

Legislative Update

February 23, 2018

Overview

The legislature will be off until Wednesday, February 28th when they return for the second half of the 2018 session and begin the race to the end on April 6th. Still ahead: Revenue, tax policy, budgets, and school finance. There is not much work begin done in the upcoming short week. The real work will pick up on March 5th.

Big Picture Issues

The Legislature made it to an icy turnaround Thursday getting many bills passed out of their chamber of origin before the deadline. Bills neither the House nor Senate passed or blessed by leadership, are considered dead for the year. At turnaround, bills of note that passed one chamber include a compromise on the body camera bill that requires law enforcement release audio and video footage within 20 days to the subject of the footage or, if they're deceased, their heirs at law and their counsel. The House also sent to the Senate a bill that establishes the Kansas Telemedicine Act. The Act would ensure any health-care services currently covered by health insurance also be covered if provided remotely by physicians, physician's assistants, and APRNs licensed in Kansas. The Senate advanced many bills including one that would increase criminal penalties for negligence for repeat DUI offenders and another that would allow businesses to begin serving alcoholic beverages at 6:00 am—three hours earlier than current law.

The Senate Health committee voted unanimously to pass a bill out of committee that would expand the Kansas' Medicaid program. Majority Leader Jim Denning said the Senate would not debate the expansion bill on the floor until they pass a long-term fix to school finance and the Supreme Court approves it. The House Health committee heard a bill to extend current contracts with the three private insurance companies who administer the KanCare program, but that bill was tabled in committee.

The expert hired by the state to conduct a review of the school finance system in Kansas and advise the Legislature on how much is necessary to provide a suitable education spoke to legislators Friday. The study, being performed by Dr. Lori Taylor, a professor at Texas A&M, is scheduled to be completed on March 15th, just weeks before the Legislature's first adjournment. Briefs on the latest Gannon V decision are due to the Court April 30th.

Health Issues

The mid-point of the session has concluded and legislation of interest that has not passed its chamber of origins or is not exempt is usually dead. A large number of health bills made it to the Senate floor for debate but did not pass, but most are exempt. Most commonly this week, any bill that was eligible for be amended to include Medicaid expansion was not allowed to run on either chamber floor. The House telemedicine bill ran and was passed, and an effort to add Medicaid expansion was declared not germane, meaning it did not fit the subject of the bill. Do not despair; the votes are there to pass Medicaid expansion. The time is not right. It does feel like, however, virtually nothing has been resolved in any measure at this point in the session.

Among the topics getting attention at mid-session are:

KanCare Renewal

- The Administration announced the termination of KanCare 2.0, but they report they are continuing the review of the RFP bids if or until the Legislature tells them to not review the bids. There are many questions about what comes next.. There are a couple of bills that will shape the conclusion of KanCare.
- Senate Bill 300: The bills require KanCare to remain exactly like it is as of 1/1/17. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies. Any negotiations or renewals are only for one year with legislative approval.
 - Senate Ways and Means Committee passed out to the full Senate an amended version of the bill with two key amendments. The new bill includes the ability to expand access to behavioral health services. It authorizes KDHE to continuing reviewing the RFP submissions and modify the current plan to :
 - *“(e) The department of health and environment may modify the manner in which state medicaid services are provided on January 1, 2018, by implementing:*
 - *(2) any policy that expands access to behavioral health services or services delivered through telehealth technology services, provided that the policy does not impose any new eligibility requirements or limitations to receive state medicaid services that are not in effect on January 1, 2018; and “*
 - The bill is exempt and was not acted upon before the break, and it will likely remain in the Senate chamber awaiting action later in the session.
- House Bill 2591: Extends current KanCare contracts for three additional years. Medicaid services are continued as of 1/1/18 and any changes must have legislative approval. The bill is similar to Senate Bill 300 but with a three-year extension and without the behavioral health flexibility.

- House Health Chairman Hawkins bill heard on 2/8. The bill remains in committee for action and could be acted on 2/19 so it can be on the House floor.
- This plan, with legislative approval, amendments, and adjustments to the state plan, is the pro-current MCO bill. It does not exclude the State reviewing and using any of the new bids, but it does not require them to make use of any bids and can simply retain the current contractors.
- On 2/19 the House Health Committee tabled the bill until May 6th, delaying any additional action, in large measure because the Committee is divided regarding how to proceed.

Medicaid Expansion

- Medicaid Expansion. Senate Bill 38.
 - Senate Public Health and Welfare Committee heard SB 38 on 2/14. The bill should advance to the Senate floor on 2/19 and remain there until the Senate is ready to address Medicaid expansion.
 - The bill would expand Medicaid eligibility in full by allowing those whose income does not exceed 133 percent of poverty. It is estimated to add approximately 120,000 to Medicaid coverage.
 - Same bill that passed the Legislature during 2017 and Governor vetoed.
 - The bill is exempt from deadlines and remains on the Senate floor awaiting action.

Telehealth

- Telehealth in House Health and Human Services Committee. House Bill 2674.
 - Generally the same bill as HB 2512 but includes specific language allowing professionals working under supervision of a physician. The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
 - Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
 - Did not include abortion provision, but were added back in during committee along with a complex severability clause that would invalidate the telemedicine provision if the abortion provision is struck down by the courts. The anti-abortion advocates managed to take the telehealth policy hostage.
 - Includes 42 CFR protections for SUD providers.
 - Hearing in House Health on 2/12, passed committee on 2/19, passed House floor on 2/22 on a vote of 117-0.

- House Bill 2512, another telehealth bill was heard in House Committee and the bill remains in Committee and will not be passed.
 - The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
 - Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
 - Significant opposition from those who want to expand eligible providers and services beyond physicians (and those working under their supervision) and mental health workers.
 - Bill includes abortion provisions.

Suspend Medicaid eligibility

- Suspension rather than termination of Medicaid eligibility. Senate Bill 195/ House Bill 2508.
 - Bill will suspend Medicaid eligibility for members who enter prison, jail, or a state mental health hospital. The bill, discussed for over a decade, has passed out of Committee and is waiting action on the Senate floor.

Dental Therapy

- Dental Therapy. Senate Bill 312.
 - Other bills introduced but SB 312 is a negotiated agreement between the Kansas Dental Association, the Kansas Dental Hygienists Association. Agreement reached on parameters of direct supervision for dental hygienists who can practice as dental therapists and perform some additional procedures under supervision of a dentist.
 - The Senate passed the bill 39-0 and will it waits for action in the House.

Legislation of Interest

Because we are in the second year of the biennial cycle, all bills not passed or killed during the 2017 session are available for action during the 2018 session. Bills from the 2017 session will not be included on this list unless they are subject to action or they are likely to be taken up again.

Bills that have been published and the bill history can be found on the Legislature's official website: http://www.kslegislature.org/li/b2017_18/measures/bills/

KanCare/Medicaid

Prohibition against KanCare 2.0 without legislative approval. Senate Bill 300/ House Bill 2507

- Prohibiting KanCare 2.0 renewal without legislative consent.
- The bill requires KanCare exactly like is as of 1/1/17. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies. A one year extension of current contracts.
- Senate Bill 300 hearing in Senate Ways and Means Committee, 1/30-31. Bill was amended and passed to the full Senate with language allowing Medicaid changes for behavioral health access.
- Awaiting action on Senate floor.

Prohibition against KanCare 2.0 without legislative approval. House Bill 2507

- Prohibiting KanCare 2.0 renewal without legislative consent and extends current contracts with MCOs for three years.
- The bill requires KanCare exactly like is as of 1/1/18. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies.
- Hearing in House Health Committee. Bill remains in committee.

Extend current KanCare Contracts. House Bill 2591—House bill most likely to advance.

- Extends current KanCare Medicaid contracts for three additional years, allowing changes only with legislative approval.
- House Chair Dan Hawkins bill.
- Hearing in House Health 2/8. Bill will remain in Committee and on 2/19 the bill was tabled until May 6th.

Remove IDD services from KanCare. Senate Bill 332.

- Removes intellectual and developmental disabilities population from KanCare.
- Hearing in Senate Public Health and Welfare 2/9. Bill remains in Committee

Suspension of Medicaid eligibility. Senate Bill 195/ House Bill 2508.

- Bill from 2017 session, suspends rather than terminates eligibility when incarcerated or in state hospital.
- Would eliminate months of eligible member losing coverage and having to reenroll in Medicaid.
- House Bill 2508 unlike SB 195, eliminates the duty for state agencies to notify the State when an individual enters or leaves eligibility and requires KDHE to monitor and report
- Hearing in Senate Health and passed to full Senate with amendment from HB 2508. Awaiting action on Senate floor.

Require Medicaid coverage for smoking cessation. Senate Bill 316.

- For Medicaid eligible population, would require coverage of tobacco cessation treatment.
- No limits or caps on services and no pre-authorization allowed.
- Hearing in Senate Public Health and Welfare. 2/8. Bill remains in Committee.

General Healthcare

Establish the Kansas Telemedicine Act. House Bill 2674

- The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
- Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
- There is strong focus on mental health telemedicine and physicians but bill does include mid-levels working under supervision.
- Hearing in House Health 2/1, continued to 2/5.
- House Bill 2674 is Chairman Hawkins replacement bill for HB 2591 (which is now dead). It specifies professions working under supervision, removes the abortion provision, and adds 42 CFR protections for SUD providers. Includes controversial abortion prohibition amendment and severability clause.
- Hearing in House Health on 2/12, passed committee on 2/19, passed House floor on 2/22 on a vote of 117-0.

Dental Therapy. Senate Bill 308/312.

- Creates mid-level dental hygienists position to serve in safety net clinics and with Medicaid providers.
- Senate Bill 308 is the advocates bill and Senate Bill 312 is the compromise bill that Dental Association supports.
- Senate Bill 312 is the focus of hearings and action.
- SB 312 hearing in Senate Health 2/1, 2/5 and passed out on 2/8.
- Compromise brokered by dental association and dental hygienists expands some procedures for hygienist with additional training, clarifies supervision on premises in out of office locations.
- Passed Senate 39-0.

Criminal records and professional occupations license. Senate Bill 421.

- State licensing agencies shall list specific civil and criminal records that will be disqualifying for obtaining a license.
- In Senate Federal and State Affairs. No hearing and bill remains in committee.

Children

Immunity from civil liability for damage to motor vehicle related to rescue of person or animal. House Bill 2516/ SB 318.

- Civil immunity for person if locked motor vehicle with person or animal. Act must be in good faith with belief the person or animal is at risk. Required to notify law enforcement before entering.
- Hearing in House Judiciary 2/5. Passed committee, exempt bill awaiting action on House floor.

Student data privacy protection. Senate Bill 389.

- New unnumbered bill allowing parents/guardian to opt out of student surveys, provided the data is non-identifiable.
- Will allow greater data collection on youth activities based on non-identifiable data . Data in surveys such as Communities That Care will be used for grant reporting and scientific research.
- In Senate Education. Hearing on 2/15. Bill remains in committee.

Child placement agency discrimination. Senate Bill 401.

- Allows child placement agencies to refuse services or placements, and protects their license and contract if they discriminate.
- In Senate Federal and State Affairs. No hearing scheduled.

Emergency medical workers as mandatory reporters. House Bill 2530.

- Emergency medical personnel added to list of mandatory reporters for child abuse and neglect. Amended on floor to add abuse or neglect in a KDOC institution.
- Passed House Children and Seniors, passed House on 2/22 on a vote of 117 to 0. Awaiting action in the Senate.

Fingerprinting child care facility persons. House Bill 2639.

- Local and state law enforcement officers and agencies to assist KDHE in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility. Allowed to charge fees for checks.
- Passed House Children and Seniors, passed House 2/22 on a vote of 111-6. Awaiting action in the Senate.

Creates task force on youth transitioning out of child welfare. House Bill 2745.

- Creates wide-ranged tax force to create rights and resources related to the transition of youth from the foster care system.

- In House Children and Seniors. No hearing scheduled but bill has been blessed and will be heard in the second half of the session.

Create office of child advocate for children's protection. House Bill 2751.

- Creates office in the Department of Administration, not Department of Children and Families, appointed by the Governor and Chief Justice of the Supreme Court and Senate confirmed.
- Monitor Children and Families and Corrections to monitor and advocate for children.
- In House Federal and State Affairs, no hearing scheduled.

Revenue and tax policy

Tobacco tax. Senate Bill 376.

- Advocates bill. \$1.50 per pack tobacco tax.
- In House Tax Committee. No hearing scheduled.

Next Week Activities

The legislative schedule of hearings is updated regularly throughout the week can be found in the House and Senate calendars on the Legislature website at: http://www.kslegislature.org/li/b2017_18/chamber/calendars/

Additionally, virtually all hearings are now available on line. You can find those hearings on the Legislature website at: <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/>

There will be no hearings until Wednesday, February 28th while the Legislature takes its mid-session break. As you can see, there are few hearings of interest during this short week.

Monday, February 26.

No Session.

Tuesday, February 27.

No Session.

Wednesday, February 28.

Senate Public Health and Welfare. 9:30 AM.

- Briefing on interconnection on issues of DCF, KDHE, KDADS.

Thursday, March 1.

Friday, March 2.

Wrap Up

Please let me know if you have questions. Regular committee hearings will resume February 28th as we begin the second half of the 2018 session.

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