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EQUALITY ♦ LAW ♦ JUSTICE

**Testimony to Break Down Disability Employment Barriers in KDHE Budget
House Social Services Budget Committee
February 12, 2020**

Chairman Carpenter and Members of the Budget Committee:

My name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities. We do not provide any Medicaid or other type of services. Our organization will gain nothing financially from the two ideas we have for the Committee.

Our KDHE budget testimony is all about breaking down barriers to help get more Kansans with disabilities employed in competitive integrated settings. We have 2 specific KDHE Budget issues we are promoting that will considerably break down barriers to employment for Kansans with disabilities.

#1 – Increase the Protected Income Level (PIL) for Home and Community Based Services (HCBS) Medicaid Waivers to be at 300% of Supplemental Security Income (SSI) – 25 of the 50 states set the Protected Income Level at 300% of SSI. Thanks to the support of this Budget Committee, Kansas took a huge and important first step to increase Kansas’ PIL to 150% of SSI. Kansas is now half-way toward meeting that “magic number” of 300% of SSI for the PIL. Setting PIL at 300% of SSI would break down a huge barrier preventing Kansans with disabilities on HCBS Waiver programs from becoming employed.

Here is why having a Protected Income Level of anything less than 300% of SSI is a huge barrier to Kansans with disabilities becoming employed. The SSI amount in 2020 is \$783. In general, to qualify for an HCBS Waiver, your monthly income (after spend down) cannot be more than \$2,349 (which is 300% of

SSI). Let me walk you through how having a PIL less than 300% is a barrier to employment. For sake of illustration, let's say you are a spinal cord injury survivor, a person with quadriplegia who uses a powerchair, and you have a job. Let's say after you satisfy your spend down requirements, the net amount of income is \$2,349 per month. A key reason why you have a job and you can get out of bed in the morning are the Physical Disability HCBS Waiver services you receive (you have someone come over and help you transfer from bed to your powerchair, assist you with other transfers, like toileting, and do other personal care assistance so you can do your activities of daily living to get out of the house and keep your job).

Under this example and Kansas' current policy of setting the PIL at 150% of SSI, you would have \$1,174 of your \$2,349 income protected (150% of \$783 SSI = \$1,174 is protected). That means you would WRITE A CHECK to the State of Kansas for the rest of your income – \$1,175 – which is the difference between the federally established level necessary to qualify for the HCBS Waiver (which is 300% of SSI, or \$2,349 per month) and the amount of your income that is “protected” (which in Kansas is 150% of SSI, or \$1,174 per month). Do you see how this is a huge barrier to employment? As a person with a disability why would you continue to work enough hours to earn \$2,349 per month? Quite simply, and logically, you wouldn't, because Kansas only protects \$1,174 of your income. **For every dollar of income you make over \$1,174 per month, you are giving each and every one of those dollars back to the State of Kansas.**

By increasing the Protected Income Level (PIL) to 300% of SSI, like 25 other states already do, you would provide a huge incentive for Kansans with disabilities on HCBS programs to work and maximize their employment. Remember, the unemployment rate is extremely low in Kansas. Kansans with disabilities are great, hard-working and reliable employees. Unfortunately, as long as the PIL is less than 300% of SSI, you will have a built in barrier to having Kansans with disabilities on HCBS Waivers working any amount over the Protected Income Level. **For only \$4.44 million SGF, Kansas can join the other 25 states in raising the Protected Income Level to 300% of SSI, which is the same level the federal government sets to qualify for the HCBS Waivers. That would create one single “finish line” and provide a great incentive for Kansans with disabilities on HCBS Waivers to work. The single “finish line” – if you qualify for HCBS Waivers, you can work as much as you want while staying within the limits to maintain HCBS qualification. Raising PIL to 300% of SSI would eliminate the current red tape that is a disincentive to working for people with disabilities.**

#2 – Increase Access to Benefits Planners at KDHE to help Kansans with disabilities work and navigate the complex systems

Kansas has only a small handful of dedicated and extremely capable benefits planners (fewer than 10 for 105 counties). This level is nowhere near sufficient. As a Kansan who has first-hand experience working with the KDHE benefits planners, I can testify what an amazing job they do in helping people with disabilities navigate the bewildering maze that is necessary to get a job if you have a disability. Benefits planners are the lifeline to help people with disabilities navigate the complex world of working, social security and Medicaid. They help bust myths that prevent Kansans with disabilities from working. The myths about employment and losing benefits in the Kansas disability community are prevalent and kill jobs before people with disabilities can even get hired.

Myths Regarding Working and Benefits that Benefits Planners Can Bust –

Here are just a few of the myths we found out about when we were a member of the Employment Systems Change Coalition and we conducted a statewide survey of nearly 1,700 Kansans with disabilities and their supports:

- Nearly 96% of Kansas SSI recipients with disabilities got **wrong** how much they could earn at a job and still maintain some portion of their SSI check.
- Nearly 76% of Kansas SSI recipients wrongly believe either: 1) they will “never come out ahead by working” because “for every \$1 I earn, my SSI disability check will be reduced by \$1”, or 2) they believe they will lose their entire check if they work AT ALL.
 - Of the 76% of SSI recipients who wrongly believe these myths, roughly half believe Myth #1 (will never come out ahead) and the other half believed Myth #2 (I will lose my check if I work AT ALL).
 - Both of these myths are completely false. People with disabilities on SSI will always come out ahead if they work.
 - Without enough high-quality, effective benefits planners, Kansans will continue to believe these myths.
 - They myths are JOB KILLERS. They stop people with disabilities from working.

Benefits planning as a service in Kansas must be greatly expanded. We have so few benefits planners, there are really no wrong ideas. In the KDHE Budget this Budget Committee could do one of the following:

- Have benefits planning be a mandatory service that all MCOs would have to fund from their per member, per month rates for any member who receives HCBS Waiver Services of working age.
- Or, make benefits planning a core service built into the MCO's per member, per month rate for all members (not just those on HCBS) and make it available for all KanCare members.
- Or, have KDHE make benefits planning a state plan or administrative match service, which would ensure all Kansans with disabilities could access it as a state plan service, greatly expanding its availability.
- Or, fund more KDHE benefits planner/specialist staff (we would recommend at a minimum doubling the FTE of KDHE benefits planners) and embed them in DCF and Vocational Rehabilitation offices across the state to allow more Kansans with disabilities to access these critical benefits planning services.
- Whatever the solution, the access to benefits planning in Kansas must significantly increase.

Additional facts about setting the Protected Income Level (PIL) at 300% of SSI –

Setting the PIL at 300% of SSI is the number one opportunity to eliminate unnecessary red tape that also impacts a number of small businesses who provide HCBS services and will have a tremendous positive impact related to the social determinants of health for the people who currently have to try and live their lives on \$783 per month (including housing expenses, transportation, food, and anything else they need). It would be exciting news to join all of the other states who have removed that burden on people who still have to meet income qualifications and meet the functional eligibility standards for an institutional level of care.

Who we are talking about ...

- Kansans with a disability who qualify for an institutional level of care and are served on a HCBS Medicaid Waiver
- They financially qualify for the program (less than 300% of SSI)

What will setting the PIL at 300% of SSI do ...

- Provide a significant positive impact on a social determinant of health (poverty)
- Removes a big disincentive for employment
- Eliminates a process that burdens all of the following:
 - KanCare Clearinghouse
 - KDHE (free up approx. 2 FTE to do other important work)
 - MCOs
 - Small businesses (FTE, postage, envelopes, merchant and banking fees, bad dept)
 - Kansans with disabilities
- Reduces Errors (overpayments and underpayments, both are bad for the individual)

What it doesn't do ...

- It does NOT increase eligibility or extend services to anyone who does not already qualify