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Testimony to House Corrections and Juvenile Justice Committee on House Bill 2498

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Madam Chair and members of the Committee, my name is Colin Thomasset, I am the Policy and Research Analyst for the Association Community Mental Health Centers of Kansas, Inc. The Association represents the 27 licensed Community Mental Health Centers (CMHCs) in Kansas who provide home and community-based, as well as outpatient mental health services in all 105 counties in Kansas, 24-hours a day, seven days a week.

In Kansas, CMHCs are the local Mental Health Authorities coordinating the delivery of publicly funded community-based mental health services. The CMHC system is state and county funded and locally administered. In Kansas, you first must be designated by your County to serve as the CMHC to the county residents, then you must secure a license from the Kansas Department of Social and Rehabilitation Services (SRS), to become the publicly funded CMHC and recognized as such by the State of Kansas. Consequently, service delivery decisions are made at the community level, closest to the residents that require mental health treatment. Each CMHC has a defined and discrete geographical service area. Together, they employ over 4,500 professionals.

The CMHCs provide services to Kansans of all ages with a diverse range of presenting problems. Together, this system of 27 licensed CMHCs form an integral part of the total mental health system in Kansas. As part of licensing regulations, CMHCs are required to provide services to all Kansans needing them, regardless of their ability to pay. This makes the community mental health system the "safety net" for Kansans with mental health needs. Collectively, the CMHC system serves over 123,000 Kansans with mental illness.

The Association is supportive of House Bill 2498, which would allow mentally ill offenders to enter into diversion agreements. The bill as written provides a legal framework to divert individuals with mental illness to mental health treatment programs rather than sending them to jail. We view this bill as a positive step towards getting persons with severe and persistent mental illness into treatment and, ultimately, out of the criminal justice system. Data illustrates just how much of an issue mental illness in the criminal justice system has become, with recent research from the Bureau of Justice Statistics finding that 56% of state prisoners having symptoms, or a recent history of mental health problems.[1]

However, while very supportive of this concept, our members (the CMHCs) are concerned about a number of factors related to the implementation of this bill. Funding for treatment of persons with mental illness remains a clear hurdle to successful implementation, with grant funding to CMHCs having been reduced by 65 percent since FY 2008. We were pleased to hear the Chair last week speak to this fact in the Mental Health Caucus. Resources vary across the State, corresponding roughly with population size. The CMHCs in rural areas operate on smaller budgets, with less

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revenue, and increasingly smaller populations with a decreasing tax base. These headwinds create a situation where our rural CMHCs would face a much more difficult time in implementation versus our more urban CMHCs.

Additionally, on the topic of funding, the CMHCs operate on a sliding fee scale that doesn't cover the actual cost of providing mental health treatment. Medicaid rules also present another hurdle in that CMHCs are not allowed to bill Medicaid for court ordered services. So if an offender is eligible for Medicaid, we would not be able to collect those dollars to offset our costs. While the bill stipulates that offenders must pay all fees associated with the program, most offenders referred will not have the resources to pay for the cost of providing the service, and therefore further drain our limited and reduced resources for yet a growing population seeking services.

The devil is certainly in the details of how these diversion programs are implemented. While this bill only lays out the framework, and does not mandate adoption, the Association is doubtful that it will achieve positive impact across the State without funding being properly addressed. The funding needs include resources for staffing as well as for service delivery. We believe a Qualified Mental Health Professional (QMHP) will be needed at each CMHC to serve as the administrator and be a liaison with the District Attorney/Court. We know from our most recent salary survey that the Statewide average salary for a current QMHP in our system is approximately $44,000. That would mean we would need staffing resources in the amount of $1,188,000. We know from Medicaid data that the average annual cost to serve an SPMI adult is approximately $5,000. According to the American Correctional Association, 16% of inmates in local jails suffer from a mental illness. According to Jailnation.com, Kansas' local jail capacity is 6,053. Assuming our jails are at capacity, approximately 970 inmates would have mental illness. If those were all eligible for diversion, the resources needed, on average, would be $4,850,000.

In addition to the funding challenges, the issue of tort protection for CMHCs continues to be a concern. Case law has found that because CMCHs are not named in the Kansas Tort Claims Act, that we are not protected under the governmental immunity law for even work ordered by the courts. There have been efforts in the past around this issue specifically, and unfortunately no action has been taken. The Association supports limited liability protection for CMHCs as a public provider and we support amending the Kansas Tort Claims Act to include CMHCs as an agency of the state, political subdivision or municipality because a significant portion of our funding comes from public funding sources and we are providing a service that is essentially a government-provided or funded service. Without this protection, CMHCs fear there will be increased risk for liability and that will in turn significantly increase malpractice rates, just as a result of taking on this new population.

Madam Chair and members of the Committee, I thank you for allowing me to testify before you and I am happy to stand for any questions.

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[1] Doris J. James and Lauren E. Glaze, "Mental Health Problems of Prison and Jail Inmates," Bureau of Justice Statistics, September 2006, http://www.ojp.usdoj.gov/bjs/abstract/mhppji.htm (accessed September 21, 2009).

Community Mental Health Center Cuts Since FY 2007

1/30/2012

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Mental Health Reform (pays for uninsured/underinsured Kansans who have no other resources - over 70,000 Kansans)

FY	Amount	Impact	Cumulative Impact	% Difference	Cumulative Difference
FY07	$31,066,330				
FY08	$21,874,340	-$9,191,990	-$9,191,990	-29.59%	-29.59%
FY09 (Base)	$21,874,340	-	-$9,191,990	-	-29.59%
FY09 (Revised - Governor's 3% cut to SRS)	$20,074,340	-$1,800,000	-$10,991,990	-8.23%	-35.38%
FY10 Budget Bill	$17,374,340	-$4,500,000	-$13,691,990	-20.57%	-44.07%
FY10 Omnibus Bill	$14,874,340	-$2,500,000	-$16,191,990	-14.39%	-52.12%
FY10 Governor's Allotments	$10,874,340	-$4,000,000	-$20,191,990	-26.89%	-65.00%
FY11	$10,874,340	-	-$20,191,990	-	-65.00%
FY12	$10,874,340	-	-$20,191,990	-	-65.00%
FY13 Governor's Budget Recommendation	$10,874,340	-	**-$20,191,990**	-	**-65.00%**

Totals By Fiscal Year (SGF)	
FY 2008	-$9,191,990
FY 2009	-$1,800,000
FY 2010	-$15,890,809
FY 2011	-$2,300,000
FY 2012	-$9,040,000
FY 2013	-$5,000,000
	-$43,222,799

MediKan - Mental Health (provides medical benefits to people awaiting determination for federal disability benefits)

FY	Amount	Impact	Cumulative Impact	% Difference	Cumulative Difference
FY09 (24 months)	$6,836,999				
FY10 Reduction (reduction from 24 months to 18 months)	$4,176,257	-$2,660,742	-$2,660,742	-38.92%	-38.92%
FY10 Allotment (reduction from 18 months to 12 months)	$3,710,705	-$465,552	-$3,126,294	-11.15%	-45.73%
FY11	$3,710,705	-	-$3,126,294	-	-45.73%
FY12	$3,710,705	-	-$3,126,294	-	-45.73%
FY13 Governor's Budget Recommendation	$3,710,705	-	**-$3,126,294**	-	**-45.73%**

Totals By Fiscal Year (AF)	
FY 2008	-$9,191,990
FY 2009	-$1,800,000
FY 2010	-$22,529,352
FY 2011	-$6,800,000
FY 2012	-$18,800,000
FY 2013	-$5,000,000
	-$64,121,342

Community Support Medication Program (supports persons in need of medications to treat mental illness who are at risk of hospitalization)

FY	Amount	Impact	Cumulative Impact	% Difference	Cumulative Difference
FY09	$1,050,000				
FY10 Omnibus Bill	$489,715	-$560,285	-$560,285	-53.36%	-53.36%
FY11	$489,715	-	-$560,285	-	-53.36%
FY12	$489,715	-	-$560,285	-	-53.36%
FY13 Governor's Budget Recommendation	$489,715	-	**-$560,285**	-	**-53.36%**

Medicaid (PAHP Providers)

	Impact
FY10 Governor's Allotments - 10% Reduction	***-$9,642,773***
SGF Reduction	-$3,004,230
Federal Share Reduction	-$6,638,543
FY11 Medicaid Spending Reduction - SRS directive	***-$6,800,000***
SGF Reduction	-$2,300,000
Federal Share Reduction	-$4,500,000
FY12 Medicaid Spending Reduction - SRS directive	***-$17,000,000***
[illegible]eduction	-$7,240,000
[illegible]al Share Reduction	-$9,760,000
Total	**-$33,442,773**

Non-Medicaid Inpatient Screens

	Impact
FY12 SRS Cut	**-$1,800,000**

Family Centered System of Care

	Impact
FY13 Governor's Budget Recommendation	**-$5,000,000**