



Feb. 8, 2018

Chair Hawkins and members of the House Health and Human Services Committee;
Thank you for the opportunity to submit written comments in support of HB 2591 which would delay the implementation of KanCare 2.0 or significant changes to the KanCare program until Jan. 1, 2022.

KABC was among the more than 100 advocacy groups and individuals who submitted comments to the federal Centers for Medicare and Medicaid Services (CMS) in response to the Kansas application for a new version of the KanCare 1115 demonstration waiver. We asked CMS to reject the application for KanCare 2.0 for many reasons, all of which underscore why we support a delay.

The serious and persistent problems – many of which were cited by the CMS compliance audit in early 2017 – continue and should be solved before moving forward. These problems include, but are not limited to, the ongoing HCBS waiting lists, challenges in processing claims and enrollment applications, inadequate provider networks, administrative red tape, a lack of transparency in the development of treatment plans, a general lack of responsiveness of the State and managed care organizations to the concerns of members, families, advocates, and stakeholders and a lack of adequate staff and financial resources within State agencies to oversee and manage the program.

These issues must be addressed before moving forward and HB 2591 gives the State, the administration, providers, consumers and stakeholders the time necessary to chart a plan that best meets the need of the more than 400,000 Kansans who are served by KanCare.

The current KanCare program has failed older Kansans. At a time when the number of older adults in Kansas is increasing, under KanCare the number of older adults in nursing homes has dropped significantly under KanCare to 8,563 - a decrease of almost 2,000 persons. The number of persons served by the HCBS Frail Elderly waiver also has dropped by 1,013. Combined this is a total of 3,000 fewer older adults being served through the KanCare program. This is alarming, counterintuitive, and we believe is caused by many factors including, but not limited to:

- Loss of community-based assistance
- Backlog of eligibility applications.
- KDHE fails to give required notice of the right to appeal whenever a person's eligibility application is delayed or backlogged
- Loss of Targeted Case Management (TCM) for older adults, including elders with dementia
- Significant decline in older adults being served, even as the older adult population expands

- Diminishing provider network for home and community based (HCBS) services
- Diminishing access to nursing facilities due to backlog
- Inadequate health and safety oversight – 50th worst in nation for drugging elders with dementia; delayed health safety inspections, ineffective response to serious harm complaints
- Lack of consistent engagement and communications with older beneficiaries and their advocates

One of the most glaring omissions in KanCare 2.0 is the recognition of the need for a KanCare ombuds program. Since the inception of KanCare, KABC has strongly advocated for an independent, conflict-free ombuds program charged with representing consumers. The current program, housed within KDADS, is not independent nor can it be free of conflicting influence as long as it is housed within a State agency. It does not have the authority or the legal resources to represent the people without the means to hire an attorney. These people need that advocacy the most.

In its 2017 communication with the State, CMS was correct to point out that Kansas is not following the Special Terms & Conditions (ST&C) regarding the ombuds program because the current program “does not address all requests for support” and it “does not assist participants through the appeals process as described in STC 42. Kansans who receive their long term supports and services through the HCBS waivers need access to legally-based advocacy that can help them with more intensive grievances and appeals. They also need basic advice and information early in the process from a program that is designed with their rights and needs in mind.

KanCare 2.0 continues to ignore not only the rights and needs of consumers for independent representation but also its obligation to comply with KanCare’s original agreement with CMS.

We support the HB 2591 three-year extension of KanCare to allow the State to continue developing solutions to these problems. This gives KDHE’s new leadership time to develop a clearer, more complete and detailed plan for KanCare 2.0. It also provides an opportunity to thoroughly and publicly vet proposed changes through legislative oversight and stakeholder engagement; a critical piece that has been missing for the past five years.

The next version of KanCare should offer a fully developed operational plan with performance measures developed with the full involvement of advocates, consumers and their families. There is no reason to rush to implement a plan which is still undeveloped, does not fully outline policy changes, and has not had the benefit of real public input.

HB 2591 gives the State the opportunity to successfully resolve the problems that have plagued KanCare to date while adequately planning for the future with the engagement of providers, families and advocates.

Thank you for the opportunity to provide comments and ask that you support HB 2591.

Mitzi E. McFatrach, Executive Director - On behalf of Board of Directors and Members

KABC is a not-for-profit organization whose mission is to improve the quality of long-term care for elders in all settings – nursing and assisted facilities and in-home. KABC is not a provider of government funded services. For 40 years KABC's role has been as a resource and advocate for older adults and families and as a resource to policy makers on aging and quality care issues. KABC provides consumer education information and tracks and reports on quality care performance issues.