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ASPE RESEARCH BRIEF

HHS OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION
OFFICE OF DISABILITY, AGING AND LONG-TERM CARE POLICY

# ADDRESSING CRITICAL INCIDENTS IN THE MLTSS ENVIRONMENT

## Introduction

As states move their Medicaid populations with disabilities from fee-for-service arrangements into managed long-term services and supports (MLTSS) environments, there is interest in ensuring that member health and welfare is safeguarded in this environment. The Centers for Medicare and Medicaid Services' (CMS's) guidance on the design of Medicaid MLTSS programs[1] includes a focus on member protections and the importance of having a critical incident reporting and management system. These systems are designed to respond to incidents that place a member at risk of harm. This Brief discusses the ways in which some established MLTSS programs manage critical incidents.[2] In all of these programs, the managed care organization (MCO) plays a key role in a state's MLTSS critical incident system.

## What Are Critical Incidents?

Critical incidents are events or occurrences that cause harm to members or serve as indicators of risk to a member's health or welfare. Some states also use the term "serious" or "sentinel" events. Most MLTSS programs include instances of abuse, neglect and exploitation in their list of critical incidents. Many programs consider other events as critical and reportable including:

- Unexpected hospitalization;
- Injury requiring medical treatment;
- Use of restraints or seclusion -- authorized or unauthorized;
- Member not receiving all of their needed services;
- Allegation of theft of member's money or belongings;
- Medication error;
- Missing person;
- Death; or
- Attempted suicide.

## Elements of a Critical Incident System in MLTSS

Typically, the state specifies how critical incidents should be reported and addressed -- either in the MCO contract and/or in MLTSS policies and procedures. The system's requirements usually include:

- Types of incidents that the MCO/provider must report.
- Entity or entities with whom the MCO/provider must file reports (e.g., protective services, licensing body, law enforcement).
- MCO/provider timelines for reporting (may vary depending on the incident).
- Whether the MCO, provider and/or state are responsible for conducting reviews/investigations.
- Processes and timeframes for conducting reviews/investigations.
- Required actions pending a review/investigation to protect the member.
- Any monitoring processes (required for the MCO and/or conducted by the state) to ensure that critical incident policies and procedures are being followed (e.g., incidents have been reported timely, investigations have been conducted).

## How Do MLTSS Programs Manage Critical Incidents?

In MLTSS, states substantially delegate responsibility for critical incident management to the MCO. They require the MCO to receive critical incident reports from providers, and investigate and/or review critical incident reports to ensure that member health and welfare is safeguarded.

States vary in their approach to defining which incidents must be reported. All have protocols for reporting and addressing instances of abuse, neglect and exploitation. Several states also require that additional incidents be reported. In other states, the MCO is allowed to specify additional types of incidents that they will report.

Some states establish critical incident procedures that MCOs must follow, yet others allow the MCO to develop its own approach. For example, Arizona requires MCOs to document all the steps in the investigation and resolution process for each incident, including follow-up with the participant to ensure that needs have been met and any required corrective action steps have been taken. On the other hand, in Tennessee MCOs must develop their own critical incident management protocols, but they are still required to report to the Medicaid agency any incident that significantly impacts the health/safety of a member. As is the case in most states, MCOs in Arizona are bound by law to report incidents to the state's protective service agency for qualifying incidents, but Arizona MCOs must also submit a copy of protective service reports to the Medicaid agency as well.

States also have different requirements for the timeframes within which specific incidents must be reported to them. Wisconsin, for example, requires the MCO to report "egregious" incidents immediately. Michigan requires MCOs to report certain deaths within 24 hours (i.e., those that occur as a result of suspected provider action/inaction and those that are the subject of a recipient rights, licensing or police investigation). In Tennessee, the MCO must report any death or incident that could significantly impact the health or safety of a member within 24 hours.

In Pennsylvania, the state operates a centralized electronic web-based critical incident reporting and management system. The MCO must report critical incidents using the web-based system within 24 hours of receipt of the report. Actions taken to ensure the safety of the member are also recorded in this system. This approach provides both the state and the MCO the ability to review and monitor in virtually real-time whether critical incidents experienced by members are being addressed appropriately and in a timely manner.

## How Do States Monitoring MCO Management of Critical Incidents?

Since most states do not currently utilize an electronic reporting/management system, they rely instead on critical incident reports from the MCOs as a way to monitor how the system is working. States have adopted different approaches to MCO reporting. Several require quarterly or bi-monthly critical incident reports from the MCO. As an example, Wisconsin requires MCOs to submit quarterly reports that provide a detailed listing of each incident including the date of the incident, actions taken, and a description of any policies/practices that have been changed to prevent similar incidents in the future. The state reviews the MCO's quarterly report using a standard review tool and provides feedback to the MCO within 30 days, including any concerns about the MCO's response to an incident.

States have the option of conducting audits as a way to monitor the MCO's handling of critical incidents to augment the reports they receive from MCOs. Tennessee, for example, has a practice of conducting semi-annual audits of how the MCOs manage critical incidents. These audits address whether the MCO accurately identified critical incidents and reported them timely to the state, and whether the MCO ensured that appropriate investigations were conducted and corrective actions were implemented. Texas takes another approach to monitoring. When reviewing the MCO, they draw a sample of members whose charts they will review and who they will interview. They make a point of including in the sample members who have experienced a critical incident (as identified from critical incident data submitted by the MCO). The focus of this part of the quality review is to ensure that the MCO/provider conducted appropriate follow-up to the occurrence of an incident and the member's health and safety was protected.

## Trending and Analysis for Improvement

Reviewing the number and types of incidents as well as findings from investigations can help to identify trends and patterns, and presents opportunity for prevention and improvement in how critical incidents are managed. There is evidence that the importance of trending and analysis of incidents is recognized by states as some formally require this of their MCOs. For example, Tennessee requires MCOs to track critical incidents to identify and address potential quality of care and/or health and safety issues. Similarly, MCOs in Wisconsin are required to have an ongoing program of collecting information about critical incidents, monitoring for patterns or trends, and using that information in quality improvement. As part of their quality improvement activities, MCOs in Arizona are required to analyze the effectiveness of interventions carried out to address critical incidents.

While it is important for MCOs to trend critical incident data, some states also assume this responsibility. For example, Michigan has a practice of reviewing critical incident data on a monthly basis, and then aggregates it into quarterly reports for trend analyses.

## Summary

In this Brief we have provided examples of the approaches that a handful of states take to address the occurrence of critical incidents among persons served through MLTSS programs. While not prescriptive about how Medicaid MLTSS programs must manage critical incidents, CMS provides guidance about essential aspects of a "well-conceived" critical incident system, including:

- Identification, reporting and investigation of critical incidents.
- Clarification of roles, responsibilities, expectations for the state, MCOs and providers.
- State monitoring of MCO and provider compliance with critical incident protocols.
- Tracking and trending of results for the purpose of system improvements.
- Continuous process improvements.

CMS expects these aspects of member protections be incorporated into new MLTSS programs as well as integrated into existing programs as states "revise, renew or expand" their programs. CMS further states that, moving forward, they will use these criteria to review and approve programs using the 1115 or 1915(b) waivers for MLTSS.

As states review their system requirements for critical incident processes and related MCO contract requirements, multiple options are available for structuring the management of critical incidents. However, one thing is abundantly clear among the states cited in this Brief -- the MCO plays a pivotal role in reviewing, processing and

investigating critical incidents. As such, it behooves states to carefully craft their expectations for the MCO's role and responsibilities for handling critical incidents, as well as the responsibilities of the provider network for collaborating with the MCO to manage incidents effectively. States on the cusp of implementing MLTSS should consider in the design of their program mechanisms for monitoring how MCOs and their provider network manage critical incidents, focusing on the outcome of protecting individual member well-being. Equally important in system design are mechanisms that require both the state and MCOs to examine critical incident data for the purpose of identifying trends that may be amenable to interventions -- perhaps system-wide, perhaps provider-based -- with the aim of fewer critical incidents or improved response to them when they occur.

## Endnotes


1. Centers for Medicare and Medicaid Services, Center for Medicaid and CHIP Services, 2013. *Guidance of States Using 1115 Demonstrations or 1915(b) Waivers for Managed Long-Term Services and Supports Programs*. Available at http://www.medicaid.gov/CHIP/CHIP-Program-Information.html. Accessed August 30, 2013.

2. This Brief draws on the experience of MLTSS programs in Arizona, Michigan, Minnesota, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin.



In this Brief, the authors Pat Rivard, Beth Jackson and Teja Stokes from Truven Health Analytics, describe the critical incidents that state typically require MLTSS plans to report, remedial actions taken, and timeframes for reporting both critical incidents and remedial actions.

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## Reports Available

Addressing Critical Incidents in the MLTSS Environment: Research Brief
- HTML http://aspe.hhs.gov/daltcp/reports/2013/CritIncidRB.shtml
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Did They or Didn't They?: A Brief Review of Service Delivery Verification in MLTSS
- HTML http://aspe.hhs.gov/daltcp/reports/2013/verifyRB.shtml
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Environmental Scan of MLTSS Quality Requirements in MCO Contracts
- Executive Summary http://aspe.hhs.gov/daltcp/reports/2013/MCOcontres.shtml
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How Have Long-Term Services and Supports Providers Fared in the Transition to Medicaid Managed Care? A Study of Three States
- Executive Summary http://aspe.hhs.gov/daltcp/reports/2013/3LTSStranses.shtml
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Participant-Directed Services in Managed Long-Term Services and Supports Programs: A Five State Comparison
- Executive Summary http://aspe.hhs.gov/daltcp/reports/2013/5LTSSes.shtml
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Performance Measures in MLTSS Programs: Research Brief
- HTML http://aspe.hhs.gov/daltcp/reports/2013/PerfMeaRB.shtml
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