

HOUSE BILL No. 2299

By Committee on Health and Human Services

2-7

1 AN ACT establishing an independent home and community based services
2 ombudsman.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) (1) Subject to appropriations, the secretary of health
6 and environment shall contract with an organization to provide the
7 advocacy services described in subsection (b) to actual or potential
8 recipients of home and community based services benefits under the
9 Kansas program of medical assistance. Such organization shall not be
10 subject to control by or otherwise affiliated with the department of health
11 and environment, the Kansas department for aging and disability services,
12 any aging and disability resource center that has a contract with the Kansas
13 department for aging and disability services or any managed care
14 organization that administers state medicaid services under the Kansas
15 program of medical assistance. Any contract entered into pursuant to this
16 section shall include, as a goal, that the provider of advocacy services
17 provide one advocate for every 2,500 individuals who receive home and
18 community based services benefits under the Kansas program of medical
19 assistance. The secretary shall proportionally modify the goals established
20 by this paragraph to accommodate any amount of moneys actually
21 appropriated to the program.

22 (2) Notwithstanding the provisions of K.S.A. 75-3739 and 75-3740,
23 and amendments thereto, or any other provision of law, the secretary of
24 health and environment shall contract with the organization in Kansas
25 performing duties funded by the legal services corporation pursuant to 42
26 U.S.C. § 2996 et seq., as such sections exist on the effective date of this
27 act, or the protection and advocacy system pursuant to 42 U.S.C. § 15041
28 et seq., as such sections exist on the effective date of this act, to establish
29 the independent home and community based services ombudsman
30 program under this section.

31 (b) Any organization contracted to provide advocacy services under
32 this section shall assist actual or potential recipients of home and
33 community based services under the Kansas program of medical assistance
34 in protecting such recipient's rights related to such services under all
35 applicable state and federal statutes and rules and regulations. Such
36 contracted organization shall provide:

- 1 (1) Information, technical assistance and training on how to obtain
- 2 needed services or support items;
- 3 (2) advice and assistance in preparing and filing complaints,
- 4 grievances and appeals of complaints or grievances;
- 5 (3) negotiation and mediation with service providers, state agencies
- 6 or managed care organizations;
- 7 (4) individual case advocacy assistance regarding the appropriate
- 8 interpretation of statutes or rules and regulations; and
- 9 (5) individual case advocacy services in administrative hearings and
- 10 legal representation for court proceedings related to a recipient's benefits.
- 11 (c) The independent home and community based services
- 12 ombudsman program established by this section shall operate for the
- 13 benefit of actual or potential recipients of home and community based
- 14 services under the Kansas program of medical assistance. No state agency,
- 15 employee or official shall attempt to interfere with or influence the
- 16 independent status or operation of the ombudsman program. The secretary
- 17 of health and environment shall structure the contract to ensure that the
- 18 contracted organization is able to continue to fulfill the organization's
- 19 mission as the legal services corporation or protection and advocacy
- 20 system pursuant to applicable federal law and any activities the
- 21 organization engages in to advance the organization's mission and
- 22 charitable purpose as a not-for-profit organization. Such contract shall be
- 23 structured to ensure that the ombudsman program is not limited regarding
- 24 the remedies the ombudsman program has available to serve ombudsman
- 25 program clients.
- 26 Sec. 2. This act shall take effect and be in force from and after its
- 27 publication in the statute book.