

HOUSE BILL No. 2413

By Representative Swenson

2-9

9 AN ACT concerning medicaid; providing for choice in medicaid long-
10 term care services and supports and creating a comprehensive, unified,
11 integrated system of long-term care, services and supports; authorizing
12 certain actions and imposing certain duties upon the secretary of social
13 and rehabilitation services; establishing the choice, independence and
14 flexibility act committee to assist in administration of the act.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. This act shall be known as and may be cited as the choice,
18 independence and flexibility act. Under this act all necessary long-term
19 services and supports shall be provided to all eligible medicaid recipients,
20 as determined by functional need unique to the individual. Long-term
21 care funds shall follow the individual throughout the life span of the in-
22 dividual and shall provide for self-developed services and care in any
23 residential setting of the individual's choice.

24 Sec. 2. As used in this act:

25 (a) "Long-term care, services and supports" shall include but not be
26 limited to:

- 27 (1) Medicaid 1915(c) HCBS and 1115 waivers;
- 28 (2) personal care option state plan services;
- 29 (3) targeted case management state plan services;
- 30 (4) senior care act state funded services; and
- 31 (5) any other state or federally funded long-term care, counseling,
32 case management or support service.

33 (b) "Facility based long-term care, services and supports" shall in-
34 clude but not be limited to:

- 35 (1) Nursing facilities;
- 36 (2) assisted living;
- 37 (3) ICF/MR facilities;
- 38 (4) state institutions;
- 39 (5) adult care boarding homes;
- 40 (6) group homes; and
- 41 (7) any other agency owned or operated, licensed, congregate living
42 facility or arrangement.

43 (c) "Eligible recipient" means:

- 1 (1) A person, regardless of age, medical diagnosis, type or severity of
2 disability who qualifies according to state and federal medicaid rules and
3 regulations; or
- 4 (2) a person regardless of age, medical diagnosis, type or severity of
5 disability who qualifies for any state funded long-term care services and
6 supports program.
- 7 (d) “Functional need” means a measurement that is based on a stan-
8 dard assessment tool and that maximizes consumer input of the level of
9 long-term care, services or supports necessary to maintain or to increase
10 independent functioning physically and cognitively as appropriate to the
11 needs of the individual.
- 12 (e) “Real choice” means a recipient’s right to make fully informed
13 decisions about every aspect of their long-term care services and supports
14 options, including the right to self-determination and self-direction of all
15 services provided and includes the right of an eligible recipient to choose
16 among any agencies qualified to provide services and the right of an eli-
17 gible recipient to appeal any decision made regarding the type, amount
18 and scope of services offered or provided under this act, including the
19 right to be represented by advocates chosen by the eligible recipient.
- 20 (f) “Financial medicaid provider agency (FMPA)” means:
- 21 (1) A for-profit or not-for-profit agency that offers attendant or sup-
22 port worker payroll services, medicaid billing services and other financial
23 services for any eligible recipient for long-term care, services and supports
24 as defined in this act and which provides services to eligible recipients
25 without regard to age, medical diagnosis and nature or severity of disa-
26 bility of the eligible recipient; or
- 27 (2) a for-profit or not-for-profit agency that meets the requirements
28 of (f)(A) of this act and that provides long-term care, services and supports
29 to any eligible recipient as defined in this act including but not limited
30 to:
- 31 (A) Home health care agencies;
32 (B) nursing facilities;
33 (C) assisted living facilities;
34 (D) ICF/MI facilities; and
35 (E) ICF/MR facilities.
- 36 (g) “Counseling and advocacy medicaid provider agency (CAMPA)”
37 means an agency which meets the following basic requirements:
- 38 (1) A for-profit or not-for-profit agency that offers assistance with
39 developing an individualized plan of care, services and supports to eligible
40 recipients as defined in this act;
- 41 (2) a for-profit or not-for-profit agency with demonstrated knowledge
42 and experience of all long-term care, services and supports as defined in
43 this act; and

- 1 (3) a for-profit or not-for-profit agency with demonstrated knowledge
2 and experience of any other federal, state or local services options, com-
3 munity resources and opportunities including but not limited to:
- 4 (A) Rehabilitation services;
 - 5 (B) housing or shelter, or both;
 - 6 (C) food;
 - 7 (D) utilities;
 - 8 (E) transport;
 - 9 (F) employment;
 - 10 (G) pharmacy and health care assistance; and
 - 11 (H) qualifies as a provider based on state requirements to develop
12 person-based plans of care, services and supports as defined in this act.
- 13 (h) “Individual directed (ID)” means an eligible recipient who de-
14 velops an individualized plan of care, services and supports for oneself
15 and who has the right to choose to provide any and all of the services and
16 supports as specified in subsections (f)(A) and (g) of this section.
- 17 (i) “Self-directed” shall have the meaning provided in subsection (l)
18 of K.S.A. 65-1124 and K.S.A. 65-6201, and amendments thereto.
- 19 (j) “Most integrated setting appropriate to the need” means the set-
20 ting chosen by an eligible recipient or guardian and such person’s adv-
21 vocates that maximizes freedom and independent functioning of the eligible
22 recipient taking into account all available long-term care services and
23 supports including training and technology that support independence.
- 24 (k) “Secretary” means the secretary of social and rehabilitation
25 services.
- 26 (l) “Health care authority (HCA)” means a designated state agency
27 with oversight and policy authority for medical programs within the de-
28 partment of social and rehabilitation services.
- 29 Sec. 3. (a) The health care authority or the secretary, or both, will
30 assure that the choice, independence and flexibility act (CIFA) as defined
31 in section 1, and amendments thereto, shall be available to any eligible
32 recipients, shall follow the individual throughout the individual’s life span
33 and shall be made available in home or residential settings of the individ-
34 ual’s choice including but not limited to those settings defined in subsec-
35 tion (b) of section 2 and amendments thereto.
- 36 (b) Eligible recipients may choose:
- 37 (1) To self direct all or any portion of their long-term care, services
38 and supports;
 - 39 (2) to utilize a counseling and advocacy medicaid provider agency
40 (CAMPAs); or
 - 41 (3) to utilize facility based long-term care, services and supports.
- 42 (c) If facility based long-term care, services and supports are chosen,
43 the eligible recipient shall have the right to the most integrated setting

1 including but not limited to:

2 (1) Accessing, as appropriate, community activities such as recreation,
3 shopping, religious activities and entertainment; and

4 (2) utilizing, as appropriate, any other service, feature or function
5 available to anyone else in the community without regard to age, medical
6 diagnosis, type or severity of disability.

7 (d) Individual directed participants may utilize a financial medicaid
8 provider agency and may choose to not continue to individual direct at
9 any time.

10 (e) The health care authority or the secretary, or both, shall assure
11 that nursing facility residents are provided with the option of working
12 with a counseling and advocacy medicaid provider agency on develop-
13 ment of their plan of long-term care, services and supports.

14 (f) The secretary shall assure that eligible participants choosing facil-
15 ity based long-term care will, at least annually, be interviewed by a coun-
16 seling and advocacy medicaid provider agency (CAMPA) to assure they
17 are residing in the most integrated setting appropriate to their needs.

18 Sec. 4. (a) All reimbursement rates for long-term care, services and
19 supports shall be equal, regardless of age, medical diagnosis, type or se-
20 verity of disability of the eligible recipient choosing the services.

21 (b) Facility rates shall be reimbursed on number of actual direct serv-
22 ice care hours that are rendered as contained in an eligible medicaid
23 recipient's plan of care except that additional reimbursement may be
24 made for meals and reimbursement may be made for shelter expenses
25 for an efficiency unit based on current fair market rents (FMR) as pub-
26 lished annually by governmental entities.

27 (c) Financial medicaid provider agencies shall provide payroll and
28 other financial services without regard to age, medical diagnosis or type
29 or severity of disability of participants including self directed and individ-
30 ual directed participants.

31 (d) Financial medicaid provider agencies shall not provide counseling
32 and advocacy medicaid provider services to the same eligible recipient.

33 Sec. 5. (a) The health care authority or the secretary, or both, shall
34 develop a state-wide, comprehensive, unified long-term care, service and
35 supports system within the structure of the department of social and
36 rehabilitation services which includes but is not limited to providing: El-
37 igibility for all state benefits to be provided under the system including:
38 (1) Medical/health care and prescription drugs; (2) dental care and vision
39 care; (3) nutritional assistance; (4) long-term care, services and supports
40 including home and community based services; facility based services,
41 medically necessary devices and equipment and adaptive, assistive devices
42 and equipment; (5) rehabilitation services; (6) transitional services from
43 institutions; and (7) any other service or support under the system.

- 1 (b) The secretary shall assure the social and rehabilitation services
2 service center staff have knowledge of and information about: Counseling
3 and advocacy medicaid provider agencies, individual directed services,
4 financial medicaid providers and other critical components of this act.
- 5 (c) The governor shall appoint a steering committee, known as the
6 choice, independence and flexibility act committee to assist the secretary
7 with development of all aspects of the act. The governor shall accept
8 letters of interest from organizations or individuals and appoint members
9 representing all areas of the state having demonstrated experience with
10 working with cross-disability populations and demonstrated experience
11 working with all age groups and recipients of long term-care, services and
12 supports.
- 13 (d) The health care authority and the secretary, in equal cooperation
14 with the choice, independence and flexibility act committee, shall adopt
15 necessary rules and regulations which will assure that all Kansans eligible
16 for long-term care, services and supports as defined in section 2, and
17 amendments thereto, will be entitled to the full range of individual di-
18 rected and self directed choices to receive such services, supports, ad-
19 vocacy and care in the setting of their choice.
- 20 Sec. 6. This act shall take effect and be in force from and after its
21 publication in the statute book.