

HOUSE BILL No. 2029

By Representative Ward

1-17

1 AN ACT concerning the Kansas program of medical assistance; relating to
2 the intellectual or developmental disability home and community based
3 services waiver; amending K.S.A. 39-7,100 and 39-1804 and repealing
4 the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) This section shall be known and may be cited as
8 the Vulnerable Kansan Protection Act.

9 (b) Notwithstanding any other provision of the statutes, rules and
10 regulations, policies or executive orders, the secretary of health and
11 environment, secretary for children and families, and secretary for aging
12 and disability services, separately or in any combination thereof, shall not
13 provide services in a managed care system for individuals receiving
14 services under the home and community based waiver for individuals with
15 intellectual or developmental disabilities.

16 Sec. 2. K.S.A. 39-7,100 is hereby amended to read as follows: 39-
17 7,100. (a) As used in this section:

18 (1) "Home and community based services programs" mean the
19 programs established under the state medical assistance program under
20 plans or waivers as defined in the federal social security act in accordance
21 with the plans or waivers adopted by the secretary of social and
22 rehabilitation services and the secretary of aging, either separately or
23 jointly, to provide attendant care services to individuals in need of in-home
24 care who would require admission to an institution if the attendant care
25 services were not otherwise provided.

26 (2) "Secretary" means either the secretary of social and rehabilitation
27 services or the secretary of aging.

28 (b) The secretary as part of the home and community based services
29 programs, subject to social security act grant requirements, shall provide
30 that:

31 (1) Priority recipients of attendant care services shall be those
32 individuals in need of in-home care who are at the greatest risk of being
33 placed in an institutional setting;

34 (2) individuals in need of in-home care who are recipients of
35 attendant care services and the parents or guardians of individuals who are
36 minors at least 16 years of age and who are in need of in-home care shall

1 have the right to choose the option to make decisions about, direct the
2 provisions of and control the attendant care services received by such
3 individuals including, but not limited to, selecting, training, managing,
4 paying and dismissing of an attendant;

5 (3) any proposals to provide attendant care services solicited by the
6 secretary shall be selected based on service priorities developed by the
7 secretary, except that priority shall be given to proposals that will serve
8 those at greatest risk of being placed in an institution as determined by the
9 secretary;

10 (4) providers, where appropriate, shall include individuals in need of
11 in-home care in the planning, startup, delivery and administration of
12 attendant care services and the training of personal care attendants; and

13 (5) within the limits of appropriations therefor, the home and
14 community based services programs shall serve eligible individuals in
15 need of in-home care throughout this state.

16 (c) Within the limits of appropriations therefor, the secretary may
17 initiate demonstration projects to test new ways of providing attendant
18 care services and may conduct specific research into ways to best provide
19 attendant care services in both urban and rural environments.

20 (d) *The secretary shall not implement or administer, or cause to be*
21 *implemented or administered, a managed care program for individuals*
22 *under the home and community based waiver for individuals with*
23 *intellectual or developmental disabilities.*

24 Sec. 3. K.S.A. 39-1804 is hereby amended to read as follows: 39-
25 1804. (a) Except as otherwise specifically provided in this act and subject
26 to appropriations of federal and state funds, the secretary, after
27 consultation with representatives of community developmental disability
28 organizations, community service providers, families and consumer
29 advocates, shall implement and administer the provisions of the
30 developmental disabilities reform act in accordance with the following
31 policies. Persons with developmental disabilities shall:

32 (1) Be provided assistance to obtain food, housing, clothing and
33 medical care; protection from abuse, neglect and exploitation; and a range
34 of services and supports which assist in the determination of individual
35 needs; ~~and~~

36 (2) receive assistance in determining their needs; be provided
37 information about all service options available to meet those needs; have
38 coordination of services delivered; be assisted and supported in living with
39 their families, or independently; be assisted in finding transportation to
40 support access to the community; and receive individually planned
41 habilitation, education, training, employment and recreation subject to
42 supports and services available in the community of their choice; *and*

43 (3) *not receive assistance or services provided in a managed care*

1 *system implemented and administered by the secretary of health and*
2 *environment, secretary for children and families or secretary for aging*
3 *and disability services.*

4 (b) To accomplish the policies set forth in subsection (a), the
5 secretary, subject to the provisions of appropriation acts, shall annually
6 propose and implement a plan including, but not limited to, financing
7 thereof which shall: (1) Provide for an organized network of community
8 services for persons with developmental disabilities; (2) maximize the
9 availability of federal resources to supplement state and local funding for
10 such systems; and (3) reduce reliance on separate, segregated settings in
11 institutions or the community for persons with developmental disabilities.

12 (c) The secretary shall report to the legislature the number of persons
13 with developmental disabilities eligible to receive community services and
14 shall make a progress report on the implementation of the annual plans and
15 the progress made to accomplish a comprehensive community services
16 system for persons with developmental disabilities.

17 (d) The secretary shall prepare and submit budget estimates for the
18 department of social and rehabilitation services to the division of the
19 budget and the legislature and shall establish and implement policies and
20 procedures within the programs and activities of the department so that
21 funds for state-level programs and activities for persons who are
22 developmentally disabled are allocated between services delivered in
23 institutions and community services.

24 (e) Subject to the provisions of this act and appropriation acts, the
25 secretary shall administer and disburse funds to each community
26 developmental disability organization for the coordination and provision of
27 community services.

28 (f) The secretary shall establish procedures and systems to evaluate
29 the results and outcomes of the implementation of this act to assure the
30 attainment of maximum quality and efficient delivery of community
31 services.

32 Sec. 4. K.S.A. 39-7,100 and 39-1804 are hereby repealed.

33 Sec. 5. This act shall take effect and be in force from and after its
34 publication in the statute book.