February 11, 2025

Heather Braum, Senior Policy Advisor
Kansas Action for Children
Verbal Testimony in Opposition to HB 2240
House Committee on Welfare Reform

Chairman Awerkamp and members of the Committee:

Thank you for the opportunity to provide testimony in opposition to HB 2240, which would restrict changes to the medical assistance program unless first receiving legislative approval. **We oppose this bill for two reasons, particularly focusing on the restrictions to the state medical assistance program (which includes federal Medicaid and CHIP coverage) and the KanCare managed care program, in which nearly 61% of those served are children.**[1]

We are concerned about the broad language of the bill that would require an act of the Legislature to seek even the smallest of changes through the federal government for different methods of updating the medical assistance program authority with the federal government.

The way HB 2240 is written, there is risk that many day-to-day Medicaid program changes in response to changing federal government requirements, changing health care needs, and changes passed through the state's human consensus caseloads process will not be allowable without legislative approval. Some of these changes are time sensitive; if the process to pursue changes can only occur through a bill process and only when the Legislature is in session three months of the year, the medical assistance program will no longer be able to quickly pivot a complex program when the federal government releases new rules and mandatory changes or the state needs to pivot in a crisis situation. With more than 400,000 Kansans,[2] including low-income children, pregnant women, people living with disabilities, and the elderly poor, are served by this program to meet their health needs, it is evident why this added administrative red tape would be concerning.

If this bill were to pass, it is unclear what would happen when the Legislature is out of session and an urgent need to quickly change the program arises that incurs an increased cost to the state. Also, the inclusion of any cost increase – no matter the amount – is significant and could cause a large amount of legislative oversight for insignificant program changes.

Additionally, the process to pursue an 1115 demonstration waiver, change 1915 waivers (which include the entire KanCare program and the seven, soon-to-be-eight HCBS waivers for IDD, PD, elderly, and more populations), and state plan amendments also involves lengthy preparation by the agency and

[1] KDHE. (August 27, 2024). *KanCare Executive Summary Q2 2024.* https://www.kslegislature.gov/li_2024/b2023_24/committees/ctte_jt_robert_g_bob_bethell_joint_committee_1/documents/testimony/20240827_13.pdf

[2] Ibid.

submission to the federal Centers for Medicare and Medicaid Services (CMS). Many months can go by before new authority is approved.

If the legislative process must occur first, necessary changes to the program will be dramatically slowed, and the program will no longer be able to pivot to new opportunities to be more efficient.

There are prior instances where the Medicaid agency has had to quickly authorize a new medication to be allowed under the state plan to respond to an RSV outbreak for young children. That authorization likely cost the state more money, but if that situation would fall under the auspices of this bill, the delay that would likely have occurred for approval would have had serious consequences for young children. The state might have had to wait six months to introduce a bill, go through the legislative process, and be implemented while RSV continued to spread and sick young children didn't have access to a medically necessary medication because of government red tape.[3] We are unclear if situations like this one would fall under this bill's restrictions because of the clause "including, but not limited to."

This bill doesn't improve government efficiency. HB 2240 creates additional hurdles and red tape that can unintentionally hamstring the state's ability to respond to urgent needs, as well as innovation in the health delivery system.

There is not a current pathway for the Kansas Department of Health and Environment (KDHE) to receive legislative approval outside of the annual legislative session and bi-annual consensus caseloads meetings. Under HB 2240, KDHE would need state legislative approval for all rate adjustments, services that the CMS adds, and additional populations for expanded eligibility that CMS or Congress mandates. This restricts KDHE's ability to comply with federal mandates and the timelines set for implementation of those mandates. Noncompliance or delayed compliance puts the state at risk for withheld federal funds and corrective action plans. Delayed compliance means providers may have to wait for the Legislature to approve any rate increases that results from CMS increases.

Instead of immediately turning to restricting all agency authority for processes available through the federal government without the cumbersome legislative approval process, this Committee could explore alternative ways to develop additional oversight processes short of the need to pass several bills each year.

We also oppose this bill because of the volume of new work it would create for the Legislature, particularly for the health committees. All these changes are currently handled by administrative agencies, but, under this bill, would need to be vetted through legislative committees that would have less time to work on other issues.

There are already frequent legislative oversight and reviews of the medical assistance program that HB 2240 particularly focuses on for the different federal authorities to make changes to the program.

The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight (Bethell) hears from the state agencies multiple times a year. Instead of passing this broad bill that could hamper time-sensitive health care authority changes, we encourage this Committee to pivot

[3] Fertig, S. (February 17, 2022). *House Committee on Health and Human Services.* https://youtu.be/uJ0QiCkTY-U?t=438

to making the human consensus caseloads process more transparent. Changes to the medical assistance program with large price tags already go through the appropriations process (which includes many reimbursement rate increase requests), but some changes do occur through the human consensus caseloads process, which remains extremely opaque to lawmakers and advocates alike.

Another alternative could be to review the Bethell Committee's authority or increase their meeting count in statute to allow additional legislative oversight. Kansas Action for Children attends every meeting of this Committee, and the meetings never seem to have enough time to cover all of the topics that need to be addressed for the different programs and populations that KanCare serves. Changing the bill to expand the Bethell Committee's oversight and authority — rather than requiring every medical assistance program change go through the bill process — would alleviate the probability of the committee process becoming a bottleneck for changes, regardless of how miniscule.

For all these reasons, we respectfully request the Committee oppose HB 2240 and consider some of our recommendations. If I can be of further assistance, please contact me at heather@kac.org.