waiver greatly limits the tools to assist waiver participants, and remedies which could help them. The Affordable Care Act requires nursing facilities to report suspected ANE to both KDADS and local law enforcement. This is the right standard and should be mirrored in home and community-based settings. This application points to the State's survey process as a means to assure quality and competent service delivery (for example in medication management, or restraints/chemical). Please note that the State's survey process is non-compliant with State statutory requirements for timeliness and has	This suggestion has been noted

		been for a number of years. If the State survey process is to be used as a quality assurance and measure of competence, then the waiver ought to propose a remedial action for survey compliance, or in the alternative, offer equally effective assurances and measures as would be operational if the State survey process were compliant with time requirements. The State survey process is significantly delayed and has been by months or years. The application as proposed specifies what is required by state laws and leaves the impression that the survey process is up fully compliant and functioning for HCBS participants when is in fact not.	
52	Other Stakeholder	Appendix G: We request the addition of a requirement for written, informed consent in home and facility settings prior to the prescribing and use of an anti-psychotic drug on older adult waiver participants who do not have an approved diagnosis of schizophrenia, Tourette's, or Huntington's disease. This is an established requirement for persons with intellectual and developmental disabilities and should be included under the FE waiver as well for older adults with dementia. Of concern is the fact that since CMS' national campaign to reduce the deadly and inappropriate use of anti-psychotic drugs on older adults with dementia, Kansas nursing facilities have ranked between 40th and 51st between 2011-2019 worst among 50 states and Washington DC. The off-label, non-FDA approved use of these drugs to control the behaviors of older adults with dementia is a stubbornly entrenched practice in Kansas adult care facilities. National studies found that use rates in nursing facilities was 30% while in assisted types and at home was 15% in 2012. By 2016 the use rate in assisted type facilities and at home had increased by 5% to 21%. Rarely are individuals or families told that an older adult with dementia has a doubled risk of death after only 12 weeks of use. One in 53 older adults receiving an anti-psychotic drug for off-label dementia use will die prematurely. Inclusion of a policy requiring written, informed consent would change the current Kansas culture of mis/overuse. More importantly such a policy requirement will prevent unnecessary death and suffering for older adults already experiencing cognitive challenges and losses. A change of policy will point prescribers and providers to the many other, more effective ways to help persons with dementia. The renewal application states that the "first line responsibility for monitoring participant medication regimes resides with the medial professionals who prescribe medications. Second-line responsibility for monitoring participant medication lies with the licensed pharmacist or licensed nurse responsible for completing a quarterly medication regimen review for each participant whose medication is managed by licensed facility staff." As noted in the application, K.A.R. 26-41-205 and K.A.R. 26-42-205 states: 3. If a facility is responsible for the administration of a resident's medications, the administrator or operator shall ensure that all medications and biologicals are administered to that resident in accordance with a medical care provider's written order, professional standards or practice, and each manufacturer's recommendations."	We will continue to take steps to attain small- and large-scale improvements to our waiver services within the scope of our limited resources. This request presents us with a fiscal impact beyond the scope of our limited resources.
53	Other Stakeholder	Appendix I: Delays in processing eligibility for persons applying for FE services have been on-going under KanCare. Delays are likely to continue while the State implements its plan to the eligibility responsibility back to KDHE. Retroactive payments are allowed for nursing homes who provide care to consumers whose eligibility is pending. We recommend extending this retroactivity payment process to HCBS providers, similar to the process afforded to nursing homes. This will allow older adults to begin receiving services sooner and providers to be reimbursed for services.	This is outside the scope of this waiver. Comment has been sent to KDHE.
54	Other Stakeholder	Appendix I: Rate Determination Methods should read: "Capitation rates are based on actuarial analysis of historical data for all FE program services."	Suggestion has been noted
55	Other Stakeholder	We recommend, as we have previously, that a broad-based, inclusive and consistent communications plan for engaging stakeholders be developed within the KanCare program. We appreciate the State's attempts to improve communication between stakeholders, providers and advocates. Specific to waiver-related communications directed at KanCare consumers, families, providers, and advocates messaging content has been sporadic,	KDADS did conduct targeted listening sessions with current FE waiver participants. The feedback received from those participants has been incorporated into the public comments for the FE renewal. KDADS continues to work on improving the stakholder engagement process.

		confusing and inconsistent across the respective State websites. Lack of consistency continues to hamper public information, awareness, and action. As significant changes are proposed, such as with waiver renewals, we recommend engaging directly with stakeholders on the front-end of the process to review gaps in services, changing demographics, needs of the waiver populations, and evaluation of effectiveness of existing services, as well as the current waiver process. We applaud KDADS for making waiver renewal information publicly available prior to the FE and PD public forums. However based upon input from consumers it appears the forums weren't well publicized, resulting in poor attendance. The forums focused too heavily on performance measures and not on the specific policy changes proposed. While State staff readily answered attendee questions, the language presented was not comprehensible nor implications of changes easily comprehended by participants attending. We did request and once again recommend that the State provide a side-by-side list of proposed changes. Thank you for the opportunity to comment. We welcome on-going discussion about improving services to older adults and persons with disabilities who are served by the KanCare waivers.	
56	Other Stakeholder	PERSONAL CARE SERVICES: We appreciate KDADS clarifying the definition for Personal Care Services (PCS) in both the Frail Elderly (FE) and Physical Disability (PD) waivers. As it read in past waivers, the utilization of informal/natural supports was unclear for both providers and waiver participants, and created added confusion for members who do not have access to these supports. We believe the new language proposed in the waiver amendments provides clearer guidance for this service, which will ultimately minimize confusion for providers and waiver participants. There are several minor changes to the waivers that we request clarification on from KDADS. The following comments apply to the proposed changes in both the FE and PD waivers: 1. On the list of supports that are included under PCS for both waivers, there is no #4 provided in the list (the list jumps from #3 to #5 [FE pg. 51; PD pg. 51]). Were the items simply numbered incorrectly (in which case we kindly request that KDADS correct to prevent future confusion), or is there a support that is missing from the list that should be added to make it complete? 2. A clearer definition of "assistance" (as referenced in FE pg. 51; PD pg. 51) would be helpful to reduce ambiguity. For instance, does assistance include standing by and being available as in comprehensive support? Or will reimbursement be restricted to time spent providing assistance for covered activities of daily living (ADLs)/instrumental activities of daily living (IADLs) tasks during exercise, socialization and recreation? 3. Consistent terminology for self-directed workers would help prevent any future confusion. There is a return to Direct Support Worker (DSW) language in the amended waivers, which is not used in the current FE and PD waivers (FE pg. 51; PD pg. 53-54). The following comment is only applicable to the FE waiver: 4. Clarification is requested on what "Level 1 PCS" services are considered to be as applied to self-directed workers (FE pg. 88). Self-directed PCS does not include levels of care, so the wording in the waiver as it stands is unclear.	1. The numbering issue is tyographical and will be fixed. 2. Reimbursement will be provided when the worker is performing assistance for covered activities of daily living (ADLs)/instrumental activities of daily living (IADLs) and other tasks as defined within the service definition. 3. KDADS is using the term Direct Support Worker in all waivers to provide clarity across populations. 4. Suggestion is noted.
57	Other Stakeholder	MONITORING: Under the "Monitoring" section, KDADS states "contact with the participant on a monthly basis is required if the participant's health and welfare needs are at risk of significant decline or the participant is in imminent risk of death or institutionalization." (FE pg. 119; PD pg. 98). For both the FE and PD waivers: • Is the definition of "at risk of significant decline" consistent across all managed care organizations (MCOs) or is it at each MCO's discretion to determine? If the definition is consistent across all MCOs, we kindly request KDADS define this phrase in the waivers.	MCOs are responsible for determining "risk of significant decline". KDADS has noted the suggestion to create a standard definition for this term.

58	Other Stakeholder	ASSISTIVE SERVICES: For the FE waiver, KDADS is requiring that contractors be affiliated with local Centers for Independent Living (CILs) (FE pg. 61). 1. Is this requirement specific to the Frail Elder waiver? The Physical Disability waiver provides the option between CILs or licensed home health agencies. 2. In addition, in terms of the new guidance on communication devices (FE pg. 58): 3. How does KDADS expect MCOs to track and enforce the new rental agreement requirements? We kindly request specific clarification and guidance if this is an expected requirement.	1. No. The PD waiver both require a contractor to affiliate with a CIL. 2.Comment 2 is not clear 3. KDADS has not added any "new" rental agreeement requirements to the waiver. This question is not clear.
59	Other Stakeholder	OTHER: • There appears to be an error on page 116 of the FE waiver under section "b." It refers to the "BI waiver," which we believe should read "FE waiver."	Agreed. Changes made.
60	Other Stakeholder	All four waivers also share general limitations on the provision of ECS. For example, across all waivers, ECS (1) must be provided in the waiver beneficiary's home; (2) cannot duplicate other HCBS, State Medicaid Plan, or third-party provided services; and (3) cannot be provided by a legal guardian or power of attorney, spouse, or parent of a minor child unless extenuating circumstances exist. However there is one set of criteria that is unique to the FE waiver. "Specific to the FE population," ECS is a "crisis exception service," and FE waiver beneficiaries must meet five of six criteria listed below to be found eligible for ECS: 1. Lack family or friends within a close proximity to provide daily informal supports; 2. Adult Protective Service confirmation of self-neglect or abuse; 3. Isolated or lives alone; 4. Has a severe cognitive impairment; 5. In the end stages of an illness and receiving Hospice Care; 6. Scores a "4" in toileting, transferring, medication management/treatment, and walking/mobility. This limiting criteria is not contained in any of the other HCBS waivers operated by KDADS, it only applies to the FE waiver and the program's 65 and older beneficiaries. This language is included in the draft renewal application for the FE waiver. I believe that this criteria unfairly and drastically limits a vital waiver service to all FE waiver beneficiaries. It is unclear why this limiting criteria exists in the FE waiver when it is not present in any other waiver. I have never heard any justification from KDADS as to why this criteria exists, or what its purpose is. I believe that this criteria violates the Age Discrimination Act of 1975, a federal civil rights statute that prohibits discrimination on the basis of age in all federally assisted programs and activities. By making it incredibly difficult for FE waiver beneficiaries, who are by definition ages 65+, to access a service, while placing no such restrictions on younger HCBS waiver beneficiaries in the PD, TBI, and I/DD waiver, KDADS is discriminating in the provision of services on the basis of age. These rules also put FE waiver beneficiaries at unjustified risk of institutionalization in a nursing home. Without overnight ECS care, FE waiver beneficiaries are at risk of suffering an injury that might force them to move into a nursing home. A person with significant limitations may only be one fall away from having to permanently live in a nursing home. ECS care is designed to prevent such injuries, yet KDADS's rules make it is incredibly difficult for FE waiver participants to access this care. I hope KDADS will consider removing these rules from the FE waiver. This would make the ECS service and limitations consistent across all waivers and allow FE waiver beneficiaries to access a service that is vital to many. If you have any follow up on my comments, please feel free to contact me.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
61	Other Stakeholder	B-3: The number of participants projected to serve on the FE waiver actually shows an increase of almost 600 individuals through the next five years. Unfortunately the FE waiver does not show an increase at all, staying at the same number for the next five years. This does not show the State's commitment to integrated community based services. In addition, given the State should be complying with the Olmstead decision and to continue reducing the FE waiting list, there should be an increase through the next five years of individuals served on the FE waiver.	There is no waiting list for the FE waiver.

62	Other Stakeholder	B-5: Allowance for the needs of the waiver participant Operationally, the State will continue to calculate patient liability, or member Share of Cost, and providers will continue to be responsible for collecting it. In practice, this means the State will reduce capitation payments by the individual Share of Cost amounts. The reduction will be passed from the MCO to the provider in the form of reduced reimbursement, and the provider will be responsible for collecting the difference. The dollar amount for the allowance is $727. Excess income will only be applied to the cost of 1915{c) waiver services. Comment: It should be noted that the KS Legislature has increased the Protected Income Level to $1,177 and that endeavors will continue to get this indexed and increased so that individuals can keep more of their earned money to live healthy and integrated in their communities.	Comment noted. The Protected Income Limit Increase will be addressed in an amendment.
63	Other Stakeholder	B-6: A four year degree should not be a requirement for ADRC assessors. The suggested majors or licensing bring a tone of medical attitude to longterm services and supports that is not warranted. Additionally the degree requirement eliminates many individual, including people with disabilities, from qualifying for this position because they may have not had the opportunity to acquire the education. Many people with disabilities have the learned experiences as a peer to relate with participants that cannot be taught in educational courses and therefore are much more qualified the position requirements listed above.	Suggestion has been noted
64	Other Stakeholder	C: We ask that the state consider also providing an "agency with choice" or co-employer option. An overall concern is that since Kansas eliminated this model and went with the full employer model instead, the number of providers has plummeted and the number of individuals self-directing has also fallen off, especially in the 100 and FE Waivers. There is simply too much complexity and responsibility and not enough benefit from the full employer model for many folks that would otherwise self-direct. Likewise, the administrative burden was too much for many smaller providers. Experience has shown us that requiring a bunch of paperwork, accounting and bureaucracy in and of itself, as is the case with "employer authority'', does not enhance independence and satisfaction. The opposite is true. Authority and increased control must follow from increased responsibility (ergo the need for budget authority). At the same time, a participant's basic independence and satisfaction with self-direction comes from workers that listen, show up on time ready to work and that do a good job (basic functional control). Individuals should be able to exercise basic control over selecting workers, scheduling work and workers and other facets of self-direction without having to be a full employer/sole proprietor corporation as is the case currently. The co-employer/"agency with choice" model being made available again would expand the opportunity to self-dire ct and increase satisfaction and independence of more recipients. (Previous two paragraphs credited to GRAIL comments provided)	Suggestion has been noted
65	Other Stakeholder	C: There needs to be a better way to assure that participants are truly being able to choose their providers. We have had numerous participants contact us because they wanted to use SKIL as a provider but their MCO Care Coordinator tells them who they must use. After talking to us, some will contact the MCO to get switched to us but some participants are too intimidated by the MCO. And who knows how many people we do not hear from? We even have evidence of Care Coordinators "Sharing" providers pages/posts on Facebook to promote them. And evidence of them "tagging" PCA's to the same providers pages, encouraging them to apply because the "Pay is good!". It is difficult to believe that if MCO Care Coordinators are making decisions like this, are they being unbiased to participants and PCAs all the time? Obviously not! Therefore they are violating the rights of individuals to truly self direct their services.	This is outside the scope of this waiver. Comment has been sent to KDHE.
66	Other Stakeholder	Appendix C: The FMS provider is responsible for Information and Assistance functions including: 1. Explanation of all aspects of self-direction and subjects pertinent to the participant or participant's representative in managing and directing services; Comment: Our above comments on the repercussions of the State's requirements and the MCO abusing their influence makes the explanation of self direction pretty weak. Many of our	Whether a participant is agency or self-directing services, there are still standard business practices which are established by the State and Federal governments.

		customers ask if they are truly in control then why does the State and MCO have so much control? We want to know the same thing.	
67	Other Stakeholder	Appendix C: Participant Responsibilities 1. Act as the employer for the DSW or designate a representative to manage or help manage DSWs. See definition of representative above. 4. Select Direct Support Worker(s) Comment: These are the participants responsibilities? Yet the State does not truly let this happen. Participants rights are being violated! The State is violating K.S.A. 39-7,100. And the State claims that the individual has employer authority? The State is making employer decisions. Previous comments apply here	K.S.A. 39-7, 100 includes multiple subsections. Without a direct citation KDADS cannot appropriately reply.
68	Other Stakeholder	Appendix C: Assure utilization of EVV system to record DSW time worked and all other required documents to the FMS provider for processing and payment in accordance with established FMS, State, and Federal requirements. The EVV/timesheet will be reflective of actual hours worked in accordance with an approved Person-Centered Service Plan. Comment: How is the participant responsible for assuring the time worked by the OSW when there is no timesheet or anything for them to sign off on? The participant does not have access to the State contractors system to verify the time worked. This also violates the participants rights when self directing. The State is managing an overseeing the hours worked by the PCA, which is the right and responsibility of individuals who self-direct.	Comment noted.
69	Other Stakeholder	Appendix C: Assistive Services: Home modifications may only be purchased in rented apartments or homes when the landlord agrees in writing to maintain the modifications for a period of not less than three years and will give first rent priority to tenants with physical disabilities. Comment: This is holding home mods captive because many landlords are not going to make this guarantee, especially to prioritize tenants with disabilities. They are going to rent to the first person with money. This goes above the Fair Housing Act requirements also. A great thought but not going to happen. So all this does is deter landlords from allowing accessibility modifications to be done.	This suggestion has been noted
70	Other Stakeholder	Appendix C: Assistive Services are subject to critical situation criteria. Comment: Why do we need to wait for some to be in a critical situation before providing assistive services?? It would make sense to provide these services to prevent someone from getting to a critical level. Besides individuals know when they need these types of services and should be able to self direct their needs. People don't just arbitrarily think they need a ramp, an augmentative communication device, etc. These services are needed for participants to live in their home and community independently. It would be no different than me locking the doors to your house and only allowing you in and out if and when it is convenient for me, which might or might not be when your house is on fire. Assistive services are not a luxury!	The State notes this comment. There will be an amendment addressing Assistive Services in the near future. Please note the fiscal impacts of policies that are likely to expand the reach of such services
71	Other Stakeholder	C: Contractor for Home Modifications or Van Lifts Must affiliate or subcontract with a recognized Center for Independent Living or licensed home health agency (as defined in K.S.A. 65-5001 et seq.). Applicable work must be performed according to local and county codes. All non-licensed general contractors must present a current certification of worker's compensation and general liability insurance, including proof of business establishment for a minimum of two (2) consecutive years. All HCBS providers are required to pass background checks consistent with the KDADS' Background Check policy and comply with all regulations related to Abuse. Neglect and Exploit ation. Any provider found to have been substantiated for a prohibited offense as listed in K.S.A. 39-2009 is not eligible for reimbursement of services under Medicaid funding. Comment: This makes no sense. Do the contractors have to have background checks? Who does this and who pays for it? It is difficult enough in the rural areas to find contractors and this will chase more of them off because they will refuse to have it done. If this is pertaining to the CIls or HHAs, that would make no sense because they are not providing the service? It just needs to be removed.	Background checks for HCBS providers are required under K.S.A. 39-2009
72	Other Stakeholder	C: Enhanced Care Service Enhanced Care Services provides non-nursing physical assistance and/or supervision during the participant's normal sleeping hours in the part icipant ' s place of residence. This assistance includes the following: physical assistance or	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.

		supervision with toileting, transferring, turning, intake of liquids, mobility issues, and prompting to take medication •ECS must be provided in the participant's home. Service providers must remain in the participant's home for the duration ofthis service provision in accordance with the participant's Person -Cent ered Service Plan. Comment : Why is this service only to be provided in the participants home? This would not allow participants to live their lives as other people without disabilities. We want to go on vacation or visit family or travel as work or volunteer responsibilities. Once again the State is trying to keep people with disabilities tied to their homes. This is a horrible policy!	
73	Other Stakeholder	C: ECS is provided as a crisis serv ice. The Participant must meet 5 of the 6 criteria listed below to qualify for ECS. Comm ent : Why would Enhanced Care Services only be provided on the FE waiver on the condition of a crisis?? The idea that an individual can receive this service on other waivers at the age of 64, but because someone on the FE waiver is 65+ they do not need ECS unless they are in a crisis? What happen to the idea of prevention? This policy will drive seniors into nursing homes. This must be changed.	KDADS is reviewing the Crisis Criteria for Enhanced Care Services. Additional stakeholders input would be valuable in revising ECS crisis exception criteria.
74	Other Stakeholder	C: Personal Care Services Level I Service A: Home Management of IADLs Shopping, house cleaning, meal preparation, laundry Service B: IADLs Medication set -up, cuing, and reminding (supervision only) ADLs-attendant supervises the participant Bathing, grooming, dressing, toileting, transferring, walking/mobility, eating, accompanying to obtain necessary medical services Level II (An initial RN evaluation visit is necessary) Service C: ADLs - physical assistance or total support: Bathing, grooming, dressing, toileting, transferring, walking/mobilit y, eating, accompanying to obtain necessary medical services Service D: Health Maintenance Activities Monitoring vital signs, supervision and/or training of nursing procedures, ostomy care, catheter care, enteral nutrition, wound care, range of motion, reporting changes in functions or condition, medication administration and assistance Specify applicable (if any) limits on the amount, frequency, or duration of this service: Self -direction is only available for Level I PCS. Comment: This violates the Self Direction law as well as the Nurse Practice Act amended to allow attendants to perform some health maintenance activities if approved by the participants physician and the attendant is trained. The idea that at age 64 I would be able to receive physical assistance with ADLs but on my 65th birthday this physical assistance goes away is belittling and condescending to our seniors that they are not capable of self directing their PCAs. It is wrong for the State of KS to treat our seniors this way. I have utilized Personal Care Attendants for over 42 years, private paying the last 25 years. I have always had my attendants trained to assist or perform some health maintenance activities. With training, many of these activities just take common sense. The proposed changes to these services will once again drive seniors to nursing homes.	Comment is noted
75	Other Stakeholder	C: PCS Worker May only provide Level I PCS. Comment: Similar to the comments above, the fact that my PCA can provide physical assistance with myADLs at age 64 but can only "supervise" me doing ADLs at age 65, which by the way I would not be able to do, hence the physical assistance at age 64. So then I would have to go to agency directed services which would not meet my independent lifestyle. Again demeaning to seniors that they are not able to direct their own care. In addition as in my previous comments, this violates the rights of individuals receiving FE waiver services.	Comment is noted
76	Other Stakeholder	C: Criminal History and/or Background Investigations. All HCBS providers are required to pass background checks consistent with the KDADS' Background Check policy and comply with all regulations related to Abuse, Neglect and Exploitation. Any provider found to have a prohibited offense, as listed in K.S.A. 39-2009, is not eligible for reimbursement of services under Medicaid funding. Comment: This seems to have been just plugged into every possible spot throughout the document, even where it does not belong. We are not going to repeat our stance on the background checks as previously recorded except to say that 1)	Background checks for HCBS providers are required under K.S.A. 39-2009

		they violate the rights of individuals to self direct in selection of PCAs, and 2) they reduce the potential workforce of PCAs.	
77	Other Stakeholder	D-1: Service Plan Development (3 of 8) MCOs and providers follow the processes outlined in the KDADS' Person-Centered Service Plan policy to provide the individual with the maxim um amount of opportunity to direct and be actively engaged in the person-centered planning process. Each participant found eligible for FE waiver services can choose whether they would like to receive services through the waiver program. The MCO, or their designee, is responsible for providing information about the waiver service that are available to the participant. The participant, MCO, or the MCO's designee, and authorized legal representative work together to determine the services that best fit the needs of the participant. Participants are given free choice of all agency and self - direct ed, qualified providers for each applicable service included in the Person -Cent ered Service Plan (Service Plan). The MCO, or their designee, assists the participant with accessing information and supports from the participant's chosen provider. The participant has the authority to determine the parties that he/she chooses to be involved in the development of their Service Plan. The M CO, or their designee, is responsible for notifying all parties authorized by the participant of the date, time, and location of the Service Plan meeting. Comment: As stated previously in these comments--There needs to be a better way to assure that participants are truly being able to choose their providers. We have had numerous participants contact us because they wanted to use SKIL as a provider but their MCO Care Coordinator tells them who they must use. After talking to us, some will contact the MCO to get switched to us but some participants are too intimidated by the MCO. And who knows how many people we do not hear from? We even have evidence of Care Coordinators "Sharing" providers pages/posts on Facebook to promote them. And evidence of them "tagging" PCA's to the same providers pages, encouraging them to apply because the "Pay is good!". It is difficult to believe that if MCO Care Coordinators are making decisions like this, are they being unbiased to participants and PCAs all the time? Obviously not! Therefore they are violating the rights of individuals to truly self direct their services.	Comment is noted
78	Other Stakeholder	D-1: Service Plan Development (4 of 8) The Person-Centered Service Plan process and expectations are outlined in the KDADS' Person¬ Centered Service Plan policy. c) Each participant found eligible for BI waiver services can choose whether they would like to receive services through the waiver program. The MCO, or their designee. is responsible for providing information about the waiver service that are available to the participant. The participant, MCO, or their designee, and authorized legal representative work together to determine the services that best fit the needs of t he part icipant. Participants are given free choice of all agency and self-d irected, qualified providers for each applicable service included in the Person-Centered Service Plan (Service Plan). The MCO, or their designee, assists the participant with accessing information and supports from the participant's chosen provider. Comment: Assuming the reference to the BI waiver is a typo. We have concerns that there is opportunity for the Care Coordinator to find it "simpler" to steer individuals to facilities rather than waiver services. It takes a great deal more work if someone chooses waiver services. The MCO gets paid either way. We have already emphasized our comments in regard to participants free choice of agency or self directed and choice of providers.	Comment is noted
79	Other Stakeholder	D-1: Service Plan Development (6 of 8) Informed Choice of Providers. The State assures that each part icipant will begiven free choice of all qualified providers of each service included in his/her written Person-Centered Service Plan. The MCO provides each eligible participant with a list of providers from which the participant can choose a service pro vider. The MCO assists the participant with accessing information and supports from the participant's preferred provider. These service access agencies have, and make available to the participant, the names and contact information of qualified providers for	Duplicate comment

		waiver services identified in their Person-Centered Service Plan. Comment: In the first sentence it now says the State will assure participants are given free choice of providers. The State is not doing a very good job at this because as stated earlier this is not always happening. We are also told many times that individuals are not being given a choice of providers as stated previously. So it is our impression that is there is a true provider choice form (list of providers) provided to these participants, it is assumed that the Care Coordinator marks the provider they choose and then has the participant sign off not knowing that their rights are being violated as well as the MCO not following their responsibilities or the waiver requirements. This really needs to change back to when individuals had real choice.	
80	Other Stakeholder	Appendix E: Participant Direction of Services This opportunity includes specific responsibilities required of the participant, including: Verification of hours worked and assurance that time worked is forwarded to the FMS provider; Comment : How is the participant responsible for assuring the time worked by the DSW when there is no timesheet or anything for them to sign off on? The participant does not have access to the State contractors system to verify the time worked. This also violates the participants rights when self directing. The State is managing an overseeing the hours worked by the PCA, which is the right and responsibility of individuals who self-direct.	Comment is noted
81	Other Stakeholder	Appendix E: a} Participants are informed that, when choosing participant direction (self-direction} of services, they must exercise responsibility for making choices about attendant care services, understand the impact of the choices made, and assume responsibility for the results of any decisions and choices they make. Participants are provided with, at a minimum, the following information about the option to self-direct services: •the limitation to Service Providers services; •the need to select and enter into an agreement with an enrolled FMS(FMS) provider ; •related responsibilities (outlined in E-l(a)}; •potential liabilities related to the non-fulfillment of responsibilities in self-direction; •supports provided by the MCO they have selected; •the requirements of SERVICE PROVIDERS; •the ability of the participant to choose not to self-direct services at any time; and •other situations when the MCO may discontinue the participant's participation in the self ¬ direct option and recommend agency- directed services. Comment: The negativity in the above required information to be provided to participants about self directing services does not seem to express KDADS leaderships positivity toward self direction. We see no where that participants are provided the negative sides of agency directed services or facility services? There are much more positive ways to educate participants about self directing their services while still conveying their responsibilities. This is much better done by peers with disabilities than the MCO who have never experienced self direction.	Suggestion has been noted
82	Other Stakeholder	Appendix E: Independent Advocacy Participants may access independent advocacy through the local Department for Children and Families, Aging & Disability Resource Center, MCO Care Coordinator or by directly contact ing the Disability Rights Resource Center (DRC). The Disability Rights Center of Kansas is a public interest legal advocacy agency empowered by federal law to advocate for the civil and legal rights of Kansans with disabilities. DRC operates eight federally authorized and funded protection and advocacy programs in Kansas. Participants are referred directly to DRC from various sources including KDADS. Various community and disability organizations such as the Cerebral Palsy Research Foundation offer independent advocacy for Kansas participants. Comment: Centers for Independent Living (Clls) should be included as entities to provide Independent Advocacy. ClLs are mandated by Federal and State law to provide Individual Advocacy as a core service.	Agreed changes made
83	Other Stakeholder	E-2: Opportunities for Participant Direction. b. Participant - Budget Authority. Select the appropriate boxes to implement Budget Authority in the state. Comments to Appendix E General: Southeast KS Independent Living Resource Center supports recommendations the	This suggestion has been noted

		Grassroots Advocates for Independent Living submitted to this Waiver Application Proposal that promote the move from the Fiscal/Vendor model recently deployed in Kansas to a system that offers both full employer rights through Budget Authority, and a more supportive model of service management through the Agency with Choice model. The current Fiscal/Vendor model does not meaningfully promote self¬ direction, choice or control over decision-making.	
84	Other Stakeholder	F-1: Opportunity to Request a Fair Hearing Comment: This section is very confusing! What is "grievable" and what is "appealable"? Need to clarify and define better.	This suggestion has been noted
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