



**Presented to the KHPA Board  
January 26, 2010**

**Final Report: Extraordinary Funding Policy and Process for Persons with Developmental Disabilities**

At the request of the Chair of the KHPA Board, an open forum was held on October 15, 2009, by KHPA and SRS, to hear comments about the extraordinary funding process for the people being served on the Developmental Disability (DD) Waiver. There was one community service provider who presented information at this forum.

Because only one provider attended the forum, a second notice was sent out to stakeholders allowing any interested party to provide written comments to KHPA and SRS about the extraordinary funding process. Attached is a synopsis of the comments received by KHPA and SRS. As you will see from the document, there are comments that support the existing system and structure and there are comments which express concerns with the existing system and structure.

The comments can be divided into two main categories; the extraordinary funding process, and the perception of conflict of interest with a Community Developmental Disability Organization (CDDO) also being a Community Service Provider (CSP). Listed below are current processes in place which have been developed to address the concerns expressed by the individuals who have provided input during this process. This report was prepared for the KHPA Board by SRS staff in coordination with KHPA.

**Extraordinary Funding**

To address the main issue raised during this process and the reason for the open forum, the following information is provided about the extraordinary funding process.

Extraordinary funding through the Home and Community Based Services (HCBS) MR/DD waiver is a mechanism to meet the extraordinary needs of 4-5% of individuals receiving waiver services. Individuals who are approved to receive this additional funding have unique health or behavioral needs. The additional funding allows them to remain in the community setting as opposed to living in an institution.

The policy and the tool that is utilized to determine the need for extraordinary funding was developed through the work of a group of CDDO's and community service providers. Once the group completed their work the policy and process were released for comments from stakeholders. Minor changes were made as a result of the feedback received. This group has continued to meet as needed if changes or concerns were raised about the tool or process. There have been some adjustments made to the process since the policy was fully implemented in July 2007.

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The workgroup is scheduled to meet again to, in addition to their normal agenda items, address some of the concerns expressed in the feedback received during this process. In particular they will address the concern expressed by several providers that there should be an additional category of need around people who have extraordinary support needs related to personal self care and activities of daily living.

The processes and policies that have been developed by the Extraordinary Funding workgroup have been widely accepted by the DD system, and this is a process SRS will continue to use to address concerns and feedback from providers.

### **Conflict of Interest/Inconsistencies**

To address issues of conflict of interest, and inconsistencies across CDDO areas, including application of eligibility criteria and development of individual plans, the following processes have been in place to address these concerns.

In September 2004 a group of stakeholders were brought together by SRS to develop for the state of Kansas, a multi-year strategic plan for people with developmental disabilities. The group included consumers, service providers, CDDOs, family members, and state agency personnel. The 5 year strategic plan that was developed identified 3 key strategic areas: Policy, Capacity Building and Program Services, and Financing the Service System. Since the completion of the strategic plan, stakeholders and SRS have used it to guide policy development and other decision making processes that have occurred.

Following the presentation of the strategic plan to the 2005 Legislative Session, a request was made by the House Appropriations Committee that SRS reconvene the strategic planning committee and form a work group to prioritize system review activities within the developmental disabilities strategic plan to address the concerns that had been identified by the committee, around consumer satisfaction, choice, and perceived conflict of interest between CDDOs and service providers. The committee requested that SRS look at the development of methods to measure customer complaints and to evaluate and benchmark the system's capacity to address and resolve customer complaints, customer choice and conflict of interest. SRS brought together a sub-committee of the DD Strategic Planning Committee, made up of CDDOs, community service providers and consumers. The outcome from this groups work was the development of a formal CDDO Review Process. The review process involves reviewing CDDO policies and practices to assure they are following the regulations which guide the activities of a CDDO, especially around choice and conflict of interest. The review process also entails meeting and interviewing consumers to assure that they are given information regarding providers in their area and given a choice of providers to provide their services. Each CDDO is reviewed once every 3 years.

The CDDO review process is outlined below.

Purpose: The process is designed to: Improve the system as a whole; mitigate any potential conflicts of interest; and ensure regulatory compliance.

Process: A review team is comprised of a CSP Director, SRS central office staff, stakeholder (person served or representative), and a CDDO Director. All team members are from outside the CDDO area. The review team evaluates 44 standards using a uniform review instrument that includes monitoring activities and interpretive guidelines. The team evaluates and rates each standard as a team. The review team's rating of each standard includes information from 3 sources, which are: interviews/surveys of providers; interviews of persons served or their representatives; and an administrative review of adherence to federal, state and local policies, procedures and CDDO data.

Outcome: A final report is provided to the CDDO and is posted on the SRS Community Support

Services (CSS) website. The final report includes an identification of strengths, recommendations, and “findings”. Any finding made by the team requires a corrective action plan from the CDDO which is monitored by SRS.

### **MRDD Community Service Provider (CSP) Quality Assurance**

Process: CSPs are monitored by: an annual SRS licensing process; a SRS individual outcomes monitoring process; and a CDDO quality assurance process. The individual outcomes monitoring process data is used as a component in the decision making process for licensing status, but such data is not the sole source for licensure decisions. Statewide CDDO quality assurance data is reported quarterly and utilized by SRS and an oversight committee to monitor the system as a whole. CDDOs utilize their local quality assurance data to ensure quality locally.

Individual Outcomes Monitoring: A sampling of approximately 10% of the service population receives an individual service review utilizing a uniform quality instrument – Kansas Lifestyle Outcomes 2 (KLO2). Each KLO2 review evaluates the outcomes of the individual receiving services. The evaluation includes: interview of the person and/or their representative; service delivery observation; staff interviews; and records review. **An important part of this review is ensuring a person’s choice has been honored.** For each negative finding, SRS Quality Assurance (QA) staff sends the responsible provider a QA Follow-up Form which requires a response from the provider and then is finalized by attestation of issue resolution by SRS QA staff signature. This information illustrates there are numerous processes in place to monitor the system, with one of the key monitoring activities being a quality of life outcome process, which includes direct face to face conversations/assessments of the person being served. This provides for a very direct means of accountability based on a person’s quality of life, not only to the provider but to the CDDO as well.

### **Systems Transformation**

In addition to these established and ongoing processes SRS uses to monitor the DD system, SRS is also taking advantage of a CMS (Centers for Medicare/Medicaid Services) System Transformation grant to take a thorough look at not only the Developmental Disability system but all of the systems in place in Kansas. CMS awarded a 5 year, \$2.3 million Real Choice System Transformation grant to SRS in 2006. This project seeks to promote community living for Kansans of all ages with long-term support needs by continuing or building upon achievements from previous New Freedom grants awarded to Kansas. The primary goal of the project is to encourage community living options by enhancing consumer control and direction through a coordinated service delivery system.

Specific goals toward achieving this purpose are: enhancement of self-directed service delivery system, transformation of information technology to support systems change and creation of a system that more effectively manages the funding for long-term supports that promote community living options.

A steering committee comprised of consumers, advocates, service providers and state agency staff (SRS, KDOA and KHPA) oversees the work of the project, which is largely comprised of a series of studies designed to assist Kansas in planning for a more effective long term care system. These studies are focused upon:

- Identification of critical elements for individualized planning across long term care services
- Identification of critical elements for individualized budgeting and employer options
- The study and development of appropriate quality assurance systems/tools and data collection instruments across long-term care services

- Study of the Level Of Care documentation, tools, process to make a determination if the current tools utilized are effective in identifying needs of Kansans
- Extensive cost study of the long term care funding systems and payment methodologies

#### *Update of Current Studies*

The Payment Methodology / Funding Outcome for the Systems Transformation grant currently have 2 projects underway. The first is the Level of Care (LOC) study that is being conducted by Diane McComb from Delmarva. The second is the system cost study that is being performed by Myers & Stauffer. The purpose of both studies is to provide data, facts and clear evidence as to what is happening in Kansas today. The studies are designed to give agency leaders and lawmaker's facts they need to make evidence based decisions. The level of Care study is complete. There are 2 other outputs that Kansas will be negotiating with the contractor to complete: assisting Kansas in dialoging directly with other states that have processes which have been identified as exceptional; and to assist Kansas to study a specific LOC tool and how its utilization would impact Kansas.

The cost study is almost complete. The desired outcome of the study is to give Kansas clear evidence of the cost to serve the current disability and aging populations in the HCBS settings of the individual's choice. It is anticipated that the cost study will be completed early January 2010. The information developed from the Cost Study and the LOC Study will be utilized by a contractor to begin to tie the two outputs together. This will identify for Kansas one or more assessment /funding / payment methodologies that will be most effective. The completion of this second portion is anticipated for June 2010. The results of all of this work will provide valuable data to SRS and our stakeholders to guide the assessment and reimbursement system for all the disability services SRS manages.

#### **Conclusion**

SRS has several processes in place for the ongoing monitoring of the system that supports people with a developmental disability and has processes in place to obtain data and information to help ensure continuous improvement of the system. At this time we do not recommend changes in the established practices and procedures around extraordinary funding, nor do we recommend changes in the processes and safeguards to address conflict of interest and to monitor the quality of services provided.

Attachment: Synopsis of Public Comments

## **Summary of Comments Pertaining to Regulatory or Policy Issues related to Extraordinary Funding Process for Persons with Developmental Disabilities**

### **Comments from Community Service Providers**

- There is inconsistency in eligibility criteria in determination processes across CDDO's
- The process excludes persons from eligibility who have extraordinary support needs related to personal self care and ADL (Activities of Daily Living)
- Inconsistency exist across CDDO's about specific costs that may be considered in individual plans
- Financial means test places agencies at financial disadvantage before funds additional service funds are approved
- Extraordinary funding (EF) for consumers with severe challenging behaviors is the only effective strategy in place that allows organizations to successfully serve such individuals in community settings
- One suggested change would be to manage EF funds so that there would never be a waiting list
- We have appreciated that there has usually been a very short waiting period for EF funding to begin once the application was approved. However, by the time we have applied for EF we are often near the end of our ability to support the individual without additional resources or have been providing the additional resources at the cost to others we serve
- Waiting for an extended period of time after approval and before EF is available could exhaust our ability to maintain a person in the community
- The process seems very complicated
- I have questioned the threshold of costs being 150% of the regular tier rate, however during the time we worked with EF, we have had only one individual that we would have sought funding for whose costs did not exceed the 150% threshold
- We serve 48 individuals in one county and 22 in another with extraordinary funds – we find the process to be consistently implemented within and across these two CDDO areas
- I see it as a great resource for those who really need it, but I don't think most do
- I used to serve on an EF committee for a CDDO, I felt like one agency in particular was abusing the funding by bullying the committee into approving it. I resigned from the committee because of that
- Perhaps consider putting EF funds back into the regular tier pool and increase the number of tier 1's
- Reorganize materials on the CSS website to feature a step-by-step process with revision dates, page number and table of contents would help
- Provide annual CSP, CSS, CDDO training to cover any new processes or expectations and provide clarification in points of confusion
- Receipt of funding could be contingent on competency based training, and all new CSP's should receive initial training on EF from the CDDO so that accessibility is uniform
- We appreciate the quick turnaround from start to receipt of funding
- The residential provider or the day service provider who completed the request should be notified directly of the outcome of the RF request
- One parent/provider had difficulty applying for EF because CDDO was not trained to complete the paper work, but were helpful after training was completed
- In light of future downsizing of State Hospitals, KHPA and SRS should review the existing eligibility determination process for EF to determine what types of extraordinary support needs can be met, and if funding and determination processes should be revised

## Comments from InterHab: CDDO Membership Organization and CDDO's

- The current process to determine extraordinary funding was jointly developed by State, CDDO, and CSP officials and is contained in statute
- The EF process is necessary, well conceived and has generally and successfully been employed for CSP's in need of assistance to better help them meet service obligations to persons with developmental disabilities who have extraordinarily high service costs
- A careful examination of documents obtained through the SRS office of CSS before overhauling a process that works well is suggested
- If there is evidence of issues that require reform, the State, the CDDO's and the system stakeholders can consider those concerns and possibly revise them
- It is significant to note that appeals of the EF process have been rare, evidentiary documents that quantify these appeals should be considered or reviewed
- Request that KHPA give thoughtful consideration to the documentation that exists for the years of positive experience and partnerships that have addressed the needs of Kansans with developmental disabilities
- *Our County's EF committee is comprised of primarily CSP's, when the committee operates in this manner, it eliminates conflict of interest*
- *Allowable costs are clearly explained un materials used statewide*
- *Issues of self care and activities of daily living were taken into consideration by the stakeholder workgroup that reviewed eligibility criteria for EF, there was no consensus that they should be included*
- Hold an annual roundtable with CDDO's and SRS Developmental and Behavioral Health Services (DBHS)/CSS to discuss issues related to EF requests, provide clarification/training to CDDO staff to ensure consistency across CDDO areas
- Set up the calculation sheets from the online EF tool in EXCEL format with formulas to add calculations of service and staffing costs automatically to reduce provider errors in calculation
- Set up items on the form that are standardized, such as 20% tax and benefits so providers cannot change these items
- Make the instructions very clear to providers as to what management level staff should be used for the calculations and how to determine direct care staff time
- This policy is effective and works in its present form
- The amount of EF available varies and there is no doubt that system wide these are insufficient to cover all related costs
- *The EF process was established and agreed upon buy those in the system as an equitable methodology to manage these limited resources*
- The State has the authority to review process that indicate conflict of interest and KHPA should ask for any documentation that asserts conflict of interest
- The current process should remain as is-the CDDO should continue to manage the process locally
- When a person moves form an institutional setting to the community, the EF rate is usually allowed for an unreasonably short period of time