

KABC Legislative Wrap Up

Session 2019 – Final

While a few notable measures passed in the 2019 session, mostly as part of the budget bill/funding, many important protections for aging Kansans who use long-term care were held up by Legislative leadership in efforts to forestall action on Medicaid expansion. KABC requested legislation which would have greatly improved rights for older adults to be free from abuse and neglect, such as: written informed consent for the over/misuse of drugs to chemically sedate older adults with dementia, use of electronic monitoring to assure safety and care, and use of paid care workers without a cleared background check.

In the late hours of the 2019 session, the House held hostage the Senate-approved budget in an attempt to force a Senate debate on Medicaid expansion. In the end, the House passed the budget bill after the Senate agreed to a task force during the off months to discuss Medicaid expansion and to act on a bill early in the 2020 session. Next steps have not been announced.

Passed: These funding and provisions were passed by the Legislature and signed by the Governor. They are now law.

Client Obligation/Protected Income — Increases for the first time in over a decade the amount of income that can be kept by persons receiving KanCare benefits under the seven Medicaid waivers. This was a high priority issue this session. KABC joined other advocates to secure an increase of the current level capped at \$747/month, raising it to \$1,177/month. The budget conference committee agreed to add \$12.4 million, including \$5.3 million from the State General Fund (SGF). It will affect all Medicaid waivers including older adults on the frail elderly home based services waiver (HCBS-FE), and individuals in the Program for All-Inclusive Care for the Elderly (PACE). This funding is included in SB 25/Budgets for FY 2019, 2020, 2021, 2022 which passed both chambers.

The 2020 budget for KS Dept. for Aging & Disability Services/KDADS includes:

- 3.0 million, including \$1.3 mil. from the State General Fund (SGF), to increase Medicaid dental reimbursement rates.
- \$10.1 million, including \$4.2 mil. from SGF, to provide a 1.5% increase in the reimbursement rates for providers of Home and Community Based Services (HCBS) waivers. Add \$12.4 million, including \$5.3 mil. from SGF, and add language to require the Kansas Department of Health and Environment (KDHE) set the protected income level for Medicaid HCBS waiver services recipients and individuals in the Program for All-Inclusive Care for the Elderly (PACE) to \$1,177/month.
- \$5.0 million for Community Mental Health Center grants.
- \$3.7 million, including \$2.4 mil. from SGF, for Community Mental Health Centers providing Crisis Center services, Clubhouse Model Programs.
- \$6.8 million, including \$2.8 mil. from SGF, to add 1% to reimbursement rates for nursing facilities.

Oversight Provisos included in the budget:

- Requires KDHE to provide a quarterly report to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight detailing progress on the eligibility backlog processing and eligibility in FY 2019.
- Requires KDHE to report any details on any contract entered into with Maximus, or any future eligibility processing contractor, to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight for approval prior to finalizing any contract in FY 2019.
- Requires KDHE not make expenditures on any lease associated with the Clearinghouse until KDHE reports to the House Committee on Appropriations, (or the Legislative Budget Committee if the Legislature is not in session), that all alternative options, including property already being leased by other state agencies, have been exhausted in FY 2019.

Requires KDHE to facilitate a detailed review of the costs and reimbursement rates for behavioral health services, including mental health and substance use disorder treatment in FY 2019; and require the report be provided to the Senate Committee on Ways and Means Social Services Subcommittee and the House Committee on Social Services Budget in January 2020.

SB 232/amends the Adult Care Home Licensure Act following on the heels of the State's take over of 22 failing nursing facilities in 2018, this bill was introduced to require the applicant for a license to operate an adult care home include evidence of access to funds needed to run a facility for 12 months. The current requirement is for 1 month. Additionally the applicant must list current or previously licensed facilities, in Kansas or outside the state, which the applicant has or had any ownership interest in the facility operations or property. The State hopes to avoid future circumstances which put those who reside in adult care facilities from applicants and licensees who are unfit or unqualified to provide for resident care.

The KS Dept. for Aging and Disability Services (KDADS) requested the changes. Contents of SB 232 were included in the Conference Committee Report for SB 15, and has been signed into law by Gov. Kelly.

Bills Not Passed – the following bills can be heard/voted in the 2020 Legislature:

HB 2034/Enacting the supported decision-making agreements act to provide a statutory/legal framework for adults who want assistance with making decisions. — Not passed and remains on General Orders in the Senate

HB 2229/Electronic Monitoring in an adult care facility. Would strike language passed in 2018 which weakens protections for older adults related to a recording and how it may be used in judicial and administrative proceedings. Remains in House Children & Seniors

HB 2343/Eliminates the "60-day Provisional Employment." A 2018 bill allowed adult care facilities, home health agencies, and other in-home care providers to hire a worker for up to 60 days without a completed, clean background check and without notifying individuals who

receive care from such a worker. KABC and older Kansans believe this puts older adults at serious risk and removes legal recourse in holding the facility accountable. KABC requested this bill to correct problems provisional employment creates. The bill had a hearing but remains in the House Children & Seniors Committee.

HB 2344/Written Informed Consent KABC requested the introduction of this bill which would require written informed consent from an older adult or her/his legal representative prior to the use of an anti-psychotic drug on an adult in any Kansas nursing or assisted residential facility. An informational hearing on anti-psychotic drug over/misuse, but not on the bill, was held on Feb. 13 in House Children & Seniors Committee. There was overwhelming testimony in support of written informed consent due to the deadly and dangerous harm the drugs present. No action taken, bill remains in committee.

HB 2404/Creation of a Senior Services Task Force — Introduced late in the session, this bill would create a task force focused on older adult issues. A number of advocacy groups, including KABC, testified voicing concerns about the underrepresentation of consumers on the task force and overrepresentation of adult care facilities. While a review of senior needs and services is long over-due and action urgently needed to address priority concerns, the task force as defined in the bill did not reflect parity for consumers with those representing the concerns of providers. KABC it would continue the status quo to the detriment of aging Kansans. The bill remains alive in House Children & Seniors Committee.