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Sent: Monday, December 10, 2018 4:31 PM
To: Wenk, DeeAnn (LRC) <deeann.wenk@lrc.ky.gov>
Cc: Collins-Dean, Camille A (DPA) <camille.collins@ky.gov>
Subject: MOAC Issue

Ms. Wenk:

You spoke with Camille Collins in our office on Friday regarding an issue P&A is seeing in hopes of having it heard at Wednesday's MOAC meeting. You suggested we provide you with some background. Here it is.

Five of the six Medicaid home and community based waivers—the Supports for Community Living (SCL) waiver, the Home and Community Based (HCB) waiver, the Acquired Brain Injury (ABI) waiver, the ABI Long Term Care (ABI LTC) waiver and the Michelle P. waiver (MPW)—allow participants to hire their own caregivers. This is called participant directed services or PDS. The PDS process requires various records checks, including a Central Registry check of the child abuse and neglect (CAN) registry performed by the Department for Community Based Services (DCBS).^[1]

P&A has received several calls about a large backlog, at least sixty days, at DCBS regarding the CAN checks for PDS providers. This has caused participants to lose PDS providers or be unable to hire them; the providers cannot begin employment. This issue is compounded with the MPW, as the regulation does not allow the potential employee to be hired until the CAN check is completed; the other waivers allow the person to begin working pending its completion.

The purpose of the waivers provide community services and prevent institutionalization; this backlog is putting persons at risk of such institutionalization.

We understand that the backlog is due to changes made to KRS 160.380 per Senate Bill 236. Those changes require school superintendents to conduct child abuse and neglect background checks on staff, contractors, volunteers, and site based decision making council members. Therefore, this issue affects not only individuals attempting to use PDS, but also traditional providers as well as school systems.

Various agencies within the Cabinet for Health and Family Services (CHFS), including DCBS, the Department for Aging and Independent Living (DAIL), and the Department for Medicaid Services (DMS) are aware of the issue, but have not yet been able to solve it.

We have heard from the following individuals:

1. Leslie Sowder—Leslie receives services under the SCL waiver and needs full care with all activities of daily living. She lives with her elderly, sick mother. She has recently hired an employee (the other long-term employee quit). This employee was desperately needed. After contact with Adult Protection Services (APS), APS sent a list of possible hires and they helped the family find a new employee. The employee started working and is a good fit for participant. Now, it is past the 30 days (effective Nov 18th) and still no CAN check. The employee cannot work or be paid via waiver without the CAN check and the employee will not be paid for any work after that date. Mom cannot transfer Participant from wheelchair to bed or take care of the ostomy bag. Participant needs full care and cannot do anything physically besides use controls on her electric wheelchair.

2. Amanda Stahl—Amanda receives MPW services and lives on her own. She hired two people the end of September in anticipation of a couple of her staff leaving. These two staff left and now a third staff member has left. Amanda hired a third replacement in middle November. None of these people can start working without the CAN check completed, not just submitted. Even though all three have successfully passed a criminal background check and an elder abuse check. Amanda is down to two staff member with one being her mother (who normally would not be on the schedule and only there for emergencies). Both staff members work full time jobs elsewhere. Amanda's needs are going unmet at times due to the odd scheduling. Amanda's mother is older (60) and physically cannot continue to be the primary care giver. Amanda is an active member of the community and lives independently with support in her own home. Traditional services do not fit her lifestyle nor she does not want "strange" staff in her home. In addition, she is fortunate that her staff are being patience but who really waits for 3-4 months to start a job.

There is one other person that I want to send you information about, but I will need to do so tomorrow.

Amanda will be present on Wednesday. We believe that a representative from the Bluegrass ADD will be as well.

Please let me know of any other information you need, and I will get you the further information in the morning.

Thank you in advance,

Heidi Schissler Lanham
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