

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Brenda Landwehr at 2:10 P.M. on March 14, 2008 in Room 526-S of the Capitol.

All members were present except:
Representative Hill

Committee staff present:

Norman Furse, Revisor of Statutes Office
Dianne Rosell, Revisor of Statutes Office
Melissa Calderwood, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Chris Haug, Committee Assistant

Conferees appearing before the committee:

Marcia Nielson, PhD, Executive Director Kansas Health Policy Authority

Others Attending:

See Attached List.

Melissa Calderwood, Kansas Legislative Research Department provided a summary of **HB2934 - Health care reform act of 2008.** (Attachment 1) Ms. Calderwood began going over the document, section by section.

The full bill with amendments was distributed. There was discussion about exemption of providers from KSA 40-2404 and why we are making that exemption. The statute is part of the insurance code and applies to unfair or deceptive acts related to the trade. In this example, if one insurer offered a better plan than another it wouldn't be considered an unfair act or violation of trade principles. The exception was created because there was concern in the insurance industry if there was a free POP plan it could be construed as an inducement, so they asked for clarification on that item. There was discussion on Section 6, Eligibility requirements in social welfare.

Discussion occurred about Medicaid and young adult policies. There was discussion about the enhanced benefit package. The enhanced benefit package refers to the benefits over and beyond the federal mandates. The current Medicaid program is enhanced, in Kansas. Representative Ward asked for the list of the enhanced programs we offer in Kansas. Dr. Marcia Nielson, PhD, with Kansas Health Policy Authority was able to provide this. Dr. Nielson discussed the differences between what the minimum federal assistance authorized by law and what the optional services that Kansas provides (Attachment 2). The first page of the document is what is required by federal law and the second page lists the additional services that Kansas provides. There was additional discussion about who monitors compliance of the terms of the wellness program. Page 14, section 5 is the amendment to the wellness program. The Kansas Health Policy Authority would be the monitor. There was another question about page 15, section 6 about what the health care benefits plan is, after medicaid is ceased. That is the Cobra program.

There was discussion about how long it would take to create this wellness program and roll it out to physicians. Dr. Nielson said they would need to work with CMS. Dr. Nielson said she didn't think they could have a program out in less than a year and a half. The July 1, 2009 date may be too aggressive. Representative Colyer said the KHPA should set the policies and exceptions to the wellness policy. The language in this section was written thinking it would only take about 15 months, but this language can be changed to be sometime in 2010.

There was discussion about the ability for people to pay once they are off SCHIP. Discussion occurred about the young adult policies for adults living at home. In **HB2934**, it will cover young adults age 18 to 25 living at home. There was discussion about the tax credit in New section, 3 bottom of page 2. This is just a pilot program and Page 5 explains the individual family's taxable income amount and the total amount of the credit payable by the state.

The revisors office brought in the new language for paragraph 5 and the new paragraph. The change would be to keep paragraph 5 in its entirety, with change of date to July 1, 2010.

CONTINUATION SHEET

MINUTES OF THE House Health and Human Services Committee at 2:10 P.M. on March 14, 2008 in Room 526-S of the Capitol.

The new paragraph would read, "The KHPA shall determine the level of benefits that Medical assistance recipients would receive, who demonstrate compliance with the wellness program and the KHPA would make recommendations for State Medicaid plan amendments, if any, to the Legislature on or before January 1, 2010."

Representative Colyer made the motion to accept this language, Representative Mast seconded the motion. The Motion carried.

Representative Mast moved we pass the amended form of **HB2934**. Representative Morrison seconded. The motion carried. After the vote, division was requested. 10 for, 9 against. The following were the no votes wishing to be recorded: Representative's Ward, Storm, Trimmer, Neighbor, Quigley, Holland, Garcia, Tietze, Flaharty.

Representative Mast moved we put the contents of **HB2934** into **SB 81** and pass it out favorably. This would be a gut and go. Seconded by Representative Morrison. The motion carried.

Chairperson Landwehr adjourned the committee at 3:45 p.m. The next meeting will be at 1:30 p.m. on March 17, 2008.

**HB 2934 -- Health Reform Act of 2008
As Amended by House Committee**

| Section Number | Short Description | Section Description |
|-------------------|--|---|
| New Sec. 1 | Mandatory Offer of POPs -- Insurers | <ul style="list-style-type: none"> ▪ Insurers that offer group health insurance must provide the option of establishing a premium only cafeteria plan. "Insurer" is defined. ▪ Establishment of POP or other payroll deduction plan is not in violation of KSA 40-2404. ▪ Insurer can charge a fee for establishing POP or can use a vendor for plan establishment. |
| New Sec. 2 | Mandatory Offer of POPs -- Employers | <ul style="list-style-type: none"> ▪ Employers that provide health insurance coverage (any portion of the premium is payable by an employee) must offer a premium only cafeteria plan. This provision does not apply to any employer who offers health insurance through a self-insured or self-funded group health benefit plan. ▪ "Health benefit plan", "Health Savings Account", and "High Deductible Health Plan" defined. |
| New Sec. 3 | Individual Income Tax Modification | <ul style="list-style-type: none"> ▪ Kansas income tax credit for individuals for amounts paid for health insurance or care in the form a health benefit plan and amounts contributed to HSA. ▪ After Dec. 31, 2008, credit shall be \$100/mo. or 90% of total, whichever is less, for first two years. In 3rd year, credit shall be 75% of the lesser of \$100/mo. or 90% of total. In 4th year, credit shall be 50% of the lesser of \$100/mo. or 90% of the total. In 5th year, credit shall be 25% of the lesser of \$100/mo. or 90% of the total. No credit allowed in sixth and subsequent years. ▪ For tax credits claimed - amount of allowed deduction is reduced by amount of credit. If credit allowed exceeds taxes imposed, portion of credit which exceeds taxes is refunded. ▪ In order to qualify for the credit, an individual must have been uninsured for at least one year prior to obtaining coverage and the individual's family taxable income cannot exceed \$60,000. ▪ Total amount of the tax credit cannot exceed: \$1.0 million in FY 2009; \$3.0 million in FY 2010; and \$5.0 million in FY 2011. The tax credit provisions expire on January 1, 2012. |
| New Sec. 4 | Mandatory Offer -- High Risk Pool | <ul style="list-style-type: none"> ▪ Administering carrier, beginning with 2009 Plan Year, must offer option of coverage through section 125 cafeteria plan (this may include a HDHP and establishment of HSA.) Must issue an RFP. HDHP, HSA, Health benefit plan defined. ▪ Part of the Kansas Uninsurable Health Insurance Plan Act. |
| Sec. 5 | Penalties; Inspector General | <ul style="list-style-type: none"> ▪ Amends KSA 21-3851 to specify IG receives 50% of moneys recovered due to uncovering Medicaid fraud, with moneys not to exceed a cumulative total of \$2.0 million for the period ending FY 2013. |
| Sec. 6 | Eligibility Requirements, Social Welfare | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 39-709 to clarify eligibility requirements for medical assistance (less than 18 years of age and those persons over age 18). ▪ Require Medical Assistance (MA) participants to participate in a wellness program to assist in quitting smoking, losing weight (obese), or ceasing to abuse drugs, or any combo. On and after July 1, 2009, recipient must demonstrate compliance with terms of the wellness program in order to be eligible for expanded Medicaid benefits. KHPA to develop and implement the wellness program (subject to applicable federal law, Medicaid participation reqs). ▪ Medical assistance recipients who have ceased to receive Medicaid may purchase a health care benefits plan. Coverage is to be available for a three years after the MA ends. (Insurance Commissioner may waive any rule and regulation or waive any mandated coverage). |

Health & Human Services Committee

Date: 3-14-08

Attachment: 1

**HB 2934 -- Health Reform Act of 2008
As Amended by House Committee**

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| Sec. 7 | COBRA -- Nonprofit Medical & Hospital Service Corps. | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 40-19c06 to extend state continuation of coverage period from 6 to 18 months. |
| Sec. 8 | Kansas Health Insurance Assn. (High Risk Pool Board) | <ul style="list-style-type: none"> ▪ Amends KSA 40-2119 to require Board to study expanding participation in the plan (expanded eligibility) and providing for subsidization of premiums, including accessing federal grants and program. ▪ Board is to prepare and submit a report of its finding to legislative leadership and the Joint Committee on Health Policy Oversight on or before November 15, 2008. |
| Sec. 9 | High Risk Pool, Maximum Lifetime Benefit | <ul style="list-style-type: none"> ▪ Amends KSA 40-2124 (part of the Kansas Uninsurable Health Insurance Plan Act) to increase the maximum lifetime benefit from \$1.0 million to \$3.0 million. |
| Sec. 10 | COBRA -- Group Accident & Sickness Insurance | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 40-2209 to extend state continuation of coverage period from 6 to 18 months. |
| Sec. 11 | Small Employers' Health Care; definitions | <ul style="list-style-type: none"> ▪ Amends KSA 40-2209d to allow that a "health benefit plan" would include a section 125 plan which offers the option of receiving coverage through an HDHP/ HSA (terms defined). |
| Sec. 12 | Small Employers' Health Care; Benefit Plans | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 40-2240 to allow any health benefit plan to be offered through a cafeteria plan. The plan may be offered through the option of an HDHP/ HSA (terms defined). |
| Sec. 13 | COBRA -- HMOs, Medicare Provider Orgs. | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 40-3209 to extend state continuation of coverage period from 6 to 18 months. |
| Sec. 14/ Sec. 15 | Safety Net Clinics -- Definitions, Other provisions | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 65-7402 (Primary Care Safety Net Clinic Capital Loan Guarantee Act) to create a definition of "provider-based indigent care clinic." The clinic would be located in a Medicare-certified hospital, nursing home, or home health agency. This clinic is included within the definition of a "primary care safety net clinic." ▪ Amends KSA 2007 Supp. 65-7403 (Act noted above) to permit the KDHE Secretary to enter into agreements with provider-based indigent care clinics to allow these clinics to act as primary care safety net clinics. |
| Sec. 16 | State Employee Health Care Benefits Program | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 75-6501 to require the state's employer contribution to any HSA plan to state employees be equal to the state's employer contribution to any fully insured plans offered to state employees. |
| Sec. 17 | Medicaid Contract Participation | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 75-7427 (IG statute) to provide that contractors convicted of fraud, waste, abuse, or illegal acts that have caused the State to pay fines or reimburse the fed gov't more than \$1.0 million (Medicaid program) are not eligible for any state Medicaid contracts, with certain exceptions. A technical change also is made to clarify the IG reports to the KHPA Board. |
| Sec. 18 | Interim Study Required | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Sup. 75-7423 (part of 2007 SB 11) to direct KHPA, in consultation with the Joint Committee on Health Policy Oversight, to study the various Medicaid reform options and to report its recs to the Governor and Legislature on or before November 15, 2008. |

**HB 2934 -- Health Reform Act of 2008
As Amended by House Committee**

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| New Sec. 19 | Health-related incentives, Insurers | <ul style="list-style-type: none"> ▪ Allows insurers to establish health-related benefits, premium discounts or rebates, contributions toward an individual's HSA or a reduction in co-payments, coinsurance, deductibles, or any combination of these incentives in return for participation in programs promoting wellness, health and disease prevention. The incentive does not violate KSA 40-2404 (unfair or deceptive act). |
| New Sec. 20 | Young Adult Policies | <ul style="list-style-type: none"> ▪ Requires insurers to provide "young adult policies" which are to include a limited benefits package (specific to young adults) and reduced premiums based on the benefits offered. A "young adult" is defined as an individual who is at least 18 and not yet 26. |
| Sec. 21 | KHPA Board Membership | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 75-7401 to add the Commissioner of Education to the KHPA Board as a non-voting, ex-officio member. |
| Sec. 22 | Medical Home Definition | <ul style="list-style-type: none"> ▪ Defines a "medical home" to mean "a health care delivery model in which a patient establishes an ongoing relationship with a physician or other personal care provider in a physician-directed team, to provide comprehensive, accessible and continuous evidence-based primary and preventive care, and to coordinate the patient's health care needs across the health care system in order to improve quality and health outcomes in a cost effective manner. |
| Sec. 23-25 | Kansas Health Futures Committee; Joint Committee on Children's Issues | <ul style="list-style-type: none"> ▪ Establishes the Kansas Health Futures Committee, a legislative committee with ten members. The Committee is to oversee the implementation and operation of the children's health insurance plans created under this act, including the assessment of the performance based contracting's measurable outcomes. The Committee is to study issues suggested by the Joint Committee on Health Policy Oversight and other children's health and Medicaid issues, as necessary. Findings are to be reported to the Joint Committee on Health Policy Oversight on or before December 1 each year. ▪ Amends scope of Joint Committee on Children's Issues to specify the Committee is to study children's issues (KSA 46-3001). |
| Sec. 26-27 | Program transfers -- Department of Commerce to KHPA | <ul style="list-style-type: none"> ▪ Amends KSA 2007 Supp. 74-50,301 and 74-50,302 to transfer the Small Employer Cafeteria Plan Development Program and the Association Assistance Plan grants and loan programming (established in 2007 SB 11) from the Department of Commerce to KHPA. |
| Sec. 28-30 | Act Named | <ul style="list-style-type: none"> ▪ Changes to law in this act to constitute, "The Health Reform Act of 2008." The following section would repeal statutes amended under the bill. ▪ Act is effective upon publication in the statute book. |

Medicaid: Wellness program

H.B. 2934, the proposed Health Reform Act of 2008, requires Medicaid beneficiaries who smoke, are obese, or who abuse drugs to enroll in wellness programs. If a doctor certifies that progress has *not* been made by an individual after two years, the medical assistance received will provide only the “minimum federal assistance authorized by law.” If three years after commencing the wellness program a doctor certifies that no progress has been made, the beneficiary shall be terminated from the Medicaid program. The following information is intended to assist with your discussion of these issues.

What is the “Minimum federal assistance authorized by law”?

*The following services are mandatory for the categorically needy eligibility group:*¹

- Hospital care (inpatient and outpatient)
- Nursing facility services
- Physician services
- Certified pediatric and family nurse practitioner services (when licensed to practice under state law)
- Laboratory and x-ray services
- Immunizations and early and periodic screening, diagnostic, and treatment (EPSDT) services for children²
- Family planning services and supplies
- Health center (FQHC) and rural health clinic (RHC) services
- Nurse midwife services
- Medical and surgical services of a dentist
- Home health services for beneficiaries who are entitled to nursing facility services under the state’s Medicaid plan
- Pregnancy-related services and service for other conditions that might complicate pregnancy.
- 60 days postpartum pregnancy related services

The following services are mandatory for the medically needy eligibility group:

- Prenatal and delivery services
- Post-partum pregnancy-related services for beneficiaries under age 18 and who are entitled to institutional and ambulatory services defined in a state’s plan.

¹ Schneider, Andy. (July 2002). *The Medicaid Resource Book*. Kaiser Commission on Medicaid and the Uninsured; <http://cms.hhs.gov>

² All medically necessary services must be provided under the EPSDT program, even if the services would otherwise be considered optional.

- Home health services to beneficiaries who are entitled to receive nursing facility services under the state's Medicaid plan.

What services are optional services provided in Kansas?

The following services are optional services provided in the Kansas Medicaid program³:

- Alcohol and Drug Abuse Treatment
- Attendant Care for Independent Living
- Audiological services
- Behavior Management
- Community Mental Health Center & Psychological Services
- Dental services (limited to certain consumers)
- Durable medical equipment
- Medical Supplies, Orthotics, and Prosthetics
- Early Childhood Intervention
- Health Clinics
- Home or community-based services
- Hospice services
- Inpatient psychiatric services
- Intermediate care facility services
- Local Education Agencies
- Local Health Department services
- Nursing services
- Physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders
- Prescribed drugs
- Podiatric services covered for EPSDT beneficiaries only
- Respiratory care for ventilator-dependent individuals
- Services for special disorders
- Targeted case management for assistive technology
- Vision services

³ Medicaid and SCHIP (HealthWave Program) Fact Sheet
Kansas Health Institute