



June 18, 2024

TO: Representative Brenda Landwehr and
Members of the Bob Bethell Joint Committee on HCBS and KanCare Oversight

FR: Matt Fletcher, Executive Director, InterHab

RE: IDD Service Network Capacity Challenges

Chair Landwehr and members of the committee, thank you for the opportunity to provide written comments for the June 24th hearing of this Committee. We are hopeful that future hearings of this committee will once again allow stakeholder opportunities to address the committee in person.

The Kansas Legislature made historic strides during its 2024 session in strategically addressing the IDD waiting list. Funds were added to bring 500 persons (approximately 10% of the list's total number) into service in the next fiscal year. The legislature also directed that the IDD waiting list be capped at 4,800 persons during the next fiscal year, thereby keeping the list from growing further. The Kansas IDD community-based service network applauds these actions as necessary initial steps to eliminate the IDD waiting list.

However, these initial steps will ultimately prove unfruitful if capacity needs of the IDD service network go unaddressed. In 2022, InterHab conducted a survey of IDD waiting list individuals and found that:

- *Nearly 40% of persons on the waiting list identified as needing Day Services immediately upon exiting the list.*
- *More than 28% identified as needing Residential Services such as group home placements or Independent Living supports immediately upon exiting the list.*
- *More than 86% will need immediate assistance with mental health and behavioral health supports upon exiting the list.*

Each of the above needs represents significant required capacity development in order to provide those services to new individuals that come into the system. IDD service providers struggle today with providing all needed services to those already within the network. Efforts to bring new persons into service must be accompanied by the resources necessary to develop additional required capacity. Failure to do so will not only result in the inability to successfully eliminate the waiting list, but will also damage the IDD service network's ability to adequately support those already in services.

While the legislature has made progress in addressing IDD provider capacity challenges in recent years, analysis of funding for the system reveals that we are still far from where we need to be. Consider that:

- *The IDD service network is still more than 14% behind inflationary increases (CPI) since the year 2000.*
- *The HCBS IDD Waiver reimbursement formula has not been adjusted since 1999, resulting in reimbursement lagging behind costs of providing services as much as 40% due to changes in how services are provided since that formula was last updated.*

Further, the IDD service network faces fiscal pressures due to several federal mandates that will prove costly for IDD service providers to comply with, such as the Medicaid HCBS Settings Final Rule and conflict of interest concerns raised by the Centers for Medicare and Medicaid Services (CMS). The Medicaid HCBS Settings Final Rule will require IDD service providers to modify how they provide services in ways that will require lower staffing ratios and greater diversity in service settings leading to more costly service provision.

Additionally, CMS has raised concerns regarding potential conflict of interest within the IDD service network, in both the state's Community Developmental Disability Organization (CDDO) and Targeted Case Management (TCM) systems. Potential changes to these systems will also prove costly.

Finally, the United States Department of Labor's recently announced changes to overtime exemptions will bring greater costs to IDD service providers in required adjustments to wages for significant portions of their workforce. The American Network of Community Options and Resources (ANCOR) has estimated that compliance with overtime exemption changes could cost IDD service providers across the U.S. more than \$1 billion in the first year of compliance.

Eventually, the system's HCBS IDD Waiver reimbursement formulas will need to be adjusted to reflect costs of providing services in the modern era. However, in the meantime an inflation-based adjustment to IDD funding must be adopted for the system to keep pace with rising costs of business as well as serve additional persons off the waiting list. Based on last year's inflationary increases, a 3.5% increase to the HCBS IDD Waiver would require \$8.7 million SGF. That amount would be matched with \$13 million in federal funds to bring \$21.7 million in new funds to the IDD system at a critical time.

We respectfully request that the legislature keep these challenges in mind when considering next steps in addressing the IDD waiting list, and that further funds to address the list be accompanied by resources to build capacity within the IDD service network.