

To: Members of House Appropriation and Senate Ways and Means
From: Jennifer Flory, Interim Director, State Employee Health Benefits Plan
Subject: Requests for Information Related to the State Employee Health Plan Reserve Fund
Date: April 11th, 2022

Members of House Appropriation and the Senate Ways and Means Committees:

Thank you for the opportunity to provide additional background on the State Employee Health Plan Reserve Fund.

With a healthy reserve, the Health Care Commission can reduce, eliminate, or minimize rate increases for the contributions paid by the employees and reduce or maintain the members cost share and benefits provided by the plan.

The SEHP is a self-funded plan responsible for paying for all covered claims and expenses incurred by covered members. The target reserve for the health plan should be approximately \$50 million.

The average ending reserve balance since plan year 2016 is \$43,990,905. (This average balance is only this high as there was a reduction of claims expense due to two years of COVID). The claims expense has now increased back to and above normal claims expenses.

I want to be clear that the current balance of the reserve is adequate. However, this GBA is an opportunity to provide an investment for benefits to state employees, without creating a long-term increase in employer contribution.

I would like to address a few questions brought up during last week's discussion of the Governor's Budget Amendment:

In 2009, SB 572 created a requirement for vendors to the State Employee Health Plan to be audited. Initial estimates indicated that the state could recover \$9 million from vendors. \$9 million was taken from the Reserve Account in 2009, although the state was not able to recover more than a negligible amount from vendors. A copy of SB 572 is included in this packet.

In 2014, the US Department of Health and Human Services performed an audit that penalized the state for depositing earned interest on the Reserve Fund into State General Fund. The federal government forbids this practice for certain federally funded benefits-eligible positions in the state. HHS levied a penalty of \$17,394,334, which was paid in installments from FY 2014-2019 from the Reserve Fund. The first installment payment of \$2,521,955 was made from the SEHP fund balance in 2013. The Reserve Fund has never been made whole after it paid the HHS penalty.

I have included two additional documents that provide a snapshot of the Reserve Fund history since 2009, as well as actions that the HCC has taken since FY21 that have impacted rates.

I appreciate the opportunity to provide this information, and I would be happy to answer any additional questions.

Reserve Fund Historical Background

FY09

- Legislative action resulted in state agencies **not contributing the Employer contribution for seven pay periods**, resulting in a **\$64 million decrease** in the fund balance.

FY10

- **SB 572 reduced the fund by \$9.675 million.**

FY14-19

- The US Department of Health and Human Services assessed penalties on the SEHP Fund based on audit findings related to “disallowed cost”
- Interest on the SEHP fund balance accrued to the State General Fund for fiscal years 2012, 2013 and 2014.
- All interest earned after 2014 now accrues to the SEHP fund.
- **The penalty of \$17,394,334.28 was paid in installments from FY 2014-2019 from the SEHP Fund.**

FY15

- The HCC voted to **reduce the State of Kansas Employer contribution by 8.5 percent.**

FY16

- The HCC voted to **keep the State of Kansas Employer contribution flat, continuing the balance reduction**

Rate History

2020:

The HCC voted for a **4.5% State of Kansas Employer contribution increase**

Employee Rates:

- Employee and Employee + children: **no increase**
- Employee + Spouse & Family: **reduced six (6) percent**

2021:

The HCC voted for a **3% State of Kansas Employer contribution increase**

Employee Rates:

- Employee & Employee + children: **no increase**
- Employee + Spouse & Family: **reduced two (2) percent**

2022

The HCC voted for a **5% State of Kansas Employer contribution increase**

Employee rates:

- Employee and Employee + children: **no increase**
- Employee+ Spouse & Family: **reduced two (2) percent**

And provided further, That the director of the budget shall transmit a copy of each such certification to the director of legislative research: And provided further, That the department of social and rehabilitation services shall report to the legislature at the beginning of the regular session in 2011 with expenditure data regarding this program.

Sec. 76.

KANSAS HEALTH POLICY AUTHORITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2011, the following:

Operating expenditures \$17,104,347

Provided, That any unencumbered balance in the operating expenditures account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: Provided further, That expenditures shall be made from this account for the drug utilization review board to perform an annual review of the approved exemptions to the current single source limit by program.

Office of the inspector general \$95,543

Provided, That any unencumbered balance in the office of the inspector general account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Other medical assistance \$351,204,882

Provided, That any unencumbered balance in the other medical assistance account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: Provided further, That expenditures may be made from this account for the purpose of implementing or expanding any prior authorization project: And provided further, That an evaluation of the automated implementation, savings obtained from implementation, and other outcomes of the implementation or expansion shall be submitted to the health policy oversight committee prior to the start of the 2011 legislative session.

Children's health insurance program \$15,736,928

Provided, That any unencumbered balance in the children's health insurance program account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: Provided further, That no increases shall be made to monthly premium payments for the state children's health insurance program until approval of the increase is received by the Kansas health policy authority from the federal centers for medicare and medicaid services.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2011, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Preventive health care program fund \$519,470

Cafeteria benefits fund No limit

Provided, That expenditures from the cafeteria benefits fund for the fiscal year ending June 30, 2011, for salaries and wages and other operating expenditures shall not exceed \$2,324,908.

State workers compensation self-insurance fund No limit

Provided, That expenditures from the state workers compensation self-insurance fund for the fiscal year ending June 30, 2011, for salaries and wages and other operating expenditures shall not exceed \$3,725,998.

Dependent care assistance program fund No limit

Provided, That expenditures from the dependent care assistance program fund for the fiscal year ending June 30, 2011, for salaries and wages and other operating expenditures shall not exceed \$226,372.

Non-state employer group benefit fund \$163,931

Kansas health policy authority special revenue fund No limit

Provided, That expenditures from the Kansas health policy authority special revenue fund for the fiscal year ending June 30, 2011, for official hospitality shall not exceed \$1,000.

Health committee insurance fund \$248,870

Health care database fee fund No limit

Medical programs fee fund \$54,284,610

Health and hospitalization insurance clearing fund.....	No limit
<i>Provided</i> , That expenditures from the health and hospitalization insurance clearing fund for the fiscal year ending June 30, 2011, for salaries and wages and other operating expenditures shall not exceed \$7,854,305.	
Health insurance premium reserve fund.....	No limit
Other state fees fund	\$0
Health care access improvement fund	\$37,390,236
Other federal grants and assistance fund.....	No limit
Medical assistance federal fund	No limit
Children's health insurance federal fund.....	No limit
Ticket to work infrastructure grant federal fund.....	No limit
Health policy and finance — PERM grant federal fund...	No limit
Ryan White title II federal fund	No limit

(c) During the fiscal year ending June 30, 2011, the executive director of the Kansas health policy authority, with the approval of the director of the budget, may transfer any part of any item of appropriation for the fiscal year ending June 30, 2011, from the state general fund for the Kansas health policy authority to another item of appropriation for fiscal year 2011 from the state general fund for the Kansas health policy authority. The executive director of the Kansas health policy authority shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to the director of legislative research.

(d) Any moneys donated or granted to the Kansas health policy authority, and any federal funds received as match to such donations or grants, for the fiscal year ending June 30, 2011, shall only be expended by the Kansas health policy authority to assist the clearinghouse in reducing any backlogs or waiting lists, unless otherwise specified by the donor or grantor: *Provided*, That any donated or granted moneys, and the matching moneys received therefor from the federal centers for medicare and medicaid services, shall not be used to supplant or replace funds already budgeted for the clearinghouse, or to restore any other reductions in funding to the clearinghouse or the agency, unless otherwise specified by the donor or grantor.

(e) During the fiscal year ending June 30, 2011, notwithstanding the provisions of this or any other appropriation act of the 2010 regular session of the legislature, or any other statute, no moneys appropriated for the Kansas health policy authority from the state general fund or from any special revenue fund or funds for fiscal year 2011 shall be expended by the Kansas health policy authority for the purposes of requiring, and the Kansas health policy authority shall not require, an individual, who is currently prescribed medications for mental health purposes in the MediKan program, to change prescriptions under a preferred drug formulary during the fiscal year ending June 30, 2011: *Provided*, That all prescriptions paid for by the MediKan program during fiscal year 2011 shall be filled pursuant to subsection (a) of K.S.A. 65-1637, and amendments thereto: *Provided further*, That the Kansas health policy authority shall follow the existing prior authorization protocol for reimbursement of prescriptions for the MediKan program for fiscal year 2011: *And provided further*, That the Kansas health policy authority shall not expend any moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2011, as authorized by this or other appropriation act of the 2010 regular session of the legislature, to implement or maintain a preferred drug formulary for medications prescribed for mental health purposes to individuals in the MediKan program during fiscal year 2011.

(f) On July 1, 2010, or as soon hereafter as moneys are available, the director of accounts and reports shall transfer \$9,675,000 from the HBA clearing fund — remittance to admin service org account of the HBA clearing fund to the state general fund.

(g) In addition to the other purposes for which expenditures may be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2010 and fiscal year 2011 for the Kansas health policy authority as authorized by chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the Kansas health policy

authority from the state general fund or any special revenue fund or funds for fiscal year 2010 or fiscal year 2011 to enter into a three-year contract for a pilot project for health care cost containment and recovery services to be implemented regarding programs of state agencies or programs responsible for the payment of medical or pharmacy claims, including the department of social and rehabilitation services, department on aging, Kansas health policy authority, juvenile justice authority, department of labor, department of health and environment and the state health care benefits program, as provided in K.S.A. 75-6501 through 75-6523, and amendments thereto: *Provided*, That the pilot project shall be designed to provide statewide efficiencies and cost savings across multiple state agencies and the state health care benefits program: *Provided further*, That the pilot project shall include services to extract savings and recover funds for health care services paid by any state agency to include, but not be limited to, the recovery of overpayments identified through claims review and provider audits; and coordination of payment between private insurers, Medicare, and other public and private payors of health care claims: *And provided further*, That the pilot project shall include these services and additional services as approved by the Kansas health policy authority and the affected state agency: *And provided further*, That the pilot project shall be supplemental to audit and recovery projects already conducted by individual state agencies and shall determine ways to improve efficiencies by coordinating audits and recovery program activities across multiple state agencies: *And provided further*, That the contract for the pilot project shall provide for the vendor to be compensated by a percentage of recoveries or savings attained: *And provided further*, That, upon completion of the pilot project, the executive director of the Kansas health policy authority shall report to the legislature the savings generated from the pilot program and make recommendations regarding extension of the pilot program, termination of the program, or competitive procurement for the services provided thereunder: *And provided further*, That such contract shall be entered into on or before October 1, 2010, through a request for proposal process: *And provided however*, That nothing in the contract for such pilot project shall make null and void any other contract that a selected vendor under such request for proposal may currently be entered into with the state of Kansas: *And provided further*, That such pilot project shall be implemented in such a manner as to coordinate with federal requirements to establish a medicaid recovery audit contract pursuant to the federal patient protection and affordable care act, H.R. 3590.

(b) During the fiscal year ending June 30, 2011, in addition to the other purposes for which expenditures may be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2011 for the Kansas health policy authority as authorized by this or other appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2011 to conduct a study on the topic of requiring insurance companies to reimburse clinical marriage and family therapists, clinical professional counselors and clinical psychotherapists. *Provided*, That, such study shall be designed to: (1) Determine the impact that coverage for such therapists, counselors and psychotherapists has had on the state health care benefits program as described in article 65 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, (2) provide data on utilization of such therapists, counselors and psychotherapists by individuals covered for direct reimbursements for services provided by such therapists, counselors and psychotherapists, (3) determine the cost of providing coverage for such therapists, counselors and psychotherapists, (4) compare the costs of coverage between individuals under the state health care benefits program covered by insurance companies which provide direct reimbursement for services provided by such therapists, counselors and psychotherapists to individuals under the state health care benefits program covered by insurance companies which do not provide such direct reimbursement, (5) compare the amount of premiums charged by insurance companies which provide reimbursement for services provided by such therapists, counselors and psychotherapists to the amount of premiums charged by insurance companies which do not provide such direct re-

~~imbursement, and (c) determine whether mandated direct reimbursement for such therapists, counselors and psychotherapists should be continued under the state health care benefits program. *Provided further*, That, in addition, the Kansas health policy authority shall conduct an analysis to determine if proactive mental health care treatment results in reduced expenditures for future mental and physical health care services, by comparing expenditures of patients who receive such proactive mental health care treatments with those patients who do not during the regular session of the legislature in 2010. *And provided further*, That, such studies shall be completed no later than December 31, 2010, and shall be made available to all members of the house committee on insurance, the senate committee on financial institutions and insurance and all parties seeking passage of such legislation no later than the first day of the 2011 Kansas legislative session. *And provided further*, That, the insurance department and all other departments, boards, agencies, officers and institutions and subdivisions thereof shall cooperate with the Kansas health policy authority in carrying out all duties prescribed pursuant to this section.~~

(i) During the fiscal year ending June 30, 2011, no expenditures shall be made by the above agency from any moneys appropriated from the state general fund or any special revenue fund or funds for the fiscal year ending June 30, 2011, to implement any policy or procedure which would restrict or limit beneficiaries of medicaid access to medications for mental health purposes, including, but not limited to, restricting the number of name brand or single source mental health medications for any beneficiary and all expenditures made by the above agency for the fiscal year 2011 shall be made in compliance with the provisions of K.S.A. 39-7,121b, and amendments thereto.

Sec. 77.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2011, the following:

State operations \$111,089,328

Provided, That any unencumbered balance in the state operations account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011; *Provided further*, That expenditures may be made from this account for the purchase of professional liability insurance for physicians and dentists at any institution, as defined by K.S.A. 76-12a01, and amendments thereto; *And provided further*, That expenditures from this account for official hospitality by the secretary of social and rehabilitation services shall not exceed \$500; *And provided further*, That expenditures shall be made from this account to contract with Kansas legal services for the purpose of providing legal representation and disability determination case management for adult cash assistance recipients.

Alcohol and drug abuse services grants \$1,226,535

Provided, That any unencumbered balance in the alcohol and drug abuse services grants account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Mental health and retardation services aid and assistance \$123,591,155

Provided, That any unencumbered balance in the mental health and retardation services aid and assistance account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Kansas neurological institute — operating expenditures ... \$11,327,917

Provided, That any unencumbered balance in the Kansas neurological institute — operating expenditures account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011; *Provided, however*, That expenditures from the Kansas neurological institute — operating expenditures account for official hospitality by the superintendent shall not exceed \$150; *Provided further*, That expenditures shall be made from this account to assist residents of the institution to take personally-used items, which were constructed for use by such residents and which are hereby authorized to be transferred to such residents, from the institution to communities when such residents leave the institution to reside in the communities.

Larned state hospital — operating expenditures \$30,849,692

Provided, That any unencumbered balance in the Larned state hospital — operating expenditures account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided, however*, That expenditures from the Larned state hospital — operating expenditures account for official hospitalty by the superintendent shall not exceed \$150: *Provided further*, That expenditures may be made from this account for educational services contracts which are hereby authorized to be negotiated and entered into by Larned state hospital with unified school districts or other public educational services providers: *And provided further*, That such educational services contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739, and amendments thereto.

Larned state hospital — sexual predator treatment program \$12,895,380

Provided, That any unencumbered balance in the Larned state hospital — sexual predator treatment program account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Osawatomie state hospital — operating expenditures \$14,342,009

Provided, That any unencumbered balance in the Osawatomie state hospital — operating expenditures account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That expenditures from the Osawatomie state hospital — operating expenditures account for official hospitalty by the superintendent shall not exceed \$150.

Parsons state hospital and training center — operating expenditures \$10,447,821

Provided, That any unencumbered balance in the Parsons state hospital and training center — operating expenditures account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That expenditures from the Parsons state hospital and training center — operating expenditures account for official hospitalty by the superintendent shall not exceed \$150: *And provided further*, That expenditures may be made from this account for educational services contracts which are hereby authorized to be negotiated and entered into by Parsons state hospital and training center with unified school districts or other public educational services providers: *And provided further*, That such educational services contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739, and amendments thereto: *And provided further*, That expenditures shall be made from this account to assist residents of the institution to take personally-used items, which were constructed for use by such residents and which are hereby authorized to be transferred to such residents, from the institution to communities when such residents leave the institution to reside in the communities.

Rainbow mental health facility — operating expenditures \$4,524,298

Provided, That any unencumbered balance in the Rainbow mental health facility — operating expenditures account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That expenditures from the Rainbow mental health facility — operating expenditures account for official hospitalty by the superintendent shall not exceed \$150.

Children's mental health initiative..... \$1,500,000

Provided, That any unencumbered balance in the children's mental health initiative account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided, however*, That no expenditures shall be made from the children's mental health initiative account for inpatient hospital beds for children.

Youth services aid and assistance \$111,023,868

Provided, That any unencumbered balance in the youth services aid and assistance account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Vocational rehabilitation aid and assistance \$6,219,209

Provided, That any unencumbered balance in the vocational rehabilitation aid and assistance account in excess of \$100 as of June 30, 2010, is hereby