



## Association of Community Mental Health Centers of Kansas, Inc.

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### Testimony to House Aging and Long Term Care Committee on House Bill 2424

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Mr. Chairman and members of the Committee, my name is Mike Hammond and I serve as the Executive Director of the Association of Community Mental Health Centers of Kansas, Inc. The Association represents the 27 licensed Community Mental Health Centers (CMHCs) in Kansas who provide home and community-based, as well as outpatient mental health services in all 105 counties in Kansas, 24-hours a day, seven days a week. In Kansas, CMHCs are the local Mental Health Authorities coordinating the delivery of publicly funded community-based mental health services. The CMHC system is state and county funded, state licensed, and locally administered. Consequently, service delivery decisions are made at the community level, closest to the residents that require mental health treatment. Pursuant to State law, each CMHC has a defined and discrete geographical service area. With a collective staff of over 4,500 professionals, the CMHCs provide services to Kansans of all ages with a diverse range of presenting problems. Together, this system of 27 licensed CMHCs form an integral part of the total mental health system in Kansas. As part of licensing regulations, CMHCs are required to provide services to all Kansans needing them, regardless of their ability to pay. This makes the community mental health system the "safety net" for Kansans with mental health needs, collectively serving 123,000 Kansans with mental illness.

I am testifying today on HB 2424, asking that you exempt the HCBS Waiver for Serious Emotional Disturbance (SED) from provisions of this bill. I have visited with Rep. Mast who is the author of this bill, and have learned it was not her intent to impact services provided by CMHCs through the SED Waiver. You will note that the fiscal note provided by the Kansas Department of Social and Rehabilitation Services (SRS) does not include the SED Waiver. They also understand the intent of this legislation was not to impact the SED Waiver.

Kansas statutes and regulations currently require CMHCs to provide Attendant Care services to their patients pursuant to a plan of care written by a professional employed by a CMHC or on contract with a CMHC. For the Kansas public mental health system, Attendant Care is a service available only to targeted population members. Kansas Statutes Annotated (KSA) 39-1602 defines the targeted population, in part, as adults with severe and persistent mental illness (SPMI), children and adolescents with SED, and other individuals at risk of requiring institutional care. It is also available to children and adolescents served by the SED Waiver. The CMHCs are required to provide "community based mental health services" to such individuals, which include "a continuum of care and support services to enable...targeted population members, to function outside of inpatient institutions to the extent of their capabilities," as provided for in KSA 39-1602(b). These services are inclusive of Attendant Care and are intended to support patients in adapting to live in their home and communities rather than in an institution. The Department of SRS recognized this when it promulgated Kansas Administrative Regulation (KAR) 30-61-15, which requires CMHCs to provide Attendant Care services designed to assist patients in the target population to live in the community.

Attendant Care under the SED Waiver is delivered by certified staff when determined to be medically necessary by a Qualified Mental Health Professional (QMHP). A QMHP must be an employee or contract employee of a CMHC under KSA 59-2946. The CMHC must not only provide the Attendant Care service, but its employee or agent must assess the medical necessity of those services that are included in a plan of care written by the CMHC in partnership with the treatment team and the client (and family if it is a child or adolescent being served), indicating that such services are necessary. Thus, the statutes require CMHCs to provide the service and to perform the planning start-up and administration of the service which HB 2424 would not allow. The Department of SRS only reimburses Attendant Care under the SED Waiver if those services are pursuant to a written plan of care after assessment by a QMHP, per KAR 30-5-310. This is unique to CMHCs. I do not believe the DD or PD providers have to complete specific State approved training to be certified or that they must be supervised by a licensed provider. I also do not believe that a licensed provider determines that the service is medically necessary.

The CMHC-enabling statutes direct CMHCs to provide specific services, which include outpatient and inpatient diagnostic and treatment services; rehabilitation services to individuals returning to the community from an inpatient facility and consultative services to schools, courts, health and welfare agencies, both public and private, per KSA 19-4001. The CMHCs provide Attendant Care services for the purpose of rehabilitating patients, whereas other systems provide such services as habilitative services. Federal Medicaid law defines "habilitative" services as "services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings." In contrast, "rehabilitative" services are those that reduce a disability and "restore" an individual to his or her best possible functional level. Again, the key distinction is whether the service helps develop a function for the first time or "restores" a function that has been impaired or lost.

By providing Attendant Care services, CMHCs are fulfilling their statutory directive to provide rehabilitation services to target population members. Such services enable to CMHC to restore an individual's ability to live in the individual's home and community rather than in an institution.

The SED Waiver, as part of the Medicaid reimbursed array of services in our public mental health system in Kansas, is under managed care and has been since 2007. As such, service plans for the SED Waiver have to be reviewed and approved independent from the CMHC and require prior approval by the managed care organization before the service can be provided. Further, in the new world of managed care under Medicaid reform, the targeted case management (TCM) function that is currently performed by respective systems will be opened up to allow the managed care organizations to determine how best to provide that service in the future, adding yet another layer of conflict avoidance. In addition, Aging and Disability Resource Centers (ADRCs), will be the single entity to perform functional evaluations of service needs, eliminating a conflict of interest issue that HB 2424 attempts to address. For the SED Waiver, it is not a functional evaluation but rather a clinical diagnosis that is required that involves clinical professionals rendering a decision around medical necessity.

**Conclusion/Recommendation:**

**It is important to specifically note the scope of service systems covered by this bill. Medicaid reform addresses the conflict of interest issue that HB 2424 is attempting to address by the use of ADRCs to objectively conduct functional assessments.**

**Should the Committee decide action is needed on this legislation, I would urge you to exempt the SED Waiver from this bill. Exempting the SED Waiver is necessary due to existing statutes; existing measures to remove conflict of interest through managed care prior authorization requirements; along with related federal requirements associated with rehabilitation services and waivers all result in Attendant Care service in the mental health system being dramatically different from the in-home supports typical of the PD/TBI/DD waiver services.**

I am happy to stand for questions Mr. Chairman. Thank you.