

Testimony on:
Senate Bill 373 – Inspector General

presented to:
Senate Committee on Ways and Means

by:
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Senate Bill 373 – Inspector General

Chairman Umbarger and members of the Committee, my name is Marci Nielsen and I am the Executive Director of the Kansas Health Policy Authority (KHPA). I am pleased to be here this morning to provide testimony in support of SB 373, which would create the position of Inspector General for programs administered by KHPA, and as a result, strengthen the Medicaid program in Kansas. I would like to thank Senator Derek Schmidt for his leadership on this issue, as well as the various stakeholders with whom we closely worked to review and revise this legislation.

History and Development of the Inspector General Role in Kansas

During the Summer of 2005, the Special Committee on Medicaid Reform spent several months reviewing the Medicaid program. Specifically, the Committee focused on state efforts to identify and prevent waste, fraud and abuse by Medicaid providers. The predecessor to the KHPA, the Division of Health Policy and Finance (DHPF), presented testimony about the existing mechanisms to detect fraud and abuse, means to prevent provider overpayments, and ways to enhance the criminal prosecution of providers or beneficiaries.

Representatives of DHPF, the Attorney General's Medicaid Fraud Control Unit (MFCU), the Medicaid Fiscal Agent, EDS, and representatives of providers presented testimony on best practices from other states and process improvements in Kansas. The Committee report recommended the creation of an Inspector General for the Medicaid program to provide an independent mechanism to detect fraud, and to identify ways to improve efficiency and review the management of the program.

During the 2006 Legislative Session, the Special Committee on Medicaid Reform introduced legislation (SB 327) to create an Inspector General for the Medicaid, State Children's Health Insurance Program (SCHIP), and MediKan programs. The Inspector General in that bill was to be appointed by the Governor, and confirmed by the Senate. The bill stated that the Inspector General would be the Authority's primary liaison with law enforcement, investigatory, and prosecutorial agencies. The Governor included \$75,000 in her FY 2007 Budget Report for an Inspector General within the KHPA. Over the course of the 2006 Session and last summer, several productive conversations were held among KHPA, MFCU, Senator Schmidt, and others to respond to concerns about how the Inspector General would interact with the KHPA Board, current fraud detection and reporting activities, and ultimately, how to create sufficient independence for the Inspector General while ensuring a connection to the agency responsible for the Medicaid programs.

SB 373

This legislation is based on model statutes of the Inspector General at the federal level, as well as in other states. For example, at the U.S. Department of Health and Human Services (DHHS), the Inspector General reports directly to the Secretary of Health and Human Services but retains independence in investigating programs within the jurisdiction of DHHS. In some states, Cabinet-level Secretaries hire and oversee the Inspector General, while in others, the Inspector General has purview over multiple agencies and is appointed by and reports to the governor.

The bill being considered today responds to the concerns raised about the working relationship between the Inspector General and KHPA, and is written to protect the independence of the Inspector General by having appropriate safeguards in the employment and reporting functions. As described in SB 373, the Inspector General would oversee, audit, investigate and review the performance of Medicaid, SCHIP, and MediKan. The Inspector General would be a classified state employee, hired by the KHPA Board and confirmed by the Senate.

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While the Inspector General is supervised by the KHPA Executive Director, his or her formal reports and findings are presented to the KHPA Board and recommendations for policy, regulatory, or statute are made to the Board and the Legislature. The Inspector General also refers matters to the Attorney General for criminal prosecution. This system of checks and balances helps insure the autonomy of the Inspector General. As the bill is written, the Executive Director does not control the Inspector General's employment or recommendations. However, the Inspector General reports to the Executive Director for operational and administrative matters, allowing for collaboration within the agency that promotes an environment of open communication and problem solving with the goal of strengthening the Kansas Medicaid program.

Specifically, the Inspector General is charged with:

1. Conducting independent and ongoing evaluations of the KHPA and its programs
2. Investigating fraud, waste, abuse, and illegal acts by the KHPA, its vendors contractors, consumers, clients and providers
3. Auditing to ensure appropriate payments are made for services provided and that overpayments are recovered
4. Reviewing contract compliance

Should the Inspector General find evidence of fraud, illegal acts or intentional program violations, the Inspector General is authorized to report these findings to the KHPA Board and the Kansas Attorney General. The Inspector General also may recommend changes in law, rules, regulations and processes to the KHPA Board and the Legislature.

The bill contains provisions protecting the confidentiality of individuals reporting program violations and contains whistleblower protections. The Board may recess into executive session to receive reports from the Inspector General and the Inspector General's records are confidential

Estimated Cost

KHPA estimated that SB 373 would require approximately \$350,000 to provide adequate staff, training, and operating funds in FY 2008. This funding would provide for the salary of the Inspector General, two additional auditors, and an administrative support person. The salary range for the Inspector General, in the classified service, was based on a similar position at the Department of Transportation and Chief Internal Auditors in the Department of Social and Rehabilitation Services and the Department of Commerce.

Budget requests and funding for the Inspector General would be included in the KHPA budget. The bill requires any State General Fund dollars appropriated for the Inspector General to be placed in a separate account for this purpose.

Conclusion

KHPA supports SB 373 and believes the responsibilities described for the Inspector General will create opportunities for improvement in the Medicaid program. KHPA is committed to improve the management of programs within our agency as a path to greater efficiency, effectiveness, and quality of health care for Kansans. The addition of an Inspector General provides an independent review of programs and practices to ensure compliance with state and federal requirements, diligence in identifying and preventing fraud, and prudence in our stewardship of public funds. This concludes my testimony and I look forward to answering any questions.