

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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January 15, 2013

To: Senate Committee on Public Health and Welfare
From: Melissa Calderwood, Assistant Director for Research
Re: Recent Historical Changes in the Regulatory Oversight of Health Care in Kansas

This memorandum provides an overview of the recent changes to the regulation of health care in Kansas, namely health coverage programs for eligible children, pregnant women, parents and caregivers, seniors, and disabled individuals. A historical time line from the creation of the Kansas Health Policy Authority by 2005 legislation up to the 2011 Executive Reorganization Order and related trailer legislation. Attached for your review is an illustration of the implementation timeline for the Kansas Health Policy Authority (2005 – 2007) and a recent article serving as a supplement to this memorandum, "Reorganization of Health Policy in Kansas—ERO 41", published in the *Kansas Legislator Briefing Book* (2013 edition).

2005

Executive Reorganization Order (ERO) No. 33

Governor Kathleen Sebelius submitted ERO No. 33 to the 2005 Legislature for its consideration. The ERO would have created a Division of Health Policy and Finance within the Department of Administration, with the oversight of Medicaid (Regular Medical), the State Children's Health Insurance Program (SCHIP), MediKan, as well the State Employee Health Plan and the State Employee Workers Compensation Program under this new Division. The ERO excluded mental health programs, substance abuse treatment and prevention programs, home and community based services (HCBS) waivers, and the state hospitals from the Division's oversight. Among other provisions, the Division director would have been appointed by the Governor, the new divisions would have become the Medicaid State Agency and would have had authority to enter into contracts with state or local agencies to perform services or to delegate functions of the agency, and the Department of Social and Rehabilitation Services would have become the Department of Human Services. The ERO did not address either a sunset date or creation of a legislative oversight committee.

ERO 33 was assigned to the House Appropriations Committee and the Senate Health Care Strategies Committee for consideration. Each Committee introduced legislation encompassing provisions and core functions of the ERO, along with modifications – HB 2531 and SB 306. On March 9, 2005, the House rejected the ERO by passage of HR 6015. The contents of Sub. for SB 306 were placed in a Senate Appropriations bill, SB 272, by the Conference Committee Report (CCR) for House Sub. for SB 272. On April 30, 2005, the House

adopted the CCR on a vote of 121-0; the Senate adopted the CCR on the same day, with a vote of 39-0. Following is a summary of key provisions in 2005 House Sub. for SB 272.

2005 House Sub. for SB 272 – Kansas Health Policy Authority (KHPA) Creation

House Sub. for SB 272 created the Kansas Health Policy Authority, transferred certain responsibilities from the Departments of Social and Rehabilitation Services (SRS) and Health and Environment to the new authority and transferred certain powers and duties of the Secretary of SRS to a new Division of Health Policy and Finance within the Department of Administration on an interim basis.

July 1, 2005 – Creation of the Agency

On July 1, 2005, the KHPA was established as a state agency within the executive branch of state government. The general charge of the KHPA was to develop and maintain a coordinated health policy agenda that combined effective purchasing and administration of health care with health promotion oriented public health strategies. The goal of the KHPA was to improve the health of Kansans by increasing the quality, efficiency, and effectiveness of health services and public health programs.

The membership of the 16-member Kansas Health Policy Authority was as follows:

- Nine voting members appointed by the Governor, the Speaker of the House, the President of the Senate, and the minority leaders of both chambers for staggered four-year terms, subject to Senate confirmation. These members were required to be members of the general public who had knowledge and demonstrated leadership in fields including, but not limited to, health care delivery, health promotion, public health improvement, evidence-based medicine, insurance, information systems, data analysis, health care finance, economics, government and business. A majority of the voting members were required to be Kansas residents.
- Seven nonvoting *ex-officio* members, including the Secretaries of Health and Environment, Social and Rehabilitation Services, Administration, and Aging; the Director of Health in the Department of Health and Environment; the Insurance Commissioner; and the Executive Director of the KHPA.

During fiscal year 2006, the Authority was required to meet monthly and thereafter, to meet at least quarterly. The bill set out the powers and duties of the Kansas Health Policy Authority related to its mission. The Authority was required to appoint an executive director, subject to Senate confirmation, who was responsible for hiring and supervising other personnel.

Annual reports were required to be made to the Legislature, along with recommendations and implementation plans. Beginning with the report to the 2007 Legislature, the annual report was required to contain, in addition to other information, cost comparisons on transferred programs using FY 2005 expenditures as the base and comparisons to national health care cost information.

Responsibilities; Health Care Purchasing Provisions – KHPA

The bill required the Authority to assume the following responsibilities:

- On January 1, 2006, the functions of the Health Care Data Governing Board;
- On July 1, 2006, the operational and purchasing responsibility for:
 - the regular medical portion of the state Medicaid program;
 - the MediKan program;
 - the State Children’s Health Insurance Program;
 - the Working Healthy portion of the Ticket to Work Program;
 - the Medicaid Management Information System;
 - the restrictive drug formulary, drug utilization review, Drug Utilization Review Board Oversight, and electronic pharmacy claims management system;
 - the state health care benefits program; and
 - the state workers compensation self-insurance fund and program; and
- On January 1, 2006, oversight and administration of the Kansas Business Health Partnership program.

The legislation also required the Authority to present recommendations to future Legislatures. At the beginning of the 2007 Session, the Authority was required to present recommendations and an implementation plan for the transfer of additional programs to the Authority, including, but not limited to mental health services, home and community based services waivers, nursing facilities, substance abuse prevention and treatment, and the state hospitals. At the beginning of the 2008 Session, the Authority was required to submit recommendations and an implementation plan for the assumption of responsibility for the health purchasing functions of additional state programs, including, but not limited to the Department on Aging, Department of Corrections, Juvenile Justice Authority, and Local Education Agencies through the Department of Education.

As provided in the 2005 legislation, the Kansas Health Policy Authority was to be abolished on July 1, 2013.

Legislative Oversight Committee – Joint Committee on Health Policy Oversight

The bill directed the Legislative Coordinating Council to establish and appoint a joint special committee to have exclusive responsibility for monitoring operations and decisions of the Kansas Health Policy Authority. The committee consists of six members from the Senate and six members from the House of Representatives. This committee will sunset on July 1, 2013, without legislative action.

Division of Health Policy and Finance – Transition to the KHPA

On July 1, 2005, the Division of Health Policy and Finance was established within the Department of Administration and the position of Director of Health Policy and Finance was

created. The Director, who was appointed by the Governor, subject to the provisions of appropriation acts, appointed employees as needed. Under the provisions of the bill, the Director had the authority to organize the Division as deemed efficient. The Director was to coordinate health care planning, administration, purchasing, and analysis of health care data with respect to programs that were transferred from the Secretary of Social and Rehabilitation Services to the Division. Powers of the Director of Health Policy and Finance were set out in the bill.

From July 1, 2005 through June 30, 2006, the bill provided for the Division of Health Policy and Finance and the Director thereof to assume responsibility for:

- The Kansas medical assistance program established under Title XIX of the Social Security Act (Medicaid);
- Any program of medical assistance financed by state funds only (MediKan);
- The health benefits program for children established under Title XXI (the State Children's Health Insurance Program);
- The Working Healthy portion of the Ticket to Work Program;
- The Medicaid Management Information System;
- The restrictive drug formulary, drug utilization review program, oversight of the Medicaid Drug Utilization Review Board, and the electronic pharmacy claims management system; and
- All of the powers, duties, and functions of the Secretary and Department of Social and Rehabilitation Services associated with being the designated single state Title XIX agency, which designation was transferred to the Division.

The Division of Health Policy and Finance and the position of Director was abolished on July 1, 2006, when the programs it administered were transferred to the Kansas Health Policy Authority.

2006

H. Sub. For SB 577 amended statutes regarding the statistical plan for recording and reporting premiums and loss and expense experience by accident and health insurers. The bill shifted responsibility for gathering, receiving, and compiling data required under the law from the Secretary of Health and Environment to the Kansas Health Policy Authority. The amendment reflected the statutory shift of responsibility for the health care database from the Department of Health and Environment to the KHPA.

HB 2608 required the KHPA to utilize the Office of Administrative Hearings in the Department of Administration to conduct adjudicative hearings under the Kansas Administrative Procedure Act. The Division of Health Policy and Finance also was required to conduct hearings (relevant to the transfer of programs from the Department of Social and Rehabilitation Services).

2007

Sub. for SB 11, among other things, created new legislation relating to Medicaid reform, health insurance reform, premium assistance, assistance for safety net clinics, the development of small employer and association health insurance plans, and creation of an Office of the Inspector General in the Kansas Health Policy Authority.

Medicaid Reform

The bill directed the KHPA, in consultation with the Joint Committee on Health Policy Oversight, to consider various Medicaid reform options as part of health reform in Kansas. Those options included: the experience of other states; long-term care alternatives; waste, fraud and abuse; health opportunity accounts; tax credits, vouchers, and premium assistance; and wellness programs. The bill directed that the reforms should result in improved health outcomes, long-term cost controls, and encourage primary and preventive care which would result in cost savings.

Health Insurance Reform

The Kansas Health Policy Authority was required to develop and deliver to the Governor and specified legislative leaders, health care finance reform options for enactment by the 2008 Legislature. The options included an analysis of a Kansas health care connector, a model for a voluntary health insurance connector, and draft legislation for the proposed health care finance options. In developing options, the Authority was required to solicit and consider information and recommendations from advisory committees and to advise and consult with the Joint Committee regularly [see 2008 SB 540, 541 and 542].

The bill required the Authority to analyze and develop health care finance options with the goals of:

- Financing health care and health promotion in a manner that is equitable, seamless, and sustainable for consumers, providers, purchasers, and government;
- Promoting market-based solutions that encourage fiscal and individual responsibility;
- Protecting the health care safety net in the development of such options; and
- Facilitating pooling and purchasing of health insurance and facilitating access to health insurance by small businesses and individuals.

The KHPA was required to obtain economic and actuarial analyses by an entity recognized as having specific experience in all proposed health care finance reform options to determine the economic impact on consumers, providers, purchasers, businesses, and government, as well as the number of uninsured Kansans with the potential to receive coverage as a result of the proposed options. The KHPA also was required to investigate and identify public funding sources for any proposed options, including Medicaid and other federal programs

and possible waivers. The legislation required the KHPA to conduct studies related to health services for low-income families.

Insurance Department Studies

The KHPA, in collaboration with the Insurance Commissioner, was required to analyze the potential for the use of reinsurance and state subsidies for reinsurance as a way to reduce premium volatility in the small group market, to increase the predictability of premium trends, to lower costs, and to increase coverage. The Insurance Department was required to conduct a study of the impact of extending continuation benefits under COBRA from 6 months to 18 months. The bill also directed the Legislative Coordinating Council to appoint a legislative study committee – the topic – studying and reviewing various options for tax credits and benefits for the purchase of long-term care insurance, health earned income tax credits, health insurance, and Health Savings Accounts.

Premium Assistance

The bill amended state law to add a phased-in premium assistance plan to the list of programs for which the Kansas Health Policy Authority was responsible. The assistance plan was intended to assist eligible low income Kansans with the purchase of private insurance that was actuarially equivalent to the State Employee Health Plan. Under the 2007 legislation, the first 2 years of the program eligibility would be for families at and under 50 percent of the federal poverty level (annual income of approximately \$10,325 for a family of four in 2007). In year 3, eligibility was to extend to families under 75 percent of the federal poverty level (annual income of approximately \$15,488 for a family of 4 in 2007). In year 4, eligibility would have been extended to families with incomes up to 100 percent of the federal poverty level (annual income of approximately \$20,650 for a family of 4 in 2007).

Office of the Inspector General

The bill created the Office of the Inspector General within the Kansas Health Policy Authority. The duties of the Office of the Inspector General were to oversee, audit, investigate, and make performance reviews of the state Medicaid program, the state MediKan program, and SCHIP. Oversight activities created by the bill included:

- Investigation of fraud, waste, abuse, and illegal acts by the KHPA and its agents, employees, vendors, contractors, consumers, clients, and health care providers or other providers;
- Audits of the KHPA and its employees, contractors, vendors, and health care providers related to ensuring appropriate payments are made for services rendered and to the recovery of overpayments;
- Investigations of fraud, waste, abuse, or illegal acts committed by clients of the KHPA or by consumers of services administered by the Kansas Health Policy Authority; and
- Monitor adherence to the terms of the contract between the KHPA and the organization under contract to make claims' payments.

Under finding credible evidence of fraud, waste, abuse, or illegal acts, the Inspector General was required to report its findings to the KHPA and refer the findings to the Kansas Attorney General. The position of Inspector General was appointed by the KHPA, subject to Senate confirmation. Under the bill, the Inspector General was permitted to make recommendations to the KHPA or the Legislature for changes in laws, rules and regulations, policy, or procedures as the Inspector General deemed appropriate to carry out the provisions of law or to improve the efficiency of programs administered by the KHPA.

2008

House Sub. for SB 81, among other things, enacted the Health Care Reform Act of 2008, made amendments to several health and insurance statutes, and established the Physician Accreditation Task Force. Amendments to statutes governing the Kansas Health Policy Authority included:

- Inspector General – provided that contractors convicted of fraud, waste, abuse, or illegal acts or whose actions have caused the State to pay fines or reimburse the federal government more than \$1.0 million in the Medicaid program, with certain exceptions, were not eligible for any state Medicaid contract. A technical change to the law was made to clarify the Inspector General reports to the Kansas Health Policy Authority.
- KHPA Board Membership and Programming – added the Commissioner of Education to the Board as a non-voting, *ex-officio* member. The bill transferred administration of the Small Employer Cafeteria Plan Development Program and the Association Assistance Plan grants and loan program from the Department of Commerce to the KHPA (initiatives from 2007 Sub. for SB 11).
- Medical Home – the bill defined a "medical home" and directed the KHPA to incorporate the use of the medical home delivery system within the state Medical Assistance program, SCHIP, and the state MediKan program. The Kansas State Employees Health Care Commission (administers the State Employee Health Plan) was required to incorporate the use of a medical home delivery system. The KHPA, in conjunction with the Kansas Department of Health and Environment and stakeholders, was required to develop systems and standards for the implementation and administration of a "medical home."
- Joint Committee Oversight – The Joint Committee on Health Policy Oversight was assigned the oversight of the state children's health insurance programs.

The bill also authorized the expansion of Medicaid coverage for SCHIP (increased coverage for 2009, from at or under 225 percent of the 2008 federal poverty guidelines, and for 2010 and later, at or under 250 percent of the 2008 federal poverty guidelines). Further, the bill amended an existing statute (created by 2007 SB 11) to delete all references to a phased-in premium assistance plan to assist eligible low-income residents with the purchase or private insurance. Additional programming requirements were assigned to the KHPA, subject to appropriations.

HB 2672 required the KHPA to conduct a study on the topic of bariatric surgery for the morbidly obese and other insurance issues. The bill identified issues associated with the topic: emerging research evidence of the positive health impact (of the surgery) for the morbidly obese; qualifications of the patients and surgeons when the surgery is appropriate or necessary; and cost analysis with insurance and Medicaid reimbursement.

The bill also required the KHPA, in collaboration with the Insurance Commissioner, to conduct a study on the impact of extending coverage for bariatric surgery in the State Employee Health Benefit Program, the affordability of coverage in the small business employer group and the high risk pool, and the possibility of reinsurance or state subsidies for reinsurance. The KHPA was required to submit a report on its findings to the Joint Committee on Health Policy Oversight on or before November 1, 2008. The report also was required to be submitted to the Senate Financial Institutions and Insurance Committee and the House Insurance and Financial Institutions Committee on or before February 1, 2009.

The bill also made technical amendments to replace references to the Health Care Data Governing Board (HCDGB) with references to the Kansas Health Policy Authority in several statutes. In addition, the rules and regulations of the HCDGB related to the client assessment, referral and evaluation (CARE) data entry form were deemed to be rules and regulations of KHPA until revised, revoked or nullified pursuant to law.

2009

No substantive legislation (non-appropriations) was identified in a review of the *Summary of Legislation*.

2010

House Sub. for SB 305 amended law concerning the Kansas Tort Claims Act and charitable health care providers. The bill added a mental health practitioner who is licensed by the Behavioral Sciences Regulatory Board to the definition of a "charitable health care provider."

The bill also replaced the Department of Social and Rehabilitation Services with the Kansas Health Policy Authority as the agency that operated programs for persons receiving medical assistance.

Senate Sub. for Senate Sub. for Sub. for HB 2320 established an assessment of up to \$1,950 on each licensed bed within skilled nursing care facilities, which includes nursing facilities for mental health and hospital long-term care units. Among the requirements for the KHPA in this provider assessment bill, the Authority was instructed to seek a waiver from the United States Department of Health and Human Services to allow the state varying levels of assessment on skilled nursing care facilities based on specified criteria. The expressed intent was that the waiver be structured to minimize the negative fiscal impact on certain classes of skilled nursing care facilities. The bill established the Kansas Health Policy Authority as the state agency to calculate and implement the provider assessment and the Kansas Department on Aging as the agent who managed the program.

2011

Abolishing KHPA and Establishing the Division of Health Care Finance within KDHE —Executive Reorganization Order No. 38

Executive Reorganization Order (ERO) No. 38 abolished the Kansas Health Policy Authority and established the Division of Health Care Finance within the Department of Health and Environment effective July 1, 2011.

Upon establishing the new Division, ERO 38 titled the head of the Division the Director of Health Care Finance, who is to be appointed and serve at the pleasure of the Secretary of Health and Environment, with the Governor's approval, and be an unclassified employee under the Kansas Civil Service Act. The Secretary is required to appoint the employees who, in the Secretary's and Director's judgment, are needed to carry out the duties of the Division. Executive Reorganization Order No. 38

In abolishing the KHPA, the order transferred all its statutory powers, duties and functions to the KDHE, the Division of Health Care Finance, the Secretary, and the Director. ERO 38 also transferred all powers, duties, and functions of any state agency, department, board, commission or council relating to the Patient Protection and Affordable Care Act [Public Law 111-148, 124 Stat. 119 (2010)] and the Health Care and Education Reconciliation Act of 2010 [Public Law 111-152, 124 Stat. 1029 (2010)] to the same entities and officials or their designees. The order deemed every act performed in these capacities by KDHE and its new Division, along with the Secretary and Director, to have the same force and effect as if performed by the KHPA. All KHPA rules and regulations, orders, and directives in effect which relate to transferred functions are deemed transferred as well, until revoked, nullified, or changed.

With respect to KHPA and related fund and account balances, ERO 38 transferred all funds within the State Treasury to KDHE for the Division of Health Care Finance, to be used only for the purpose for which the appropriation originally was made. The Division succeeds to all relevant property, property rights and records, and the Governor is the final authority in resolving a conflict surrounding this succession.

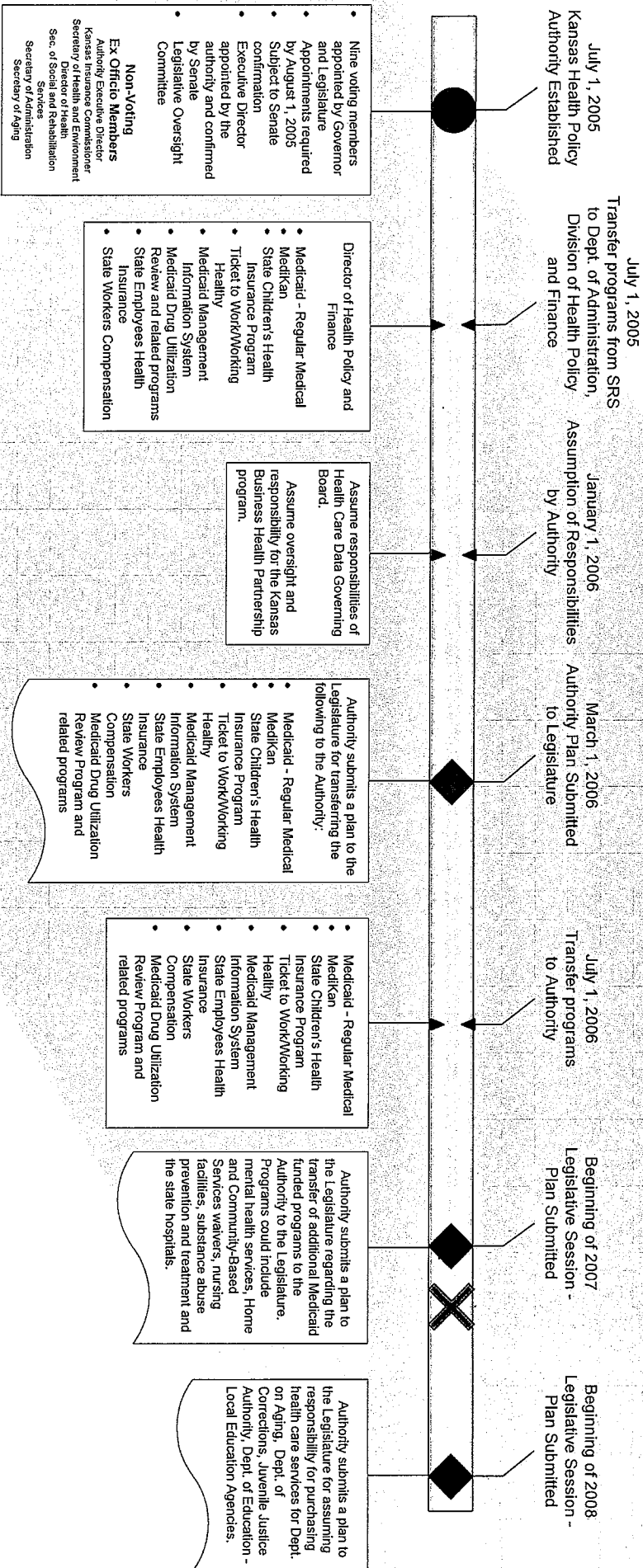
Finally, the Order made a number of relevant administrative and other requirements. The ERO spoke to the status of lawsuits or other proceedings, as well as the status of related criminal actions. The Order also addressed details regarding the transfer of KHPA officers and employees.

2012

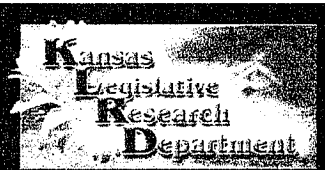
HB 2416, among other things, updated a number of statutes to replace references to the Kansas Health Policy Authority (KHPA) with references to the Secretary of Health and Environment, Kansas Department of Health and Environment (KDHE), or the Division of Health Care Finance, KDHE. The bill also repealed the statutes that created KHPA. The replacement of references to KHPA was for the purpose of conforming to 2011 Executive Reorganization Order No. 38, which reorganized KHPA into the Division of Health Care Finance within KDHE.

Discussion of 2012 ERO No. 41 follows.

Kansas Health Policy Authority Implementation Timeline



Non-Voting
Ex Officio Members
Authority Executive Director
Kansas Insurance Commissioner
Secretary of Health and Environment
Director of Health
Sec. of Social and Rehabilitation Services
Secretary of Administration
Secretary of Aging



Health

**M-4
Reorganization of
Health Policy in
Kansas—ERO 41**

**Other Health reports
available**

**M-1
Health Care
Stabilization Fund
and Kansas Medical
Malpractice Law**

**M-2
Kansas Provider
Assessments**

**M-3
Olmstead—
Institutional
and Community
Placement Decisions**

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Health

M-4 Reorganization of Health Policy in Kansas—ERO 41

**Agency Renaming and Transfer of Responsibilities to the
Kansas Department for Aging and Disability Services**

The 2012 Legislature approved the implementation of the Governor's Executive Reorganization Order (ERO) No. 41, effective July 1, 2012, which:

- Renamed the Department on Aging and the Secretary of Aging as the Department for Aging and Disability Services (KDADS) and the Secretary for Aging and Disability Services, respectively; and
- Renamed the Department for Social and Rehabilitation Services and the Secretary of Social and Rehabilitation Services as the Department for Children and Families (DCF) and the Secretary for Children and Families, respectively.

Transfers from DCF to KDADS

ERO No. 41 transferred the powers, duties, and functions of the Disability and Behavioral Health Services section of DCF, including the agency's designation as the Medicaid single state authority for substance abuse and mental health, to KDADS. The result of this reorganization:

- Transferred the following programs to KDADS:
 - Mental health and substance abuse; Seriously Emotionally Disturbed, Developmental Disability, Physical Disability, Traumatic Brain Injury, Technical Assistance, and Autism Medicaid Waivers;

- Licensure and regulation of Community Mental Health Centers;
 - Regulation of Community Developmental Disability Organizations;
 - Licensure of private psychiatric hospitals;
 - Licensure and regulation of facilities and providers of residential services;
 - Licensure and regulation of providers of addiction and prevention services;
 - Any other programs and related grants administered by the Disability and Behavioral Health Services section of DCF prior to July 1, 2012; and
 - State Hospitals and Institutions (Osawatomie State Hospital, Rainbow Mental Health Facility, Larned State Hospital, Parsons State Hospital and Training Center, and the Kansas Neurological Institute).
-
- Provided for the transfer to KDADS of personnel in DCF programs transferred to KDADS by the ERO, as determined necessary by the Secretary of KDADS for the exercise and performance of powers, duties, and functions transferred by the ERO;
 - Provided for the transfer to KDADS of personnel in DCF programs transferred to KDADS by the ERO, determined jointly by the Secretary for KDADS and the Secretary for DCF to have been involved in providing necessary administrative, technical and other support to the Disability and Behavioral Health Services section and to the institutions;
 - Provided for all classified employees transferred to KDADS to retain their classified employee status, and thereafter authorized KDADS to convert any vacant classified positions to unclassified service under the Kansas Civil Service Act;
 - Provided personnel transferred to KDADS under the ERO with retention of retirement benefits, leave balances, and rights which had accrued or vested prior to the transfer;
 - Required any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas Civil Service Act to be made in accordance with civil service laws and any rules and regulations; and
 - Transferred to KDADS the balances of all funds or accounts appropriated or reappropriated for DCF within the state treasury for DCF programs transferred

by ERO No. 41, to be used only for the purpose for which the appropriation was originally made.

Transfers from Department of Health and Environment to KDADS

ERO No. 41 transferred the powers, duties, and functions of some of the Health Occupations Credentialing Program of the Department of Health and Environment (KDHE) to KDADS. The result of this reorganization:

- Transferred the following programs to KDADS:
 - Licensure of Adult Care Home Administrators and Dieticians (Licensure of Speech-Language Pathologists and Audiologists was transferred from KDHE to the Department on Aging by passage of 2012 Sub. for HB 2659);
 - Certification of Residential Care Facility Operators, Activity Directors, Social Services Designees, Nurse Aides, Medication Aides, and Home Health Aides;
 - Maintenance of the Kansas Nurse Aide Registry; and
 - Criminal History Record Check Program authorized by individual credentialing statutes or rules and regulations.
- Provided that the authority of the Board of Adult Care Home Administrators established in statute would not be changed or diminished by enactment of ERO No. 41;
- Transferred the Psychiatric Residential Treatment Facility Licensure Program of KDHE to KDADS;
- Provided for the transfer to KDADS of personnel in KDHE programs transferred to KDADS by the ERO, as determined necessary by the Secretary of KDADS for the exercise and performance of powers, duties, and functions transferred by the ERO;
- Provided for the transfer to KDADS of KDHE personnel, determined jointly by the Secretary for KDADS and the Secretary for KDHE to have been involved in providing necessary administrative, technical and other support to the transferred programs;
- Provided for all classified employees transferred to KDADS to retain their classified employee status, and thereafter authorized KDADS to convert any vacant classified positions to unclassified service under the Kansas Civil Service Act;

- Provided personnel transferred to KDADS under the ERO with retention of retirement benefits, leave balances, and rights which had accrued or vested prior to the transfer;
- Required any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas Civil Service Act to be made in accordance with civil service laws and any rules and regulations; and
- Transferred to KDADS the balances of all funds or accounts appropriated or reappropriated for KDHE within the state treasury for KDHE programs transferred by ERO No. 41, to be used only for the purpose for which the appropriation was originally made.

Executive Reorganization Order Process

The Governor is authorized under Article 1, Section 6 of the *Kansas Constitution* to reorganize state agencies, within the executive branch of government, by issuing an executive reorganization order.

- EROs must be transmitted to both houses of the Legislature on the same day, within the first 30 calendar days of any regular session.
- An ERO becomes effective and has the effect of general law on July 1 unless, within 60 calendar days of transmittal to the Legislature, either the Senate or the House of Representatives adopts a resolution disapproving the ERO.

Purpose of ERO No. 41

According to testimony presented by KDADS Secretary Shawn Sullivan before the Senate Ways and Means Committee on February 15, 2012, the general intent of ERO No. 41 was to realign the agencies to more effectively analyze and update policies to ensure quality service to those who serve the Medicaid populations.

Implementation of ERO No. 41

The implementation of ERO No. 41 resulted in the transfer of \$928,817,413, including \$400,017,726 from the State General Fund (SGF), and 108.5 Full-time Equivalent (FTE) positions from DCF to KDADS.

The implementation of ERO No. 41 resulted in the transfer of \$898,844, including \$645,573 from the State General Fund (SGF), and 12.7 Full-time Equivalent (FTE) positions from KDHE to KDADS.

Secretary Sullivan testified on February 15, 2012, before the Senate Ways and Means Committee, that prior Medicaid policies were developed and administered in several state agencies that posed challenges for administrative consolidation and coordination. He indicated reorganization would

consolidate the Medicaid fiscal and contract management function in KHDE and program management in KDADS and allow DCF to strengthen its focus on children and families.

With the implementation of ERO No. 41, the total number of FTE positions in DCF decreased from 3,119.1 FTE in the FY 2012 approved budget to 3,010.6 FTE in the FY 2013. The approved budget for FY 2013 includes 2,987.6 FTE positions due to other adjustments.

With the implementation of ERO No. 41, the total number of FTE positions in KDHE decreased from 975.4 FTE in the FY 2012 approved budget to 962.7 FTE in the FY 2013 approved budget. Due to other reductions, the FY 2013 approved budget FTE count for KDHE is 894.2 FTE.

Agency Reorganization

Kansas Department for Aging and Disability Services (KDADS)

KDADS was reorganized resulting in the following Commissions:

- Commission on Aging—includes four Divisions: Community Based Services; Transitional Services and Client Assessment, Referral, and Evaluation (CARE); Information and Community Resources; and Quality Review;
- Community Services and Programs Commission—includes Home and Community Based Services (HCBS) Waivers, Money Follows the Person Program (MFP); Program for All-Inclusive Care for the Elderly (PACE), Behavioral Health Services (combines Mental Health and Addiction and Prevention Services), Medicaid and Management Operations (KanCare Implementation), and State Hospitals;
- Survey, Certification and Credentialing Commission—includes Health Occupations Credentialing; and
- Financial and Information Services Commission.

Department for Children and Families (DCF)

DCF was reorganized to create the following under Family Services:

- Child Support Services (formerly Child Support Enforcement);
- Economic and Employment Services (formerly Economic and Employment Support)—includes Cash Assistance Programs, Child Care and Early Education Programs, Supplemental Nutrition Assistance Program, and Work Program;
- Prevention and Protection Services (formerly Children and Family Services)—includes Adoption Program, Adult Protective Services, Child Protective Services, and Foster Care; and

- Rehabilitation Services (formerly Vocational Rehabilitation Services)—includes Employment Services, Independent Living, Services for People who are Deaf and Hard of Hearing, and Disability Determination Services.

Kansas Department of Health and Environment (KDHE)

After reorganization KDHE maintained the following main Divisions:

- Public Health—includes the Office of the Director and the Bureaus of Surveillance and Epidemiology, Oral Health, Local and Rural Health, Disease Control and Prevention, Child Care and Health Facilities, Environmental Health, Health Promotion, Family Health, Public Health Preparedness, and Public Health Informatics. The Administration Program also is included in the Division of Health Function;
- Environmental Services—includes the Bureaus on Air, Environmental Remediation, Environmental Field Services, Health and Environmental Laboratories, Waste Management, and Water; and
- Health Care Finance—includes HealthWave (Childrens Health Insurance Program—CHIP) and Medicaid, State Employee Health Benefits Program, State Workers Compensation, and the health care data responsibilities of the former Health Care Data Governing Board.

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