Approved: March 2, 2010
Date

MINUTES OF THE HOUSE AGING AND LONG TERM CARE COMMITTEE

The meeting was called to order by Chairman Bob Bethell at 3:30 p.m. on February 25, 2010, in Room 784 of the Docking State Office Building.

All members were present except:
Representative Deena Horst - excused
Representative Scott Schwab - excused

Committee staff present:
Doug Taylor, Office of the Revisor of Statutes
Terri Weber, Kansas Legislative Research Department
Estelle Montgomery, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Judith Holliday, Committee Assistant

Conferees appearing before the Committee:
Bill McDaniel, Commissioner, Department on Aging
Representative Cindy Neighbor, Kansas House of Representatives
Monte Coffman, Executive Director, Health Management of Kansas, Inc.
Harry Baum, Owner, Sharon Lane Health Services; C&H Healthcare
Jeanette Stauffer, Family Member, Holton
Karel Page, Administrator, Lakeview Rehabilitation Center; Regional Supervisor Lakewood Management Services
Steve Hatlestad, Chairman, Kansas Health Care Association
James Frazier, Executive Director, Lakeview Village, Lenexa
Mike Bosley, Administrator, Providence Place
David Beck, Executive Director, Brewster Place

Others attending:
See attached list.

Chairman Bethell opened the meeting by telling the conferees that those testifying from out of town would be allowed to testify first and local conferees could return to testify on Tuesday. Today's meeting would close at 5 o'clock.

Chairman Bethell called for approval of the minutes of the February 11 and February 16 meeting minutes. Representative O'Brien moved to approve the minutes, seconded by Representative Williams. The motion carried.

Chairman Bethell apprised the Committee on the status of the **HCR 5033-In memory of Bryce Miller; recommending that a future statewide mental health program be named the Bryce Miller Mental Health Program.** He reminded the Committee that the original resolution had a paragraph that was removed because of language, and learned that in order to use that same resolution that it must go onto the floor as a Committee report with an amendment, since it cannot be used as an issue of the previous day, so it was allowed to die. Chairman Bethell entertained a motion to introduce a resolution honoring Bryce Miller, as the Committee had originally intended. Representative Phelps made a motion, seconded by Representative Williams that the Committee re-introduce a resolution with the appropriate language honoring Bryce Miller. Representative Williams seconded the motion. The motion carried.

Hearing on HB 2673 - Assessment of quality assurance fee on skilled nursing care facilities to improve the quality of care.

Chairman Bethell asked Estelle Montgomery, Kansas Legislative Research Department, to give an overview of **HB 2673**. Chairman Bethell asked that Ms. Montgomery provide the Committee with copies of her notes.

John Federico offered comments on behalf of the Kansas Health Care Association (KHCA). Mr. Federico addressed the importance of the economic impact on Kansas if this bill passes, and that it is not a new idea. He told the Committee his comments were merely an explanation and not intended as an advocate of **HB**

Minutes of the House Aging and Long Term Care Committee at 3:30 p.m. on February 25, 2010, in Room 784 of the Docking State Office Building.

2673. (No written testimony)

Bill McDaniel, Commissioner of Program and Policy, Department on Aging (KDOA), testified as a proponent of **HB 2673**. (Attachment 1) Commissioner McDaniel told the Committee that the provider assessment for Kansas nursing homes had been proposed several times in the past as a means of financing increasing in nursing facility rates and quality improvement initiatives. Other states adopted these assessments but the Department of Aging remained neutral to adoption of an assessment in Kansas because of the split in the provider community on the issue.

The KDOA administers long term care under Kansas statutes and would administer the assessment as described in **HB 2673.** Commissioner McDaniel noted that **HB 2673** does not use the nursing home provider assessment to leverage federal funds for the Home and Community-Based Services (HCBS) Frail Elderly and Physically Disabled waivers. A copy of the a Kansas Health Policy Authority report and Provider Assessment Summary/Model is included with his testimony.

Representative Cindy Neighbor, Kansas House of Representatives, testified as a proponent of **HB 2673**. (Attachment 2) Representative Neighbor told the Committee that her parents both needed nursing home care and she is very involved in her community with local nursing homes. She testified that with the 10% Medicaid cuts, over 300 nursing homes are in jeopardy of closing, and even with cuts already made, the issues now come down to patient care and the needs of the individuals.

With the population aging, closing of nursing homes leave patients no alternative location because of financing and availability, and in some instances the facility is the only one in the community. Not only does this further burden the system, but in terms of unemployment, approximately 27,000 jobs are at stake.

Representative Neighbor stated that she believes **HB 2673** provides a short term solution for skilled nursing homes to continue to operate without taking money from the State General Fund and places a sunset for removal when Kansas' economic challenges improve. A match with federal funds provides the dollars to keep these homes open.

Monte Coffman, Executive Director, Health Management of Kansas, Inc., testified as a proponent of **HB 2673**. (Attachment 3) Mr. Coffman's organization provides services through three nursing facilities, two assisted living facilities, and an HCBS care agency in Coffeyville.

Mr. Coffman stated that historically, his organization had opposed the provider assessment because it could not be sustained over time, and caused a fundamental shift of the burden for payment of services from the State's constitutional responsibility to providers. However, today's economy has contracted and reduced tax collections has led to Medicaid cuts of 10%. Because there are no State resources to provide adequate Medicaid funding, his organization proposes a time-specific, stop-gap measure with the following conditions:

1) Language and bill provisions would create a lock box and prevent future sweeping of these account funds by state officials.
2) The Legislature would monitor and plan for appropriate funding transitions at end of this four-year program.
3) The bill presently lacks sufficient details; adequate dollars have to be planned to restore the Medicaid cuts.
4) Restoration of Medicaid–reimbursements would be implemented before the payment of the provider assessment for cash flow considerations.

Harry Baum, Owner, Sharon Lane Health Services and C&H Healthcare, testified as a proponent of **HB 2673**. (Attachment 4) Mr. Baum told the Committee that his healthcare facilities are a family owned , independent owner/operator business. The 96-bed skilled nursing facility has 25 rehabilitation beds and 71 long-term beds and has provided services for the elderly and jobs for the community of Shawnee since the early 1960s.

Mr. Baum testified that they have increased services by providing full-service rehabilitation for residents, and increased the number of jobs by 50% in nine years. Resident census is 65% Medicaid patients, 20% Medicare patients, and 15% private paying patients. They rely on Medicaid reimbursement as a major part of the

funding to take care of the residents, and are operating at about 88-90% capacity.

Last year they were one of 12 facilities out of 365 in Kansas given a no-deficiency survey. Mr. Baum attributes this to dedicated staff, but the 10% cuts to Medicaid reimbursement in January reduced their staff from 116 full time employees to 103, and all salary increases have been suspended. Reductions in activities for residents, food service for special events, housekeeping and maintenance services; and upgrading older buildings have resulted.

Mr. Baum testified that the Legislature can help by bringing back the loss of funding to the state through federal matching funds without any additional tax burden to the citizens. He told the Committee that Missouri passed this legislation 20 years ago and the federal matching dollars allowed them to keep operating despite budget cuts by the State of Missouri. Because of the legislature's foresight, money has been flowing into Missouri, The District of Columbia and 36 other states since.

Mr. Baum stated that this is not a tax, it is an assessment to members of the industry that will more than double its benefit of matching funds, and 95% of the members of the nursing home industry support the legislation.

Jeanette Stauffer, Family Member, Holton, testified as a proponent of **HB 2673**. (Attachment 5) She told the Committee about her personal family experience with a family member in a nursing home, and how the Medicaid cuts have impacted the nursing home in her community. She stated her concern about the impact not only on quality of care, but the increases for private paying residents who make up the difference. The private pay patients with fewer medical issues will transfer to a health care facility that will provide them with better care.

She stated that reduction of funds strains the entire staff that is already short-handed, and that nursing homes need more staff, not less, to do the demanding and labor intensive work. Fewer employees because of cuts may cause some nursing homes to be unable to pass state inspection. If nursing homes do not cut operating costs, they may be forced out of business. This will put more people out of work in an already difficult job market, so there will be less spending–and less tax revenue–as a result.

Ms. Stauffer concluded her remarks by stating that today's elderly citizens, many of them war veterans, are the generation that made our country great, so they should not be denied care in the final decade of their lives.

Karel Page, Administrator, Lakeview Rehabilitation Center; Regional Supervisor Lakewood Management Services, testified as a proponent of **HB 2673**. (Attachment 6) Ms. Page works in two skilled nursing facilities specializing in geriatrics, and the third is one of only 11 nursing facilities for mental health in Kansas. These patients have severe and persistent mental illness that do not need the structure of a state hospital but are not ready to live in an independent community setting.

The census of Lakewood Rehabilitation Center is 90% Medicaid, and Lakewood is the 5th largest employer in Kiowa County. Loss of money due to the 10% Medicaid cut constitutes cutbacks in services, and layoffs in a county already experiencing business decline and struggling schools. She advocates for **HB 2673** and urges support by the Legislature. In the alternative, she proposes the use of a sliding scale for Medicaid reductions for skilled nursing facilities and nursing facilities for mental health.

Steve Hatlestad, Chairman, Kansas Health Care Association (KHCA), testified as a proponent of **HB 2673.** (Attachment 7) Mr. Hatlestad spoke to the issue of raising the rate for private pay, stating that this legislation has a safety net written into the bill that would keep the assessment from being directly passed on to residents. He questioned the wisdom of leaving federal dollars on the table when 36 other states are enjoying the benefit of those revenues.

James Frazier, President/CEO, Lakeview Village, Lenexa, testified as an opponent to **HB 2673**. (Attachment 8) Mr. Frazier told the Committee Lakeview Village is the largest non-profit Continuing Care Retirement Community (CCRC) in Kansas, and currently serves 800 residents. They are unique in being the only "Type A" life care community in Kansas with a large licensed 120-bed nursing home. He explained that in exchange

for a one-time entry fee, Type A communities provide food, housing, medical services and licenses nursing for the remainder of the residents life, even if their financial resources are exhausted. He stated that Lakewood Village has relieved the state from any obligation to provide Medicaid funding for their life care residents.

Because Lakeview Village accepted 8-9 Medicaid reimbursed residents, even with restoration of the 10% Medicaid cuts, Lakewood would pay the provider tax on all 172 of their nursing beds. Payment of this assessment would jeopardize a planned expansion, over 50 jobs, and nearly $1.5 million in payroll infused into the Kansas economy. Mr. Frazier requested that Type A life care communities be specifically waived from paying the assessment.

Mike Bosley, Administrator, Providence Place, testified as an opponent of **HB 2673**. (Attachment 9) Mr. Bosley stated his position with the following points:

- Providence Place, and federal taxpayers, would be losers under a nursing home provider tax.
- No compelling need was presented for this assessment during the KHPA study.
- Proponents were seeking this tax before the Medicaid payment cut.
- For-profit nursing facilities exist to direct dollars to investors. The not-for-profit nursing care center directs its revenue back to its operations and reserves. Nothing will prevent provider tax dollars raised from not-for-profit nursing facilities and federal taxpayers from being directed to investors of for-profit facilities.
- Kansas has not had a nursing care facility crisis. Providence Place, a for-profit facility owned by a not-for-profit, the Sisters of Charity, does not serve Medicaid patients, yet they are full.

David Beck, Executive Director, Brewster Place, testified as an opponent of **HB 2673.** (Attachment 10) Brewster Place is a non-profit retirement community sponsored by United Church of Christ. It is a continuing care retirement community providing all residents optimal quality of life with a continuum of care including independent living homes, congregate apartments, assisting living apartments, homes for residents in the skilled nursing facility, home health services on campus, and rehabilitation therapy.

Mr. Beck stated that Medicaid is not sustainable and that an alternative could be to restore cuts through a tobacco tax. He further stated that not-for-profits are not for this bill and that they do the best they can with what they have, and that for-profits can cut whatever they need to cut to remain viable.

In closing, Mr. Beck said if it is not good public policy in good times, it is not good public policy in bad times.

The next meeting is scheduled for March 2, 2010.

The meeting was adjourned at 5:00 p.m.

HOUSE AGING & LONG TERM CARE COMMITTEE

DATE: 2/25/2010

NAME	REPRESENTING
Debra Zehr	KATRA
Fred Benjamin	Medicalodges
Jeanette Stauffer	Constitutent - Mother-in-law in nursing home
Kathy Lantz	Medicalodges
Judy Bagby	Medicalodges
DAVID Beck	Brewster Place
Steve Hatlestad	KHCA
Karen Page	Lakewood Senior Living LLC
Harry Baum	Sharon Lane Health Services
Kevin Unruh	Lake Point Nursing Center
Warner Harrison	" " "
Mike Bosley	Providence Place
Carolyn Smith	Via Christi Health
Bill McDaniel	KDOA
Yvonne Etzel	KDOA
Barb Conant	KDOA
Mary Deeke	Prime Star Quality Care, Inc.

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HOUSE AGING & LONG TERM CARE COMMITTEE

DATE: 1/25/2010

NAME	REPRESENTING
Emma Eckert	Rep. Furtado's intern
TED HEILER	CAPITOL STRATEGIES
Nick Wood	Disability Rights Center
Andy Heckaber	Lakeview Village
James Frazier	Lakeview Village
Kenneth Mishler	Kansas Foundation for Medical Care
Ray Dalton	SRS
Steve Mock	SRS
Scott Brunn	KHPA
Tom Burgess	Health Management of Kansas
Marti Coffman	Health Management of Kansas
Cindy Luxem	KHCA
Chad Austin	KHA
Linda MacBrady	KHCA
Ginny Cross	Skilled Healthcare
Belinda Vierthaler	State LTC Ombudsman
Dale McClendless	Alzheimers Assoc

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HOUSE AGING & LONG TERM CARE COMMITTEE

DATE: 1/25/2010

NAME	REPRESENTING
Karla Wurth	KHCA
Dan Kaufman	KHCA
Tim MORFORD	KAHSA/Good Samaritan-Ellsworth
Steve Albrecht	Golden Living/KHCA

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KANSAS
DEPARTMENT ON AGING

Mark Parkinson, Governor
Martin Kennedy, Secretary
www.agingkansas.org

House Aging & Long Term Care Committee
February 25, 2010

HB 2673/Provider Assessment

Bill McDaniel, Commissioner
KDOA Program and Policy

Chairman Bethell and members of the committee, thank you for the opportunity to appear today in support of HB 2673. I am Bill McDaniel, Commissioner of Program and Policy at the Kansas Department on Aging (KDOA).

A provider assessment for Kansas nursing homes is not a new idea. It has been proposed several times as a means of financing increases in nursing facility rates and quality improvement initiatives. While recognizing the value of such programs adopted in other states, KDOA remained neutral with regard to adopting such an assessment in Kansas. The neutral position was based on the fact that the provider community has been split on the issue

KDOA has shifted its position to support of the provider assessment because of the current fiscal crisis which has limited the State's ability to fund Medicaid services, including nursing facility rates. The provider assessment is a legitimate method of leveraging additional federal funds for the nursing home program and is approved by the Centers for Medicare and Medicaid Services (CMS). Currently, 36 states and the District of Columbia utilize a nursing home provider assessment.

The Department on Aging administers long term care services under KSA 75-5945 and would administer the assessment as described in HB 2673. KDOA has tracked this issue closely, maintained on-going discussions with the nursing home provider associations and considered the experience of our consultants in evaluating provider assessment proposals.

KDOA staff members participated in the Kansas Health Policy Authority (KHPA) Nursing Facility Provider Assessment Advisory Committee meetings and were actively involved in the related technical workgroup meetings, which occurred periodically in 2008 and 2009. The technical workgroup prepared a report, "Nursing Facility Provider Assessment Parameters and Impact Analysis," which was presented and accepted by the KHPA board in January. Many of the parameters and mechanisms recommended in the report are included in HB 2673.

It should be noted that HB 2673 does not use the nursing home provider assessment to leverage federal funds for the Home and Community-Based Services (HCBS) Frail Elderly and Physically Disabled waivers. The HCBS advocates were members of the advisory committee and such provisions have been part of provider assessment bills put forth in recent years. Their inclusion offers an opportunity to support community-based services that have also been affected by recent budget constraints.

I have included with my testimony a copy of the KHPA report and the related Provider Assessment Summary/Model. The modeling demonstrated the ability to meet the federal requirements for a permissible health care related assessment. We will perform similar modeling for the parameters in HB 2673 to help ensure a Medicaid State Plan will be approved by the federal Centers for Medicare and Medicaid Services.

New England Building, 503 S. Kansas Avenue, Topeka, KS 66603-3404
Voice: (785) 296-4986 • Toll-Free: (800) 432-3535 • Fax: (785) 296-0256
TTY (Hearing Impaired): (785) 291-3167 • E-Mail: wwwmail@aging.ks.gov

Nursing Facility Provider Assessment Parameters and Impact Analysis
To the KHPA Board: January 26, 2010

General Parameters

- Assess all Licensed Beds except for nursing facilities for mental health and the state operated Soldiers Home and Veterans Home
- Generate $15.97 million using a uniform rate of approximately $725
- A fund should be established to hold the assessment revenues, and the funds should only be used for the Medicaid NF and other Medicaid (HCBS) programs
- Split revenue 85/15 between NF program and other programs
- An advisory board would provide recommendations to the Secretary of Aging on how the funds should be used
- Add $33.38 million NF reimbursement system with adjustments for
    - Removing the 85% occupancy rule
    - Passing through the Medicaid share of the assessment
    - Applying additional inflation to all costs
    - Increasing incentive payments 250%
    - Spending up to $1,000,000 on a satisfaction survey program

Impact Analysis

- Fiscal Impact to Nursing Facilities
    - 314 homes (91%) gain and average of $57,408
    - 28 homes (8%) lose and average of $22,669
    - 2 homes (1%) neutral
- Provides $5.98 million for other programs such as HCBS
- Private pay impact
    - 36 new nursing homes would be subject to a private pay limit unless they raised their private pay rates (the average increase would be $4.56)
    - If any provider were to pass the assessment directly through to private pay residents, the expense would amount to about $2.30 per resident day

Pros and Cons

Pros	Cons
$40 M ($24 M net) Medicaid increase	Potential private pay increases
Reward quality performance	Some providers have net loss
Encourage Medicaid participation	Not all funding tied to quality
Encourage bed closure or recycling	

Cash Flow Analysis

- If enhancements were effective July 1st and assessment was collected quarterly by the end of the first month of each quarter, the nursing homes would have a net loss (of $1.2 M) for the first month but would be ahead from the second month on
- If enhancements were effective July 1st and assessment was collected quarterly due by the end of the quarter, the state would have a net loss (of $2.2 M total) for the first two months, but would be ahead from the third month on

Time Line

- CMS Regional staff have stated that the expectation would be to review both the assessment proposal and any related state plan amendment concurrently
    - The assessment proposal would be reviewed at the CMS central office
    - The state plan amendment would be reviewed at the regional office
- At least four months should be allowed to gain CMS approvals
    - For a July 1, 2010 effective date both the assessment proposal and related state plan amendment should be submitted no later than March 1, 2010, unless it would be implemented retroactively

Provider Assessment Summary

Assessment Input Parameters

Assessable Provider Options

		# of Homes Excluded
Include	State Operated Providers	0
Include	Hospital Based LTCU	0
Include	NF-MH	0
Include	Government Owned Facilities	0
Include	Continuing Care Ret. Comm. (CMS defined)	0

Total (Unduplicated) # of Homes Excluded: 0

Assessment Basis Options

Assessment Basis: Licensed Beds

Revenue Test: 1.50%

Beds	Assessment Rates	
	$725.00	< 500
	$725.00	500 < Mdcd Days < 30000
	$600.00	> 30000
	$0.00	State Operated
	$0.00	NF-MH
23,093 Total Assessable Beds	$691.69	Average Assessment Rate

15,973,175 Revenue Generated

Statistical Tests

P1/P2	
P1	0.54
P2	0.53
P1/P2	1.011888

B1/B2	
B1	0.0000001659
B2	0.0000001536
B1/B2	1.079582

Provider Assessment Summary

Assessment Revenue Use

Assessment Revenue Distribution Options

		Assessment Contribution	FMAP Rate	Total New Program Funds	Net New Funds
0%	Non-Medicaid Programs	0	N/A	0	0
0%	Non-LTC Medicaid Programs	0	40.08%	0	0
15%	Medicaid Home and Community Based Services	2,395,976	40.08%	5,977,985	3,582,008
40%	Medicaid Nursing Facility Program Base Maintenance	6,389,270	40.08%	15,941,292	9,552,022
45%	Medicaid Nursing Facility Program - Quality Enhancements	7,187,929	40.08%	17,933,954	10,746,025
	Totals	15,973,175		39,853,231	23,880,056

NF Program Use and Impact

NF Reimbursement Program Adjustments

			Total Benefit	Homes Impacted	Subject to PPL
Remove 85% Occupancy Rule	for homes with < 200 beds	Yes	2,448,479	61	Yes
Cost Center Limit Adjustments					
	Operating Cost Center Limit Increase	0.00%	0	0	Yes
	IDHC Cost Center Limit Increase	0.00%	0	0	Yes
	DHC Cost Center Limit Increase	0.00%	0	0	Yes
Inflate the Real and Personal Property Fee					
	Additional Inflation		-	0	Yes
	New Limit	8.62			
Pass-Through Medicaid Share of Assessment		Yes	8,454,383	316	No
Apply Inflationary Increase					
	Inflation Factor	3.16%	16,273,206	324	Yes
Increased Funding for Current Incentive or Other Outcomes-Based Measure					
	Increase to Current Incentive	250.00%	5,207,138	255	No
Funding for Statewide Satisfaction Survey Program					
	PPD/RFP Limit	0.26	1,000,000	324	No

Provider Assessment Summary

NF Program/Provider Fiscal Impact Analysis					
Total Increase to NF Program Expenditures	33,383,205.42				
Net Increase to NF Program Expenditures	17,410,030.42				
Number of Providers with Net Gain	314	Avg Gain	57,408	Max Gain	279,291
Number of Providers with Net Loss	28	Avg Loss	-22,669	Max Loss	-76,850
Number of Providers with 0 Impact	2				

The Losers

#	Loss		Avg % Medicaid	Avg # of Beds
28	-$22,669	(avg)	13%	52
4	over $40k		0%	82
9	$20-$40k		10%	66
15	under $20k		19%	36

The Winners

#	Gain		Avg % Medicaid	Avg # of Beds
314	$57,408	(avg)	57%	68
186	up to $50k		51%	56
78	$50-$100k		62%	76
50	over $100k		70%	103

The Average

#	Avg Gain		Avg % Medicaid	Avg # of Beds
344	$50,556	(avg)	53%	67

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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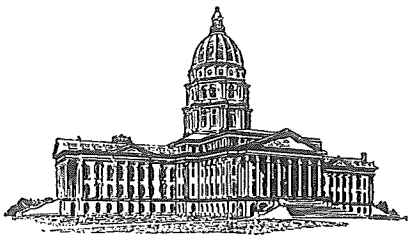

CINDY NEIGHBOR
18TH DISTRICT

COMMITTEE ASSIGNMENTS
ENERGY AND UTILITIES
FINANCIAL INSTITUTIONS
HEALTH AND HUMAN SERVICES
INSURANCE

Thank you, Mr. Chairman, for allowing me to speak before your committee today in support of the Quality Care Assessment Act. Over the past year, I have become very involved in my community with our local nursing homes. With the 10% Medicaid cuts, over 300 nursing homes are in jeopardy of closing.

I know at one of my nursing homes over 75% of the patients are from my local community, with 25% coming from outside the area. Cuts have already been made at the nursing home, but the issues now come down to patient care and the needs of the individuals. This nursing home has been in my community for over 55 years and is now in danger of closing without the funding being restored.

At a time when our population is aging, I find it hard to see these nursing homes close and patients have no alternative location because of financing and availability. In many cases, these facilities may be the only one in the community. Not only does this place a burden on the system, but at a time when we are worried about unemployment, there would be a loss of approximately 27,000 jobs. This has an even greater impact on all of our local communities.

In difficult times, such as those we are currently experiencing, we have a responsibility to look for solutions to critical problems. I believe the bill you have before you today provides that short term solution for our skilled nursing homes to continue to serve the most needy without taking money from the State General Fund and places a sunset for removal when our economic challenges improve.

Again, thank you for allowing me to come before you today and address this very critical need. I will stand for questions at the appropriate time.

Representative Cindy Neighbor

Representative Cindy Neighbor

HOUSE AGING & LONG TERM CARE
DATE: 3-25-2010
ATTACHMENT: 2

HEALTH MANAGEMENT OF KANSAS, INC.

Windsor Place

Offices: 2921 W. First Coffeyville, KS 67337 620-251-5190

Testimony on House Bill 2673

Chairman Bethell and members of the Aging and Long-Term Care Committee, thank you for the opportunity to deliver comments on SB 456.

I am Monte Coffman, Executive Director of Health Management of Kansas, Inc., which is a long-term care organization based in Coffeyville. We provide services through three nursing facilities, two assisted living facilities and a home and community based home care agency.

Today, you give consideration to a provider assessment program as a vehicle to help resolve the Medicaid funding crisis.

Historically, our organization has opposed the provider assessment approach. We did not believe it would be sustainable over time. We also believed it caused a fundamental shift of the burden to pay for services from the state's constitutional responsibility to providers.

However, today's reality changes that. The economy has contracted so significantly. Tax collections are down by amounts once thought impossible. This has led to repeated cuts in Medicaid reimbursements, the most recent being a 10% rate reduction. The total reductions in Medicaid revenues has been significant and the impact far reaching.

The significance of these reductions coupled with there being additional available State resources for Medicaid increases has led our organization to change our position on the provider assessment.

Today, we still hold to the belief that the obligation to provide adequate Medicaid funding is the State's constitutional responsibility. But as there are no State resources available because of the economic downturn, we wish to contribute to a solution which will provide for Medicaid rate restoration.

Therefore, we will support this bill with the following conditions:

1. The language and bill provisions be written in a manner which would create a lock box and prevent future sweeping of these account funds by state officials.

2. The Legislature would monitor and plan for the appropriate funding transitions at the end of this four-year program.

3. The bill presently lacks sufficient details, adequate dollars have to be planned to restore the Medicaid cuts.

4. Restoration of Medicaid-- reimbursements would be implemented before the payment of the provider assessment for cash flow considerations.

Thank you, Chairman Bethel and committee members for your consideration.

Respectfully submitted,

Monte Coffman
Executive Director
Health Management of Kansas
d/b/a Windsor Place
Coffeyville, KS 67337

SHARON
L·A·N·E
HEALTH SERVICES

February 25, 2010

Committee Members,

My name is Harry G. Baum, Ed.D., My wife, Connie and I own and operate Sharon Lane Health Services, 10315 Johnson Drive, Shawnee, KS 66203. Sharon Lane Health Services is a 96 bed Skilled Nursing Facility with 25 Rehabilitation beds and 71 long-term beds. Sharon Lane Health Services has been in the Shawnee since the early 1960s providing services for the elderly and jobs for the community. We bought this facility as a 66 bed long-term care building in 2001 and in 2004 opened a $2.3 million dollar 30 bed addition. We are an independent owner/operator with one facility. We are truly a family owned and operated business, which is, I believe, the backbone of the Kansas economy. My wife is the Director of Nursing, my daughter is the Administrator, my son-in-law is our Plant Engineer, my son works in environmental services and my other daughter is a health-care attorney and gives us legal advice and my 14 year old grand-daughter volunteers.

Since we have operated this facility we have increased services to this area by providing full-service rehabilitation for residents that was not provided before. We have increased the number of jobs we provided to Shawnee by 50% in 9 years. Our residents are composed of 65% Medicaid patients, 20% Medicare patients and 15% private paying patients.

HOUSE AGING & LONG TERM CARE
DATE: 3-25-2010
ATTACHMENT: 4

10315 Johnson Drive Shawnee, Kansas 66203 913-631-8200 fax 913-631-7723

We rely on Medicaid reimbursement as a major part of the funding to take care of our residents. Our Medicaid case-mix rate is approximately $125 per day for each resident. This is below the state's average and I'm told by my Medicaid cost accountant that the reason we have a below average rate is that we run a very efficient operation and watch what we spend. We don't meet the maximum amounts for costs on the Medicaid formula so we don't get as much. Even so, our costs for caring for each resident are still about $15 per day above the Medicaid reimbursement rate. We have consistently operated at about 88-90% of capacity and we have a very good reputation in our community. Even though we operate a very efficient facility and have been under-funded in the past we have been able to more than adequately meet our resident's needs. Last year we were one of 12 facilities out of about 365 in the State of Kansas given a no-deficiency survey.

One of the main reasons is because of our dedicated staff. An example of this is one of our nursing assistants was awarded the Nursing Assistant of the Year by Kansas Health Care Association. We have many more dedicated staff. We **had** 116 full time employees that live in and around the Shawnee, KS area.

Then, late last year we received the news that January 1st of this year we would be cut 10% of our Medicaid reimbursement for the rest of the year with the possibility of more cuts coming next year. Ten percent represents about $16,000 per month in our revenue. This has caused us to redo our budget and make additional cuts to staff and services in order to keep our business model solvent.

The number of employees has been trimmed down from 116 employees at the end of 2009 to 103 because of the cuts. All salary increases have been suspended. This directly affects nursing care (higher resident to staff ratios), activities for residents (no more outside activities), food service (reduction in special food related events), housekeeping services (staff reductions) and maintenance (staff reductions) for the building. In addition, continuing remodeling and upgrading on the older building will have to stop as every last resource we have will have to be used to keep minimum requirements going for our residents to say nothing of meeting all the regulations that seem to get more complex and stringent each year.

Fortunately there is one bright spot that can help our situation, it can bring back most of this loss of funding to the state through federal matching funds **without any additional tax burden on our state citizens**, **but we need your help.**

The Quality Care Assessment legislation that has been introduced in the House and Senate: HB 2673. SB 546.

I have personal experience with just such a program in the State of Missouri. I was an owner/operator in Missouri about 20 years ago when Missouri passed this legislation and received matching funds from the federal government. In Missouri, at that time, it was a Godsend. We, and many like us, were wondering how we were going to make payrolls and continue to stay in business. The federal matching dollars allowed us to keep operating despite budget cuts by the State of Missouri.

This is much like the situation we have now in the State of Kansas.

The same roadblocks to this legislation I heard then, just like now. And just like then, it is a minority voicing objection to this funding. It was called a "granny tax" and other volatile word-smithing by the opposition. This is **NOT** a tax of any sort. It is an assessment to members of the industry that will more than double from its benefit of matching funds and 95% of the members of this industry are for the legislation.

Fortunately, in the State of Missouri, the legislature listened to the industry and had great common sense, fortitude and foresight and passed the legislation. This money has been flowing into Missouri, The District of Columbia and 36 other states since.

Once again, I believe family owned companies such as Sharon Lane Health Services is the backbone of the Kansas economy. It has become extremely difficult to continue to operate with less and less.

Most of all and Most importantly we are not able to provide the services to Kansas's most vulnerable residents – our frail elderly – at a time when they are needing it most and more are continuing to enter our system. We need you to act now and get these additional dollars that will NOT COST the taxpayers of the state anything.

Thank you for listening to and understanding the needs of a most important part of our local economy.

February 25, 2010

Testimony: SB 546, Quality care assessment nursing care facilities

Good morning Chairman Emler and members of the Senate Ways and Means Committee:

My name is Jeanette Stauffer. Thank you for providing me with the opportunity to appear before you today. I am here to share my concerns about escalating health-care costs and Medicaid cuts. These are negatively impacting the quality of care for senior citizens residing in nursing homes.

The state has an opportunity to obtain the funding that nursing homes desperately need. The Kansas Legislature has enacted the provider assessment program for hospitals and pharmacies. Now, it is time for Kansas lawmakers to enact legislation to protect the elderly.

My mother-in-law, Vinita Stauffer, has been a resident in a nursing home for over three years. She is 92, wheel-chair bound, and has dementia.

For 60 years Vinita lived on the family farm and had endured the great depression. Besides her regular household chores, she milked the cows, worked in the fields, gathered the garden produce, canned, built fences, raised chickens, and hand cared for the runts and orphaned animals. Her dedication did not stop with her family and the farm. She was a 4-H leader, precinct chair, Sunday-School teacher, church leader, and was also involved in school activities. There are many nursing home residents whose lives parallel the life of Vinita.

Nursing home residents need competent and compassionate health care. After more government cuts, will these senior citizens continue to receive the ***quality of care and services*** they deserve?

During the past three years, I have observed how our society cares for the elderly. Since most families work to make ends meet, the residents are mainly, if not solely, dependent on the staff for most of their physical, mental, and emotional needs. Some of our nursing home residents are lonely, frightened, and/or confused. Many of the residents have a number of physical limitations that require almost constant care.

I am not only concerned about the quality of care, but also about the **increases for private-paying residents**. Nursing homes will, once again, have to compensate for the reduction of Medicaid funds, and it will be the private-paying residents who have to make up the difference.
Then, once again, more private-paying residents with fewer medical problems will transfer to a health care facility that will provide them with better care.

The reduction of funds puts strain on the entire staff when employees have to work short-handed. The employees do the best they can with the required workload. Their work is demanding and labor intensive. Some of the residents already have to wait for help because there are not enough employees on duty. Nursing homes need more employees, not fewer. If there are more cuts, some of the nursing homes may not pass the state inspection. If nursing homes do not cut their operating costs, then, they may be forced out of business.

The cut in Medicaid reimbursement will also impact health care programs in communities throughout the state of Kansas by 'maxing out' community services. When a nursing home closes, the residents may have to find other medical health care facility in another community—away from family and friends. Or, an adult child may need to stop working to take care of the parent, creating a financial burden on the whole family.

Nursing homes will have no choice but to terminate more employees in an already difficult job market. With the loss of jobs, there will be less spending in Kansas. Communities across the state already have overstretched budgets and inadequate services. On top of this, they would receive less tax dollars to operate their cities and counties. Ultimately, this would impact the whole state by producing less tax revenue.

Our state is facing a nursing home crisis. The Kansas Legislature can prevent the crisis by enacting a Nursing Home Provider Assessment program and raising the quality of care standard for nursing homes in the state of Kansas.

I hope you will strongly consider enacting this provider assessment bill. The program has been enacted in thirty-six states. Do we want Kansas to be the last state to protect some of its most vulnerable citizens—the elderly in need of quality nursing home care?

Today's elderly citizens make up the generation that made our country great. Many of these men and women are War Veterans. These are people who worked diligently to provide for their families, saved to buy homes, worked hard to send their children to college. How can we deny them care in the final decade of their lives?

I appreciate your efforts to protect the health and welfare of our elderly citizens who are living in nursing homes, and I believe the Kansas Legislature will make the right decision by enacting the Nursing Home Provider Assessment program into law.

Thank you for working on behalf of the elderly citizens of Kansas!

Respectfully submitted,

Jeanette Stauffer
Jeanette C. Stauffer

Lakewood Rehabilitation Center
OF HAVILAND

I work with three facilities in the state of Kansas. Two of these facilities are skilled nursing facilities, specializing and working with the geriatric population. The third facility is a nursing facility for mental health in which I have been administrator at for 16 years. For you that may not realize there are only 11 nursing facilities for mental health in the state of Kansas. These facilities specialize in working with clients with severe and persistent mental illness that do not need the structure of a state hospital and are not ready to live in an independent community setting.

When I was asked to testify before this committee I debated how to explain the effects of the 10% Medicaid reduction. Should I just give you budget concerns? For example:

- Lakewood Rehabilitation will lose $150,000 over the year
- The census of the facilities in which I am affiliated are 90% Medicaid
- Loss of money constitutes cutbacks on services

Or do I present the economic impact –

- Lakewood Rehabilitation is the 5th largest employer in Kiowa County, losing employees who must move to look for other employment will cause a decline through businesses and schools in a county already struggling.
- Closure of this nursing facility for mental health could effect arenas across the state, inclusive of the legal/judicial system, law enforcement, homeless shelters, and a bigger strain on mental health centers and state hospitals

Or finally do I appeal to your passion of how you would want your family member taken care of –

- An over abundance of staffing
- Availability of whatever they want instead of just what they need

Just to name a couple.

I don't believe that is how I need to reach you.....

My dad always told me that to make it through any situation you have to always look at ways to compromise. The idea of compromise is what I would like to propose to you.

Kansas Health Care Association has found an avenue for funding thru Provider Assessment. As a federal program funds could be made available for the nursing homes. Because of the Medicaid usage in our facilities in Pratt and Wichita this program would allot approximately $537,000 to these two facilities in funding. Though the program would not directly affect the nursing facilities for mental health with direct funding, it

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would however restore the 10% Medicaid reduction for those facilities and allow for adjustment for rates.

Another idea of compromise is the use of a sliding scale for Medicaid reductions for skilled nursing facilities and nursing facilities for mental health. The following explanation is simplified as I am just going to by an average basic rate.

Average monthly room rate - $3,000

If the patient liability was $3,000 to $1,501 the state would withhold 10% of Medicaid payment

If the patient liability was $1,500 to $1 the state would withhold 5% of Medicaid payment

If the patient liability was $0 the state would withhold nothing of Medicaid payment

For example, currently if a resident's liability is $1,000 and the state pay amount is $2,000 the state is withholding $200 payment. Under the sliding scale the state would take from the state pay amount 5%, which would be $100.

This would be helpful for the three facilities in which I am affiliated as we have numerous Medicaid residents that pay a low liability, so the state withholds more from our facilities even though we are paid a lower Medicaid rate overall.

In summary, we know that many entities of the state of been affected by the budget cuts. We know that cuts have to be made and we are willing to do our part. What we are asking is that you as our legislators look at the possibilities that we have brought to you. In the mean time please support House Bill #2673.

Thank you for allowing me to testify. I look forward to working together.

Karel Page
Regional Administrator
Lakewood Senior Living LLC

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February 25, 2010

Committee Members:

My name is Steve Hatlestad, I have been in the long term care profession for 33 years. I have lived in Kansas since 1989 working with Kansas and Missouri nursing homes. Currently, I am the Vice-President of skilled nursing homes with Americare, Inc. a small Missouri company.

Today, I am here as the Chairman of the Kansas Health Care Association. I am here today to offer support of SB 546 on behalf of providers in the state of Kansas.

We understand the difficult decision the Governor made when he asked for 10% cuts in Medicaid funding. But we cannot stand by and wait for action by the legislature in finding revenues streams to fund the care our Kansas seniors depend on and deserve.

There is an emotional impact on what these cuts are doing to seniors and staff. We as providers have an obligation to our staff and our residents. Our homes are in small towns across Kansas and in many of these communities we are the health care facility. If homes begin to close as we suspect they might if something is not done to stop the cuts there will be an access issue. And as more of us age, we do not want access to good care to be unavailable because of the state's inability to support providers in Kansas.

Some would say that SB 546 will raise the private pay rate. This is not the case. In fact, there is a safety net written into the legislation that would keep the assessment from being directly passed on to residents. But we have to stop the bleeding. Are we so naïve to believe that homes will continue to operate "in the hole" to Medicaid and that this would not ultimately have an affect on the private pay rate?

SB 546 or Quality Care Assurance Act is a revenue stream 36 states plus the District of Columbia currently have in effect in their state. Why are we leaving federal dollars on the table when 36 other states are enjoying the benefit of those revenues? In 2004 when the legislature decided to support similar legislation for the hospital providers the legislation passed 40-0 in the Senate and 122-0 in the House. We understand the Centers for Medicare and Medicaid require the legislation to not hold providers harmless so this means there are winners and losers in any model put forward. It is simply a business decision some homes choose to not accept Medicaid residents if at all.

At a time when our rates were frozen in 2009 for FY 2010 and now the 10% Medicaid cut with the future not looking very good for enhanced revenues, we respectfully ask for your support of SB 546. The seniors of the Kansas and those who provide their care need your help more now than ever.

Thank you .

Steve Hatlestad

HOUSE AGING & LONG TERM CARE
DATE: 3-25-2010
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LAKEVIEW VILLAGE
The Assurance of LifeCare

February 23, 2010

RE: **House Bill 2673**

To: Chairman Bob Bethell and Members of the House Aging and Long Term Care Committee

Dear Legislator:

I am the President/CEO of Lakeview Village, the largest non-profit Continuing Care Retirement Community (CCRC) in Kansas. Founded by a group of ministers over 45 years ago, we currently serve about 800 residents on our 96 acre campus in Lenexa, KS. **We are unique in being the only "Type A" life care community in the state with a large licensed nursing home of 120 beds (expanding to 172 beds by June).** The only other two Type A communities are Santa Marta (Olathe) with 48 nursing beds and Claridge Court (Prairie Village) with 35 beds.

In exchange for a one-time Entry Fee, Type A communities provide food, housing, medical services and licensed nursing care for the remainder of the retiree's life, even if the resident has exhausted their financial resources. In essence, a portion of the Entry Fee serves as long term care insurance to provide future nursing care. Residents chose our facility after years of saving and planning to assure them of care as their future needs may require, without having to rely on families, friends or state Medicaid funding. **Our retirement community, for 45 years, has relieved the state from any obligation to provide Medicaid funding for our life care residents.**

In recent years our nursing care center has accepted 8 or 9 Medicaid-reimbursed residents from outside our life care community. **Although the legislation would restore the 10% Medicaid cuts on these few beds, we would pay the provider tax on all 172 of our nursing beds.** Current provider tax estimates are $1,133/bed/year. The bill allows a maximum of approximately $3,000/bed/year. This would have the following financial impact on us:

	Current Est.		Max. Allowed
172 beds X $1,133/yr	($195,000)	172 beds X $3,000/yr	($516,000)
10% Medicaid Reimbursement	$35,000	10% Medicaid Reimbursement	$35,000
Annual Provider Tax Loss	**($160,000)**	**Annual Provider Tax Loss**	**($481,000)**

Because we contractually provide licensed nursing services to our life care residents based on a one-time entry fee, there is no mechanism to charge them extra to make up for this tax. Given our unique life care classification and the fact that we have and will continue to relieve the State of Kansas from Medicaid support of our life care residents, **we request that Type A life care communities be specifically waived from paying the assessment. We are adding 52 nursing beds in the coming months. Payment of this tax jeopardizes our expansion and the addition of 50+ jobs and nearly $1.5 million in additional payroll infused into the Kansas economy.**

We appreciate your serious and timely consideration of this important matter.

Sincerely,

James K. Frazier

James K. Frazier
President /CEO

9100 Park St., Lenexa, KS 66215
(913)744-2414

HOUSE AGING & LONG TERM CARE
DATE: 3-25-2010
ATTACHMENT: 8

Testimony of Mike Bosley
Administrator, Providence Place
Kansas City, Kansas

In opposition to
SB 546 in Senate Committee on Ways and Means
HB 2673 in House Committee on Aging and Long Term Care
Assessment of quality assurance fee on skilled nursing care facility facilities
February 25, 2010

Mr. Chairman and members of the Committee,

I am Mike Bosley, Administrator of Providence Place, a skilled nursing and rehabilitative care center in Kansas City, Kansas. We are opposed to a nursing care provider tax.

Providence Place – and federal taxpayers – would be "losers" under a nursing care provider tax program. I cannot know how, or how severely, this legislation will affect our rehabilitative care facility. But we have seen the Health Policy Authority's models on a nursing care provider tax. We come out as "losers" of anywhere between $60,000 and $200,000 per year. I don't know how we could make up that lost revenue.

During study by the Health Policy Authority, no compelling need was presented. This tax program was studied in 2009 by the Health Policy Authority, yet we never heard a compelling case by any nursing care facility that a program was needed. The only motivation expressed was that federal taxpayer dollars could be directed to certain Kansas nursing facilities.

Proponents were seeking this tax before the Medicaid payment cut. Advocates cite the new Medicaid payment cut as reason for this tax program. Yet this nursing care facility group was advocating for this tax even before a payment cut was proposed, so we find those arguments disingenuous. We also understand lawmakers want to restore full Medicaid payments for FY 2011, and so a tax program would be premature. You should continue to work on that effort.

For-profit nursing facilities exist to direct dollars to investors. A not-for-profit nursing care center directs its revenue back into its operations and reserves, never to an investor. There is nothing to prevent provider tax dollars raised from not-for-profit Kansas nursing facilities and federal taxpayers from being directed to investors of for-profit facilities.

Kansas has not had a nursing care facility crisis. Providence Place does not serve Medicaid patients, yet we are full. Therefore it would not make sense to change our practices and no longer serve the rehabilitation patient population which needs and wants our services. The state does not need a nursing care tax program, and cannot be certain the tax won't make the nursing care situation in Kansas worse instead of better. **If the Medicaid payment rate cut is expected to cause a crisis, the state should restore payment rates and not penalize nursing care facilities like Providence Place or pass the burden on to federal taxpayers.**

I urge you to vote against this legislation.
I stand for questions.

BREWSTER PLACE

To: Representative Bob Bethell, Chair, and Members
House Aging and Long Term Care Committee
From: David Beck, CEO, Brewster Place
Date: Thursday, February 25, 2010

My name is David Beck and I am the CEO of Brewster Place, a not-for-profit, United Church of Christ sponsored retirement community in Topeka. Thank you for this opportunity to speak to you regarding House Bill 2673.

Brewster Place has served elderly citizens of northeast Kansas for more than 43 years. As a continuing care retirement community with a mission of providing all of its residents opportunities for an optimal quality of life, we provide a continuum of care services including 160 independent living homes, 75 congregate apartments, 26 assisted living apartments, and homes for 79 residents in our skilled nursing facility. We also provide home health services on our campus as well as a variety of rehabilitation therapy modalities, two wellness centers, an emergency call system and an in-house 24 hour security department. At the heart of every service provided by Brewster Place is a commitment to a person-centered philosophy at all levels of the continuum. Brewster Place's wellness initiatives center on the four key areas of wellness – physical, social, intellectual, and spiritual. The embodiment of our mission is in providing opportunities for our residents in each of these four areas to stay healthy and independent as long as possible, preserving their dignity as well as their resources, and lessening the burden on government to pay for health services through Medicare and Medicaid.

I am strongly opposed to House Bill 2673 as a way to leverage federal Medicaid dollars for the state. This tax will be passed on to frail nursing home residents who pay for their own care. It is an especially egregious tax in the case of Brewster Place and other continuing care retirement communities that work diligently with our residents to preserve health and lessen the likelihood of Medicaid dependency.

These older Kansans who require nursing home care have paid plenty of taxes over their lifetimes to support the Medicaid program. At the same time they scrimped and saved to pay for their own long term care needs. The so-called quality assessment would create a perverse incentive against personal responsibility, plus it would accelerate the depletion of older Kansans' assets, causing them to rely on Medicaid faster.

1205 SW 29th Street
Topeka, Kansas 66611

I have serious concerns about the future should House Bill 2673 be passed. Those who have watched nursing home taxes in other states know that the tax almost always increases to the maximum allowable level, and the "pay back" to nursing homes quickly goes down. Based on what has happened with the hospital provider tax in Kansas, I have no faith that House Bill 2673 would prevent future cuts in nursing home reimbursement.

I believe that the Kansas Legislature can and should find more suitable ways to fund our state health insurance program for the poor. Please vote no on House Bill 2673.

Thank you. I would be happy to answer questions.

1205 SW 29th Street
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