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Testimony in Support of House Bill 2784

**Presented to the House Health and Human Services Committee
By Steven D. Anderson, CIG, Medicaid Inspector General**

February 15, 2024

Chair Landwehr and Members of the Committee:

Thank you for the opportunity to appear today and provide testimony concerning House Bill 2784. I am Steve Anderson, Medicaid Inspector General.

The Office of Medicaid Inspector (OMIG) is wrapping up its audit of the Continuing Care Retirement Communities (CCRC) and Continuing Care Provider (CCP) application for registration or renewal processing. The audit includes an assessment of the eligibility for a reduced rate of the nursing facility provider tax (also known as bed tax or bed assessments) for any CCP registration certificate holder per K.S.A. 40-2231 through K.S.A 40-2238 and K.S.A. 75-7435.

Justin McFarland, General Counsel, Kansas Insurance Department (KID), sent a memorandum to Chair Landwehr and the Kansas Department for Aging and Disability Services (KDADS) expressing that the CCP registration/renewal processing was not seen as a core insurance function and does not fit within the area of expertise of KID. Chris Hollenbeck, Assistant Director of the Rate and Form Compliance Division, KID, stated she processed all CCP registration renewals and any new CCP registration requests for calendar year 2023. Hollenbeck claimed that she now spends at least 25% of her work week on these applications and says that it has become quite burdensome.

Our review of KID's CCP application files for 2020-2023 found that most of the files did not contain the statutory requirements in K.S.A. 40-2231 through K.S.A. 40-2238. We identified **285** incomplete registrations or incomplete renewals out of a total of **419** processed for the audit

period, equaling a **68%** error rate. The most common item missing was the annual audit certified by a certified public accountant (CPA), per K.S.A. 40-2233. Letters of Registration/Renewal approvals were provided to the facilities and KDADS by KID staff stating the approval was contingent on the receipt of the audit. However, very few files from KID contained the required audit. During our interview, Hollenbeck admitted that she knowingly accepted applications and processed approvals without the CPA certified annual audits.

OMIG's recommendation is that the CCP registrations be processed by the KDADS Survey Certification & Credentialing Commission, and the processing and collection of the nursing facility provider tax stay within the KDADS Long-Term Services & Supports Commission. These two commissions already share the same database for surveys, cost reports, and bed tax assessments via the Kansas Organization Tracking Application (KOTA). This would make the transition of these responsibilities smoother than utilizing an outside agency or a contractor absorbing the CCP registration processing.

KDADS leadership expressed their concurrence of KDADS taking over the CCP registration processing and agreed that it made sense to have the applications processed in the same department as the cost reports. It would also help them track facility ownership changes more efficiently.

KID's failure to properly process CCP renewals and applications is additional encouragement to move this responsibility to KDADS. If this move is not approved, we urge KID to process the applications for registration and renewal according to the requirements provided in K.S.A. 40-2231 through K.S.A 40-2238.

OMIG provided suggested changes to the following statutes and regulation assuming the CCP registration and renewal process would be moved to KDADS:

- K.S.A 39-923
- K.S.A. 40-2231 through K.S.A 40-2238
- K.S.A. 75-7435
- K.A.R. 129-10-31

We compared the facilities assessed at the reduced bed tax rate of \$818, identified as a CCRC by KDADS to the KDADS Adult Care Directory. Our comparison excluded any of the KDADS' CCRCs with either less than 46 beds or reported more than 25,000 Medicaid bed days for the previous calendar year, as they are automatically assessed at the \$818 rate and are not required to be registered as a CCP to claim they are a CCRC.

For SFY 2021-2024, we found facilities registered as a CCP that were listed in the KDADS Adult Care Directory under the facility type 'nursing facility' only. We were unable to identify

any additional levels of care provided, however, they were still assessed at the reduced rate of \$818 per bed, as a CCRC. Without having a clear definition of a CCRC in Kansas statutes in combination with a lack of appropriate oversight by KID, facilities have received the lower rate by simply claiming CCRC status. This has resulted in the estimated loss per SFY as noted below.

SFY	CCRCs with only SNF beds	Bed Count	Loss in Provider Tax Revenue
2021	12	1,001	\$4,094,090
2022	22	1,762	\$7,206,580
2023	30	2,422	\$9,905,980
2024	31	2,655	\$10,858,950
Total	95	7,840	\$32,065,600

Thank you for your time. I will be happy to answer questions.