

MINUTES OF THE HOUSE SOCIAL SERVICES BUDGET COMMITTEE

The meeting was called to order by Chairman Peggy Mast at 3:30 p.m. on March 8, 2010, in Room 785 of the Docking State Office Building.

All members were present except:

Representative Tom Hawk- excused

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes
Dylan Dear, Kansas Legislative Research Department
Cyndie Rexer, Committee Assistant

Conferees appearing before the Committee:

Brad Smoot, Legislative Counsel, Children's Mercy Family Health Partners
Scott Brunner, Chief Financial Officer, Kansas Health Policy Authority
John Campbell, General Counsel, Kansas Insurance Department

Others attending:

See attached list.

Hearing on:

HB 2723 - Health maintenance organizations, annual privilege fee, remove phase-in.

Brad Smoot, Legislative Counsel, Children's Mercy Hospital/Family Health Partners gave testimony that included the history and reasons for the statute. When first enacted, the concept and use of HMO's was relatively new to the Kansas health insurance marketplace. The privilege fee was structured to encourage new HMO's to come to Kansas with no fee being required in the first 3 years and only half the fee required until 5 years of licensing. Kansas law also makes special exception for HMO's providing services to the state Medicaid program by allowing the Insurance Commissioner to exempt Medicaid HMO's from the privilege fee which has been the case consistently. **HB 2723** provides the administrative process to remove the step provision from the statute so all health maintenance organizations will pay the same 1% privilege fee and will remove the ability of the Insurance Commissioner to exempt Medicaid HMO's from the privilege fee. Because time is of the essence, Mr. Smoot recommends the committee amend the contents of **HB 2723** into **SB 200** and be passed. (Attachment 1)

Chairman Peggy Mast recognized Scott Brunner, CFO, Kansas Health Policy Authority and asked him to stand for questions followed by John Campbell, General Counsel, Kansas Insurance Department.

Representative Barbara Ballard made a motion to remove the contents of SB 200 and replace it with the contents of HB 2723. The motion was seconded by Representative David Crum. Motion passed.

Representative Marc Rhoades moved House Substitute for SB 200 be passed favorably as amended. The motion was seconded by Representative Mike Kiegerl. Motion passed.

Hearing was closed.

The meeting was adjourned at 04:08 p.m.

BRAD SMOOT

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STATEMENT OF BRAD SMOOT
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CHILDREN'S MERCY FAMILY HEALTH PARTNERS
HOUSE SOCIAL SERVICES BUDGET COMMITTEE
INFORMATIONAL HEARING ON 2010 HOUSE BILL 2723
March 8, 2010

Madam Chair and Members:

Thank you for this opportunity to comment on House Bill 2723, a proposal to remove the "ramp up" procedure for Health Maintenance Organizations (HMO's) for the payment of the state privilege fee. Children's Mercy Family Health Partners is a Kansas licensed HMO, providing managed health care coverage for 120,000 Kansas Health Wave recipients under contract with the Kansas Health Policy Authority.

For more than three decades Kansas has imposed a 1% fee on HMO's for the privilege of being licensed to operate in the state. The fee is collected by the Kansas Insurance Department upon the filing of an annual report. When first enacted, the concept and use of HMO's was relatively new to the Kansas health insurance marketplace. The privilege fee was structured to encourage new HMO's to come to Kansas with no fee being required in the first 3 years and only half the fee required until 5 years of licensing. This "ramp up" feature of K.S.A. 40-3213, the privilege fee statute, allowed HMO's to get a "foothold" in the state before being assessed the maximum fees. Privilege fees, like those on banks and premium taxes on traditional insurance companies, are "gross receipts" taxes.

Kansas law also makes special exception for HMO's providing services to the state Medicaid program by allowing the Insurance Commissioner to exempt Medicaid HMO's from the privilege fee. Commissioners Sebelius and Praeger have consistently applied this exception to the privilege fee to protect revenues of the Medicaid program. Recently, however, the federal government has allowed Medicaid HMO's to be "taxed" under certain circumstances and Commissioner Praeger removed the exception for Medicaid HMO's enabling them to pay the privilege fee just as HMO's serving the commercial market do. The hope is that these new fees, about \$4 million annually, will be used by the Legislature and the Governor to match federal funding in the Medicaid program, maximizing Kansas' ability to support Medicaid providers in these difficult financial times.

Currently, there are 8 commercial HMO's licensed in Kansas and three Medicaid HMO's. Only two of these entities are in the "ramp up" phase of the privilege fee, meaning that the change proposed by HB 2723 only impacts those two HMO's, both of which are Medicaid contractors. The 8 commercial HMO's and one Medicaid HMO, FHP, are unaffected by this legislation. Fortunately, the two remaining HMO's are fully

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Attachment 1*

supportive of this legislation. Both recognize that the bill equalizes the privilege fees of all HMO's, commercial and Medicaid, and raises more state and federal dollars for the Health Wave program.

Attached, please find a summary of our estimates of the impact of the privilege fee on state and federal funding of Medicaid and SCHIP programs. You will note that there are about \$3 million in lost revenue should HB 2723 not be enacted. While this entire effort is only a small revenue stream in a sea of red ink, it is a step in the right direction, it has the support of those being assessed, it brings federal tax dollars back to Kansas to support doctors and hospitals serving some of our most needy citizens and with the passage of HB 2723, the privilege fee will become uniform among all HMO's operating in the state.

Finally, time is of the essence. In order for the state to maximize federal funding and the pass through of these new dollars to Kansas health care providers, KHPA will need to amend the fee structures now pending before CMS. We have about one week to give guidance to the KHPA in regard to this matter. Therefore, may we respectfully recommend that this committee amend the contents of HB 2723 (which technically is referred to the Appropriations Committee) into SB 200, recently referred to this Committee. This will send the measure to the full House and to Conference Committee most expeditiously.

Thank you for your time and consideration of our views.

Kansas HealthWave

Estimate of Total Potential State Benefit from 1% HMO Privilege Fee from Medicaid HMO's

	Use of HMO Privilege Fee			Total SFY10-12
	SFY10	SFY11	SFY12	
HMO Privilege Fee Assessment	4,134,060	4,134,060	4,134,060	12,402,180
Funds Available for Provider Fee Restoration Pass-through by HMO's	2,889,530	10,574,469	6,022,330	19,486,329
SGF Funds Available in Excess of Increased HMO Payments	3,100,545			
Federal Match at Administrative Level (50%)	3,100,545			
Additional Funds Available for use within Medicaid	6,201,090			6,201,090
Total New Funds	9,090,620	10,574,469	6,022,330	25,687,419

Note:

1. FMAP is 70% for the period 4/1/10 to 12/31/10; 60% thereafter. If the enhanced FMAP is extended through SFY12, the additional federal funds available would be \$1.7M in SFY11 and \$3.4M in SFY12.
2. Estimated Privilege Fee Assessment is based on CY2009 HMO Revenues.
3. If the assessment ramp up period is not eliminated, the funds available would be reduced by \$2.7M in SFY10 and \$1.4M in SFY11; there is no significant impact on SFY12.