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Timothy Keck, Interim Secretary

Sam Brownback, Governor

To: Senate Ways and Means Committee

From: Kelli Ludlum, Assistant Secretary

Date: March 8, 2016

Subject: SB 457, Nursing home quality care assessment rate and sunset

Chairman Masterson and members of the Committee:

I appreciate the opportunity to present testimony regarding SB 457, legislation which will extend and modify the annual provider assessment on all licensed beds within Kansas skilled nursing care facilities. The current nursing facility provider assessment, which allows collection of up to $1,950 per licensed bed, sunsets on July 1, 2016. KDADS supports removing or extending the sunset to preserve programs critical to Kansas nursing facilities.

If the provider assessment sunsets as currently scheduled, the resulting loss of state funds available for the nursing facility Medicaid reimbursement program would exceed $22 million. At the current Federal Medical Assistance Percentages rate a total of more than $50 million in all funds could be lost from the program. Such a significant loss of funds would require a reduction to Nursing Facility rates. That reduction would make it extremely difficult, if not impossible, for Kansas to continue a meaningful incentive program to reimburse facilities for specific quality indicators and overall operational efficiency. Currently, there is at least one nursing facility in each of Kansas' 105 counties. This level of access to care would be jeopardized if Medicaid rates are significantly reduced.

K.S.A. 75-7435 requires that KDADS facilitate the Quality Care Improvement Panel (QCIP) created in 2010. On February 11, 2016, the QCIP submitted its annual legislative report to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight. A full copy of the report is attached for reference.

The QCIP considered several scenarios for the provider assessment, including:

- Sunset;
- Extension of 3, 4, or 5 years;
- Increasing the assessment to $3,500 per bed with all other parameters held constant and rates adjusted by the trending factor to 5.68%;
- Increasing the assessment to $3,483 to cover rebasing to 2012-2014 with inflation through December 31, 2014;
- Increasing the assessment to $4,102 in order to rebase to 2012-2014 with inflation through December 31, 2015;
- Increasing the assessment to $4,908 to allow rebasing to 2012-2014 with inflation through December 31, 2016.

Although the QCIP did not reach consensus, it approved two recommendations. First, the committee recommended continuation of the quality incentive program for four years, changing the sunset date to June 30, 2020. In addition, the QCIP recommended raising the quality care assessment to $4,908 per licensed bed to fund a cost year rebase and inflation. Specifically, the increased assessment will allow the state to bring the cost base years from 2010-2012 to years 2012-2014, without impacting the state general fund. The QCIP does not take positions on legislation; however, both of these recommendations are consistent with the proposal in SB 457.

SB 457 would provide a four-year extension of the statutory sunset, to July 1, 2020. In addition, the bill would increase the maximum assessment to $4,908 per licensed bed in skilled nursing facilities, generating estimated revenues of $55.5 million to the KDADS Quality Care Fund. The provider assessment revenue would then be used as a match for federal Medicare monies based on the projected blended FMAP rate of 56.96% federal/44.04% state. Including the federal match, SB 457 would allow an increase in nursing facility reimbursement rates up to approximately $126.2 million from all funding sources. The bill would require the full rebasing of reimbursement rates to utilize the additional bed assessment revenues.

While KDADS does not have a position on the provider assessment increase proposed in SB 457, we strongly support the extension included in the legislation.

Thank you for the Committee's time and consideration. I would be pleased to answer any questions you may have.

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Report of the Quality Care Improvement Panel
to
The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight

February 11, 2016

The Kansas Legislature created the Quality Care Improvement Panel in 2010 with the enactment of K.S.A. 75-7435. The Quality Care Improvement Panel reports annually to the Joint Committee on Health Policy Oversight, now the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight, of the Kansas Legislature.

The membership of the Quality Care Improvement Panel consists of the following: two persons appointed by Kansas Homes and Services for the Aging (now operating as LeadingAge Kansas); two persons appointed by the Kansas Health Care Association; one person appointed by Kansas Advocates for Better Care; one person appointed by the Kansas Hospital Association; one person appointed by the governor who is a member of the Kansas Adult Care Executives association; one person appointed by the governor who is a skilled nursing care facility resident or the family member of such a resident; one person appointed by the Kansas Foundation for Medical Care; one person appointed by the governor from the Department on Aging (now the Kansas Department for Aging and Disability Services); and one person appointed by the governor from the Kansas Health Policy Authority (now the Division of Health Care Finance within the Kansas Department of Health and Environment). The current members are: Mike Tryon (chair), Joe Ewert, Brenda Groves, Scott Hines, Amy Hoch Altwegg, Cheryl Logan, Mitzi

McFatrich, Mike Randol, Sara Sourk, Melissa Warfield, and Debra Zehr. The Quality Care Improvement Panel is charged by the legislature to make recommendations to the Secretary on Aging concerning the administration of and expenditures from the quality care assessment fund.

Background

The population of Kansans over age 65 was more than 415, 275 as reported in the 2014 U. S. Census. That age group represents approximately 14.3% of the total population of Kansas as compared to 14.5% for the nation as a whole. Nationally, the "baby boomer" share of the 65 and older demographic is expected to increase from 46.2 million to over 69 million in the next 20 years. It is reasonable to assume that the next two decades will see an increased demand for services from the over-65 population.

When compared to the nation, Kansas ranks within the top ten in the country in the per-capita number of nursing home beds. The percentage of Kansas senior citizens living in nursing homes exceeds 4.1 percent, as compared to the national average of 2.8 percent. In 2012, Kansas also ranked 7th in the nation for the percent of residents 65 or older living in nursing homes.

Like many other industries, the nursing home industry continues to see an era of change. The changes are largely driven by two factors: 1) money, primarily due to Medicaid reform, and 2) competition. Nursing home residents and their families are demanding more control over their lives, including such things such as choosing the time they get up, and what and when they eat.

Many of the changes are intended to benefit residents and their families. Programs such as those funded in part by the quality care incentive initiative are intended to make it easier for families to judge the quality of Kansas nursing home care. Those programs are intended to

promote excellence in health care and encourage nursing homes to move from an institutional model of care to make person-centered care as the standard for Kansas nursing home residents.

The current Medicaid model allots reimbursement to nursing homes based on their costs for nursing and direct care workers, medical equipment and supplies, indirect care costs such as dining workers and food, real property costs and limited operational costs. To ensure efficiency, costs are capped for each cost center. Additionally, Kansas provides an incentive program for facilities to be reimbursed for performance on specific quality indicators and overall operational efficiency.

Recommendations of the Quality Care Improvement Panel

Although the panel did not reach consensus, the following are the recommendations passed by the panel.

Recommendation 1. The Quality Care Improvement Panel recommends that the quality incentive program be continued for four years, thereby changing the sunset date to June 30, 2020.

Recommendation 2. The Quality Care Improvement Panel recommends that the quality care assessment be raised to $4,908 per licensed bed. Specifically, the group recommends raising the assessment to fund a cost year rebase and inflation, allowing the state to bring the cost base years from 2010-2012 to years 2012-2014. This will not impact the state general fund. Recognizing the growing costs of labor and supplies through reimbursement will provide needed resources to maintain and improve quality of care and life for nursing home residents.

Dissenting Position

Mitzi McFatrich, an advisory panel representative from Kansas Advocates for Better Care (KABC), raised concerns regarding assessment fund utilization, quality improvement, auditing

and accountability. Concerns expressed include that the quality care assessment revenue should be solely designated for quality improvements to quality of care and life in skilled nursing facilities. Additionally, it is McFatrich's opinion that there is no oversight in how the quality care assessment revenue is used by the providers, and that its future use should be tied to specific quality improvements, such as increasing nursing staff levels. McFatrich's dissenting alternatives include utilizing Medicaid funds for incentives that require facilities to demonstrate measurable and positive impact for the individuals in the facilities, and using provider assessment funds to reduce the unnecessarily high costs to the Medicaid program that result from poor care.