

November 12, 2016

To: Erica Haas and the Robert G. Bethell Joint Committee on Home and Community Based Services and KanCare Oversight.

From: Beverly Williamson, chairperson , Life Centers Family Support Organization, Johnson County, KS

*Testimony prepared from concerns of the 100+ families/guardians/caregivers of loved ones served in residential and day services at Life Centers of Kansas located in Overland Park, Kansas. The following has been approved by the Family Support Organization's Board of Directors:*

We are representatives of the Life Centers Family Support Organization, an organization of 100+ family members and guardians of clients receiving residential and day services from Life Centers of Kansas in Overland Park, KS. Our major concern is the enactment of State Policy E2016-082 , dated September 1, 2016. We are asking that implementation of this policy be halted until further review.

This State Policy is listed as a Residential Billing Policy change. This is not just a change in how invoices are paid, this is a change in rate methodology, a type of change requiring a waiver amendment according to the Federal rules for the 1915(c) waiver.

As operationalized by the three Managed Care Organizations (MCOs), this state policy facilitates the removal of service units granted to our most vulnerable citizens. This policy states that residential service providers will be reimbursed on a day-to-day basis, not on a monthly basis. Life Centers of Kansas has only billed for services rendered. If a Life Centers client was absent from services, the MCOs were never billed for that service.

The new policy states that a 90 day look back period will be used to identify all individual client absences from residential services, including, but not limited to, illness, employment, community service or family responsibility. The MCO documents further state that the Care Manager may adjust the units for Residential Habitation based upon the previous 90 days of utilization.

This policy does not limit the period of time that service reimbursement will remain reduced.

This policy bases initial reimbursement reduction on absences during a 90 day look-back period. The look back period includes summer months, a time when many clients are vacationing with their families, attending summer camps for the disabled, participating in State Special Olympics events, or undergoing medical procedures at a time when a family member might be able to take vacation days to assist with post-hospital care.

That 90 day look back period was also during the months when the Kansas legislature was not in session. Our only recourse has been to contact the Centers for Medicaid and Medicare Services regarding this issue because our elected representatives have been busy with re-election campaigns and no legislative action could be taken until January 2017.

According to the Centers for Medicare and Medicaid Services (CMS) , waiver amendments to implement rate methodology changes must have prospective dates; that is, they should not be implemented prior to the approval of the waiver amendment by CMS.

This policy, as issued by KDADS and operationalized by the 3 MCOs was dated September 1, 2016. Providers were notified on September 20, 2016. Clients, guardians, and family members were never notified of this change. The need to notify the public of this change in rate methodology - under the guise of billing policy changes, was flagrantly and willfully ignored by the 3 MCOs and KDADS.

This intent to reduce services through the administration of this new policy is in direct violation of the Home and Community Based Services Final Rules as well as the Affordable Care Act, stating "in the event the state finds a need to make reduction to its program, the state would have to explain to CMS how they will account for the interest of the individuals before taking such action". According to CMS, Kansas state officials have not provided that information.

We believe this policy is an egregious attempt to limit community based services and reduce the number of providers in the state of Kansas. The increased paperwork and documentation, threat of service reductions and reimbursements, and retroactive policy implementation have created a hostile business environment for providers. The lack of communication with clients and guardians about changes in residential service assessments is intentional. The cancellation of meetings this past summer between KanCare and KDADS officials with the public is a prime example of that deliberate failure to communicate with the public, particularly clients, guardians, families and providers.

In light of these concerns, we are asking that KDADS allow at least 6 months of public comment to CMS, the Kansas Legislature, and KDADS from clients throughout the State of Kansas regarding this new policy.