

# Conflict of Interest Workgroup – Meeting #1

3:00 – 5:00 PM

July 10, 2023

## Meeting Attendance

Organization	Representatives
WSU CEI	Carri McMahan
N/A	Judy Stengel
Cottonwood CDDO	Lynette Goldizen
N/A	Linda Misasi
Choices Network	Andrea Swenson
JOCO CDDO	Monica Pfannes
Cowley County CDDO	Susan Slothower-Gober
KDADS	Paula Morgan
Sunflower Diversified Services	Tina Harkness
Johnson County Developmental Services	Sarah Vallandingham
KUCDD	Sean Swindler
Goodwill Industries	Genelle Neal
Sunflower MCO	Stephanie Rasmussen
N/A	Kathy Brennon

## Welcome/Introduction

Agreements Suggested:

The group added the following to the suggested agreements:

- Every question is a good question.
- Listen with intent to understand each other's ideas & opinions.

## Workgroup Background

Paula & Carri shared information about the workgroup background and formation process.

Questions from the workgroup:

- These requirements aren't new, why are workgroups being formed now?
  - In the IDD renewal, CMS is looking at who is doing assessments and compliance with the Final Rule. Kansas has to ensure we have addressed conflict of interest. CMS language is clear about what has to be addressed and KDADS needs to do more to meet the requirements. CMS is asking more pointed questions.

## Purpose & Resources

Paula & Carri shared information about this specific group's purpose and the resources provided and reviewed the regulation language together.

Questions from the workgroup:

- What do you mean by assessment – is that program eligibility assessment and/or functional assessment?
  - Specifically functional assessment, but conflict of interest requirements apply to both.
- What constitutes a “state agency”?
  - KDHE as the State Medicaid Agency, and KDADS as the delegate.
- Does the regulation prohibit delegation beyond KDADS?
  - Unsure, Paula will seek guidance.
- What constitutes separation of a provider of HCBS, Targeted Case Management? For example, if they share the same board are they separate?
  - One example is a provider of day services and Targeted Case Management.
  - Unsure about shared board, need to get clarification from CMS.
- What is the scope of ‘who’ KDADS can delegate to?
  - The group can make recommendations about who these tasks can be delegated to.
  - F/U to last question: justification may need to be made to and negotiated with CMS
- In Kansas, MCO makes the person centered service plan, TCM creates the person centered support plan. What is CMS’ definition of the person centered service plan?
  - Carri will find the CMS definition of person centered service plan & TCM activities for the group to review.
- A change may be needed to allow TCMs to bill for the full range of TCM services.
- Will addressing conflict of interest require a statutory change? For example, statute states that CDDOs are designated by the County.
- Do counties count as government agencies for this purpose?
  - Believe this is state only, Paula will follow up and report back

Paula shared that at it's most basic CMS says that conflict exists if a CDDO is part of a service provider, if the CDDO is separate there isn't a conflict.

- (comment) TCM & residential being provided by the same provider has always felt like a conflict to workgroup member.
- ADRC's complete assessments for other Waivers, are they considered to have a conflict?
  - No because they don't provide TCM or HCBS services, they're a little different than CDDO.

## **Discussion**

The group spent the bulk of their meeting asking clarifying questions. They discussed how other Waiver do or may not have addressed this through using ADRCs for eligibility and assessment, it was unclear whether ADRCs as county entities are considered state agencies by CMS.

The group also discussed how other states have addressed conflict of interest in eligibility and assessment. In Missouri & South Dakota- their state's equivalent of KDADS completes assessments. In Iowa the State does assessments and the TCM completes the person centered service plan.

## **Wrap Up**

Things to do prior to the next meeting:

- Paula will seek clarification related to what counts as a state agency (specifically whether the state can delegate assessment and eligibility to county agencies) & whether the assessing organization has to be the state.
- Paula will seek clarification related to what constitutes separation of entities/providers, for example a shared board.
- Carri will find and share the CMS definition of person centered service plan.
- All members are encouraged to review resource materials ahead of the next meeting, especially the CMS PowerPoints.

Next meeting:

- Carri will send a Doodle Poll to help find a date for the next meeting.
- Agenda will include reviewing CMS person centered service plan definition together.