

HOUSE BILL No. 2535

By Committee on Appropriations

2-20

AN ACT concerning the developmental disabilities reform act; relating to intake and service referral functions; concerning administration of certain functions; amending K.S.A. 39-1804, 39-1805 and 39-1806 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 39-1804 is hereby amended to read as follows: 39-1804. (a) Except as otherwise specifically provided in this act and subject to appropriations of federal and state funds, the secretary, after consultation with representatives of community developmental disability organizations, community service providers, families and consumer advocates, shall implement and administer the provisions of the developmental disabilities reform act in accordance with the following policies. Persons with developmental disabilities shall:

(1) Be provided assistance to obtain food, housing, clothing and medical care; protection from abuse, neglect and exploitation; and a range of services and supports which assist in the determination of individual needs; and

(2) receive assistance in determining their needs; be provided *impartial* information about all service options available to meet those needs; have coordination of services delivered; *have impartial administration and implementation of this act*; be assisted and supported in living with their families, or independently; be assisted in finding transportation to support access to the community; and receive individually planned habilitation, education, training, employment and recreation subject to supports and services available in the community of their choice.

(b) To accomplish the policies set forth in subsection (a), the secretary, subject to the provisions of appropriation acts, shall annually propose and implement a plan including, but not limited to, financing thereof which shall: (1) Provide for an organized network of community services for persons with developmental disabilities; (2) maximize the availability of federal resources to supplement state and local funding for such systems; ~~and~~ (3) reduce reliance on separate, segregated settings in institutions or the community for persons with developmental disabilities; *and (4) to the greatest extent feasible provide for impartial administration and*

1 *implementation of this act, particularly in areas where the community*
2 *developmental disability organization is also a community service pro-*
3 *vider operating in competition with one or more of its affiliates.*

4 (c) The secretary shall report to the legislature the number of persons
5 with developmental disabilities eligible to receive community services and
6 shall make a progress report on the implementation of the annual plans
7 and the progress made to accomplish a comprehensive community serv-
8 ices system for persons with developmental disabilities.

9 (d) The secretary shall prepare and submit budget estimates for the
10 department of social and rehabilitation services to the division of the
11 budget and the legislature and shall establish and implement policies and
12 procedures within the programs and activities of the department so that
13 funds for state-level programs and activities for persons who are devel-
14 opmentally disabled are allocated between services delivered in institu-
15 tions and community services.

16 (e) Subject to the provisions of this act and appropriation acts, the
17 secretary shall administer and disburse funds to each community devel-
18 opmental disability organization for the coordination and provision of
19 community services.

20 (f) The secretary shall establish procedures and systems to evaluate
21 the results and outcomes of the implementation of this act to assure the
22 attainment of maximum quality, *impartiality* and efficient delivery of
23 community services.

24 Sec. 2. K.S.A. 39-1805 is hereby amended to read as follows: 39-
25 1805. (a) In addition to any other power and duty prescribed by law, and
26 ~~subject to appropriations~~ *within the limits of appropriations therefor*, a
27 community developmental disability organization *that is not also a com-*
28 *munity service provider operating in competition with one or more of its*
29 *affiliates, as determined by the secretary*, shall have the power and duty
30 to:

31 ~~(a)~~ (1) Directly or by subcontract, serve as a single point of application
32 or referral for services, and assist all persons with a developmental disa-
33 bility to have access to and an opportunity to participate in community
34 services, except in those circumstances in which the secretary determines,
35 subject to an immediate hearing before the district court located in the
36 county in which the person with a developmental disability resides, partic-
37 ipation in community services is not the appropriate placement for such
38 person because such person is presently likely to cause harm to self or
39 others;

40 ~~(b)~~ (2) provide either directly or by subcontract, services to persons
41 with a developmental disability, including, but not limited to, eligibility
42 determination; explanation of available services and service providers;
43 case management services, if requested; assistance in establishing new

1 providers, if requested; and advocacy for participation in community
2 services;

3 ~~(e)~~ (3) organize a council of community members, consumers or their
4 family members or guardians, and community service providers, com-
5 posed of a majority of consumers or their family members or guardians
6 who shall meet not less than quarterly to address systems issues, includ-
7 ing, but not limited to, planning and implementation of services; and
8 develop and implement a method by which consumer complaints, inter-
9 agency and other intrasystem disputes are resolved;

10 ~~(d)~~ (4) provide, directly or by subcontract, information about affiliate
11 and referral services to persons with a developmental disability whose
12 particular needs can be met in the community or through government;
13 and

14 ~~(e)~~ (5) ensure that affiliates have the option to review referrals and
15 waiting lists on a periodic basis to contact potential consumers with in-
16 formation concerning their services.

17 (6) *organize a funding review committee that will meet not less than*
18 *quarterly to review the utilization of all funds that are provided to the*
19 *community developmental disability organization by the secretary for*
20 *services pursuant to this act, and to advise the community developmental*
21 *disability organization regarding such utilization. This committee shall*
22 *also review and approve any individual funding plans that contain one*
23 *or more of the following: (A) Special tier or individualized rates; (B) one*
24 *or more new services; or (C) a change in the type of funding for an in-*
25 *dividual. This committee shall have at least half of its membership selected*
26 *by the community service providers in the service area and shall include*
27 *at least one member selected by each community service provider with*
28 *20 or more full-time equivalent employees. Nothing in this paragraph shall*
29 *be construed to give this committee any review or approval over funds*
30 *provided by a local taxing authority unless that local taxing authority so*
31 *provides.*

32 (b) *In addition to any other power and duty prescribed by law, and*
33 *within the limits of appropriations therefor, a community developmental*
34 *disability organization that is also a community service provider operat-*
35 *ing in competition with one or more of its affiliates, as determined by the*
36 *secretary, shall have the same powers and duties set out in subsections*
37 *(a)(1) through (a)(6), except that such community developmental disabili-*
38 *ty organization shall provide only by subcontract with an independent*
39 *third party for the following functions for those persons desiring to receive*
40 *community services within the service area of that community develop-*
41 *mental disability organization: (A) The single point of application or re-*
42 *ferred for services; (B) eligibility determination; and (C) the explanation*
43 *of available services and service providers. The secretary annually may*

1 *waive this subcontracting requirement for any of these functions if the*
2 *secretary determines it is not feasible to subcontract with an independent*
3 *third party in a particular community developmental disability organi-*
4 *zation area for such function or functions.*

5 Sec. 3. K.S.A. 39-1806 is hereby amended to read as follows: 39-
6 1806. To carry out the provisions of this act, the secretary shall establish
7 after consultation with representatives of community developmental dis-
8 ability organizations and affiliates thereof, and families and consumer
9 advocates:

10 (a) A system of adequate and reasonable funding or reimbursement
11 for the delivery of community services that:

12 (1) For persons moving from institutions into the community, directs
13 funding to follow in an amount not less than that which is required to
14 reimburse community service providers for services as set forth in such
15 person's plan for transfer from the institution to community services in-
16 cluding expenses of relocation and initiation of services;

17 (2) consolidates federal and state funding sources;

18 (3) requires an independent, professional review of the rate struc-
19 tures on a biennial basis resulting in a recommendation to the legislature
20 regarding rate adjustments. Such recommendation shall be adequate to
21 support: (A) A system of employee compensation competitive with local
22 conditions; (B) training and technical support to attract and retain qual-
23 ified employees; (C) a quality assurance process which is responsive to
24 consumers' needs and which maintains the standards of quality service;
25 (D) risk management and insurance costs; and (E) program management
26 and coordination responsibilities;

27 (b) a system of quality assurance based on standards set out in rules
28 and regulations adopted by the secretary which insures effective service
29 delivery, fiscal accountability and networking cooperation and which al-
30 lows community service providers to present evidence of attainment of
31 national accreditation or compliance with state or federal laws or rules
32 and regulations, or both, to indicate compliance with such standards; and

33 (c) a system of contracting that:

34 (1) Authorizes open and equitable negotiation between contracting
35 parties or their designated agent or agents;

36 (2) authorizes mediation by an independent entity chosen by the par-
37 ties to the contract in the event of contract disputes and if mediation is
38 not completed prior to the end of any existing contract, authorizes an
39 extension of time of such existing contract or entering into a temporary
40 contract;

41 (3) *authorizes a consumer or community service provider, who alleges*
42 *this act is not being administered in an impartial manner by a community*
43 *developmental disability organization that is also a community service*

1 *provider operating in competition with one or more of its affiliates, to*
2 *require binding arbitration regarding that allegation with an independent*
3 *entity chosen by the parties, and further authorizes the arbitrator to*
4 *award reasonable attorney fees and costs if the arbitrator determines that*
5 *this act was not being administered in an impartial manner as alleged;*

6 ~~(3)~~ (4) requires achievement and maintenance of community services
7 standards by community service providers;

8 (4) (5) includes compensation for community services which meet the
9 individualized needs of persons with developmental disabilities for com-
10 munity services; and

11 ~~(5)~~ (6) requires community developmental disability organizations to
12 contract with those affiliates from whom a person with a developmental
13 disability chooses services.

14 Sec. 4. K.S.A. 39-1804, 39-1805 and 39-1806 are hereby repealed.

15 Sec. 5. This act shall take effect and be in force from and after its
16 publication in the statute book.

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