

March 9, 2022

The Honorable Richard Hilderbrand, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 142-S
Topeka, Kansas 66612

Dear Senator Hilderbrand:

SUBJECT: Fiscal Note for SB 501 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 501 is respectfully submitted to your committee.

SB 501 would require the Kansas Department of Health and Environment (KDHE) to request approval from the United States Centers for Medicare and Medicaid Services (CMS) for a section 1115 demonstration waiver to enable the Department to eliminate “mandatory hospital presumptive eligibility” (PE) and restrict PE determinations to children and pregnant women eligibility groups prior to January 1, 2023. If approval for the waiver is denied, the Department would be required to resubmit a request for approval within 24 months of each denial. Kansas has elected to implement PE for Medicaid and the Children’s Health Insurance Program through state plan authority, but PE is not a federally mandated component of the Medicaid program. The Medicaid State Plan can be amended to remove the current PE provisions.

In the current approved Medicaid State Plan, qualified hospitals administer PE to the following eligibility groups: pregnant women, infants and children under the age of 19, parents and other caretaker relatives, adults as only currently covered by the state, individuals above 133.0 percent of the federal poverty level under age 65 if covered by the state, persons eligible for family planning services as currently covered by the state, former foster care children, and persons needing treatment for breast or cervical cancer. The bill would limit PE to only children under the age of 19 and pregnant women.

The bill would prohibit the Secretary for Children and Families (DCF) from exercising the state’s option to provide exemptions from the work requirements and require able-bodied adults without dependents receiving food assistance to participate in an employment and training program as defined by federal statute. The bill would change the reporting of changes impacting food assistance benefits to be reported within 10 days of the date the change becomes known to

the household. The bill would reduce, from \$5,000 to \$3,000, the threshold for reporting social security numbers or alternate taxpayer identification for claiming a Kansas lottery prize. These reports are to be provided monthly by the Department of Administration (DoA) to KDHE and DCF. The information is to be compared to verify if winning individuals are receiving medical assistance, TANF cash assistance, food assistance, or assistance under the childcare subsidy program to determine the impact of these winnings on benefits and eligibility.

The bill would require the verification of income, residency, age, household composition, caretaker relative status, and other information rather than allowing self-attestation prior to enrollment for food assistance. The bill would require DCF to coordinate with law enforcement authorities to conduct on-site inspection of authorized retailers accepting Electronic Benefits Transfer (EBT) card transactions to identify suspicious transaction records or amounts indicating possible trafficking of benefits. The bill would require DCF and KDHE to enter into data matching agreements to obtain data and cross-check households enrolled in food assistance or medical assistance. This information would be reviewed to identify circumstances that may affect eligibility for food assistance or medical assistance. Reporting requirements have also been established regarding these data-matching agreements.

The bill would require KDHE to not accept eligibility determinations for medical assistance from an exchange under 42 USC 18041(c). This is currently in the policy and procedures. The bill would require KDHE to seek section 1115 waiver authority to prohibit enrollment and deny eligibility for at least six months for non-disabled, non-pregnant adults who fail to report a change in circumstance that affects their eligibility. The bill would require KDHE to exchange data with other agencies to verify deaths, income, unemployment, residency, and other factors. The bill would also require KDHE to make data from findings of noncompliance and fraud investigations publicly available on the agency's website.

KDHE indicates that SB 501 would require \$2.0 million from all funding sources, including \$495,170 from the State General Fund for additional expenditures in FY 2023 to allow KDHE's eligibility system to be upgraded to remove the ability for individuals to apply for any other kind of PE except children and pregnant women, and to discontinue people on PE types other than children and pregnant women. KDHE would also be required to create interfaces to acquire lottery earnings information from DoA. There would be a fiscal effect for connecting current KDHE systems to other state systems to which the agency is not already linked or additional contractual expenses for KDHE to complete verifications. Program operations would be affected by requirements to implement a penalty period before applicants are allowed to reapply for Medicaid if they fail to report a change in circumstances. There would need to be system changes to prevent enrollment in the program before the end of the penalty period. The populations most impacted would be the caretaker medical and extended medical groups. KDHE anticipates that the bill may have a fiscal effect in terms of savings or additional costs related to medical assistance. If so, it would be from the bill's requirement to bar non-disabled, non-pregnant beneficiaries from Medicaid for failing to report changes in circumstances that impact eligibility. The agency is unable to estimate the potential savings because it is unknown whether CMS would allow the state to impose such a penalty period. KDHE states that it is unclear whether the bill is intended to require the agency to conduct eligibility fraud investigations. If so, there would be additional costs associated with hiring investigators.

DCF indicates that Kansas currently operates a voluntary employment and training program for able-bodied adults without dependents (ABAWDs). These individuals may, but are not currently required, to participate. As proposed, a mandatory program would be created which requires all ABAWDs to participate to receive benefits. Additional expenditures of funds would be required to provide services to participating individuals and for staffing needs to meet the increase in demand for services. DCF currently operates a voluntary program called Supplemental Nutrition and Assistance Program Education and Training (SNAP E&T) to serve ABAWDs willing to participate. This program would need to be changed and expanded to be a mandatory program for all ABAWDs. Changes to the SNAP state plan requires federal approval. On average, there are approximately 13,685 ABAWDs served monthly who do not participate in the SNAP E&T program. It is estimated, based on historical information, that only 9.3 percent would participate in a mandatory program. The average cost in benefits to persons participating in the SNAP E&T program is \$33.45 per month. These costs include transportation, clothing, and other assistance to enable participants to find and maintain meaningful employment. The following table details the cost estimates for services related to this program change:

Average Monthly ABAWDs	\$ 14,118
Less: Monthly Participants in SNAP E&T	\$ (433)
Currently Uninvolved ABAWDs	\$ 13,685
Percentage Expected to Participate	9.30%
Estimated Number of Additional Participants	\$ 1,273
Average Benefit Cost Per Person Per Month	\$ 33.45
Annual Months	12
Annual Cost Estimate	\$511,026

The additional costs for benefits to participants to the mandatory program are estimated at \$511,026 from the State General Fund for FY 2023 as no federal funds are available. Kansas currently receives federal funds requiring an equal match in state funds to cover the costs of these services. However, the federal award for FY 2022 was only \$78,582. These grants are historically fully spent.

A mandatory program significantly increases the caseload. The caseload is projected to increase by 1,273 individuals monthly. The optimal number of cases assigned per worker is approximately 43. This ratio would require an additional 30.00 FTE positions and would include 2.00 FTE Human Services Supervisor positions and 28.00 FTE Program Consultant positions. The following table details additional salary and other operating expenses (OOE) related to these additional FTE:

<u>Item</u>	<u>FY 2023</u>
Salaries & Benefits for 30.00 FTE	\$2,236,126
Standard OOE	475,340
Total	\$2,711,466

Additional expenses for salary, benefits, and other operating expenses are estimated to total \$2.7 million from the State General Fund. Kansas receives a 100.0 percent federally funded grant to support these services. However, that grant for federal FY 2022 totals only \$611,726 which does not fully fund the SNAP E&T program. Additional funds have been requested and awarded bringing the total award to \$1.4 million. However, these funds are expended and are not adequate to cover the increased costs associated with a mandatory program.

DCF currently uses a simplified method for food assistance beneficiaries to report changes related to their benefits. Under the current method, only a few changes, such as income increasing over allowed limits and changes to ABAWD status must be reported. Other changes which may impact benefit amounts are reported and calculated at the Interim Review (IR) which occurs every six months. The IR may increase or decrease the benefit amount. The estimated overall impact on the amount of benefits paid is estimated at zero as some cases would show benefit increases while others would show offsetting decreases.

SB 501 would change the reporting requirements. Under the provisions of the bill, beneficiaries would be required to report all changes which may impact the benefit amount within ten days of becoming aware of the change. Per the United States Department of Agriculture regulations, program staff then have ten days to review the report and initiate any changes. Currently, there is an average of 800 daily tasks related to change requests. It is estimated the number of daily change requests would increase by at least 25.0 percent or by 1,000. To manage the increased workload, additional positions would be needed. DCF currently has 604.00 FTE positions assigned to handle client eligibility and ongoing case management. It is estimated the workload would increase by 25.0 percent requiring an additional 151.00 FTE positions to manage the increase in required reporting. Those FTE would be as follows:

- 1.00 FTE Administrative Specialist position
- 23.00 FTE Human Services Assistant positions
- 9.00 FTE Human Services Consultant positions
- 98.00 FTE Human Services Specialist positions
- 14.00 FTE Human Services Supervisor positions
- 6.00 Program Consultant positions

The following table details the salary and OOE expenses associated with these additional FTE:

<u>Item</u>	<u>FY 2023</u>
Salaries & Benefits for 151.00 FTE	\$ 7,984,119
Standard OOE	<u>2,392,546</u>
Total	\$10,376,665

An additional \$10.4 million would be needed to fund the increase in staffing related to the change in food assistance reporting. Based on historical data, federal SNAP funds totaling \$1.5 million are estimated to be available. The remaining expenditures would require \$8.9 million from the State General Fund.

Another impact of the reporting change relates to the food stamp error rate. These rates are monitored at the federal level and failure to maintain an acceptable rate could result in penalties against the state. The bill would require beneficiaries to report any changes within ten days. A potential food stamp error occurs if changes are not reported within this time frame. Prior to switching to the simplified reporting method for changes related to food assistance, DCF used a reporting method similar to the bill. In FY 2003, under the prior reporting method, DCF had an error rate of 10.45 percent. Soon after adopting the simplified reporting, the error rate dropped to 5.11 percent. The current error rate is 7.1 percent which is below the national average of 7.36 percent.

The proposed reporting change is expected to result in an increase in the error rate which could result in possible penalties. For FY 2019, one state, Maine indicated it used the proposed reporting method. It's error rate during that period was 19.12 percent and penalties of \$2.7 million were assessed. The total SNAP benefits issued by Maine during that fiscal year totaled \$203.6 million which is similar to the \$265.3 million issued by Kansas. Other states such as Iowa and Michigan also received penalties related to their food stamp rates, though the benefits paid were significantly more than those issued in Kansas. Iowa was issued a penalty of \$2.8 million after issuing \$429.1 million in benefits. Michigan issued \$1.7 billion in benefits and was penalized \$10.9 million for its error rate. Any penalties assessed would require additional state funds.

SB 501 would reduce the threshold at which lottery winnings claimed must be reported to DCF and compared to assistance beneficiaries. Currently, the cutoff for reporting by statute is \$5,000. DCF has an agreement using federal regulation requiring reporting to be completed for amounts of \$3,500 or more. SB 501 would reduce this figure to \$3,000. This change would have little or no impact on expenses or revenues. The current system has the capability to change the figures. Additional staff time to complete the reviews is expected to be minimal and can be managed through existing resources.

SB 501 would require verification of reported information, as allowed by federal law, rather than the use of self-attestations. DCF currently performs data verification and is expanding how these checks are completed. The additional staffing needed to verify any routine information not currently included would be absorbed by the additional staff required for the change reporting policy as noted above.

SB 501 would require DCF to coordinate with law enforcement authorities to conduct onsite inspections of authorized retailers that accept EBTs to identify suspicious transactions and possible trafficking of benefits. DCF involvement would require clearance from federal authorities and increased reporting is anticipated. To meet this increase, an additional 1.00 FTE Management Systems Analyst position is expected to be needed. DCF estimates a total increase of expenditures of \$70,107 from the State General Fund, including salary and benefits of \$60,777 and \$9,330 needed for OOE. It is unknown how many additional referrals may result based on this item. No estimate is being made regarding additional law enforcement trained investigators. However, if significant increase is identified, more positions may be needed later.

SB 501 would require DCF to enter into a data matching agreement with various agencies to cross-check households enrolled in food assistance or medical assistance to identify changes that may affect eligibility. The proposed language details a list of items to be reviewed and cross-checked. This may create additional costs for the computer systems to be modified. The data matching requirements include a data crossmatch reference to share out of state electronic benefit transfer use with KDHE. However, this may not be allowed by federal regulations as the specific data being referenced is SNAP and federal approval would be required.

To meet the outlined reporting requirements, an additional 1.00 FTE Management Systems Analyst position is expected to be needed. DCF estimates a total increase of expenditures of \$70,107 from the State General Fund, including salary and benefits of \$60,777 and \$9,330 needed for OOE.

SB 501 would require changes to computer systems used by DCF staff. These changes are estimated at \$1.5 million from the State General Fund. These costs represent modifications to the Kansas Eligibility Enforcement System to meet DCF requirements. The following table summarizes DCF’s estimated additional expenses related to SB 501. The expenses reported, except for costs related to systems changes, would continue for years beyond FY 2023.

<u>Summary of Additional Expenditures</u>	<u>FTE</u>	<u>All Funds</u>	<u>SGF</u>
SNAP E&T Items			
Assist. for Mandatory ABAWD Training & Employment	--	\$ 511,026	\$ 511,026
Additional Staff ABAWD Training & Employment	<u>30.00</u>	<u>2,711,466</u>	<u>2,711,466</u>
Subtotal SNAP E&T Items	30.00	\$3,222,492	\$3,222,492
SNAP Items			
Changes in Reporting	151.00	\$10,376,665	\$ 8,876,665
Coordination with Law Enforcement	1.00	70,107	70,107
KDHE Data Matching	1.00	70,107	70,107
Systems Changes	<u>--</u>	<u>1,535,000</u>	<u>1,535,000</u>
Subtotal SNAP Items	153.00	\$12,051,879	\$10,551,879

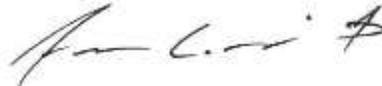
The Department of Administration indicates SB 501 would require additional costs of \$960 from programming and Business System Analyst expenditures, but the costs would be absorbed.

The Office of the Attorney General (OAG) indicates SB 501 is unclear as to the scope of on-site inspections (how many retailers must be inspected, how often they are to be inspected, etc.) and the expectation for involvement by the OAG. Therefore, the OAG is unable to determine what resources may be required. The bill would require an ongoing review by the Medicaid Inspector General, which is housed within the OAG. That review has identified several individuals whose eligibility for Medicaid should have been reviewed following the individual’s receipt of lottery winnings. It is estimated that providing this information to KDHE so that eligibility can be reviewed could result in significant savings to the state, however, an exact amount of savings has not yet been determined.

The Kansas Lottery indicates it would have minor costs in terms of time and effort to create a Data Sharing and Confidentiality Agreement with KDHE and minor costs in terms of programming and testing to modify the report parameters for DCF and KDHE extract files. Those costs, however, would not be in excess of the Lottery's currently approved budget. Those programming costs and efforts would not be incurred at all, however, if the payment threshold in SB 501 matched the existing federal program requirement of \$3,500 and would also serve to lessen any potential confusion or duplication of efforts. Any fiscal effect associated with SB 501 is not reflected in *The FY 2023 Governor's Budget Report*.

The League of Kansas Municipalities indicates SB 501 would increase costs for local law enforcement entities. The bill would require officers to conduct inspections of authorized retailers who accept EBT card transactions. These added duties would require additional time and training for city law enforcement officers, but the increased costs are unknown.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Keith Kocher, Lottery
Dan Thimmesch, Health & Environment
Kim Holter, Children & Families
Wendi Stark, League of Municipalities
Willie Prescott, Office of the Attorney General
Celeste Chaney-Tucker, Department of Administration