

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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To: Senate Ways and Means Committee

From: Iraida Orr, Research Analyst

Re: Financial Management Services for Self Directed Waiver Participants

Financial Management Services (FMS) is a new program requirement for payment via payroll agents to direct care workers of individuals on Home and Community-Based Services (HCBS) waivers who have chosen to self-direct their care. The new FMS system was implemented on November 1, 2011. The home and community based service programs which allow self-direction are developmental disability, physical disability, traumatic brain injury, technical assistance, and frail elderly waivers. These programs will be using the FMS program for self-directed services.

The federal Centers for Medicare and Medicaid Services (CMS) required that Kansas replace the existing payroll agent payment process. CMS was concerned that administrative fees varied and mandated the separation of the administrative fee from the provider payment. Under the newly implemented system, Kansas is required to separate the administrative functions from the service payments for individuals who have chosen to self-direct their direct care services.

Within the self-directed model and Kansas state law (KSA 39-7,100), individuals have the right to "make decisions about, direct the provisions of and control the attendant care services received by such individuals including, but not limited to, selecting, training, managing, paying and dismissing of a direct support worker." An individual or an individual's representative has the right and responsibility to choose and direct the services in the individual's approved plan of care and the direct support workers who provide the services, without excessive restrictions or barriers. Under the new FMS system, the self-directing individual chooses a qualified FMS provider (one authorized by the Kansas Department on Aging for the Frail Elderly Waiver services or by the Department of Social and Rehabilitation Services for the other waivers); recruits, hires, trains, dismisses, and schedules their own direct support workers; verifies that the time worked by the direct support workers was delivered according to the individual's plan of care; and approves and signs time sheets.

The FMS provider accepts time sheets; bills the state on the individual's behalf; processes payroll; distributes paychecks or electronic deposits; withholds, files, and pays appropriate taxes and other activities on behalf of the self-directing individual. The FMS providers were required to input plans of care for every individual who contracts with them.

The state contracted with Myers and Stauffer, LC, to develop a cost study tool and gather data on the different factors that contribute to the cost of providing home and community based services. The Department of Social and Rehabilitation Services and the Department on

Senate Ways and Means

Date: 01-23-2012

Attachment: 15

Aging then set the administrative rate to be paid to an FMS provider at \$115 per month per person. The attendant care rate was to remain unchanged. On October 11, 2011, the Department of Social and Rehabilitation Services provided the Home and Community Based Services Oversight Committee with the attached example of the calculation of the attendant care rate pre-FMS and post-FMS for the developmental disability waiver. In the example, the pre-FMS rate and the post-FMS rate for direct care services remained the same, \$12.24 per hour. From this rate, the direct care worker receives an average hourly rate of \$8.98; the payroll agent is provided an additional \$1.58 per hour to cover state and federal taxes, FICA (Federal Insurance Contributions Act), and workers compensation. From the \$12.24 hourly rate, an additional \$1.68 per hour is used to pay the monthly \$115 FMS provider rate. The Department of Social and Rehabilitation Services indicated that in the aggregate the direct care worker received the same amount of wages, however, some workers would receive more than before implementation and some would receive less.

The Home and Community Based Services Oversight Committee heard testimony from providers regarding the impact of the FMS program. Testimony from providers noted earlier discussions with the Department of Social and Rehabilitation Services had settled on an FMS payment rate of \$140 per person per month. The providers expressed concerns that the FMS provider rate was changed by the Department later to \$115 per person per month without input from the provider community. The providers indicated in testimony that the lower rate would result in reducing reimbursement to facilities by 20 to 30 percent and would result in facilities discontinuing participation in the home and community based services program or discontinuing admitting waiver consumers. According to testimony received, the result would be to force consumers into a skilled inpatient facility at a higher cost to the state. Concerns also were expressed that the new plans of care for self-directed individuals are below the standard of those being used prior to the program change.

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Financial Management Service (FMS): Breakdown of \$12.24/Hour Attendant Care Rate

10.11.11

This example demonstrates the effect of complying with Center for Medicaid Services' requirement that SRS pay the administrative function component separately from the direct support worker's costs. Using for this example the MRDD waiver attendant care service rate:

PRE-FMS → LUMP SUM OF \$12.24	POST FMS → COMBINED SUM OF \$12.24
Service provider's hourly rate (existing average per cost study was \$8.98/hour ... plus ... \$3.26 was being used to cover: Federal Unemployment Tax State Unemployment Tax FICA Worker's Compensation Payroll agent's overhead	\$10.56 for: Service provider's hourly rate (based on existing average of \$8.98/hour ... plus ... \$1.58/hour to cover Federal Unemployment Tax State Unemployment Tax Employee's portion of FICA Worker's compensation
	<p style="text-align: center;">>> And Separately << the FMS Service Rate</p> \$1.68/hour creating a pool of money to pay the \$115.00 per member per month for FMS Providers to provide information/assistance to consumer and administratively handle claim payment functions (formerly included as payroll agent overhead)

Provided to the
 Home and Community Based Services Oversight Committee
 by the Department of Social and Rehabilitation Services
 on October 11, 2011

**INDIVIDUALS TRANSFERRED FROM STATE OR PRIVATE INSTITUTIONS
TO HOME AND COMMUNITY BASED SERVICES DURING SFY 2009-2011**

DD INSTITUTIONAL SETTINGS	SFY 2009	SFY 2010	SFY 2011
Private ICFs/MR: number served at start of SFY	236	178	165
State DD Hospitals – SMRH: number served at start of SFY	358	358	343
MFP : number discharged into MFP program from Private ICFs/MR	(61)	(7)	(8)
MFP : number discharged into MFP program from Public ICFs/MR SMRH	(7)	(14)	(13)
Private ICFs/MR: number not discharged into MFP	(10)	(6)	(5)
Public ICFs/MR – SMRH: number not discharged into MFP	(14)	(12)	(4)
Sub-Total - Private ICFs/MR	165	165	152
Sub-Total - Public ICFs/MR -SMRH	337	332	326
Private ICFs/MR: New admissions	13	7	5
Public ICFs/MR: New admissions	21	18	4
Sub-Total - Private ICFs/MR	178	172	157
Sub-Total - Public ICFs/MR -SMRH	358	350	330
Private ICFs/MR Total Net Changes	(58)	(6)	(8)
Public ICFs/MR Total Net Changes	0	(8)	(13)
TOTAL DD Institutional Changes	(58)	(14)	(21)
DD HCBS WAIVER SERVICES			
DD Waiver Community Services : number served at start of SFY	7,456	7,596	7,664
MFP : number joining into this program throughout SFY	68	21	57
Subtotal	7,524	7,617	7,721
Net number added to DD HCBS waiver community services due to crisis/other eligible programs	72	179	204
Subtotal	7,596	7,790	7,925
Total Net Changes DD Waiver	140	194	261
Total Net Changes DD Waiver and Institutional	82	180	-240
FE / PD / TBI INSTITUTIONAL SETTINGS			
Nursing Homes-Avg Mo Caseload Prior State Fiscal Year	10,581	10,817	10,442
MFP FE: number discharged into MFP program receiving FE Services	(16)	(40)	81
MFP PD: number discharged into MFP program receiving PD Services	(19)	(38)	111
MFP TBI: number discharged into MFP program receiving TBI Services	(3)	(4)	4
Additional people-Net Admissions/Discharges	236	-293	No Longer Available*
Nursing Homes-Avg Mo Caseload Current SFY (***)adjusted as per B.Ridley, KDOA, 10/2011)	10,817	10,442	9,939***
FE / PD / TBI COMMUNITY SERVICES			
FE WAIVER: number served at start of SFY	5,765	5,706	5,806
PD WAIVER: number served at start of SFY	6,849	7,400	6,728
TBI WAIVER: number served at start of SFY	210	294	337
FE MFP: number joining into this program throughout SFY	16	40	81
PD MFP: number joining into this program throughout SFY	19	38	111
TBI MFP: number joining into this program throughout SFY	3	4	4
FE Subtotal	5,781	5,746	5,887
PD Subtotal	6,868	7,438	6,839
TBI Subtotal	213	298	341
Subtotal FE/PD/TBI Community Services			13,067
Subtotal Net Changes: FE/PD/TBI Waivers			196**
FE Waiver: Change due to OTHER reasons	(75)	67	No Longer Available*
PD Waiver: Change due to OTHER reasons	532	(511)	No Longer Available*
TBI Waiver: Change due to OTHER reasons	81	79	No Longer Available*
FE Subtotal	5,706	5,813	No Longer Available*
PD Subtotal	7,400	6,927	No Longer Available*
TBI Subtotal	294	377	No Longer Available*
Total Net Changes: FE/PD/TBI Waivers	538	(283)	No Longer Available*
Total Net Changes: FE/PD/TBI Waivers and Institutional	774	(658)	No Longer Available*
GRAND TOTAL NET CHANGES ALL SYSTEMS – DD/FE/PD/TBI HCBS and INSTITUTIONAL	856	(478)	No Longer Available*

* According to an SRS communication dated January 3, 2012, the tracking of this information has been discontinued due to staffing reductions.

** Excludes changes due to other reasons, which would include individuals who left waiver services due to death or who joined the waiver due to a crisis.