



Tom Bell
President and CEO

TO: House Health and Human Services Committee
FROM: Chad Austin, Sr. Vice President Government Relations
Audrey Dunkel, Sr. Director, Financial Advocacy
DATE: March 16, 2017
RE: House Bill 2065 – Assessments on hospitals and health maintenance organizations

On behalf of the 126 Kansas hospitals we represent, the Kansas Hospital Association is opposed to House Bill 2065.

The Health Care Access Improvement Program was started over a decade ago as a partnership between the state of Kansas and Kansas hospitals. The program utilizes an annual assessment on inpatient services provided by hospitals to improve and expand health care in Kansas for low-income persons. The program is structured in a way that recognizes the interdependency of all hospitals in Kansas and protects against harming one hospital to benefit another.

There are several important aspects to the program that must be considered:

First, all hospitals in the state that provide services to Medicaid beneficiaries benefit from the program through increased provider rates, but only PPS (Prospective Payment System) hospitals pay the assessment. In addition, a portion of the funds generated from the program support physician Medicaid provider rates and graduate medical education in the state.

Second, the assessment is set in statute and the statutorily created Health Care Access Improvement Panel that administers and selects the disbursements for the funds collected oversees the program. The Panel administers and selects the disbursements for the funds collected. The Panel consists of the following:

- 3 members appointed by the Kansas Hospital Association;
- 2 members appointed by the Kansas Medical Society who are licensed to practice medicine and surgery;
- 1 member appointed by each Medicaid Managed Care organization;
- 1 member appointed by the Association for the Medically Underserved; and
- 1 representative of KDHE, appointed by the Governor.

Kansas Hospital Association

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The Panel has yet to be informed by the agency on the proposed legislation to increase the assessment, nor have they been contacted to provide guidance on how the funds will be expended. House Bill 2065 is also devoid of any clear explanation of how these new revenues will be spent.

Third, current law required the distribution of not less than 80 percent of the funds generated by the program to hospitals, not more than 20 percent to physicians and not more than 3.2 percent to graduate medical education. House Bill 2065 would change the language so that not more than 80 percent would go to hospitals, leaving open the possibility that none of the funds could go to hospitals in any given year. KHA has been told this change is necessary to avoid violating federal law under 42 CFR 433.68(f). This is not the case. Federal law regarding the distribution of funds from provider taxes uses a two-prong test. The first prong is whether the tax exceeds 6 percent – the same 6 percent rule you have heard about over the last decade. The second prong, applied only if the tax exceeds 6 percent, is whether the amount returned to the tax-paying entities exceeds 75 percent. This change is not only unnecessary, it also creates a scenario where hospitals would pay the tax and potentially receive no benefit – a clear violation of the intent of the program.

Fourth, the statutes governing the hospital provider tax specifically prohibit the use of these funds to replace other state funds, including the State General Fund, in the Medicaid program. However, the fiscal note generated on House Bill 2065 indicates that the bill does exactly that by reducing SGF expenditures by \$20.3 million in the KanCare program and replacing them with hospital tax dollars.

The Kansas Hospital Association strongly believes that the Governor's FY 2017 allotment reductions need to be restored. However, this bill is not the right vehicle. There are two bills – Senate Bill 94 and House Bill 2180 – that have been approved by Senate Ways and Means and House Appropriations and are waiting for consideration of the full Senate and House. House Bill 2065 harms the providers it is intended to help and for that reason as well as many others, we oppose the bill.

Thank you for your consideration of our comments.