CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES
DIVISION OF COMMUNITY ALTERNATIVES

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September 3, 2014

Ms. Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations
Department of Health & Human Services
Centers for Medicare & Medicaid Services
Atlanta Regional Office
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303

Dear Ms. Glaze:

This letter is in response to your correspondence dated June 19, 2014, notifying the Commonwealth of Kentucky, Department for Medicaid Services that The Centers for Medicare & Medicaid Services (CMS) is conducting a quality review of Kentucky's Home and Community-Based Services Waiver for individuals with acquired brain injury, waiver number 0477.R01.

Please find enclosed the department's response that includes the discovery, remediation and improvement activities related to all waiver assurances. The evidence provided in the report demonstrates the mechanisms in place to ensure the state's ongoing quality management and improvement strategies.

Should you have questions or require clarification or additional information regarding this submission, please contact Earl Gresham, Assistant Director, Division of Community Alternatives at (502) 564-7540.

Sincerely,

Lawrence Kissner
Commissioner

Enclosure

Home and Community-Based Waiver Services

For Acquired Brain Injury Long Term Care

Waiver Number 0477.R01

DMS Response to CMS Requests outlined in correspondence dated June 19, 2014

From Jackie Glaze, Associate Regional Administrator to Commissioner L. Kissner

Introductory Comments: Each performance measure for the sub-assurances in the approved waiver is included and addressed in this report. Data and information has been provided about how deficiencies were remediated for all of the performance measures where non-compliance was identified.

Evaluation/Reevaluation of Level of Care

The LOC medical necessity review is based on the regulatory criteria contained in 907 KAR 3:210
An evaluation for level of care is provided to all applicants for whom there is reasonable indication that services may be needed in the future.

One hundred percent (100%) of level of care (LOC) determinations were completed as evaluation requests were received via referral sources for new enrollees prior to receiving services.

WV1	Evaluation/Reevaluation of Level of Care	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of new Acquired Brain Injury Waiver enrollees who received LOC evaluation prior to receipt of services	100%	68/68
2012		100%	53/53
2013		100%	14/14

The level of care (LOC) of enrolled participants is reevaluated at least annually or as specified in the approved waiver.

Level of Care (LOC) determinations are conducted within 12 months of the initial or last level of care determination as indicated in accordance with 907 KAR 3:210

WV2	Evaluation/Reevaluation of Level of Care	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Acquired Brain Injury Waiver members who received a redetermination of LOC within 12 months of their initial or last LOC determination.	99%	141/142
2012		99%	204/206
2013		97%	206/212

Remediation: Providers that are noncompliant with timely annual redeterminations are notified via written correspondence and informed that a written corrective action plan to address the issues must be submitted to the Department for Medicaid Services in a specified time frame. Providers that did not submit the reevaluation in a timely manner were not reimbursed for services rendered to the member prior to the reevaluation completion.

The process and instruments described in the approved waiver are applied appropriately and according to the approved description to determine participant level of care.

The Department for Medicaid Services reviews members' files annually to ensure and verify that all level of care determination instruments are utilized appropriately. One hundred percent (100%) of level of care determinations were completed as required for Acquired Brain Injury Waiver.

WV3	Evaluation/Reevaluation of Level of Care	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Acquired Brain Injury Waiver members level of care determinations with completed assessment forms on file.	100%	210/210
2012		100%	259/259
2013		100%	226/226

Participant Services/Qualified Providers

The state demonstrates that it has designed and implemented an adequate system for assuring that all waiver services are provided by qualified providers.

Acquired Brain Injury Waiver services are provided by certified providers in accordance with 907 KAR 3:210. Eight of the providers are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF). The Department for Medicaid Services/Acquired Brain Injury Branch is responsible for certifying ABI provider agencies. The Office of Inspector General (OIG) is responsible for surveying and licensing those agencies that are licensed. Providers are required to ensure that each employee completes six (6) hours of continuing education in brain injury annually in accordance with 907 KAR 3:210.

WV4	Participant Services/Providers	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Acquired Brain Injury Waiver providers who meet certification requirements prior to the provision of waiver services.	70%	20/29
2012		94%	44/47
2013		85%	40/47

Remediation: Each provider that does not meet these requirements at 100% are cited for the deficiency and required to submit a Corrective Action Plan outlining how compliance will be attained within a specified time frame. DMS conducts follow up monitoring to ensure implementation and effectiveness of the Corrective Action Plan. Technical assistance is provided on an ongoing basis via phone calls, emails, during monitoring visits, as well as provider trainings to ensure that DMS has qualified providers. All instances of non-compliance with this Performance Measure were remediated following a corrective action plan at 100%.

WV5	Participant Services/Providers	Compliance	Rate
		Percent	Num/Denom
2011	Number and percentage of Provider Agencies who continue to meet certification requirements following initial enrollment.	100%	49/49
2012		99%	69/70
2013		100%	71/71

Remediation: Each provider that does not meet these requirements at 100% are cited for the deficiency and required to submit a Corrective Action Plan outlining how compliance will be attained within a specified timeframe. To ensure that DMS has qualified providers, technical assistance is provided on an ongoing basis via phone calls, emails, during monitoring visits, and provider training. DMS conducts follow up monitoring to ensure implementation and effectiveness of the Corrective Action Plan. All instances of non-compliance with this Performance Measure were remediated following a corrective action plan at 100%.

WV6	Participant Services/Providers	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Providers with corrective action plans completed within required time frames.	100%	25/25
2012		100%	26/26
2013		100%	27/27

WV7	Participant Services/Providers	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Provider Agencies whose staff completed mandatory training annually (i.e. CEU, CPR, First Aid, etc.).	100%	26/26
2012		100%	28/28
2013		99%	28/29

Remediation: Each provider that does not meet these requirements at 100% are required to submit a Corrective Action Plan outlining how compliance will be attained within a specified timeframe. To ensure that DMS has qualified providers, technical assistance is provided on an ongoing basis via phone calls, emails, during monitoring visits, and provider training. DMS conducts follow up monitoring to ensure implementation and effectiveness of the Corrective Action Plan. All instances of non-compliance with this Performance Measure were remediated following a corrective action plan at 100%. (Staff who had not met mandatory training requirements within the specified time frame as designated in regulation were not allowed to provide direct services until the requirements were met.)

WV8	Participant Services/Providers	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of new Provider Agencies who completed mandatory pre-service (initial) training.	100%	3/3
2012		100%	2/2
2013		100%	2/2

The Service Plan is based on the identified needs of the member.

The Service Plans are reviewed as part of the on-site provider certification reviews that are conducted annually. The Department for Medicaid Services (DMS) reviewed/monitored 100% of the ABI providers for each of the years 2011-2012, 2012-2013, and 2013-2014. Service plans address all participants assessed needs (including health and safety risk factors) and personal goals, utilizing the assessment tool, clinical waiver services or through other means.

WV9	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of participants' who had service plans that were adequate and appropriate to their needs (including health care needs) as indicated in the assessment(s).	93%	200/215
2012		96%	223/232
2013		99%	228/230

Remediation: Participants who had service plans that were inaccurate, or did not address all needs, including health care needs, were identified during the annual review, incident report investigation, or monitoring. In the event a service plan required a correction or additional information; the provider was requested to submit a Corrective Action Plan outlining how compliance will be attained, within a designated time frame. DMS conducts follow up monitoring to ensure implementation and effectiveness of the Corrective Action Plan, to ensure that all participants' service plans are accurate, and appropriate to their needs, including health care needs. All instances of non-compliance with Performance Measure WV9 were remediated following a corrective action plan at 100%.

WV10	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Acquired Brain Injury Waiver participants reviewed who had initial service plans that received authorization from the QIO prior to service delivery.	100%	37/37
2012		100%	46/46
2013		100%	79/79

WV11	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of Acquired Brain Injury Waiver service plans that were submitted following the interdisciplinary team meeting held within the first 30 days of initial service authorization.	100%	55/55
2012		100%	37/37
2013		100%	18/18

WV12	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver participants' receiving participant-directed services with an approved budget	100%	43/43
2012		100%	49/49
2013		100%	53/53

The state monitors compliance of service plan submission in accordance with its policies and procedures.

WV13	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver participants' whose service plans were updated and submitted prior to the annual recertification date.	99%	141/142
2012		99%	204/206
2013		97%	206/212

Remediation: Providers that were noncompliant with submitting timely annual recertifications are notified via written correspondence and informed that a written corrective action plan to address the issues is required and must be submitted to the Department for Medicaid Services within a specified time frame. Providers that did not submit the recertifications in a timely manner were not reimbursed for services rendered to the member prior to completion of the recertification.

State submits evidence of the results of its monitoring process for ensuring the services identified in the Service plan are implemented.

WV14	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver participants' who received services in the type, scope, amount, and duration as specified in the service plan.	100%	169/169
2012		100%	204/204
2013		100%	142/142

WV15	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver participants' who received participant-directed services within the approved budget	100%	43/43
2012		100%	49/49
2013		100%	53/53

Participants are afforded freedom of choice between waiver services and institutional care; and between/among waiver services and providers.

Number and percent of waiver participant records reviewed reflects one hundred percent (100%) with an appropriately completed and signed Freedom of Choice form that specified choice was offered between institutional care, providers, and waivers services.

WV16	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver participants' records with an appropriately completed and signed freedom of choice form specifying choice was offered between waiver services and institutional care, waiver services, and waiver providers.	100%	210/210
2012		100%	259/259
2013		100%	226/226

WV17	Participant – Centered Planning and Service Delivery	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver participants whose records contain confirmation of notification of the option to choose consumer directed options.	100%	210/210
2012		100%	259/259
2013		100%	226/226

Health and Welfare

The state demonstrates, on an on-going basis that it identifies, addresses, and seeks to prevent instances of abuse, neglect and exploitation.

In accordance with KRS Chapter 209 or 620, ABI providers must have procedures in place to ensure that instances of abuse, neglect and exploitation are reported to the appropriate authorities. ABI providers are also required to train all staff in the prevention, identification, and reporting of abuse, neglect, and exploitation. The Department for Community Based Services receives notification of suspected abuse, neglect and/or exploitation on an on-going basis and investigates allegations of abuse, neglect and exploitation. In addition, ABI providers are required to implement an Incident Report that details the "incident", the provider's investigation, follow-up communication with the participant, or legal guardian, other providers, and social and law enforcement agencies, and lastly how policies and procedures will be revised to prevent the "incident" in the future. The providers are required to educate waiver members, family members and legal representatives regarding the process for reporting abuse, neglect, exploitation, incidents, and filing a complaint. ABI Providers are required to report all suspected incidents of abuse, neglect and exploitation to The Department for Community Based Services/Adult Protection Services. DMS monitoring staff review all Incident Reports and may request a corrective action plan from the provider when agency policies and procedures do not fully address the risks involved in a participant's care. DMS monitoring staff may conduct an on-site investigation of the report which could involve interviews of participants, staff, and community members as appropriate.

WV18	Participant Safeguards	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of critical incidents that were reported within required time frames.	95%	210/220
2012		100%	263/263
2013		96%	231/242

Remediation: ABI waiver providers that submitted critical incidents that were not reported within the required time frames were identified by DMS staff immediately upon review. Providers were requested to submit a Corrective Action Plan to address late submittals of a critical incident report. Those providers that were requested to provide a plan of correction did so with 100% accuracy within the specified time frame.

WV19	Participant Safeguards	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of critical incidents that received follow up within required time frames.	95%	210/221
2012		100%	263/263
2013		96%	228/243

Remediation: ABI providers that did not submit follow up reports within the required time frames, were notified by DMS staff that a follow up was due immediately, to remain in compliance with ABI Long Term Care regulation KAR 907 3:210. Providers are requested to submit a Corrective Action Plan to address late submittals of the follow up to a critical incident report. Those providers that were requested to provide a plan of correction did so with 100% accuracy within the specified time frame. (Plans of correction may include staff education within the agency, or additional training for the provider.)

WV 20	Participant Safeguards	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of Class III critical incidents that were reviewed by DMS to confirm that the incident was investigated by the appropriate entity within the required timeframes.	100%	221/221
2012		100%	263/263
2013		100%	243/243

WV21	Participant Safeguards	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of deaths reviewed by DMS.	100%	3/3
2012		100%	1/1
2013		100%	0/0

Financial Accountability

The state demonstrates that it has designed and implemented an adequate system for assuring financial accountability of the waiver program. The state contracts with Hewlett-Packard for claims processing, financial management, system maintenance and modification, and provider services, including enrollment, education and call center support for designated healthcare programs.

The contracting agency conducts a quality review to verify that financial records have been submitted to DMS according to provider agreements/contracts and that payment is in accordance with the DMS reimbursement methodology for services rendered.

WV22	Financial Accountability	Compliance Rate	
		Percent	Num/Denom
2011	Number and percentage of waiver service claims reviewed that were coded and paid in accordance with reimbursement methodology.	100%	47,688/47,688
2012		100%	124,287/124,287
2013		100%	145,800/145,800

WV23	Financial Accountability	Compliance Rate	
		Percent	Num/Denom
2011	Number and percent of waiver service claims that were submitted for ABI waiver participants who were enrolled and active in the waiver on the service delivery date.	100%	169/169
2012		100%	204/204
2013		100%	142/142