

## **Kansas Mental Health Coalition 2-24-18**

Last Thursday was Turnaround Day at the Kansas Legislature. This is the deadline for non-exempt bills to pass the first chamber (known as the house of origin), whether introduced in the House or the Senate. *Exempt bills are those that have been introduced, referred to, or acted on by exempt committees: House and Senate Federal and State Affairs, Senate Ways and Means, Senate Assessment and Taxation, House committees on Calendar and Printing, Appropriations, Taxation or select committees of either house when so authorized.*

**HB 2501**, AN ACT concerning the Kansas department for aging and disability services; disposition of fees; creating the health occupations credentialing fee fund; Fees collected under provisions of the Adult Care Home Licensure Act, Dietitians Licensing Act, Operator Registration Act, and the act regulating speech-language pathologists and audiologists would be deposited into the Fee Fund instead of the State General Fund (SGF). Committee on Health and Human Services passed 2-13-18. House passed 122-0 on 2-21-18. Senate referred to Public Health and Welfare.

### **HB 2517- Lottery Vending Machines and funding for crisis and clubhouse behavioral health services.**

AN ACT concerning gaming; dealing with lottery ticket vending machines and revenues derived therefrom; dealing with instant bingo vending machines; transfers to community crisis stabilization centers fund and clubhouse model program fund of the Kansas department for aging and disability services. Funding would be based on income from vending machines, transferring 75% from the lottery operating fund to the community crisis stabilization centers fund of the Kansas department for aging and disability services and 25% from the lottery operating fund to the clubhouse model program fund of the Kansas department for aging and disability services. Total transfers shall not exceed in the aggregate \$4,000,000 in fiscal year 2019, and shall not exceed in the aggregate \$8,000,000 in each of the fiscal years 2020, 2021, 2022 and 2023. At present, due to the veto of this legislation during the 2017 session, crisis and clubhouse funding are being carved from the mental health grant restoration funds (Mental Health 2020). Introduced by Rep. Brenda Landwehr. Hearing held in House Federal and State Affairs February 15.

**HB 2549**, AN ACT concerning mental health services; determinations of competency; commitment for treatment; Larned state hospital and Osawatomie state hospital catchment areas. The bill would allow a court in misdemeanor and felony cases to commit a defendant to the state security hospital or any appropriate state, county, or private institution or facility for a psychiatric or psychological examination and report to the court for determination of competency to stand trial. Additionally, if a defendant who is charged with a misdemeanor or felony is found incompetent to stand trial, the bill would require the court to commit the defendant for evaluation and treatment to any appropriate state, county, or private institution or facility. The bill would also add "facility" to the list of places where a defendant may be committed for evaluation and treatment and make technical amendments, including a change in reference from the Secretary of Social and Rehabilitation Services to the Secretary for Aging and Disability Services. Under current law, defendants charged with a felony may be committed only to a state security hospital or any county or private institution for examination and report to the court and, if found incompetent to stand trial, are to be committed only to a state security hospital or any appropriate county or private institution for evaluation and treatment. Under current law, a defendant charged with a misdemeanor may be committed only to any appropriate state, county, or private institution for examination and report and, if found incompetent to stand trial, may be admitted only to these same institutions for evaluation and treatment.

Neutral testimony was provided by representatives of the Association of Community Mental Health Centers of Kansas, Inc., Kansas Association of Counties, Kansas Mental Health Coalition, and Kansas Sheriffs' Association. The representatives providing neutral testimony generally stated support for providing some flexibility to KDADS in order to improve treatment access, especially if both Osawatomie State Hospital (OSH) and Larned State Hospital (LSH) provide the competency evaluation services resulting in an increased capacity of the system and reduced wait times. However, they expressed concern that removing the catchment areas from statute could result in moving mental health resources farther away from communities, reducing access, complicating discharge efforts, increasing costs to 2-2549 counties, and impacting the availability of law enforcement personnel to serve smaller counties while also transporting individuals to the state mental health hospitals. No opponent testimony was provided. The House Committee amended the bill by removing the section containing definitions (KSA 2017 Supp. 39-1602), including the definitions for the OSH and LSH catchment areas, and removing references to the statute from the title and the repealer section of the bill. As a result of this action, the bill would make no changes to the current language of KSA 2017 Supp. 39-1602, which would remain in statute.

Committee on Health and Human Services introduced. Referred to Judiciary 1-25-18. Re-referred to Health and Human Services 1-29-18. Hearing 2-7-18. Committee Passed as Amended 2-20-18. House passed 117-0 on 2-22-18.

**HB 2454**, AN ACT concerning children and minors; relating to the revised Kansas juvenile justice code; review hearings; dispositional hearing; expand the permitted use of two-way electronic audio-visual communication between the juvenile and the judge from detention hearings only to all hearings under the section, including the detention review hearings required every 14 days while the juvenile is in detention. The bill would further amend law related to detention review hearings by adding a provision stating such hearings are not required for a juvenile offender held in detention awaiting case disposition. The bill would amend the Code statute governing post-adjudication orders and hearings to require, if a juvenile offender is being held in detention, that a dispositional hearing for sentencing take place within 45 days after the juvenile has been adjudicated. House passed 121-1 on 2-21-18. Senate referred to Judiciary.

**HB 2507**, Prohibiting substantial change to the Kansas medical assistance program without prior legislative approval. Introduced 1-19-18. Referred to Health and Human Services. Does not survive deadline.

**HB 2508**, Creating a suspended eligibility status for recipients of state medicaid services. Introduced 1-22-18 by Representatives Bishop, Ballard, Carlin, Clayton, Crum, Deere, Elliott, Finney, Good, Highberger, Holscher, Horn, Koesten, Lusk, Miller, Murnan, Neighbor, Ohaebosim, Parker, Pittman, Probst, Trimmer and Winn. Referred to House Health and Human Services. Does not survive deadline.

**HB 2512**, Establishing the Kansas telemedicine act. House Health Hearings 2-1-18 and 2-5-18.

**HB 2551**, AN ACT concerning correctional institutions and juvenile correctional facilities; prohibiting the outsourcing or privatization of any security operations thereof; allowing existing contracts to be renewed. Representatives Deere, Pittman, Ellis, Eplee, Karleskint (Judiciary) House passed 103-19 on 2-21-18. Senate referred to Judiciary.

**HB 2575**, AN ACT concerning insurance; relating to health insurers and selfinsurers; health care providers; medical care facilities; commissioner of insurance; enacting the patient right to shop act; rules and regulations. Health and Human Services Hearing 2-14-18. Referred to Appropriations 2-15-18. Re-referred to Health 2-16-18.

**HB 2587**, Requiring the department for children and families to respond to reports of juveniles with problem sexual behavior. Introduced 1-31-18. Federal and State Affairs Committee hearing 2-14-18.

**HB 2591**, Revised program for the administration and provision of state medical services under the Kansas medical assistance program. Introduced 1-31-18, referred to Health. Hearing 2-8-18. Does not survive deadline.

**HB 2611**, Secretary of health and environment to review behavior crisis response in Kansas and make a report of findings and recommendations. Directing the secretary of health and environment to review the behavioral health and addiction crisis response in Kansas and report any findings and recommendations to a joint meeting of the standing committee on health and human services of the house and the senate standing committee on public health and welfare. Introduced 2-2-18, referred to Health and Human Services. Does not survive deadline.

**HB 2658**, Providing a sales tax exemption for certain food and food ingredients. Introduced 2-7-18, referred to Taxation.

**HB 2663**, Enacting the KanCare/Medicaid ombudsman act. Introduced 2-7-18. Health and Human Services. Referred to Appropriations 2-15-18. Re-referred to Health 2-16-18.

**HB 2664**, Establishing the social work mobility and workforce development task force. Introduced 2-7-18. Referred to Health and Human Services. Does not survive deadline.

**HB 2666**, Concerning public assistance; relating to cash assistance, food assistance, medical assistance and child care subsidies. Introduced 2-7-18. Does not survive deadline.

**HB 2674 – Telemedicine**, as amended, would establish the Kansas Telemedicine Act (Act). “Telemedicine,” including “telehealth”—the delivery of healthcare services or consultations while the patient is at an originating site and the physician or licensed mental healthcare professional is at a distant site. Telemedicine would be provided by means of real-time two-way interactive audio, visual, or audio-visual communications, including the application of secure video conferences or store-and-forward technology, to provide or support healthcare delivery that facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient’s healthcare. The term does not include communication between licensed healthcare providers consisting solely of a telephone conversation, e-mail, or facsimile transmission; or a physician and a patient consisting solely of an e-mail or facsimile transmission. The bill would require a healthcare provider providing telemedicine services to a patient to provide the patient with guidance on appropriate follow-up care. If the patient consents and has a primary care or other treating physician, the provider would be required to report to the primary care or other treating physician the treatment and services rendered to the patient within 72 hours of the telemedicine encounter. House passed 117-9 on 2-22-18. All amendments were rejected.

**HB 2688**, Establishing the behavioral health task force to study the behavioral health system in the state of Kansas. Introduced 2-7-18 in Appropriations.

**HB 2704 Seniors and Antipsychotics**, Requiring written informed consent before administering an antipsychotic medication to an adult care home resident. Introduced 2-7-18. Children and Seniors hearing 2-15-18. Blessed by referral to Appropriations 2-15-18. Re-referred to Children and Seniors 2-16-18.

**HB 2745**, Establishing a task force that would draft a transition bill of rights to educate parents and students regarding their rights and resources related to transition services for students receiving special education. Committee on Children and Seniors held hearing 2-15-18. Blessed by referral to Appropriations on 2-16-19. Re-referred to Children and Seniors 2-19-18.

**HB 2751**, AN ACT establishing the office of the child advocate for children's protection and services within the Kansas department of administration; prescribing certain powers, duties and functions; amending K.S.A. 2017 Supp. 38-2212, 38-2309 and 38-2310 and repealing the existing sections. Committee on Federal and State Affairs (Federal and State Affairs) No action, does not survive deadline.

**SB 38**, AN ACT establishing the KanCare bridge to a healthy Kansas program. Fiscal Note by KDHE indicates that passage of the bill would assume costs and offsets associated with an additional 150,000 individuals becoming eligible for Medicaid coverage. Any savings to the state would be realized through a higher Federal match rate for certain populations within Medicaid. The Department indicates that additional revenues would not fully offset the Medicaid expansion costs over time. KDHE estimates that the cost of care for the newly eligible beneficiaries would be \$461.4 million in FY 2019. The state share at 7.0 percent would be \$34.7 million. The cost of care for the newly eligible beneficiaries in FY 2020 would be \$1,004.8 million, including the state share at 10.0 percent of \$100.5 million. If the Affordable Care Act enhanced federal match for Medicaid expansion was not available and Kansas' regular state share of approximately 45.0 percent was required for these new beneficiaries, the additional cost to the State General Fund would be \$223.3 million in FY 2019 and \$452.1 million in FY 2020. Introduced in Committee on Ways and Means. Public Health and Welfare holds hearing 2-14-18. Committee recommends bill be Passed as Amended 2-17-18.

**Sub SB 195 – Medicaid Suspension of Benefits**, AN ACT concerning the Kansas medical assistance program; establishing a suspended eligibility status for recipients who are hospitalized or incarcerated; relating to powers, duties and functions of the department of health and environment. Introduced 2-14-17. Committee on Public Health and Welfare hearing 2-15-18. Committee recommends substitute bill be passed 2-23-18. Action not expected due to fiscal note. Option open for budget line item.

**SB 217 – Statutes Update**, Carried over from 2017, legislation updates several statutory references in accordance with enacted 2016 SB 449, updating statutes related to responsibilities transferred to the Kansas Department for Aging and Disability Services (KDADS) under 2012 Executive Reorganization Order No. 41. The bill would replace the term “mentally retarded and other handicapped persons” in statutes with “individuals with intellectual or other disabilities” in accordance with current law. The bill would amend language to clarify the annual report of the Kansas Health Care Stabilization Fund Board of Governors. The Senate passed March 28 2017. House Health and Human Services amended the bill. House passed 118-0 on February 21 2018. Conference Committee appointed February 22.

**SB 221**, AN ACT concerning children and minors; relating to the revised Kansas code for care of children; newborn infant protection act; powers and duties of the secretary for children and families; The bill would change the defined age of an infant for purposes of the Act from 45 days old or younger to 60

days old or younger for relinquishment alternatives to abandonment. Changes many definitions in the Code as follows: • “Extended out of home placement” to specify removal from the home means from the child’s home; • “Kinship care” changed to “Kinship care placement,” to mean the placement of a child in the home of an adult with whom the child or the child’s parent already has close emotional ties; and • “Relative” to remove language indicating the term does not include the child’s other parent when referring to a relative of a child’s parent. Multiple other changes relating to definition of extended out of home placement and revises adoption options when parental rights are terminated or relinquished. Senate Passed as Amended 35-5 on 2-21-18.

**SB 281**, AN ACT concerning protection orders; relating to the protection from abuse act; the protection from stalking, sexual assault or human trafficking act; amending K.S.A. 2017 Supp. 21-5924, 60-3104, 60-31a01, 60-31a02, 60-31a03, 60-31a04, 60-31a05, 60-31a06, 60-31a07, 60-31a08 and 60-31a09 and repealing the existing sections. Committee on Judiciary recommended Passed as Amended. Senate passed 39-0 on 2-22-18.

**SB 300 – KanCare Delay**, AN ACT concerning the Kansas medical assistance program; relating to powers, duties and functions of the department of health and environment, Kansas department for aging and disability services and department of administration; requiring prior legislative approval for substantial changes. As amended, would prohibit the Kansas Department of Health and Environment (KDHE), the Kansas Department for Aging and Disability Services (KDADS), and the Department of Administration (DoA) from taking certain actions related to state Medicaid services under the Kansas Medical Assistance Program using a capitated managed care delivery system (Medicaid managed care) without express prior authorization from the Legislature, except as specified in the bill.

Will require KDHE and KDADS to terminate any request to the federal Centers for Medicare and Medicaid Services (CMS) to administer state Medicaid managed care in any manner that is substantially different than the manner in which such services are provided on January 1, 2018. This would include, but not be limited to, imposing any new eligibility requirements or limitations to receive state Medicaid services. Any such request to CMS would be prohibited without express prior authorization by an act or appropriation act of the Legislature. KDHE and KDADS would be required to submit to CMS a request to extend any waiver in effect on January 1, 2018, for three years authorizing the State to administer Medicaid managed care in accordance with the provisions of the bill. The bill would allow KDHE to modify the manner in which Medicaid managed care is provided on January 1, 2018, by implementing the following: • Any provision of KSA 2017 Supp. 39-709h or 39-709i (related to managed care organizations’ requirements); • Any policy that expands access to behavioral health services or services delivered through telehealth technology services, if the policy does not impose any new eligibility requirements or limitations to receive state Medicaid services that are not in effect on January 1, 2018; and • Any other action approved by express prior authorization by an act or appropriation act of the Legislature.

KDHE, KDADS, and DoA would be required to negotiate for contracts for the administration and provision of Medicaid managed care that comply with the bill provisions, including altering the request for proposal (bid event 0005464) opened on October 27, 2017, and closed on January 5, 2018, limited to persons that submitted a bid in response to the bid event. Any contract negotiated and executed would be required to be for a term of three years commencing on the termination date of contracts for Medicaid managed care in effect on January 1, 2018. Contracts would be prohibited from 2-300 imposing any new eligibility requirements or limitations to receive state Medicaid services that are not in effect on January 1, 2018.

Committee on Ways and Means held hearing 1-30-18. Committee passed as amended 2-15-18.

**SB 304 – Step Therapy**, AN ACT concerning health and healthcare; relating to health insurance; prescription medication; step therapy protocols. A coalition of supporters, including KMHC, testified in support of implementing safety parameters for the use of step therapy. Although the testimony was focused on private insurance policies, testimony from KDHE predicted increased costs for Medicaid, CHIP and the state employees health plan of \$1,002,010 SGF in FY 19 (\$2,834,000 All Funds). The agency asked for ½ FTE for a staff pharmacist and forecast increased annual pharmacy expenditures of \$2,257,500 in Medicaid and CHIP in FY 2019 and \$4,515,000 in subsequent years. The bill was heard in Senate Public Health and Welfare on February 15, but did not survive the Turnaround deadline.

**SB 316 – Tobacco Cessation**, AN ACT concerning health and healthcare; relating to the Kansas medical assistance program; providing coverage for tobacco cessation treatments -expanding available services. Committee on Public Health and Welfare (Public Health and Welfare) (Be Passed as Amended) (Believe a replacement bill was introduced through Ways and Means on the rail this week.)

**SB 333 – Roll Back Jason Flatt Act**, AN ACT concerning school districts; relating to the Jason Flatt act; amending K.S.A. 2017 Supp. 72-6284 and repealing the existing section. Bill would allow school district to create a plan for suicide prevention training, designate which staff to train, and what training materials to utilize. Removes the one hour annual training requirement. Senate Education Committee held hearing 2-8-18. Committee Chair Molly Baumgardner indicates she does not intend to work bill.

**SB 351 – Pharmacy Fair Practices Act** – regulating pharmacy benefits managers. AN ACT concerning health and healthcare; relating to insurance; pharmacy benefits; enacting the Kansas pharmacy patients fair practices act. The bill was requested by the Kansas Pharmacists Association and would specify co-payments applied by a health carrier for a prescription drug may not exceed the total submitted charges by the network pharmacy. A pharmacy or pharmacist would have the right to provide a covered person with information regarding the amount of the covered person's cost share for a prescription drug. Further, the bill would specify neither a pharmacy or pharmacist would be proscribed by a PBM from discussing any such information or selling a more affordable alternative to the covered person, if such alternative is available. The bill was introduced by Committee on Public Health and Welfare, and passed as amended by the(Financial Institutions and Insurance Committee (Be Passed as Amended) Senate passed 39-0 on 2-22-18. ([Read more here.](#))

**SB 386 – Professional Counselors**, AN ACT concerning the behavioral sciences regulatory board; relating to professional counselors; licensure; educational requirements; amend the Professional Counselors Licensure Act. In continuing law, an individual making an application to the Behavioral Sciences Regulatory Board (BSRB) for licensure as a professional counselor is required, among other things, to have earned a graduate degree in counseling. The bill would allow licensure for an applicant who earned a graduate degree in a counseling-related field as long as all the remaining qualifications set forth in statute are met. The change would be applicable to individuals applying for initial licensure and to individuals applying for licensure who are licensed to practice professional counseling in another jurisdiction. The bill also would clarify that the licensure requirement of 45 graduate semester hours in various areas set forth in statute would be counseling coursework.. Committee on Public Health and Welfare passed 2-15-18. Senate passed 39-0 on 2-22-18.

