

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 210

As Recommended by Senate Committee on
Ways and Means

Brief*

SB 210 would establish a provider assessment on the gross revenues received by entities providing services to individuals with developmental disabilities. The proceeds of the provider assessment would be used to draw down additional federal funds for the Medicaid Home and Community Based Services Waiver for Individuals with Developmental Disabilities (HCBS/DD). The increased funding would be utilized to increase provider reimbursement rates for HCBS/DD waiver providers. The bill authorizes an assessment for the fiscal year that approval is achieved and the subsequent four fiscal years. The bill would become effective upon publication in the *Kansas Registrar*.

Calculation and Collection

The bill would define gross revenues and specify that the calculation to determine gross revenues would exclude state or local-only funded revenues as well as revenues from services provided to individuals who are not developmentally disabled. Gross revenues also would exclude the receipt of any charitable donations received by the entities.

The developmental disabilities waiver provider assessment (provider assessment) would be an annual assessment based upon the maximum federally allowed rate of gross revenues. Currently, this rate is set at 5.5 percent.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The assessment received for waiver participants would be achieved by not increasing payments to providers to account for the entire enhanced funding stream on a claim by claim basis. To capture provider assessment payments for non-waiver participants revenue, quarterly payments would be collected from providers on those amounts.

The provider assessment would be effective the first month after the federal Centers for Medicare and Medicaid Services (CMS) authorizes developmental disabilities as an approved service class and approves the Kansas waiver submission to establish a provider assessment for this provider class. The provider assessment would be effective for five fiscal years.

Administration and Rules and Regulations Authority

The Kansas Health Policy Authority (KHPA) would administer and collect the assessment. In addition, the bill would allow KHPA to collect administrative costs not exceeding 0.5 percent of collections in the first year and up to \$100,000 each year thereafter.

KHPA would be authorized to assess penalties on providers who do not pay the full amount of the assessment of the lesser of \$500 per day or 2.0 percent owed for the fiscal year. The bill would direct the KHPA to adopt rules and regulations within 30 days of federal approval of the assessment.

The bill also would create a new no limit fund, the Quality Based Community Assessment Fund for the KHPA. Interest earnings from balances in the Fund shall be credited to the Fund.

Nullification/ Termination

The bill would make the provider assessment null and void if:

- CMS does not authorize the provider assessment;
- HCBS/DD waiver provider payment rates are reduced;
- Medicaid eligibility criteria is reduced; or
- Medicaid services are reduced.

The bill terminates the assessment if:

- Any funds are transferred or revert back to the State General Fund; or
- Funds are used to supplant or replace existing funding.

If the provider assessment becomes null and void or terminates, any funds collected would be returned to providers on a pro-rated basis.

Background

Medicaid provider assessments allow states to authorize collecting revenues from certain categories of providers. This mechanism generates new state funds to be used as match for federal funds allowing the state to receive additional federal Medicaid dollars. The federal government requires that provider assessments must be:

- Broad-Based – applied to all items or services within the same class of providers and applied uniformly;
- Applied to an approved class, including:
 - Hospital services (both in-patient and out-patient services);
 - Nursing facilities;
 - Intermediate Care Facilities for Mental Retardation (ICFMRs);
 - Physician services;
 - Home health;

- Prescription drugs;
- Health Maintenance Organizations (HMOs); and
- Specific provider services: dentistry, podiatry, chiropractic, optometry, psychological, therapeutic, nursing, laboratory services, and radiology;
- Without any hold harmless provisions; and
- Currently no more than 5.5 percent of receipts.

Developmental Disabilities is awaiting approval by the federal Centers for Medicare and Medicaid Services (CMS) for status as an approved class.

Senator Terrie Huntington and representatives of the following entities appeared in favor of the bill at the Senate Committee hearing: Alliance for Kansans with Developmental Disabilities, Developmental Disabilities Stakeholders Coalition, InterHab, Kansas Council on Developmental Disabilities, Kansas Elks Training Center for the Handicapped (KETCH), the Multi Community Diversified Services, Inc., Nemaha County Training Center, and Self Advocates Coalition of Kansas.

A representative of the Department of Social and Rehabilitation Services appeared as a neutral conferee and expressed reservations to certain provisions of the bill.

The fiscal note prepared by the Division of the Budget indicates that revenues from the provider assessment for FY 2012 would be \$19.9 million (assuming the assessment is in place for the entire fiscal year). This revenue would be used to draw down an additional \$26.9 million in federal funds for total increased expenditures of \$46.8 million for FY 2012. Any fiscal effect associated with SB 210 is not reflected in *The FY 2012 Governor's Budget Report*.