TODAY’S DISCUSSION

1. Introduction to Speakers
2. Overview of Critical Incidents
3. Recent CMS Activities and OIG Guidance
4. Best Practice Guidance for an Effective Incident Management System
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What is a Critical Incident?

• “Critical incidents” are situations that put the health, safety or welfare of participants at risk. Some states also use the term “adverse”, “serious” or “sentinel events”.
  o This may include medical (e.g., serious medication error, death, serious injury, etc.) and safety concerns (e.g., missing person, restrictive interventions, etc.).
• There is no standard federally defined term for “critical incident” that outlines the scope of reportable incidents, leading to variation across states (1)

Common Critical Incident Types Tracked by State Medicaid Agencies:

• Abuse, Neglect, and Exploitation
• Unexpected Deaths
• Unexpected Hospitalization
• Serious Injury
• Criminal Activity/Legal Involvement
• Loss of Contact/Elopement
• Suicidal Behavior
• Medication Errors
• Use of Restraints/Seclusion

States operating HCBS waivers are required to provide assurances to CMS that necessary safeguards are in place to protect the health, safety, and welfare of participants receiving services. For critical incidents this includes:

- The state must demonstrate on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death.
- The state must demonstrate that an incident management system is in place that effectively resolves those incidents and prevents further similar incidents to the extent possible.

The state should:

- Specify the types of critical events or incidents
- Identify individuals/entities that must report critical incidents
- Define entity responsibilities
- Define timeframes for reporting and conducting/completing an investigation
- Define method(s) of reporting (e.g., phone, written form, web-based report)
- Define notification requirements (e.g., participants, guardian, etc.)
PARTIES INVOLVED IN CRITICAL INCIDENTS

Consumers and Other Parties
- Participants / Family Members / Neighbors / Friends / Guardian

Medicaid Waiver Providers
- Direct Service Providers / Case Managers / Support Brokers

State Agencies
- 1915(c) Operating Agency
- Law Enforcement
- State Medicaid Agencies
- Attorney General
- Office of Inspector General
- Adult/Child Protective Services

Federal Agencies
- Centers for Medicare & Medicaid Services (CMS)
- Office of Inspector General
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GAO issues a critical report about CMS oversight of HCBS waivers.

2004: CMS issues procedural guidance to states regarding site visits and a new waiver quality improvement plan.

2007: CMS updates the process for the Regional Offices to request evidence from states.

2014: CMS updates the HCBS regulations and identifies new sub-assurances related to critical incident management.

HHS OIG and CMS audit state critical incident reporting and monitoring processes and find significant gaps.

HHS OIG and CMS provide guidance to states.
RECENT CMS ACTIVITIES

**CMS Surveys**
- CMS issued a pilot survey in May 2018 to seven states to better understand how states approach critical incident management.
- CMS issued a statewide survey in July 2019, responses were due on or before August 28, 2019.

**CMS Site Visits**
- CMS created H&W Special Review Teams (SRTs) that will work with states during the next three years to improve H&W issues and provide technical assistance to states regarding H&W issues, critical incident management, compliance with assurances, and other relevant areas through weeklong site visits.
- In FFY 2019, CMS conducted visits in three states.

**What’s Next?**
- CMS will share survey results.
- CMS expects to visit another 15 states in FFY 2020.
- CMS anticipates providing additional trainings and educational materials (e.g., practice briefs, lessons learned papers, and tool kits etc.) to support critical incident management.
HHS OIG and ACL Recommendations to Improve Incident Management – January 2018

A Roadmap for States – Compliance Oversight Model Practices
A toolbox for better health and safety outcomes in group homes

Model Practices for State Incident Management and Investigation
- Reporting and notification
- Incident review
- Investigation
- Corrective action and implementation
- Trend analysis

Model Practices for State Incident Management Audits
- Assess incident reporting
- Assess response and review of incidents
- Assess investigations
- Assess corrective actions
- Assess identification and response to incident trends

Model Practices for State Mortality Reviews
- Identify cause and circumstances of beneficiary death
- Where warranted, take corrective action
- Identify mortality trends
- Systemic responses and evaluation of their efficacy
- Reporting

Model Practices for State Quality Assurance
- Oversight of service planning and delivery
- Periodic assessment of performance
- Review network capacity and accessibility
- Compliance monitoring of requirements and outcomes

HHS OIG Guide to Identify Unreported Instances of Abuse or Neglect – July 2019

This guide helps identify:
1. unreported instances of abuse or neglect
2. beneficiaries or patients who may require immediate intervention to ensure their safety
3. providers exhibiting patterns of abuse or neglect, and
4. instances in which providers did not comply with mandatory-reporting requirements.
TODAY’S DISCUSSION

1. Introduction to Speakers
2. Overview of Critical Incidents
3. Recent CMS Activities and OIG Guidance
4. Best Practice Guidance for an Effective Incident Management System
1. Select critical incident types that are meaningful

2. Create clear policies regarding critical incident reporting requirements

3. Establish clear responsibilities across state agencies

4. Provide sufficient materials to support incident reporting

5. Track and analyze meaningful data points to minimize preventable incidents

6. Create a single web-based system to track critical incidents
RECOMMENDATION #1: SELECT CRITICAL INCIDENT TYPES THAT ARE MEANINGFUL

States should consider selecting critical incident types that 1) align with CMS requirements and 2) are important based on historical provider performance.

- Key factors to consider include:
  - Critical incidents types outlined by CMS, OIG, and state regulations
  - Provider history and incident trends across the state
  - Administrative burden on both providers to report on and state staff to manage
  - Critical incident types that the state does not want to collect (e.g., scheduled medical procedures/surgeries)
CMS AND OIG GUIDANCE REGARDING INCIDENT TYPES

CMS Requirements: 7 Incident Types: (1)
- Abuse (including physical, sexual, verbal and psychological abuse)
- Mistreatment or neglect
- Exploitation
- Serious injury
- Death other than by natural causes
- Other events that cause harm to an individual
- Events that serve as indicators of risk to participant health and welfare (e.g., hospitalizations, medication errors, use of restraints or behavioral interventions)

Additional Incident Types Recommended by OIG: 9 Incident Types: (2)
- Events leading to adverse outcomes for participants due to staff misconduct / error
- Events resulting in injury or illness requiring medical treatment beyond first aid
- Choking incidents
- Hospital emergency room visits where the injury or the medical condition could indicate abuse or neglect
- Elopements whereby the individual is removed from staff supervision or placed at risk of serious harm
- Behavioral incidents that result in employee physical intervention, serious risk of harm, or property damage valued at more than $150
- Emergency situations (e.g., fires, flooding, serious property damage)
- Criminal conduct by participants
- Incidents involving law enforcement

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<tr>
<th>Key Decision Points</th>
<th>Considerations</th>
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<td>1. Does critical incident reporting apply to all incident events or only those that involve a paid Medicaid provider?</td>
<td>State examples:&lt;br&gt;• Pennsylvania: A Critical Incident is an unexpected and undesirable event that has an adverse impact on the outcome of care that occurs during a Member’s term of care funded through PerformCare. CIR submission should occur to PerformCare only if PerformCare is funding the service.&lt;br&gt;• Kentucky: Critical incidents are serious in nature and pose immediate risk to the health, safety, or welfare of waiver participants or others.</td>
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<td>2. Who should be notified when a critical incident occurs?</td>
<td>Kentucky’s incident reporting instructional guide describes notification requirements for the following parties:&lt;br&gt;• <strong>Law Enforcement</strong> (For incidents involving criminal activities)&lt;br&gt;• <strong>Family Member</strong>: 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.&lt;br&gt;• <strong>Medical Provider</strong>: The medical provider is notified for incidents involving medication errors or hospitalization.&lt;br&gt;• <strong>Direct Service Provider</strong>&lt;br&gt;• <strong>Case Manager or Support Broker</strong>&lt;br&gt;• <strong>State or Private Guardian</strong> (If applicable and if specified in the PCSP)</td>
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### Key Decision Points

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<th>3. Who is responsible for investigating an incident?</th>
<th>HHS OIG recommends:</th>
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<td>• <strong>The State should ensure independent State investigations of allegations of specified incidents</strong> (e.g., abuse and neglect that results in serious or repeated harm to participants; sexual abuse; unexpected deaths; incidents that result in life-threatening or serious injury or illness that appear to be due to provider misconduct/ANE or due to environmental hazards; etc.).</td>
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<td>• <strong>The State may delegate investigation for other incident situations to provider agencies or other entities.</strong></td>
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| 4. Should the 1915(c) operating agency or APS investigate incidents involving abuse, neglect, or exploitation? | CMS HCBS Technical Guidance: “…if the state’s adult protective services (APS) agency has primary oversight responsibility for incident management, there should be processes whereby the APS agency regularly furnishes the Medicaid agency and/or operating agency with information about critical incidents that involve waiver participants and that the agencies work together to identify strategies to reduce the occurrence of critical incidents.” |

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(1) [https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/downloads/technical-guidance.pdf](https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/downloads/technical-guidance.pdf)
**RECOMMENDATION #2: CREATE CLEAR POLICIES REGARDING CRITICAL INCIDENT REPORTING REQUIREMENTS (CONTINUED)**

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| 5. What critical incident information should be shared with the impacted participant? | • Navigant reviewed critical incident policies from 21 states. **Of the 21 state policies, only 6 mention either notification to the participant for the incident and/or notification to the participant of the investigation/participant involvement in the investigation.**  
  • The ACL/OIG Joint Report includes the following statements:  
    o The State should ensure the dissemination of appropriate summaries of investigation findings, conclusions, and recommendations for corrective action to:  
      ▪ relevant service provider personnel including employees directly associated with the incident,  
      ▪ the service recipient’s support coordinator and support coordination agency, and  
      ▪ the service recipient and his or her family or friends (with consent of the individual service recipient or their legal guardian or legal representative if the service recipient is unable to provide consent). |

If you need additional guidance on how to approach policy decisions, ask CMS!
RECOMMENDATION #3: ESTABLISH CLEAR RESPONSIBILITIES ACROSS STATE AGENCIES

• We recommend that the single state Medicaid agency create or update its agreements (often referred to as Memorandum of Understanding) with other state agencies to outline roles and responsibilities related to critical incidents.

• Other state agencies involved in critical incidents typically includes:
  o Adult/Child Protective Services
  o Agency responsible for provider licensure
  o Law Enforcement
  o Attorney General
  o 1915(c) Operating Agency

Key Components to Address in an Inter-Agency Agreement:
- Critical incident intake and investigation responsibilities and authority
- Approach to identifying Medicaid participants and providers
- Approach to sharing information (e.g., intake forms, investigation reports, etc.)
- Liaisons / points of contact
- Interagency training
RECOMMENDATION #4: PROVIDE SUFFICIENT MATERIALS TO SUPPORT INCIDENT REPORTING

Materials Outlining State Requirements

Forms / Reports for Reporting Purposes

Training Materials
RECOMMENDATION #5: TRACK AND ANALYZE MEANINGFUL DATA POINTS TO MINIMIZE PREVENTABLE INCIDENTS

States should consider tracking at least the following data points:

- **Waiver Measures**: Performance measures that are described in the state’s 1915(c) waivers (e.g., # of critical incidents resolved within 30 days of the date of the critical incident report date)
- **Reporting Timeframes**: Number of critical incidents reported within required timeframes
- **Severe Cases**: Status/outcome of reported abuse, neglect or exploitation (ANE) cases
- **Member Specific Dashboard**: Number and type of incident reports for a member during a specified timeframe
- **Provider Specific Dashboard**: Number and type of incident reports for a provider during a specified timeframe
- **Emergency Room (High Cost Claims)**: Usage of ER visits.
CMS GUIDANCE IN ANALYZING CRITICAL INCIDENT DATA

- Commit to a **regular schedule** for aggregating and **analyzing findings and trends (no less than annual basis)**
- Identify areas of **improvement, interventions** to address adverse trends and patterns, and **training opportunities** for stakeholders to help prevent and mitigate incidents
- Gathering information for system-wide oversight, including:
  - Participant and provider characteristics
  - How quickly reports are reviewed, investigated, and followed-up
  - Results of investigations
- Determine the **types of analysis** to conduct, which may include:
  - Recurring deficiencies;
  - Types of incidents;
  - Types of providers/provider analysis;
  - Location of incidents;
  - Alleged perpetrators;
  - Investigation findings of: Outlier incidents; Abuse, neglect or exploitation; ER visits/hospitalizations;
  - Incident resolution timelines; and
  - Other medical findings

RECOMMENDATION #6: CREATE A SINGLE WEB-BASED SYSTEM TO TRACK CRITICAL INCIDENTS

ADRC (No-Wrong Door)

OAA System

Waiver CM System(s)

Critical Incident Management System

Web Incident Form

Public
Guardianship
State Plan Providers
Aging/OAA Providers

Medicaid MCOs
PD/ID/DD Providers
State Hospitals
SNFs ICFMR
Cong. Living Providers

Adult Protective Services
Child Protective Services
PROTECTIVE SERVICES DATA TO FACILITATE INTERDEPARTMENTAL COMMUNICATION

• Determine when to contact protective services.
  o Severe Incidents may require immediate referral to protective services.
  o Early identification helps set expectations for the investigation

• Data sharing may happen:
  o Through creation of reports and triggers
  o Posted in centralized system
  o Weekly meetings

• All protective service calls are critical incidents, but not all critical incidents will rise to the level of a protective services investigation.
CRITICAL FUNCTIONALITY FOR ELECTRONIC REPORTING/MANAGEMENT OF CRITICAL INCIDENTS

- Multiple mechanisms for submitting incident reports
- Ability to compare incident occurrence date/time to incident submission date/time as a performance indicator
- Workflow automation to allow for different workflow for different incident types
- Mechanisms to ensure that incident reports flow through often complex, multi-tiered review/approval process
- Tracking of incident review, follow-up and when necessary, investigation
- Ability to report on critical incidents to detect providers in need of additional training and/or sanction, detect trends, etc.
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About WellSky

WellSky is a technology company advancing human wellness worldwide. Our software and professional services address the continuum of health and social care — helping businesses, organizations, and communities solve tough challenges, improve collaboration for growth, and achieve better outcomes through predictive insights that only WellSky solutions can provide.
We are committed to

• Serving our customers to ensure they can serve their communities

• Anticipating provider needs in an ever-changing care landscape

• Using data and applied insights to elevate and intelligently scale care

Together, we are realizing care’s potential and building communities that thrive.
We partner with organizations across the care spectrum

**Hospital:**
Ensuring hospitals can focus on delivering superior patient care safely and efficiently

**Practices & Facilities:**
Enhancing providers’ abilities to streamline operations and focus on the delivery of care

**Home:**
Empowering providers to deliver exceptional care while focusing on improving outcomes

**Community:**
Supporting dynamic communities of care with our diverse set of human services solutions
Hospital
- Blood Transfusion
- Hospital Donor Program
- Biotherapy Clinics
- Inpatient Rehabilitation
- Outpatient Rehabilitation
- Acute Respiratory & Rehabilitation
- Enterprise Scheduling
- Medication Management
- International Medication Management

Home
- Home Health
- Hospice
- Home Infusion
- Specialty Pharmacy
- Home Medical Equipment
- Private Duty
- Home Health Therapy
- OASIS Review & Coding
- Billing & Revenue Cycle Services
- DDE & Payer Connection

Practices & Facilities
- Behavioral Health & IDD Providers
- Donor Testing Services
- Biotherapy Labs
- Private Practice Rehabilitation
- Scheduling
- Long-Term Care
- Correctional Medication Management

Community
- Payers
- IDD Payers
- Aging & Disability
- Protective Services
- Incident Management
- Information & Referral
- Community-Based Organizations
- Housing & Homelessness
- Blood Centers
Practices and Facilities
- +50 million blood donor tests annually
- +22 million rehab treatments in 12 months
- +2.3 million rehab patients served in 12 months
- +135 medication management facilities (including 34 correctional health facilities)

Community
- +35,000 daily users
- +3,000 agencies providing services
- Used by majority of Area Agencies on Aging
- Used by majority of HUD Continuums of Care
- Customer organizations in 50 US states, Washington D.C., and Canada

Hospital
- FDA 510(k) cleared system for blood banks
- The blood compliance solution for U.S. Department of Defense facilities worldwide
- +450 transfusion sites worldwide
- +20,000 cord blood and tissue donors registered

Home
- +4,500 home health and hospice agencies
- +34 million billable visits in 12 months
- +$11 billion Medicare claims processed
- +200,000 care tasks every day