

Approved 2-19-92
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m. on February 11, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Bud Grant, Kansas Chamber of Commerce and Industry
Dr. Richard Spencer, Ft. Scott, Kansas
Jane Butterfield
Rosemary Harris, Older Citizens Information Group
Donna Whiteman, Secretary, SRS

Chairman Ehrlich called the meeting to order at 10:00 a.m.

The Chairman called upon Senator Strick who introduced his pages assisting at the Committee meeting.

The Chairman announced that the minutes of February 4, 5, 1992, were distributed to the Committee members for review .

Committee bill requests:

Bud Grant, Kansas Chamber of Commerce and Industry, requested introduction of a bill which would allow the transfer of prescriptions from one pharmacy to another. The Chairman asked for wishes of the Committee. Senator Hayden made a motion the Committee introduce the bill request, seconded by Senator Langworthy. No discussion followed. The motion carried.

Senator Langworthy requested introduction of a bill that would allow state employees authorized disaster service volunteer leave on a permissive basis. The Chairman asked for wishes of the Committee. Senator Kanan made a motion to introduce the bill request, seconded by Senator Strick. No discussion followed. The motion carried.

Senator Walker requested introduction of a bill that would authorize the Department of Health and Environment, SRS, Department of Education, Department of Insurance, and Executive Director of Commission on Future of Health Care to develop a proposal for consolidating all state sponsored health programs for pregnant women and children into one comprehensive program. The Chairman asked for wishes of the Committee. Senator Ward made a motion to introduce the bill, seconded by Senator Kanan. No discussion followed. The motion carried.

Staff briefing and hearing on:

SB 548 - Persons eligible for medical assistance coverage of adult care home costs.

Staff briefed the Committee on **SB 548** and submitted written material regarding the eligibility cap for adult care home services and information on the method used to determine eligibility for Medicaid for persons who have applied for adult care home services in Oregon. (Attachment 1) Committee discussion followed regarding the 300% maximum SSI benefit allowed if the state chooses an income cap.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m. ~~xxx~~ on February 11, 1992

Submitting written testimony in support of **SB 548** was Dr. Richard Spencer who told of his mother being in a nursing home and of the financial sacrifice just to cover the basic care needed. (Attachment 2)

Jane Butterfield appeared in support of **SB 548** and submitted written testimony stating KAR 30-6-53 and KAR 30-6-106 are discriminatory against the well spouse in not allowing for Division of Assets prior to qualification for Medicaid. (Attachment 3)

Rosemary Harris, Older Citizens Information Group, appeared before the Committee in support of **SB 548**. Ms. Harris stated she feels the bill is needed to protect those that cannot afford prolonged health care.

The Chairman announced that because of the time element, written testimony from proponents should be submitted to the Committee members. Testimony was received from John Grace, Kansas Association of Homes for the Aging; Walter H. Crockett, AARP; Arris Johnson, Kansas Silver Haired Legislature; Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc.; Carolyn Middendorf, Kansas State Nurses Association; and Alice Nida, Department on Aging. (Attachments 4, 5, 6, 7, 8 and 9.)

Donna Whiteman, Secretary, Department of Social and Rehabilitation Services, submitted written testimony and appeared before the Committee in opposition to **SB 548**. The Department does not support eliminating the cap because they feel the legislative action to limit nursing home expenses was needed. Ms. Whiteman stated they cannot continue to support the present increase in nursing home expenditures without impacting the ability to provide assistance under other programs. The cap has begun limiting the number of new clients who are eligible for nursing home care and is expected to provide savings over the long term. Unless measures are taken to limit the escalating costs in the Medicaid program, the potential of having to further scale back other programs and services currently available is imminent. (Attachment 10) Committee discussion was held regarding increased nursing home costs as a result of federal mandates, fiscal note changing cap back prior to September 1, and the fiscal impact involved. Ms. Whiteman suggested an amendment in the Appropriations bill if the Committee votes to do away with the cap.

The meeting was adjourned at 11:00 a.m. The next meeting of the Committee is scheduled to be held February 12, 1992, Room 313-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-11-92

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Marilyn Bradt	Kansans for Improvement of Nursing Homes
Carolyn Middendorf	K's St Ns Assn.
Rosemary Harris	Older Citizens Information
BOB GRANT	KCCJ
KEITH R LAUDIS	CHRISTIAN SCIENCES Committee on Publication For Kansas
Carol Robbins	Comprehensive Housing Alternatives
Bonnie Brinkhorn	KDOA
GREGORY C STUART	Atchison Senior Village
Theresa Shueh	KS LEGAL SERVICES
Elaine Davis	NWKS AAA Hays
Joann Booth	NWKS AAA Hays
Harriet Berg	NWKS AAA Hays
George Goebel	AARP-SIC-CCTF - Topeka
Wendell STRON	AARP-CCTF - Topeka
Jane Butterfield	
Richard L. Spencer, DDS. - Ft. Scott, Ks.	
John Peterson	Ks Assn Prof Psychologists
Amplugas	Intern Languerthey
Lynn McDonald	Ks Assoc of C/L's

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-11-92

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Lyndez Drew	Topeka	KIDON
John Crowe		KAPPA
Alice Hamilton Nida	Topeka	KIDON
ARRIS M. JOHNSON	Hays	Silver Haired Legislature
Walter H. Crockett	Lawrence	AARP
Robert Epps	Topoka	SRS
Den Jut	Topoka	SRS
Carl Holsta	Topoka	SRS
Roger Kirkwood	Topka	AARP - CTF Kansas
Elene Davis	HAYS	NW. Co. AAA
Joann Borch	Hays	NWK AAA
Harriet Berg	Hays	NWK AAA
Steven Bogart	Olathe, Ks	City
Gene Swan	Wichita KS	
LeRoy Coenell	Topoka	
John Kiefhaber	Topoka	Ks. Health Care Assn.
Marilyn Skells	Wichita	Catholic Family FCU

MEMORANDUM

Kansas Legislative Research Department

Room 545-N – Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

February 11, 1992

Re: Additional Information Relating to the Income Eligibility Cap Relating to Medicaid Eligibility for Adult Care Home Admissions

From: Emalene Correll, Research Associate

Questions have been raised about the application of the cap at 300 percent of Supplemental Security Income (SSI) for one person in other states that have adopted the cap. In general, the questions have centered around whether the other states interpret federal law to require that eligibility for Medicaid be determined prior to any division of income under the federal spousal impoverishment provisions of the Social Security Act.

I have contacted several other states that apply the income eligibility cap on the same basis as the Kansas application and found that such other states also interpret the federal law as authorizing only a post-eligibility division of income. In other words, there is agreement that the spousal impoverishment provisions of the Social Security Act do not allow the division of income to be applied until after the individual has met the eligibility criteria. The division of income becomes applicable in a determination of what amount of the individual's income must be applied toward the cost of adult care home care after Medicaid eligibility has been determined.

Questions have also been raised about the method used to determine eligibility for Medicaid eligibility for persons who have applied for adult care home services in Oregon. I have spoken with the individual in the Division of Elderly and Disabled Services in Oregon who is responsible for the Medicaid portion of long-term care services about the application of an eligibility cap in that state. In Oregon, a cap on Medicaid eligibility for nursing homes at 300 percent of the SSI level for one person became effective on July 1, 1992. On the same date the Medically Needy component of Medicaid under which nursing home eligibility had previously been determined (as it had been in Kansas prior to September 1) was removed from the Oregon Medicaid program. As of July 1, 1992, the former Medically Needy program is limited to eligibility under a spenddown for prescription drugs only. Thus, in Oregon there is currently no Medicaid assistance for persons who are not eligible for cash assistance under AFDC or SSI except (1) for those persons whose income, before any deductions or division of income, is below the SSI-related cap for admission to a nursing home, and (2) those persons who may qualify through a spenddown for assistance with the purchase of prescription drugs.

Oregon officials interpret the spousal impoverishment provisions of the Social Security Act in the same manner in which Kansas is currently interpreting them, *i.e.*, the ability to divide income to protect the community spouse applies only after eligibility has been determined, and applies only to the determination of the liability of the institutionalized spouse for a share of the cost

Senate P H&W
Attachment #1
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of nursing home care. However, unlike Kansas, Oregon is also applying this criteria to eligibility for home and community based services available under the Medicaid program.

MEMORANDUM

Kansas Legislative Research Department

Room 545-N – Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

January 17, 1992

Re: Eligibility Cap for Adult Care Home Services

During the 1991 Legislative Session, a number of committees struggled with issues relating to the direction and funding of programs operated by the Department of Social and Rehabilitation Services, including the Medicaid program. The Medicaid program in Kansas, and in virtually every other state in the United States, has become a major drain on state resources that limits the ability of the states to deal with other high-priority issues such as education, housing, children's services, and other issues of concern to the citizens of the individual states. Kansas is no exception, and a major amount of legislative time and attention in recent sessions has been directed toward the funding of medical services through Medicaid.

Two major problems with the Medicaid program have been identified over the past several years by committees of the Legislature and study committees, commissions, and task forces considering health care in Kansas. One such issue is the change in the population served by Medicaid. Originally intended to provide access to health care for the poor, Medicaid expenditures increasingly are directed toward middle class, middle income elderly, and, in Kansas and other parts of the United States, fall far short of covering persons whose income is at or below the federal poverty level. The former is the result of expenditures for adult care home services for the elderly and disabled, and the latter, the result of efforts to keep escalating costs at manageable levels by keeping eligibility standard increases for public assistance well below increases in the poverty level. The second problem that has been identified by legislative committees, and by study commissions and task forces, is the bias toward institutional care in the long-term care component of the Kansas Medicaid program. It has been consistently recommended that this bias be addressed by limiting the growth in adult care home use combined with the development of community-based long-term care services.

During the 1991 Session, legislators reviewed various alternatives for dealing with the Medical Assistance budget, including capping eligibility for adult care home services at 150 percent of the federal Supplemental Security Income (SSI) benefit, dropping the medically needy component from the Medicaid program, and extensively reducing or eliminating MediKan. All the alternatives were directed toward capping the eligible population and slowing the growth of Medicaid expenditures. This growth has for some time been most apparent in the long-term care component of the Medicaid budget, which accounts for 42 percent of Medicaid expenditures in the Governor's budget for FY 1993 and 41 percent of the current FY 1992 Medicaid budget.

The 1991 Legislature recommended that adult care home eligibility be capped at 300 percent of the SSI benefit level for one person, one of the options available to the states for creating an eligibility criteria for a specific population that is more generous than eligibility standards applicable to AFDC and SSI cash grant recipients. Currently, the income cap is \$1,266 per month.

Under the federal regulations, 300 percent of the SSI benefit is the maximum income allowed if the state chooses an income cap. In making this decision, the Legislature also agreed to "grandfather" some 480 individuals already Medicaid eligible and in an adult care home whose income was above the cap. Because such persons do not meet the eligibility standard, the Medicaid share of their care must be paid from all state funds with no federal financial participation.

Under federal regulations found at 42 CFR 435.1005, all income before deductions must be considered in determining whether the applicant's income is above or below the income eligibility cap. As noted below, it is the language of the federal regulation that gives rise to the change in the treatment of income under the federal spousal impoverishment provision of Title XIX of the Social Security Act that is popularly referred to as "division of assets," but which relates to both division of income and resources or assets by persons entering long-term care in a nursing facility or home and community-based services component of Medicaid. The relevant provision of the Social Security Act, which became effective less than six months after the effective date of a similar Kansas law, specifically supersedes state laws dealing with the division of income and assets. Thus, the Kansas law is suspended and not in effect until such time as the federal law is repealed.

Under the federal spousal impoverishment provision of the Social Security Act, an individual who is entering a nursing facility (adult care home or long-term care bed) or a Medicaid-approved home or community-based program is allowed to deduct up to a specified amount of such individual's income for the maintenance of the spouse who remains in the community before such income is considered available for the purpose of determining Medicaid eligibility. Under certain circumstances, deductions may also be made for the support of dependent children, dependent siblings, and dependent parents. The federal Act uses the term "deduction" rather than "division" in setting out how income is to be treated for eligibility purposes. Thus, it is the lack of compatibility between the language in the federal law and the federal regulation that results in not allowing a deduction for the support of the community spouse prior to determining eligibility under the 300 percent of SSI benefit cap. No Kansas law is involved, nor is there a state regulation that prevents the division or deduction of income for purposes of determining whether the income of the applicant for Medicaid long-term care is under the cap.

Division of resources (assets) is allowed under the provisions of the Social Security Act relating to spousal impoverishment. Such division is not affected by the federal regulation relating to income caps. Therefore, if a part of the income of a spouse applying for adult care home services under Medicaid arises from interest on investments, CDs, savings accounts, stocks, etc., such resources can still be divided with the spouse remaining in the community up to the maximum allowed by federal law. Such division may result in a change in the individual's income for purposes of the cap on income. There are also provisions relating to transfer of property under federal law that may apply in those circumstances in which an individual seeks Medicaid eligibility. An outline of the latter provisions is attached, as is a table showing Kansas Medicaid expenditures for long-term care.

The income cap instituted pursuant to the recommendation of the 1991 Legislature relates only to eligibility for adult care home services. An individual whose income is above the cap for the purpose of adult care home services may still be eligible for other services offered through the Medicaid program such as drugs, physician services, etc.

In summary, the cap set at 300 percent of the SSI benefit for one person was intended to temper the growth of the adult care home population and thus, the escalating costs of this component of Medicaid. As recommended by several studies, the cap would begin to address the

bias toward institutional, rather than in-home and community care that currently exists in the Kansas Medicaid program. The effect of using the SSI benefit-related cap on the ability of individuals to deduct an allowance from their income for the noninstitutionalized spouse arises from federal policy and regulations, not from state policy or regulations.

TRANSFER OF PROPERTY AND ASSETS

A little understood change in eligibility that resulted from enactment of the Medicare Catastrophic Coverage Act is the difference in the manner in which the transfer of property is treated for the purpose of determining eligibility for Medicaid.

In Kansas, prior to the change resulting from the federal legislation, only the transfer of a home in which a spouse or a dependent child, whether a minor or adult, was living at the time of the transfer of the property to the spouse or dependent child was exempt from the prohibition against the transfer of assets without compensation at fair market value. Transfer of assets, other than an exempt transfer as noted above, subjected the individual who had transferred the asset without reasonable compensation to ineligibility for a period of time based on the value of the transfer. Under the provisions of Section 303 of the Medicare Catastrophic Coverage Act, any state laws or regulations are preempted by the federal legislation. The latter requires the state to provide for a period of ineligibility in the case of an institutionalized individual who at any time during the 30 months immediately prior to the individual's application for medical assistance disposed of resources for less than fair market value. The period of ineligibility begins with the month in which the resources were transferred and the number of months of ineligibility shall be either:

1. 30 months, or
2. the total uncompensated value of the transferred resources divided by the average cost to a private pay patient at the time of an individual's application for Medicaid of an adult care home in the state or, at the option of the state, in the community in which the individual is institutionalized.

Under the federal law, certain transfers of property are exempt from the penalty of ineligibility. Transfer of the title of the individual's home is an exempt transfer if the transfer of title is to:

1. a spouse,
2. a child who is under age 21 or blind or permanently and totally disabled,
3. a sibling who has an equity interest in the home and who was residing in the home for at least one year immediately before the admission of the institutionalized individual, or
4. a son or daughter who was residing in the institutionalized individual's home for at least two years immediately prior to the institutionalization and who provided care that permitted the applicant for Medicaid to remain at home.

Other transfers of resources that are exempt are: transfers made under the provisions usually known as division of income and resources to a community spouse or another person for the

sole benefit of such spouse or the institutionalized individual's child who is blind or permanently and totally disabled; a satisfactory showing that the individual intended to dispose of the resources either at fair market value or for other valuable consideration or that the resources were transferred exclusively for purposes other than becoming eligible for Medical Assistance; or if the state determines that the denial of benefits would result in undue hardship.

Under the provisions of the federal law an individual who is not institutionalized within 30 months of the transfer may transfer any amount of property and other tangible or intangible resources to another without receiving compensation and not be penalized in regard to eligibility for Medicaid. The revised transfer provisions became effective on July 1, 1988, although states that had to revise their state laws to comply were granted a grace period until after the next legislative session had taken place. Thus, the provisions of federal law became effective in Kansas following the 1988 Session.

Both the ability of certain individuals to protect income and resources for the benefit of a community spouse and the changes relating to the transfer of resources have resulted in increased state and federal expenditures for Medicaid in Kansas.

ADULT CARE HOME EXPENDITURES FY 1981–FY1992

<u>FISCAL YR</u>	<u>TOTAL \$'s</u>	
1981	\$81,190,564	
1982	83,806,177	
1983	85,318,957	
1984	91,479,357	
1985	95,424,030	
1986	101,828,373	
1987	107,168,140	
1988	123,472,381	
1989	140,427,653	
1990	167,456,662	
1991	189,609,911	
Approp 1992	220,548,900	
1992	215,194,774	Gov. Rec
1993	232,333,285	Gov. Rec

My mother, Dorothy Spencer, is a victim of Alzheimer's disease, and she has required nursing home care for the past 5½ years. She is the widow of a totally disabled veteran of WW2 and therefor receives a V.A. pension as well as Social Security benefits. Her government payments total \$1452.00/month.

Her total expenses, including nursing home costs, drugs, and Plan 65 health insurance, amount to approximately \$2000.00/month.

Until now, the extra \$550.00/month needed for her care came from private funds resulting from the sale of her property. However, these private resources are now nearly exhausted.

I was told by the S.R.S. that since she receives more than \$1221.00/month allowed by law in personal income, she is not eligible for Medicaid assistance. What is she to do?

Her personal income - both government pensions- will not even cover the basic nursing home cost, let alone the cost of her drugs and health insurance. I cannot afford to pay the nearly \$600.00/month needed for her care, and I certainly cannot provide the needed care at home.

It is an absolute travesty that since my father was a disabled veteran his widow should have to suffer because of his service to his country. Without the V.A. pension she would qualify for Medicaid! Where is the logic or the justice here? How can it be that one government pension can be allowed to keep you off Medicaid when it is the same government providing both programs? It's crazy!

Clearly we need this bill to be passed in order to restore fairness and logic to the system.

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Attachment #2
2-11-92

Testimony by Jane Butterfield
February 11, 1992

Mr. Chairman and Members of the Committee. My name is Jane Butterfield and I am here in behalf of Senate bill #548 which would allow for Division of Assets prior to qualification for Medicaid.

My parents, Garret and Mary Alice Frauenfelder, lived modestly on their retirement income and savings until December 20, 1990. My father underwent unexpected surgery to correct a problem with an artificial heart valve. The surgery went well but, immediately post operatively my father suffered a stroke. The stroke left my father comatose and completely paralyzed on his right side. His prognosis was not encouraging, the doctors did not expect him to regain consciousness. Following weeks of hospitalization and recovery of consciousness, my father was transferred to a Swing Bed program in Riley county.

In February, 1991 my mother inquired into Medicaid assistance through SRS. At which time, their combined income, savings and with Division of Assets my father would have qualified and my mother would have been able to maintain a modest standard of living.

My mother was told by SRS that my father as a Disabled Veteran would probably qualify for Veteran's hospitalization benefits and that these benefits should be exhausted before reapplying for Medicaid.

Upon conferring with the Veteran's Administration, my father was admitted to Wichita's VA Hospital. After a month of evaluation and recuperation, my father was granted a 6 month VA contract for skilled nursing home care. On March 25, 1991 my father was placed in St. Joseph's Senior Center, Manhattan, Ks.

Due to my father's medical and physical needs it was impossible to care for him at home. My 68 year old, 5'3", mother could not have been expected to transport my 70 year old, 6' father from bed to wheelchair or into an automobile. She would have been unable to perform necessary skilled care 24 hours a day. Furthermore, their home for 30 years is two storied, over 75 years old and is not accessible for a wheelchair and would require costly major renovations to do so.

On September 13, 1991 as the VA contract was soon to expire, my mother again contacted SRS. She was informed that due to the new rulings, specifically KAR 30-6-53 and KAR 30-6-106, and with the cancellation of Division of Assets, my father's income exceeded the 300% SSI of \$1221.00/mo. and he was no longer eligible.

My father's monthly bills for skilled nursing home care totalled \$3008.24 as you can see itemized in the summary I have provided. Assuming the payments for my father's care would quickly exhaust my parent's savings and would leave no money to provide for my mother's existence or maintain their home.

I feel that KAR 30-6-53 and KAR 30-6-106 are discriminatory against the well spouse, in not allowing for Division of Assets prior to qualification for Medicaid. I realize that my parent's situation was not unique and that many Kansas families would be denied assistance when needed. I urge you to take into consideration all Kansans. No family expects medical or financial devastation. Without Division of Assets many aging Kansans will find themselves homeless, without necessary medical care and financially ruined.

Hopefully, we are all learning more on how to provide for our retirement years and the possibility of nursing home care. My parent's generation, where only one spouse worked full-time and acquired retirement benefits, did not have this option.

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Attachment #3
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After an amazing year of recovery that took my father through four different hospitals, a VA hospital, a rehabilitation center and a skilled nursing home . . . my father died unexpected December 27, 1991 following complications of pneumonia.

The amount of emotional stress caused by financial instability and concern over my father's well being took an amazing toll on my mother's health.

Only my father's death has allowed my mother to regain her financial independence and she can now plan for more than a day to day existence.

On behalf of my family, 7 generations of past and present Kansas tax payers and for the aging Kansans who are unable to speak for themselves, I would like to thank you for this opportunity to speak to you and again, urge your support of Senate Bill 548.

SUMMARY

History

Garret H. Frauenfelder Born in Riley County Kansas January 23, 1921
Military Service Army Air Force 1942-1945
(Wounded September 30, 1943)
U.S. Civil Service 1947 - Retired 1977
Deputy Marshal Chapman, Kansas 1957-1967
Elected Police Judge Chapman, Kansas 1967-1969
Served as Trustee for Chapman United Methodist Church
25 years of service as a Volunteer Fire Fighter
Member of VFW and American Legion

Mary Alice Frauenfelder Born in Clay County Kansas August 10, 1923
Taught school in Clay and Riley Counties 7 years
Worked as substitute teacher for Chapman public schools 1959-1980 (while raising family)
Employed part-time Chapman City Clerks Office 1967-1990

Retirement Income

Savings under the \$20,000 maximum

Garret -	\$1436.00	mo. Civil Service Retirement
	\$ 259.00	mo. 30% Disability Pension
	\$ 141.90	mo. Social Security
Mary Alice -	\$ 199.90	mo. Social Security
Total	\$2036.80	mo.
	\$ 236.83	mo. Deduction for Federal BCBS and Medicare
	<u>\$1799.97</u>	mo. Retirement Income

Nursing Home Charges

Charges quoted for September 17, 1991 Level of Care Review
Saint Joseph's Senior Center Manhattan, Ks.

Basic Care	Level 5 (1-6)	\$61.00 daily	31 day mo.	\$1891.00
Physical Therapy	twice daily (per physicians order)	\$ 4.00 daily	31 day mo.	\$ 124.00
Incontinency Care	Products (averaged from 6 mo. stay)			\$ 170.00
Abdominal Feeding	System liquid nourishment		mo.	\$ 823.24
			Total -	<u>\$3008.24</u>

These charges do not cover clothing, personal care items (grooming supplies, etc.) or any changes in treatments by Physician's order.

For additional information, please contact: Jane Butterfield
RR 1 PO Box 440
Overbrook, Ks 66524
(913) 665-7388



—Chris Ochsner/The Capital-Journal

Garret Frauenfelder, left, was comforted by daughter Kay Vowels, wife Mary Alice, and daughters Jo Grunz and Jane Butterfield.

Going to bat for her father

By PHIL ANDERSON
The Capital-Journal

OVERBROOK — Jane Butterfield doesn't consider herself much of a public speaker. In fact, she is scared spiltless by the thought of speaking to a group of well-dressed strangers in a stuffy government conference room.

But Butterfield vows she will be in room 514-South of the Statehouse at 9 a.m. Friday to state her case at a hearing of the legislative Joint Committee on Administrative Rules and Regulations.

"I'll do my best — it's for my parents," said the 39-year-old Butterfield, a married mother of three teenagers, who lives in Overbrook. "I'm going on my parents' behalf. You just can't say no."

Butterfield's beef: a new wrinkle in the state's Medicaid reimbursement plan which threatens to send both of her parents — and potentially hundreds of other Kansans — over the edge into poverty.

Said Butterfield: "The main thing I want the legislature to see is that these are real people and these real people need a life. It affects me, my mother, my children It should affect every Kansan."

Butterfield's story

If nothing else, the past year has taught Butterfield how very quickly life can change.

A year ago, things were going as smoothly as could be expected for Butterfield and her family.

Her parents were enjoying retirement in Chapman, a Dickinson County town of 1,250 people. They owned their home and lived in it more than 30 years.

But things changed abruptly in December 1990, when her 70-year-old father, Garret Frauenfelder, had a routine doctor's appointment.

An x-ray revealed a problem with his artificial heart valve. Doctors ordered immediate surgery at Stormont-Vail Regional Medical Center in Topeka.

Either during or directly after the operation, her father suffered a major stroke which paralyzed him on his right side. The family camped out in the hospital's intensive care unit and waited for him to get better.

During the hospital stay, medical bills stacked up. But the family, whose thoughts were on Garret's recovery, gave little consideration to life beyond the hospital.

In time, her father showed signs of progress. The family began to plan for his transfer to a skilled nursing facility, which could offer the 24-hour service her father required.

Last February, Butterfield said, her mother was told by the Kansas Department of Social and Rehabilitation Services that Garret's nursing home expenses would be covered by Medicaid after he was discharged from the hospital.

Social and Rehabilitation Services administers the state's Medicaid program, a federal-state program that helps pay for health care for the needy, aged, blind and disabled. States determine eligibility and which services are covered.

After more than three months in the Topeka

hospital, Garret was discharged to a swing-bed unit, which provides recuperative care, at Manhattan Memorial Hospital.

After a short time there, he was transferred to the Veterans Affairs hospital in Wichita, where he stayed for a few weeks.

The Wichita Veterans Affairs hospital then transferred him to a Manhattan nursing home, St. Joseph Senior Community, and paid for his stay through a six-month veterans' benefit policy.

But the six-month veterans' benefit expired Wednesday, leaving the family to pay the nursing home and related medical bills, which total more than \$3,000 a month.

A fateful decision

Ironically, had Garret received Medicaid benefits — for which his family said he was eligible — immediately after leaving the hospital, he still could be eligible for Medicaid coverage.

People receiving Medicaid prior to Sept. 1, but who no longer meet eligibility rules, continue to receive Medicaid nursing home care through a "grandfather" provision.

State officials said 447 of the state's 13,000 nursing home residents qualified for continued care under the grandfather provision.

Instead of being grandfathered into the program, Garret today is without nursing home insurance coverage. His family doesn't know how it will pay for his bills.

Butterfield said the family was advised by Social and Rehabilitation Services to use Garret's veterans' benefits before seeking Medicaid coverage. At the time, Butterfield and her family had no idea how costly that decision ultimately would be.

They do now: less than a month after the new rule has been in effect, the veterans' benefit has expired and, because of an income cap, Garret no longer qualifies for Medicaid.

The family cannot take Garret home. At 6-foot-3 and more than 200 pounds, two people are needed to lift him. He isn't able to walk or talk.

Complicating matters, the couple's Chapman home isn't wheelchair accessible, meaning thousands of dollars of renovation would be needed for him to go home.

Unless the state changes its new Medicaid rules, Garret's nursing home bills could bankrupt his 68-year-old wife, Mary Alice Frauenfelder, and force her to sell her home.

"No one counts on a devastating illness," said Butterfield, who works at an Osage County nursing home. "Nobody plans for this."

New rule provisions

Under the new rule, Garret has \$615 too much in monthly income — through pensions and Social Security — to qualify for Medicaid nursing home benefits.

Under the new provision:

■ Individuals with more than 300 percent of Supplemental Security Income are now ineligible for Medicaid nursing home care. Supplemental Security Income is \$407 a month, 300 percent of which is \$1,221.

This means people with more than \$1,221 of monthly income — from sources including Social Security and employee pensions — are no longer eligible for Medicaid nursing home payments.

■ Accompanying this new eligibility cap is another law which dramatically curtails the division of assets provision, which divided a couple's income to protect the healthy spouse from entering poverty. Nationally, this law is known as the Spousal Impoverishment Provision.

Previously, a couple's income was divided prior to determining income levels for Medicaid eligibility.

In the Frauenfelder's case, \$785 would have been subtracted from Garret's \$1,836 monthly income and added to Mary Alice's \$199 monthly Social Security check, giving her \$984 a month.

Garret then would be allowed to deduct an additional \$30 for monthly living expenses, with the remaining \$1,021 applied to nursing home expenses. Medicaid would cover the rest of the nursing home and medical costs.

Under the division of assets law, the state considers \$984 a sufficient amount for the healthy spouse to live independently. The law's intent is to prevent couples from exhausting income and savings to pay for the other spouse's nursing home care.

The division of assets law's main intent was to prevent the healthy spouse from entering poverty because of paying for the other spouse's nursing home bills.

But under the new Medicaid rule, the division of assets is in jeopardy: People with more than \$1,221 in monthly income cannot divide their incomes prior to determination of Medicaid eligibility.

As a result, the healthy spouse may have to dip deep into savings and often meager monthly income to help pay for the spouse's nursing home care.

In the Frauenfelder's case, under the new provision, Garret would have to spend all \$1,836 of his monthly income for nursing home care. Still, about \$1,200 would remain on the tab, with his wife responsible for picking up that amount.

But on her \$199 monthly Social Security income, she would be forced to hand over her entire check, plus \$1,000 from the couple's savings. That still would leave no monthly income for her living expenses.

Kansas older adults worked for years to secure the division of assets provision, which was enacted in May 1988.

Now, with the law's intent eroding before their eyes, aging groups such as the Kansas Silver Haired Legislature are on the warpath again, demanding state officials change the new rule.

Before tragedy struck, Butterfield's parents lived a comfortable life. A disabled veteran, Garret had worked a civil service job at Fort Riley before retiring. The couple had less than \$20,000 in savings.

Unless the rules are changed in their favor, the couple could be forced to sell their home and exhaust their less-than \$20,000 in savings.

In little more than a year, the couple could be wiped out.

3-4



*Enhancing the
quality of life
of those we serve
since 1953.*

MEMORANDUM

Date: February 11, 1992
To: Senator Roy Ehrlich Chairman
Senate Public Health and Welfare
From: John R. Grace, President
Kasas Association of Homes for the Aging
RE: Senate Bill No. 548
=====

The Kansas Association of Homes for the Aging is a trade association of 130 not-for-profit retirement and nursing homes of Kansas.

We support Senate Bill No. 548 and urge the committee to adopt it favorably.

Mr. Chairman, when the legislature passed the 300% cap, we did not know at that time who would be affected. The stories of people you have heard today are people who have no viable alternative but the nursing facility.

Let me give you three examples of individuals who have no options for care under the current 300% cap restriction. They are all severely disabled, have met or will meet the medicaid prescreening criteria for long-term care, have incomes over the 300% cap, but do not have enough income to meet their cost of care. They are too disabled to function at home with at home services, even if they had homes to return to. They all run the real risk of eviction.

The first example is a widow in her late 50s who suffers from severe multiple sclerosis. She has been in a nursing home and on medicaid for at least two years. After September 1, 1991, she was approved for a VA pension which increased her income to approximately \$1,400 per month, but below both the private pay and medicaid reimbursement rate for any nursing home within the county she lives.

The second example is a 95 year old woman with no immediate family who has been spending her resources on private pay since she entered the nursing home several years ago. Her total monthly income is approximately \$1,300, \$34.00 over the 300% cap. Her resources will be depleted in 2-3 months. She has no home to return to, or the capacity to care for herself.

-over-

Senate P H&W
Attachment #4
2-11-92

634 SW Harrison
Topeka, Kansas 66603
913-233-7443
Fax: 913-233-9471

The final example is a married couple who has been paying private pay since the husband entered the nursing home several years ago. They have been in the process of spending down one-half of their assets, as provided by division of assets. However, since the husband's income increased above the 300% income cap due to a VA pension, it is now pointless for them to divide assets. The wife will be forced to use all of their assets to pay for his care. Once their assets are gone, she will have to use part of her monthly income to pay for his care, leaving her less than \$400 per month to live on.

The response to many of these individuals from SRS workers in the field is that they "should look for a cheaper place to live." However, no follow up is provided to these individuals or their families.

In reality, if these sick frail and disabled persons have no place to go, in our opinion, they are subject to the care of SRS under the KSA 39-1437 reporting abuse neglect or exploitation of certain adults:

"if the Secretary determines that an involved adult is in need of protective services, the Secretary shall provide the necessary protective services if the adult consents."

The fiscal impact for removing the cap will result in a current savings to the state since the federal government will now pick up a major part of the cost of care.

We urge the committee to pass SB 548 favorably.

Thank you Mr. Chairman and Committee members.

TESTIMONY FOR THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
CONCERNING SENATE BILL 548

Topeka, Kansas, February 11, 1992

Mr. Chairman and Members of the Committee:

I am Walter H. Crockett, Chair of the State Legislative Committee of Kansas AARP.

I am pleased to testify in favor of Senate Bill 548, eliminating the cap on Medicaid assistance to nursing home residents at 300% of the poverty level. The members of Kansas AARP recognize that the intent of this cap was to slow the ever-increasing drain on SRS funds that results from state aid to elderly nursing home residents whose income has fallen below the cost of their nursing home. We sympathize with the intention. However, as I am sure this Committee has learned in the five months since the cap was instituted, its effect upon a number of our elderly citizens has been catastrophic.

One unintended consequence of this cap is that, according to federal regulations, a couple's assets must be calculated in a way that contradicts the intent of the Kansas division of assets law. As a result, a number of cases have arisen in which the lion's share of a couple's income must be spent on nursing home costs for one spouse while the other, almost always the wife, tries to make do in the community on next to no income at all.

A second unintended consequence is that a number of individuals whose income barely exceeds 300% of the poverty level cannot receive Medicaid support, cannot afford the full cost of a nursing home, and can no longer live in the community. I am sure you have heard as many of these cases as we have. The most recent one we learned about is a 92-year-old widow, blind and childless, whose social security income plus a World War I pension from her husband places her income just \$20 over the cap, substantially below the cost of her nursing home. The nursing home cannot subsidize her residence indefinitely; she cannot take care of herself in the community; and she has no family who might come to her aid. What is she supposed to do?

I am sure that you agree with me that it is simply unconscionable, at the end of their lives, to place law-abiding elderly citizens, who have worked and paid taxes all their lives, in such an intolerable situation. Kansas AARP urges eliminating that cap by passing Senate Bill 548 as soon as possible.

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HEARING ON SENATE BILL 548

Tuesday, February 11, 1992

I am Arris Johnson of Hays, Kansas, Speaker of the Kansas Silver Haired Legislature. I speak in favor of removing the 300 percent cap which was placed upon the division of assets, as is stated in Senate Bill 548 (page 4, lines 33 through 39).

We have all read the stories in newspapers and have heard of those persons who have been denied care because of the imposition of the 300 percent cap so I will not take up your time in reviewing them. I have read Secretary Donna Whiteman's report wherein she states that 23 persons were denied nursing home coverage in September, 1991. She reported 14 more denials through the following two months but we suspect that when people learned of others being denied, they simply felt it would be of little use to apply.

Prognostications can always be dangerous, but we suspect that by denying people the opportunity to divide assets now, whereby one of a couple can continue to live with some dignity with some assurance of continued means, we may be creating another problem down the line, and perhaps soon, that of welfare.

May I please share with you another thought which has been expressed to me from several parts of the state. People have come to me with the question, "Which is more important, money or people?" I believe that the elderly realize fully the importance of money and how hard it is to come by. I believe also that the elderly appreciate what you good people are doing to solve the problems which face us. I don't believe they feel that we are asking that anyone be penalized at our expense. But they also feel that the Division of Assets seemed to be working in its infant years until the 300 percent cap was applied.

The Silver Haired Legislature which represents every county in Kansas and, in turn, approximately 450,000 persons who are 60 years of age and older, came to our session in October upset with the 300 percent cap and voted unanimously by special resolution to ask that it be removed. Please do not feel that I am trying to threaten. I certainly do not do that. I am simply saying to you that the highest priority of the elderly, reflected through the Silver Haired Legislators, is to remove the cap and give the division of assets an opportunity to work. We support your bill and applaud you for the proposed change. We will be most grateful to you for doing so.

Thank you.

Arris M. Johnson, Speaker
Kansas Silver Haired Legislature

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TESTIMONY PRESENTED TO
THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
CONCERNING SB 548

February 11, 1992

Mr. Chairman and Members of the Senate Public Health and Welfare Committee:

The Kansas Legislature has become increasingly and understandably disturbed by the growth in the Medicaid budget for nursing homes over the past several years. At the same time legislators have been reaching a common mind in understanding that not only is in-home care generally less costly than nursing home care, it is also the kind of care nearly everyone would prefer. The question is how to reach the goal of limiting expenditures for nursing home care and diverting state dollars to home care and services.

The 1991 session of the Legislature, with the intent of containing the cost of the nursing home budget and in so doing beginning to redirect Medicaid dollars from nursing homes to in-home care services, set a limit at 300% of the Supplemental Security Income (now \$1,266) as the amount of monthly income a person could have and still receive Medicaid nursing home assistance.

Knowing that to do so would severely affect people who were already served by the Medicaid program in nursing homes, the Legislature "grandfathered" the approximately 445 people in nursing homes who were Medicaid eligible before the effective date of the legislation, September 1, 1991.

Unfortunately the result has been to disrupt the lives of a number of persons already in nursing homes and to prevent some people who can't be adequately cared for at home from receiving the nursing home care they need.

While that group of 445 "grandfathered" nursing home residents were protected, it did not protect those who were still private pay residents on September 1st, but, since that time, have depleted all their resources and need Medicaid assistance if they are to be able to remain in the nursing home. Nor is there any way of accommodating people whose functional disabilities have progressed beyond the point that home care is suitable, yet who haven't the means to pay the full cost of nursing home care.

In yet another category of persons adversely affected, a quirk of federal regulation does not permit spouses to divide their income under the Federal Spousal Impoverishment Act as envisioned and intended by the act.

Instead of simply keeping those individuals out of nursing homes who could be cared for in other ways, this legislative action has worked in some instances to penalize people who have no other choice. What is more, it is questionable that it has saved money. The 445 persons whom the state has permitted to remain in the Medicaid program are being paid for with all state funds, instead of splitting the cost with the federal government as would be the case if they were still Medicaid eligible.

Kansans for Improvement of Nursing Homes
February 11, 1992

We have been told that there are some who could afford to pay the cost of nursing home care but have sheltered their income through trusts, or gifts or whatever ways estate attorneys can devise. If that is a problem, address your solution to the ways in which it is possible to shelter income inappropriately. Do not punish those who have little to shelter and who haven't the means to pay for basic survival care.

With regard to the Division of Assets, we have understood that it is not, for the most part, those couples having either substantial assets or income who are availing themselves of the Division of Assets legislation. It is those whose resources, if not divided, will leave the community spouse without sufficient income to live in decency.

Poor is not a given dollar amount. Poor is when you don't have enough money to survive at the most basic level. That is the population the medically needy nursing home program is intended to address -- those persons who are impoverished beyond their capacity to survive if they pay for the nursing home care they have been determined through assessment to need.

Those adversely affected are among the most frail and vulnerable segments of society.

In the short run, the income cap does not appear to be saving a significant amount of money. Even if there prove to be long-term savings, that will have been achieved through solving one problem by creating another in cutting off access to nursing home care to people who cannot be cared for other ways.

A more appropriate way to limit nursing home expenditures is to see that needed home care services are in place in the community and to help connect people and services; to divert into those services everyone who can benefit by them; and when the state has assisted with nursing home costs under the Division of Assets, assure that as much as possible of its expenditure be recovered from the estate, upon the death of both spouses.

KINH is in full support of diverting from nursing home care anyone who can be safely cared for at home. We support the pre-admission screening bill which will help people to identify the services that will enable them to remain in their own homes. We support an estate recovery program as proposed in the SRS budget to recover the state's Medicaid costs.

KINH did not support the income cap established by the Legislature in the 1991 session. We believe the results have been disastrous for a number of individuals. We urge you to reverse that decision by supporting SB 548.

Marilyn Bradt
Legislative Coordinator

KSNA

the voice of Nursing in Kansas



FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses' Association
700 S.W. Jackson Suite 601
Topeka, Kansas 66603-3731
(913) 233-8638
February 11, 1992

Senate Bill 548

Senator Ehrlich and members of the Senate Public Health and Welfare Committee, my name is Carolyn Middendorf, and I am a registered professional nurse licensed to practice in the state of Kansas. Presently I am an Assistant Professor of Nursing at Washburn University and I serve as the Legislative Chairperson for the Kansas State Nurses' Association (KSNA). Thank you for allowing me to speak in support of Senate Bill 548.

The proposed change would remove the income cap for eligibility for medical assistance with nursing home costs. Let me illustrate how it will help one family:

After saving for five years, a couple in their 40's with one son built a modest duplex to accommodate their family and his mother. She is elderly, has a heart condition and should not be alone. She has Social Security which is not adequate for her needs plus rent, therefore the younger family partially supports her.

The wife's mother had to be institutionalized 3 years ago when she was widowed. The facility was moderately priced. She has Alzheimers and needs constant attention.

Nursing Home Costs

30 days at \$65/Day	\$1950/mo
Alarmguard	\$ 100/mo
Attends/other supplies	\$ 100/mo
Drugs paid by BCBS	\$ 00/mo
	<hr/>
	\$2150/mo

Income

Pension	\$16,230/yr
Social Sec.	\$ 3,500/yr
	<hr/>
	\$19,730/yr
	<hr/>
	=\$ 1,644/mo

Daughter buys clothes and personal needs.

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Kansas State Nurses' Association Constituent of The American Nurses Association 2-11-92

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

Medicaid picked up a portion, until the cap was initiated. Obviously her income is more than \$1261 and she lost her medical assistance. The younger family moved the wife's mother to a less expensive home and still must pick up a portion of her costs.

The financial impact while not pleasant probably was less of a concern than the trauma of moving the mom, working with an unknown staff and worrying about her care. How many persons were affected by the cap? How much money is actually being saved by this technique? Does the money saved actually make that much difference to the state compared to the cost to residents and families?

Thank you for the opportunity to speak today.

a:sb548
Testimony 1992

Testimony on SB 548

by the
Kansas Department on Aging

before the
Senate Public Health & Welfare Committee

February 11, 1992

Mr. Chairman and members of the committee, the Kansas Department on Aging testifies today in favor of SB 548. This is an issue which has generated lots of interest among older Kansans. The Kansas State Advisory Council on Aging made it their major concern in 1992. The Council's annual report said: "Legislative expansion of the Senior Care Act program statewide and repeal of the 300 percent cap are the highest priorities of the State Advisory Council." We concur.

I want to discuss three aspects of the issue: the alternatives to institutional care, the cost of the cap, and division of assets.

Alternatives to Nursing Home Care

Expansion of in-home services is not an adequate solution for people who have been eliminated from the medicaid program by the 300% cap. In the first place, the cap saves money for the medicaid program, which has an income requirement that effectively denies in-home services to people with incomes higher than the 300% cap. Nor does the Senior Care Act provide an alternative for people who are above the cap. Only three areas of the state are served by the Act this year and three more perhaps next year. Even if all people above the cap could rely instead on in-home services, these services are not available statewide.

We cannot assume that people needing nursing home care can be served in the community. The cap arbitrarily eliminates eligibility for nursing home care without regard to medical need. Kansas has essentially deinstitutionalized these people without providing an alternative. We once did the same thing to mental health patients in our hospitals.

Fiscal Impact

Ironically, the cap has increased the cost of caring for older Kansans. In the short run, SB 548 would save the state money because we humanely covered the cost of care with state funds for those people who qualified for medicaid before September 1, 1991. Our estimate is that SB 548 would save the state \$345,850 in the short run. A copy of our fiscal impact estimate is attached.

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In the long run, the state would have to pick up an additional cost of \$290,449 in current dollars. The state would recover most of that from estates if recovery mechanisms are instituted as proposed in SB 607. The governor's budget estimates recovery in the first year of \$201,000.

Division of Assets

SRS announced last summer that division of assets could not be an option for people above the cap. SB 548 solves this problem by moving us back to June 1991 eligibility standards. The medically needy program in effect in June did not restrict our access to federal spousal impoverishment protections.

The SRS Task Force recommended that the federal government change their rules. Kansas can solve this problem without Congressional action. Federal law only prevents Kansas from treating couples differently than individuals. SB 548 removes the state-imposed restrictions for both individuals and couples. By approving SB 548, Kansas has the option to choose the medically needy Medicaid category and allow spousal impoverishment protections again.

The division of resources is still theoretically available to couples who are denied medicaid because of income in excess of the 300% cap. The income test will always deny eligibility to the ill spouse. In the real world, the at-home spouse will have to spend whatever it takes to privately pay for the ill spouse.

Most spouses are forced to choose to spend all they have on nursing home care and go without, or to bring the ill spouse home and try to keep people at home who really need nursing home care.

Conclusion

We have visited with SRS on this issue and we understand the issues that brought about the changes in September, 1991. We know that the departments will continue to work together to build a better long term care system.

Fiscal Impact SB 548 & HB 2844

Savings from Medicaid Coverage of Grandfathered Residents

Annual Cost -- \$800,000¹

SGF if cap removed -- \$800,000 (.41)² = \$328,000

Net savings -- \$800,000 (.59)³ = \$472,000

Cost of Medicaid Coverage for New Admissions Over Cap

Average cost per person -- \$800,000 / 445⁴ = \$1,798 or \$150/month

Number of rejected admissions per year -- (23)⁵ (12) (.884)⁶ = 244

State share of medicaid coverage -- (244) (.41) (\$150) (8.4 months)⁷ = \$126,050

Net savings from removing cap -- \$472,000 - \$126,050 = \$345,850

¹Estimate by SRS in testimony before the Joint Committee on Administrative Rules and Regulations, September 1991

²The state share of medicaid is 41%.

³The federal share of medicaid is 59%.

⁴SRS testified in September, 1991 that 445 persons were covered by the grandfather provision.

⁵SRS testified on January 21, 1992 that 23 people were denied nursing home facility coverage in September, 1991. If the number increased to 86 people per month, the state would break even.

⁶Assumes the passage of Sub. HB 2566. SRS estimates that 11.6% of persons entering nursing homes will be diverted.

⁷The SRS fiscal impact statement on HB 2566 estimated that people admitted to nursing homes stayed for an average of 8.4 months.

Additional Comments:

The impact of the cap on individuals and spouses is far larger than the impact on SRS. The \$150 average expenditure for grandfathered residents makes up the difference between income and the medicaid rate of reimbursement. People who are not grandfathered residents must make up the difference between income and the private rate.

Long Range Impact:

As people who were grandfathered died, the savings from removing the cap would decrease. The state cost would eventually be \$290,449 $(\$1,798)(445)(.884)(.41)$, assuming no increase in the number of residents and no inflation in the cost of nursing home care above the inflation in income sources and the passage of Sub. HB 2566.

State costs would be recovered by SRS as recovery is implemented as recommended by the Governor and the SRS Task Force. The Governor's budget assumes that \$201,000 will be recovered in FY '93. More recovery is expected in future years.

Removing the cap would also avoid increased public expenditures for spouses who are impoverished by the inability to divide income and qualify for medical assistance.

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Public Health and Welfare Committee
Senate Bill 548

February 11, 1992

Mr. Chairman and members of the committee, I thank you for the opportunity to present you with this testimony.

Senate Bill 548 would statutorily eliminate the current 300% income cap used to determine eligibility for nursing home coverage and require that the Department re-establish the spenddown methodology used prior to the change. The cap which was required by last year's appropriations bill for SRS became effective on September 1, 1991 and impacted individuals who have applied for nursing home assistance since that time.

During the 1991 session, the Legislature struggled with issues regarding the funding for the Department's programs, particularly the Medicaid program. Costs within this program have greatly escalated and placed an ever increasing burden on the State's resources. Of significant concern has been the rapid rise of nursing home expenses which now account for approximately 40% of the total Medicaid budget. From fiscal year 1981 to 1992, total nursing home expenditures have grown from \$81 million to over \$220 million, an increase of over 170%.

Such dramatic growth has reached the point where it is affecting monies available for other programs, including those serving children and families. The Legislature, foreseeing this problem, reviewed a number of different alternatives for counteracting this trend and ultimately settled on an income cap as a means of limiting future growth in nursing home expenditures. The cap is based on an option within Medicaid statute and regulations that permits States to use a capped income standard in determining eligibility. Such a standard can be no higher than 300% of the SSI benefit level for one person. Since the single person SSI benefit level is now \$422/month, the current income cap is \$1266.

The Department does not support eliminating the cap. We feel the legislative action to limit nursing home expenses was needed. The Department cannot continue to support the present increase in nursing home expenditures without impacting our ability to provide assistance under other programs. The cap has begun limiting the number of new clients who are eligible for nursing home care and is expected to provide savings over the long term. Unless we take measures to limit the escalating costs in the Medicaid program, we face the potential of having to further scale back other programs and services currently available.

If, after consideration, the Legislature determines the cap should be eliminated, we do not believe that a statutory amendment is necessary. As the cap provision was a budgetary item, it would seem that action to eliminate it could occur through an amendment to the Department's appropriation bill. The language in this bill as currently worded could be problematic as it requires the Department to use standards and criteria in determining eligibility that were

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used as of June 1991. If, in the future, the agency needed to increase these standards or liberalize the criteria, as a result of state or federal action or even a court order, it would be prevented from doing so unless this statute was again amended. Such future changes could result in undue delays pending legislature action upon the change.

In summary, the Department does not support S. 548 as we believe the present income cap should be retained and that such a statutory change could also prove to be problematic in implementing future changes.

Donna L. Whiteman
Secretary

**Aid to Families with Dependent
Children (AFDC)**

<u>Family Size</u>	<u>Monthly Countable Income Limit*</u>
--------------------	--

1	\$239
2	\$321

* Limited based on AFDC need standard used in metropolitan areas (Kansas City, Wichita, Topeka, Hutchinson).

Food Stamps

<u>HH Size</u>	<u>Monthly Gross Income Limit (130% of Poverty)*</u>	<u>Monthly Net Income Limit (100% of Poverty)</u>
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1	\$ 718	\$552
2	\$ 962	\$740

* The Gross Income Limits do not apply to persons who are elderly (60 or over), or disabled. When calculating net income, these persons may deduct unreimbursed medical expenses that exceed \$35 a month and excess shelter costs. They will then be eligible for Food Stamps if their net income does not exceed the Net Income Limits.

**Poverty Level Medical Program
for Children & Pregnant Women**

<u>Number of Persons</u>	<u>Monthly 150% Poverty Level for Pregnant Women and Infants Under Age 1</u>	<u>Monthly 133% Poverty Level for Children Ages 1 through 5</u>	<u>Monthly 100% Poverty Level for Children Ages 6 and Above Born on or After October 1, 1983</u>
1	\$ 827	\$ 733	\$ 551
2	\$1110	\$ 984	\$ 740

**Poverty Level Medical Program
for Qualified Medicare Beneficiaries (QMB)**

<u>Number of Persons</u>	<u>Monthly 100% Poverty Level Standards</u>
1	\$551
2	\$740

Spenddown Medical Program*

<u>Persons</u>	<u>Monthly Income Standards</u>
1	\$422
2	\$466

* For children and aged and disabled adults not qualifying for poverty programs above.

300% Income Cap for Nursing Home Clients

\$1266/month for each individual

***ADULT CARE HOME EXPENDITURES FY81 – FY92**

<u>FISCAL YR</u>	<u>TOTAL \$'s</u>	<u>AVERAGE # PATIENTS</u>
1981	\$81,190,564	12,769
1982	83,806,177	12,548
1983	85,318,957	12,142
1984	91,479,357	12,039
1985	95,424,030	11,915
1986	101,828,373	11,837
1987	107,168,140	11,964
1988	123,472,381	12,423
1989	140,427,653	12,439
1990	167,456,662	12,459
1991	189,609,911	13,689
Approp 1992	220,548,900	13,900

*This information includes data on all Nursing Facilities, Intermediate Care Facilities for the Mentally Retarded, and Intermediate Care Facilities for the Mentally Ill. No State Institution is included however.