



Topeka Independent Living Resource Center

785-233-4572 V/TTY • FAX 785-233-1561 • TOLL FREE 1-800-443-2207
501 SW Jackson Street • Suite 100 • Topeka, KS 66603-3300

House Children and Seniors Committee

February 13, 2019

Testimony By

Ami Hyten, Executive Director for Programs & Operations

Topeka Independent Living Resource Center

Testimony in Opposition to HB 2149

The Topeka Independent Living Resource Center (TILRC) is a civil and human rights organization. Our mission is to advocate for justice, equality and essential services for a fully integrated and accessible society for all people with disabilities. TILRC has been providing cross-age, cross-disability advocacy and services for 39 years to people with disabilities here in Shawnee County and across the state of Kansas. Our agency has been particularly interested in and committed to assuring that people who require long term services and supports have access to information, services and supports that offer choices; choices that promote freedom, independent lifestyles and dignity, including the dignity of risk.

HB 2149, as proposed, limits choice as it would create an incentive for the Medicaid eligibility system vendor to move Medicaid beneficiaries eligible for, or living in institutions to the “front of the line” in processing before Medicaid beneficiaries who live in the community. HB 2149, as proposed, limits choice as it would create an incentive for Medicaid beneficiaries who are encountering delays in eligibility processing to choose to give up their home in the community to receive favorable treatment as residents of an institution.

In addition to objections over the preferential treatment for people choosing to live in institutions as proposed in HB 2149, we believe the practice would constitute a violation of federal civil rights laws. The Tenth Circuit Court of Appeals held in *Fisher v. Oklahoma Health Care Authority*, 335 F.3d 1175 (10th Cir. 2003), that a state system extending a preferential benefit to Medicaid beneficiaries living in institutions is a violation of the Americans with Disabilities Act and the Supreme Court’s *Olmstead* decision. HB 2149 creates a preferential benefit by encouraging the state contractor to avoid penalties for processing of the applications and re-applications of people staying in institutions, while the processing of applications and re-applications for people living in the community languish.

Thank you for the opportunity to express our opposition to HB 2149.

Advocacy and services provided by and for people with disabilities.