



| | | | |
|--|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History 10/15/15, 11/21/2016 | | | |

Purpose

Formally establish the processes and procedures concerning crisis and exception requests for the Home and Community Based Services (HCBS) Intellectual/Developmental Disability (IDD) waiver program.

Summary

This policy provides clarification on the established criteria for the crisis and exception process for persons eligible for HCBS-IDD services. The policy establishes processes and procedures for submitting, managing and determining crisis and exception requests and to ensure access to the waiver program services that best meet the assessed needs of the individual.

ENTITIES AFFECTED BY THIS POLICY

- Kansas Department of Aging and Disability Services (KDADS)
- Managed Care Organizations (MCOs)
- Community Developmental Disability Organizations (CDDOs)
- HCBS-IDD Beneficiaries

Policy

1. General

- A. All persons requesting access to HCBS-IDD waiver program services must meet IDD eligibility determination standards and functional eligibility requirements.
- B. All requests for crisis or exceptions to the HCBS-IDD waitlist will be made through the CDDO in the area which they reside.
- C. All crisis and exception requests will be uploaded into the KDADS' "IDD Utility Upload" tool.

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

D. Prior to submission of a crisis or exception request, the person must have a current functional eligibility assessment performed within the past 365 days. If the person requesting crisis has a functional eligibility assessment greater than 365 days, a functional eligibility assessment shall be performed prior to the crisis or exception request submission.

2. Crisis Requests and Required Documentation

A. The person requesting access to HCBS-IDD waiver program services, who is in crisis or imminent risk of crisis, may submit a crisis request for review based on the process provided in this policy.

B. Persons shall be determined to be in crisis under the following conditions:

1. Documentation from law enforcement or DCF supporting the need for the person's protection from confirmed abuse, neglect, or exploitation (ANE);
2. Documentation substantiating the person is at significant, imminent risk, and is capable of performing serious harm to self or others.

C. CDDOS are responsible for providing all supporting documentation necessary to render a determination for a crisis request. This documentation includes but is not limited to the following:

1. CDDO Notification form;
2. Person centered support plan (PCSP) which demonstrates need;
 - a. If the person requesting services does not currently have a PCSP, a PCSP shall be completed within 30 days of approval for waiver access.
3. Behavior assessment, behavior support plan or behavior management plan as applicable;
4. Law enforcement or Department of Children and Families (DCF) documentation for requests based on ANE;
 - a. Documentation on ANE substantiated by DCF will be provided to the appropriate CDDO by KDADS Program Integrity.
5. CDDO crisis review documentation from the CDDO crisis review committee;
6. Documentation that community resources have been exhausted prior to submission of crisis to KDADS;
7. Consumer/consumer representative's signature of consent for crisis request;

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

8. Any documentation available from the MCO (if applicable) pertinent to rendering a determination for a crisis request.

3. Exception Requests

A. Exceptions may be provided to persons in the following situations:

1. Persons in the custody of the Department of Children and Families (DCF) may access I/DD waiver program services for the purpose of addressing non-supervision support needs related specifically to a person's I/DD diagnosis. In the event services are provided, the services shall not duplicate services already being provided, or services that should be provided, by the foster parent;
2. Persons who have been determined to be at imminent risk of coming into the custody of DCF. In such cases services shall be provided to help assure the person avoids DCF custody. Documentation from DCF or the courts will be required in order to justify this exception;
3. Persons under the age of 18 transitioning from DCF custody. Documentation from DCF or the courts will be required in order to justify this exception;
4. Persons transitioning from DCF custody age 18 or older. Documentation from DCF or the courts will be required in order to justify this exception;
5. Persons transitioning from Vocational Rehabilitation Services (VRS) which require ongoing support to maintain employment and self-sufficiency. Documentation from VRS will be required in order to justify this exception;
6. Persons meeting the criteria set forth in the KDADS "Military Inclusion" policy. Please refer to the Military Inclusion policy for documentation requirements;
7. Persons transferring from a psychiatric residential treatment facility (PRTF). Documentation of the impending transfer from the PRTF will be required in order to justify this exception.
8. Persons previously on the IDD waiver transferring back to the IDD waiver from the WORK program.

4. Transitions to the I/DD Waiver

- A. The following HCBS programs shall transition to HCBS IDD waiver program if they meet HCBS IDD functional eligibility:

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

1. Persons determined no longer eligible for the HCBS Traumatic Brain Injury (TBI) waiver;
2. Persons determined no longer eligible for the HCBS Technology Assisted (TA) Waiver;
3. Children determined no longer eligible for the HCBS Autism Waiver;
4. Persons accessing services via the Money Follows the Person (MFP) program.
5. Upon approval by KDADS, an exception can be made when it is determined that the I/DD waiver is the most appropriate considering the person's health and safety.

Procedures

I. Crisis/Exception Request Process

A. Requests to CDDO

1. The person/person's representative requests a crisis or exception to the CDDO.
2. Prior to submission of a crisis or exception request, the person must have a current functional assessment on file performed within the past 365 days;
3. CDDO completes and obtains all required and applicable documentation required for the request in accordance with this policy.
4. CDDO crisis review team recommends approval or denial of request;
 - a. If request is approved, all documentation will be forwarded to KDADS via the I/DD Utility Upload tool;
 - b. If the request is denied, the CDDO will provide notification with appeal rights;
 - i. If the denial is appealed, the CDDO will follow their local dispute resolution process consistent with K.A.R. 30-64-32 and render a written decision within 20 days. The committee reviewing the appeal shall not consist of the same membership of the original crisis review team. Upon completion of the secondary review the following will occur: If the denial is reversed, the CDDO shall submit the crisis request and supporting documentation to KDADS via the I/DD Utility Upload.
 - ii. If the denial is upheld, the CDDO shall provide notice of the decision and appeal rights, consistent with K.A.R 30-64-32, to the

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

person, family (if applicable), DCF if the person is in the custody of DCF, the TCM (if applicable) and the MCO.

c. Copies of the request and denial will be provided to the MCO.

5. If the denial is appealed again all documentation, including both denial determinations will be provided to KDADS for review and will then follow the KDADS review process.

B. KDADS Review process

1. Request Review

- a. The IDD program manager reviews all uploaded documentation provided by the CDDO.
- b. All documentation will be reviewed within 10 business days
- c. Crisis requests will not be considered until all required supporting documentation has been uploaded into the KDADS IDD Utility Upload tool.

2. Determinations

- a. Approval/denial documentation will be mailed to the address on file and emailed to the CDDO, DCF if the person is in the custody of DCF, and MCO, if applicable. Form 3160 shall be completed and forwarded for all approvals.
- b. If the request is denied
 - i. KDADS will provide the person and/or guardian, CDDO, MCO (if applicable), and DCF if the person is in the custody of DCF with a formal Notice of Action (NOA) indicating the services were denied and providing the person with their appeal rights.
 - ii. The person/parent/guardian may request administrative reconsideration of the crisis denial by submitting a reconsideration request, within 30 days, and providing additional documentation to KDADS.

3. If the request is approved:

- a. KDADS communicates its approval to the KDHE Clearinghouse, CDDO, and MCO via the ES-3160.
- b. The KDADS IDD program manager sends a Notice of Action (NOA) of approval to the person. A copy is also emailed to the CDDO and MCO, if applicable.

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

II. Transition to the IDD waiver program

A. The following HCBS programs shall transition to HCBS IDD wavier program if they meet HCBS IDD functional eligibility.

1. Person is determined no longer eligible for the TA, Autism, or TBI waiver program.
2. The respective program manager sends NOA to person of their ineligibility. The IDD waiver program manager, the MCO, and DCF for persons in the custody of DCF are emailed a copy of the NOA.
3. The IDD waiver program manager coordinates with CDDO to determine if person is eligible to transition to IDD waiver program.
4. If a person is eligible for the IDD waiver program, a functional assessment is scheduled if current assessment is more than 365 days old.
5. Upon completion of functional assessment the CDDO will notify the IDD program manager and the MCO of the functional eligibility determination.
6. Upon functional eligibility determination, the IDD waiver program manager sends the NOA of approval for IDD waiver program to the person. For children in the custody of the Secretary of the Kansas Department for Children and Families, the NOA shall also be forwarded to DCF.
7. 3160 sent to CDDO, KDHE Clearinghouse, and MCO. I/DD services must begin within forty-five (45) days of issuances of the 3160.

III. Documentation and Quality Assurance

A. The CDDO shall submit a quarterly report to KDADS by the 20th of the quarter due. This report will be sent to the HCBS-KS@kdads.ks.gov mailbox with the subject line “[INSERT APPROPRIATE quarter AND YEAR] [INSERT CDDO] Crisis Request Report. Example: Quarter 1 2016 ABC CDDO Crisis Request Report.

B. This report shall include the following information:

1. Total number of crisis requests submitted to CDDO during the quarter;
2. Total number of crisis requests submitted KDADS for review;
3. Total number of crisis requests returned by KDADS to CDDO for more information;
4. Total number of crisis requests denied by CDDO;

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

Authority

1915(c) HCBS Waiver –

KS.0224.R05.01 (IDD) – effective March 1, 2016

Federal Authority

42 CFR Part 441.301 Contents of request for a waiver

State Authority

K.A.R. 30-64-30 – Statewide service access list.

K.A.R. 60-64-32 – Dispute resolution.

K.S.A. 39-1801 et. seq.--- DDRA

Definitions

Behavior assessment – a component of the functional eligibility assessment measuring the frequency in exhibiting certain behaviors (e.g. damages own or others property, is self-injurious, resists supervision) to determine the level and type of supervision needed to meets the individual’s needs.

Behavior support plan-- a plan that assists a member in building positive behaviors to replace or reduce a challenging/dangerous behavior. This plan may include teaching, improved communication, increasing relationships, and using clinical interventions, etc.

Crisis Request – a request to bypass the IDD waiting list submitted through a CDDO for persons who are in crisis or at imminent risk of crisis and whose needs can only be met through immediate access to services available through the HCBS-IDD Program.

Exception Request – a request to bypass the IDD waiting list submitted through a CDDO for pre-identified groups of individuals as defined by this policy.

Functional eligibility assessment – evaluation of the medical, adaptive, and behavioral needs and functional capacities of an individual to determine the level of care required to meet his or her needs in the least restrictive setting.

IDD eligibility requirement – the individual must either have substantial limitations in present functioning that is manifested during the period from birth to age 18 years and is characterized by significantly sub average intellectual functioning existing concurrently with deficits in adaptive behavior including related limitations in two or more of the following applicable adaptive skill areas: Communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, or has a severe, chronic disability, which:

| | | | |
|-------------------------|---|---------------------------|------------|
| Policy Name: | Crisis and Exception Policy | Policy Number: | E2016-119 |
| Division: | Community Services and Programs Commission | Date Established: | 1/1/2014 |
| Applicability: | HCBS- IDD Program | Date Last Revised: | 11/21/2016 |
| Contact: | HCBS-IDD Program Manager | Date Effective: | 01/01/2017 |
| Policy Location: | https://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies | Date Posted: | 11/22/2016 |
| Status/Date: | Revised 11/21/2016 | Number of Pages: | 8 |
| Revision History | 10/15/15, 11/21/2016 | | |

- (A) Is attributable to a mental or physical impairment, or multiple sensory impairments, a combination of mental and physical impairments, physical and sensory impairments, mental and sensory impairments or a condition which has received a co-occurring intellectual/developmental disability and mental disorder;
- (B) Is manifest before 22 years of age;
- (C) Is likely to continue indefinitely;
- (D) Results, in the case of a person five years of age or older, in a substantial limitation in three or more of the following areas of major life functioning: Self-care, receptive and expressive language development and use, learning and adapting, mobility, self-direction, capacity for independent living and economic self-sufficiency;
- (E) Reflects a need for a combination and sequence of special interdisciplinary or generic care, treatment, specialized communications techniques or other services which are lifelong, or extended in duration and are individually planned and coordinated; and
- (F) Does not include individuals who are solely and severely emotionally disturbed or seriously or persistently mentally ill or have disabilities solely as a result of the infirmities of aging.

Person centered service plan – process required by Federal regulation led by the individual requiring waiver services or their representative that documenting the services, supports, and settings that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

Contact Information

HCBS Programs
503 S. Kansas Ave
Topeka, Kansas 66603

Email: HCBS-ks@kdads.ks.gov
Phone: 785-296-4986
Fax: 785-296-0256

Related Information
