



# **Brain Injury (BI) Waiver**

## **MFEI-LOC Assessor Training**

July 8, 2019

# Training Content

- HIPAA and PHI
- BI Policy
- MFEI Manual
- Paper Back-up
- KAMIS



# HIPAA

Health Insurance Portability and Accountability Act

## Created to:

- Standardize the electronic exchange of clinical and administrative data.
- Improve security of individual health information.
- Safeguard the confidentiality of Protected Health Information (PHI) and protect the integrity of health data

# Covered Entities

Covered Entities include, but are not limited to:

## Health Care Providers

- Doctors, hospitals, etc.

## Health Plans

- Kansas Medicaid
- Medicare
- State Employee Health Plan

## Health Care Clearinghouses

- Entities that transfer data on behalf of providers or plans

## Hybrid Entities

- A single legal entity where only some of the divisions or programs meet the definition of a Covered Entity (KDHE and KDADS).

See 45 CFR 164.103

# PHI

## Protected Health Information

PHI is health information collected from an individual, created or received by a covered entity and:

- Relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and
- That identifies the individual;
- There is a reasonable basis to believe the information can be used to identify the individual

# Privacy Rule

The Privacy Rule protects all PHI held or transmitted by a covered entity or its business associate in any form or media, whether electronic, paper or oral.

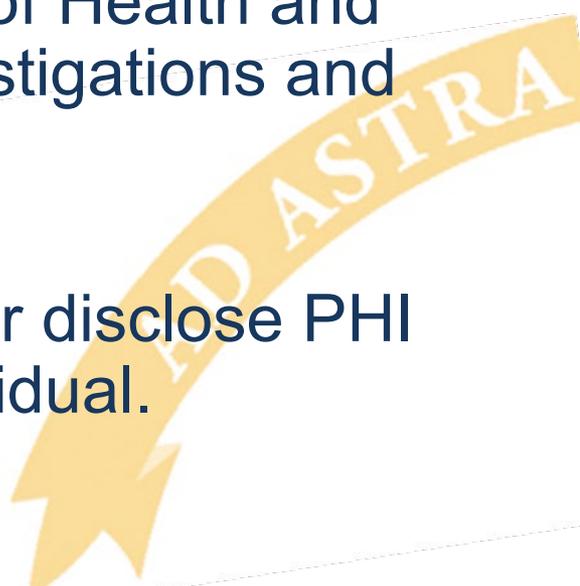
- The rule provides a standard level of privacy protections of Protected Health Information (PHI).
- The rule permits more stringent state laws to remain in effect. State laws that are contrary are preempted by the Federal law. (45 C.F.R. §160.203)
- The rule limits how PHI may be used or disclosed
- A Covered Entity may not use or disclose PHI, except as permitted or required by the Privacy Rule.



# Privacy Rule

Who can you disclose PHI to? Covered Entities are required to disclose PHI to:

- The individual who owns the PHI
- The Secretary of the U.S. Department of Health and Human Services (HHS) for HIPAA investigations and compliance with the Privacy Rule.
- Covered Entities are permitted to use or disclose PHI with a valid authorization from the individual.



# Privacy Rule

- Unless an exception is met, in order to use and/or disclose PHI, an authorization must be in writing. To have a valid authorization the following must be including in the written document:
  - Description of the PHI to be used or disclosed that identifies the PHI in a specific manner
  - Specific description of who can use the PHI
  - Specific description on who the covered entity can provide the PHI to
  - Specific description of each purpose of the request
  - Expiration date
  - Signature of the individual or personal representative

(Continued on to next slide)

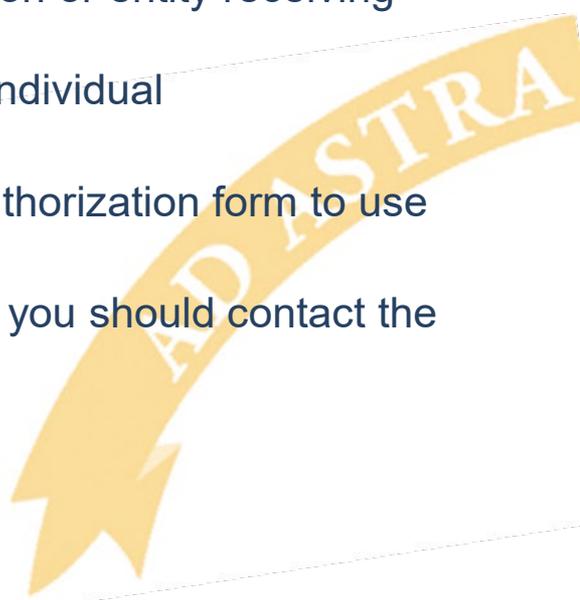


# PHI

## Use/Disclosure Authorization

The following statements must also be included in an authorization:

- Inform the individual they have the right to revoke the authorization at any time
- Whether participation is condition on signing authorization
- Potential for information to be re-disclosed by a person or entity receiving the PHI
- A copy of the authorization must be provided to the individual
- Your division/commission should have a standard authorization form to use
- If you have a question regarding authorization forms you should contact the KDADS' Legal Division



# PHI

## Use/Disclosure Authorization

Covered Entities are permitted to use and disclose PHI without authorization for essential health care functions:

- Treatment
- Payment
- Operations

See 45 CFR 164.506



# PHI

## Enforcement

- The Office of Civil Rights (OCR)
- **CMS**
  - Investigates and enforces transactions and code set violations
- **DOJ**
  - Investigates Privacy Criminal complaints
- **State Attorney Generals** have authority to bring claims under HIPAA
  - Kansas Attorney General Office has chosen to not participate
- **FOR MORE INFORMATION:**
  - <http://www.hhs.gov/ocr/privacy/index.html>
  - The Office for Civil Rights enforces
  - The HIPAA Privacy Rule
  - The HIPAA Security Rule
  - The confidentiality provisions of the Patient Safety Rule



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# BI

## Eligibility Policy

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BI Eligibility Policy establishes the eligibility requirements for the Home and Community Based Services (HCBS) Brain Injury (BI) waiver.

See KDADS website for the BI eligibility policy

July 8, 2019

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# BI Eligibility

Ages 0 to 3

- Resident of Kansas
- Medicaid Financial Eligibility
- Active habilitation/rehabilitation BI need
- Ages 0 to 3 do not require the MFEI Functional Eligibility Assessment
- BI diagnosis document from a **Qualified Medical Professional**
- No diagnosis Document? Submit Brain Injury Program Eligibility Attestation Form Completed by a **Qualified Medical Professional**
- Chromosomal/Congenital diagnosis is a **DISQUALIFIER!**

# BI Eligibility

Ages 4 to 64

- Resident of Kansas
- Medicaid Financial Eligibility
- Active habilitation/rehabilitation BI need
- Ages 4 to 64 must complete the MFEI Functional Eligibility Assessment
- BI Diagnosis Document from a **Qualified Medical Professional**
- No diagnosis Document? Submit Brain Injury Program Eligibility Attestation Form Completed by a **Qualified Medical Professional**
- BI injury sustained before Age 22? **Offer referral to CDDO for IDD waiver assessment**
- Chromosomal/Congenital diagnosis is a **DISQUALIFIER!**
- Meet the Level Of Care (LOC) required for hospital or TBIRF placement
  - LOC score of 25 or higher; **OR**
  - Minimum score of 26 in the Cognition, ADL, IADL and Continence areas; **OR**
  - Minimum score of 24 in the Behavior/Emotional and Cognition areas

# FAQs on Eligibility

- What is a Chromosomal/Congenital diagnosis **DISQUALIFIER**?
  - A chromosomal/congenital disqualifier from the BI waiver indicates that an applicant's diagnosis shows that the brain injury was acquired at birth. It is a condition present at birth that may have physical, intellectual, or developmental implications.
  - These conditions may result from genetic or chromosomal disorders.
- How do I know if waiver applicant has a Chromosomal/Congenital **DISQUALIFIER**?
  - Check the diagnosis. REMEMBER, BI diagnosis document from a **Qualified Medical Professional** is a waiver eligibility requirement
- What do I do if a waiver applicant has a Chromosomal/Congenital **DISQUALIFIER**?
  - The applicant could still qualify for the **Intellectual and Developmental Disability (I/DD) waiver**, and depending on whether the brain injury led to physical injuries, may also qualify for the **Physical Disability (PD) waiver**. REFER THEM!
- Who determines **ELIGIBILITY**?
  - Kansas Department for Aging and Disability Services (KDADS) **DETERMINES** functional and program eligibility.
- **NOTE:** ADRC shall not perform a functional assessment for an individual on the **WAITING LIST** unless a **REFERRAL** is received from the BI Program Manager

# BI Eligibility Determination

## ADRCs

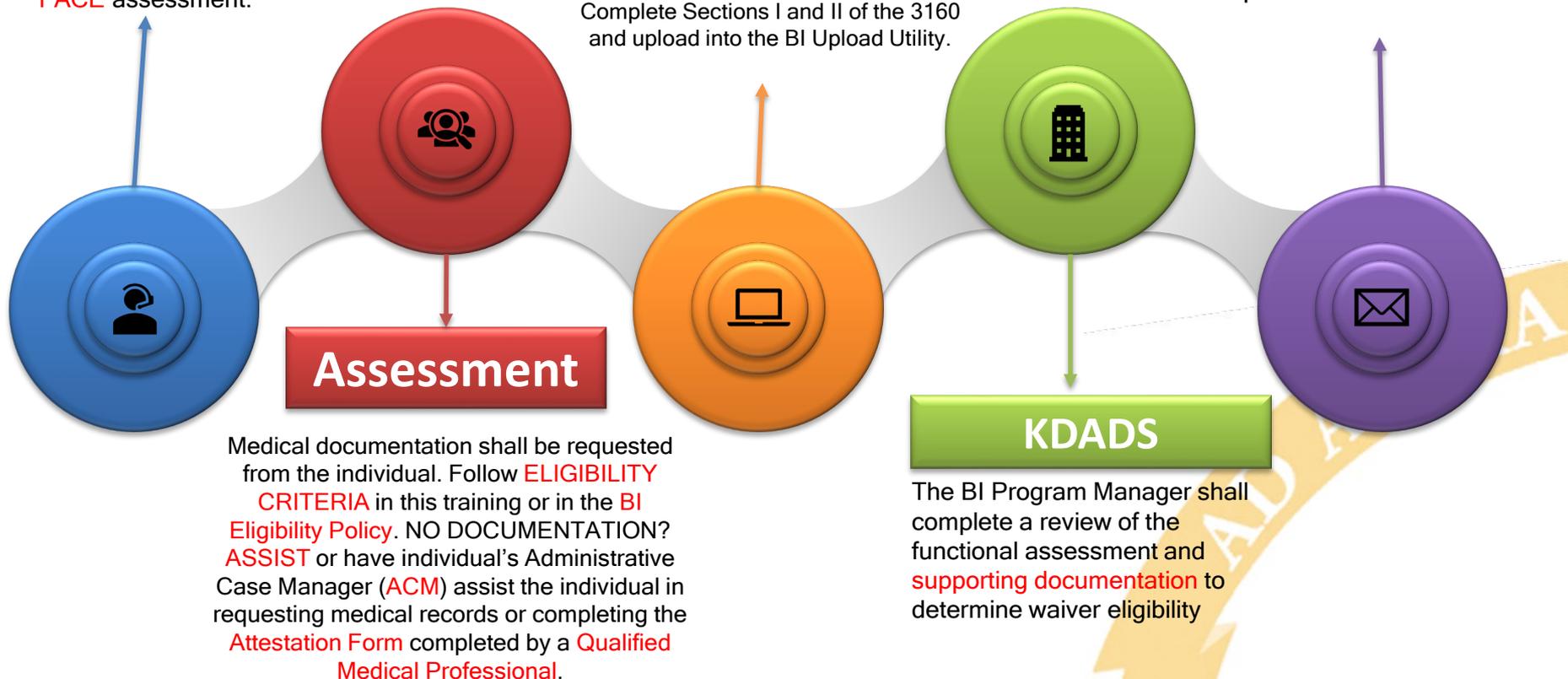
Within five (5) business days of receiving a referral, ADRC shall contact the individual and/or the individual's legal guardian to complete a **FACE-TO-FACE** assessment.

## Eligibility

ADRC shall complete two copies of the LOC Outcome Form and obtain the individual or legal guardian's signature, upload a copy of the signed form into **KAMIS** and shall provide the INDIVIDUAL WITH A COPY OF THE SIGNED FORM. The form can also be included as an **ATTACHMENT** in **MFEI**. Complete Sections I and II of the 3160 and upload into the BI Upload Utility.

## Notice

KDADS shall send a **Notice of Action (NOA)** with eligibility determination to the individual and the **3160 to KDHE** within five (5) business days from receipt of all documentation



# Reassessments

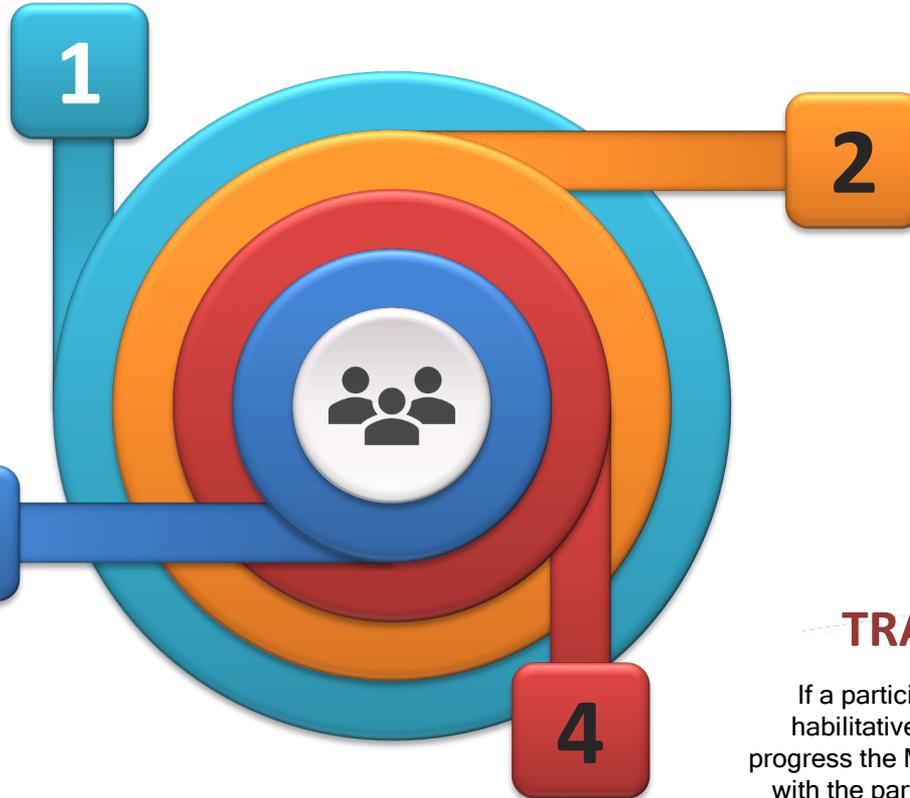
## S.M.A.R.T. Goals

### S.M.A.R.T

S.M.A.R.T. goals, developed by the provider, individual, and MCO, are used to track **HABILITATIVE AND REHABILITATIVE PROGRESS** in independent living skills

### REVIEW

Participants will have a formal review to determine if the waiver services are meeting their **Habilitative/Rehabilitative needs PROGRESSIVELY**. Formal reviews shall take place every **SIX MONTHS OR MORE FREQUENTLY** as deemed necessary by the MCO or as requested by the participant



### PROGRESS

The participant must show the capacity to make **HABILITATIVE/REHABILITATIVE PROGRESS** toward maintaining their independent living skills to remain on the waiver

### TRANSITION

If a participant no longer shows habitative/rehabilitative need or progress the MCO shall conduct choice with the participant to evaluate their interest in transitioning to another HCBS Waiver

**A functional assessment is considered current for 365 days after the assessment has been completed**

# Assessor Qualification

## In addition to ADRC qualifications

- Assessors must participate in MFEI-LOC Training
- Pass the competency exam by 80%
- If an assessor does not pass the competency exam on the second attempt, they must contact their supervisor and KDADS for additional training and support before a third attempt.
- Assessors who are not certified will not have access to the MFEI-LOC Software system.

# Software vs Paper Assessment



The MFEI-LOC **must** be administered by **SOFTWARE**

- MFEI is not longer hand calculated
- The software **CALCULATES** the score and **DETERMINE** if minimum score requirements were met.

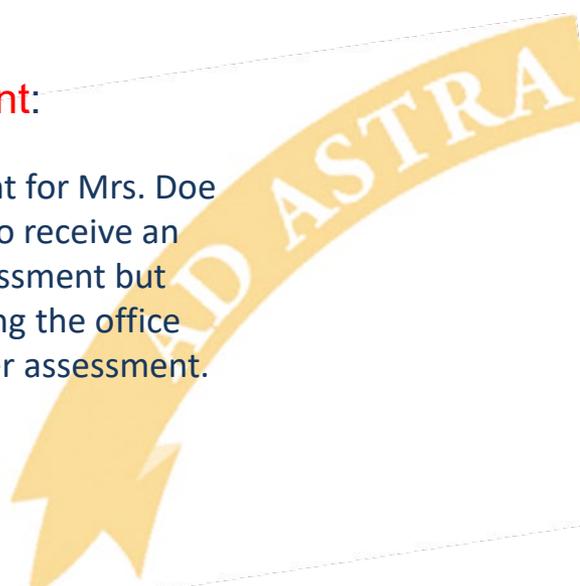
The paper assessment is only allowed in the following circumstances:

- MFEI-LOC software stops working
- Computer equipment failure (**with proof that steps are being taken to address the equipment failure**)
- If the assessor must complete an unscheduled/urgent assessment
- Assessment where computers/laptops are not allowed (**e.g. correctional facilities or mental health institutions**)
- If the paper version is needed as a **disability** accommodation
- The MFEI Software Manual can be found on the KDADS website under the Providers Menu and then the Manuals and Instructions menu item.

# If/when software fails



- Immediately inform your ADRC, and the KDADS ADRC Manager
- The paper version of the MFEI-LOC will be released on a limited basis. The software is required and to protect interRAI copyright
- ADRCs will be provided with a limited quantity of paper assessments; when additional copies are needed, ADRCs should contact the ADRC program manager.
- **Example of when an assessor can use a paper assessment:**
  - While Tom, an assessor, is completing a scheduled offline assessment for Mrs. Doe in her home, the family requests that Mrs. Doe husband Mr. Doe also receive an assessment. The assessor (Tom) has time to complete a second assessment but did not download an assessment for Mrs. Doe husband before leaving the office because it was not scheduled in advance. Tom decides to use a paper assessment.



# KAMIS Information

Kansas Assessment Management Information System (KAMIS) information is on the KDADS website ([www.kdads.ks.gov](http://www.kdads.ks.gov)) under the Providers menu then Manuals and Instructions.

## Key Chapters for Review:

### Chapter 5 – Person Search

- How to search for your Customer

### Chapter 6 – Person Administration

- How to add a new Customer or update Customer information

### Chapter 7 – Form Selection

- How to select the MFEI Assessment in KAMIS

Thank you

## FOR MORE INFORMATION CONTACT:

KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES  
ATTN: HCBS  
503 S. KANSAS AVE.  
TOPEKA, KS 66603-3404  
PHONE: 785-368-6246  
FAX: 785-296-0256

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