



**An independent voice for
those served by KanCare.**

March 6, 2018

Chairman Hawkins and members of the committee, thank you for allowing me to provide neutral testimony today on HB 2663 which sets in statute the powers, duties and functions of the KanCare/Medicaid ombudsman program. I am Sean Gatewood and a co-administrator for the KanCare Advocates Network. The KanCare Advocates Network is a group of advocates whose collective interests include issues impacting children and adults who are served by the Kansas Medicaid program, KanCare.

KAN tracks and documents the obstacles encountered by beneficiaries and the financial strain KanCare has placed on providers of services of both long term supports and services and medical services. Since KanCare began we have heard ongoing and constant complaints from consumers and their families about their difficulties navigating the KanCare program because there is no one to advocate on their behalf with the Clearinghouse and/or when they need to appeal a decision regarding their plan of care.

Since KanCare began we have strongly advocated for an independent, legally-based ombuds program that is free from State conflict. This has been a priority consumer issues because the current program does not have the authority to advocate on behalf of consumers. Currently program staff can only direct the consumer to another contact within the MCO or the state. This is simply not what an effective ombudsman program does.

While HB 2663 attempts to put a statutory framework around this important support, it does little to improve the program's ability to advocate on behalf of individual consumers.

We continue to have concerns about a program that is inside state government. That has been a concern from the beginning and continues under HB 2663. Moving the program to the Department of Administration takes it out of the Medicaid arena, but it is still subject to political pressures as the position under HB 2663 is appointed and serves at the pleasure of the governor. HB 2663 should be focused on fixing the way the Ombudsman program is structured to address the systemic problems inherent with housing such an important office within state government, which creates conflicts of interest.

Under HB 2663, the KanCare ombuds program continues to lacks the ability to provide legally-based advocacy on behalf of the consumer.

It does not address the best practices and growing national consensus regarding the standards and structures that are necessary for an effective Ombudsman office. Documents from the federal Department of Health and Human Services' Administration on Community Living, the American Bar Association, the AARP, and others make clear that the best practice is to have an Ombudsman program that is truly independent with the ability to zealously advocate for all of the intensive requests for support, including but not limited to appeals.

The CMS Special Terms and Conditions to which Kansas agreed requires an independent Ombudsman program with the ability and authority to "address all request for support" from HCBS beneficiaries. The current program does not fulfill this requirement and neither does HB 2663.

KAN would prefer the State consider the Wisconsin model of establishing a truly independent Ombudsman program for HCBS Waiver recipients that is outside of state government and free from conflicts of interest. We would note that this program has flourished under the leadership of Governor Scott Walker, and it has been used as an example nationwide of how to conduct an effective, independent Ombudsman program. In fact, the National Council on Disability (NCD) went to Wisconsin and heard from disability advocates great things about how Governor Walker's program. NCD made a recommendation that every state should have a truly effective independent Ombudsman program, particularly for beneficiaries in Medicaid managed care states, such as Kansas.

Thank you for the opportunity to testify.

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