

PUBLIC COMMENTS FOR BRAIN INJURY WAIVER RENEWAL
AUGUST 2023

Waiver Amendment Changes			
#	Sender	Changes/Recommendations	KDADS Response
1	Deone Wilson <Deone@rcilinc.org>	<p>Regarding PD and BI waiver amendments that include the following statement, "Some comments indicated confusion around overtime and how many hours parents are allowed to work in conjunction. KDADS Response: KDADS will clarify the language around parents working 40 hours. There are certain Dept. of Labor rules and laws around overtime and minimum wage pay that cannot be circumvented." I would like to reiterate that self-directing consumers can meet the overtime requirement through wage setting.</p> <p>Wage setting, setting work schedules and making hiring decisions are the responsibility of the self-directing consumer. Setting policy that diminishes or interferes with those rights and responsibilities is not congruent with self-direction and, furthermore, puts the State at-risk of being defined as the employer.</p> <p>Please strongly consider removing the language from all waivers that states, "Parent/parents in combination/spouse, may not provide more than 40 hours of services in a weekly work period. For parents, 40 hours is the total amount regardless of the number of children who receive services".</p> <p>Thank you,</p>	<p>Thank you for your comment.</p> <p>The language has been clarified in the amendments.</p> <p>Thank you for your comment. ALL caregivers must act in accordance with the Fair Labor Standards Act. We will remove the language specific to parent/spouses. If an employee is paid more than 40 hours per week, they must be paid overtime. This cannot be supplemented by the member or natural supports.</p>
2	Jacob Schrag <samurai6979@gmail.com>	<p>Hello, I am not sure what I read about the proposed amendments about brain injury and autism. I do not know if these changes are good or bad. All I know is that after three years of trying to get any form of insurance from the state I cannot. I have been unmedicated for many years now. After three years of seeking legal help to get my disability approved in the state of Kansas, I have not gotten it approved nor has one single attorney assisted with my plea to or help for representation. Even the Disability Rights Center of Kansas refused to assist in any way. I have no reference point in which to establish if the changes in Medicaid waivers are positive or negative. I cannot say because I cannot get my medicaid even though I had it in Colorado without issue. I can only imagine that these changes will be an improvement, because it sure cannot make things any worse here. But that is just the opinion of a widowed, crime victim, with autism and numerous disabilities.</p>	<p>Thank you for your feedback. We would be happy to refer you to the Ombudsman's office. They are specialized to assist individuals address barriers to having access to benefits.</p> <p>Also, the ADRCs have case management services and can help you complete an application for benefits.</p>
3	Stephanie L. Rasmussen <Stephanie.L.Rasmussen@sunflowerhealthplan.com>	<p>Personal Care Services</p> <p>a. Virtual Service Delivery- Recommend to add that the provider must be enrolled in KMAP and licensed to provide the service in the area of the state where the member resides- if this is true? How does the 200 mile rule apply for Home Health agencies?</p> <p>b. Virtual Service Delivery- Recommend to add that both the MCO and the provider are responsible for documenting and tracking how the service is delivered. Also recommend to add that the provider must document the service that is delivered, in the same way as if it was in-person.</p> <p>c. Virtual Service Delivery- Recommend to add that the provider will respect the member's choice not to use virtual services at any given time; and will implement the back up plan for in-person support. This reinforces members can change their minds at any time and the back up option needs to be provided.</p>	<p>PCS is not a licensed service. Home Health Agencies have licenses that prohibit the provision of service exceeding 200 miles. For other non-agency directed providers, this does not apply.</p> <p>We will take this under review.</p> <p>We will take this under review.</p>

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5	MCO	<p>HEMS: Listed items: Presents an illusion of pre-approved items.</p> <p>Human rights: Items that are viewed as restraints or seclusions could be viewed as human rights violations. IDD has a HR committee to review these (I believe at the CDDO level). BI, FE, PD and TA do not. Specifically for those with cognitive limitations and/or if someone is injured or worse.</p> <p>Could these items be removed from this list? Could the list keep the listed items that are standard MHMs that are provided routinely as examples? And keep the "but not limited to..." language? Main focus is concern for safety in the event of an accident. Also do not want to set up a scenario that could result in a human rights violation.</p>	<p>We will look into clarifying this language.</p>
		<p>HEMS/VMS: "The MCO shall make attempts to identify potential community resources or natural supports."</p> <p>Should be removed based on recent memo/state direction</p>	<p>Thank you for this comment.</p>
		<p>HEMS/VMS: "the MCO shall request an in-home or remote assessment of the participant's needs and recommendations from a therapist or a person qualified to complete home usability/accessibility assessments."</p> <p>-What provider qualifications determine the type of therapist or "person qualified" to complete this type of evaluation?</p> <p>-Is this a requirement for all HEMS/VMS? If so therapy evaluations that are not needed are going to increase costs quite a bit. They will also potentially delay jobs that do not normally need a therapy evaluation, such as ramps, handrails, etc...</p>	<p>KDADS is not prescriptive on this and prefers language to be open ended to allow for flexibility regarding individuals who are appropriately qualified to assess an individual's need for a specific item.</p>
		<p>VMS: "Assistance with modifications to be purchased and installed in a vehicle owned by or a new vehicle purchased by the participant, or legally responsible parent/guardian of a minor or other care-giver as approved by KDADS Program Manager."</p> <p>MCO is in agreement with ensuring that purchases are made for the sole benefit of the member whose funds were used and the vehicle owned by them or their legally responsible guardian/legal parent. MCO just requests guidance on a process if a request of any kind would be submitted directly to a KDADS program manager for review and decision.</p> <p>-Does the MCO need to submit a formal request to a KDADS PM?</p> <p>-Is the MCO to submit ALL VMS requests to the KDADS PM, or are there exceptions.</p> <p>-Would the MCO send to KDADS after they have done their own internal review of medical necessity?</p> <p>-Does this statement mean "care-giver as approved by KDADS program manager?" Or does this mean that the vehicle modification request is approved by KDADS PM?</p>	<p>We will amend and clarify the MCOs role. The MCO is not expected to get Program Manager approval prior to approving and reimbursing the service.</p>