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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

January 30, 2018

The Honorable Carolyn McGinn, Chairperson
Senate Committee on Ways and Means
Statehouse, Room 545-S
Topeka, Kansas 66612

Dear Senator McGinn:

SUBJECT: Fiscal Note for SB 300 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 300 is respectfully submitted to your committee.

SB 300 would require the Kansas Department of Health and Environment (KDHE) and the Kansas Department for Aging and Disability Services (KDADS) to terminate any request to United States Centers for Medicare and Medicaid Services (CMS) to administer state Medicaid services under the Kansas Medical Assistance Program using a capitated managed care delivery system in a manner that is substantially different than the manner in which state Medicaid services under the Kansas Medical Assistance Program were provided on January 1, 2017. Further, the bill would prohibit KDHE and KDADS from submitting any such request in the future without express prior authorization by an act or appropriation act of the Legislature.

The bill would require KDHE and KDADS to submit to CMS a request to extend for one year any waiver in effect on January 1, 2017, authorizing the administration of state Medicaid services using a capitated managed care delivery system. KDHE, KDADS, and the Department of Administration would be required to negotiate for the renewal of contacts in effect on January 1, 2017, for the administration and provision of managed care Medicaid services. Any contract renewal negotiated under this requirement could not impose any new eligibility requirements or limitations, would have to be substantially the same as contracts in effect on January 1, 2017, and could be for a term of only one year. The agencies would be prohibited from negotiating or entering into any contract for the administration and provision of managed care Medicaid services without express prior authorization by an act or appropriation act of the Legislature.

SB 300 would essentially move administration and decision-making authority for changes to the State Medicaid Program from KDHE/KDADS leadership to the Legislature. The bill would also prevent the signing of any new contracts for managed care, commonly referred to as KanCare 2.0, without express prior authorization by an act or appropriation act of the Legislature. Further, KDHE/KDADS would be required to renew current contracts with existing Managed Care Organizations (MCOs) for one year, with no substantial changes to the contracts, eligibility requirements or limitations that were in effect on January 1, 2017, and to extend the current version of KanCare by one year by extending the terms of the current waiver.

KDHE states that requiring a one-year extension with existing MCOs is likely to negatively affect state's position for negotiating rates with the MCOs. A change of just one percentage point in the KanCare rates can increase expenditures by $35.0 million from all funding sources, including $16.0 million from the State General Fund. The bill would likely affect the negotiation process for KanCare 2.0. Requiring express prior authorization from the Legislature could potentially change the mix of current bidders, as well as the content of their bids for managed care. The costs associated with this would be substantial but cannot be estimated, as any changes to the current RFP or any bids would involve thousands of hours of work by both the KDHE and KDADS, as well as any MCOs wishing to submit bids for a new RFP by the state. This would further delay the process of selecting bidders, putting the state at risk of not having contracts signed before the waiver expires, or potentially diminishing the MCOs' desire to submit new proposals. There could be some slight offset in cost by reducing the scope of work required by the contractor charged with administering the RFP process.

KDHE also indicates that CMS guidelines recommend that states file 1115 waiver applications and extension 12 months prior to the year of implementation; however, CMS does allow for changes and amendments if applications are currently under review. Approval for any waiver or change in program is lengthy and detailed, and the agencies cannot afford any delays that would come with waiting to gain express prior approval by the Legislature. Any fiscal effect associated with SB 300 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Cody Gwaltney, Aging & Disability Services
Dan Thimmesch, Health & Environment