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Kansas Action for Children
Verbal Opponent Testimony on HB 2240
Senate Committee on Government Efficiency

Chairwoman Erickson 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 modifications in response to updated federal government requirements, changing health care needs, and adjustments passed through the state's human consensus caseloads process will not be allowable without legislative approval. Some of these changes are time sensitive. While this bill has been amended to allow approval through the Legislative Coordinating Council (LCC) when the Legislature is not in session, we still remain concerned that 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**.

As more than 400,000 Kansans,² including low-income children, pregnant women, people living with disabilities, and the elderly poor, are served by the Medicaid program to meet their health needs, it is evident why this added administrative red tape is concerning.

While the LCC now has authority to address needed changes outside of the legislative session, we question whether that group will have the time and in-depth knowledge to make informed decisions about such a complex program, especially in time-sensitive situations. 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.

¹ KDHE. (August 27, 2024). *KanCare Executive Summary Q2 2024*. https://www.kslegislature.gov/li_2024/b2023_24/committees/ctte_it_robert_g_bob_bethell_joint_committee_1/documents/testimony/20240827_13.pdf

² Ibid.

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

Furthermore, the way we read HB 2240, state agencies couldn't begin the groundwork to seek to pursue available program efficiencies or other changes that may occur through congressional change, grant opportunities without explicit legislative or LCC approval. We are uncertain if this means state agencies (particularly those administering the Medicaid program) could not communicate with advocates about new program opportunities, available grants, or state plan amendment changes without first seeking legislative approval. Further, if this bill were to pass, it is unclear if current work underway would end until it is explicitly 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. We urge the Committee to find middle ground to navigate both ongoing legislative oversight without micromanaging an already complex program.

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.

Even with the addition of the LCC approval pathway when the Legislature is out of session, we remain concerned that 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 timely 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.**

We also oppose this bill because of the volume of new work it would create for the Legislature, particularly for the health- and social services-related 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.

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

There are already frequent legislative oversight and reviews of the medical assistance program 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-related changes, **we encourage this Committee to pivot 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 additional changes do occur only through the human consensus caseloads process, which remains extremely opaque to lawmakers and advocates alike.

Another alternative could be to increase the Bethell meeting count in statute to **allow additional legislative oversight, and even add subcommittees.** 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. While the Bethell Committee doesn't have authority to approve changes, it is an existing oversight Committee whose directive could be expanded to provide additional oversight and recommendations around necessary state plan amendment changes and potential waiver requests throughout the year, while also providing additional vetting and expanding lawmaker knowledge around a complex program.

While there is always room for improvement and review, the current processes work overall. It should be left to the current team of nonpartisan subject matter experts who can ensure continued service delivery for the medical assistance health care coverage and system that serves our most vulnerable Kansans.

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.

About Kansas Action for Children

Kansas Action for Children is a nonprofit advocacy organization working to make Kansas a place where every child has the opportunity to grow up healthy and thrive. We work across the political spectrum to improve the lives of Kansas children through bipartisan advocacy, partnership, and information-sharing on key issues, including early learning and education, health, and economic security for families.