

January 29, 2018

The Honorable Carolyn McGinn, Chair
Senate Ways and Means Committee – Tuesday, 1/30/2018, 10:30am, Room 548S
Nancy Fontaine, Committee Assistant, 785-296-3775

From: Ernest Kutzley, AARP Kansas Advocacy Director

Reference: SB 300 – Prohibiting Substantial Change to the Kansas Medical Assistance Program without prior legislative approval.

Good morning Madam Chair and Committee Members. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP is a nonprofit, nonpartisan organization with a more than 315,000 members living in Kansas. AARP is dedicated to enhancing the quality of life for all as we age. Thank you for this opportunity to submit written testimony in support of Senate Bill 300.

On January 26, 2018, AARP submitted our comments and concerns on the Kansas KanCare1115 demonstration waiver proposal to The Honorable Alex Azar, Secretary of Health and Human Services. That letter is attached for your review and consideration.

We believe that many of the proposed changes in KanCare 2.0 would adversely impact a large number of KanCare recipients. If implemented, the waiver would likely worsen health outcomes, create significant financial hardship for many Kancare members in need of coverage, increase administrative costs to the state, and result in increased uncompensated care costs for Kansas health providers.

Thank you and members of this committee for the opportunity to submit this written testimony. We respectfully request that this committee vote in support of SB 300.

Thank you.



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January 26, 2018

The Honorable Alex Azar
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

RE: Kansas Section 1115 Demonstration Waiver Renewal Request

Dear Secretary Azar:

AARP welcomes the opportunity to submit comments on the proposed Kansas 1115 demonstration waiver renewal application, known as KanCare 2.0. AARP, with its nearly 38 million members in all 50 States, the District of Columbia, and the U.S. territories, is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

We believe that many of the changes proposed in KanCare 2.0 would adversely impact a large number of KanCare recipients. If implemented, the waiver would likely worsen health outcomes; create significant financial hardship for many KanCare members in need of coverage, increase administrative costs to the state, and result in increased uncompensated care costs for Kansas health providers.

KanCare 2.0 includes a work participation or job search requirement for KanCare beneficiaries—with certain exemptions—as a condition of eligibility. Beneficiaries who are subject to the requirements must either obtain employment or participate in online job search/training for twenty to thirty hours a week in order to maintain their Medicaid coverage. AARP believes that the proposed waiver provision seeking to impose a work requirement is not authorized by Section 1115 of the Social Security Act because it is not “likely to assist in promoting the objectives” of the Medicaid Act. 42 U.S.C. § 1315(a). Specifically, this provision is not likely to assist in promoting the objective of enabling the state of Kansas “to furnish medical assistance [to individuals and families]

whose income and resources are insufficient to meet the costs of necessary medical services and rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care." 42 U.S.C. § 1396-1(1). It would also present an unnecessary barrier to health coverage for a sector of Kansas's population that is most in need of coverage. This includes the many individuals who have recurring periods of illness due to chronic and behavioral health conditions who may be determined not to be exempted from the work or job search/training requirements. Moreover, we are concerned that it may be burdensome for individuals who should be exempt to continually prove they are meeting the requirements, which may lead to inappropriate denials of coverage¹.

Also of significant concern is the lack of detail and clarity on the process for determining how and when a KanCare beneficiary will be assessed for an exemption. It is also unclear how an individual will document that they have met the work requirements. This process will impose new administrative costs on the state, including new staffing needs, to develop or expand a reporting system, verify the accuracy of member reporting, and conduct fact finding hearings. We believe that these costs will ultimately divert resources away from other pressing state priorities.

AARP welcomes the inclusion in the list of qualifying exemptions those beneficiaries who are enrolled in certain home-and community-based services (HCBS) programs and certain caregivers. In addition, AARP believes that any work requirement must include clear exemptions for family caregivers beyond those proposed by the state. Kansas proposes to exempt caretakers for dependent children under six years or those caring for a household member who has a disability, and certain caretakers of KanCare members 65 years and older who meet criteria specified by the State. However, we are concerned that without additional information on what criteria the state will use to determine those exemptions, we are unable to determine the full impact of this proposal. We strongly urge CMS to ensure that beneficiaries who are family caregivers, providing critical care for their loved ones with chronic, disabling or serious health conditions, will be provided an exemption.

In the event these proposed work and training requirements are permitted to be imposed as a condition of participation for KanCare benefits, it will be critical to maintain an individual's due process rights and all existing Medicaid protections. Furthermore, we seek assurances that disputes will be fairly and expeditiously resolved; that individuals will continue to receive adequate notice of state agency actions and a meaningful opportunity to have unfavorable administrative decisions reviewed with reasonable promptness; that coverage of care will continue pending resolution of an appeal; and that Medicaid applicants and beneficiaries will retain their right to request a fair hearing on eligibility determinations and coverage issues, offers of proof, and for request a new assessment if their situation changes.

¹ https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/?utm_campaign=KFF-2017-Dec-Medicaid-work&utm_content=65347856&utm_medium=social&utm_source=twitter&stream=top-stories

AARP is also greatly concerned that Kansas seeks to use this work requirement to implement what appears to be a lifetime limit on the number of months a beneficiary is able to receive Medicaid coverage, as well as lockout period for individuals subject to the work requirement. First, Kansas seeks permission to provide KanCare coverage for a maximum of 36 months to any non-exempt individual who complies with the work requirement. We believe this lifetime limit is arbitrary, fundamentally inconsistent with the objectives of the Medicaid statute, and will likely increase the number of uninsured Kansans. By its terms, the lifetime limits fall most severely on sicker individuals. Instead of improving health outcomes for this population, the lifetime limit will deny these individuals access to preventive and primary care services. Because many of those enrolled in KanCare have chronic illnesses, placing limits on their access to care will result in an inability to get the care and/or medications they need, and ultimately, deterioration of their health status over time. Inconsistent or interrupted healthcare coverage is likely to lead to increased use of more costly alternatives like emergency department visits, in-patient hospitalizations, and, in some cases, institutional placements. Many will be unable to shoulder these higher medical costs, resulting in more personal bankruptcies, more uncompensated care costs for the federal government and for the state, and more cost-shifting to other taxpayers. This is especially true for those who need substance abuse or mental health treatment. These are often chronic illnesses where the need for care is ongoing, and even when successful, treatment often lasts much longer than would be covered by this 36-month limit. Kansas's proposal risks cutting off coverage when individuals need it most.

Setting a lifetime limit on Medicaid eligibility would leave the state ill-equipped to address public health emergencies such as the opioid epidemic or infectious disease outbreaks, or future economic downturns when finding employment with health coverage is a widespread problem. Kansas will have one less tool in its public health arsenal to help persons impacted by the lifetime limit.

AARP is also very concerned about Kansas's proposal to impose a lockout period on any non-exempt individual who is unable to comply with the proposed work requirements. Kansas seeks to provide those individuals with a three month grace period before removing them from KanCare for the remainder of a 36 month period. It is unclear if Kansas will allow those individuals to re-enter the program after those 36 months have lapsed.

We are concerned that a 33 month coverage suspension would have harsh consequences for low-income members, especially those with serious health needs. A long term lockout could adversely affect KanCare member health and increase overall healthcare costs. For example, a member with behavioral health needs may lose access to medication. The coverage gaps created by suspending enrollment will invariably lead to added uncompensated care costs for providers, inability of health plans to manage care over time, and poorer health outcomes for members resulting in health conditions that will be more expensive to treat later.

We thank you for the opportunity to express our thoughts and concerns with this proposal, and we look forward to working with you to make improvements to this waiver request. If you have any questions, please contact Amy Kelbick on AARP's Government Affairs staff at akelbick@aarp.org or 202-434-2648.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a long horizontal flourish extending to the right.

David Certner
Legislative Counsel & Legislative Policy Director
Government Affairs