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MEMORANDUM

To: Senate Select Committee on Healthcare Access
From: Scott Abbott, Assistant Revisor of Statutes
Date: Wednesday, October 23, 2019
Re: Comparison of bill draft 20rs1873 to 2019 House Bill No. 2066, as amended by the House Committee of the Whole

The table beginning on page 2 of this memorandum compares provisions in the bill draft designated 20rs1873 to 2019 House Bill No. 2066, as amended by the House Committee of the Whole, on an issue-by-issue basis. The table is organized according to the structure of the bill draft designated 20rs1873.

The following provisions exist in substantially the same form in both 20rs1873 and 2019 HB 2066:

- Authority for KDHE to submit to the federal government any approval request necessary to implement the respective program (section 2(a) of 20rs1873 and section 6 of HB 2066);
- Exclusion from the work referral for full-time students enrolled in a postsecondary education institution or technical school (section 3(c) of each);
- Redirection of revenues from privilege fees assessed on health maintenance organizations associated with expansion beneficiaries to a new special revenue fund to be used for medical assistance payments for expansion beneficiaries (section 10 of 20rs1873 and section 8 of HB 2066), including technical conforming amendments to K.S.A. 40-3213; and
- Requirements imposed on KDHE and the secretary of corrections to make annual reports to the legislature identifying costs and cost savings (sections 11 through 13 of 20rs1873 and sections 9 through 11 of HB 2066).

<u>Issue</u>	<u>20rs1873</u>	<u>2019 HB 2066 HCoW</u>
Legislative oversight	<p>Sec. 2:</p> <p>At least 10 days prior to submission of any waiver to the federal government, the Department of Health and Environment shall submit such waiver to the House and Senate budget and health committees and the Legislative Coordinating Council.</p>	No equivalent provisions.
Eligibility	<p>Sec. 2:</p> <p>"Any adult under 65 years of age who is not pregnant and whose income meets the limitation..." with three options based on approval by the federal government in order of priority in subsections (c)(1) through (c)(3):</p> <ol style="list-style-type: none"> 1. Up to 100% of the federal poverty level (FPL), with an accompanying 1332 reinsurance waiver for marketplace plans; 2. Up to 100% of the federal poverty level, and the option of Medicaid coverage or a marketplace plan for 100-138% FPL, with an accompanying 1332 reinsurance waiver for marketplace plans; 3. Up to 138% of the FPL. <p>If either the expansion waiver or the reinsurance waiver is not approved by the federal government in options 1 or 2, proceed to the next option. The expansion waiver may be implemented pending approval of the reinsurance waiver.</p>	<p>Sec. 2:</p> <p>"Any adult under 65 years of age who is not pregnant and whose income does not exceed 133% of the federal poverty level[.]"</p>
Work referral	<p>Sec. 3:</p> <p>The Department of Health and Environment (KDHE) refers all non-disabled adults in the program who are unemployed or working fewer than 20 hours per week to the Kansasworks program administered by the Department of Commerce.</p> <p>As a condition of coverage, KDHE evaluates each new applicant for education and employment status and factors impacting the applicant's employment status.</p> <p>The Department of Commerce maintains a unique database of Medicaid expansion Kansasworks participants.</p>	<p>Sec. 3:</p> <p>As a condition of coverage, KDHE refers the same adults to the state's existing workforce programs, including, but not limited to, Kansasworks or K-GOAL administered by the Kansas Department for Children and Families.</p>

<p>Premiums</p>	<p>Sec. 4:</p> <p>KDHE charges to each covered individual whose income is greater than 100% FPL a premium equal to 5% of the individual's household modified adjusted gross income. No premium is charged to a covered individual whose income is 100% FPL or less.</p> <p>An individual is ineligible if they have not made their first payment or if they are 60 or more days delinquent. An individual who is 60 or more days delinquent in making a premium payment shall be ineligible for six months.</p> <p>Past due premiums are subject to setoff against state lottery or gaming winnings and tax refunds in accordance with current Kansas law.</p> <p>KDHE requests a waiver to charge a copayment for non-urgent emergency care in addition to the premium.</p>	<p>Sec. 14:</p> <p>KDHE charges to each covered individual a \$25 monthly fee, up to \$100 per household.</p> <p>An individual's coverage is suspended for three months following three consecutive months of nonpayment. An individual may apply for reinstatement once but shall be permanently suspended following an additional three months of nonpayment.</p>
<p>Premium assistance</p>	<p>Sec. 5:</p> <p>KDHE may establish a premium assistance program for individuals whose household income does not exceed 138% FPL or who is eligible for coverage through an employer but cannot afford premiums.</p> <p>Eligibility would be the same as for expanded Medicaid coverage.</p> <p>An individual's premiums would be capped at 5% of the individual's household income.</p>	<p>Sec. 4:</p> <p>Same, except that an individual's premiums would be capped at 2% of the individual's annual income.</p>

Managed care	<p>Sec. 6:</p> <p>Requires that KDHE administer Medicaid using a managed care delivery system.</p> <p>Requires KDHE, when evaluating contract proposals to provide managed care services, to:</p> <ol style="list-style-type: none"> 1) Not provide favorable or unfavorable treatment based on for-profit or not-for-profit status; 2) Give preference to an entity that provides health insurance plans on the marketplace; and 3) Require the entity to provide tiered benefit plans with enhanced benefits for beneficiaries who demonstrate healthy behaviors. 	No equivalent provisions.
"Poison pill"	<p>Sec. 7:</p> <p>Requires KDHE to terminate coverage under the program over 12 months if the federal medical assistance percentage (FMAP) falls below 90%, as provided in current federal law.</p> <p>Specifies that there shall be no new enrollment following a decrease in FMAP.</p>	<p>Sec. 13:</p> <p>Same, except no specific mention of new enrollment following a decrease in FMAP.</p>
Severability	<p>Sec. 8:</p> <p>The "poison pill" provision is nonseverable from the remainder of the bill. All other provisions are severable.</p>	<p>Sec. 5:</p> <p>All provisions are severable.</p>
Hospital surcharge	<p>Sec. 9:</p> <p>Requires KDHE to impose a surcharge on each hospital provider in an amount necessary to generate, in the aggregate, \$31M per fiscal year, collected once per calendar quarter and on a basis determined by KDHE in rules and regulations.</p> <p>Surcharge revenue would be used for administering and providing services under the program.</p>	No equivalent provisions.

Inmate coverage	<p>Sec. 12(a):</p> <p>Requires the secretary of corrections to coordinate with county sheriffs to facilitate enrollment of an inmate incarcerated in a Kansas jail for state medicaid services during any time period that the inmate is eligible (offsite hospitalization for longer than 24 hours).</p>	No equivalent provisions.
Audit	<p>Sec. 14:</p> <p>Requires the legislative post audit committee to direct the legislative division of post audit to conduct an audit of the direct economic impact of the program on the state general fund during the first two fiscal years of the program, and requires LPA to submit the audit to the legislature.</p>	No equivalent provisions.
Drug rebate revenue	<p>Sec. 15:</p> <p>Requires KDHE to remit all Medicaid drug rebate revenue (including current Medicaid population) for deposit into the state general fund, and for such revenue to be included as a separate item on any monthly state general fund receipts report prepared by the Kansas Legislative Research Department or the Division of the Budget.</p>	<p>Sec. 7:</p> <p>Requires KDHE to remit all Medicaid <u>expansion</u> drug rebate revenue for deposit into a new special revenue fund administered by KDHE to be used for medical assistance payments for expansion beneficiaries.</p>
FMAP stabilization fund	<p>Sec. 16:</p> <p>Includes the provisions of 2019 Senate Bill No. 2.</p> <p>Creates the FMAP stabilization fund.</p> <p>Increases to state share of Medicaid costs, due to a year-to-year decreases in the FMAP, would be funded out of the FMAP stabilization fund.</p> <p>Decreases to state share of Medicaid costs, due to a year-to-year increase in the FMAP, would be deposited into the FMAP stabilization fund.</p> <p>Directs that any moneys recovered by the Attorney General in the case <i>Texas v. United States</i>, challenging the constitutionality of the individual mandate under the federal Affordable Care and Patient Protection Act, be deposited into the FMAP stabilization fund.</p>	No equivalent provisions.

Working group	No equivalent provisions.	<p>Sec. 12:</p> <p>Establishes a working group to identify non-state general fund sources to fund any shortfall in the program, comprised of legislator members and members from various stakeholder organizations.</p>
Abortion coverage	No equivalent provisions.	<p>Sec. 15:</p> <p>Prohibits program coverage or reimbursement for any abortion services.</p>