

**Verbal Opponent Testimony on HB 2240
Senate Committee on Government Efficiency
Tuesday, March 11, 2025
Christine Osterlund, Deputy Secretary of Agency Integration and Medicaid Director
Kansas Department of Health and Environment**

Chair Erickson and members of the Senate Committee on Government Efficiency:

Thank you for the opportunity to provide testimony in opposition of HB 2240, a bill which would prevent the Kansas Medicaid program from complying timely with new federal regulations and put the program at risk of losing millions in federal funding. The bill requires legislative approval prior to the Kansas Department of Health and Environment (KDHE) seeking or implementing a Medicaid state plan, state plan amendment, or demonstration or waiver under section 1115 or 1915 of the federal Social Security Act that expands coverage or increases cost to the State. I appreciate that the legislature has offered within the bill an opportunity outside of the legislative session to receive approval for changes to the Kansas Medicaid program. However, in a letter sent to the State in December 2024, the Centers for Medicare and Medicaid Services (CMS) outlines that “the Medicaid agency cannot delegate its authority to supervise the administration of the Medicaid state plan (42 C.F.R. § 431.10(e)). This means that as the single state agency, the Kansas Department of Health and Environment maintains ultimate responsibility for all facets of the Medicaid program, including the provision of HCBS and ensuring compliance with all federal requirements.” Therefore HB 2240 would violate CMS guidelines and leave the State open to the risks of potential noncompliance with time-sensitive federal laws and regulations that are mandated in the interim.

In order for Kansas Medicaid to receive federal matching funds, the program must remain in compliance with federal laws and regulations. These federal laws and regulations can change, and Medicaid programs must come into compliance with new rules within the timelines set by the federal government through the authority of a state plan amendment or a waiver or demonstration through section 1115 or 1915 of the federal Social Security Act.

One of these changes is an annual adjustment CMS makes to payment rates for certain Medicare services. CMS mandates that state Medicaid programs adjust their rates for the same services in accordance with Medicare rates. The rates may increase or decrease, and HB 2240 would prevent Kansas Medicaid from adjusting the rates quickly and in compliance with federal guidance. Not only does late compliance bring the risk of financial impacts to the State, in the case of a rate increase, it also delays impacted Medicaid providers from receiving accurate payments for their services.

CMS has the authority to add services to Medicare and require state Medicaid programs to implement those services with the same deadlines as Medicare. Additionally, the United States Congress and CMS will, at times, mandate that Medicaid programs add populations or expand eligibility guidelines and set timelines that the State must comply with. Under HB 2240, Kansas would be required to receive legislative approval before complying, which runs the risk of late implementation, resulting in potentially withheld federal funds and/or a corrective plan being issued.

KDHE takes great pride and effort in engaging stakeholders in productive conversations and responding quickly to the concerns they highlight. HB 2240 would curb the agency's ability to react quickly to provider, member and other stakeholder needs, adding more barriers to an already complex program. Among the stakeholders expressing their concerns for bills like HB 2240 are the Kansas Hospital Association, the Disability Rights Center of Kansas, the KanCare Advocates Network, Kansas Action for Children, the Alliance for a Healthy Kansas, Community Care Network of Kansas, Oral Health Kansas, and a myriad of other providers, provider associations, and other stakeholder groups who recognize the importance of the agency's ability to take action quickly when the federal government mandates changes. Health care professionals who provide services like durable medical equipment have also underscored the need for KDHE to quickly implement Medicare rate adjustments so they can be properly reimbursed for their essential services to vulnerable Kansans.

I respectfully ask you to not take action on HB 2240 due to the restrictions it will place on KDHE's ability to comply with federal mandates. Mandates from the federal government are made without regard to a state's particular legislative process or structure, meaning that mandates could come outside of the legislative session, creating the potential for Kansas to be out of compliance until legislative action is taken on a mandate; given the sparse availability of legislators outside of the legislative session, HB 2240 opens Kansas up to significant financial risk, should federal funds be withheld due to noncompliance with mandates, and potential corrective plans, and delays providers from receiving much-needed rate increases.