

**Written Opponent Testimony on HB 2463**  
**House Health & Human Services Committee**  
**Wednesday, January 26, 2022**

Thank you for the opportunity to provide written testimony outlining concerns that the Department for Aging & Disability Services (KDADS) has with HB 2463. House Bill 2463, as introduced, would prohibit any substantive or material changes to the current Medicaid program until after December 31, 2025. Passage of this bill would significantly impact KDADS' ability to effectively administer multiple programs across the agency, including Home and Community Based Services and Behavioral Health programming.

The restrictions imposed by HB 2463 would preclude progress on multiple important initiatives involving the 1915(c) Home and Community Based Services (HCBS) waiver programs which operate under the 1115 KanCare Medicaid program. The Centers for Medicare and Medicaid Services (CMS) consider almost all changes and alterations to the waiver programs to be substantive, including increases in HCBS provider rates. Initiatives that would be restricted by passage of HB 2463 include:

- **1915(c) Waiver Renewals:** Each of the seven existing HCBS waiver programs must be renewed every 5 years. The renewal process allows opportunities for the state and program stakeholders and participants to evaluate and propose changes to the waivers to better serve participants. The waivers would remain stagnant through December 31, 2025.
- **1915(c) Waiver Amendments:** Amendments to each of the seven existing HCBS waiver programs are planned. These amendments include: (1) allowing paid family caregivers to help alleviate workforce shortages; (2) allowing telehealth as a service location for certain services; (3) unbundling Assistive Services into three separate services (required by CMS); and (4) updating waiver performance measures (required by CMS). The state would not be able to respond to CMS-mandated updates, putting the programs in jeopardy of corrective actions and/or financial penalties.
- **New Programs:** Development of an I/DD Community Support Waiver has been suggested as a possible means to reduce the current I/DD waiting list. Unlike the state's current comprehensive waiver, a Community Support Waiver would offer a limited menu of services primarily focused on personal care services and employment support. The state would not be able to implement any new Medicaid waiver authority.

Passage of HB 2463, as introduced, would also halt progress on many ongoing efforts to reform behavioral health and add mental health services through KanCare. To implement several of the initiatives approved by the 2020 Legislature and included in the FY 2023 Governor's Budget Recommendation would require requesting changes in the Medicaid state plan or a waiver under Title XIX of the Social Security Act. KDADS suspects that CMS would interpret substantive changes in Medicaid to include common agency functions like State plan amendments, waiver applications, state policy changes, provider manual changes, and rebasing and rate changes. Specific initiatives that would likely be halted include many of the items that were included by the legislature in the FY 2022 budget for KDADS including implementation of Certified Community Behavioral Health Clinics (CCBHCs), Specialized Services, Mobile Crisis for Adults, implementing responses to the 988 hotline, and Supported Housing. Additionally, the bill may hinder the ability of the state to comply with the Nursing Facility for Mental Health (NFMH) pre-litigation settlement objectives. Ultimately this may lead to delays in implementing life-saving programs and programs that protect rights of persons with disabilities.

Thank you for allowing us to provide testimony on this important issue.

*Laura Howard*

Laura Howard, Secretary