

February 16, 2015

The Honorable Daniel Hawkins, Chairperson
House Committee on Health and Human Services
Statehouse, Room 521-E
Topeka, Kansas 66612

Dear Representative Hawkins:

SUBJECT: Fiscal Note for HB 2202 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2202 is respectfully submitted to your committee.

HB 2202 would impose restrictions on audits conducted on Medicaid providers as well as processes and procedures the Kansas Department of Health and Environment (KDHE) must follow when conducting audits of Medicaid providers. The bill would take effect January 1, 2016. Under the provisions of the bill clerical errors discovered in a record or a document during an audit conducted by KDHE could not be considered intent to violate Medicaid rules unless KDHE could prove that intent occurred. The bill would also prohibit KDHE from engaging in provider audits unless the provider is notified at least 30 days prior to the audit. There would be an exception if KDHE determines that beneficiary health and safety is at risk or the provider is engaging in fraudulent activities. The bill would require KDHE to consult with a licensed service provider when conducting an audit requiring clinical or professional judgment. In addition, the bill would prohibit KDHE from using extrapolation to determine improper payments with exceptions, would give the provider 30 days to provide supporting documentation and would require audit findings to be available to the provider no more than 60 days after the conclusion of the audit. The bill also would allow the provider to request an independent review of the audit findings.

HB 2202 would require KDHE to provide free training to providers on how to bill without errors and publish audit protocols to assist providers in developing internal compliance methods. Such audit protocols would not be used to create any substantive or procedural right or benefit enforceable by law or in equity by any person, including a corporation. KDHE would have to establish separate audit protocols for each provider type or category of service. KDHE would be required to consult with a medical or dental professional during the course of an audit. The bill would prohibit KDHE from contracting with an entity to reimburse for auditing services based on a commission or a percentage of recoupments.

KDHE states that additional expenditures of \$630,000 per year will be required for 6.00 new FTE positions to train providers and prepare audit documents. The agency also states that additional expenditures will be necessary for consulting with professional clinicians and a contract with an unaffiliated professional organization with medical review experience for presiding over appeals. The amounts of these additional expenditures cannot be estimated at this time. Finally, KDHE states that revenue from audit recoveries is likely to decrease, but an estimate of how much revenue will be lost cannot be made at this time. Any fiscal effect associated with HB 2202 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Aaron Dunkel, Health & Environment