

MINUTES OF THE HOUSE SOCIAL SERVICES BUDGET COMMITTEE

The meeting was called to order by Chairman Bob Bethell at 3:30 p.m. on March 11, 2008, in Room 514-S of the Capitol.

All members were present except Representatives Ballard, Crum and George who were excused.

Committee staff present:

Kimbra Caywood McCarthy, Kansas Legislative Research Department  
Nobuko Folmsbee, Office of Revisor of Statutes  
Judy Holliday, Committee Assistant

Conferees appearing before the committee:

Rocky Nichols, Exec. Dir., Disability Rights Center, on behalf of Big Tent Coalition  
Askia Adams, Topeka  
Pat Eakes, Legislative Liaison, Kansas Commission on Disability Concerns  
Stephanie Wilson, Alliance for Kansans with Developmental Disabilities

Others attending:

See attached list.

Chairman Bethell brought before the Committee **HB 2893--All-inclusive care for the elderly (PACE) program**. The bill would remove the requirement from Kansas Health and Environment that they be licensed as a home health agency. The testimony on the bill at the previous hearing was favorable from both Kansas Department of Health and Environment and the Department on Aging. He asked the Committee what they wanted to do with the bill, reminding them that **HB 2893** needed to go back to the Appropriations Committee where the bill originated. Representative Hawk moved to pass the bill out favorably, seconded by Representative Henry. The motion carried.

**Hearing on HB 2761--Home and community based services under DD, PD, FE and TBI medicaid waivers, waiting lists, service provider rates, multi-year appropriations.**

Chairman Bethell asked staff from Legislative Research to explain the intent of the bill.

Rocky Nichols, Exec. Dir., Disability Rights Center, testified as a proponent on **HB 2761** on behalf of Big Tent Coalition (Attachment 1). Mr. Nichols stated that **HB 2761** creates a new challenge, to eliminate the waiting list and expand community capacity on the Developmental Disability (DD) Waiver over the next three years. He further stated that a disabled person waiting in an institution for services costs the State far more in taxpayer dollars than if they were in the community. The Big Tent Coalition believes waiting lists are bad for families, for the disabled, and for taxpayers.

Askia Adams testified as a proponent of **HB 2761** (Attachment 2). Mr. Adams is a 30-year old disabled man who depends on personal care attendants (PCAs) for his care. He gave examples of PCAs who because of the low state reimbursement rates cannot make a living wage and who can make more money working in hospitals and nursing homes. He urged the passage of the bill to enable the PCAs to make a living wage.

Pat Eakes, Legislative Liaison, Kansas Commission on Disability Concerns (KCDC), testified as a proponent on **HB 2761** (Attachment 3). The KCDC urges support of full funding to eliminate the current waiting list for Home and Community Based Services Development Disabilities waiver services. Ms. Eakes told the Committee that some services provided to the disabled in the community include assistance in locating jobs, getting ready for work, and other needed assistance needed for successful employment. By eliminating the waiting list for the Development Disabilities waiver, there is the potential for increased employment of people with development disabilities, with an added bonus of saving money for the people of Kansas.

Stephanie Wilson, Alliance for Kansans with Developmental Disabilities, testified as a proponent on **HB 2761** (Attachment 4). Ms. Wilson stated that there are currently 1300 persons waiting for services, with an estimated 286 persons with developmental disabilities to be placed out of public and private intermediate care facilities over the next five years. In addition, Ms. Wilson spoke to the need to enhance wages to hire and retain adequate numbers of direct care staff. **HB 2761** contains funding for the services and wage increase.

CONTINUATION SHEET

MINUTES OF THE House Social Services Budget Committee at 3:30 p.m. on March 11, 2008, in Room 514-S of the Capitol.

Continued hearings on **HB 2761** will be held on Wednesday, March 12, 2008.

The meeting adjourned at 4:05 p.m.

# HOUSE SOCIAL SERVICES COMMITTEE GUEST LIST

DATE: 3-11-08

NAME	REPRESENTING
Pat Ecker	KCDC
Mary Pearson	KCDC
Nancy Pierce	UHCAT
Mary Ann Keating	TARC
Cliff Sperry	CLASS LTD
B. J. Shears	PARSONS STATE HOSPITAL
Wally McMillen	Parsons State Hospital
James Ho	SRS, Wichita Regional office
Larissa Bowman	SRS
Cindy Norton	SRS
Shannon Jones	SILCK
<del>AM. H. [Signature]</del>	SKIL
<del>[Signature]</del>	SRS
MATT FLETCHER	INTECHAS
Jon [Signature]	KCDID
SKI Adams	KAFEO
LURENA MEAD	JOPS
Robin Clum AS	CW Pompanee
Debi Anand	Families Together, Inc.
Ani Hyten	TILRC

**PLEASE USE BLACK INK**



**PROVIDED ON BEHALF OF BIG TENT COALITION – Support of HB 2761  
Testimony to the House Social Services Budget Committee March 11, 2008**

Chairman Bethell and member of the Budget Committee, my name is Rocky Nichols. I'm the Executive Director for the Disability Rights Center of Kansas (DRC), formerly known as Kansas Advocacy and Protective Services (KAPS). DRC is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, DRC is the officially designated protection and advocacy organization for Kansans with disabilities. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of both state government and disability providers.

Today I am testifying on behalf of the Big Tent Coalition, which has endorsed HB 2761. DRC is an agency member of the Big Tent Coalition (BTC). The BTC is a broad group of numerous advocacy agencies and providers of social services, particularly disability and senior services. DRC is not a provider of any Home and Community Based Services (HCBS) under the Medicaid Waiver programs and we do not benefit from any appropriation increases contained in HB 2761.

**HB 2761 is a big idea at a time when we desperately need big ideas in Kansas disability services. HB 2761 is an idea whose time has come.** HB 2761 creates a comprehensive three-year plan whereby all waiting lists would be eliminated and capacity would be expanded at the community level to better pay direct care workers through enhanced rates. Kansas policymakers have risen to the challenge and passed multi-year funding plans to fund transportation programs, K-12 education and higher education programs. HB 2761 creates a new challenge for you to rise to – eliminate the waiting list and expand community capacity over the next three years. We hope you rise to this challenge.

The framework for HB 2761 comes from your own joint Legislative Budget Committee recommendation. The joint Legislative Budget Committee found that we are at such a critical crossroads that they recommended the adoption of a comprehensive three-year plan to eliminate the waiting list and expand community capacity on the Developmental Disability (DD) Waiver.

**Building on Success - HB 2761 builds on success in two ways:**

#1 – builds on the success of the Legislative Budget Committee, by taking that legislatively-endorsed framework of a three-year funding plan to eliminate waiting lists/expand community capacity and applying it to all the major HCBS Waiver programs.

#2 – builds on the success of recent Legislatures which have eliminated the waiting lists for all the other Waivers (Physical Disability - PD, Frail Elderly - FE & Traumatic Brain Injury - TBI) and it applies that success to the one remaining Waiver where there is a waiting list – DD Waiver. It takes the policy that saves taxpayer money – eliminating waiting list on the PD, FE & TBI Waivers – and applies it to the DD Waiver.

*House, Social Services Budget Committee  
March 11, 2008  
Attachment 1-1*

### **Difference between HB 2671 & Big Tent Proposal -**

HB 2761 is nearly identical to the Big Tent Coalitions own proposal to eliminate waiting lists and expand community capacity – with the two exceptions being: 1) the Big Tent recommended rate parity for all Personal Attendant Services (PAS) across all Waivers (\$1.1 m SGF) and 2) slightly higher recommended rate increases on the FE Waiver (3% in BTC, vs. 2% in this bill). BTC would encourage the committee to include these components in HB 2761.

**Waiting lists for HCBS Waiver services are bad for families, bad for people with disabilities and bad for taxpayers.** Thankfully we do not have waiting lists for people with physical disabilities (PD Waiver), seniors (FE Waiver) or person with traumatic brain injuries (TBI Waiver). HB 2761 provides funding to continue the policy of having no waiting list for those Waivers, and it has a three-year plan to eliminate the waiting list on the DD Waiver.

### **Waiting Lists – Bad for Families**

When people must wait for years at a time for Waiver services it creates a huge hardship on families. I have spoken to parents of adult sons & daughters with Developmental Disabilities who must choose between their jobs and the needs of their family member. Because the State is not maintaining its responsibility, these hardworking taxpayers are forced into “no win” choices, where they must leave work and go on unemployment or other government services just to care for their son or daughter while they wait to clear the Waiting list.

### **Waiting Lists – Bad for People with Disabilities**

There are currently 1,300 people with Developmental Disabilities (DD) and families who are forced to wait to receive any services. If you don't adopt the Governor's recommended increases in the budget, that number will jump to over 1,500. Additionally, there are 2,000 people with DD and their families who may have cleared the initial waiting list for services, but they are on a second waiting list (commonly referred to as the “under”served waiting list). That's around 3,500 people who either aren't getting any services or aren't getting the services they need. Compared to the roughly 7,000 people receiving HCBS DD Waiver Services, there are half that amount on one of the two waiting lists.

### **Waiting Lists – Bad for Taxpayers**

When a person with a disability must wait for HCBS services, many times it means that the State will be spending far more taxpayer dollars for the person to wait in an institution (Nursing Facility, Brain Injury Hospital or State DD Hospital) than on HCBS services. Consider these sobering figures:

- **Kansas spends up to four times** the amount to serve a person with DD in an institution than to serve them in the community (up to \$170,000 per person, per year for institution; in the community it is far less than \$40,000 per person).
- Kansas spends on average **\$240,000 more** per person, per year to serve someone in a TBI institutional setting than on the TBI Waiver. That's \$20,000 more a month for each person.
- Kansas taxpayers are paying dramatically more for to serve the same person with the same disabilities and same needs in an institution than in the community. The types of people living in the community are just like the people who live in the expensive institutions:
  - DD Institutional Congregate-Setting (KNI, Parsons, etc.) - 48% are Tiers 1-2, while 52% are Tiers 3-5 (note: the lower the Tier Score, the greater the need and greater the disability)

- DD Waiver HCBS community services - 42% are Tiers 1-2 and 58% are Tiers 3-5. Note, these Tier scores are *nearly identical* to institutional scores.
- Average Tier Scores in Institutions – KNI 2.0, Parsons 3.0, Private 3.1
- Average Tier Scores in Community (DD Waiver) – 3.07

**We cannot continue the policy of continuing to fund large, expensive, out-dated institutions that cost taxpayers SEVERAL times what community services cost, while at the same time we have huge waiting lists.**

## **Community Capacity Must Expand in Kansas**

**Lowest DD Waiver Spending in our Region** - Kansas is last in our five surround state region in the average amount spent per person, per year on DD Waiver services:

- Oklahoma \$47,700 per person, per year
- Nebraska \$44,500 per person, per year
- Colorado \$40,200 per person, per year
- Missouri \$36,700 per person, per year
- Kansas \$32,500 per person, per year

(source: 2008 State of the State in Developmental Disability Services – a 50 State Comparison; David Braddock, University of Colorado; using 2006 numbers, the latest year for comparative data)

**Oklahoma spends nearly 50% MORE per person, per year on the DD Waiver than Kansas. Is it any wonder that we have a need to increase capacity at the community level in Kansas?**

**Spending Same as *Before* Winfield Closure – When Winfield State Hospital for persons with DD was closed in 1998, Kansas was spending an average of \$33,000 per person, per year on DD Waiver services. Today, we spend basically the same amount per person, per year (a little less). Kansas has not kept up with the cost of inflation, let alone the needs of Kansans with disabilities or the capacity needs of the community.**

Community capacity and rate issues are important – Under current rates direct-care workers can typically make more at fast food shops, retail or casinos than providing Waiver or Medicaid reimbursable services. This goes for all the Waivers – PD, TBI, DD & FE. The current rates and the current capacity needs creates big problems for the provision of services.

This is a big problem that demands a big solution. HB 2761 sets the bar – that Kansas will have all waiting lists eliminated and capacity will be increased at the community level – and then it provides the funding over a three-year plan to clear that bar. The Big Tent Coalition has endorsed HB 2761 and would ask for its passage.

*-- Rocky Nichols, DRC Kansas, on behalf of Big Tent Coalition*

Good Afternoon,

My name is Askia Adams; I am thirty years old, And have a great job. Like most people my age, my Life is very active. The only difference is the fact I have a disability, which requires me to rely on personal care attendants to assist me with activities of daily living. Please allow me to take a few minutes to share a little about my life and why it is so important that we have "living wages" for caregivers.

In October of two thousand I moved to my first apartment, which required me to have more staffing. My moving out of my parents' home meant that I needed caregivers twelve hours a day. Once I had my hours back the next challenge was finding staff to work. Finding caregivers to fill the needed shifts was and continues to be a challenge for one primary reason. The problem is simple. No matter how qualified my caregivers are, because of the state reimbursement rates they will never be paid what they could make if they worked in a hospital or another medical setting.

I would like to share a couple of stories of a few workers that have worked with me over the years. The first story is of a lady who was with me for close to four years. She had been in the nursing field for close to ten years working in nursing homes and hospitals as well as doing in-home caregiving. When she worked in nursing homes and hospitals she would make anywhere from ten to fifteen dollars an hour. She decided to start doing in-home care, and was making around ten dollars an hour until January of 2002 when the state reimbursement rate for caregivers was slashed causing the agency she worked for to cut her pay. This caused major hardship for her. Everyday I watched her worry about how she was going to make ends meet. Didn't she deserve to make a living wage; a wage that would have allowed her to be able to pay her bill?

My other story is about a worker was a nursing student. This young lady was a good worker, but with school and raising a son working with me for eight dollars an hour just did not cut it. There were nights I watched her cry not knowing how she was going pay her bills. Why should she have had to worry about paying her bills?

*House Social Services Budget Committee  
March 11, 2008  
Attachment 2-1*

I could tell you at least five more similar stories of workers who have struggled to make ends meet from the lack of a living wage. There was the worker who had to work two jobs to survive, the worker who did not make enough to pay for day-care, the worker who couldn't afford medical care; the list goes on and on. We as a state must ask ourselves a fundamental question. Do we truly believe Kansans with disabilities have the right to live in the community? Part of helping Kansans with disabilities live in the community means making sure caregivers receive a living wage. A wage that actual allows caregivers to make true livelihood.



Testimony to Social Services Budget Committee  
March 11, 2008  
Support HB 2761

Chairman Bethell and members of the committee thank you for the opportunity to provide testimony on the Home and Community Based Services (HCBS) budget. I am Pat Eakes, Legislative Liaison for the Kansas Commission on Disability Concerns (KCDC). We are charged with providing information to the Governor, the Legislature, and to State agencies about issues of concern to Kansans with disabilities (K.S.A. 74-6706). The KCDC Commissioners represent people with disabilities across the state and our state agencies.

The Kansas Commission on Disability Concerns urges you to support full funding over a three year period of time to eliminate the current waiting list (1300 consumers) for the Home and Community Based Services (HCBS) Development Disabilities waiver services. One of KCDC's goals is enhancing employment opportunities for people with disabilities. Some of the services provided by the HCBS waiver help people with disabilities prepare for employment by assisting with finding jobs, getting ready for work, and other assistance as needed for successful employment. Without these support services, employment for people with disabilities often is impossible.

Eliminating the waiting list for the DD Waiver has the potential to increase employment of people with development disabilities. In addition, as the waiting list is decreased, employment opportunities for people in the state of Kansas increase due to the need to build community capacity to serve people with disabilities in the community. Kansas taxpayers also benefit by not paying institutional rates which can be as much as four times the rate of serving someone in the community.

Indeed this is a big issue, and we need to continue to address it. HB 2761 is a very good start over a three year period to address the issue of waiting lists. I encourage you to support HB 2761 to increase services for people with disabilities, increase employment opportunities, and save the people of Kansas money.

Thank for this opportunity. I will try to answer any questions that you might have.

Pat Eakes  
Legislative Liaison  
296.6526 (Direct Line)

# The Alliance for Kansans with Developmental Disabilities

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**To: Social Services Budget Committee**  
**Date: March 11, 2008**  
**RE: HB2761**

Chairman Bethell and members of the committee, thank you for this opportunity to provide support for HB2761. My name is Stephanie Wilson, and I am with The Alliance for Kansas with Developmental Disabilities.

As this committee is aware, there are currently about 1300 adults and children with developmental disabilities waiting for services in Kansas. The last time the waiting list was at zero was in 1998 during the closure of Winfield State Hospital. Since that time the legislature has thankfully provided funding to help reduce the list each year. However the list has continued to steadily grow. If passed, HB2761 would to eliminate the waiting list for developmental disability services over a three year period of time.

In addition to the 1300 persons waiting for services, SRS estimates that another 286 persons with developmental disabilities will be placed out of public and private intermediate care facilities over the next five years through the federal Money Follows the Person initiative. Thus, in total, over 1500 persons would receive new services over the next 3-5 years. This is comparable to the number of persons placed during the Winfield Closure and the voluntary closure of six large, private ICFs/MR between 1996 and 1999.

As indicated by the Legislative Interim Budget Committee Report in 2006, in order to meet the needs of persons on the waiting list, and those being placed from institutional settings, there is also a need to increase the capacity of community service providers. This capacity building need includes enhanced wages to be able to hire adequate numbers of direct care staff, and the ability to develop or retain the professional supports and training required to serve persons with medical and/or behavioral challenges. HB2761 includes an additional \$70 million dollars in SGF over the three years to support this capacity building need.

During the budget hearings, The Alliance provided this committee with information regarding the location of our member organizations, the number of jobs we have developed within those areas of the state, and the estimated amount of funds we put back into our communities through local purchasing. Attached to our testimony is a summary of this information for our entire membership. Assuming that other licensed providers are similarly situated, we have provided an estimate of the increase in jobs and local spending based upon the number of new persons to be served should HB2761 pass.

Again, we appreciate the opportunity to support this very important initiative, and would answer any questions you may have.

*House Social Services Budget Committee  
March 11, 2008  
Attachment 4-1*



# ALLIANCE FOR KANSANS WITH DEVELOPMENTAL DISABILITIES

CURRENT BENEFIT TO LOCAL ECONOMIES	
Number of Member Organizations Reporting	6 of 8
Total Number of Persons Served (Primarily Adults)	897
Total Current Jobs Provided	1179
Total Current Local Spending on Food, Supplies, Entertainment, Fuel, etc.	\$8,337,263
Total Current Local Spending on Housing	\$11,585,184
POTENTIAL BENEFIT TO LOCAL ECONOMIES	
Estimated Number of New Adults to be Served through HB2761 and Money Follows the Person	806 adults on waiting list + 286 MFP Persons  <b>Total = 1092</b>
Estimated Number of New Jobs	1420
Estimated Increase in Local Spending on Food, Supplies, Entertainment, Fuel, etc.	\$10,149,703
Estimated Increase in Local Spending on Housing	\$14,103,704