Approved: April 19, 2007
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:40 A.M. on February 19, 2007, in Room 123-S of the Capitol.

All members were present except:
Senator Donald Betts- excused
Senator Vicki Schmidt- excused

Committee staff present:
Jill Wolters, Senior Assistant, Revisor of Statutes
J. G. Scott, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Melinda Gaul, Chief of Staff, Senate Ways & Means
Mary Shaw, Committee Assistant

Conferees appearing before the committee:
Stephen Feinstein, Ph.D., Co-Chair, Mental Health Parity Task Force

Others attending:
See attached list.

Bill Introductions

Senator Schodorf moved, with a second by Senator Emler, to introduce the Governor's Budget Bills, appropriations for FY2008 and FY2009 for state agencies; appropriations for FY2007 for various state agencies and appropriations for FY2008 and FY2009 for capital improvements for various state agencies. Motion carried on a voice vote.

Copies of the Kansas Legislative Research Department Budget Analysis report for FY 2007 and FY 2008 were available to the committee.

Subcommittee reports on:

Kansas Department of Commerce (Attachment 1).

Subcommittee Chair David Wysong reported that the subcommittee on the Kansas Department of Commerce concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with adjustments. A Minority Report was submitted by Senator Betts with the subcommittee budget report.

Senator Wysong moved, with a second by Senator McGinn, to amend the subcommittee report to remove recommended funding for seven vehicles in FY 2008 for consideration at Omnibus. Motion carried on a voice vote.

Senator McGinn moved, with a second by Senator Wysong, to adopt the subcommittee budget report on the Kansas Department of Commerce in FY 2007 and as amended in FY 2008. Motion carried on a voice vote.

Kansas, Inc.
Kansas Technology Enterprise Corporation (Attachment 2)

MINUTES OF THE Senate Ways and Means Committee at 10:40 A.M. on February 19, 2007, in Room 123-S of the Capitol.

Subcommittee Chair David Wysong reported that the subcommittee on Kansas, Inc., concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with adjustments.

Senator Wysong moved, with a second by Senator Emler, to adopt the subcommittee budget report on Kansas, Inc., in FY 2007 and FY 2008. Motion carried on a voice vote.

Subcommittee Chair David Wysong reported that the subcommittee on Kansas Technology Enterprise Corporation (KTEC) concurs with the Governor's recommendation in FY 2007 with adjustment and concurs with the Governor's FY 2008 recommendation with adjustments.

Senator Wysong moved, with a second by Senator Emler, to adopt the subcommittee budget report on the Kansas Technology Enterprise Corporation (KTEC) in FY 2007 and FY 2008. Motion carried on a voice vote.

Chairman Umbarger welcomed Dr. Steve Feinstein, Co-Chair, Mental Health Parity Task Force, who presented a briefing on the report (Attachment 3). Also present was Dr. Ira Stamm, Co-Chair of the Task Force. Copies of the Mental Health Parity Task Force Executive Summary were distributed to the Committee (Attachment 4).

Dr. Feinstein explained that the Task Force Mission was to study the barriers to coverage in a state-regulated insurance plan that exists under the current mental health parity law. He also noted that parity is based on the assumption that mental disorders and physical disorders are only different in the way that they are experienced.

The following information was addressed in the briefing:

- Why parity is important.
- Why the disparity between insurance coverage for mental vs. physical disorders.
- Barriers to achieving the intent of the current statutes.
- Task Force recommendations regarding amendments to the statutes.
- Task Force recommendations regarding regulations.

Committee questions and discussion followed.

Senator Barone moved, with a second by Senator Steineger, to introduce a conceptual bill to deal with the Task Force Recommendations contained in the Mental Health Parity Task Force Report. Motion carried on a voice vote.

Chairman Umbarger asked that Senator Teichman, Senator McGinn, Senator Barone, Revisor and Legislative Research Staff work together regarding the conceptual bill.

The meeting adjourned at 11:50 a.m. The next meeting is scheduled for February 20, 2007.

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.

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST

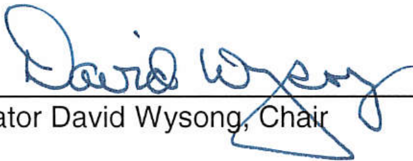
Date February 19, 2007

Name	Representing
Sean Tomb	Division of The Budget
Wendy Logan	TILRC
Kevin Silk	TILRC
WALLY KEARNS	KSBOC
PATTY CLARK	KDOC
LAURA HEFLIN	KDOC
John Kiltz	DOB
Sheli Sweeney	ACMHCK
[illegible]	KHPA
MARK D. MATZ	VIA CHRISTI HEALTH SYSTEM
Jennifer Crow	SRS
Ray Dalton	SRS
Iva Stamm	Task Force on Mental Health Parity
BRANDON BOHNING	DAMRON PA

FY 2007 and FY 2008

SENATE WAYS AND MEANS SUBCOMMITTEE

Department of Commerce



Senator David Wysong, Chair

Senator Donald Betts

Senator Jay Emler

Senator Carolyn McGinn

Senate Ways and Means
2-19-07
Attachment 1

Senate Subcommittee Report

Agency: Department of Commerce **Bill No.** SB **Bill Sec.**

Analyst: Deckard **Analysis Pg. No.** Vol. II-1048 **Budget Page No.** 89

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 4,462,987	$ 4,462,987	$ 0
Other Funds	104,480,176	104,435,176	0
Subtotal - Operating	$ 108,943,163	$ 108,898,163	$ 0
Capital Improvements:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	463,500	463,500	0
Subtotal - Capital Improvements	$ 463,500	$ 463,500	$ 0
TOTAL	$ 109,406,663	$ 109,361,663	$ 0
FTE Positions	423.1	423.1	0.0
Non FTE Uncl. Perm. Pos.	45.0	45.0	0.0
TOTAL	468.1	468.1	0.0

Agency Estimate

The agency requests FY 2007 operating expenditures of $108,943,163, including $4,462,987 from the State General Fund. The estimate is an all funds decrease of $2,054,052, or 1.9 percent, below the amount approved by the 2006 Legislature. The decrease is mainly attributable to decreases in Investments in Major Projects and Comprehensive Training (IMPACT) expenditures and decreases in federal funding. These decreases are partially offset by a supplemental request of $45,000 for trade assistance.

Governor's Recommendation

The Governor recommends FY 2007 operating expenditures of $108,898,163, including $4,462,987 from the State General Fund. The recommendation is a decrease of $2,099,052, or 1.9 percent, below the amount approved by the 2006 Legislature and a decrease of $45,000, or less than 0.1 percent, below the agency's estimate. The decrease is due to the Governor not recommending the agency supplemental request.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

45410~(2/19/7{8:03AM})

Senate Subcommittee Report

Agency: Department of Commerce **Bill No.** SB **Bill Sec.**

Analyst: Deckard **Analysis Pg. No.** Vol. II-1048 **Budget Page No.** 89

Expenditure Summary		Agency Request FY 08		Governor's Recommendation FY 08		Senate Subcommittee Adjustments
Operating Expenditures:						
State General Fund	$	460,515	$	616,671	$	(5,906)
Other Funds		103,003,958		107,806,590		(3,737,077)
Subtotal - Operating	$	103,464,473	$	108,423,261	$	(3,742,983)
Capital Improvements:						
State General Fund	$	0	$	0	$	0
Other Funds		250,000		250,000		0
Subtotal - Capital Improvements	$	250,000	$	250,000	$	0
TOTAL	$	103,714,473	$	108,673,261	$	(3,742,983)
FTE Positions		423.1		423.1		0.0
Non FTE Uncl. Perm. Pos.		45.0		45.0		0.0
TOTAL		468.1		468.1		0.0

Agency Request

The agency requests $103,464,473, including $460,515 from the State General Fund, for FY 2008 operating expenditures. The request is a decrease of $5,478,690, or 5.0 percent, below the FY 2007 estimate. The request includes two enhancement packages, totaling $1,162,500 from all funding sources. Without the enhancement packages, the request would be a decrease of $6,641,190, or 6.1 percent, below the FY 2007 revised estimate. The reduction is mainly attributable to the $4.0 million in energy program grants in FY 2007 that are not requested in FY 2008, reduction in revenue sources including federal funds, and contracts for services which were completed in FY 2007.

Governor's Recommendation

The Governor recommends FY 2008 operating expenditures of $108,423,261, including $616,671 from the State General Fund. The recommendation is a decrease of $474,902, or 0.4 percent, below the FY 2007 recommendation. The FY 2008 recommendation is an increase of $4,958,788, or 4.8 percent, above the agency's request. The Governor's FY 2008 recommendation includes the addition of $783,788, including $6,156 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. The recommendation includes a portion of the agency's enhancement request, totaling $87,500 for the purchase of seven vehicles. Additionally, the Governor's recommendation includes the addition of $150,000 from the

State General Fund for the Strong Military Bases Program, the addition of $3,000,000 from the Economic Development Initiatives Fund for On TRACK Program, and the addition of $2,100,000 from the Economic Development Initiatives Fund for the Rural Opportunity Program.

Also included in the Governor's recommendation is that the Eaton Corporation receive a portion of the income tax withholding it pays for its employees at its Hutchinson hydraulics manufacturing plant. Additionally, the Governor recommends the creation of new film production tax incentives, not to exceed $2.0 million in FY 2008. There is no funding associated with these recommendations for the Department of Commerce.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustments:

1. Delete $742,983, including $5,906 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.

2. Delete $3.0 million from the Economic Development Initiatives Fund (EDIF) that the Governor recommended for the newly created On TRACK program, which includes state sponsored sign-on bonus, promotion of the state image by partnering with employer based child care demonstration projects. The Subcommittee recommends that the agency pursue the program concept in the Senate Commerce Committee where it can be developed and detailed more fully.

Minority Report

I concur with the Senate Subcommittee recommendation for the Department of Commerce in FY 2008 with the following adjustment:

1. Review the addition of $3.0 million from the Economic Development Initiatives Fund for the On TRACK program during Omnibus. The On TRACK program is an innovative program which is attempting to address pressing issues within the business community of the state. The On TRACK program includes state sponsored sign-on bonuses, teacher shortage initiative, partnering with Kansas employers to promote the state image, employer based child care demonstration projects, and certification of workforce credentials.

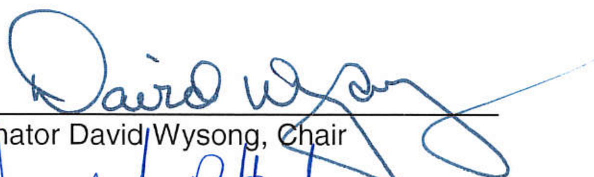
It is my opinion that the program would provide a valuable service to Kansans and the funding should be reviewed at Omnibus.

Senator Donald Betts

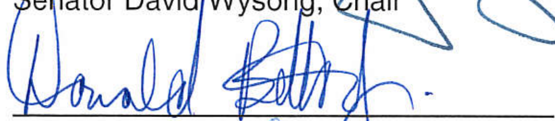
FY 2007 and FY 2008

SENATE WAYS AND MEANS SUBCOMMITTEE

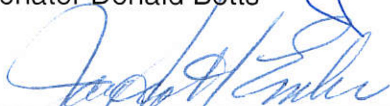
Kansas, Inc.
Kansas Technology Enterprise Corporation



Senator David Wysong, Chair



Senator Donald Betts



Senator Jay Emler

Senator Carolyn McGinn

Senate Ways and Means
2-19-07
Attachment 2

Senate Subcommittee Report

Agency: Kansas Inc. **Bill No.** SB **Bill Sec.**

Analyst: Deckard **Analysis Pg. No.** Vol. II-1082 **Budget Page No.** 249

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 25,000	$ 25,000	$ 0
Other Funds	700,475	700,475	0
Subtotal - Operating	$ 725,475	$ 725,475	$ 0
Capital Improvements:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	$ 0	$ 0	$ 0
TOTAL	$ 725,475	$ 725,475	$ 0
FTE Positions	4.5	4.5	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	5.5	5.5	0.0

Agency Estimate

The agency's estimate for FY 2007 operating expenditures is $725,475, a reduction of $5,675, or 0.8 percent, below the amount approved by the 2006 Legislature. The adjustment was due to a revised fee fund revenue estimate.

Governor's Recommendation

The Governor recommends FY 2007 operating expenditures of $725,475, a decrease of $5,675, or 0.8 percent, below the amount approved by the 2006 Legislature. The recommendation is the same as the agency's estimate.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

45408~(2/19/7{7:54AM})

Senate Subcommittee Report

Agency: Kansas Inc. **Bill No.** SB **Bill Sec.**

Analyst: Deckard **Analysis Pg. No.** Vol. II-1082 **Budget Page No.** 249

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	708,101	622,789	85,312
Subtotal - Operating	$ 708,101	$ 622,789	$ 85,312
Capital Improvements:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	$ 0	$ 0	$ 0
TOTAL	$ 708,101	$ 622,789	$ 85,312
FTE Positions	4.5	4.5	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	5.5	5.5	0.0

Agency Request

The agency requests $708,101 for FY 2008 operating expenditures, a decrease of $17,374, or 2.4 percent, below the FY 2007 estimate. The request includes two enhancement packages totaling $120,000 from all funding sources. Without the enhancement packages, the agency's request would be a reduction of $137,374, or 18.9 percent, below the FY 2007 estimate.

Governor's Recommendation

The Governor recommends FY 2008 operating expenditures of $622,789, none of which is from the State General Fund. The recommendation is a decrease of $102,686, or 14.2 percent, below the amount recommended for FY 2007. The recommendation is a decrease of $85,312, or 12.0 percent, below the amount requested by the agency. The reduction is due to Governor not recommending the agency's enhancement request for $100,000 for an evaluation of the Kansas Technology Enterprise Corporation. The Governor did recommend $20,000 from the Economic Development Initiatives Fund to increase the president's salary. The Governor's FY 2008 recommendation includes the addition of $14,688, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.

Senate Subcommittee Recommendation

Senate Subcommittee concurs with the Governor's recommendation with the following adjustments:

1. Delete $14,688, all from special revenue funds, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.

2. Add $100,000 from the Economic Development Initiatives Fund (EDIF) for an evaluation of the Kansas Technology Enterprise Corporation in FY 2008. The Subcommittee notes that this evaluation is a statutory requirement for the agency. The Subcommittee recommends that if sufficient funds are not available in the EDIF, the funds shall come from the Kansas Technology Enterprise Corporation EDIF appropriation.

Senate Subcommittee Report

Agency: Kansas Technology Enterprise Corporation **Bill No.** SB **Bill Sec.**

Analyst: Deckard **Analysis Pg. No.** Vol. II-1070 **Budget Page No.** 269

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 275,000	$ 275,000	$ 0
Other Funds	13,997,750	13,836,637	161,113
Subtotal - Operating	$ 14,272,750	$ 14,111,637	$ 161,113
Capital Improvements:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	$ 0	$ 0	$ 0
TOTAL	$ 14,272,750	$ 14,111,637	$ 161,113
FTE Positions	28.8	16.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	28.8	16.0	0.0

Agency Estimate

The agency estimates FY 2007 operating expenditures at $14,272,750, including $275,000 from the State General Fund. The estimate is an increase of $140,275, or 1.0 percent, above the amount approved by the 2006 Legislature. The estimate includes the reappropriation of $161,113 from the Economic Development Initiatives Fund. This is partially offset by a $20,838 reduction in agency fee fund expenditures for FY 2007 due to revised revenue estimates.

Governor's Recommendation

The Governor recommends FY 2007 operating expenditures of $14,111,637, including $275,000 from the State General Fund. The recommendation is an all funds decrease of $20,838 and 12.8 FTE positions from the amount approved by the 2006 Legislature. The recommendation is a reduction of $161,113, or 1.1 percent, below the amount requested by the agency. The decrease is due to the Governor's recommendation to lapse the Economic Development Initiatives Fund reappropriation of $161,113 in FY 2007. Additionally, the Governor recommends a reduction of 12.8 FTE positions in the MAMTC division. During the restructure of MAMTC during FY 2006, 12.8 positions in the MAMTC division were converted from unclassified state employees to contract employees. The Governor concurs with the agency's revised revenue estimates, which are a decrease of $20,838.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment:

1. Add $161,113 from the Economic Development Initiatives Fund (EDIF) in FY 2007. The Governor recommended lapsing $161,113 from EDIF, however, the agency indicated that the funds were already committed to existing programs.

Senate Subcommittee Report

Agency: Kansas Technology Enterprise Corporation **Bill No.** SB **Bill Sec.**

Analyst: Deckard **Analysis Pg. No.** Vol. II-1070 **Budget Page No.** 269

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	14,491,637	13,676,238	472,798
Subtotal - Operating	$ 14,491,637	$ 13,676,238	$ 472,798
Capital Improvements:			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	$ 0	$ 0	$ 0
TOTAL	$ 14,491,637	$ 13,676,238	$ 472,798
FTE Positions	28.8	16.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	28.8	16.0	0.0

Agency Request

The agency requests FY 2008 operating expenditures of $14,491,637, an increase of $218,887, or 1.5 percent, above the FY 2007 estimate. The request includes three enhancement packages totaling $750,000. Without the enhancement packages, the request would be a decrease of $531,113, or 3.7 percent, below the FY 2007 revised estimate. The FY 2007 estimate includes a one-time expenditure of $275,000 from the State General Fund in the area of commercialization for the Pipeline Mentoring Program and the Entrepreneurs-in-Residence Program. Additionally, the FY 2008 request includes decreases in EPSCoR/Star funds including $161,113 from the Economic Development Initiatives Fund and $95,000 from special revenue funds. The agency has requested enhancement packages to supplement this funding, including $525,000 from the Economic Development Initiatives Fund for the Pipeline Mentoring Program and Entrepreneurs-in-Residence Program and $125,000 from the Economic Development Initiatives Fund for EPSCoR/Star Fund.

Governor's Recommendation

The Governor recommends FY 2008 operating expenditures of $13,676,238, a decrease of $435,399, or 3.1 percent, below the FY 2007 recommendation. The recommendation is a reduction of $815,399, or 5.6 percent, below the agency's request. The recommendation does not include any of the agency's enhancement requests which total $750,000. Additionally, the Governor's recommendation includes a $104,000 reduction in salaries and wages, for a salaries and wages shrinkage rate of 9.0 percent. The Governor's FY 2008 recommendation includes the addition of

$38,601, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. The Governor recommends a reduction of 12.8 FTE positions in the MAMTC division. During the restructure of MAMTC during FY 2006, 12.8 positions in the MAMTC division were converted from unclassified state employees to contract employees. The Governor recommended that these positions be reduced in FY 2007 and continues that recommendation.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustments:

1. Delete $38,601, all from special revenue funds, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.

2. Add $511,399 from the Economic Development Initiatives Fund (EDIF) for the Pipeline Program which identifies entrepreneurial Kansans and provides them with training, resources and mentors to enhance their success as technology entrepreneurs.

3. Consider the addition of $150,000 from the EDIF for the Entrepreneur-in-Residence program at Omnibus. The Entrepreneur-in-Residence program attempts to stimulate results in strategic industries through contracts with individuals.

4. Consider the addition of $125,000 from the EDIF for EPSOR (Experimental Program to Stimulate Competitive Research) at Omnibus. The Subcommittee notes that this program is aimed at improving the competitiveness of academic research in states that have not traditionally fared well in attracting federal research funds. The Subcommittee also notes that the agency indicated it would anticipate receiving an additional $1.5 million in federal funds if it receives the $125,000 from EDIF to use as matching funds.

MENTAL HEALTH PARITY TASK FORCE REPORT

TASK FORCE MEMBERS

Stephen H. Feinstein, Ph.D., Co-chair
National Alliance on Mental Illness of Kansas
Ira Stamm, Ph.D., ABPP, Co-chair
Private practice, Topeka, Kansas
Wes Cole
Chairperson, Governor's Planning Council on Mental Health
Rick Cagan
Executive Director – National Alliance on Mental Illness of Kansas
Michael J. Hammond
Executive Director – Association of Community Mental Health Centers of Kansas
Gary Parker
Program Director – Consumer Advisory Council for Adult Mental Health, Inc.
Cynthia A. Schendel, LSCSW, Private Practice, Overland Park, Kansas
National Association of Social Workers, Kansas chapter – Chair, Private Practice Business Issues Committee
Saundra Snyder, LSCSW, Private Practice, Topeka, Kansas
National Association of Social Workers, Kansas chapter – Member, Private Practice Business Issues Committee
Sky Westerlund, LMSW
Executive Director, National Association of Social Workers, Kansas Chapter

Acknowledgement: The Mental Health Parity Task Force would like to thank Barbara Torkelson, Accident & Health Policy Examiner for the Kansas Insurance Department, for her significant contributions in time and expertise to the work of the Task Force.

TASK FORCE MISSION

Study the barriers to coverage in a state-regulated insurance plan that exists under the current mental health parity law.

PARITY

Parity is based on the assumption that mental disorders and physical disorders are only different in the way that they are experienced.

***Mental Health: A Report of the Surgeon General* (1999)**

The distinction between mental and somatic disorders is the locus of the predominant symptoms.

Mental and physical disorders are equally valid parts of the *continuum of function.*

Senate Ways and Means
2-19-07
Attachment 3

Why Parity?

The Objective Is To Require Insurance Coverage And Administration That Is Equal To, But Not Superior To, Other Medical Conditions Such As Cancer, Diabetes Or Heart Disease.

The New Freedom Commission on Mental Health (2003)

While mental health and physical health are clearly connected, a chasm exists between the mental health care and general health care systems in financing and practice.

WHY PARITY IS IMPORTANT

- **Parity reduces the stigma attached to mental disorders.**
- **5.6 million adults reported unmet mental health treatment needs and 47.2% of them said it was because of cost and/or insurance issues.**
- **When there is inadequate mental health insurance coverage the cost of care shifts to the public sector**
- **Reducing access to mental health services causes increased use of medical services and sick time.**
- **When there is no parity . . . working families with good heath insurance may be stripped of their savings and forced to make awful choices.**

WHY THE DISPARITY BETWEEN INSURANCE COVERAGE FOR MENTAL vs. PHYSICAL DISORDERS?

- The stigma attached to mental illnesses
- Ignorance of the personal, economic, and social impact
- Lack of awareness of the nature of mental disorders and their treatment
- The assumption that some medical disorders are more deserving of treatment than others
- The belief that mental disorders only require minimal treatment
- The assumption that treatment is only required for the acute stage of a mental disorder

SOME COST STUDIES

- Parity would increase premiums by only 1.4 to 1.6 percent Kirschstein (2000)
- The average annual premium increase associated with mental health parity predicted to cost only 1.4%. The Hay Group (2000)
- After one year Minnesota BC/BC reduced premiums five to six percent under a comprehensive parity law.
- North Carolina reduced MH expenses since it passed full parity in 1992.
- When employers offered broad mental health benefits, the costs for medical-surgical treatment for employees was reduced by 20%. (Chiles, et. al., 1999)

PARITY IS AFFORDABLE

On Tuesday, James Purcell, chief executive of Blue Cross Blue Shield of Rhode Island, said a similar effort to bring equal status to mental health coverage in Rhode Island "didn't break the bank."

Still, Purcell said, there is not full parity on office visits in Rhode Island, so the annual number of office visits a person can make for mental health care can be restricted — a policy he called bad medicine, bad law and bad insurance.

"Who are the people that are most likely going to need those extra visits? They're people who are really in tough shape," he said. "Where do they end up? In the emergency room."

He said Blue Cross Blue Shield of Rhode Island supported mental health parity.

U.S. House Of Representatives / Mental health parity pursued
Associated Press
BY MICHELLE R. SMITH
Wed. Jan. 17, 2007

INSURANCE COVERAGE FOR SERVICES RENDERED IN TREATMENT OF ALCOHOLISM, DRUG ABUSE OR NERVOUS OR MENTAL CONDITIONS (KSA 40-2,105)

- Applies to nervous and mental conditions not covered by the Parity Act
- Not less than 30 inpatient days per year
- Reimbursement for outpatient treatment of not less than 100% of the first $100, 80% of the next $100 and 50% of the next $1640 per year
- Lifetime limit of $7500

KANSAS MENTAL HEALTH PARITY ACT (KSA 40-2,105a)

- Definition of mental illness includes a limited number of the mental disorders found in the Diagnostic and Statistical Manual IV-TR (2000)
- Limits inpatient treatment to 45 days per year and outpatient visits to 45 per year

BARRIERS TO ACHIEVING THE INTENT OF THE CURRENT STATUTES

- No Kansas Administrative Regulations
- Inconsistent Utilization Review focused on economic rather than outcome variables
- Lack of Confidentiality in reporting requirements
- Discriminatory gate keeping
- Required grading of the severity of the mental illness
- Discrimination in the treatment of a severe, chronic, and recurrent mental illness
- Relevant, valid, and reliable UR data are inaccessible

Report of the Surgeon General on Mental Health (1999)

What is most important to reiterate is that the causes of health and disease are generally viewed as a product of the interplay or interaction between biological, psychological, and socio-cultural factors. This is true for all health and illness, including mental health and mental illness.

TASK FORCE RECOMMENDATIONS REGARDING AMENDMENTS TO THE STATUTES

- Delete the annual 45 day in-patient and 45 visit outpatient limit from KSA 40-2,105a
- Remove disparate co-payments, annual limits, and lifetime maximum from KSA 40-2,105.
- Require reimbursement or indemnification of the full continuum of care for psychiatric illnesses just as for physical illnesses.
- Require insurers to provide maintenance therapy and support.
- Disallow disparate authorization, monitoring, and compensation of treatment
- Require coverage of all DSM-IV-TR mental disorder diagnoses unless the same criteria used to exclude a somatic disorder have been applied.
- Require that all information related to a diagnosed mental disorder and its treatment be protected from potential data mining.
- Require that mental health treatment modalities covered by insurers include preventive care.

Task Force Recommendations Regarding Regulations

- Promulgate regulations assuring compliance of insurers with both the letter and intent of the parity statutes.
- Require uniform application of UR definitions, criteria, policies, and procedures that are neither more nor less restrictive than those applied to general health.
- Base UR criteria on clinical need determined by a practitioner licensed by the Behavioral Sciences Regulatory Board or the Board of Healing Arts.
- Make UR criteria accessible to both the insured and the insured's service provider.
- Develop uniform criteria for access to in-patient treatment that are no more stringent than those applied to somatic disorders.
- Require insurers to base decisions about continuing in-patient or outpatient treatment on research-based clinical outcome criteria.
- Convene an expert panel of stakeholders to recommend a process for acquisition of relevant, valid, reliable, and easily accessible data that can be used to monitor compliance with KSA 40-2, 105, 105a and 2258.
- Assure that treatment reimbursement decisions are guided by scientific research and data.

Mental Health Parity Task Force

A Sub-Committee of the Governor's Mental Health Planning Council
State of Kansas
November 2006

EXECUTIVE SUMMARY

Mental health parity is valued because it is fair. It provides an opportunity to improve care. Parity reduces the stigma of mental illness by treating it like any other illness. Stigma often keeps people from seeking treatment. In addition, excessive limits on mental health benefits can create major financial burdens for patients, their families, and providers. There is substantial evidence that parity is affordable. Major corporations have demonstrated significant savings with less than 1% increase in health care premiums, when they provided parity in insurance coverage to their employees.

Among the barriers to achieving mental health parity in Kansas are:

1. Discriminatory limits on in-patient and out-patient treatment;
2. The absence of Kansas Administrative Regulations governing the application of KSA 40-2105 and 105a;
3. Inconsistent utilization review;
4. Concern about the confidentiality of information shared with third party payers;
5. Discriminatory gate keeping;
6. Limited definition of mental illness in statute;
7. Inaccessible, relevant, valid and reliable utilization review data;
8. Mental and somatic disorders are not treated by insurers as equally valid parts of the health continuum.

The Task Force classified its recommendations into two categories:

Elimination of barriers to mental health parity within the framework of the existing statutes

- Managed care/insurance companies should reimburse for the full continuum of care for psychiatric illness.
- Require insurers to recognize mental disorders as chronic and require them to pay for maintenance/supportive therapy;
- The Kansas Insurance Department should promulgate regulations governing the application and oversight of the parity statutes.
- Definitions, criteria, policies and procedures used in utilization review should be uniformly applied to treatment of mental and physical disorders and should be based on clinical need.
- The criteria for access to in-patient treatment should be developed by a panel of expert stakeholders and should be uniformly applied by all insurers.
- Decisions of insurers regarding continued in-patient and outpatient treatment should be determined by research-based clinical standards.
- All information related to a diagnosed mental disorder and its treatment obtained by an insurer must be protected from data mining by unauthorized entities.
- The Governor's Mental Health Services Planning Council should survey insured individuals who have used their mental health benefits in order to determine what issues are most important to them.

Elimination of barriers to mental health parity that require legislative changes

- Mental health parity statutes should be amended to:
  - Delete 45 day in-patient and 45 visit outpatient limits from KSA 40-2105a.
  - Disallow disparate authorization, monitoring and compensation for treatment of mental illness;
  - Disallow excessive co-payments and annual limits; and
  - Redefine mental illness to include all mental disorders listed in the most current edition of the Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association.

Senate Ways and Means
2-19-07
Attachment 4

Mental Health Parity Task Force Report

TASK FORCE MISSION

The Mental Health Parity Task Force was created by the Governor's Mental Health Services Planning Council at the request of Kansas Governor Kathleen Sebelius. The directive to the task force was to study the barriers to coverage in a state-regulated insurance plan that exists under the current mental health parity law. The Governor noted that, although Kansas has moved closer to full insurance parity for mental disorders, the current law still limits coverage of mental illnesses to 45 days of in-patient care and 45 days of outpatient care.

TASK FORCE PROCESS

The Mental Health Parity Task Force met fourteen times between January 2006 and October 2006. It considered documents and testimony from task force members, a consumer of service, members of the public, the Kansas Departments of Insurance and Social and Rehabilitation Services, the Department of Veterans Affairs, and the Director of a Mental Health Unit of a not-for profit community hospital. The task force felt that:

1) Some barriers to mental health parity within the current statutes could be remedied by rigorously adhering to the letter and spirit of the statutes; and

2) Other barriers could be overcome only through amendment of the statutes.

Part I

Mental Disorders and Somatic Disorders Are Not Treated by Insurers as Equally Valid Parts of the Health Continuum

Since the publication of *Mental Health: A Report of the Surgeon General* (1999), if not earlier, it has been generally accepted that the only distinction between mental and somatic disorders is the locus of the predominant alterations in function. For example, the report notes that when a stroke produces paralysis and that symptom is predominant, the disorder is somatic. Alternatively, when the stroke causes alterations of thought, mood, or behavior and those symptoms are predominant, the disorder is mental. The point that must be understood and that must form the basis of all health insurance statutes is that mental illness and somatic illness are inseparable points on a continuum of function.

The Final Report of the President's New Freedom Commission On Mental Health (2003) makes the point, "*... that mental health is key to overall health. Therefore, improving services for individuals with mental illnesses requires paying close attention to how mental health care and general medical care interact. While mental health and physical health are clearly connected, a chasm exists between the mental health care and general health care systems in financing and practice.*"

WHY PARITY IS IMPORTANT

Parity is valued because it is fair. It provides an opportunity to improve care. Parity reduces the stigma of mental illness by treating it like any other illness. Results from the *2004 National Survey on Drug Use and Health*, by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), found that of the 5.6 million adults who reported an unmet need and who did not receive mental health treatment, 47.2% attributed that unmet need to cost/insurance issues.

When private insurers fail to cover needed mental health services, an already overburdened public mental health system must pick up the slack, straining existing resources.

The National Mental Health Association estimates that the combined indirect and related costs of mental illness, including costs of lost productivity, lost earnings due to illness, and social costs is, at least, $113 billion annually (Rice & Miller, 1998)

Cutting dollars for mental health care can increase overall medical costs. For example, a 30 percent cost reduction in mental health services at a large Connecticut corporation triggered a 37 percent increase in employee use of mental health services and sick leave. Investigators reported that overall medical care costs decrease for those using behavioral health care services, when such costs were generally increasing (Rosenheck, et al. 1999).

While the estimated annual cost to the nation of providing mental health coverage commensurate to physical health coverage for all children and adults is $6.5 billion, it is also estimated that this mental health coverage would result in savings for general medical services and indirect costs in the amount of $8.7 billion – a net savings of $2.2 billion (National Advisory Mental Health Council, 1993) -

Extensive limits on mental health benefits can create major financial burdens for patients and their families. One economic study modeled the out-of-pocket burden that families face under existing mental health coverage using different mental health expense scenarios (National Advisory Mental Health Council, 2000). For a family with mental health treatment expenses of $35,000 a year, the average out-of-pocket burden is $12,000. For those with $60,000 in mental health expenses a year, the burden averages $27,000. This is in stark contrast to the out-of-pocket expenses of only $1,500 and $1,800, respectively, that a family would pay for medical/surgical treatment.

According to a survey conducted in September of 2002 by Opinion Research Corporation, 83% of Americans believe it is unfair for health insurance companies to limit mental health benefits and require people to pay much more out-of-pocket for mental health care than for any other medical care. In addition, 79% support parity legislation even if it results in an increase in their health insurance premiums.

CONTINUED EVIDENCE OF AFFORDABILITY

- Kirschstein (2000) estimated that parity would increase premiums by only 1.4 to 1.6 percent yet acknowledged that this estimate may still be too high.

- In 2000, the National Advisory Mental Health Council requested that the Hay Group update its estimate of the average annual premium increase associated with mental health parity. That update showed a predicted cost increase of only 1.4%.

- In Minnesota, Blue Cross/Blue Shield reduced its insurance premiums by five to six percent after one year's experience under the State's comprehensive parity law.
- In North Carolina, mental health expenses have decreased since comprehensive parity for State and local employees was passed in 1992.

Part II

BARRIERS TO MENTAL HEALTH PARITY WITHIN THE EXISTING STATUTES

(The relevant statutes can be found in Appendix A)

The Mental Health Parity Task Force based its assessment of the barriers to parity of access to services for mental disorders and somatic disorders on information received from its membership and a number of experts from government, the service provider community, and the insured public. Much of the information received by the task force was anecdotal and little hard data was available. There was a consensus that while the anecdotal evidence was compelling, it is important to identify and acquire hard data that can be used to check the validity of observations about the operation of the health insurance system.

The task force heard considerable information regarding disparity between the ways mental health treatments and somatic treatments are authorized, monitored, and compensated. These disparities reflect a continuing misapplication and/or misperception of the continuity of mental and somatic health. Moreover, they reinforce the stigma associated with mental illnesses.

The Task Force identified the following barriers to implementation of the existing statutes:

The Absence of Department of Insurance Administrative Regulations for KSA 40-2,105 and KSA 40-2,105a

In the absence of Kansas Administrative Regulations governing the application of KSA 40-2,105 and 105a, insurers are able, arbitrarily, to curtail the benefits guaranteed under the law. For example, the Mental Health Parity Task Force noted that:

a. The average number of inpatient days was 5 and the average number of out-patient visits was 6 regardless of diagnosis, versus the statute limit of 45 and 45;
b. Utilization review is inconsistently applied across insurers and between mental and somatic disorders and is apparently required more frequently for mental disorders.
c. Authorization for treatment is often more difficult to obtain for mental disorders or nervous and mental conditions than for somatic disorders.

Inconsistent Utilization Review Focused On Economics Rather than Outcome Variables

Utilization Review (UR) is the process of assessing the delivery of medical services to determine if the care provided is appropriate, medically necessary, and of high quality. UR may include review of appropriateness of admissions, services ordered and provided, length of stay, and discharge practices, both on a concurrent and retrospective basis. The task force heard from providers that there are no uniform clinical outcome standards governing utilization review for either in-patient or outpatient treatments for mental disorders. As a result, payment decisions appear to be made not on the patient's clinical need and the therapist's professional judgment, but on actuarial data regarding length of stays and number of office visits. This gives the appearance that treatment decisions are made based on cost instead of clinical necessity. This is not the case with the treatment of somatic disorders. For the first line of review, some insurance companies use inexperienced clinicians who are not licensed to practice independently in Kansas. For insurance reviews at the appeal level, some insurers use out-of-state psychiatrists who are not licensed to practice medicine in Kansas.

Lack of Confidentiality in Reporting Requirements

Because of the continuing stigma attached to mental illness, the reporting requirements of some insurance companies may deter some people from using their insurance benefits. For example, the task force heard that practicing attorneys rarely use their insurance for mental health services and usually pay for treatment out-of-pocket to avoid embarrassment and stigma. In this regard, while the reporting procedures may be the same for

somatic and mental disorders, the perception is that, for the latter, a higher standard of confidentiality is necessary to assure parity. One might expect that HIPAA regulations would make this issue moot, but from a number of sources, we know that underwriters, other industry personnel, human resources professionals, and other interested parties can access this information through a variety of data mining services.

Discriminatory Gate-Keeping

People who have diabetes, cancer, asthma, and other serious somatic disorders are not subjected to the same restrictive gate-keeping as are those with mental illnesses. A person who has a major depressive episode with recurrent suicidal ideation is at grave risk of death and yet the task force heard that, depending upon the insurer, that person may face greater difficulty in obtaining approval for inpatient treatment than a person with a heart attack.

Data on Costs of Kansas Parity

During hearings on the 2001 Mental Health Parity Bill, the insurance lobby argued that to include more of the disorders would make the cost of insurance prohibitively high. The audit on mental health parity requested by the Kansas legislature (Blobaum, 2000) showed that the annual increase in insurance costs from mental health parity from 1999 to 2001 was less than 1% per year.

Discriminatory Limits on Coverage for Mental Illness

The task force notes that the Insurance Statute (KSA Chapter 40) does not limit coverage for certain somatic disorders, including some and excluding others, in the same way it does for mental disorders. This is clearly a parity issue.

Required Grading of Severity of Mental Illnesses

Some insurers require that providers code/grade mental illness as mild, moderate, or severe, in a way that is not required of providers treating somatic illnesses.

Discrimination in the Treatment of Severe, Chronic, and Recurrent Mental Illness

Patients with chronic medical conditions requiring long-term maintenance care receive approval for that care, while patients with severe, chronic, and recurrent mental illnesses do not. Many insurance contracts state that coverage is only for the treatment of acute mental illness.

Some utilization review companies ask the therapist to certify whether the treatment is for care of an acute illness or is for maintenance treatment. The insurer typically authorizes less frequent treatment for patients who need maintenance care. This ignores the fact that some patients may need weekly sessions to maintain their current level of functioning.

Discriminatory Higher Co-payments for Mental Illness

Patients with a non-biologically based mental illness, as defined in KSA 40-2,105, by statute may have a co-pay as high as 50%. No equivalent language exists in statute regarding somatic illnesses. Insurers have consistently increased the co-pay for biologically based mental illnesses.

Relevant, Valid, and Reliable Utilization Review Data for Mental Disorders Are Inaccessible

The Kansas Insurance Department was extremely cooperative about providing data to the task force and obviously recognizes that effective monitoring of the insurance system requires acquisition of rationally selected data. This is illustrated by the KID data showing that individuals received, on average, **five outpatient sessions**

– regardless of the nature of their psychiatric illness – whether it be schizophrenia, bipolar disorder, major affective disorder, or panic disorder -- and that people who needed to be hospitalized for a psychiatric disorder spent, on average, **five to six days in the hospital** regardless of their diagnosis. These data may indicate that payment for mental health services is driven by bottom line considerations rather than the clinical need of the insured. That can only be determined by access to relevant, valid, and reliable hard data that can be used to identify and test specific differences between the ways in which insurers pay for treatment of somatic and mental disorders. At this time, those data are not accessible.

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BARRIERS TO MENTAL HEALTH PARITY THAT REQUIRE LEGISLATIVE CHANGE

Limited Definition of Mental Illness

KSA 40-2,105a defines "mental Illness" to include only a limited number of the diagnoses found in the *Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, Fourth Edition (DSM-IV).* The rationale for focusing on these diagnoses was that they represent the most serious and most prevalent mental disorders. Some described them as "biologically based" and argued that they were therefore more amenable to treatment.

The Mental Health Parity Task Force agrees with the **Report of the Surgeon General on Mental Health** (1999) regarding the etiology of mental disorders, viz., *What is most important to reiterate is that the causes of health and disease are generally viewed as a product of the interplay or interaction between biological, psychological, and socio-cultural factors. This is true for all health and illness, including mental health and mental illness.*

Discriminatory Limits on In-patient and Outpatient Treatment

The statute (KSA 40-2,105a) declares a 45-day annual limit on in-patient treatment and 45-visit annual limits on outpatient treatment If an insured person has a somatic disorder, the decision to pay for either in-patient or outpatient treatment is not time- or event-limited. It is based upon medical necessity. Annual limits are not imposed and lifetime limits are, at the least, two orders of magnitude greater. The Parity Task Force is not aware of any scientific or clinical evidence to support the assumption that all mental disorders can be effectively treated in 45 days or visits. These limits are arbitrary and reflect a bias against equal treatment of people suffering mental disorders.

National Data on Costs of Parity

A meta-study of the costs of mental health parity revealed that when employers offer broad mental health benefits, the costs for medical-surgical treatment for employees is reduced by 20% (Chiles, et. al., 1999)

Continuum of Care

In the treatment of physical disorders, acute care is often followed by intermediate care, i.e. "Med A" beds in nursing homes and rehabilitation hospital stays. These stays can extend for relatively long periods and they are paid for by insurance. Treatment of acute mental disorders is usually followed by discharge to the community, with supports that may range from outpatient therapy and some community services to essentially no follow-up. The result depends upon the person's insurance plan and availability of community services. Full parity would require insurers to offer the same benefits for physical and mental treatment. One reason for the "revolving door" often seen in psychiatric hospitals is that follow-through on recommendations for rehabilitation services are not implemented because of a lack of insurance coverage. Just as one would receive rehabilitation with some physical disorders, so, too, should one be rehabilitated for some mental disorders.

Part IV

RECOMMENDATIONS

Changes needed in Utilization Review process:

- The Kansas Department of Insurance should promulgate regulations assuring compliance of insurers with both the letter and intent of the parity statutes.
- Definitions, criteria, policies, and procedures used in utilization review of mental health treatments and services should be uniformly applied and should be neither more nor less restrictive than those applied to general health.
- The utilization review criteria used to evaluate the need for specific mental health services or continuation of services should be based upon clinical need determined by a practitioner licensed by the Behavioral Sciences Regulatory Board or the Board of Healing Arts. They should be accessible to both the insured and the insured's service provider.
- A panel of expert Kansas stakeholders should develop the criteria for access to in-patient treatment. These criteria should be uniformly applied by all insurers. In no case should they be more stringent than those applied to somatic disorders.
- Insurers should be required to base decisions about continuing in-patient or outpatient treatment on research-based clinical outcome criteria.
- The Kansas Insurance Department should convene an expert panel of stakeholders to develop recommendations regarding the acquisition of relevant, valid, reliable, and easily accessible data that can be used to monitor compliance with KSA 40-2, 105, 105a and 2258.

Modifications to the statute needed to eliminate barriers to parity

- The annual 45 day in-patient and 45 visit outpatient limit should be deleted from KSA 40-2,105a.
- The managed care/insurance companies should reimburse for the full continuum of care for psychiatric illness the way they reimburse for provision of the full continuum of care for medical illness. This includes outpatient treatment, intensive outpatient treatment, partial and day hospital, residential treatment, and inpatient treatment for children, adolescents, and adults.
- The mental health parity statutes should be amended to require insurers to recognize that many mental disorders, like many somatic disorders, are recurrent. Therefore, in order to continue recovery from symptoms, it is necessary to provide maintenance therapy and support.
- Treatment of mental illness should be guided by scientific research and data. Insurers should not be allowed to mandate one treatment over another on the basis of limited scientific study.
- The mental health parity statutes should be amended to reflect contemporary thinking regarding the inseparability of mental and somatic disorders. Disparate authorization, monitoring, and compensation of treatment should not be allowed.

- Excessive co-payments and annual limits should be deleted, while the lifetime maximum should be the same as for somatic conditions under KSA 40-2,105.

- No DSM-IV-R diagnosis should be excluded from full insurance coverage unless the same criteria used to exclude a somatic disorder have been applied. The process of establishing legitimate diagnoses is long and rigorous and involves medical and mental health professionals from many disciplines. Insurers should not be able to pick and choose which disorders they consider serious enough to cover.

- All information related to a diagnosed mental disorder and its treatment obtained by an insurer must be considered private and confidential. It should never become available to any other database except in the aggregate.

- Some insurance companies are beginning to cover preventive somatic health treatments such as smoking cessation classes, weight loss clinics and chronic disease management programs. The insurers know this saves them money in the end and we know this is true in mental health as well. Early intervention can prevent more serious mental illness from developing. For example, by treating people having relationship problems jointly with their family or relationship groups (a treatment modality not currently reimbursed by most insurers), we may well prevent individuals within those groups from developing life threatening depression. The mental health treatment modalities covered by insurers should therefore be expanded to include preventive care, as they have been for somatic illnesses.

Further Study Needed

- The task force notes that it is composed of mental health service providers, advocates, professionals and a single consumer of services. While there was an opportunity to hear from an insured parent of a service consumer, our perspective may not be fully representative of the insured community. The Governor's Mental Health Services Planning Council should survey insured individuals who have used their mental health benefits, in order to determine what issues are most important to them and what changes they believe are necessary. Moreover, complaints about mental health treatment reimbursement or indemnification filed with the Kansas Department of Insurance should be analyzed to determine if trends can be identified.

Attachments to Task Force Report

- Blobaum, G., Mental Health Parity Experience, an audit of the impact of the mandated mental health group medical insurance benefit codified in KSA 40-2,105a, effective January 1, 2002, Kansas Insurance Department.

- Kansas Health Insurance Information System (KHIIS), Progress Report, Appendix E, Mental Health Parity, July 2004, Kansas Insurance Department.

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Appendix A

The Three Kansas Mental Health Statutes

40-2,105

Chapter 40.--INSURANCE
Article 2.–GENERAL PROVISIONS

40-2,105. Insurance coverage for services rendered in treatment of alcoholism, drug abuse or nervous or mental conditions; applicability or nonapplicability of section. (a) On or after the effective date of this act, every insurer which issues any individual or group policy of accident and sickness insurance providing medical, surgical or hospital expense coverage for other than specific diseases or accidents only and which provides for reimbursement or indemnity for services rendered to a person covered by such policy in a medical care facility, must provide for reimbursement or indemnity under such individual policy or under such group policy, except as provided in subsection (d), which shall be limited to not less than 30 days per year when such person is confined for treatment of alcoholism, drug abuse or nervous or mental conditions in a medical care facility licensed under the provisions of K.S.A. 65-429 and amendments thereto, a treatment facility for alcoholics licensed under the provisions of K.S.A. 65-4014 and amendments thereto, a treatment facility for drug abusers licensed under the provisions of K.S.A. 65-4605 and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b and amendments thereto or a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b and amendments thereto. Such individual policy or such group policy shall also provide for reimbursement or indemnity, except as provided in subsection (d), of the costs of treatment of such person for alcoholism, drug abuse and nervous or mental conditions, limited to not less than 100% of the first $100, 80% of the next $100 and 50% of the next $1,640 in any year and limited to not less than $7,500 in such person's lifetime, in the facilities enumerated when confinement is not necessary for the treatment or by a physician licensed or psychologist licensed to practice under the laws of the state of Kansas.

(b) For the purposes of this section "nervous or mental conditions" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions:

(1) Not attributable to a mental disorder that are a focus of attention or treatment (DSM-IV, 1994); and

(2) defined as a mental illness in K.S.A. 2005 Supp. 40-2,105a and amendments thereto.

(c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(d) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto or for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

(e) The provisions of this section shall not apply to any Medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

(f) The provisions of this section shall be applicable to the Kansas state employees health care benefits program developed and provided by the Kansas state employees health care commission.

(g) The outpatient coverage provisions of this section shall not apply to a high deductible health plan as defined in federal law if such plan is purchased in connection with a medical or health savings account pursuant to that federal law, regardless of the effective date of the insurance policy. After the amount of eligible deductible expenses have been paid by the insured, the outpatient costs of treatment of the insured for alcoholism, drug abuse and nervous or mental conditions shall be paid on the same level they are provided for a medical condition, subject to the yearly and lifetime maximums provided in subsection (a).

History: L. 1977, ch. 161, § 1; L. 1978, ch. 166, § 1; L. 1986, ch. 299, § 8; L. 1986, ch. 174, § 1; L. 1996, ch. 170, § 1; L. 1997, ch. 190, § 15; L. 1998, ch. 174, § 1; L. 2001, ch. 178, § 5; L. 2004, ch. 128, § 2; May 20.

40-2,105a

Chapter 40.--INSURANCE
Article 2.–GENERAL PROVISIONS

40-2,105a. Kansas mental health parity act; insurance coverage for services rendered in the treatment of certain mental illnesses. (a) (1) Any group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for mental health benefits and which is delivered, issued for delivery, amended or renewed on or after January 1, 2002, shall include coverage for diagnosis and treatment of mental illnesses. Except as provided in paragraph (2), such coverage shall be subject to the same deductibles, coinsurance and other limitations as apply to other covered services.

(2) The coverage required by paragraph (1) shall include annual coverage for both 45 days of in-patient care for mental illness and for 45 visits for out-patient care for mental illness.

(b) Notwithstanding the provisions of K.S.A. 40-2249a, and amendments thereto,

the state insurance department shall deliver to the president of the senate and to the speaker of the house of representatives on or before January 1, 2003, a report indicating the impact of providing mental illness benefits required by this act. Such report shall include information regarding access to and usage of such services and the cost of such services.

(c) For the purposes of this section, "mental illness" means the following: Schizophrenia, schizoaffective disorder, schizophreniform disorder, brief reactive psychosis, paranoid or delusional disorder, atypical psychosis, major affective disorders (bipolar and major depression), cyclothymic and dysthymic disorders, obsessive compulsive disorder, panic disorder, pervasive developmental disorder, including autism, attention deficit disorder and attention deficit hyperactive disorder as such terms are defined in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment.

(d) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(e) The provisions of this section shall not apply to any Medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

(f) The provisions of this section shall be applicable to the Kansas state employees health care benefits program and municipal funded pools.

(g) The provisions of this section shall not apply to any policy or certificate which provides coverage for any specified disease, specified accident or accident only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227 and amendments thereto, vision care or any other limited supplemental benefit nor to any Medicare supplement policy of insurance as defined by the commissioner of insurance by rule and regulation, any coverage issued as a supplement to liability insurance, workers compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

(h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105, and amendments thereto, shall not apply to mental illnesses as defined in this act.

(i) There shall be no coverage under this section for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

History: L. 2001, ch. 178, § 1; July 1.

40-2258

Chapter 40.--INSURANCE

Article 22.–UNIFORM POLICY PROVISIONS

40-2258. Group policies; aggregate lifetime limit; exceptions; definitions. (a) An accident and sickness insurer which offers coverage through a group policy providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209 and amendments thereto which includes mental health benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any annual limit on mental health benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health benefits except as otherwise required by K.S.A. 40-2,105 and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209 and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least 1%.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the

policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) "mental health benefits" means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, 2005.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

History: L. 1997, ch. 190, § 13; L. 2002, ch. 158, § 19; L. 2003, ch. 88, § 1; L. 2004, ch. 157, § 1; L. 2005, ch. 163, § 11; July 1.