Approved Feb-3, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Carol H. Sader at
Chairperson

1:30 a.m./p.m. on January 27, 1992 in room 423-S of the Capitol.

All members were present except:

Representatives Carmody, Cozine, Lynch, Neufeld, Wagle, all excused.

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chair called meeting to order drawing attention to Committee minutes of January 21st. She asked members to read them over carefully.

Rep. Love noted on page 2, paragraph 4, the minutes read, "a sliding scale cannot be used whan a cap is in place." He disagrees with this language, noting he does not remember those words being used, and asked for clarification. Discussion was held.
Chairperson Sader said the tape would be checked and until clarification of this language is made no further action will be taken on minutes of January 21st.

Chair drew attention to an article that had been copied for each member, (Attachment No.1). The article was regarding the 300% SSI cap and is for informational purposes.

Chair noted staff had been given direction to draft a letter to be sent from our Committee to the Congregational Delegation requesting that consideration be given to a change in the federal regulations to obviate this problem that is existing with the division of assets. That letter is being drafted.

The Chair also would like in-put from members on whether or not they would want to introduce a Joint Resolution to the Kansas Congressional

Delegation from the Legislature Committee expressing the same message. If that is the Committees wish, we can request the Revisor to draft such a Resolution.

At this point, Rep. Bishop moved to instruct staff to draft such a Resolution to the Congregessional Delegation. Motion seconded. No discussion. Motion carried.

Chair noted that after the draft is prepared, it will be reviewed by this Committee.

DISCUSSION WAS OPENED ON HB 2566.

Rep. Bishop stated that since the recommendations of the Department of SRS, Aging, and Health/Environment were in the form of a Substitute for HB 2566, he would suggest we consider the Substitute Bill.

Rep. Bishop made a motion that this Committee look at the draft of the Substitute HB 2566 that has been prepared by Revisor, Mr. Furse. Motion seconded by Rep. Amos. No discussion. Motion carried.

Chair requested Mr. Furse to give a briefing on **Substitute HB 2566.**

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 a.m./p.m. on January 27, 1992

BRIEFING ON SUBSTITUTE FOR HB 2566.

Mr. Furse drew attention to (Attachment No.2) and he gave a detailed explanation of the bill noting additional language on Pages 2 and 3 that includes language from the Minnesota law in respect to the language of Substitute HB 2566. (Attachment No. 3), the Minnesota statutes. Mr. Furse detailed the exemptions in this Attachment.

He drew attention to the term "same resources" noting it is unclear. He drew attention to subsection (d) and detailed rationale. He then answered numerous questions, yes, a private pay patient also has to be assessed under this mandate; perhaps a less lengthy and single document could be used for the assessment with language in the bill to authorize the Secretary to "adopt" or "approve" rather than "develop" an assessment instrument.

Numerous concerns were discussed. Concern regarding the amount of the $1000 fee; length of turn around time; if the $1000 fee is due up-front, and if a facility is turned down as a processor of the screening process, is that fee still non-refundable. It was noted, since this is considered an essential service by the Department of SRS, perhaps the Department of SRS should be the Department to pay for it; concerns with individuals being assessed feeling degraded by some of the questions, so perhaps wording could be modified to eliminate that problem.

Ms. Correll pointed out this service has already been available for about 5 years. Substitute HB 2566 would add to the entities who can perform this assessment procedure of clients.

Attention was drawn to (Attachment 4 from January 23). Her comments reflect concerns of some members of this Committee in regard to the assessment instrument questions.

It was noted the assessment instrument could provide a money saving tool by giving the state accurate figures on who needs to go into a nursing home and who does not; how many need in-home services or other alternative care. It was noted the data from the assessment may convey who might benefit perhaps from a $500 monthly grant and they could remain in their own home, rather than the state paying $1000 for that same person being admitted in an institutional setting.

It was pointed out the importance of the collection of data.

Chair asked for a motion in order to proceed.

Rep. Bishop moved to accept the **Substitute HB 2566** in its present form, subject to debate and amendment, seconded by Rep. Praeger. No discussion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 a.m./p.m. on January 27, 1992

DISCUSSION CONTINUED ON SUBSTITUTE HB 2566.

Rep. Bishop moved to amend Substitute HB 2566 on page 1, section 1 (b) to change the language by deleting "the same resource" and insert in lieu thereof, "shall make the same resource information available". Motion seconded by Rep. Amos. No discussion. Motion carried.

Rep. Bishop moved to amend Sub. HB 2566 in Section 1 (c) by deleting "develop" and insert in lieu thereof "adopt". Motion seconded by Rep. Wiard. No discussion. Motion carried.

Rep. Bishop moved to amend Sub. HB 2566 on page 2 sub (d) after the $1000, by inserting the words "Once a provider is approved" before the words "the application fee shall not be refundable. If the application is denied 90% of the application fee shall be refunded to the applicant, 10% shall be retained by the Secretary to cover administrative expenses".
Motion seconded by Rep. Wiard. Discussion ensued. Some suggested the $1000 is too high for areas that may not have a large number of individuals to pre-screen. Commissioner Epps was consulted about the projected number of patients to be screened. The suggestion was made that perhaps a fee for the assessment process could be set by the Secretary on a percentage basis for the number of assessments being done.

Vote taken. Motion carried.

Rep. Praeger moved to amend Sub.HB 2566 by adding language after the words "application fee fixed by the Secretary of Social and Rehabilitation services" to strike "of" and add the language, "each application shall be accompanied by an application fee fixed by the Secretary based upon the estimated number of assessments performed by the applicant but". Motion seconded by Representative Wiard. Discussion continued. Vote taken. Motion carried.

Rep. Bishop moved to amend Sub.HB 2566 on page 1 Section 1 (c) by adding language after "referral service" add the language, "in addition to the instrument the SRS shall use this instrument to compile data annually on the need for community based services for further delay of admission to adult care homes." Motion seconded by Rep. Love. No discussion. Motion carried.

Discussion continued in regard to emergency situations.

Rep. Wiard moved to amend Sub. HB 2566 on page 3 to insert as (6) by adding language, "Individuals who are admitted to an adult care home on an emergency basis by virtue of a physicians certification of the emergency so long as the assesssment occurs within 10 days subsequent to the admission". Motion seconded by Rep. Flower. No discussion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S Statehouse, at 1:30 ~~a.m.~~/p.m. on January 27, 1992

Discussion continued on concerns with the turn-around time involved with the process of assessment. Commissioner Epps was asked what the average time delay is, but he noted he would need to ask others in the Department of SRS that were more directly involved with that phase.

Rep. Hackler moved to amend conceptionally to indicate that the Department of SRS be asked to comply in a reasonable time. Rep. Love seconded the motion. Discussion continued. What is a reasonable time, is 10 days long enough, too long? Commissioner Epps stated he thought it could take up to 3 weeks for turn-around. No action taken on Rep. Hackler's motion.

It was determined to wait to take further action until the Revisor has redrafted the bill per the suggestions and the amendments voted on so far today. Chair recommended we would continue study and discussion of **Sub. HB 2566** at a later meeting.

Chair adjourned meeting at 3:17 p.m.

THE LEAVEN
ARCHDIOCESE OF KANSAS CITY IN KANSAS
JAN 10, 1992

PHAW 1-27-92 Att #1

New legislation puts many seniors at risk

Sister Mary Austin Schirmer

Senior citizens and any who are concerned about the rights of the elderly should be especially concerned now. On Jan. 14, Governor Joan Finney will deliver her "State of the State" message to the convened state legislature. It is important that she hear the concerns of all of us who work for the rights and needs of the elderly.

Four years ago, after years of effort by senior citizens and other concerned groups, the legislature passed the Division of Assets law. This law prevented the impoverishment of one spouse when the other spouse entered a nursing home. According to the provisions of this law, the sick spouse was able to receive Medicaid benefits by permitting the spouse confined to a care home to transfer assets and income to the spouse who remains at home.

In its last session, the legislature mandated the cap for Medicaid eligibility and as a result, Social and Rehabilitation Services (SRS) implemented a new regulation on Sept. 1, 1991, which reduces the effectiveness of the Division of Assets law passed in 1988.

The regulation which is in effect at present denies care to some older Kansans who are too disabled or sick to stay at home, as well as removing the protection against poverty for the spouses of some disabled older Kansans.

The SRS regulation amends the Division of Assets rules to cap eligibility for Medicaid coverage for nursing home care at $1266 in monthly income. A person with more income will have to pay the full cost of nursing home care. Couples will *not* be able to divide assets when the husband or wife has income above the cap.

The 1991 Kansas Legislature mandated the $1266 cap in an attempt to save money devoted to nursing home care. The legislature protected people already covered by Medicaid from the cap, but the September 1 regulation promulgated by SRS denies any protection for persons entering nursing homes after that date.

The result, then, will be that couples will have to pay the full cost of nursing home care even if the spouse who remains at home will be left penniless. For example, there is a couple in Dickinson County in need of nursing home care for the husband. His nursing home care there costs $3000 per month. The husband's earnings are $1,836 per month; the wife's monthly income is $199; and they have $20,000 in savings.

According to this new regulation, they will have to use all the income and resources for nursing home care without any protection for the wife. Under the Division of Assets law, the couple could have divided income by transferring $785 from the husband's monthly income to the wife's monthly income. She would have had $984 for living expenses. He would have been eligible for Medicaid.

No one making the rules has yet said what will become of people who can no longer care for themselves and who can no longer afford long-term care.

During this January session of the legislature, this regulation of SRS will be addressed by that body. My purpose in bringing this to your attention is to ask your help in order to protect those persons who could become victims of this recent SRS regulation. Therefore, I am encouraging each person who reads this article to call Governor Joan Finney at her toll free number: 1-800-432-2487. Simply ask her to "Eliminate the eligibility cap which has been implemented by SRS."

Please call immediately — certainly before the Governor's "State of the State" address to the convened legislature, on Jan. 14.

Besides calling the governor, I urge you to call your legislator or write to him or her in care of the State House, Topeka, Kansas, 66612. In the event that you do not know the name of your legislators, simply address your concerns to : Legislators of ——— (name of county).

Calling and/or writing gives you the opportunity to exercise your rights as citizens and to speak on behalf of those who are not able to speak for themselves. But, more than that, it is an opportunity to make the principles of social justice not only something that you hear from the pulpit, but a value by which you choose to live and act.

Today you may be calling or writing in behalf of someone you may not even know. Tomorrow that *someone* may be yourself or someone you love dearly. Call now! Your voice counts!

Thanks for the action I know you will take. Remember, you do make a difference.

Sister Mary Austin Schirmer, OSB, is director of the archdiocesan Office for Services to the Aging.

CALL 621-1504

Substitute for HOUSE BILL NO. 2566

AN ACT concerning social welfare; providing information and assistance to persons in obtaining appropriate long-term care services; requiring assessment and referral services prior to admission to an adult care home; repealing K.S.A. 39-777 and 39-778.

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

Section 1. (a) The secretary of aging shall assure that each area agency on aging shall compile comprehensive resource information for use by individuals and agencies related to long-term care resources including all area offices of the department of social and rehabilitation services and local health departments. This information shall include, but not be limited to, resources available to assist persons to choose alternatives to institutional care.

(b) Adult care homes as defined under K.S.A. 39-923 and amendments thereto and medical care facilities as defined under K.S.A. 65-425 and amendments thereto shall make available information referenced in subsection (a) to each person seeking admission or upon discharge as appropriate. Any person licensed to practice the healing arts as defined in K.S.A. 65-2802 and amendments thereto shall make these same resources available to any person identified as seeking or needing long-term care.

(c) (1) The secretary of social and rehabilitation services shall develop a uniform needs assessment instrument to be used by all providers of assessment and referral services.

(2) On and after the effective date of this act, except as provided in subsection (e), no person shall be admitted to an adult care home providing care under title XIX of the federal social security act unless the person has received assessment and

SRS shall use the in to collect data for a need to establish & to further.

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referral services as defined in subsection (c)(1). These services shall be provided under the senior care act, under the older Americans act, by the secretary of social and rehabilitation services or by other providers as designated by the secretary under subsection (d).

[(d) Except as otherwise provided in this subsection (d), any person may apply to the secretary of social and rehabilitation services, on forms provided by the secretary, to become a designated provider of assessment and referral services. The secretary of social and rehabilitation services shall establish standards which must be met before a person may be designated as a provider of assessment and referral services. Each application shall be accompanied by an application fee fixed by the secretary of social and rehabilitation services ~~of not to exceed $1,000.~~ The application fee shall not be refundable. The designation as a provider of assessment and referral services shall expire one year after the date of its issuance and may be renewed by such provider upon application to the secretary of social and rehabilitation services, payment of the application fee and a finding by the secretary that the provider meets the standards for designation as a provider of assessment and referral services. No person licensed to operate an adult care home under the adult care home licensure act, or any agent or employee of such person, shall be designated as a provider of assessment and referral services under this subsection. The secretary of social and rehabilitation services may adopt rules and regulations as necessary to administer the provisions of this subsection.]

[(e) The following persons may be admitted to an adult care home providing care under title XIX of the federal social security act without having received assessment and referral services as defined under subsection (c)(1):

(1) A patient who has entered an acute care facility from an adult care home and is returning to the adult care home;

(2) a resident transferred from another adult care home;

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(3) individuals whose length of stay is expected to be 60 days or less based on a physician's certification, if the adult care home notifies the secretary of social and rehabilitation services prior to admission and provides an update to the secretary 60 days after admission; (no change!)

(4) individuals who have a contractual right to have their adult care home care paid for indefinitely by the veteran's administration;

(5) individuals who have received assessment and referral services by another state within three months before admission to an adult care home in this state; or

add 6-7

(7) individuals entering an adult care home conducted by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing.]

(f) This section shall not be construed to prohibit the selection of any long-term care resource by any person. An individual's right to choose does not supersede the authority of the secretary of social and rehabilitation services to determine whether the placement is appropriate and to deny eligibility for long-term care payment if inappropriate placement is chosen.

Sec. 2. K.S.A. 39-777 and 39-778 are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

SO1 (6) Individuals who are admitted to an adult care home on an emergency basis as certified so long as the assessment occurs within a reasonable time subsequent to the admission as established by r & r by the Secy.

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Subdivision 1. PURPOSE AND GOAL. The purpose of the preadmission screening program is to prevent or delay certified nursing facility placements by assessing applicants and residents and offering cost-effective alternatives appropriate for the person's needs. Further, the goal of the program is to contain costs associated with unnecessary certified nursing facility admissions. The commissioners of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

Subd. 2. PERSONS REQUIRED TO BE SCREENED; EXEMPTIONS. All applicants to Medicaid certified nursing facilities must be screened prior to admission, regardless of income, assets, or funding sources, except the following:

(1) patients who, having entered acute care facilities from certified nursing facilities, are returning to a certified nursing facility;

(2) residents transferred from other certified nursing facilities;

(3) individuals whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team prior to admission and provides an update to the screening team on the 30th day after admission;

(4) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration; or

(5) individuals who are enrolled in the Ebenezer/Group Health social health maintenance organization project at the time of application to a nursing home; or

(6) individuals who are screened by another state within three months before admission to a certified nursing facility.

Regardless of the exemptions in clauses (2) to (6), persons who have a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must be screened before admission unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law Number 101-508.

Persons transferred from an acute care facility to a certified nursing facility may be admitted to the nursing facility before screening, if authorized by the county agency; however, the person must be screened within ten working days after the admission.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Subd. 3. PERSONS RESPONSIBLE FOR CONDUCTING THE PREADMISSION SCREENING. (a) A local screening team shall be established by the county agency and the county public health nursing service of the local board of health. Each local screening team shall be composed of a social worker and a public health nurse from their respective county agencies. Two or more counties may collaborate to establish a joint local screening team or teams.

(b) Both members of the team must conduct the screening. However, individuals who are being transferred from an acute care facility to a certified nursing facility may be screened by only one member of the screening team in consultation with the other member.

(c) In assessing a person's needs, each screening team shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician shall be included on the screening team if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county agencies.

(d) If a person who has been screened must be reassessed to assign a case mix classification because admission to a nursing facility occurs later than the time allowed by rule following the initial screening and assessment, the reassessment may be completed by the public health nurse member of the screening team.

Subd. 4. RESPONSIBILITIES OF THE COUNTY AGENCY AND THE SCREENING TEAM. (a) The county agency shall:

New Minnesota Statutes

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MEMO

DATE: January 24, 1992

TO: Members of the Health and Welfare Committee

FROM: Monica Flask, LMSW
Representing the Society of Hospital Social Work Directors
Kansas Sunflower Chapter

RE: HB 2566

After attending the hearing re: HB 2566 on January 23, and after further discussion with members of our organization, we wish to make you aware of some additional points to consider, which I did not include in my testimony.

1) We would like you to be aware of the potential for the pre-admission screening to be a rather degrading experience for the client. When we screen patients at the hospital, we often spend quite a bit of time with them discussing home care alternatives when possible, and encouraging them to grieve, express their anxiety, etc., regarding nursing home when placement is necessary. It is very important to us that this process be done in a way which is respectful and protects the client's dignity.

Too often, screening done with a universal assessment tool can be a degrading experience for the client. Some of the sample questions we have seen on suggested universal tools include, "Who is the president?" "What color is a banana?", "How many times did you fall last month?", etc. While at times is it useful to ask such questions, a universal tool will not give us the flexibility to not ask these questions when the questions are not helpful to the situation. We are very concerned that the mandated screening requirement will turn into such a process despite the best intentions of those who've initiated and supported the bill.

2) We are also concerned that certain assumptions be made which could be erroneous. Some points we would like you to consider:

--We do not actually know that people are admitted to nursing homes due to lack of awareness of resources. Is there any data to support this? It is easy to make such an assumption, but do we actually know?

--Screening is an expensive process with unknown costs. There is very little data to suggest that it a) saves money, b) prevents nursing home admissions, or c) will bring in additional revenue sufficient to offset the cost. Again, it is easy to make such assumptions, but there seems to be very little data, if any, to support these ideas.

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This is a very difficult issue. We applaud the efforts of the committee to keep people at home as long as necessary in the most cost-effective way. We believe this is a commendable goal. We simply do not think the mandated screening process is the way to achieve this goal. There are many other options that should be considered (some of which were mentioned during my testimony), including:

1) expanded case management services
2) intensified efforts to make the public aware of services (what about working with the utility companies to publish the phone number for the Dept. of Aging on bills?)
3) "quality assurance" mechanisms or incentives to encourage discharge planners, social workers in the hospital and the community, etc. to be aware of home support services and work to prevent nursing home admissions when possible.
4) putting our money into more preventive services, especially for those who don't quite meet Medicaid criteria at home.

Thank you very much for your thoughtful consideration of this matter. Please do not hesitate to contact any of us if we may be of assistance regarding this or any healthcare issue. We have included a membership list of our organization for your convenience.

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THE KANSAS SUNFLOWER CHAPTER
OF THE
SOCIETY FOR HOSPITAL SOCIAL WORK DIRECTORS

ADAM, Verlee, LSCSW*	Social Work Director Susan B. Allen Hospital 720 West Central El Dorado, KS 67042 (316) 321-3300	Member of National Society for Hospital Social Work Directors
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Name	Address	Membership
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SOMMERS, Jon	Social Worker, PACE Unit Newman Memorial Co. Hospital 12th & Chestnut Emporia, KS 66801 (316) 343-6800	
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VOTH, Roy*	Social Work Director St. Joseph Medical Center 3600 E Harry Wichita, KS 67218 (316) 689-4707	Member of National Society for Hospital Social Work Directors

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