MINUTES

JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES OVERSIGHT

November 8, 2012
Room 548-S—Statehouse

Members Present

Representative David Crum, Chairperson
Senator Carolyn McGinn, Vice-chairperson
Representative Barbara Ballard
Representative Jerry Henry
Representative Peggy Mast

Members Absent

Senator Laura Kelly
Senator Kelly Kultala
Senator Dwayne Umbarger
Representative Brenda Landwehr

Staff Present

Iraida Orr, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Renae Jefferies, Office of the Revisor of Statutes
Katherine McBride, Office of the Revisor of Statutes
Jan Lunn, Committee Secretary

Conferees

Shawn Sullivan, Secretary, Kansas Department for Aging and Disability Services
Kari Bruffett, Director, Division of Health Care Finance, Kansas Department of Health and Environment
Chad Austin, Vice President, Governmental Relations, Kansas Hospital Association
Rachel Monger, Director, Government Affairs, LeadingAge Kansas
Cindy Luxem, President and CEO, Kansas Health Care Association
Jim Perkin, Vice President of Operations, Midwest Health, Inc.
Maury Thompson, Executive Director, Johnson County Developmental Supports
Matt Fletcher, Associate Executive Director, InterHab
Anna Lambertson, Executive Director, Kansas Health Consumer Coalition
Nick Wood, Systems Change Coordinator and Lead Investigator, Disability Rights Center of Kansas
Sky Westerlund, Executive Director, Kansas Chapter of the National Association of Social Workers
Tom Laing, Executive Director, InterHab
David Wilson, Past President, AARP Kansas

Written Testimony

Suzanne Wikle, Director of Policy and Research, Kansas Action for Children
Mitzi McFatrich, Executive Director, Advocates for Better Care

Morning Session

Chairperson David Crum called the meeting to order at 10:08 a.m., and welcomed those in attendance.

Historical Spending for Home and Community Based Services Waivers and Historical Waiting List

Amy Deckard, Kansas Legislative Research Department (KLRD), reviewed the Home and Community Based Services (HCBS) Historical Waiting List from each fiscal year and each Omnibus period from 2008 through September 2012. Ms. Deckard noted the Kansas Department for Aging and Disability Services (KDADS) reported a decrease in the number of individuals on the HCBS Physical Disability (PD) Waiver waiting list after the completion of an audit the agency conducted to verify or contact the people on the list who were still eligible for the HCBS/PD Waiver and required services. The agency reported dropping 1,226 from the HCBS/PD Waiver waiting list number reported for September 2012. Ms. Deckard stated individual agencies accountable for the HCBS Waivers report waiting list numbers and the Omnibus information comes from each year's Omnibus Reconciliation Memorandum. Ms. Deckard reviewed HCBS Waivers expenditures from all funding (AF) sources and from the State General Fund (SGF) (Attachment 1). KDADS has requested two SGF enhancements for FY 2014: $2.5 million to finance rate increases for HCBS Developmental Disability (DD) Waiver service providers, and $2.5 million to add individuals to the HCBS/DD Waiver. KDADS also proposed a reduction of $3.25 million from the HCBS Frail Elderly (HCBS/FE) Waiver as part of its reduced resources package. Ms. Deckard noted FY 2012 HCBS/FE Waiver expenditures were lower than in previous years due to policy changes associated with the waiver including standardization of services, the electronic visit verification system (EVVS) and the financial management system (FMS); currently there are no individuals waiting for HCBS/FE Waiver services. The EVVS is a telephone and computer-based system that electronically verifies service visits and documents the precise time service provision begins and ends. Committee members requested more specific information related to the FY 2012 $3.25 million reduction in HCBS/FE expenditures and whether EVVS savings resulted from a decrease in the minutes of actual service provided. Ms. Deckard will ask the agency to provide the information requested.

KanCare Update

Kari Bruffett, Director, Kansas Department of Health and Environment (KDHE) Division of Health Care Finance, updated Committee members on KanCare's implementation (Attachment 2). She reported, as of November 7, the majority of all provider manuals (including hospital and long-term care manuals) for each Managed Care Organization (MCO) have been approved as final. Ms. Bruffett indicated finalization of the outstanding provider manuals is anticipated within one to two days.

On October 19, the Administration announced its plan to move forward with the January 1, 2013, implementation date by processing the initial beneficiary assignment file. Once completed, notification of initial assignment will be sent to all Medicaid beneficiaries with instructions for changing their automatic assignment.

On October 18, key members of Kansas' KanCare implementation team met with representatives from the Centers for Medicare and Medicaid Services (CMS) in Baltimore, Maryland. Ms. Bruffett indicated the meeting was positive, which contributed to the Administration's decision to move forward with preparations for a January 1, 2013, implementation date; until the Section 1115 waiver is approved by CMS, the frequency of communications between state and federal officials will accelerate.

Ms. Bruffett stated readiness reviews have been completed, and MCOs have met the October benchmark of 90 percent network adequacy.

According to Ms. Bruffett, intensified communication with CMS continues and on-going work concerning CMS-defined issues progresses. She indicated defined issues include:

- Increasing the length of time during which beneficiaries may choose an MCO in 2013 to 90 days rather than the initial 45 days that was approved. The initial Section 1115 Waiver application asked that the State be allowed to limit to 45 days the period during which Medicaid enrollees could be allowed to switch MCO plans after an initial "auto-assignment" to a MCO. Now, a beneficiary will have 90 days to choose another provider after January 1, 2013;

- Formatting of safety net hospital pools to improve healthcare access, upper payment limits (UPL) and supplemental payment methodologies, and focusing on delivery-system reforms;

- Timing of employment-related pilots [excludes Intellectual/Developmental Disability (I/DD) pilot]; and

- Assuring HCBS beneficiary protections to prepare for a January 1, 2013, transition to a long term services and supports (LTSS) managed care model in Kansas, which included:

    - Provider and beneficiary education;
    - Stakeholder engagement;
    - MCO accountability;
    - Completion of HCBS functional assessments in November and December 2012;
    - Continuation of plans of care (POCs) for a period of 90 days, or until such time as each MCO's KanCare coordinator is able to reassess the beneficiary's POC;
    - State oversight of POCs, requiring that any decrease or change in HCBS POCs must be reviewed by the State;
    - Ride-alongs with KDADS quality management staff and KanCare coordinators (a percentage of KDADS staff to KanCare Coordinators) for 180 days, which is considered a training opportunity for all staff;
    - Rights of grievance and appeals;
    - Right to a State fair hearing;

- Hiring of a KanCare Ombudsman;
- Eligibility determined by the State or contractors for the State, not by MCOs;
- Quality assessment and performance improvement, under which approximately five KDADS staff members were transferred to KDHE to form a KanCare Inter-agency Coordination and Contract Monitoring Unit for creating quality improvement strategies;
- I/DD waiver delay and pilot;
- Front-end billing (FEB) solution;
- Inclusion of current 1915(c) waiver structure and protections into the 1115 waiver structure and to expand overall health and quality of life measures in KanCare; and
- Information technology testing.

With regard to POCs and the timing for a KanCare coordinator to reassess a beneficiary's care plan, Ms. Bruffett stated a "change for cause" provision is included in each MCO's contractual agreement. This clause would allow a beneficiary to change to another MCO provider if his or her POC was not completed within the allowable, 90-day choice period (January 1, 2013 until April 4, 2013).

Ms. Bruffett stated the next MCO network adequacy benchmark date is November 16. MCO provider training is underway at the current time. Additional member advocate training (webinar format) is scheduled for November 14 and 30, which is specifically related to available materials and resources.

In response to Committee questions, Ms. Bruffett stated:

- The theme for previous educational webinars concentrated on available information and access to MCOs' value-added services. There were 150 participants at the first webinar and 175 participating in the second. Webinar dates were posted on the KanCare Website, notification (through the *KanCare Advisor* newsletter) was sent to advocacy groups, and the educational opportunities were announced on the stakeholders call.

- Various members of the KDHE staff would be available to assist legislators with constituent concerns following the targeted January 1, 2013, implementation date. In order to ensure a smooth transition, Aging and Disability Resource Center (ADRC) call centers have hired 15 additional staff to assist with calls after January 1, 2013. It is anticipated the KanCare Ombudsman would be hired and able to assist legislators. It was suggested by a Committee member that a written template for problem resolution be developed for legislators, including a list of contact resources.

- The Administration is moving forward to implement KanCare January 1, 2013; until the CMS Section 1115 waiver is signed and approved, Ms. Bruffett could not provide assurances to Committee members concerning CMS's intentions related to waiver approval.

- The Administration is confident the waiver would be approved within the targeted timeline.

- KDHE will send electronic links for all MCO provider directories to Committee members.

- Beneficiaries will have no less than 90 days after January 1, 2013, to change health plans before being locked in for the year. Exceptions to the 90-day choice period will be allowed for a "change due to a good cause," such as services not provided by a provider in a particular plan or area. “Change for cause” could also occur if functional reassessments are incomplete at the conclusion of the 90-day choice period.

- No additional legislation for KanCare is anticipated other than technical in nature.

- Collaboration with MCO-contracted providers is occurring to ensure there is no lapse of care for beneficiaries during the transition from the current service provider to the beneficiary’s selected MCO.

- The Administration is supportive of legislative oversight for the KanCare program.

- The Kansas Medical Assistance Program (KMAP) has created a preferred drug list (PDL) to promote clinically appropriate utilization of pharmaceuticals. The Kansas Medicaid PDL is authorized by KSA 39-7, 121a, and the process will remain unchanged.

- Out-of-network services may be provided to KanCare members (during the first 90 days) at in-network reimbursement levels. For certain speciality services unavailable within an MCO’s network, plans can be made for single-case arrangements at a baseline reimbursement of 90 percent of fee-for-service Medicaid rates. Contractual provisions within each MCO prevent members from assuming additional cost from out-of-network providers.

- A list of each MCO’s value-added services will be provided.

Aging and Disability Resource Centers

Secretary Shawn Sullivan, KDADS, provided testimony concerning the status of Aging and Developmental Disability Resource Centers (ADRCs); the KanCare Community Developmental Disability Organization (CDDO) for HCBS Intellectual and Developmental Disabilities (I/DD) pilot; legislative oversight of KanCare; an update on the HCBS Physical Disabilities (PD) Waiver waiting list; and quarterly census reports for state institutions and long-term care facilities, HCBS Waiver savings, and the HCBS Savings Fund Balance (Attachment 3).

Secretary Sullivan defined ADRCs as the primary entry point for both individuals eligible for publicly-funded services and supports and individuals with private resources. ADRCs provide a central source of information for assisting people in understanding available options and will serve individuals of all ages, disabilities, and income levels. In Kansas, there have

been two pilot sites: one in Hays and one in Wichita. More information can be obtained at http://www.ksadrc.org/. The ADRC Request for Proposal (RFP) process was discussed, and the successful bid was awarded to the Southwest Area on Agency from Garden City that will subcontract with ten other Area Agencies on Aging (AAA) throughout Kansas. The contract was executed in October 2012; one telephone hotline exists, which is 1-855-200-ADRC (2373). Secretary Sullivan reviewed key timeline events and indicated ADRCs will assume the functional assessment for HCBS Frail Elderly (FE), Traumatic Brain Injury (TBI) and PD Waivers on January 1, 2013.

Secretary Sullivan responded to Committee questions on ADRCs as follows:

- ADRCs would not perform assessments for private-pay individuals; however, ADRCs would include in-person assessments for individuals entering the nursing home care process.

- Community Mental Health Centers (CMHCs) are required statutorily to perform mental health assessments; CDDOs will continue to provide assessments for those individuals accessing HCBS DD Waiver services.

- ADRC contractual provisions include that calls are to be answered by individuals (not voice mail or automated attendants); in addition, when call transfers are made, they must be a "warm" transfer. This means the call must be answered by a person (again, excluding voice mail or automated attendant transfers).

- Susan Fout, HCBS Director at KDADS, was introduced, and she indicated that all ADRC employees are required to be Baccalaureate-degree prepared with experience in interacting with various populations (such as FE and PD); the State will continue to train ADRC staff as required.

Intellectual and Developmental Disability KanCare Pilot Project

Secretary Sullivan discussed the I/DD KanCare Pilot Project, originally scheduled to begin January 1, 2013, but now targeted for implementation in March 2013 for a 10-month period. The Secretary indicated the delay will allow additional time for KDADS and the I/DD Pilot KanCare Pilot Advisory Committee to ensure a smooth implementation, while expanding the pilot's original scope. He provided information related to the pilot's purpose, impact, criteria and participation process, and additional options for participation focused on employment supports and behavioral supports. These additional options would provide support for selected volunteering members who need additional targeted work-around assistance to remove barriers and build solutions to support employment options, or to access needed behavioral supports in order to successfully remain in their homes and communities.

In response to Committee questions regarding the I/DD KanCare Pilot Project, Secretary Sullivan provided the following information:

- The I/DD KanCare Pilot is voluntary; the State will measure performance outcomes.

- The I/DD KanCare Pilot Advisory Committee has discussed the following topics to be included in the pilot: how claims will be filed and payments reviewed

following implementation of KanCare; how POC systems will work under KanCare; how extraordinary funding will work; determining the role of a CDDO as part of the pilot (eligibility determination, gatekeeping, plan of care development and submission, and local quality assurance); how case management and care coordination will work together; and value-added services.

- Additional meetings will take place to work out the pilot details with the MCOs and the I/DD KanCare Pilot Advisory Committee.

- Kansas is the only state to create an I/DD pilot project; however, several other states are moving in that direction. Secretary Sullivan expressed confidence that the pilot will be created to include geographically diverse areas, which will yield valuable information on program design and structure.

- When asked which agencies or service providers have agreed voluntarily to participate, Ms. Fout indicated that information was unavailable at the current time.

- CDDOs and service providers are included in the pilot.

- A list of I/DD KanCare Pilot Advisory Committee members will be provided to the Committee at a later time.

- The benchmark date of November 16 for network adequacy does not apply to I/DD Waiver services providers.

- A written description of implementation processes (including participation eligibility, guidance on outcomes measurement, informational sessions, and value-added services included in the MCO plans) will be distributed to stakeholders and legislators prior to implementation of the pilot project.

KanCare Oversight Committee Support

Secretary Sullivan stated he has reviewed the proposed KanCare oversight committee legislation and supports this type of legislative oversight committee.

HCBS PD Waiver Waiting List

With regard to the waiting list for individuals with a physical disability and steps taken by KDADS to verify the list, Secretary Sullivan reviewed the process for validating the accuracy and integrity of the list. KDADS contracted with a third party call center to contact each of the 3,462 individuals on the waiting list, using the telephone contact information supplied by the service provider who placed them on the list. As only 11 percent of those on the waiting list were able to be contacted by the call center, KDADS contacted the PD waiver service provider agencies to update the waiting list information submitted by their agency, correcting and removing individuals from the list when appropriate. The results of the waiting list certification by the Centers for Independent Living (CILs) and other case management entities were reported. Subsequent to certification by these service provider agencies, the waiting list was reduced by approximately one-third, to 1,947. Approximately 250 new individuals were added to the list

since the certification process began, for a new waiting list total of 2,197 individuals currently waiting for services.

Responses by Secretary Sullivan to Committee questions regarding the certification of the waiting list for individuals with a physical disabilities (PD waiting list) follow:

- The State tracks how long individuals have waited for service; Ms. Fout indicated information would be provided to Committee members at a later date.

- Moving forward in addressing the PD waiting list, CILs will no longer have involvement with the PD waiting list; the State will manage the process, waiting list, and records retention. CILs will continue to provide actual services.

- Individuals on the PD waiting list who are receiving other Medicaid services will receive care coordination, so there will be regular contacts with these individuals. There will be at least quarterly contacts by KDADS with individuals on the PD waiting list.

- Committee members were assured by the Secretary that if individuals (who have been removed from the PD waiting list as a result of the certification process) call KDADS or a contracted agency stating they were removed from the PD waiting list and still require services, they would be reinstated to their previous priority placement, once eligibility has been determined.

- There are several "launching points" for individuals seeking HCBS/PD waiver services:

    - Through an ADRC if the beneficiary is receiving other Medicaid services and a subsequent event triggers waiting list eligibility (Once a beneficiary receives HCBS/PD Waiver services, care coordination is provided through KanCare MCO plans.); and

    - Through an ADRC if a new beneficiary is identified.

- The State's evaluation of the PD waiting list was a result of a review which indicated two to three agencies possessed more than 50 percent of individuals on the PD waiting list. Since the State has contacted (or attempted to contact) all waiting list individuals and the CILs have certified the individuals' contact information, the Secretary indicated the State does not question the integrity of the current list.

With regard to the DD waiting list, Secretary Sullivan indicated there were no identified issues to be addressed. He indicated the State has maintained greater oversight of the DD list by contacting eligible individuals yearly to assess service needs.

Quarterly Census Reports

Secretary Sullivan reviewed the average daily census for State institutions, nursing facilities, and private intermediate care facilities for individuals with mental retardation (ICF/MR). Additional statistics were provided for DD institutional services, HCBS/DD Waiver services, FE/PD/TBI services in institutional settings and services under the HCBS/FE, PD and TBI

Waivers. Secretary Sullivan stated there were some corrections to the report provided to the Committee on September 26, 2012 (can be found on page 12 of Attachment 3). Secretary Sullivan certified that the savings resulting from the transfer of individuals to HCBS as of September 21, 2012, was zero.

A Committee member noted recent decisions have been made in the State of Oklahoma to close two public facilities for the care of individuals with developmental disabilities and to move those individuals to non-institutional services; subsequently, any savings would be used to reduce the DD waiting list. Oklahoma would join at least ten other states moving in a similar direction. It was suggested that Kansas review existing resources and Oklahoma's progress (for informational purposes). During discussion, a Committee member indicated it would be advisable to discuss recent trends throughout the United States, particularly those processes implemented in other states so members would be better informed regarding alternative options of providing care to individuals with developmental disabilities. A Committee member stated this suggestion to examine various alternatives should not to be considered indicative of support for closure of public facilities for the care of individuals with developmental disabilities. Rather, it is for informational purposes, as a way to better prepare the Legislature before a possible time when alternatives must be considered to prevent last-minute decision-making.

KanCare Employment Related Pilots

Ms. Bruffett provided an overview of the KanCare employment pilots for people with disabilities to encourage employment in order to reduce reliance on public assistance and to increase their engagement in the community. Two pilots have been developed (Attachment 2a):

- The Supplemental Security Income (SSI) Employment Support pilot is designed for up to 400 individuals currently on HCBS I/DD or PD Waivers waiting lists. The pilot provides a monthly, capped dollar amount to participants in order to pay for personal and employment support services to assist them to live and work in the community. These support services are available to participants in a community-based setting and are inappropriate for institutional residents or residents who work in sheltered employment.

- The Social Security Alternative Pilot is designed for a maximum of 200 individuals who meet the Social Security Administration (SSA) criteria for disability, but who have not yet been determined eligible for Social Security (SSI/SSDI) cash benefits or Medicaid coverage. This pilot will serve individuals willing to become employed in an occupation or profession that provides a level of earning which exceeds the SSA Substantial Gainful Activity (SGA) amount and includes employer-provided health insurance. Participants will receive assistance in obtaining employment and Medicaid-like coverage, until employment and employer-sponsored health insurance have been obtained.

Ms. Bruffett stated the tracking of these pilot participants would include hiring, the extent of provision of accommodations these plans offer, and fulfillment of outreach plans. Following implementation of these pilot programs, regular reporting to the Kansas Legislature will occur.

The meeting was recessed until 1:15 p.m.

Afternoon Session

The meeting reconvened at 1:30 p.m.

KanCare Oversight Proposal

Renae Jefferies, Office of the Revisor of Statutes, briefed Committee members on a proposed bill that would expand and rename the current Joint Committee on Home and Community Based Services as the Joint Committee on Home and Community Based Services and KanCare Oversight (Attachment 4). She explained the structure, membership, and expanded scope of the Committee, as proposed by the bill. A copy of the draft bill was provided for review by Committee members. The proposed expanded Committee would be authorized to introduce legislation. The authorizing statute for the Joint Committee on Health Policy Oversight would be repealed. Ms. Jefferies stated additional revisions had been proposed, which were not substantive; however, the language provided clarity concerning KanCare as an implemented managed care model in Kansas.

KanCare Implementation

Chad Austin, Senior Vice President, Kansas Hospital Association (KHA), testified concerning KanCare implementation and indicated the KHA Board had identified several principles it would use to analyze the KanCare proposal and implementation. The principles included areas which impact hospitals: access to care, delivery system reform, care management, provider reimbursement, and issues related to the hospital provider assessment program (Attachment 5). Based on those principles, KHA pointed to areas to be considered in implementing KanCare. Mr. Austin stated that, while KHA has worked closely with KDHE officials and many issues have been resolved, several concerns remain. KHA continues to receive feedback from member hospitals related to reimbursement structures (particularly for critical access hospitals), MCO provider manuals, and whether the state will receive CMS 1115 waiver approval prior to January 2013.

Rachel Monger, LeadingAge Kansas, acknowledged the State and KanCare MCOs have addressed some of organization's concerns; however, she indicated much anxiety still exists. She stated KanCare represents a fundamental change for nursing homes, which involves not only provision of care but also billing and reimbursement. Ms. Monger noted the compressed timeline and lack of provider manuals have resulted in many nursing homes delaying contract execution. A Committee member inquired whether out-of-network reimbursement would apply if a nursing home had not executed a contractual agreement by January 1, 2013. Ms. Lea Stueve, KDADS, indicated only nursing homes have been given a 90-day exception to the deadline for finalizing provider commitment, which will prevent moving or discharging of residents and will provide a 100 percent reimbursement floor while finalization of nursing homes' contractual agreements occur (Attachment 6).

Cindy Luxem, Executive Director of the Kansas Health Care Association and Kansas Center for Assisted Living, spoke about existing concerns throughout rural Kansas. She discussed networking experiences with counterparts in Arizona and Tennessee who shared their experiences with their state's managed care model which resulted in ongoing delayed payments. She expressed concern related to the amount of work still outstanding in such a compressed time frame (Attachment 7).

Ms. Luxem introduced Joe Perkin, Vice President of Operations, Midwest Health, Inc., who shared concerns expressed from Arizona and Tennessee related to (Attachment 8) assessments conducted with residents and rates paid, case managers, and timeliness of payments and appeal processes. He indicated the need for a uniform assessment tool for the provision of care to residents. A uniform assessment tool is critical to appropriate environmental placement and reimbursement.

In response to a question from a Committee member concerning the assessment process, Mr. Perkin stated Area Agencies on Aging perform the assessment. He indicated it was his understanding that under the managed care model, more qualified individuals will assess beneficiaries. He said his concern related to the assessment tool and its appropriateness to the beneficiary in order to ensure a correct placement. Finally, he stated all providers and facilities and the State should come to agreement on the assessment resource used.

Mr. Perkin stated it appears ongoing issues exist with the rate structure, and he encouraged in-depth discussion with the State concerning both the rate structure and the assessment tool, in order to allow facilities to maintain adequate staffing levels for the provision of quality care.

A Committee member inquired as to the likelihood many assisted living providers could leave the Medicaid side of the managed care model in order to eliminate the possibility of going out of business. Mr. Perkin responded the State must develop a better reimbursement structure relating to assisted living facilities that receive HCBS/FE or PD Waiver services. He noted, at the current time, some assisted living facilities have eliminated or reduced Medicaid admissions. In addition, he stated some management corporations have flagged certain facilities to close should adverse profit margins become a reality. Mr. Perkin stated that in rural areas, much concern, uncertainty, and fear exist among assisted living HCBS providers.

Mr. Maury Thompson, Executive Director of Johnson County Developmental Supports (JCDS), stated the opinion in Johnson County has not changed: the inclusion of long term non-medical services and supports into a medical model program will be an expensive mistake (Attachment 9). He noted this opinion is shared by 56 other counties, who signed resolutions of concern. He questioned how the program could save money without reduction in eligibility criteria, services, or rates. Mr. Thompson stated that with the recent release of financial components within the MCO contracts, 82 to 84 percent of every dollar will be spent on services to the aged and disabled; the remainder is dedicated to administrative costs and profits.

Mr. Thompson testified the initial efforts of the I/DD Pilot Program Advisory Committee to design a pilot project were unsuccessful; the Lieutenant Governor's Office intervened, which resulted in refreshed efforts. He indicated he is one of five community Advisory Committee members charged with crafting a pilot. Mr. Thompson also stated there is representation from rural areas in the Advisory Committee membership. He affirmed his dedication to developing a pilot reflective of Kansas' diverse areas.

When asked by a Committee member whether the medical portion of managed care has been done well, Mr. Thompson acknowledged that at times, care is good; at times, the optimal standard of care is unmet. He stated, in general, the medical portion of managed care has been administered effectively. Mr. Thompson clarified his opposition to KanCare applies to long-term, non-medical services. A Committee member expressed concern about the inclusion of non-medical services in the KanCare MCOs' plans.

Matt Fletcher, Associate Director of InterHab, described his organization's efforts to engage all parties involved in the development of KanCare (Attachment 10). He provided a history of his organization's involvement with stakeholders and indicated InterHab is concerned about the confusing and incomplete communications strategy used in educating HCBS I/DD beneficiaries about KanCare. Mr. Fletcher stated his organization supported a six-month delay in KanCare implementation in order to greatly improve this Medicaid reform initiative. He indicated such a delay would provide additional time to MCOs to prepare for their role in administering Medicaid programs, would assist in meeting CMS requirements for the Section 1115 Demonstration Waiver request, and would move the implementation from winter— a period of time where health care supports experience increased demand. He stated the DD population has not been in managed care, so the transition is difficult for care managers and direct care workers providing services to individuals with developmental disabilities.

KanCare Oversight Considerations

Anna Lambertson, Kansas Health Consumer Coalition, testified in support of legislative oversight of KanCare (Attachment 11). Ms. Lambertson encouraged the draft legislation previously discussed by Ms. Jefferies be forwarded to the 2013 Legislature for consideration.

Nick Wood, Disability Rights Center of Kansas, supported legislative oversight of KanCare. He indicated his research on other states that have implemented managed care models reveal legislative oversight should focus on prior authorization, delays in services, grievance processes, and other important program components, such as consumers and providers (Attachment 12).

Sky Westerlund, Kansas Chapter of the National Association of Social Workers, encouraged legislative oversight for KanCare to provide transparency of the public/private partnership, to identify and address emerging problems, and to focus on quality of care services (Attachment 13).

Tom Laing, Executive Director of InterHab, provided testimony supporting a KanCare Oversight Committee (Attachment 14). He indicated his organization is concerned over the lack of specific oversight for the financial risks facing the State with the implementation of KanCare. He supported outcome measurements and encouraged consideration of an independent source to evaluate these measures. Mr. Laing expressed concern in learning MCO contractors would not be required to comply with existing regulations in the area of case management (since administrative rules and regulations are considered adopted administrative law). It was his understanding that current case management regulations would be included in MCOs' contractual provisions; he encouraged legislative review of the matter. Mr. Laing stated the Legislature should explore the propriety of Amerigroup's sale to *Wellpoint (not Wellstone,* noting an error in his testimony on page 2). He stated the Legislature's role is to provide oversight to assist the Administration and the public trust.

A Committee member voiced concern with the sale of Amerigroup following the corporation's selection as a KanCare provider, the State's rules within the bid process, and the lack of communication surrounding the business sale transaction.

David Wilson, immediate Past President of AARP Kansas, indicated his support of the proposed oversight legislation. He encouraged legislation to include Committee review of waiver amendments or contract amendments; annual reports on quality initiatives; and the establishment of an independent oversight entity that would mandate contract oversight,

demonstrate capacity and readiness, ensure an adequate provider network, provide education for all beneficiaries, and allow consumers to air concerns about MCO operation. He recommended suspension of all enrollment activities until at least six months after a waiver approval and a comprehensive readiness review, to ensure KanCare has the infrastructure and oversight in place to serve its population (Attachment 15).

Suzanne Wikle, Director of Policy and Research, Kansas Action for Children, submitted written testimony supporting KanCare oversight (Attachment 16).

Mitzi McFatrich, Executive Director, Kansas Advocates for Better Care, submitted written testimony supporting KanCare oversight (Attachment 17).

Representative Mast moved to submit the draft legislation renaming the Committee, the Joint Committee on Home and Community Based Services and KanCare Oversight, for legislative introduction and consideration during the 2013 Legislative Session; Representative Ballard seconded the motion.

During discussion, several Committee members expressed concern that the draft legislation excludes oversight of the PACE program and children's Medicaid programs. Ms. Jefferies stated the bill's language is broad enough to include those programs without specifically naming them. In addition, concern was heard regarding who will provide oversight from the current time until January 1, 2013 (anticipated KanCare implementation date) or at such time as oversight legislation is passed. Concern was expressed that many issues could arise in this time frame, with no legislative oversight. It was noted the concept behind the motion was to merge Joint Committee on Home and Community Based Services Oversight and the Joint Committee on Health Policy Oversight into one committee to gain efficiencies.

Representative Mast withdrew her original motion upon acceptance by Representative Ballard, who seconded the motion.

Representative Mast moved to authorize appropriate staff to make necessary changes and refinements, as discussed, in the bill draft currently named "Joint Committee on Home and Community Based Services and KanCare Oversight," and to utilize the bill draft as a template for potential consideration during the 2013 Legislative Session. Representative Ballard seconded the motion. The motion passed.

Representative Mast moved to approve the minutes of the September 26, 2012, meeting; Senator McGinn seconded the motion. The motion passed.

Committee Recommendations

KanCare Oversight

Committee members discussed the proposed bill draft which would expand the Committee's scope to include KanCare oversight. The proposed bill draft was considered a starting point for legislation to create KanCare oversight.

- The Committee recommended the proposed draft bill creating the Joint Committee on Home and Community Based Services and KanCare Oversight,

as refined, be used as a draft template for potential consideration during the 2013 Legislative Session.

HCBS/PD Waiver Waiting List

Committee members discussed the documentation process when an individual has been removed from the HCBS/PD Waiver waiting list (due to the KDADS audit conducted during 2012). As previously indicated, an individual who has been removed from the PD waiting list could notify KDADS or other service providers and request HCBS/PD Waiver services. Upon eligibility verification, that beneficiary would be reinstated on the waiting list and returned to placement on the list at the same priority level previously held). The results of the HCBS/PD Waiver audit reflected five percent of individuals no longer wanted or refused services; 24 percent of individuals were unable to be contacted; and 31 percent were removed from the list for unknown reasons. Ms. Lea Steuve, KDADS, clarified that the CILs were responsible to contact waiting list individuals; she could not respond as to what communication format was used (for example: certified mail, telephone call, or other means).

- Committee members requested that the Centers for Independent Living provide all information regarding attempts made to contact individuals on each CIL's HCBS/PD Waiver services waiting list.

I/DD KanCare Pilot Project

The Committee heard testimony concerning the I/DD KanCare Pilot Project, which is targeted for implementation during March 2013.

- The Committee recommended the KanCare I/DD Pilot Project be followed throughout the 2013 Legislative Session to ensure appropriate development related to claims filing, plans of care, extraordinary funding, the role of the Community Developmental Disability Organizations (CDDO), and other pilot project issues.

Quarterly Census Reports

As part of its charge, the Committee reviewed the number of individuals transferred from state or private institutions to home and community based services, recognized there were no savings resulting from these transfers, and reviewed other components of the State's long-term care system.

- The Committee recommended the number of individuals transferred from developmental disability institutional settings into home and community based services during state fiscal year 2012, together with the number of individuals added to waiver services due to crisis or other eligible program movement during state fiscal year 2012, be reflected in the Committee Report.

Aging and Disability Resource Centers

The Committee heard testimony concerning the Aging and Disability Resource Centers' purpose, collaborative interaction with community agencies and organizations for accessing

long-term services and supports, key features provided by ADRCs within the KanCare model, and timeline of events from the time the request for proposal was released until KanCare's anticipated implementation date.

- The Committee recommended the Committee Report reflect the importance of the ADRCs and their implementation as an integral component of the KanCare managed care model.

Social Security Alternative Pilot and SSI Employment Support Pilot

The Committee reviewed the Social Security Alternative Pilot and the SSI Employment Support Pilot, which will be implemented to encourage the hiring of people with disabilities, reduce reliance on Social Security disability benefits, and increase community engagement. These pilots present an opportunity for a maximum of 600 individuals to become employed.

- The Committee recommended the Committee Report contain information on these pilots and how they are intended to be implemented.

Review of Oklahoma's Closure of Public Facilities Providing Care to Individuals with Developmental Disabilities

The Committee reviewed cursory information regarding the State of Oklahoma's decision to close two public facilities for the care of the developmentally disabled and to move those individuals to non-institutional services; subsequently, any savings would be used to reduce the DD waiting list. Oklahoma would join at least ten other states moving in a similar direction.

- The Committee recommended the Committee Report include a recommendation for review or study (by appropriate legislative committees during the 2013 Legislative Session) of Oklahoma's plan to close all public facilities providing care to individuals with developmental disabilities and to move those individuals into non-institutional services. Oklahoma has begun this process, along with ten other states. The recommendation is intended to encourage the Legislature to study trends related to providing care or alternative care options for individuals with developmental disabilities so as to prepare in advance of the need to re-examine similar closures in Kansas, thereby avoiding last-minute decision-making.

KanCare Oversight During 2013 Legislative Session

The Committee heard testimony related to importance of a KanCare Oversight Committee to ensure the success of the program, provide transparency, and ensure quality care is provided to Medicaid beneficiaries. While a recommendation was adopted to use a proposed bill draft as a template for potential 2013 legislation, Committee members expressed concern that limited legislative review would occur between January 1, 2013, and March 31, 2013 (approximate end of the 90-day Legislative Session).

- The Committee recommended the Chairperson of the Joint Committee on Home and Community Based Services Oversight draft a letter to the President of the Senate and the Speaker of the House requesting that the health committees of

the Senate and House of Representatives provide oversight of KanCare during the 2013 Legislative Session.

Delay in KanCare Implementation

Committee members heard additional discussion regarding conferees' testimony recommending a delay in KanCare implementation. *Representative Ballard moved to delay the implementation of KanCare until July 1, 2013. Representative Henry seconded the motion. Additional discussion was heard and, upon a voice vote, the motion failed.*

Representative Mast requested that the following statement be included (verbatim) in the record: "The goal of managed care for a vulnerable population must be to focus on outcomes, independence, and respect for the dignity of each recipient of that care as well as proper oversight."

A Committee member commented that the Administration anticipates CMS will approve Kansas' Section 1115 Demonstration Waiver by December 31, 2012. Given the benchmark of waiver approval, it was suggested that an additional meeting of the Joint Committee on Home and Community Based Services Oversight be scheduled to discuss any conditions or issues related to the approval. Chairperson Crum indicated one additional day had been approved by the Legislative Coordinating Council; he would consider the suggestion and advise Committee members of a tentative date.

Representative Mast moved to approve the overall report, which includes the recommendations presented; Senator McGinn seconded the motion. The motion passed on a voice vote.

Information provided as requested by the Committee on November 8, 2012

- PD Waiting List Numbers (by year) (Attachment 18);
- List of I/DD Pilot Project Advisory Group Members (Attachment 19);
- Amerigroup Provider List (Attachment 20);
- Sunflower Provider List (Attachment 21);
- United Health Corporation Provider List (Attachment 22); and
- Joint HCBS Committee Report to 2012 Legislature (Attachment 23).

Follow-up Information from the meeting on September 26, 2012

Follow-up information requested by Committee members at the September 26, 2012, meeting was provided and includes:

- KDADS staffing and position reductions (Attachment 24);

- Money Follows the Person Demonstration Financial Form A Quarter Ending 12/31/2011 (Attachment 25);

- Money Follows the Person Demonstration Financial Form A Quarter Ending 06/30/2012 (Attachment 26);

- Money Follows the Person Demonstration Financial Form A Quarter Ending 09/30/2011 (Attachment 27);

- Money Follows the Person Demonstration Financial Form A Quarter Ending 03/30/2012 (Attachment 28); and

- ADRC RFP and Contract Award (Attachment 29).

The meeting adjourned at 3:45 p.m.

Prepared by Jan Lunn
Edited by Iraida Orr

Approved by Committee on:

December 18, 2012
(Date)