

SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 300

As Amended by Senate Committee on Ways
and Means

Brief*

SB 300, as amended, would prohibit the Kansas Department of Health and Environment (KDHE), the Kansas Department for Aging and Disability Services (KDADS), and the Department of Administration (DoA) from taking certain actions related to state Medicaid services under the Kansas Medical Assistance Program using a capitated managed care delivery system (Medicaid managed care) without express prior authorization from the Legislature, except as specified in the bill.

Requests to CMS

The bill would require KDHE and KDADS to terminate any request to the federal Centers for Medicare and Medicaid Services (CMS) to administer state Medicaid managed care in any manner that is substantially different than the manner in which such services are provided on January 1, 2018. This would include, but not be limited to, imposing any new eligibility requirements or limitations to receive state Medicaid services. Any such request to CMS would be prohibited without express prior authorization by an act or appropriation act of the Legislature.

KDHE and KDADS would be required to submit to CMS a request to extend any waiver in effect on January 1, 2018, for three years authorizing the State to administer Medicaid managed care in accordance with the provisions of the bill.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Exceptions for KDHE Oversight

The bill would allow KDHE to modify the manner in which Medicaid managed care is provided on January 1, 2018, by implementing the following:

- Any provision of KSA 2017 Supp. 39-709h or 39-709i (related to managed care organizations' requirements);
- Any policy that expands access to behavioral health services or services delivered through telehealth technology services, if the policy does not impose any new eligibility requirements or limitations to receive state Medicaid services that are not in effect on January 1, 2018; and
- Any other action approved by express prior authorization by an act or appropriation act of the Legislature.

Medicaid Managed Care Contracts

Except as specified in the bill, KDHE, KDADS, and DoA would be prohibited from taking any action to enter into any contract for the administration and provision of Medicaid managed care without express prior authorization by an act or appropriation act of the Legislature.

KDHE, KDADS, and DoA would be required to negotiate for contracts for the administration and provision of Medicaid managed care that comply with the bill provisions, including altering the request for proposal (bid event 0005464) opened on October 27, 2017, and closed on January 5, 2018, limited to persons that submitted a bid in response to the bid event. Any contract negotiated and executed would be required to be for a term of three years commencing on the termination date of contracts for Medicaid managed care in effect on January 1, 2018. Contracts would be prohibited from

imposing any new eligibility requirements or limitations to receive state Medicaid services that are not in effect on January 1, 2018.

Effective Date and Sunset Provision

The bill would be in effect upon publication in the *Kansas Register*. Provisions of the bill would expire on June 30, 2021.

Background

The bill was introduced by the Senate Committee on Ways and Means. In the Senate Committee hearing, representatives of Interhab, KanCare Advocates Network, Kansas Action for Children, Kansas Advocates for Better Care, the Kansas Association of Area Agencies on Aging and Disabilities, and the Kansas Hospital Association testified in favor of the bill. Proponents generally stated the bill would allow concerns and issues with the current state Medicaid program (known as KanCare) to be addressed prior to moving forward with a new program. Written-only proponent testimony was provided by representatives of AARP Kansas, the Alliance for a Healthy Kansas, the Association of Community Mental Health Centers of Kansas, Inc., the Kansas Health Care Association and Kansas Center for Assisted Living, Kansas Interfaith Action, Kansas Medical Society, NAMI Kansas, and Topeka Independent Living Resource Center.

Neutral testimony was provided by a representative of Amerigroup Kansas, Inc., who noted the requirements of the bill are substantial and requested an extended length of time to accomplish those requirements. Written-only neutral testimony was provided by a representative of the Kansas Association of Community Action Programs.

Representatives of the DoA, KDHE, and Sunflower Health Plan testified in opposition of the bill. Opponents generally noted the challenges with the one-year time line proposed in the original bill and negotiation of contracts. Written-only opponent testimony was provided by representatives of UnitedHealthcare Community Plan of Kansas and WellCare Health Plans.

The Senate Committee amended the bill to change dates referring to Medicaid managed care and waiver provisions in place on January 1, 2017, to January 1, 2018; add exceptions in which KDHE would be allowed to modify the manner in which Medicaid managed care was provided; specify bill provisions related to Medicaid managed care contracts included the specific bid event 0005464; change one year requirements to three years in regards to contract term requirements and CMS waiver term extensions; and specify the provisions of the bill would expire on June 30, 2021.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill could negatively affect the State's position for negotiating rates with managed care organizations, affect the negotiation process for KanCare 2.0, and potentially change the mix of current bidders and content of bids for managed care. KDHE estimates the costs associated with the bill would be substantial but cannot be estimated. There could be some slight offset in cost by reducing the scope of work required by the contractor charged with administering the Request for Proposal process. Any fiscal effect associated with the bill is not reflected in *The FY 2019 Governor's Budget Report*.