

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 2:00 p.m. on March 14, 2002 in Room 423-S of the Capitol

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
June Evans, Secretary

Conferees appearing before the committee: Representative Tricia Lightner
Laura Howard, Assistant Secretary, SRS
Allan Hazlett, Attorney

Others attending: See Attached Sheet

The Chairperson opened the hearing on **HB 2892 - Adoption; reimbursement of state moneys paid for birthing.**

The Chairperson stated that Representative Lightner was the author of the bill and would give a briefing and her testimony.

Representative Lightner, a proponent for **HB 2892**, furnished amendments, stating the bill provides for adoptive parents to reimburse SRS for the actual medical expenses incurred by the birth mother attributable to pregnancy and birth and the actual expenses of the child when SRS incurs these costs, i.e., the birth mother is on Medicaid. Taxpayers are paying the bill for adoptive parents. Amendments exclude children that are in SRS custody (Attachments 1 & 2).

Representative De Castro stated crack and special needs children are always hard to place and the hospital bills and long term care of these children are overwhelming and these adoptive parents need help with the bills.

Representative Kirk said she encouraged and supported this bill but questioned if this would discourage people of modest means from adopting. They do not have the money.

Representative Lightner stated the average cost of a birth is \$3900. The judge has the discretion of who pays the charges.

Representative Kirk said this is a barrier to adoption.

Representative Lightner said it costs between \$20,000 and \$30,000 to adopt a child through an adoption agency in Kansas City. There is a federal tax credit of \$10,000 this year.

Laura Howard, Assistant Secretary, Kansas Department of Social and Rehabilitation Services, testified in support of **HB 2892**, stating this bill amends K.S.A. 59-2121 to allow SRS to recover costs paid through the Medicaid program associated with the birth of children who are privately adopted. The amendment would allow any actual medical expenses of the child to be reimbursed to SRS.

Medicaid currently pays for one in three births in Kansas. The estimated medical cost of a pregnancy and birth is \$5,800, if the mother is covered by the Medicaid program for the entire nine month period. Any portion of amounts returned to SRS originally paid for by federal matching funds would need to be returned to the federal government (Attachment 3).

The Chairperson asked if the adoptive parents did not have maternity benefits, could they go back and apply for the insurance?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S
of the Capitol

Larrie Ann Lower, Kansas Association of Health Plans, replied she did not know but would find out the answer.

Dr. Wolff stated the statutes K.S.A. 40.102 mandates for all insurers to cover cost of expenses of new borns for children adopted within a certain period of time. Does not require costs of birth mother. There is no requirement on insurer to have to pay expenses of birth mothers expenses. They have to have maternity coverage option.

Allan Hazlett, Attorney, Opponent to **HB 2892**, said he had devoted 15 years to finding homes for adoptions. The bill might be well intended but it is bad public policy. This is a dramatic change in public policy. There are only 3 states where birth mothers expenses are paid. It didn't change rates at all in those three states. This does not apply if ERISA or self-insured. This is a barrier for people of modest means to adopt as they can not afford it.

The Chairperson asked Mr. Hazlett to provide written testimony. (Mr. Hazlett was called and reminded, but did not provide written testimony.)

The Chairperson closed the hearing on **HB 2892**.

The Sub-Committee on Credentialing met following the full committee meeting.

The meeting adjourned at 3:00 p.m.

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TOPEKA

HOUSE OF
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MAJORITY WHIP
 COMMITTEE ASSIGNMENTS
 MEMBER HEALTH AND HUMAN SERVICES
 UTILITIES
 SOCIAL SERVICES BUDGET

TO: Chairman Boston and H and H Services Committee Members
 FROM: Representative Lightner *AL*
 RE: HB 2892
 DATE: March 14, 2002

This bill provides for adoptive parents to reimburse SRS for the actual medical expenses incurred by the birth mother attributable to pregnancy and birth and the actual expenses of the child when SRS incurs these costs ie: the birth mother is on Medicaid.

Currently, when a child's born on Medicaid and is given up for adoption, the adoptive parents pay no monies for the medical costs associated with the birth.

In essence, taxpayers are paying the bill for adoptive parents.

Currently in law, as you can see in an adoption, KS requires an accounting of expenses to the Court listed as follows:

- For legal and other professional fees.
- Fees for a licensed child-placing agency.
- Actual/necessary expenses- incident to placement of child.
- Medical expenses of mother re: birth and pregnancy.
- Medical expenses of child.
- Living expenses of birthmother incurred during pregnancy.

I brought this bill because I believe that at this time with a budget shortfall and healthcare costs rising for the state we should examine whether or not it is time for adoptive parents to start paying these costs themselves instead of the taxpayers.

Most of you know, I am an adoptive parent. My first daughter Isabella is from MN. She was a Medicaid baby, and I can tell you unequivocally, that if I had been sent a medical bill by the state of MN or been told ahead of time that these costs were involved if I wanted a baby – it would not have been a deterrent.

My husband and I like most adoptive parents, waited a long time to have a baby. And when we got to the adoption part of trying – it was still a wait. WHY!! Because there is such a shortage of babies that you all must know this has created a huge demand

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for babies. The statistic I've heard is that for every million families trying to adopt a baby every year – there are only 30,000 babies available.

There are those that might argue that birth mothers may be effected by this law, they may decide that this law keeps them from giving their babies to who they want, may abort them instead or may be afraid that families won't want to pay the medical costs.

I think that's a bunch of poppycock!!

My understanding of these birth mothers who give their babies up for adoption is that they love their babies, they want to give them life, they just can't afford to keep them. I disagree that the addition of these costs would be a deterrent for a birth mother to give birth or keep her from wanting to place and placing her baby for adoption. I think the committee should note that the requirement that all legal costs be paid by adoptive parents has not proven to keep birth mothers from putting their babies up for adoption or stopped adoptive parents from adopting babies.

There are some critics who may claim that this bill is discriminatory as the AZ law was requiring this payment, and that law was overturned. This bill is different from that law which was found to discriminate against out of state residents from in state residents and was basically found in violation of the Commerce Clause. I would like to point out that this law does not discriminate between in state versus out of state prospective adoptive parents it is applied equally to all.

However, it should be noted that KS residents do have an advantage and that's due to our KS laws that provide for adoptive parents residing in KS who carry maternity insurance. Insurance Cos are then required to reimburse for for the birthing costs and costs attributable to the pregnancy.

Amendments:

- Excluding children that are in SRS custody.
- That where a KS child is involved in the adoption, the SRS, upon the request of the court or a party to the adoption shall provide the information to the court regarding whether expenses of 4 and 5 were paid by the department and amount paid.
- Included in accounting there would be a statement as to whether paragraphs 4 and 5 were paid by the SRS.
- Limits to child under the age of blank (the suggested age is one years old.).

HOUSE BILL No. 2892

By Representative Lightner

2-13

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3-14-02
Atch #2

9 AN ACT concerning social welfare; relating to reimbursement of birthing
10 expenses by adoptive parents; amending K.S.A. 59-2121 and repealing
11 the existing section.
12

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

14 Section 1. K.S.A. 59-2121 is hereby amended to read as follows: 59-
15 2121. (a) Except as otherwise authorized by law, no person shall request,
16 receive, give or offer to give any consideration in connection with an
17 adoption, or a placement for adoption, other than:

18 (1) Reasonable fees for legal and other professional services rendered
19 in connection with the placement or adoption not to exceed customary
20 fees for similar services by professionals of equivalent experience and
21 reputation where the services are performed, except that fees for legal
22 and other professional services as provided in this section performed out-
23 side the state shall not exceed customary fees for similar services when
24 performed in the state of Kansas;

25 (2) reasonable fees in the state of Kansas of a licensed child-placing
26 agency;

27 (3) actual and necessary expenses, based on expenses in the state of
28 Kansas, incident to placement or to the adoption proceeding;

29 (4) actual medical expenses of the mother attributable to pregnancy
30 and birth;

31 (5) actual medical expenses of the child; and

32 (6) reasonable living expenses of the mother which are incurred dur-
33 ing or as a result of the pregnancy.

34 (b) ~~If such costs were paid by the department of social and rehabili-~~
35 ~~tation services, moneys paid by the adopting parents of a Kansas child~~
36 ~~pursuant to paragraphs (4) and (5) of subsection (a) shall be turned over~~
37 ~~to the department of social and rehabilitation services.~~

38 ~~(b)~~ (c) In an action for adoption, a detailed accounting of all consid-
39 eration given, or to be given, and all disbursements made, or to be made,
40 in connection with the adoption and the placement for adoption, shall
41 accompany the petition for adoption. Upon review of the accounting, the
42 court shall disapprove any such consideration which the court determines
43 to be unreasonable or in violation of this section and, to the extent nec-

such child is under the age of ___ years and

along with a statement as to whether paragraphs (4) and (5) of subsection (a) were paid by the department of social and rehabilitation services and the amounts paid

essary to comply with the provisions of this section, shall order reim-
bursement of any consideration already given in violation of this section.

~~(e)(4)~~ Knowingly and intentionally receiving or accepting clearly ex-
cessive fees or expenses in violation of subsection (a) shall be a severity
level 9, nonperson felony. Knowingly failing to list all consideration or
disbursements as required by subsection (b) shall be a class B nonperson
misdemeanor.

Sec. 2. K.S.A. 59-2121 is hereby repealed.

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

(d) In cases involving the adoption of a
Kansas child, the department of social and
rehabilitation services, upon the request of
the court or a party to the adoption, shall
provide such information to the court or the
party regarding whether the expenses in
paragraphs (4) and (5) of subsection (a) were
paid by the department and the amount paid.

(e)

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Kansas Department of Social and Rehabilitation
Services
Janet Schalansky, Secretary



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House Health and Human Services Committee, 423-S
March 14, 2002 at 2:00 p.m.

House Bill 2892

Health Care Policy
Laura Howard, Assistant Secretary
785.296.3773

HsHAS
3-14-02
Atch #3

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

House Health and Human Services Committee
March 14, 2002 at 2:00 p.m.

House Bill 2892

Mr. Chairman and members of the committee, I am Laura Howard, Assistant Secretary for Health Care Policy at SRS. Thank you for the opportunity to appear before you today to present testimony in support of House Bill 2892.

House Bill 2892 amends K.S.A. 59-2121 to allow SRS to recover costs paid through the Medicaid program associated with the birth of children who are privately adopted. The amendment would allow any actual medical expenses of the mother attributable to pregnancy and birth or actual medical expenses of the child to be reimbursed to SRS.

The Medicaid program currently pays for one in three births in Kansas. The estimated medical cost of a pregnancy and birth is \$5,800, if the mother is covered by the Medicaid program for the entire nine month period. Any portion of amounts returned to SRS originally paid for by federal matching funds would need to be returned to the federal government.

Thank you for the opportunity to testify today. I would be happy to answer any questions you may have.

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