

# **Kentucky Cabinet for Health and Family Services**

## **Medicaid 1915(c) HCBS Waivers: Critical Incident Reporting Frequently Asked Questions (FAQs)**



**Last Updated: September 19, 2019**

# Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

## Contents

Background .....	4
Questions and Answers .....	5
<b>Section 1: General.....</b>	<b>5</b>
Q1: Why does DMS need to track critical incidents? .....	5
Q2: What does DMS do with critical incident data? .....	5
Q3: What materials are available to support critical incident management? .....	5
Q4: When do I need to use the updated incident reporting materials? .....	6
Q5: Are “encrypted” emails required when submitting incident reports to the regulating agency? 6	6
Q6: When will DMS and waiver providers start using MWMA for incident reporting? .....	6
Q7: When DMS transitions to the web-based solution, do waiver providers need to continue to store electronic or paper copies of the incident reporting and investigation forms? .....	6
Q8: How should waiver providers submit and store the incident reporting and investigation forms? .....	6
Q9: What form should be used for reporting and investigation incidents for State General Fund (SGF) clients? .....	7
<b>Section 2: Incident Reporting Process .....</b>	<b>8</b>
Q10: How do I report a critical incident? .....	8
Q11: When do I need to notify or report an incident? .....	9
Q12: How should waiver participants be involved in the incident management process? .....	10
Q13: How does the case manager or support broker/service advisor receive a copy of the incident report if it is initially reported by another waiver provider? .....	10
Q14: If an incident happens or is discovered over the weekend what do I need to do? .....	10
Q15: If a critical incident is witnessed or discovered at 4:15pm ET, do I submit the <i>Incident         Reporting Form</i> within the same day? .....	11
Q16: How do I report three or more non-critical incidents of the same incident type? .....	11
Q17: If a waiver participant has three non-critical incidents that occur at three different settings and has three different reporters, who is responsible for reporting the third incident as a critical incident? .....	11
Q18: If a waiver participant is taken to the emergency room, when do I need to report the incident to the regulating agency? .....	12
Q19: If my provider or case management agency completes investigations using a different form, can we continue to use this document? .....	12
Q20: As a parent and representative of a waiver participant, what do I do if I suspect someone I hired is abusing my child? .....	12

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

Q21: If a waiver participant experiences abuse at their residential provider, and reports this to a provider at their day program, who should submit the <i>Incident Reporting Form</i> ? .....	12
<b>Section 3: Incident Types and Definitions.....</b>	<b>14</b>
Q22: What are critical and non-critical incidents? .....	14
Q23: What is not an incident? .....	14
Q24: What types of incidents must be reported to the regulating agency? .....	1
Q25: What hospitalizations are considered incidents? .....	1
Q26: Is an urgent care visit a reportable incident? .....	1
Q27: Are public health issues (e.g., bed bugs, lice, flu, etc.) considered a reportable incident? ..	1
Q28: How should provider agencies report instances of bed bugs at a waiver provider location?2	
Q29: Is peer-to-peer aggression a reportable incident? .....	2
Q30: Are sexually transmitted diseases (STDs) considered a reportable incident?.....	2
Q31: Are behavioral issues a reportable incident? .....	2
Q32: What is the difference between critical incident type “Serious Medication Error” and non-critical incident type “Medication Error without Serious Outcome?” .....	2
Q33: If I go to render a waiver service and the waiver participant is not present, do I file a critical incident? .....	3
Q34: If I am a transportation provider and drop a waiver participant off to receive waiver services and no one is present, do I report an incident? .....	3
Q35: The examples for “Minor Injury” do not seem to meet the definition. Can you clarify what is considered a minor injury? .....	3
Q36: If an incident occurs that is not related to a waiver service delivery (e.g., injury at home), does the waiver provider still report it?.....	3
Q37: Do I use the Adult Protective Service (APS) definition of abuse, neglect, or exploitation when reporting to APS? .....	3
Q38: What do I do if I have a situation and I am not sure if it qualifies as a reportable critical incident? .....	3
Q39: Should ALL falls be documented via an <i>Incident Reporting Form</i> , or only those that result in some sort of injury/require treatment? .....	4
Q40: Is “medication refusal” considered a medication error? .....	4
<b>Section 4: Responsible Parties .....</b>	<b>5</b>
Q41: Who is required to report a critical incident?.....	5
Q42: Who is responsible for completing a critical incident investigation? .....	5
Q43: Are participant-directed services (PDS) providers (support brokers/service advisors or direct service providers) expected to complete an incident investigation)? .....	5

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

Q44: Who is responsible for completing a critical incident investigation for waiver participants who receive blended services? .....	5
Q45: Who is responsible for storing the incident reporting materials? .....	6
Q46: Is the <i>Incident Reporting Form</i> to be completed by the staff member witnessing the incident, or can staff report to another staff member to complete the report? .....	6
Q47: Are direct service providers and case managers expected to work together on a critical incident investigation? .....	6
Q48: Should the direct service provider and case manager both submit the <i>Incident Reporting Form</i> and complete the <i>Critical Incident Investigations Report</i> if the incident is discovered or witnessed by both parties? .....	6
Q49: To whom should incidents be reported if the affected waiver participant receives a blend of PDS and traditional waiver services? .....	6
Q50: Who is my regulating agency? .....	7
<b>Section 5: Completing the Reporting and Investigation Forms .....</b>	<b>8</b>
Q51: How should we use the “diagnosis/illnesses” field on the <i>Incident Reporting Form</i> ? .....	8
Q52: On the <i>Incident Reporting Form</i> ’s Level of Harm or Injury to the Waiver Participant, would ER visits be a Level 2 or Level 3 if it does not require hospitalization? .....	8

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

### Background

The Cabinet for Health and Family Services (CHFS), Department for Medicaid Services (DMS) is implementing short-term and long-term solutions to support performance improvement in incident reporting. The short-term solution standardizes waiver reporting requirements and processes across all 1915(c) Home and Community-Based Services (HCBS) waivers and uses updated incident reporting materials. The long-term solution will transition incident reporting to a web-based system (expected in Summer/Fall 2020). This FAQ document applies to DMS's short-term solution.

The updated incident reporting materials impact all service providers, case managers, and support brokers providing services to 1915(c) HCBS waiver participants. **The updated incident reporting process became effective June 7, 2019 and updated materials are available on the Division of Community Alternative's website: <https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx>.**

DMS expects waiver providers (direct service providers, case managers, and support brokers/service advisors for participant-directed services (PDS)) to make a good faith effort to prepare staff and update policies and procedures by the effective date. If all staff have not been trained by the effective date, please have a plan in place for when remaining staff will receive training. DMS understands that this may be a big lift for some waiver providers; however, this new approach and materials are needed to safeguard Kentucky's waiver participants. DMS will continue to work with and support waiver providers through this process. At a later date, DMS will notify waiver providers regarding when it anticipates transitioning the incident reporting process to a web-based system.

## Questions and Answers

### Section 1: General

Q1: Why does DMS need to track critical incidents?

Date Added/Revised: May 7, 2019

Incident reporting is essential to safeguarding the health, safety, and welfare of 1915(c) HCBS waiver participants. DMS tracks critical incidents to:

- Assure that necessary safeguards have been taken to protect the health, safety, and welfare of participants receiving 1915(c) HCBS waiver services.
- Identify, address, and seek to prevent the occurrence of abuse, neglect, and exploitation on a continuous basis.
- Comply with key regulatory requirements from Centers for Medicare & Medicaid Services (CMS) regarding monitoring.
- Ensure remediation (follow up) actions are initiated when appropriate.

Q2: What does DMS do with critical incident data?

Date Added/Revised: May 7, 2019

DMS uses incident data to:

- Identify and resolve incidents to support waiver participant safety.
- Mitigate preventable incidents.
- Provide insights into trends and problems across Kentucky to reduce risks and improve quality of services.

Q3: What materials are available to support critical incident management?

Date Added/Revised: May 7, 2019

DMS created the following materials to support the incident reporting process:

- **Incident Reporting Instructional Guide:** Provides instructions regarding how direct service providers, case managers, and support brokers/service advisors (for PDS) are expected to report critical and non-critical incidents for participants receiving Home and Community-Based Services (HCBS) waiver services.
- **Incident Reporting Form:** Used to report critical incidents to the regulating agency and to capture non-critical incidents for the waiver providers' internal tracking. This form captures details of the incident and relevant information pertaining to the waiver participant, reporter, alleged perpetrator, and witnesses.
- **Critical Incident Investigation Report:** Used to provide additional context regarding the reported critical incident, to describe actions taken to resolve the incident and follow-up

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

measures taken. This form is not required for non-critical incidents.

All incident reporting materials are available on the Division of Community Alternative's website:  
<https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx>

### Q4: When do I need to use the updated incident reporting materials?

Date Added/Revised: July 9, 2019

The updated incident reporting materials became effective June 7, 2019. DMS expects waiver providers to make a good faith effort to prepare staff and update policies and procedures by the effective date. If all staff have not been trained by this date, please have a plan in place for when remaining staff will receive training.

### Q5: Are "encrypted" emails required when submitting incident reports to the regulating agency?

Date Added/Revised: May 7, 2019

All entities or persons that report incidents shall comply with applicable confidentiality laws and Health Insurance Portability and Accountability Act (HIPAA) requirements, regarding the reporting of confidential information and protected health information. If an incident report is not submitted via an encrypted email, the regulating agency will still review the incident; however, if the incident needs corrections, the regulating agency will request changes via a secure email address. The waiver provider is ultimately responsible and liable for all HIPAA rules and regulations.

### Q6: When will DMS and waiver providers start using MWMA for incident reporting?

Date Added/Revised: September 19, 2019

DMS intends to implement the web-based system in Summer/Fall 2020. Additional information and training sessions will be provided prior to implementation. Waiver providers should continue to submit the incident reporting materials via email until notified otherwise.

### Q7: When DMS transitions to the web-based solution, do waiver providers need to continue to store electronic or paper copies of the incident reporting and investigation forms?

Date Added/Revised: July 9, 2019

Once the web-based solution is implemented, waiver providers will not be required to store additional electronic or paper copies of the incident reporting and investigation materials; however, all previously stored documents should be retained for five years.

### Q8: How should waiver providers submit and store the incident reporting and investigation forms?

Date Added/Revised: July 9, 2019

The completed reports (with all information viewable) must be provided as required and available upon request. If the PDF form hides text when printed or scanned, the form should be provided and

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

stored electronically. The forms may be signed electronically; however, if the form is not signed electronically, waiver providers should send both the electronic copy and a scanned page of the report which includes the signature and date.

Waiver providers must retain all critical and non-critical incident reports and investigation reports (each with all information viewable) for five years.

**Q9: What form should be used for reporting and investigation incidents for State General Fund (SGF) clients?**

Date Added/Revised: May 7, 2019

The updated incident materials only impact service providers, case managers, and support brokers/service advisors providing services to 1915(c) HCBS waiver participants. For SGF clients, the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) has a separate process for incident reporting and investigation.

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

### Section 2: Incident Reporting Process

Q10: How do I report a critical incident?

Date Added/Revised: September 19, 2019

The following entities must be notified of certain incidents. Please refer to the *Incident Reporting Instructional Guide* for detailed notification methods.

Incident Type	Entity Requiring Notification	Notification Method
Incidents that involve criminal activity	Law Enforcement	Dial 911 or the local law enforcement number.
Incidents of abuse, neglect, or exploitation	Department for Community Based Services (DCBS) – Adult Protective Services (APS) or Child Protective Services (CPS)	<p><i>24 Hour Toll Free Numbers:</i> 1-877-597-2331</p> <p><i>Non-Emergency Web Form:</i> <a href="https://prdweb.chfs.ky.gov/ReportAbuse/">https://prdweb.chfs.ky.gov/ReportAbuse/</a></p> <p>Note: The online reporting system is only available between the hours of 8:00am-4:30pm EST Monday through Friday. The online reporting system is not monitored after hours, holidays, or weekends. Anyone needing to make a report after 4:30 pm EST or on holidays or weekends should contact 1-877-597-2331. If the situation is a life-threatening emergency call your local law enforcement agency or 911.</p>
All critical incidents	Regulating Agencies: Department for Medicaid Services (DMS), Department for Aging and Independent Living (DAIL), or Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID)	Submission of the <i>Incident Reporting Form</i> . Submission method varies by 1915(c) HCBS waiver type and regulating agency. See <i>Question 50: Who is my regulating agency?</i> for specific submission requirements.
All critical and non-critical incidents	Family Members (if specified in the person-centered service plan (PCSP)), Medical Providers, Direct Service Providers, Case Managers,	May include phone, fax, email, voicemail, or texting depending on communication method agreed upon in PCSP.

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

Incident Type	Entity Requiring Notification	Notification Method
	Support Brokers/Service Advisors, State or Private Guardian (if applicable and if specified in the PCSP)	

### Q11: When do I need to notify or report an incident?

Date Added/Revised: May 7, 2019

Any individual who witnesses or discovers an incident should immediately take steps to ensure the waiver participant's health, safety, and welfare, and notify the necessary parties as described below. The waiver participant's health is a priority over reporting. The table below outlines DMS's notification and reporting requirements for incidents.

	Appropriate Party	Timeframe
<b>Notifications</b>	<b>Law Enforcement</b> (For incidents involving criminal activities)	<b>As soon as possible but no later than eight (8) hours</b> of witnessing or discovering the incident.
	<b>DCBS – APS and CPS</b> (For incidents involving ANE)	
	<b>Family Member:</b> For adults, a family member is only notified if the waiver participant has provided consent via their PCSP. For children, a family member is always notified.	<ul style="list-style-type: none"> <li>• <u><i>Critical incident:</i></u> <b>As soon as possible but no later than eight (8) hours</b> of witnessing or discovering the incident.</li> <li>• <u><i>Non-critical incident:</i></u> <b>Within 24 hours</b> of witnessing or discovering the incident.</li> </ul>
	<b>Medical Provider:</b> The medical provider is notified for incidents involving medication errors or hospitalization.	
	<b>Direct Service Provider</b>	
	<b>Case Manager or Support Broker/Service Advisor</b>	
	<b>State or Private Guardian</b> (If applicable and if specified in the PCSP)	

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

	Appropriate Party	Timeframe
<b>Reporting</b>	<b>Regulating Agency (DMS, DAIL, or DBHDID)</b>	<ul style="list-style-type: none"> <li>• <u>Incident Reporting Form (for critical Incidents)</u>: Within <b>same day</b> if the critical incident is witnessed or discovered during regular business hours (8 am-4:30 pm Eastern Time Monday-Friday, excluding state holidays) <b>OR next business day</b> if the critical incident is witnessed or discovered outside of regular business hours.</li> <li>• <u>Incident Reporting Form (for non-critical incidents)</u>: Notification to the regulating agency is <b>not required</b>.</li> <li>• <u>Critical Incident Investigation Report</u>: <b>Within 10 business days</b> of witnessing or discovering the incident.</li> </ul>

**Q12: How should waiver participants be involved in the incident management process?**

Date Added/Revised: May 7, 2019

Waiver participants have the right to report incidents, participate in interventions, be involved in the incident investigation process, and have an advocate present when being interviewed for fact-finding activities.

**Q13: How does the case manager or support broker/service advisor receive a copy of the incident report if it is initially reported by another waiver provider?**

Date Added/Revised: May 7, 2019

The reporter must forward copies of the incident reporting forms to the direct service provider(s) involved, case manager, and/or support broker/service advisor:

- For critical incidents, the reporter must forward a copy of the *Incident Reporting Form* and/or *Critical Incident Investigation Report* to the direct service provider, case manager, and/or support brokers/service advisors after submission to the regulating agency.
- For non-critical incidents, the reporter must forward a copy of the *Incident Reporting Form* to the direct service provider, case manager, and/or support brokers/service advisors after the form is completed.

**Q14: If an incident happens or is discovered over the weekend what do I need to do?**

Date Added/Revised: May 7, 2019

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

If an incident happens or is discovered over the weekend, the waiver provider should immediately take steps to ensure the waiver participant's health, safety, and welfare, and notify all appropriate parties per DMS's notification requirements. For critical incidents, the reporter should submit the *Incident Reporting Form* to the appropriate regulating agency the next business day.

**Q15: If a critical incident is witnessed or discovered at 4:15pm ET, do I submit the *Incident Reporting Form* within the same day?**

Date Added/Revised: May 7, 2019

If the critical incident is witnessed or discovered within regular business hours (8 am-4:30 pm ET Monday-Friday, excluding state holidays), the *Incident Reporting Form* must be submitted to the regulating agency within the same day. If the critical incident is witnessed or discovered outside of regular business hours (e.g., after 4:30 pm ET), the *Incident Reporting Form* must be submitted to the regulating agency the next business day.

**Before any critical incident is reported, measures must be taken immediately to safeguard the waiver participant.** This may include seeking appropriate medical treatment by calling 911, contacting APS or CPS, law enforcement, the fire department, or other authorities as appropriate. After the health and welfare of a participant has been safeguarded, the *Incident Reporting Form* should be submitted. The health and welfare of the participant should take priority over reporting at all times.

**Q16: How do I report three or more non-critical incidents of the same incident type?**

Date Added/Revised: May 7, 2019

When reporting three or more non-critical incidents as a critical incident, the reporter must include the *Incident Reporting Forms* from the previous non-critical incidents that it completed within the 90 calendar day period. One or two non-critical incidents within a 90 calendar day period are still considered non-critical incidents, whereas three or more non-critical incidents becomes elevated to a critical incident. After reporting the critical incident, if the waiver participant continues to experience the same non-critical incident within the 90 calendar day period, reporters must send an additional report for each incident.

The waiver provider is only responsible for tracking incident reports that it completes. The waiver provider is not required to track incident reports submitted by other parties.

**Q17: If a waiver participant has three non-critical incidents that occur at three different settings and has three different reporters, who is responsible for reporting the third incident as a critical incident?**

Date Added/Revised: May 7, 2019

The waiver provider is only responsible for tracking incident reports that it completes. The waiver provider is not required to track incident reports submitted by other parties. For instances in which the same waiver provider completes and tracks multiple non-critical incidents, please refer to *Question 16: How do I report three or more non-critical incidents of the same incident type?*

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

Q18: If a waiver participant is taken to the emergency room, when do I need to report the incident to the regulating agency?

Date Added/Revised: May 7, 2019

Before an incident is reported, measures must be taken immediately to safeguard the waiver participant. This may include seeking appropriate medical treatment by calling 911, contacting APS or CPS, law enforcement, the fire department, or other authorities as appropriate. **After the health and welfare of a waiver participant has been safeguarded**, the waiver provider should report the incident to the regulating agency.

Q19: If my provider or case management agency completes investigations using a different form, can we continue to use this document?

Date Added/Revised: May 7, 2019

Yes, waiver providers may use different forms internally; however, the forms that are submitted to the regulating agency must be the *Incident Reporting Form* and the *Critical Incident Investigation Report*.

Q20: As a parent and representative of a waiver participant, what do I do if I suspect someone I hired is abusing my child?

Date Added/Revised: May 7, 2019

The parent or representative should immediately take steps to ensure the waiver participant's health, safety, and welfare, and notify law enforcement (if a criminal activity is involved) and adult protective services or child protective services. The parent or representative should also review the waiver participant's crisis prevention and response plan (if available) to see if a plan is in place to address this crisis. The parent or representative always has the legal right to terminate a hired employee at any time. For more information regarding the waiver participant's direct service provider employment options, contact DAIL at (502)-564-6930.

Q21: If a waiver participant experiences abuse at their residential provider, and reports this to a provider at their day program, who should submit the *Incident Reporting Form*?

Date Added/Revised: May 7, 2019

Typically, if the incident occurs at a direct service providers' location, the direct service provider is responsible for completing the *Incident Reporting Form*; however, there may be exceptions based on the specific incident. The waiver provider should always use his or her professional judgement when reporting.

In this scenario:

- The waiver provider who discovered the incident should not contact the suspected perpetrator and should report the incident themselves if they have concerns that the responsible waiver provider will not report the incident.
- The *Critical Incident Investigation Report* should be completed by the provider agency where the incident occurred even if the *Incident Reporting Form* was submitted by another waiver

## Kentucky 1915(c) HCBS Waivers: Critical Incident Reporting FAQs

provider. The provider agency will need to designate a different staff member, who is not the suspected perpetrator, to complete the investigation.

- Reporting incidents to the regulating agencies does not replace the mandatory reporting requirements of Kentucky Revised Statute (KRS) 620.030 or 209.030 with regard to abuse, neglect, or exploitation (ANE). The individual who discovers or suspects abuse should report to APS immediately.

### Section 3: Incident Types and Definitions

#### Q22: What are critical and non-critical incidents?

Date Added/Revised: September 19, 2019

Incidents have the potential to impact waiver participants' health, safety, or welfare. Based on the incident type and level of severity, DMS defines an incident as either a critical or non-critical incident:

Critical incidents are serious in nature and pose immediate risk to the health, safety, or welfare of a waiver participant or others.

Types of critical incidents include:

- Suspected Abuse
- Suspected Neglect
- Suspected Exploitation
- Homicidal Ideation
- Missing Person
- Serious Medication Error
- Natural or Expected Death
- Unnatural or Unexpected Death
- Suicidal Ideation
- Three or More Non-Critical Incidents of the Same Incident Type in a 90 Calendar Day Period
- Unplanned Hospital Admission
- Event Involving Police/Emergency Personnel Intervention
- Emergency Room or Emergency Department Visit
- Other incidents or conditions not directly defined that are serious in nature and pose immediate risk to health, safety, or welfare of the waiver participant or others

Non-critical incidents are minor in nature and do not create a serious consequence or risk for waiver participants.

Types of non-critical incidents include:

- Minor Injury
- Medication Error without Serious Outcome
- Medication Refusal

#### Q23: What is not an incident?

Date Added/Revised: September 19, 2019

Events that do not have the potential to impact waiver participants' health, safety, or welfare do NOT need to be reported. Examples include but are not limited to:

- Scheduled medical procedures/surgeries
- Request to change a case manager or request for services to be placed on hold
- Peer to peer interactions that show no observed threat to health, safety, or welfare (e.g.

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

argument over who sits in what chair)

- Lifestyle choices or actions that show no observed impact on health, safety, or welfare (e.g. having a few alcoholic drinks as long as it's not contra-indicated)
- Flu and STDs. Medical providers report flu, sexually transmitted diseases, and other illnesses to local health departments or the Kentucky Department for Public Health in accordance with Kentucky Administrative Regulations (902 KAR 2:020). If the waiver participant is diagnosed with an STD and there is suspected abuse, this should be reported under the incident type "Suspected abuse."

### Q24: What types of incidents must be reported to the regulating agency?

Date Added/Revised: May 7, 2019

Only critical incidents must be reported to the regulating agencies.

Direct service providers, case managers, and support brokers/service advisors are not required to submit non-critical incidents to the regulating agencies; however, direct service providers, case managers, and support brokers/service advisors are required to complete the *Incident Reporting Form* for non-critical incidents and store these forms at the location of the direct service provider, case manager, or support broker/service advisor who completed the form. The regulating agency reserves the right to request these documents for review/audit.

### Q25: What hospitalizations are considered incidents?

Date Added/Revised: May 7, 2019

Two critical incident types are related to hospitalizations:

- **Emergency Room or Emergency Department Visit:** Use of emergency medical care due to an emergent episode of an illness or serious medical condition.
- **Unplanned Hospital Admission:** Unscheduled admission to a medical hospital not due to planned surgery or the natural course of a chronic illness (such as a terminal illness).

### Q26: Is an urgent care visit a reportable incident?

Date Added/Revised: May 7, 2019

Some, but not all, urgent care visits may be considered critical incidents. If the urgent care visit is used in lieu of a primary care visit (e.g., cold, strep-throat, bronchitis, etc.), this is not considered a critical or non-critical incident. If the urgent care visit is used for emergency medical treatment or serious medical condition (e.g., stroke, broken bone, lacerations that require stitches, heart attack), this is considered a critical incident and should be reported as "Emergency Room or Emergency Department Visit."

### Q27: Are public health issues (e.g., bed bugs, lice, flu, etc.) considered a reportable incident?

Date Added/Revised: May 7, 2019

Bed bugs and lice should be reported as a critical incident ("Other" field) if they impede services to the waiver participant.

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

At this time, flu is not considered an incident. Medical providers report flu, sexually transmitted diseases, and other illnesses to local health departments or the Kentucky Department for Public Health in accordance with Kentucky Administrative Regulations (902 KAR 2:020).

### Q28: How should provider agencies report instances of bed bugs at a waiver provider location?

Date Added/Revised: July 9, 2019

If the provider agency discovers bed bugs, the provider agency must complete an *Incident Reporting Form* for each waiver participant potentially impacted by the incident.

### Q29: Is peer-to-peer aggression a reportable incident?

Date Added/Revised: July 9, 2019

Peer-to-peer aggression should be reported as “suspected abuse” if physical or mental abuse is involved.

For instances of peer-to-peer aggression where both parties are waiver participants, waiver providers must complete two *Incident Reporting Forms*, one for the waiver participant who is the victim and one for the waiver participant who is the aggressor.

### Q30: Are sexually transmitted diseases (STDs) considered a reportable incident?

Date Added/Revised: May 7, 2019

No, STDs should not be reported as a critical or non-critical incident; however, if there is suspected abuse, this should be reported under the incident type “Suspected abuse.”

At this time, STDs are not considered an incident. Medical providers report sexually transmitted diseases, flu, and other illnesses to local health departments or the Kentucky Department for Public Health in accordance with Kentucky Administrative Regulations (902 KAR 2:020).

### Q31: Are behavioral issues a reportable incident?

Date Added/Revised: May 7, 2019

No; however, this does not mean that the waiver provider does not need to take action to address the behavior issue. If the behavioral issue is life threatening, this should be reported as a critical incident.

### Q32: What is the difference between critical incident type “Serious Medication Error” and non-critical incident type “Medication Error without Serious Outcome?”

Date Added/Revised: May 7, 2019

Both incident types involve errors in prescribed medication or medication management by waiver providers; however, “Serious Medication Error” results in a significant adverse reaction requiring medical attention in an emergency room, urgent care center, or hospital whereas “Medication Error without Serious Outcome” results in no or minimal adverse consequences and requires no treatment or intervention other than monitoring or observation.

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

Q33: If I go to render a waiver service and the waiver participant is not present, do I file a critical incident?

Date Added/Revised: May 7, 2019

No, unless it is determined that the person is missing. The waiver provider should first contact the case manager or support broker/service advisor.

Q34: If I am a transportation provider and drop a waiver participant off to receive waiver services and no one is present, do I report an incident?

Date Added/Revised: May 7, 2019

Yes, this should be reported as a critical incident (“Other” field).

Q35: The examples for “Minor Injury” do not seem to meet the definition. Can you clarify what is considered a minor injury?

Date Added/Revised: September 19, 2019

DMS considers “minor injury” as any injury that may be treated on site and/or require a medical intervention. Minor injuries do not pose a risk of potential death, prolonged disability, or permanently diminished quality of life. Examples include, but are not limited to:

- Falls which require medical intervention. Falls which do not require provider intervention and do not result in injury should not be documented on an *Incident Reporting Form*.
- Sunburn requiring no treatment
- Injuries such as a scratch which does not break the skin

Q36: If an incident occurs that is not related to a waiver service delivery (e.g., injury at home), does the waiver provider still report it?

Date Added/Revised: May 7, 2019

Yes, all incidents impacting 1915(c) HCBS waiver participants must be handled appropriately. For example, if a waiver participant has an accident at home by themselves that meets one of the incident definitions, an *Incident Reporting Form* still needs to be completed and the appropriate parties need to be notified.

Q37: Do I use the Adult Protective Service (APS) definition of abuse, neglect, or exploitation when reporting to APS?

Date Added/Revised: May 7, 2019

Yes, APS or CPS should be notified using their definitions of abuse, neglect, or exploitation.

Q38: What do I do if I have a situation and I am not sure if it qualifies as a reportable critical incident?

Date Added/Revised: May 7, 2019

If you are not sure whether an incident is reportable, you should report it.

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

Q39: Should ALL falls be documented via an *Incident Reporting Form*, or only those that result in some sort of injury/require treatment?

Date Added/Revised: September 19, 2019

Only certain falls need to be documented on an *Incident Reporting Form*. This includes falls which require provider intervention or result in a minor injury. Falls which do not require provider intervention and do not result in injury should **not** be documented on an *Incident Reporting Form*.

Q40: Is “medication refusal” considered a medication error?

Date Added/Revised: September 19, 2019

No, medication refusal is not considered a medication error. On September 19, 2019, DMS updated the *Incident Reporting Form* to include medication refusal as a separate non-critical incident type and provided a definition in the *Incident Reporting Instructional Guide*. Per the *Incident Reporting Instructional Guide*, medication refusal is defined as:

- Waiver participant refuses to take prescribed medications or medication managed by direct service providers. Medication refusal only relates to medications included on the Medication Administration Record (MAR). Medication refusal is considered a non-critical incident; however, if medication refusal results in medical attention in an emergency room, urgent care center, or hospital admission, this should be reported as a critical incident to the Regulating Agency.

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

### Section 4: Responsible Parties

#### Q41: Who is required to report a critical incident?

Date Added/Revised: May 7, 2019

Direct service providers, case managers, and support brokers/service advisors (for participant-directed services) are expected to report and track critical and non-critical incidents for waiver participants receiving 1915(c) Home and Community-Based Services (HCBS) waiver services. In addition, reporting incidents under the provisions of DMS's policy shall not replace the mandatory reporting requirements of Kentucky Revised Statute (KRS) 620.030 or 209.030 with regard to abuse, neglect, or exploitation (ANE).

#### Q42: Who is responsible for completing a critical incident investigation?

Date Added/Revised: May 7, 2019

The direct service provider or case manager (for traditional services) who submits the *Incident Reporting Form* to the regulating agency is responsible for completing a critical incident investigation and submitting the *Critical Incident Investigation Report*.

Please refer to *Question 43: Are participant-directed services (PDS) providers (support brokers/service advisors or direct service providers) expected to complete an incident investigation?* and *Question 44: Who is responsible for completing a critical incident investigation for waiver participants who receive blended services?* for investigation requirements involving waiver participants who receive PDS or Blended Services.

#### Q43: Are participant-directed services (PDS) providers (support brokers/service advisors or direct service providers) expected to complete an incident investigation?

Date Added/Revised: May 7, 2019

During the interim solution, the support broker/service advisor is responsible for reporting the incident but is not responsible for conducting its own investigation; however, this process will change once a web-based solution for critical incident reporting is implemented.

The PDS employee who provides services to a PDS waiver participant is expected to notify the support broker/service advisor of any incidents. The PDS employee is not expected to complete or submit the *Incident Reporting Form* nor the *Critical Incident Investigation Report*.

#### Q44: Who is responsible for completing a critical incident investigation for waiver participants who receive blended services?

Date Added/Revised: May 7, 2019

Waiver participants who receive blended services may receive services from traditional Medicaid direct service providers or from employees who are hired directly by the PDS participant and are paid by the financial management agency (FMA). The investigation requirements only apply to traditional Medicaid direct service providers. Providers or employees who are hired directly by the PDS participant and paid by the FMA are not expected to perform incident investigations.

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

Q45: Who is responsible for storing the incident reporting materials?

Date Added/Revised: May 7, 2019

The *Incident Reporting Form* or the *Critical Incident Investigation Report* should be stored at the location of the direct service provider, case manager, or support broker/service advisor who completed the form. Other parties who have access to or receive the incident materials are not required to store the documents.

Q46: Is the *Incident Reporting Form* to be completed by the staff member witnessing the incident, or can staff report to another staff member to complete the report?

Date Added/Revised: May 7, 2019

The waiver provider who witnessed or discovered the incident is allowed to report the incident to a designated staff member to complete the *Incident Reporting Form*; however, the waiver provider who witnessed or discovered the incident is ultimately responsible for the information included in the *Incident Reporting Form*.

Q47: Are direct service providers and case managers expected to work together on a critical incident investigation?

Date Added/Revised: May 7, 2019

Yes, waiver providers are expected to work collaboratively to ensure waiver participant safety and accurate reporting. The investigation process should be a team effort and both the direct service provider and case manager should work together to resolve the incident and to identify needed interventions.

Q48: Should the direct service provider and case manager both submit the *Incident Reporting Form* and complete the *Critical Incident Investigations Report* if the incident is discovered or witnessed by both parties?

Date Added/Revised: May 7, 2019

No. If both the direct service provider and case manager discovered or witnessed the incident, and the incident occurred at the direct service providers' location, the direct service provider is responsible for completing the *Incident Reporting Form* (for critical and non-critical incidents) and the *Critical Incident Investigations Report* (for critical incidents only).

If both the direct service provider and case manager discovered or witnessed the incident, and the incident did not occur at a direct service providers' location, the **first** person to witness or discover the incident is responsible for completing the *Incident Reporting Form* (for critical and non-critical incidents) and the *Critical Incident Investigations Report* (for critical incidents only).

Q49: To whom should incidents be reported if the affected waiver participant receives a blend of PDS and traditional waiver services?

Date Added/Revised: May 7, 2019

The reporter should report to both the PDS and the traditional regulating agency, in accordance with *Question 50: Who is my regulating agency?*

## Kentucky 1915(c) HCBS Waiver Redesign: Critical Incident FAQs

### Q50: Who is my regulating agency?

Date Added/Revised: July 9, 2019

When reporting to the regulating agencies, waiver providers only need to submit to one of the three regulating agencies (DMS, DAIL, or DBHDID), depending on the 1915(c) HCBS waiver and service delivery model.

Waiver	Service Delivery Model	Regulating Agency	Submit to
Acquired Brain Injury (ABI) and Acquired Brain Injury Long-Term Care (ABI-LTC)	PDS	DAIL	Email: <a href="mailto:DAIL.pds@ky.gov">DAIL.pds@ky.gov</a>
	Traditional (Non-PDS)	DMS	Email your assigned ABI staff member. ABI staff are assigned at time of the waiver providers' certification. If a waiver provider does not know who their contact is, call DMS at 502-564-5198.
Home and Community Based (HCB)	PDS	DAIL	Email: <a href="mailto:DAIL.pds@ky.gov">DAIL.pds@ky.gov</a>
	Traditional (Non-PDS)	DAIL	Email: <a href="mailto:dailHCB@ky.gov">dailHCB@ky.gov</a>
Model II Waiver (MIIW)	All	DMS	Email: <a href="mailto:angela.robinson@ky.gov">angela.robinson@ky.gov</a>
Michelle P. Waiver (MPW)	PDS	DMS	Email: <a href="mailto:MichelleP.Waiver@ky.gov">MichelleP.Waiver@ky.gov</a>
	Traditional (Non-PDS)	DBHDID	Email: <a href="mailto:BHDID.IncidentManagement@ky.gov">BHDID.IncidentManagement@ky.gov</a>
Supports for Community Living (SCL)	All	DBHDID	Email: <a href="mailto:BHDID.IncidentManagement@ky.gov">BHDID.IncidentManagement@ky.gov</a>

## Section 5: Completing the Reporting and Investigation Forms

Q51: How should we use the “diagnosis/illnesses” field on the *Incident Reporting Form*?

Date Added/Revised: July 9, 2019

This field relates to the diagnosis/illness that occurred as a result of the incident. Please include a brief answer if known. Do not include ICD-10 codes.

Q52: On the *Incident Reporting Form’s* Level of Harm or Injury to the Waiver Participant, would ER visits be a Level 2 or Level 3 if it does not require hospitalization?

Date Added/Revised: May 7, 2019

Emergency room visits and hospitalizations fall under Level 3 since the incident involves treatment beyond first aid.