

MINUTES

ROBERT G. (BOB) BETHELL JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES AND KANCARE OVERSIGHT

October 11-12, 2023
Room 112-N—Statehouse

Members Present

Senator Beverly Gossage, Chairperson
Representative Brenda Landwehr, Vice Chairperson
Senator Molly Baumgardner
Senator Michael Fagg
Senator Oletha Faust-Goudeau (October 11)
Senator David Haley (October 12)
Representative Barbara Ballard
Representative Emil Bergquist
Representative Will Carpenter
Representative Susan Concannon
Representative Susan Ruiz

Members Absent

Senator Pat Pettey, Excused
Senator Mark Steffan

Staff Present

Elizabeth Cohn, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Leighann Thone, Kansas Legislative Research Department
Carly Humes, Office of Revisor of Statutes
Eileen Ma, Office of Revisor of Statutes
Jenna Moyer, Office of Revisor of Statutes
Jessie Pringle, Office of Revisor of Statutes
Gary Deeter, Committee Assistant

Conferees October 11

Sean Gatewood, KAN Administrator, KanCare Advocates Network
Sara Hart Weir, Executive Director, Kansas Council on Developmental Disabilities
Emily Tallman, private citizen
Kathy Keck, private citizen
Rick Elskamp, private citizen, parent, and advocate
Colin Olenick, Legislative Liaison, Self-Advocate Coalition of Kansas
Heather Braum, Health Policy Advisor, Kansas Action for Children
Denise Cyzman, Executive Director, Kansas Chapter, American Academy of Pediatrics

Janet Williams, President and Founder, Minds Matter, LLC
Susan Brocklesby, Director of Program Development, Thrive Therapy of Kansas, Wichita Area
Christine Bacci, Program Director, Impact Home Health Agency
Steven Bacci, Chief Operating Officer, Impact Home Health Agency
Dan Goodman, Executive Director, Kansas Advocates for Better Care
Jamie Gideon, Kansas Director of Public Policy, Alzheimer's Association
Kylee Childs, Director of Government Affairs, LeadingAge Kansas
Audrey Schremmer, Kansas Association of Centers for Independent Living
Suzanne Lueker, KanCare Ombudsman and Executive Director, KanCare Ombudsman Office
Steven Anderson, Medicaid Inspector General, Office of the Attorney General
Laura Howard, Secretary for Aging and Disability Services, Kansas Department for Aging and Disability Services (KDADS)
Scott Brunner, Deputy Secretary of Hospitals and Facilities, KDADS
Drew Adkins, Assistant Commissioner, Behavioral Health Services, KDADS
Lacey Hunter, Commissioner, Survey, Certification, and Credentialing, KDADS
Michele Heydon, Commissioner, Long Term Services and Supports, KDADS
Janet Stanek, Secretary of Health and Environment, Kansas Department of Health and Environment (KDHE)
Christine Osterlund, Deputy Secretary of Medicaid, KDHE
Lainey Faulkner, Community Clinical Linkages Project, KDHE
Jane Brown, Plan President, Aetna Better Health of Kansas
Erin Davis, Vice President of Government Affairs, Kooth Digital Health
Michael Stephens, President and Chief Executive Officer, Sunflower Health Plan (Sunflower)
Stephanie Rasmussen, Vice President, Long-Term Care and External Relations, Sunflower
Dr. Teresa Wesley, Chief Medical Officer, UnitedHealthcare Community Plan of Kansas (UHC)
Carrie Kimes, Director of KanCare Provider Relations Network and Strategy, UHC

Conferees October 12

Adam Proffitt, Secretary of Administration, Kansas Department of Administration
Markus Bjoerkheim, Postdoctoral Fellow, The Mercatus Center at George Mason University
Marisa Bayless, Deputy Special Counsel to Chief Justice Marla Luckert
Tanya Keys, Deputy Secretary, Kansas Department for Children and Families
Andy Brown, Commissioner, Behavioral Health Services, KDADS

Wednesday, October 11 All-day Session

Welcome, Announcements, and Approval of Minutes

The Chairperson called the meeting to order at 9:03 a.m. and welcomed members, staff, conferees, and guests.

A motion was made by Representative Landwehr and seconded by Representative Bergquist to approve the Committee minutes for August 2-3, 2023. The motion passed.

Elizabeth Cohn, Senior Research Analyst, Kansas Legislative Research Department provided updates on items from the Quarter Three meeting:

- Trey Kuhlman, Kansas Department of Health and Environment (KDHE), provided follow-up information regarding health care professional shortages and additional maps ([Attachment 1](#)), Home Health Association regulations ([Attachment 2](#)), and follow-up responses to members' previous questions ([Attachment 3](#));
- Kansas Department for Aging and Disability Services (KDADS) provided a map of nursing facilities ([Attachment 4](#)); and
- Nathan Kessler, Kansas Department of Labor, provided follow-up information for members regarding the location quotient and occupational employment and wage statistics ([Attachment 5](#)).

Presentations on KanCare from Individuals, Providers, and Organizations

The Chairperson recognized Sean Gatewood, Administrator, KanCare Advocates Network (KAN). Mr. Gatewood provided testimony on the imbalance among the rates paid for the various Medicaid waivers. He requested that additional ways to reduce the waiting list by 20 percent for individuals on the Physically Disabled (PD) and Intellectual/Developmental Disability (I/DD) waivers be explored as many individuals have been on the wait list for years ([Attachment 6](#)).

The Chairperson recognized Sara Hart Weir, Executive Director, Kansas Council on Developmental Disabilities. Ms. Hart Weir expressed gratitude for the work of the Committee and offered three recommendations:

- Eliminate the wait list;
- Find ways to address the disability workforce shortages and offer incentives to augment the talent pipeline and career pathway; and
- Move toward self-direction and choice for I/DD individuals ([Attachment 7](#)).

The Chairperson recognized Emily Tallman, private citizen. Ms. Tallman provided testimony regarding how the protected income level (PIL) to qualify for the medically needy program is calculated ([Attachment 8](#)). The PIL or spend-down for these individuals is \$495 per month, and the PIL makes no accommodation for groceries, housing, utilities, or other living expenses. She presented statistics and other relevant information to support her statements.

The Chairperson recognized Kathy Keck, private citizen. Ms. Keck recounted her personal story of the complex administrative procedures required to make modifications to her home so her daughter could function more independently and receive needed home services. She recommended a streamlined process and increased oversight to simplify home modifications ([Attachment 9](#)).

The Chairperson recognized Rick Elskamp, private citizen, parent, and advocate. Mr. Elskamp shared his personal story regarding his daughter, who was approved for I/DD waiver services in 2013 and is still waiting to receive appropriate services ([Attachment 10](#)). He shared his concerns in the reductions of I/DD individuals receiving services and the growing wait list. Mr. Elskamp suggested creating a monthly stipend to help individuals on the wait list address expenses related to care.

The Chairperson recognized Colin Olenick, Legislative Liaison, Self-Advocate Coalition of Kansas (SACK). Mr. Olenick requested legislative support regarding supported decision-making as well as Kathy's Bill, which would provide a hiring preference for those with disabilities. He also requested additional funding for SACK to be considered as their funding has been the same for 20 years, but their scope of work has increased ([Attachment 11](#)).

The Chairperson recognized Heather Braum, Health Policy Advisor, Kansas Action for Children. Ms. Braum provided testimony on KanCare and noted that 77 percent of KanCare enrollees are children. She explained that the Children's Health Insurance Program (CHIP) guidelines regarding eligibility are tied to the 2008 federal poverty level in statute. The year has not been updated and results in thousands of children ineligible for KanCare coverage ([Attachment 12](#)). She also shared that almost 36,000 Kansas children ages 0-18 had been discontinued from KanCare for a procedural reason.

The Chairperson recognized Denise Cyzman, Executive Director, Kansas Chapter, American Academy of Pediatrics. Ms. Cyzman expressed gratitude for the rate increase for certain pediatric codes regarding well-child visits. She provided testimony requesting further targeted increases in pediatric codes regarding sick visits and wellness vaccination codes. She advocated for a modest increase in Medicaid rates as a way to reduce the use of more expensive options such as emergency rooms, increase access to care for children, and contribute to economic stimulus ([Attachment 13](#)).

The Chairperson recognized Dr. Janet Williams, President and Founder, Minds Matter, LLC, and a board member of the Brain Injury Association of Kansas. Ms. Williams provided testimony on the Brain Injury (BI) waiver including a request for a rate increase for BI waiver therapies while expressing gratitude for continuing to pay family caregivers. She raised a concern regarding the different processes of the three managed care organizations (MCOs) in providing equipment for those needing care ([Attachment 14](#)).

The Chairperson recognized Susan Brocklesby, Director of Program Development, Thrive Therapy of Kansas, Wichita Area. Ms. Brocklesby provided testimony regarding direct care workers. She recommended two policy changes to make services more effective: 1) Allow a personal-care person and a therapist to be able to work with an individual at the same time; and 2) Eliminate the distinction between behavioral therapy and cognitive therapy. She also recommended increasing the reimbursement for therapy specialists as the present staff reimbursement is comparable to the food service industry which is making therapy service unattractive to qualified individuals ([Attachment 15](#)).

The Chairperson recognized Christine Bacci, Program Director, Impact Home Health Agency (HHA). Ms. Bacci provided testimony on the impact of KDHE enforcement of the regulations recently instituted in home health; she stated that KDHE expressed they would not enforce the regulations due to concerns from providers, but Ms. Bacci indicated they are currently being enforced. The changes in the regulations have created an overwhelming

financial and time burden for the HHA and are reducing the agency's employee base ([Attachment 16](#)). She noted the added costs are threatening the HHA's financial stability.

The Chairperson recognized Steven Bacci, Chief Operation Officer, Impact HHA. Mr. Bacci provided testimony on his agency's diminished employee base and cited how waiting for background checks is disrupting the agency's effective functioning. He expressed the need for timely background checks. Mr. Bacci suggested a process be developed for a provisional license so that if a background check is delayed, the prospective employee can still begin work immediately while waiting for the background check to complete ([Attachment 17](#)).

The Chairperson recognized Dan Goodman, Executive Director, Kansas Advocates for Better Care. Mr. Goodman provided testimony on the future need of long-term care facilities and recommended the re-establishment of targeted case management services for the Frail/Elderly (F/E), PD, and the BI waiver populations so these populations do not enter a long-term care facility prematurely. Additionally he recommended reestablishing the Governor's Conference on Aging to more effectively address the aging demographics ([Attachment 18](#)).

The Chairperson recognized Jamie Gideon, Kansas Director of Public Policy, Alzheimer's Association. Ms. Gideon provided testimony regarding the increasing number of Kansans reaching the age 65 and noted the statistical increase of that population dealing with dementia. She advocated for an increase of \$600,000 in the State General Fund (SGF) for respite care for family members of this population ([Attachment 19](#)).

The Chairperson recognized Kylee Childs, Director of Government Affairs, LeadingAge Kansas. Ms. Childs provided testimony in which she reviewed the issues associated with the Centers for Medicare and Medicaid Services (CMS) Final Settings Rule. She shared that she believes it will have a chilling effect on services for those under the Home and Community-Based Services (HCBS) waiver primarily because of the Minimum Staffing Standards rule that will increase staffing costs in the face of workforce shortages ([Attachment 20](#)). She requested the Committee seek delays in the rule's implementation to prevent "skyrocketing" labor costs and allocate additional funding to accommodate the rule's implementation.

The Chairperson recognized Audrey Schremmer, Kansas Association of Centers for Independent Living. Ms. Schremmer provided testimony and offered recommendations for the Committee's consideration:

- Encourage the MCOs to promote the independent-living philosophy of self-directed care;
- Address the disparity in pay rates across all waivers; and
- Increase funding to reduce the HCBS waiver wait list by 20 percent ([Attachment 21](#)).

The conferees responded to the following questions from Committee members:

- Mr. Goodman clarified that targeted case management is a more personal way of providing directed care ([Attachment 22](#)). He also provided the current status of the Elder Care Book;

- Ms. Tallman stated the spend down requirement for the Medically Needy program allows a person to receive services and be billed for the services, even though they have no funds to pay the bill;
- Ms. Brocklesby stated her agency, Thrive Therapy of Kansas, serves about 200 individuals and state-wide there are about 800 individuals on the BI waiver; [Note: There is not a waiting list for the BI waiver.]
- Ms. Brocklesby stated she was not provided an explanation for why attendant care could no longer be billed with therapy, noting that it was permitted as a COVID-19 exception but is not permitted currently; and
- Ms. Dorf Brunner stated that including basic dental care as a part of Medicaid will provide access that is not currently available or covered only through value-added benefits from certain MCOs. The difference in access to basic dental care has become a confusing barrier.

Written-only testimony was provided by the following:

- Matt Fletcher, Executive Director, InterHab ([Attachment 23](#));
- Mark Schulte, Legislative Co-Chair, Kansas Adult Care Executives ([Attachment 24](#));
- Carrie Wendel-Hummell, Director, Center for Research on Aging and Disability Options, University of Kansas School of Social Welfare ([Attachment 25](#));
- Leslie Anderson, Executive Director, Kansas Association of Area Agencies on Aging and Disabilities ([Attachment 26](#));
- Matt Johnston, Maxim Healthcare Services ([Attachment 27](#)); and
- Tanya Dorf Brunner, Executive Director, Oral Health Kansas ([Attachment 28](#)).

Introduction of KanCare Ombudsman

The Chairperson recognized Suzanne Lueker, KanCare Ombudsman. Ms. Lueker introduced herself and explained she was new to the position. She shared that there has been an increase in inquiries to the office. She said two FTEs (full-time equivalent) positions will be added to the staff, and she plans to increase the presence of the office in western Kansas.

Presentation on the Office of Medicaid Inspector General

The Chairperson recognized Steven Anderson, Medicaid Inspector General, Office of the Attorney General. Mr. Anderson presented an update for the work of the Office of the Medicaid Inspector General (OMIG) and shared the following highlights of his testimony ([Attachment 29](#)):

- The OMIG has completed a performance audit of eligibility determinations for Medicaid beneficiaries on the Transitional Medical Assistance Program (TransMed);
- The OMIG has completed a performance audit of Medicaid beneficiaries with multiple identification numbers;
- The OMIG has initiated three new audits: Medicaid reimbursements to public schools; prior authorization process for Medicaid providers and MCOs; and the process for facilities to be designated as continuous care retirement centers;
- The OMIG conducted a review of COVID-19 test kits to determine if Kansas Medicaid received fraudulent claims for at-home COVID-19 test kits and if Kansas Medicaid paid any fraudulent claims. Kansas Medicaid paid \$0 on the claims; and
- They have provided the fraud, waste, and abuse awareness training developed with KDHE for KDHE and contract employees in 17 sessions to 710 individuals.

Kansas Department for Aging and Disability Services Updates

The Chairperson recognized Laura Howard, Secretary, KDADS. Secretary Howard presented updates on topics requested at a previous Committee meeting ([Attachment 30](#)). She reviewed the progress on an allocation of \$15 million to contract and build a regional acute adult inpatient psychiatric facility. She noted the formation of a South Central Regional Psychiatric Hospital Advisory Panel and the appointments to the panel. The panel will gather information and make recommendations regarding workforce development and will propose an operating model and statutory changes needed.

The Chairperson recognized Scott Brunner, Deputy Secretary for Hospitals and Facilities, KDADS. Mr. Brunner provided testimony on the number of vacancies at each state hospital, updates on the alternative programs to the state hospitals, and the number and occupancy of adult inpatient psychiatric beds in Kansas. He said lifting the moratorium at the Osawatimie State Hospital is on schedule, and he provided details to show how 2022 HB 2508 (now KSA 22-3303) has modified and modernized the forensic competency statutes by allowing more flexibility in competency determinations. He noted a contract with Wheat State Healthcare to coordinate competency services provided by Community Mental Health Centers. He provided the current budget impact from two 2023 legislative initiatives (SB 228 and HB 2184) that directed KDADS to reimburse counties for costs related to delays in admission to Larned State Hospital or Osawatimie State Hospital.

The Chairperson recognized Drew Adkins, Assistant Commissioner, Behavioral Health Services, KDADS. Mr. Adkins presented testimony regarding the status of the Certified Community Behavioral Health Clinics (CCBHCs) and that four more clinics have completed the certification process. In addition, the agency is working to integrate the Mobile Crisis model into the CCBHCs. He provided a map to show CCBHC progress. Mr. Adkins then outlined a timeline to trace the development of a Client Assessment Referral and Evaluation Project with a request for proposal (RFP) scheduled for December 2024.

Mr. Adkins reviewed the process for excluding fentanyl test strips from the definition of drug paraphernalia (2023 SB 174), a change which has allowed the state to receive a \$233,610 federal grant for test strip distribution. He provided an update on the wait list (98 individuals) for Psychiatric Residential Treatment Facilities (PRTF), explaining some beds were not being filled because of staff shortages. He said the agency is monitoring the MCOs to determine if the Serious Emotional Disturbance (SED) waiver is being accurately applied.

The Chairperson recognized Lacey Hunter, Commissioner, Survey, Certification and Credentialing, KDADS. Ms. Hunter provided testimony on the licensure inspections of PRTFs and the various nursing staff courses and certification. She traced the changes regarding long-term care facility ownership, bed closures, and bed openings. Responding to a previous query, she explained shared licensing for Shared Living Providers is not permitted under the I/DD waiver.

The Chairperson recognized Michele Heydon, Commissioner, Long-Term Services and Supports, KDADS. Ms. Heydon provided testimony on nursing facilities, noting that none were closed or opened during Quarter Three 2023, and CMI (Case Mix Index) values will vary more widely when the CMS reimbursement system changes from RUG (Resource Utilization Group) to PDPM (Patient-Driven Payment Model). She commented on the recent legislative initiative to address rate setting and outlined the activities of the PEAK (Promoting Excellent Alternatives in Kansas) Advisory leadership.

Ms. Heydon provided information regarding the gatekeeping numbers at the ICF (Intermediate Care Facilities), the addition of a Dementia Services Program Manager, the year's HCBS waiver projects, and the status of each of the seven waiver renewals and the FMAP (Federal Medical Assistance Percentage) enhancement projects. She concluded her testimony by updating members on the proposed Community Supports waiver and referenced an extensive appendix to supplement waiver information.

The conferees responded to the following questions from Committee members:

- Mr. Brunner stated that it is projected the State will spend \$40 million on contract labor for Larned State Hospital this year. Reimbursements to hospitals for competency hearings occur within the month received. He clarified there is \$5 million allotted for involuntary commitment needs while waiting for transfer but there is not a cap on reimbursement to counties for involuntary commitments held pending competency evaluations;
- Ms. Hunter did not have the raw data on new beds and net closures of long-term care facilities for the last five years immediately available but would provide it to the Committee;

- Ms. Heydon stated the current wait list time for the PD waiver is approximately two years. She noted the wait list for the PD waiver differs from the I/DD waiver because the population is more transitory;
- Ms. Heydon clarified that the nursing facilities Medicaid monthly average caseload is representing fewer patients, not fewer Medicaid beds;
- Ms. Heydon stated that it is a decision of the individual's person-centered planning team to remove someone from the BI waiver;
- Mr. Adkins stated that KDADS is hearing that the reason for unused PRTF beds is most likely a result of staffing shortages but would need to confirm the reasons by asking the PRTFs directly;
- Ms. Heydon stated that a wait list occurred for the BI waiver because the HCBS waivers exist to provide individuals with more community support and avoid admission to long-term care facilities if possible. She noted that they are working on the current language to address concerns in the forthcoming renewal in 2024; and
- KDADS was asked to review two questions to provide an update at the next meeting:
 - How is the process of connecting with Missouri regarding expediting the Community Supports waiver for I/DD proceeding; and
 - What options are available for incarcerated individuals with mental health issues? What happens, or what services are offered, after conviction? Does KDADS work with the Kansas Department of Corrections (KDOC) to assist these individuals?

Lunch

The Committee recessed for lunch at 11:46 a.m. and was called back to order at 1:15 p.m.

Kansas Department of Health and Environment Update

The Chairperson recognized Janet Stanek, Secretary of Health and Environment, KDHE. Secretary Stanek provided an update on the expiration of the current MCO contracts and the initiation of an RFP that was released on October 2, 2023 ([Attachment 31](#)). She traced the timeline used by the agency for RFP development. She responded to a question from the Committee, stating that KanCare enhancements are measured by milestones and regular review of each enhancement.

Secretary Stanek then introduced Christine Osterlund, Deputy Secretary for Agency Integration and State Medicaid Director, KDHE. The Chairperson recognized Ms. Osterlund. Ms. Osterlund presented testimony on the Medically Needy program, Medicaid Adult Dental

Coverage, and the CMS Medicaid and CHIP Core Set Reporting Final Rule. She explained the Final Rule as introducing quality measures for Medicaid and Home Health recipients to assure improved quality of health care. The rule will require additional data to meet the requirements of the rule. She responded to questions on the Final Rule, stating the additional data will add information regarding the various Medicaid populations, and medical need is determined after a person is approved for Medicaid. She clarified the spend down for the Medical Needy program is calculated based on an individual's current income.

Ms. Osterlund reported the number of KanCare beneficiaries continues to decrease as a result of the “unwinding” from the termination of the Public Health Emergency provisions which allowed individuals to continue on Medicaid without an annual review of continued eligibility. She reviewed the current MCO data regarding processed and denied service claims and those considered “clean” claims, and she commented on the profit/loss statements of the MCOs—Aetna, Sunflower, and United Healthcare. She noted the call metrics for the Customer Service Center and reviewed KDHE efforts to recruit staff for vacant positions.

Ms. Osterlund outlined the provisions of the automatic renewal process done administratively based on reliable information for the member. She explained the *ex parte* process for an automated renewal (also known as passive or administrative renewal) includes reviewing data income matches for each individual member rather than the household income. She noted this is a change to the process which is estimated to impact about 10,000 Medicaid members who have lost eligibility. She provided specific data to show current unwinding status, Medicaid eligibility applications, and Call Center metrics, sharing that the average call wait time was reduced from 43 minutes in April 2023 to 1 minute in September 2023.

Ms. Osterlund responded to questions from the Committee as follows:

- She did not have the data that will be collected for the Core Sets to be in compliance with the Final Rule but will provide it to the Committee;
- The goal for the wait time at the call center is one minute;
- The Medically Needy program has a six month approval period so a member will have 2 spenddown periods in a 12-month time frame as well as an annual review. She clarified a spenddown is when medical expense was accrued by the member in the time frame but it does not mean the medical debt was actually paid by the member in the time frame. Medicaid will not pay the spenddown medical expense if the member qualifies for Medicaid during the time period. KDHE has a tracker for the spenddown. She acknowledged that community or family assistance may be needed to pay the medical expense and also acknowledged there do not appear to be any community or staff resources for assisting individuals in the Medically Needy program in understanding where they are in the spenddown calculation;
- The *ex parte* process for Medicaid eligibility renewal is estimated to positively impact about 10,000 members, with 121 of those being adults and the remainder being children;

- The Medicaid application process for pregnant women is expedited and takes about 7 to 12 days. Once a woman is on Medicaid for pregnancy, she is able to receive benefits for 12 months postpartum. The application process for family medical assistance currently takes about 28 days, and long-term care and HCBS applications take about 30 days. Ms. Osterlund stated the average application processing time is well below 45 days for all application types;
- Ms. Osterlund did not have the data regarding the FMAP dollars received during the pandemic versus how much was spent during the same time period. She will provide it at a later time to the Committee; and
- Medicaid enrollment was just over 540,000 prior to the unwinding, and enrollment was about 412,000 before the COVID-19 pandemic.

The Chairperson recognized Lainey Faulkner, Section Director, Community-Clinical Linkages, Bureau of Health Promotion, KDHE. Ms. Faulker outlined the Community-Clinical Linkages programs, which strive to improve health within a community ([Attachment 32](#)). The programs focus on diabetes, cardiovascular disease, dementia, and WiseWoman, the latter a team-based screening and referral for women ages 35-64. She provided details regarding each program. Future areas of focus will deal with social determinants of health, team-based care, new coalitions, and multi-directional referral.

KDHE also provided an executive summary of their 2023 report ([Attachment 33](#)).

Managed Care Organizations Updates

The Chairperson recognized Jane Brown, Plan President, Aetna Better Health of Kansas (Aetna). Ms. Brown introduced Erin Davis, Vice President of Government Affairs, Kooth Digital Health Plan, who is assisting Aetna with an online mental health and well-being support program, Kooth, to improve access and outcomes for young people ([Attachment 34](#)). Ms. Brown commented the program is considered the gold standard for providing early intervention for youth mental health issues. She noted the increasing rates of suicide among youth (second cause of death for Kansas youth, a 64 percent increase in 15 years) as well as an increase in alcohol-related death among youth. Kooth is a personalized, proactive, and accessible digital support system that focuses on self-help. Ms. Davis reviewed the cost-benefit, outcomes, and impact of the program that includes chat-based counseling by licensed counselors and a data-governance framework. Responding to a question, Ms. Brown replied the app is used more at home than at school.

The Chairperson recognized Michael Stephens, President and Chief Executive Officer, Sunflower Health Plan (Sunflower). Mr. Stephens introduced Stephanie Rasmussen, Vice President, Long-Term Care and External Relations, Sunflower. Ms. Rasmussen referenced a video of Kevin Olson, a motivational speaker, as an example of the kind of supports provided by Sunflower ([Attachment 35](#)). She also referenced a partnership with InterHab to create a series of videos highlighting the importance of direct-support care. She noted the distribution of 21,000 bottles of water in 22 counties during the August heat wave and the donation of backpacks, school supplies, and shoes at dental offices and vaccination events in Kansas City.

The Chairperson recognized Dr. Teresa Wesley, Chief Medical Officer, United Healthcare Community Plan of Kansas (UHC). Dr. Wesley reviewed some of the value-added benefits provided by UHC ([Attachment 36](#)) which are:

- A mobility collaborative in Johnson County to provide employment support for members through transportation services; and
- Education services to prepare for a GED, learn computer coding, or develop resume-writing skills.

Dr. Wesley cited the results of the coding classes and provided a personal story to illustrate this success. Responding to a question, she replied a student receives certification, such as Certified Professional Coder, upon completing the coding course.

Responses from State Agencies and Managed Care Organizations on Unresolved Issues Spreadsheet

The Kansas Legislative Research Department provided a spreadsheet of the unresolved issues from previous Committee meetings ([Attachment 37](#)).

The Chairperson recognized Ms. Heydon, KDADS. Ms. Heydon presented the status of unresolved issues related to KDADS identified at previous Committee meetings.

The Chairperson recognized Carrie Kimes, Director of KanCare Provider Relations Network and Strategy, UHC. Ms. Kimes presented the status of unresolved issues related to the three MCOs identified at previous Committee meetings.

The Chairperson recognized Ms. Osterlund, KDHE, to be available for questions as all items for KDHE have been resolved.

The Chairperson identified that the Department for Children and Families (DCF) had provided a written-only response.

Committee members reviewed specific items and by consensus agreed the following items can be considered closed:

- #19 regarding hold times at the DCF Lenexa Office;
- #20, 21, 22, 23, 24, and 25, regarding BI waiver data; and
- #26 and 27, regarding MCO responses about their members on the BI waiver.

Committee members agreed by consensus to keep the following items open for further attention:

- #12, regarding the Sedgwick County State Hospital development, the Advisory Panel that has been appointed, and the development of a schematic design for the proposed building;
- #14, regarding community support as an alternative to incarceration;
- #15, regarding adoption of language for Assistive Services similar to Technology First;
- #16, regarding continuing to monitor the KAMIS (Kansas Assessment Management Information System) program to assure reports are accurate and cover all relevant recipients of waiver services;
- #17, regarding Applied Behavior Analysis therapy; and
- #18, regarding access to respite care, particularly with respect to the TA waiver.

Committee members agreed by consensus to add the following item for further attention:

- What is KDADS doing to decrease the number of Kansans on the BI waiver who do not receive therapy services.

Adjourn

The meeting was adjourned at 3:10 p.m. The next meeting is scheduled for October 12, 2023.

**Thursday, October 12
All-day Session**

Welcome

The Chairperson called the meeting to order at 9:00 a.m. and welcomed members, staff, conferees, and guests.

Request for Proposal Process

The Chairperson recognized Adam Proffitt, Secretary of Administration. Secretary Proffitt presented testimony which noted the expiration of the MCO contracts on December 31, 2024, and reviewed the procurement process for a new contract ([Attachment 38](#)). The procurement timeline has a bid closing date of January 4, 2024. After an extended evaluation of the bids, the negotiation of a contract will begin and the planned date for a contract is March 22, 2024. Implementation and readiness reviews will occur after the contract is signed and the go-live date is January 1, 2025. Secretary Stanek and Secretary Proffitt responded to questions:

- The RFP requires the core team for each MCO to be officed near Topeka. Other offices may be scattered across the state;
- The amount and terms of the bond issue for MCOs will be confirmed and provided;
- The RFP includes a performance measures focus on quality more than quantity. It identifies dedicated resources be allocated to monitor performance measures;
- The move from the 1115 waiver to the 1915c waiver will occur in 2024. The new contracts will not be under the present waivers;
- The RFP focuses on a whole-person support model for medical services. CMS regulates third-party interests;
- RFP information is screened so proprietary information is not made public;
- Secretary Stanek noted there have been a number of changes in health care during the current contract and stated that from her perspective, health care is more complex today than it was five or ten years ago, particularly in terms of how behavioral health is integrated into primary care;
- The costs for the new contracts have not been determined; and
- Capitation rates and case loads are both considered in building the rate structure.

Members made the following comments regarding the RFP:

- The enhancements seem broad and offer little specific information;
- It is important not to give too much weight to the social determinants of health except as value-added benefits;
- It will be helpful to compare the costs of the RFP with the cost information in other states; and
- Do not ignore the relationships that have been built by the present MCOs. as it is an important factor in assuring continuity of care.

Other States' Action on Mental Health

The Chairperson recognized Markus Bjoerkheim, Mercatus Center at George Mason University. Mr. Bjoerkheim presented testimony on what other states are doing to address mental health ([Attachment 39](#)). He commented on the importance of focusing on high-risk communities and offered a variety of approaches states have taken, such as expanding

prescription authority to psychologists and nurse practitioners, enhancing telehealth, and utilizing CCBHCs. He cited states using these identified resources and offered evidence of their effectiveness. He referenced the Psychology Interjurisdictional Compact (PSYPACT) used in 36 states that allows services across state boundaries. [Note: Kansas has been an active member of PSYPACT since January 2022.] Responding to questions, he replied the 988 hotline early intervention currently has too little data from which to draw conclusions about its effectiveness. Members requested more specific information regarding other states' mental health activities.

Specialty Courts Update on Recommendations of the 2020 and 2021 Special Committees on Kansas Mental Health Modernization and Reform

The Chairperson recognized Marisa Bayless, Deputy Special Counsel to Chief Justice Marla Luckert, Kansas Judicial Center. Ms. Bayless provided testimony regarding recommendations involving the Judicial Branch made by the 2020 and 2021 Special Committees on Kansas Mental Health Modernization and Reform ([Attachment 40](#)). She noted the recommendation of the Kansas Criminal Justice Reform Commission (2021) to establish special courts to allow *ex parte* communication directly to a judge by a probation officer or treatment provider. She reported from 2009 through 2021, rules and regulations were promulgated to establish standards and administration of specialty courts in Kansas. Judicial districts are encouraged to establish specialty courts and allow venue transfer, and in 2023, the Judicial Branch received a federal grant which provided for the hiring of a state-wide specialty court coordinator.

Ms. Bayless also referenced a multi-branch community of practice delegation embracing the three branches of state government created to reduce barriers and offer supports for the Kansas mental health system. She commented 15 of the 31 judicial districts are participating.

Break

The Committee recessed for a morning break at 10:55 a.m. and was called back to order at 11:00 a.m.

Department for Children and Families Update on Recommendations of the 2020 and 2021 Special Committees on Kansas Mental Health Modernization and Reform

The Chairperson recognized Tanya Keys, Deputy Secretary, DCF. Ms. Keys provided testimony to update the Committee on recommendations from the 2020 and 2021 Kansas Special Committees on Mental Health Modernization and Reform ([Attachment 41](#)). She reported that in FY 2023, DCF added funding for an additional full-time position for each child placing agency to augment recruitment for new licensed foster homes. The agency also launched a financial framework to create a network of providers to reserve beds for emergency placement of a foster child as well as creating programs for supplemental training (Recommendation 3.3).

Ms. Keys traced the agency's response to 2023 HB 2021 by adding a definition of "behavioral health crisis" to the Child In Need of Care Code (KSA 38-2201 through 38-2283). The agency is working with KDOC to allow community supervision resources for juvenile offenders. DCF and KDOC regularly share data for management information

(Recommendations 8.4 and 7.5), and DCF also actively participates in the Mental Health Intervention Team (MHIT) program (Recommendation 2.8). Ms. Keys commented on other pertinent DCF programs: Implementation of a pilot Parent/Youth Facilitation Program in Saline and Wyandotte Counties for students at risk of truancy, expansion of a state-wide Multisystem Treatment (MST) to prevent a child from going to foster care, planning for a Functional Family Therapy Intervention Team with KDOC, and creating a Children's Behavior Interventionist with Medicaid funding for services for youth ages 3-20. She also referenced a Team Decision Making tool used in Iowa.

Ms. Keys responded to Committee questions:

- There are currently 17 child-placement agencies in Kansas;
- There are various tools for measuring outcomes to improve foster care supports;
- Currently, there are about 2,300 children in foster care; another 300 are in group homes. Others are staying with relatives or have been placed in a PRTF; and
- The MHIT program is funded through the State Department of Education.

Ms. Keys also reviewed the issue of call hold wait times in the unresolved issues spreadsheet. Ms. Keys stated most of the calls affected are typically regarding economic supports such as food assistance, and hold times in August and September were still about 3 hours. Individuals are also able to seek assistance through the web portal or in person. DCF will continue to monitor and will provide an update at the appropriate time.

Lunch

The Committee recessed for lunch at 11:35 a.m. and was called back to order at 1:00 p.m.

Kansas Behavioral Health Indicators Dashboard Demonstration

The Chairperson recognized Andy Brown, Commissioner, Behavioral Health Services, KDADS, who demonstrated the agency's Behavioral Health Dashboard (available at <http://kbhid.org/>) which is designed to help monitor behavioral health indicators state-wide. He demonstrated how an individual would use various points of information to build a report at the county or state level. He responded to questions, saying KDADS contracted with Greenbush to build the dashboard, that the system is interactive, and the data lag time varies depending on the source.

Mr. Brown also provided follow-up information regarding services available to incarcerated individuals. Mr. Brown clarified that a person who is incarcerated is not eligible to receive Medicaid. Medical services including behavioral and mental health services are provided by KDOC. However, KDADS does have a relationship with KDOC regarding intervention efforts. Once a person is released they are again eligible to apply for Medicaid. Mr. Brown responded to questions and indicated that KDADS does work with individuals in county jails and referenced that the CCBHCs also offer coordinated care for counties.

Committee Comments and Recommendations

The Chairperson invited Committee members to offer recommendations that will help the 2024 Legislature address important issues. It was agreed some recommendations would be better served through the unresolved issues spreadsheet and others directed toward the Legislative Session. Committee members offered approval by consensus on each recommendation and additions to the unresolved issues spreadsheet.

Recommendations to the 2024 Legislature

The Committee provided the following recommendations to the 2024 Legislature:

- KDADS should report to the 2024 Legislature and the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight (Bethell Oversight Committee) on mobile competency pilot projects including input from representatives from the counties participating in the pilot projects on best practices for outpatient forensic competency evaluation and treatment;
- KDADS and the CCBHCs should report to the 2024 Legislature and the Bethell Oversight Committee on the availability of crisis services or other community-based services that could be provided to patients waiting in an emergency departments, acute in-patient hospitals, or other settings for admission to a state hospital or State Institutional Alternative (SIA) hospital;
- The Interim Committee Report from the 2023 Special Committee on Child Care Centers and Child Care Homes should also be directed to the Bethell Oversight Committee and presented at the next available quarterly meeting after the report is published;
- The CHIP eligibility income guidelines should be amended in statute, as currently described in 2023 HB 2050;
- The Social Services Budget Committee should work with KDHE and stakeholders to include coverage for adult dental exams and cleanings in KanCare;
- The Elder Count and Long-Term Care Resource Guide should be updated, maintained, and made available to the public digitally; and
- The Community Supports waiver should be implemented.

Failed Recommendations

- The Legislature should consider Medicaid expansion;
- The Governors Conference on Aging be re-established; and

- A report on the finding of the Social Services Budget Committee should be made to Senate Committee on Public Health and Welfare regarding providing adult dental services.

Unresolved Issues Spreadsheet Additions

The Committee agreed to add the following items to the unresolved issues spreadsheet:

- What services are reimbursable by Medicaid or private insurance in the hospital in-patient setting for a patient screened and waiting for a state hospital admission? Are there obstacles to hospitals billing for services for a patient waiting for state hospital admission while still admitted to an in-patient hospital or in an emergency department;
- How can CMHCs/CCBHCs coordinate with hospitals to deliver services to people waiting for admission to state hospitals or SIAs? What services could CMHC/CCBHCs provide inside an in-patient hospital, jail, or other location where patients wait for state hospital admission? What potential eligibility issues would we encounter with individuals that have Medicaid;
- What statutory or policy changes are needed to reduce wait times or to provide mental health treatment to defendants while they are waiting for competency evaluation or treatment;
- In August 2023, CMS required states to submit stratified data in core sets. The Committee would like KDHE to provide a breakdown of what stratified data is included in each core set;
- At what point do individuals go off the BI waiver because of no additional improvement;
- Request updates from the Judicial Branch on the use of specialty courts for family treatment;
- Request KDHE to review the testimony regarding home health rules and regulations enforcement and explain the rule and regulation connection to the Committee;
- There are 2081 on the waiting list for the PD waiver. KDADS should investigate the causes of the increase to the waitlist and what populations are being impacted and provide that information to the Committee;
- There are 5,000 on the I/DD waiting list. Are there ways to expedite the Community Supports waiver;

- Even if the waitlist could be eliminated, how can the workforce be increased to accommodate? What is the career path to keep and retain direct service providers;
- How do we increase the availability of child care facilities and child care slots? What is preventing Kansans from having them now;
- Request KDHE to review the performance audit on the TransMed program completed by the Office of Medicaid Inspector General and develop processes and procedures to address the audit;
- What is the benefit to the individual to have case management services on the FE and PD waivers and what would be the cost to add those services;
- DCF should report on the investments in foster home recruitment and retention by increasing funding for supplemental training on behavioral health needs and to support serious emotional disturbance (SED) youth; [*Note:* This item initially passed as a recommendation to the 2024 Legislature. However, a vote to rehear the item passed. The second motion for the item to be a recommendation failed. A third motion to add the item as a issue on the unresolved issues spreadsheet passed.] and
- Request KDHE determine the root cause of antipsychotic drug use trends, review the measurement as compared to other states, and explain the change in state rankings.

Adjourn

The meeting was adjourned at 3:41 p.m. The Chairperson thanked the Committee members for their participation. No further meeting was scheduled.

Prepared by Gary Deeter
 Edited by Elizabeth Cohn and Leighann Thone

Approved by the Committee on:

December 26, 2023

(Date)