



HCBS Programs Autism Waiver Renewal Proposed Changes

Public Comment Period: August 27, 2015 – September 28, 2015

Purpose: To communicate proposed changes to Autism waiver program and to get feedback on the changes from participants, family, stakeholders, and other interested parties.

Proposed Changes:

- 1) Kansas has developed a transition plan for the HCBS/Autism settings that will assess and ensure Kansas provider settings meet the requirements of the HCBS Final Setting Rule.
- 2) Kansas is proposing language to clarify the Managed Care Health Plans and Autism Specialists roles and responsibilities in the process of service plan development
- 3) Kansas is proposing general language changes:
 - References to “Individual,” “consumer,” or “beneficiary” have been changed to “participant” consistent with CMS language
 - “Kaw Valley Center (KVC)” has been changed to “contracted assessor” consistent across all programs.
 - “Vineland II Survey Interview Adaptive Behavior Scales” has been changed to “Functional Eligibility Instrument (FEI).”
- 5) Kansas is proposing general grammatical changes or corrections throughout the waiver, as needed.
- 6) Kansas continues to consult with the US Department of Labor on the applicability of the DOL’s new interpretation of the companionship exemption on Kansas self-directed programs. The DOL has delayed its enforcement of the rule by six months (to July 1, 2015).

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7) Kansas is proposing reserved capacity for military personnel entering into HCBS/Autism services.

8) Kansas is proposing reserved capacity for participants who have gone into a facility or hospital for a temporary stay. This allows participants who have moved into a facility temporarily to have their position on the program reserved while until their temporary stay ends.

9) KDADS will ensure that firewalls to mitigate conflict of interest regarding service plan development and service delivery will be put in place to be consistent with the current CMS requirement.

- Autism Specialists are prohibited from providing any of the following services for any child that they have developed an Individualized Behavior Plan (IBP) for:
 - Intensive Individual Supports
 - Respite Care
 - Parent Support and Training (peer to peer)
 - Interpersonal Communication Therapy
 - Family Adjustment Counseling

10) Kansas is proposing language regarding potential restraints and seclusion within the HCBS/Autism program. This policy was previously posted in January 2015 for public comment and is now final. Kansas has made the proposed changes to the waiver to be consistent with state final policy.

11) Kansas is proposing a requirement of back ground checks for all services and assessors and proposed language regarding prohibited offenses that states "Any provider found identified to have been substantiated for prohibited offenses as listed in KSA 39-970 & 65-5117 is not eligible for reimbursement of services under Medicaid funding."

12) Kansas is proposing a change to provider qualifications for Intensive Individual Supports workers.

- Current approved provider qualifications for service providers of Intensive Individual Supports (IIS):
 - Sixty (60) college credit hours,
 - 1,000 documented hours working with someone with an Autism Spectrum Disorder (ASD) diagnosis
 - Bachelor's degree (preferred in Human Services or Education)
 - Completion of the state approved curriculum
 - Work under the direction of an Autism Specialist
 - Medicaid enrolled provider
 - MCO contracted provider
- Proposed change to provider qualifications for providers of IIS:
 - 1,000 documented hours working with someone with an ASD
 - High school diploma or equivalent
 - 18 years of age or older

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- Completion of the state approved curriculum
- Work under the direction of an Autism Specialist
- Medicaid enrolled provider
- MCO contracted provider

15) Kansas is proposing a change to provider qualifications for all Consultative Clinical and Therapeutic Service workers (Autism Specialists):

Current provider qualifications:

- 2,000 hours of supervised experience working with a child with an ASD
- Master's degree
- Board Certified Behavioral Analyst (BCBA)
- Completion of the state approved curriculum
- Medicaid enrolled provider
- MCO contracted provider
- An exception can be requested to KDADS to waive 1,000 hours of the required experience for individuals who are (BCBA)

Proposed provider qualifications:

- 1,000 hours of supervised experience working with a child with an ASD
- Master's degree
- BCBA or Applied Behavior Analyst (ABA) therapist
- Completion of the state approved curriculum
- Medicaid enrolled provider
- MCO contracted provider

For proposed updated limitations to mitigate a conflict of interest regarding CMS requirement of Conflict Free Case Management see #10.

16) Consistent with (42 CFR 442.301), the State will ensure policies; processes and protocols are in place to support the person-centered planning process and to mitigate potential conflicts of interest. CMS reviewed and approved the KanCare service planning process during the transition to managed long-term services and supports, so KDADS understands that process to be compliant with the regulations on person-centered planning and potential conflicts. KDADS has requested technical assistance from CMS to ensure that all other elements of the HCBS programs are compliant with CMS conflict of interest regulations.

A copy of the special or annual report in which the conflict of interest is disclosed will be provided to the State or designee.

If the court determines that all potential conflict of interest concerns have not been mitigated, the legal guardian can:

- a. Select another family member or friend to provide the HCBS services to the participant. If a family member or friend is not available, the participant's

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- selected MCO or FMS provider can assist the legal guardian in seeking alternative HCBS service providers in the community; OR
- b. Select another family member or friend (who is not a legal guardian or DPOA) as a representative to develop or direct the plans of care. In that case, the MCO will obtain the participant's written consent of delegated representative to act on behalf of participant, initially and annually thereafter; OR
 - c. Select other legal guardian or activated DPOA to serve as the appointed representative to act on behalf of the participant. An exception to the criteria may be granted by the State when a participant/ guardian lives in a rural setting and the nearest agency-directed service provider available to provide services is in excess of 50 miles from the participant residence.

17) Kansas is proposing additional language to offer an alternative telemedicine option for service delivery of Consultative Clinical and Therapeutic Services (Autism Specialist), Family Adjustment Counseling and/or Parent Support and Training (peer to peer) services.

This provision of service delivery will be subject to program manager approval and documentation requirements that must be submitted by the KanCare MCOs that all a options to locate providers have been exhausted.

This documentation will include, at a minimum, three (3) written statements from service providers within a 50 mile radius of the family's residence on the provider's company letterhead indicating that the family lives in an area that is so remove they will not deliver these services face-to-face.

Specific to Autism Specialist:

This exception will allow for general oversight and monitoring of the IBP/POC delivery to be carried out via telemedicine, home telehealth or other video distance monitoring methods that meet all HIPPA guidelines and state standards for distance health monitoring. Distance monitoring methods for Autism Specialists could not replace required face-to-face visits with the child and family for the development, update or any changes to be made to the child's IBP/POC must still be done so in accordance with updated service plan development language in Appendix D-1.