MINUTES

ROBERT G. (BOB) BETHELL JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES AND KANCARE OVERSIGHT

November 8-9, 2018
Room 112-N—Statehouse

Members Present

Representative Daniel Hawkins, Chairperson
Senator Vicki Schmidt, Vice-chairperson
Senator Bud Estes
Senator Laura Kelly
Senator Ty Masterson (November 8)
Representative Barbara Ballard
Representative Susan Concannon
Representative John Eplee
Representative Kyle Hoffman
Representative Jim Ward

Members Absent

Senator Richard Hilderbrand (November 8-9)
Senator Ty Masterson (November 9)

Staff Present

Iraida Orr, Kansas Legislative Research Department
David Fye, Kansas Legislative Research Department
Erica Haas, Kansas Legislative Research Department
Ashley Stites, Kansas Legislative Research Department
Scott Abbott, Office of Revisor of Statutes
Eileen Ma, Office of Revisor of Statutes
Gary Deeter, Committee Assistant

Conferees—November 8

Timothy Graham, Interim Executive Director, InterHab
Cindy Luxem, Chief Executive Officer (CEO) and President, Kansas Health Care Association/Kansas Center for Assisted Living
Janis DeBoer, Executive Director, Kansas Association of Area Agencies on Aging and Disability
Mitzi McFatrich, Executive Director, Kansas Advocates for Better Care
Sean Gatewood, Co-administrator, KanCare Advocates Network
Haely Ordoyne, Co-chairperson, Legislative Committee, Kansas Adult Care Executive Association
Janet M. Williams, PhD, President, Minds Matter, LLC

Mike Burgess, Director of Systems and Partner Outreach, Disability Rights Center of Kansas
Jayne Casper, Private Citizen
Robert St. Peter, MD, President and CEO, Kansas Health Institute
Monte Coffman, Executive Director, Windsor Place

Conferees—November 9

Jeff Andersen, Secretary of Health and Environment
Adam Proffitt, Director of Finance and Informatics, Division of Health Care Finance, Kansas Department of Health and Environment (KDHE)
Dr. Greg Lakin, State Health Officer and Medicaid Medical Director, KDHE
Jonathan Hamdorf, Director, Division of Health Care Finance, and Medicaid Director, KDHE
Tim Keck, Secretary for Aging and Disability Services
Susan Fout, Deputy Secretary for Aging and Disability Services
Amy Penrod, Commissioner of Home and Community-Based Services, Kansas Department for Aging and Disability Services
Michael Stephens, President and CEO, Sunflower Health Plan
Stephanie Rasmussen, Vice President of Long Term Services and Supports, Sunflower Health Plan
Gail Howard, Chief Operations Officer, Amerigroup Kansas Plan
Kevin Sparks, CEO, UnitedHealthcare Community Plan
Marsha Connor, Executive Director of Dual Special Needs Plan, UnitedHealthcare Community Plan

Others Attending

See November 8 and November 9 Lists.

Thursday, November 8
Afternoon Session

Welcome

Chairperson Hawkins welcomed members, staff, conferees, and guests. The Chairperson stated some Committee members attended a tour of the Kansas Neurological Institute (KNI) in Topeka in the morning. The tour was informative, and those in attendance were impressed with what is accomplished at KNI and how services are provided. Chairperson Hawkins reviewed the schedule for the two-day meeting and reminded the members the Committee would be discussing recommendations on November 9 for possible inclusion in the Committee Report to the 2019 Legislature.

Introduction of Sarah Fertig, Acting Medicaid Inspector General

Chairperson Hawkins introduced Sarah Fertig, the Acting Medicaid Inspector General. Ms. Fertig explained she is establishing the office under the Kansas Attorney General and awaiting Kansas Senate confirmation. She assumed the duties of Medicaid Inspector General after the Senate Confirmation Oversight Committee voted in favor of her nomination on October 9, 2018. Replying to questions, Ms. Fertig responded she previously was the Inspector General

for the Kansas Juvenile Justice Authority. Her responsibilities will include providing objective, ongoing assessment, audit performance review, and evaluation of the Medicaid program and making recommendations to address any gaps in controls or any weaknesses in the system. These oversight responsibilities extend to the state agencies and managed care organizations (MCOs) involved in the Medicaid program and anyone interacting with the program and also include review of compliance with the contract terms to be an MCO in the state. An online intake process is being developed for receipt of complaints, but she may be reached by contacting the Attorney General's Office. Ms. Fertig, in her capacity as Medicaid Inspector General, is required to provide an annual report to the Kansas Legislature.

Presentations on KanCare from Individuals, Providers, and Organizations

Timothy Graham, Interim Executive Director, InterHab, expressed appreciation for the positive responses he received from the Kansas Department for Aging and Disability Services (KDADS) regarding the unexpected changes in the interpretation of regulations. He then expressed concern for additional unfunded requirements that are being placed on health care providers by MCOs (Attachment 1).

Cindy Luxem, CEO and President, Kansas Health Care Association/Kansas Center for Assisted Living, praised the Kansas Department of Health and Environment (KDHE) for its cooperative efforts in improving the KanCare eligibility process; however, she commented the system still has many shortcomings. She emphasized the importance of sufficient funding for KanCare programs and providers (Attachment 2).

Janis DeBoer, Executive Director, Kansas Association of Area Agencies on Aging and Disability, expressed gratitude for the timely funding for certain programs, such as the Administrative Case Management for seniors applying for the Frail Elderly (FE) waiver. She noted the request for proposal (RFP) has not yet been released by KDADS (Attachment 3).

Mitzi McFatrich, Executive Director, Kansas Advocates for Better Care, also expressed appreciation for the Committee's oversight and the additional funding. She then offered several recommendations to improve the KanCare system; among them:

- Provide timely Quality Care Assurance for frail elderly and adults with disabilities in adult care facilities;
- Eliminate survey delays in nursing and assisted living facilities; and
- Continue reducing the misuse and overuse of anti-psychotic drugs in nursing facilities (Attachment 4).

Sean Gatewood, Co-administrator, KanCare Advocates Network, commenting on the Protected Income Level (PIL) of $727, stated the amount was inadequate for supporting an individual and recommended reviewing and updating the client obligation and PIL. He noted providers continue to find it difficult to find personal care attendants, and he recommended improving workforce support as a priority (Attachment 5).

Haely Ordoyne, Co-chairperson, Legislative Committee, Kansas Adult Care Executives Association, commenting on the ongoing delays for Medicaid eligibility determination, noted the financial hardship such delays cause nursing homes. She also noted the communication problems between KanCare principals,especially the Clearinghouse, and health care providers. Further, coding errors continue to result in denials of those transitioning from home services to nursing home facilities (Attachment 6).

Dr. Janet Williams, President, Minds Matter, reported the Traumatic Brain Injury (TBI) waiver has been effective. Working through the three MCOs, she said her agency has been able to assist over 30 individuals to leave institutions and find employment, and she noted the waiver has become a model nationally. She praised the expanded definition of "brain injury" that addressed a gap in services. She recommended the Medicaid rates and the PIL need to be increased to adequately support home health services, and network adequacy needs to be addressed for those on the TBI waiver (Attachment 7).

Mike Burgess, Director of Systems and Partner Outreach, Disability Rights Center of Kansas, cited the Employment Systems Change Coalition report that offered recommendations to assist people with disabilities in finding and retaining jobs (Attachment 8). He urged Committee members to eliminate the client obligations or at least raise the PIL for individuals on the Home and Community Based Services (HCBS) waivers, and he recommended members address the shortages of rehabilitative services in the TBI waiver. Mr. Burgess also noted the importance of complying with the Centers for Medicare and Medicaid Services (CMS) Settings Final Rule.

Jayne Casper, private citizen, recounted the story of her daughter's experience with Sunflower Health Plan. She praised the MCO's team approach that has provided pertinent and timely case management services for their family (Attachment 9).

Conferees responded to Committee members' questions:

- Most states set the PIL as a percentage of Social Security. Kansas has not raised the PIL in years (Mike Burgess);

- It is suspected nursing homes rely on medications in lieu of adequate staff (Mitzi McFatrich). The problem of inadequate oversight for prescribing antipsychotic drugs can be addressed by getting the active support of the providers and local medical directors (Cindy Luxem). A Committee member added the blame does not fall solely on the shoulders of providers. Often doctors, without oversight, simply prescribe what nursing home staff request;

- In order to provide services for those on the TBI waiver, Medicaid reimbursement rates must be increased (Janet Williams); and

- Nursing home inspection gaps have been reduced from nearly 24 months to 18 months. Even though CMS has provided an additional contractor for the inspections, KDHE is so far behind it could take until August or September of 2019 to become compliant with the federal regulation of an inspection every 12 months (Mitzi McFatrich).

A Committee member requested two conferees provide a spreadsheet addressing the PIL in other states and work with the Kansas Legislative Research Department (KLRD) to determine the annual cost to the State if increases to the PIL were phased in over five years. Jonathan Hamdorf, Medicaid Director, KDHE, replied there could be a discussion on the costs, but he believes this is a 'human issue'. Mr. Hamdorf stated the list of PILs in other states would be provided at tomorrow's meeting. Another Committee member, noting there is a cost to collect, requested information on the cost to eliminate the client obligation and the point in raising the PIL that it would be better to eliminate the client obligation and simplify. Director Hamdorf stated he would provide the requested information.

The following individuals submitted written-only testimony addressing various aspects of KanCare services:

- Lou Ann Kibbee, Systems Advocacy Manager, Southeast Kansas Adult Care Executive Association (Attachment10);
- Marilyn Kubler, Director, Targeted Case Management, Jenian (Attachment 11);
- Roxanne Hidaka and Meredith Funkhouser, Co-owners, Case Management Services, Inc. (Attachment 12);
- Robin Abramowitz, Executive Director, Brain Injury Association of Kansas and Greater Kansas City (Attachment 13);
- Rachel Monger, Vice President of Government Affairs, LeadingAge Kansas (Attachment14);
- Chad Austin, Senior Vice President of Government Relations, Kansas Hospital Association (Attachment 15);
- Mike Oxford, Executive Director for Policy and Advocacy, Topeka Independent Living Resource Center (Attachment 16);
- April Holman, Executive Director, Alliance for a Healthy Kansas (Attachment 17);
- Stephanie MacDonald, Private Citizen (Attachment 18); and
- Christi Nance, Policy Director, Oral Health Kansas (Attachment 19).

Update on the KanCare Meaningful Measures Collaborative

Robert St. Peter, MD, President and CEO, Kansas Health Institute, outlined the progress on the KanCare Meaningful Measures Collaborative (KMMC) (Attachment 20). He stated the purpose of the initiative is to focus on the whole person and build a data system of meaningful metrics that will increase the visibility, validity, and usefulness of KanCare information. He reported 40 agencies and 90 individuals, including consumers, health plan principals, and

research personnel, are involved in the project. He stated by the end of the year the working groups will provide basic inventory, a data map, and, early in 2019, will have additional details for the data map and will provide a priority list of measures. In-kind funding is being provided by participating organizations and state agencies; other funding comes from the REACH Healthcare Foundation. A beta KMMC website will be developed under the leadership of the Kansas Foundation for Medical Care (KFMC).

Telemonitoring Presentation

Monte Coffman, Executive Director, Windsor Place, reviewed an initiative to enable nursing home candidates to remain in their homes for an extended period of time through the use of self-managed medical technology (Attachment 21). He cited an example of an individual who, after being monitored for glucose levels, eliminated the dangerous swings in levels of blood sugar. Mr. Coffman provided the locations where Windsor Place provides technology for individuals to track and report health indicators while remaining in their homes, an approach that lowers cost and improves outcomes. Windsor Place provides two services: remote patient monitoring with software-driven devices placed in high-risk patients' homes; and remote health coaching aimed at moderate risk patients. He noted, in 2015, the University of Kansas approached Windsor Place about adding a remote service of health coaching as part of the Heart and Stroke Collaborate Grant received from CMS aimed at moderate risk patients. Windsor Place has developed and is close to rolling out a moderate risk program for chronic care coaching in the KanCare program with Sunflower Health Plan and UnitedHealthcare Community Plan like the University of Kansas CMS program. The chronic care coaching will be at half the cost of the remote patient monitoring and will catch individuals earlier in their chronic disease condition to slow their need for care and intervention later because of education and lifestyle coaching. Further, Windsor is working with a community mental health center to integrate behavioral and physical health through remote patient monitoring. Mr. Coffman stated interest in such an integrated program has been expressed by both Sunflower Health Plan and UnitedHealthcare for 2019. Mr. Coffman recommended broader adoption of remote patient monitoring for not only individuals on the FE waiver, but for all individuals on HCBS waivers, as a means of offering significant savings to KanCare MCOs and the state.

Approval of August 20-21, 2018, Minutes; Adjourn

By motion of Representative Ballard, seconded by Representative Hoffman, and a vote of the Committee, the Committee minutes for the August 20-21, 2018, meeting were approved.

The Committee adjourned at 3:16 p.m.

Friday, November 9
Morning Session
Welcome

Vice-chairperson Schmidt called the meeting to order at 9:02 a.m.

KanCare Update

The Vice-chairperson welcomed Jeff Andersen, Secretary of Health and Environment. Secretary Andersen referenced the agency KanCare Update (Attachment 22), the KanCare Executive Summary (Attachment 23), and the MCO Health Plan Highlights for 2019 (Attachment 24). Acknowledging continued eligibility backlogs occurring at the Clearinghouse, he explained the contract with Maximus has been finalized and will expire June 30, 2019, with a six-month option for the latter half of 2019. Beginning on January 1, 2019, under Phase I, the KDHE Division of Health Care Finance will assume responsibility for the training and quality functions of the Clearinghouse staff. Phase I will also require subleasing additional space and hiring 27 employees. Secretary Andersen stated the Medicaid eligibility application backlog is at its lowest point since the State entered into a contract with Maximus in 2013, but much work remains to be done.

Secretary Andersen stated the KDHE recommendations for Phase II are pending approval from the Governor-elect. He stated decisions would need to be made quickly to enable the State to assume the additional responsibilities before the expiration of the Maximus contract. Under the proposed Phase II, the KDHE Division of Health Care Finance would assume responsibility for Elderly and Disabled and Long Term Care (LTC) Medicaid determinations from Maximus on July 1, 2019. An additional 241 state employees would need to be hired to begin training on April 1, 2019, to make determinations on these more complex cases. Phase II would require the State to lease an additional facility to house the additional employees. As of July 1, 2019, Maximus would focus solely on processing Family Medical and the Children's Health Insurance Program (CHIP) applications.

Responding to questions, Secretary Andersen replied the eligibility waiting list included about 700 individual applicants over 45 days. No decision has been made regarding the agency's future relationship with Maximus.

In response to questions, Mr. Hamdorf assured Committee members the 1115 Waiver extension states the proposed work requirement could not be implemented without legislative approval. If the Legislature approved a work requirement, Mr. Hamdorf stated KDHE would have to file an amendment to the waiver with CMS requesting the implementation of the work requirement.

Adam Proffitt, Director of Finance and Informatics, KDHE, discussed the strategic goals of the analytics department, He noted KDHE has entered into partnership with DXC and Cerner. DXC has been the fiscal agent handling claims processing and fiscal responsibilities for some time. Cerner is fairly new to the agreement and handles the analytical capabilities. He reported on the development of the Enterprise Data Warehouse (EDW) that is now operational but not yet complete. Stage 1 has been completed with the transfer of data from the legacy system to the EDW, allowing for the pulling of data to do the analytics. Stage 2 would bring in ancillary data sources, such as data available to KDADS to make Medicaid eligibility determinations. Public health data may also be brought into the EDW at a later date to provide a more complete picture of the Medicaid beneficiaries as a whole. Analytical goals developed during the KDHE quarterly strategic meetings with DXC and Cerner include: becoming a center of excellence for data analysis by reducing information silos and increasing staff communication between the data team and the program and policy staff; allowing for the measurement of program performance by integrating data to identify program needs, costs, and gaps; allowing for Medicaid population analysis; and ensuring data accuracy and credibility.

Dr. Greg Lakin, State Health Officer and Medicaid Medical Director, KDHE, reviewed a few of the 34 high-priority recommendations of the Substance Use Disorder Task Force, which include: creating a central authority to develop goals, objectives, and processes; increasing provider training; requiring provider registration in Kansas Tracking and Reporting of Controlled Substances (K-TRACS), using K-TRACS to educate providers, and obtaining funding to continue K-TRACS; and promoting collaboration. Dr. Lakin reported a Medicaid goal is to reduce the use of antipsychotic drugs in patients with dementia. The first phase is to reduce off-label use of antipsychotic drugs in the Medicaid LTC population for the non-dual eligibility group ages 65 and older by requiring prior authorization for certain drugs. He discussed the Medicaid opioid policy and prior authorization criteria for opioid products indicated for pain management and KDHE's use of the Centers for Disease Control and Prevention guidelines regarding limitations on the prescribing of opioids. Dr. Lakin noted the state's Medicaid program cost avoidance through the use of step therapy for all implemented step therapies from September 2016 through September 2018 was $7,085,665.

A Committee member commented mandatory K-TRACS registration of providers is important, but there should be a requirement for mandatory use. Dr. Lakin agreed, but KDHE is proceeding with mandatory registration first and then will consider making use mandatory for those providers who prescribe controlled substances. Another member recommended caution for KDHE as it moves forward with mandatory K-TRACS registration. She noted the following should be considered: some specialty providers do not prescribe controlled substances in their practice; how the mandatory registration will be enforced; and what the penalties for noncompliance will be. She urged the Legislature to find sufficient funding to continue the program and update it as needed for effectiveness since long-term funding for K-TRACS has not been solidified.

Responding to other questions, Dr. Lakin stated the prescribing of antipsychotic drugs requires a proper diagnosis or a risk of imminent harm to the patient or others. He replied adequate staffing levels in LTC facilities could minimize the use of antipsychotic drugs; certified medication aides, as well as registered nurses, are allowed to dispense medications; low Medicaid reimbursement rates threaten the survival of some nursing homes; and one of the most important jobs of case managers is to provide education for caregivers about the medications being prescribed.

Dr. Lakin assured a Committee member the Substance Use Disorder Task Force recommendations included the expansion of Medicaid, and the Task Force report was presented to the Governor on September 1, 2018. He noted some of the recommendations could be instituted by executive order, but Medicaid expansion is not one of those.

Jon Hamdorf, Director, Division of Health Care Finance and Medicaid Director, KDHE, provided updates on aspects of KanCare. He noted CMS approval of the 1115 Waiver extension is anticipated in November, with the only new program included being the institutes for mental diseases (IMD) exclusion for substance use disorders (SUDs) to allow for reimbursement for SUD services within IMD facilities. He commented, pursuant to the proviso prohibiting any other changes to the Medicaid program as it existed on January 1, 2018, any other new program proposed in the waiver extension is being postponed until at least July 1, 2019.

Mr. Hamdorf reported KDHE is working to make the transition from one MCO (Amerigroup) to another (Aetna) as smooth as possible in order to assure continuity of care for individuals. He shared a few key elements in the Continuity of Care policy that is currently in draft form. Services being provided under an existing plan of care cannot be reduced for 90

days, unless the member specifically requests the reduction in services. With regard to provider payments, if the new MCO does not have a contract with an existing provider, the MCO will have to pay 100 percent of the fee schedule. As members move from one MCO to another, existing prior authorizations for drugs or services will remain in effect for the first 90 days to allow time for the prior authorizations to be provided to the new MCO and time to reassess the members' needs. KDHE has scheduled go-live phone support sessions in January 2019 to answer member and provider questions. Mr. Hamdorf stated, on January 1, 2019, KDHE will go live with a new version of the provider portal that will include a prior authorization form and a single provider credentialing form for every provider to be used by the three MCOs as required by 2017 Senate Sub. for HB 2026.

Mr. Hamdorf briefly touched on the status of legislative-funded programs: OneCare Kansas (Health Homes), reinstatement of Medicaid post incarceration, mid-year rate adjustment, telehealth, and juvenile crisis centers. He noted future fiscal notes on bills impacting KDHE will include an implementation timeline to provide legislators with information to better determine a realistic effective date. He requested more input from legislators regarding the 2018 Kansas Telemedicine Act; presently, he is following CMS guidelines as a first step but would like to ensure legislative intent is being met. He discussed questions that need to be addressed to implement the Juvenile Crisis Center legislation.

With regard to the performance of the Clearinghouse, Mr. Hamdorf provided data on the following applications, all of which he reported have achieved significant improvement: Family Medical, Elderly and Disabled, and LTC applications. He reported the liquidated damages KDHE has been able to assess on Maximus as a result of the contract renegotiation.

Mr. Hamdorf provided data comparing KanCare utilization for 2017 to pre-KanCare (2012) for all KanCare programs and HCBS waivers. In discussing the six percent decline in KanCare utilization for dental services from 2016 to 2017, he provided some possible solutions to address the decline. He reminded the Committee members that Medicaid only covers dental services for children, with adults only qualifying for emergency extractions and any other adult dental services being provided as a value-added benefit by the MCOs. The value-added services for 2019 are in the Health Plan Highlights for 2019 included in the KDHE testimony.

Additionally, Mr. Hamdorf provided a financial update for each of the MCOs, reflecting profit and loss per National Association of Insurance Commissioners filings comparing June 30, 2017, and June 30, 2018. Mr. Hamdorf stated the Corrective Action Plan (CAP) for Medicaid Long Term Services and Supports (LTSS) was completed in October 2018.

Committee members commended the progress of KDHE for effective oversight and noted current KDHE leadership had changed the face of the agency and Medicaid in the state.

Presentation by Aetna Better Health of Kansas, Inc.

Keith Wisdom, CEO, Aetna Better Health of Kansas, reviewed Aetna's history and experience. He stated, as the new MCO, Aetna is a leader in managing medically complex populations at a community-based level by integrating physical health, behavioral health, and social economic status of members (Attachment 25). He listed the leadership team and the office locations in the state and noted the implementation status since the awarding of the KanCare contract is on track. Aetna is proposing to hire 483 individuals who will make up the staff serving Medicaid and CHIP members in Kansas. Mr. Wisdom noted the network Aetna is

building with a variety of health care vendors and contractors. He outlined Aetna's system of care, which includes interdisciplinary care teams and value-added benefits such as adult dental care, non-emergency transportation, and respite care. He stated Aetna offers Medicare Advantage programs in Kansas and has expanded options for dual-eligible Medicaid members with the addition of Dual Eligible Special Needs Plan members in Johnson and Sedgwick counties in 2019 and plans to expand to more counties in 2020.

KDADS KanCare and HCBS Update

HCBS Update

Tim Keck, Secretary for Aging and Disability Services, introduced Amy Penrod, Commissioner of Home and Community Based Services, KDADS. Ms. Penrod commented on current efforts to reduce the HCBS waiting lists. She reported, as of October 12, 2018, 3,785 individuals remain on the Intellectual and Developmental Disabilities (I/DD) waiting list and 1,600 on the Physical Disability (PD) waiting list (150 offers for HCBS services were made to individuals on the I/DD waiting list in CY 2018; 1,175 offers were made to individuals on the PD list). There were 265 proposed recipients on the Autism waiver waiting list as of October 12, 2018. She noted four of the seven HCBS waivers (I/DD, TBI, FE, and PD) will expire in 2019. She explained, based on the 2018 budget, RFPs will be issued for Administrative Case Management and for renewal of contracts for the Aging and Disability Resource Center; both contracts anticipated to begin on April 1, 2019. A survey to determine how providers were impacted by the HCBS provider rate increases in fiscal year (FY) 2018 and FY 2019 will be sent to providers by November 15; results will be available in January 2019. Ms. Penrod confirmed the CAP for LTSS was completed in October 2018. The operational items under the 372 CAP have been jointly completed by KDADS and KDHE; the CAP will remain open to meet the CMS ongoing monitoring requirements.

Long Term Care Update

Secretary Keck reviewed the average daily census and the monthly average eligibility caseload for state institutions and LTC facilities. He noted the average daily census for KNI and the monthly Medicaid average eligibility caseload for LTC facilities has remained steady for the past six years; the average daily census has decreased for Parsons State Hospital and Training Center (PSHTC). He noted, in 2011, Kansas ranked 51st in the nation in the use of antipsychotic drugs in nursing facilities, and Kansas now ranks 38th in the nation and expects to continue to show improvement based on the activities undertaken. Regarding the LTC surveys, Secretary Keck stated CMS intended to withhold a $1.0 million payment if the survey backlog was not addressed. He stated KDADS contracted with HMS to assist with conducting surveys to reduce the backlog with the goal of reaching the requirement of a survey for each facility at least every 12 months. Secretary Keck reviewed data reflecting an increase in the number of LTC surveys completed since June 2018. He stated the drop in the annual surveys in October was due to the number of complaint surveys completed, immediate jeopardies that had to be addressed, time taken for joint provider training, and the lack of a HMS contract in place for October, which has been remedied. He provided data on the immediate jeopardy citations, which have decreased in 2018 relative to 2016 and 2017 due in part to a change in CMS interpretation and guidance and additional staff training. He noted the pay increase for surveyors has helped with hiring qualified surveyors, bringing the surveyor vacancies from 17 down to 8. Secretary Keck reported law enacted in 2016 requiring the addition of HCBS and behavioral health provider criminal record

checks increased the number of checks from 38,033 (2015) to 63,514 (2017); total criminal record checks in 2018 (year to date) was 57,609.

Behavioral Health Update

Susan Fout, Deputy Secretary for Aging and Disability Services, provided information on the psychiatric residential treatment facilities (PRTFs), noting there is a shortage of beds in the state. She reviewed the issue of "medical necessity," which MCOs use to determine juvenile placement in a PRTF. KFMC has begun an audit to determine whether the requests for admission to a PRTF met the MCOs' admission criteria and guidelines and whether the requests for continued stay in a PRTF met the criteria. She stated the 20 denial cases audited to date have confirmed the decisions made by the MCOs. KDADS is downloading 180 additional files for KFMC review to determine the contract cost to complete the audit of the remaining files. Data was provided on the average length of stay in a PRTF for all Medicaid beneficiaries by MCO and the PRTF waiting list by MCO. A member expressed concern about whether the three MCOs are using different criteria to determine medical necessity. Sarah Good, KFMC, commented the MCOs do not use the same criteria to determine medical necessity. Prompted by the PRTF waiting list of 125 juveniles on Medicaid, the National Association of State Mental Health Program Directors Research Institute is doing a study for KDADS to look at data and trend analysis on PRTF bed utilization and wait lists and reviewing policies and procedures related to admission and placement processes. Deputy Secretary Fout discussed the System of Care grant used to better serve juveniles with serious emotional disturbance and to provide wrap-around community services that will enable juveniles to remain in their homes.

Kansas Client Placement Criteria

Secretary Keck returned to explain website application for the Kansas Client Placement Criteria screening and assessment tool used by SUD providers to determine the level of care for patients was taken offline due to confidentiality concerns and moved to manual back-up procedures. A review of the system is continuing to determine whether the system can be restored without confidentiality concerns or whether an outside vendor will be necessary to look at other system options.

Receiverships

Secretary Keck updated the Committee on the insolvency of LTC facilities being serviced by KDADS through receiverships. He explained KDADS has been able to keep the facilities in receivership operational using the Civil Monetary Penalty Fund (Fund). When the receiverships began, the Fund had $5.6 million. A total of about $4.6 million was used to fund the 13 Skyline receivership facilities initially, $2.6 million of which has since been returned to the Fund. KDADS continues to meet with the Skyline landlord as the landlord seeks to find operators for the insolvent facilities. In response to a question regarding incentives for the Skyline landlord to market the properties, the Secretary stated KDADS is not paying rent to the Skyline landlord and will not do so until the Fund moneys have been replaced. Responding to the status of the health insurance for Skyline employees, Secretary Keck stated KDADS has had health insurance in place for the employees since April 1, 2018. The insurance is like that previously offered but not paid for by Skyline. KDADS has filed a federal lawsuit against Skyline and their principals seeking to hold them accountable for the Fund amounts and for failure to fulfill their

obligations. KDADS took receivership of three additional facilities (Pinnacle Receivership) due to multiple concerns including the operators were using resident trust funds to meet payroll expenses. The owner of the Pinnacle Receivership properties has agreed to repay the approximately $1.0 million paid by the Fund upon the sale of the properties. Additionally, Secretary Keck provided information on the status of three additional receiverships (Fort Scott, Great Bend,and Westview of Derby) and indicated completion of the state's receivership is anticipated in the near future with nearly all of the moneys paid by the Fund to be returned.

State Hospitals

Secretary Keck reported on the progress in staffing at Osawatomie State Hospital (OSH) and Larned State Hospital (LSH). He said vacancy rates and overtime are improving at OSH, but a new business in the area and an increase in wages at another business appear to have contributed to a recent increase in resignations. He stated challenges remain at LSH, but the agency continues to pursue local resources and to improve working conditions at the hospital. Overtime trend data for state mental health hospitals was provided.

Regarding PSHTC, Secretary Keck commented the CMS/KDHE annual survey in May 2018 found the facility staffing related to physical therapy was out of compliance; the deficiency was corrected. A complaint survey related to nursing on July 2, 2018, resulted in immediate jeopardy, which was abated on July 17, 2018. On October 30, 2018, KDHE surveyors reported PSHTC was in compliance with all conditions related to the annual and complaint surveys.

Electronic Medical Record System

Secretary Keck discussed the electronic medical record (EMR) assessment findings of a comprehensive review conducted by Navigant Consulting that identified core functionality gaps and support the need for KDADS and state hospitals to pursue strategic modernization of EMR system functionality, which will require procurement of a new EMR system. KDADS issued a request for information from potential vendors and hopes to have an RFP for the 2019 Legislature to consider. KDADS plans to submit a budget request for the initial implementation and annual ongoing support for a new EMR system.

Secretary Keck referenced information provided on the actual amounts paid to the MCOs for HCBS waiver services by waiver population for each quarter of 2017 and the first quarter of 2018.

Responding to a question, Secretary Keck replied it is difficult to shift staff to meet daily needs at LSH since there are three separate programs within the facility. He also noted difficulty with the local community being able to meet the staffing requirements for both the mental health and correctional facilities. Secretary Keck indicated a regional bed model may help alleviate the staffing and need for beds at both OSH and LSH by spreading the state hospital population throughout the state to allow the patients to be closer to home and provide better care for the patients. He added the agency has prepared an RFP to develop a regional bed model, which is being reviewed by the Department of Administration (Attachment 26).

Human Services Consensus Caseload Fall Estimates

Jennifer Ouellette, Principal Fiscal Analyst, Kansas Legislative Research Department (KLRD), reviewed the Human Services Consensus Caseload Fall Estimates (Attachment 27). She said the caseload estimates include expenditures for Temporary Assistance for Needy Families (TANF), the Reintegration/Foster Care Contracts, the KanCare Medical Assistance, and KDADS Non-KanCare for FY 2019, FY 2020, and FY 2021. A summary of the estimates follows:

- For FY 2019, an increase of $121.6 million, all funds; an increase of $54.6 million from the State General Fund (SGF), as compared to the budget approved by the 2018 Legislature;

- For FY 2020, the estimate for all funds, $3.6 billion; $1.3 billion from SGF; and

- For FY 2021, the estimate for all funds, $3.7 billion; $1.3 billion from SGF.

The combined estimate for FY 2019, FY 2020, and FY 2021 is an all funds increase of $277.6 million and a SGF increase of $85.1 million.

Ms. Ouellette provided details for each fiscal year for the Department for Children and Families, KDHE, and KDADS. Responding to questions, David Fye, Principal Fiscal Analyst, KLRD, replied he would try to provide a comparison of the costs for the Program for All-inclusive Care for the Elderly and the cost if those patients would receive institutional care. Ms. Ouellette replied to another question that fewer individuals are receiving cash assistance through TANF. A Committee member requested a copy of the University of Kansas study that correlated reductions in TANF eligibility to the increases in children in foster care. The Committee member also requested information on the cost of keeping those children in foster care versus what the state is saving by having decreased eligibility for TANF, child care assistance, and similar policies.

Afternoon Session

Update: KanCare Ombudsman

The Chairperson referenced the written-only testimony from the KanCare Ombudsman, Kerrie Bacon (Attachment 28). He also noted information requested by Committee members:

- The University of Kansas study linking changes in TANF policies to an increase in the number of children in foster care (Attachment 29);

- Information on PIL including the PILs by state, a policy paper on LTSS needs allowances, and LTSS needs allowances by state (Attachment 30);

- Additional information regarding the frequency of long-term care survey inspections (Attachment 31); and

- KDADS' response to Committee questions on August 20-21 (Attachment 32).

Managed Care Organizations' Presentations and Responses to Presentations on KanCare from Individuals, Providers, and Organizations

Michael Stephens, President and CEO, Sunflower Health Plan, outlined Sunflower's investments in community health, which included more than $91,000 in non-Medicaid in-lieu-of-services and $285,000 in Medicaid-covered services that kept members from being placed in nursing facilities. He noted approximately $1.5 million in value added benefits were provided from August through September 2018. A $110,000 grant was used for screening and access to mental health services. Mr. Stephens noted the value-added benefits for 2019 address such needs as access to care for children in foster care and employment support and transportation. He cited improvements made to KanCare including those made by the KanCare Improvement Working Group in which Sunflower participated (*e.g.,* standardized credentialing, prior authorizations, and appeals process; a proactive claims process; and member advisory groups) and Sunflower's record of prompt payments to hospitals as compared to payments made under fee-for-service pre-KanCare. Mr. Stephens noted how national best practices are leveraged to achieve positive outcomes, as shown by Health Effectiveness Data and Information Set (HEDIS) measures. He also noted Sunflower's collaboration with the Windsor Place telehealth initiative, Project Echo to launch in 2019 to focus on SED telehealth services, and other advancements in integrated services (Attachment 33). Responding to a question, Mr. Stephens replied higher Medicaid reimbursement rates are needed to attract providers to meet the TBI service needs in Wichita. Stephanie Rasmussen, Vice President of LTSS, Sunflower, added Sunflower is negotiating with providers to provide services to individuals on the TBI waiver in Wichita.

Gail Howard, Chief Operations Officer, Amerigroup Kansas Plan, reviewed the operational performance, the provider engagement (such as expanding the Primary Care quality incentive program), consumer engagement and quality (such as promoting members' well-being and independence through case and care management and improving the members' experience), and the HEDIS quality metrics. She outlined the transition and decommission plans to ensure member continuity of care with the end of the Amerigroup KanCare contract (Attachment 34). She noted on-site leadership staff will be in place through March 31, 2019, to address run-out of claims activity and encounters, reporting needs, and anything else that needs to be addressed after the contract runs out. Responding to a question, Ms. Howard replied transition and plan closure will occur on December 31, 2018, and, due to timing requirements, select operations (claims, appeals, and encounters) will continue through the first quarter of 2020.

Kevin Sparks, CEO, UnitedHealthcare Community Plan, introduced Marsha Connor, Executive Director of Dual Special Needs Plan (DSNP), UnitedHealthcare Community Plan. Using a case study that represents 1 of approximately 40,000 dual eligible consumers (eligible for Medicare and Medicaid) across the 105 Kansas counties, Ms. Connor explained the UnitedHealthcare Medicare Advantage DSNP, which is a Medicare Advantage prescription drug plan for those individuals who are dual eligible. The DSNP covers additional services not covered by Medicare or KanCare at no cost to the recipient. Presently, the DSNP serves 14 Kansas counties, representing about 50.0 percent of the total dual eligibles in the state (Attachment 35). Ms. Connor provided a list of benefits (Attachment 36) and a health products catalog (Attachment 37). She commented, by the end of 2018, the program will provide $40.0 million in medical and supplemental benefits and services outside of KanCare to approximately

4,000 consumers; that number is expected to grow to $55.0 million in 2019. Responding to a question, Ms. Connor replied, pending CMS approval, UnitedHealthcare hopes to expand the DSNP in 2020 to a number of counties such that they would be in 85.0 percent of the areas where Medicare/Medicaid dual eligible consumers reside. Consumers may access the health products catalog benefits online, or they may choose to use the telephone or USPS. Mr. Sparks discussed UnitedHealthcare efforts to contract with TBI waiver providers to provide services in Wichita, including providers from surrounding states. He also mentioned the 1115 waiver extension would allow for an increase in provider reimbursement rates.

KanCare MCO Contract Questions

Responding to questions, Mr. Hamdorf, KDHE, provided an update on the status of the KanCare MCO contracts to begin in 2019. He noted the MCO contracts were signed in July 2018, and the parties finalized an amendment to specify the contract length is for three years with two one-year extensions. The parties are currently working on a second amendment for 2019 rate setting. He confirmed all litigation surrounding the MCO contract issuance is completed. He noted, if KDHE decided not to extend the contract with an MCO beyond the 3 years, an RFP would need to be issued by the end of 2019 to allow sufficient time for the RFP process to run its course and have a new MCO in place prior to the end of the existing 3-year contract. He clarified the contract contains a termination clause that allows KDHE to terminate within 30 days but reminded Committee members of the lengthy period of decommissioning that would follow.

Committee Discussion and Report Recommendations

The Chairperson invited Committee members to offer recommendations to the 2019 Kansas Legislature. Representative Ballard provided the following recommendations, which were discussed, amended, and passed by members:

- Recommended monitoring the KDADS' RFP for high-touch administrative case management at the local level. *Motion by Representative Ballard and second by Representative Ward; the motion passed.*

- Recommend a request be made for a report on progress made in nursing facility inspections toward compliance with federal and state law requiring inspections every 12 months. *Motion by Representative Ballard, second by Representative Ward; the motion passed.*

- Recommend a review of the current PIL amount for persons receiving HCBS services. A recommendation was made to rephrase the language to recommend a bill be drafted to review the current PIL of $727 per month and sent to the House Committee on Health and Human Services for introduction—*Motion by Representative Hawkins and second by Representative Ballard. A substitute motion*—recommend a Committee bill be drafted to lift the PIL cap—*was offered by Senator Kelly, with a second by Senator Schmidt; the substitute motion passed.* It was noted by a Committee member the PIL has not been reviewed or updated in about 20 years and is one of the lowest in the country.

- Recommend an independent study or an audit by the Legislative Division of Post Audit be ordered regarding what has happened to families who leave TANF after 24 months in accordance with current TANF policy; and further recommend a detailed report be provided on the expenditure of the remaining 36 months of TANF funding continued to be received by the state. *Motion by Representative Ballard and second by Senator Kelly. A substitute motion*—recommend a Committee bill be pre-filed to restore the TANF eligibility profile to its 2010 level—*was offered by Senator Kelly, with a second by Representative Ballard; the substitute motion passed.*

- Recognizing, according to the 2014 Kansas Annual Summary of Vital Statistics from KDHE, suicide is the second leading cause of death among individuals ages 15-24 and ages 25-44 and the Kansas suicide rate in 2013 was 16.7 percent higher than the national average, the Committee expresses its concern to the Mental Health Task Force regarding the suicide rate and recommends the Task Force continue to study to identify causes and develop mitigating tools. *Motion by Senator Schmidt and second by Representative Ballard; the motion passed.*

- Recommend the State find ways to provide preventive dental benefits for adults. *Motion by Representative Ballard and second by Senator Schmidt.* Representative Concannon commented on the need for dental services in certain areas of the state and made a motion to introduce a bill creating a mid-level dental practitioner or dental therapist. *Senator Schmidt made a substitute motion, seconded by Representative Ballard, to reintroduce as a Committee bill in the 2019 Legislative Session the dental therapist bill (2018 SB 312) as it passed the Senate. The substitute motion passed.* The Committee expressed concerns about the lack of preventive dental care for adult Medicaid recipients.

- Recommend KDHE and KDADS continue to monitor and report to the legislative health and budget committees on the efforts to reduce the waiting list for the PD and I/DD waivers and the KanCare eligibility backlog. *Motion by Senator Schmidt and second by Representative Ballard; the motion passed.*

The Chairperson commended members of the Committee for their contributions to the Legislature and to the citizens of Kansas. He also offered thanks to Secretary Keck, Secretary Andersen, Director Hamdorf, and Dr. Lakin for their leadership.

Adjourn

The meeting was adjourned at 2:56 p.m. No further meeting was scheduled.

Follow-up Information Following Close of Meeting

At the meeting, a Committee member requested information comparing the cost of treatment under PACE to the cost in an institutional setting. KDADS provided the 2013 PACE Medicaid Cost-Benefit Study conducted by the Office of Aging and Long Term Care of the

University of Kansas School of Social Welfare, which was emailed to Committee members (Attachment 38).

Prepared by Gary Deeter

Edited by Iraida Orr

Approved by the Committee on:

January 17, 2019
(Date)