



KDADS LTSS PUBLIC COMMENT MATRIX

Comment Period: -

Program: HCBS Stakeholder Meeting 11/20/2023

BRIEF DESCRIPTION OF DOCUMENT SUBMITTED FOR PUBLIC COMMENT AND COMMENT SUMMARY

KDADS LTSS PUBLIC COMMENT MATRIX

#	QUESTIONS	ANSWERS
1.	<p>When does the 40 hours per week for parents start and is it only for TA waiver currently or applicable to all waivers now?</p> <p>Are DSWs being restricted to only being able to work 40 hours per week?</p>	<p>Updated information since 11/20/23:</p> <p>Currently across all the waivers, family members and parents are allowed to be paid caregivers. Per CMS guidance all employers must act in accordance with the Fair Labor Standards Act. Parents can work service hours determined per child/participant.</p> <p>Regarding TA Waiver language:</p> <p>The language “or parents in combination” was inadvertently included and will be removed. Also, the language will be amended to clarify that parents can work service hours determined per child/participant. The language will be corrected to following upon approval by CMS:</p> <ul style="list-style-type: none"> · All employers must act in accordance with the Fair Labor Standards Act. Personal Care Service hours are determined per child/participant. · The parents or spouses must utilize the EVV system for hours paid. · Married enrollees must be offered a choice of providers. If they choose a spouse as their care provider, the choice must be documented in the Person-Centered Service Plan <p>A KDADS Paid Family Caregiving Policy is being developed and will be posted for public comment and offer further clarification.</p>

KDADS LTSS PUBLIC COMMENT MATRIX

#	QUESTIONS	ANSWERS
		No. Per CMS guidance all employers must act in accordance with the Fair Labor Standards Act.
2.	Will self-direction will be a component of the community supports waiver.	Yes, self-direction will definitely be a part of the community supports waiver. We are also currently looking at budget authority for the community support waiver.
3.	<p>Are we still supposed to be contacting parents who are paid caregivers to get conflicts of interest mitigated or do we assume CMS will approve it to be done away with? The Appendix K unwinding says conflict of interest will be going away.</p> <p>Do guardians need conflict of interest mitigated through a judge? This seems cost prohibitive.</p> <p>How does the conflict of interest apply to parents of minor children who are paid caregivers? Do they have to get COI mitigated through a judge?</p>	<p>Updated information since 11/20/23:</p> <p>Court-appointed legal guardians do have to mitigate their conflict of interest. Appendix K amendments provide direction indicating that the only time they have to mitigate COI is if they are court-appointed legal guardians. However, a spouse can provide care without the spousal exception. If a spouse is providing care, it is incumbent on the MCOs to let them know that they don't have to choose their spouse as the paid caregiver; they may choose someone else. We will get some more clarification about these requirements pertaining to the Appendix K Unwinding.</p> <p>Yes, a court-appointed legal guardian does need to have conflicts of interest mitigated through the courts. Anyone who is already a court-appointed legal guardian, they have already gone through an attorney and can file this through their annual court reports.</p>

KDADS LTSS PUBLIC COMMENT MATRIX

#	QUESTIONS	ANSWERS
		There isn't a letter you need on this. We are going to be allowing paid family caregivers and parents will be able to provide that paid care according to the number of hours indicated on the service plan.
4.	Do you have an idea of how many people would come off the I/DD waitlist for the community support waiver?	Although we do not have a number right now, we are hoping to address as many people as possible on the waiver. It is also going to be incumbent on the provider bandwidth to serve them. Other states who have been eliminating their waitlists have been doing it in waves so that they'll have, for example, the first 500, get put on the waiver and then they move on to the next group of people. It's hard to give a number at this point but our intent is to have more expansive services in the I/DD realm so more people can be added to the community support waiver. The legislature is putting a cap on that at \$20,000 per participant so that will be mitigated by how much the legislature wants to fund the community support waiver and how many people. The Governor's office and legislature are very, very excited about us having a community support waiver. As details unfold, we will be sharing those.
5.	When will you be contacting those of us who were visited by CMS for the Final Settings Rule?	We are awaiting a final review on the ongoing monitoring policy from our legal department. In the meantime, we are continuing to do final rule assessments and we will be planning a statewide tour around March 2024 and giving some one-on-one guidance regarding those final rule characteristics that should be present in each setting.
FR	Does this HCBS stakeholder call replace the monthly final rule meetings?	Yes, those are ending and will be replaced by the HCBS stakeholder calls.
6.	Will the FMAP expansion project solicit RFPs or how will KDADS determine how that money is spent? Is there a guideline as to how much money is allocated to different projects?	We submitted a preliminary budget to CMS with a dollar amount attached to each of those initiatives. Those are discussions that we continue to have internally and that's not anything that has been posted at this time; however, for all those new initiatives, there is probably more than enough money to get them off the ground and running. There are no guidelines to how much money is allocated to different projects. Some projects will have an RFP process and other projects will have an RFA process. For instance, technology would potentially be part of an RFA process. But again, these are not decisions that have been made yet. We want to have stakeholder input before those decisions are made. RFA is a request for funds. Agencies and/or individuals can request a certain dollar amount for whatever initiatives, so for instance, if someone needs a \$3,000

KDADS LTSS PUBLIC COMMENT MATRIX

#	QUESTIONS	ANSWERS
		elevator put in their living room, they will demonstrate how it will increase the quality of their life and put it into those requests.
7.	When can we expect home and day exceptions to be reviewed for the I/DD waiver?	<p>Updated information since 11/20/23:</p> <p>As of 12/4/23 (EOD) all medical day service exceptions have been reviewed and responded to thru 11/27/23.</p>
8. FR	What format are the HCBS Final Rule updates being pushed out on?	<p>Right now the general updates will be held in these HCBS Stakeholder meeting calls. As things become more concrete, we will have to hold a separate meeting since there is not enough time on these calls to cover all of that. We will be sending out additional communication through the HCBS listserv.</p> <p>There is a lot of inconsistency between services provided when it comes to community integration and supported employment.</p>
9. Waiver renewals	When will the waiver amendments and renewals be open for public comment?	<p>The BI renewal and IDD renewal will be open for public comment in January 2024.</p> <p>The 1915 b amendments are on KDHE's website and have closed. The public comment period has closed for Appendix K amendments (Paid Family Caregivers and Virtual Delivery of Services and Performance Measures) have already gone through public comment and we are waiting for CMS to approve or recommend changes.</p>
10. FR	Who is the contact to obtain final settings compliance letters or KMAP. The online print tool doesn't allow many service codes.	These questions may be directed to Taquoshia Majors: taquoshia.majors@ks.gov
11. FR	Will the recent DOJ guidance on integrated settings and ADA compliance impact KDADS' policy regarding final settings rule compliance?	We are in the early stages of assessing how that intersects with our current policies.
12. CtLC	N/A	Families Together has foundation trainings available for case managers on Charting the Life Course (CtLC) slash person-centered planning, as well as scholarships to attend the Ambassador Cohort series.
13.	The November 15 memo regarding the update to the TA waiver language that will go into effect pending CMS approval. Does this mean we wait for CMS approval to allow parents to work 40 hours per child.	<p>Updated information since 11/20/23:</p>

KDADS LTSS PUBLIC COMMENT MATRIX

#	QUESTIONS	ANSWERS
		The Nov 15 th memo has been removed, please refer to item 1. above for guidance. The statement there is currently allowable while we wait for CMS approval.
14.	Will the SED waiver be included in the paid caregiver policy?	It will not. They aren't any self-directed services on the SED waiver.
15.	Can you share any details about what CMS did not like about options counseling?	Options counseling is centered around the person-centered service plan being the overall umbrella document. It was not evident that options counseling was included in the development of the person-centered service plan.
16.	What is the timeline on the PCC PCG project completion?	August 31, 2024