



**An independent voice for
those served by KanCare.**

Senate Health and Public Welfare Committee

Feb. 14, 2017

Chair Schmidt:

Madam Chair and members of the committee, thank you for allowing me to provide testimony today on SB 160 which proposes to build a quality ombudsman program for people served by waivers in KanCare.

My name is Sean Gatewood and I am the Co-Administrator for the KanCare Advocates Network. The KanCare Advocates Network is a group of advocates whose collective interests include issues impacting children and adults who are served by the Kansas Medicaid program, KanCare.

KAN tracks and documents the obstacles encountered by beneficiaries and the financial strain KanCare has placed on providers of services of both long term supports and services and medical services. To further document those issues, we hosted 3 public forums across the state in May, July and October and heard from at least 500 individuals, families and providers. We heard at all three events that when problems occurred assistance through the system was lacking. The only service currently offered by the current ombudsman program is directing the consumer to another contact within the MCO or the state. This is simply not what an ombudsman program does.

The Legislature has also been put in an awkward position due to a lack of systemic information on the KanCare program. While individual legislators have heard from constituents and committees have heard from individual patients in the system they have not been receiving data about the system as a whole which has contributed to KanCare degrading into its current dire state. This program would give legislators a more systemic and timely notification to issues arising in the KanCare system. This will allow the legislature to respond to systemic, regional, and individual problems appropriately without the risks involved in attempting to respond to anecdotes.

This is not about the person who is the current Ombudsman. This is about the flawed structure of having a KanCare Ombudsman office that is inside state government and has significant structural conflicts of interest and the lack of ability to provide legally based advocacy on behalf of the consumer. SB 160 is about fixing the way the Ombudsman program is structured to address the systemic problems inherent with housing such an important office within state government, which creates conflicts of interest.

SB 160 is about following the best practices and growing national consensus regarding the standards and structures that makes for an effective Ombudsman office. Documents from HHS's Administration on Community Living, the American Bar Association, the AARP, and others make clear that the best practice is to have an Ombudsman program that is truly independent with the ability to be a zealous advocate for all of the intensive requests for support, including but not limited to appeals.

SB 160 would respond to CMS's critical Jan. 13 report by creating a truly independent Ombudsman program with the ability and authority to "address all request for support" from

HCBS beneficiaries, which is a requirement of CMS under the Special Terms and Conditions Kansas agreed to. CMS went on to point out the current internal Ombudsman program does not handle all requests for support, such as incredibly

intensive case work services like administrative appeals. If SB 160 was passed and funded, there would be no doubt that Kansas would be able to comply with CMS's required action in that Jan. 13 report that Kansas must have an Ombudsman program and "ensure that all functions ascribed to it in the STCs are carried out effectively and that its independence is preserved."

SB 160 is based on the Wisconsin model of establishing a truly independent Ombudsman program for HCBS Waiver recipients that is outside of state government and free from conflicts of interest. We would note that this program has flourished under the leadership of Governor Scott Walker, and it has been used as an example nationwide of how to conduct an effective, independent Ombudsman program. In fact, the National Council on Disability (NCD) went to Wisconsin and heard from disability advocates great things about how Governor Walker's program. NCD made a recommendation that every state should have a truly effective independent Ombudsman program, particularly for beneficiaries in Medicaid managed care states, such as Kansas.

SB 160 is patterned directly after the Wisconsin Independent Ombudsman program. In Wisconsin, approximately 49,260 HCBS Waiver members are eligible for the independent Ombudsman program, and funding is approximately \$1.2 million all funds (\$600,000 state funds). In Wisconsin there are 12.5 total staff, for a total ratio of 1 ombuds office staff member for every approximately 3940 eligible HCBS members. The statutory goal in Wisconsin is 1 ombuds office staff for every 2500 members, just like in SB 160. However, Wisconsin's funding does not meet that goal.

In Kansas, there are nearly 25,000 HCBS Waiver members who would be eligible for the independent Ombudsman program, or 51% of the total number in Wisconsin. If the Kansas program was passed into law and funded at the same ratios as the Wisconsin program, the fiscal note would be approximately \$612,000 all funds (\$306,000 state general funds). This represents an appropriation which is 51% of the Wisconsin program, the same ratio of HCBS enrollees in Kansas versus Wisconsin. Such an appropriation would fund the Kansas independent Ombudsman program at a ratio of 1 ombuds office staff member for every 3,940 HCBS Members, like Wisconsin's current amount. If Kansas were to fund the independent Ombudsman at the goal level set out in SB 160 of 1 ombuds office staff for every 2500 HCBS members, the appropriation would be approximately \$941,500 all funds (\$470,750 state general fund).

According to the Wisconsin Ombudsman program, they believe an effective floor for a ratio is 1 Ombuds office staff for every 3500 HCBS Members. If Kansas were to fund the independent Ombudsman program at 1 ombuds office staff for every 3500 HCBS Members, then the amount of funding would be \$659,050 all funds (\$329,525 state general fund).

Thank you for the opportunity and we urge your support for SB160.

Sincerely,

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