

Kansas Administrative Regulations

Kansas Department for Children and Families

Article 5.—Provider Participation, Scope of Services, and Reimbursements for the Medicaid (Medical Assistance) Program

30-5-300. Definitions.

(a) The following words and terms for home- and community-based services (HCBS), when used in this article, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Accept medicare assignment" means that the provider will accept the medicare-allowed payment rate as payment in full for services provided to a consumer.

(2) "Activities of daily living (ADLs)" means the following:

- (A) Bathing;
- (B) dressing;
- (C) toileting;
- (D) transferring;
- (E) ambulating; and
- (F) eating.

(3) "Agency" means the Kansas department of social and rehabilitation services.

(4) "Area agency on aging" means the agency or organization within a planning and service area that has been designated by the secretary of the Kansas department on aging (KDOA) to develop, implement, and administer a plan for the delivery of a comprehensive and coordinated system of services to older persons in the planning and service area.

(5) "Assessment" means the face-to-face interview and evaluation of a home- and community-based services consumer by an authorized case manager, assessor, or independent living counselor to determine the consumer's care needs and support systems and to develop a service plan.

(6) "Case management services" means a comprehensive service comprised of a variety of specific tasks and activities designed to coordinate and integrate all other services required in the individual's plan of care.

(7) "Client obligation" means the monthly amount collected from an HCBS consumer by the service provider for the cost of a service.

(8) "Conflict of interest" means any relationship between two or more parties in which one party has the ability to influence another party to the transaction in a way that one or more of the transacting parties might fail to fully pursue the party's or parties' own separate interests. Related parties shall include parties related by family, business, or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arm's-length negotiations. Transactions or agreements that are illusory or a sham shall not be recognized.

(9) "Cost cap" means the average HCBS monthly service cost limit per consumer, including primary and acute care costs. The average HCBS monthly service cost limit shall be based on and compared to the average monthly cost that the consumer would incur in a nursing facility.

(10) "Cost-efficient" means that all of the formal and informal service systems available to meet individual needs are used before HCBS services are used.

(11) "Cost-effective" means that the cost of utilizing a service is recovered by the savings generated from avoiding the necessary utilization of a more expensive service.

(12) "Direct cost" means any cost that can be identified specifically with a particular cost objective.

(13) "Documentation" means maintenance of the HCBS consumer's case file, which shall include the following:

(A) A current assessment or reassessment;

(B) a plan of care;

(C) a service plan;

(D) an activity log; and

(E) a financial eligibility communication form, including current client obligation information.

(14) "Effective date" means the date on which a program or service begins and on which a provider can be reimbursed for services.

(15) "Formal service" means any needed service as documented in the plan of care and funded by medicaid.

(16) "Frail elderly waiver" means a medicaid HCBS services waiver authorized by and through the Kansas department on aging services in accordance with a federally approved waiver to the Kansas medicaid state plan for individuals age 65 and older who meet the medicaid long-term care threshold.

(17) "Home health aide service" means the direct care provided by a person with minimum training to consumers who are unable to care for themselves or who need assistance in accomplishing the activities of daily living. The home health aide service direct care provider shall be under the supervision of a registered nurse employed by a home health agency.

(18) "Home health agency" means a public or private agency or organization that provides, for a fee, one or more home health services at the residence of a consumer.

(19) "Housing options" means all home and residential environments in which individuals would be eligible to receive HCBS services.

(20) "Instrumental activities of daily living (IADLs)" means the following:

- (A) Meal preparation;
- (B) shopping;
- (C) medication monitoring and treatments;
- (D) laundry and housekeeping;
- (E) money management;
- (F) telephone use; and
- (G) transportation.

(21) "Independent living center" means a public or private agency or organization recognized by the agency whose primary function is to provide independent living services, including the following:

- (A) Independent living skills training;
- (B) advocacy;
- (C) peer counseling; and

(D) information and referral.

(22) "Independent living counseling" means a service provided through the HCBS/physically disabled waiver that assesses need, negotiates care plans and service plans, and teaches independent living skills.

(23) "Indirect costs" means the administrative costs of long-term care (LTC) programs or their functional components, including the costs of supplying goods, services, and facilities to those programs or their functional components.

(24) "Ineligible provider" means a provider who is not enrolled in the medicaid/medikan program due to one or more of the reasons set forth in K.A.R. 30-5-60, or because the provider committed civil or criminal fraud in another state or another program.

(25) "Informal service" means any needed or desired service provided voluntarily to a consumer by one or more organizations, agencies, or families, at no cost to the medicaid program.

(26) "Level of care" means the functional needs of consumers, as determined through an assessment or reassessment, based on impairments in ADLs and IADLs.

(27) "Medicaid home- and community-based services (HCBS)" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan that are designed to prevent unnecessary utilization of services and to reduce health care-related costs. Any individual who has a primary diagnosis of mental illness and who is 21 years of age or older, but less than 65 years old, shall not be eligible.

(28) "Medicaid home- and community-based services for persons with mental retardation or other developmental disabilities (HCBS/MRDD)" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan. These services shall be designed as alternatives to services otherwise provided in intermediate care facilities for the mentally retarded (ICF/MR) for individuals who have mental retardation or other developmental disabilities.

(29) "Medicaid home- and community-based services for head-injured persons (HCBS/HI)" means medicaid services that meet these requirements:

(A) Are provided in accordance with a federally approved waiver to the Kansas medicaid state plan; and

(B) are designed as an alternative to services in brain injury rehabilitation facilities for individuals who meet these requirements:

(i) Have external, traumatic brain injuries; and

(ii) are 18 years of age or older, but are less than 55 years of age. Any person receiving HCBS/ HI waiver services may continue to receive these services after reaching age 55 if the Kansas medicaid HCBS program manager determines that the person is continuing to show progress in rehabilitation and increased independence.

(30) "Medicaid long-term care threshold" means the level-of-care criteria, as established by the agency and approved in the waiver to the medicaid state plan for HCBS, that are used to determine eligibility for medicaid long-term care programs.

(31) "Nursing facility (NF)" means a facility that meets these criteria:

(A) Meets state licensure standards;

(B) provides health-related care and services, prescribed by a physician; and

(C) provides residents with licensed nursing supervision 24 hours per day and seven days per week for ongoing observation, treatment, or care for long-term illness or injury.

(32) "Normal rhythms of the day" means the average time frame in which an individual without a physical disability typically completes clusters of ADL and IADL activities.

(33) "Organized health care delivery system" means a system, at least one component of which is organized for the purpose of delivering health care, that furnishes at least one service under a medicaid-covered waiver or the state plan.

(34) "Other developmental disability" means a condition or illness that meets these requirements:

(A) Is manifested before age 22;

(B) can reasonably be expected to continue indefinitely;

(C) results in substantial limitations in any three or more of the following areas of life functioning:

(i) Self-care;

(ii) understanding and the use of language;

(iii) learning and adapting;

(iv) mobility;

(v) self-direction in setting goals and undertaking activities to accomplish those goals;

(vi) living independently; or

(vii) economic self-sufficiency; and

(D) reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of extended or lifelong duration and are individually planned and coordinated.

(35) "Physically disabled (PD) waiver" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan for any individual who meets these requirements:

(A) Is 16 years of age or older. Consumers who turn 65 years of age while on the physically disabled waiver may remain on the waiver past age 65;

(B) is physically disabled according to social security disability standards;

(C) meets the medicaid LTC threshold; and

(D) requires assistance with normal rhythms of the day.

(36) "Plan of care (POC)" means a document that states and prescribes the responsibilities of providers to ensure that the providers meet the health and safety needs of HCBS consumers. The document shall include the following information:

(A) A statement identifying the need for care;

(B) the estimated length of the service or program;

(C) a description of the prescribed treatment, modalities, and methodology to be used;

(D) a description of the expected results;

(E) the name of the provider; and

(F) the cost of the program or services.

(37) "Prior authorization" means that a service to be provided shall be reimbursed only when approval is given by the agency before the service is provided.

(38) "Program" means the Kansas medicaid/ medikan program.

(39) "Provider enrollment" means the process through which the agency determines whether or not an applicant meets the requirements for persons or agencies to provide services to the medicaid program.

(40) "Reassessment" means an annual review and evaluation of an HCBS consumer's continued need for services.

(41) "Reimbursement rate" means the dollar value assigned by the secretary for a covered service.

(42) "Risk factor" means any condition that can increase an individual's functional impairment. The risk factor is used to determine needs for services, as appropriate for the individual's level of care.

(43) "Self-directed care" means an option under the HCBS program that allows an individual in need of care to live in a home environment and direct the attendant services that are essential to the maintenance of the individual's health and safety.

(44) "Service plan" means a document that describes specific tasks to be performed, based on the needs of the consumer. The description shall include the type of service, the frequency, and the provider.

(45) "Severe emotional disturbance waiver" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan for any individual who meets these requirements:

(A) Is under 18 years of age or, if the individual is under 22 years of age, has continually received intensive community-based services for at least six months before the date of the initial application for the waiver;

(B) has received a DSM-IV diagnosis under axis 1 (clinical disorders);

(C) meets the criteria for a severe emotional disturbance;

(D) meets the following severity index criteria:

(i) On a child behavior checklist (CBCL), a score of at least 70 on one subscale; and

(ii) on a child and adolescent functional assessment scale (CAFAS), an overall score of 100, or at least 30 for each of two subscales; and

(E) according to clinical judgment, is in need of a state mental health hospital (SMHH).

(46) "Technology-assisted child" means a chronically ill or medically fragile child who meets these requirements:

(A) Is 17 years of age or younger;

(B) has an illness or disability that, in the absence of home care services, would require admission to or a prolonged stay in a hospital;

(C) needs both a medical device to compensate for the loss of a vital body function and substantial, continuous care by a nurse or other caretaker under the supervision of a nurse in order to avert death or further disability;

(D) is dependent at least part of each day on mechanical ventilators for survival; and

(E) requires prolonged intravenous administration of nutritional substances or drugs, or requires other medical devices to compensate for the loss of a vital body function.

(47) "Terminally ill" means the medical condition of an individual whose life expectancy is six months or less, as determined and documented by a physician.

(48) "Traumatic brain injury" means non-degenerative, structural brain damage resulting in residual deficits and disability that have been acquired by external physical injury.

(49) "Termination date" means the last day on which a program or service shall be reimbursed. For HCBS, this date shall not extend beyond the last date of medicaid eligibility.

(b) This regulation shall be effective on and after January 1, 2004.

(Authorized by and implementing K.S.A. 39-708c; effective Jan. 1, 1997; amended July 1, 1997; amended, T-30-12-16-97, Jan. 1, 1998; amended April 1, 1998; amended July 1, 2002; amended Jan. 1, 2004.)

***** Authenticated Kansas Administrative Regulation *****