



March 11, 2025

TO: Senator Renee Erickson and
Members of the Senate Committee on Government Efficiency

FR: Matt Fletcher, Executive Director, InterHab

RE: Support for HB 2240

Chair Erickson and members of the committee, thank you for the opportunity to express support for HB 2240, which addresses the concerns of Kansas families and professionals who came before you on February 11 in support of this bill's companion – SB 161. At that time, you heard from several families and professionals who expressed widespread concerns regarding substantive changes that KDADS had intended to make to the IDD service network. We appreciate this committee's amendment of SB 161 to include language addressing our concerns as well as the committee's passage of the bill. Subsequently, the Senate passed SB 161 on a strong vote of support 30 to 10.

Similarly, the House added the same amendment language to HB 2240 that you did to SB 161, which provides for legislative oversight of substantive changes to the Kansas IDD service network. HB 2240 passed out of the House on a similar strong vote of support 89 to 34.

We are relieved to share that KDADS, following the amendment of HB 2240 and SB 161, initiated a new workgroup process to revisit the many proposed changes they had intended to make. InterHab has engaged in that collaboration and remains committed to working with the Department in improving its proposed changes. Dozens of InterHab's members are now participating in that workgroup process, and InterHab has also brought in additional consulting resources to assist as well.

However, the underlying concerns that brought us to this committee a month ago remain. Significant changes, which affect the lives of thousands of our most vulnerable Kansans, can be made without meaningful input from those who are most impacted. Proposals for complex change can arrive on the doorstep of families and professionals in a fully formed state without proper vetting from those vital communities. Accountability and transparency can be faded into haze when critical stakeholders are talked at instead of partnered with.

It is for those reasons that we believe that the language amended into HB 2240 and SB 161 is still relevant and needed. The Legislature should play an oversight role in significant changes that will impact the IDD population. A population whose welfare is specifically called out as a responsibility of the State in the Kansas Constitution.

We ask for your continued support of IDD-related language that you amended into SB 161, and that the House also amended into HB 2240.

KDADS' Proposed Changes for the IDD system:

What led us to amendment language within HB 2240? In 2024, KDADS signaled its intent to make multiple large-scale changes to the IDD service network. Their proposed changes did not have the support of service providers or the larger stakeholder community.

Among the changes KDADS indicated it would make:

- Change the assessment tool (from BASIS to MFEI) and process for how all Kansans with IDD will have their level of care determined.
- Overwrite the existing five-tiered funding structure for provider reimbursement and replace it with three tiers of funding and one capped enhanced rate.
- Dismantle the existing agency-based Targeted Case Management network.
- Require many of the 27 regional Community Developmental Disability Organizations (CDDOs) to undergo significant organizational restructuring or cease operations.
- Make sweeping changes to how Day Services are provided to Kansans with IDD across the state.
- Restrict provision of center-based work opportunities (workshop settings) to Kansans with IDD.

While KDADS held a number of public-facing meetings on the above systems change initiatives, the Department did not engage in meaningful collaboration with families and professionals. Each of KDADS' proposed initiatives were developed largely without any significant input from those who will be most impacted by them.

KDADS has also failed to adequately include the Legislature in the development of their systems change initiatives. KDADS shared very little information with the Legislature during the 2024 session, even though KDADS was far along in developing these proposals.

Federal Conflict of Interest Concerns:

On January 16, 2014, CMS released final regulations regarding home and community-based services (HCBS) requirements. Otherwise known as the HCBS Medicaid Settings Final Rule, those regulations aimed to improve the quality of HCBS programs, promote person-centered planning, and reinforce CMS's commitment to ensuring that individuals receiving services under various federal programs could fully engage in their communities and access services in the most integrated settings of their choosing. A component of those regulations included ensuring that case management is delivered without conflicts of interest.

CMS has pushed states to respond to TCM conflict of interest concerns since that time. Some states chose to require that service providers divest from case management provision. A similar approach in Kansas could cause many of the largest providers of TCM in our state to eliminate their TCM programs. This would undoubtedly cause significant disruption to TCM in many parts of the state. However, it is important to note that there have been a variety of state responses to conflict of interest that have been approved by CMS. The limited options that KDADS has proposed to date do not reflect the full array of responses from other states.

InterHab's organizational membership is comprised of many of the largest service providers across Kansas. Among our membership, more than 70% of service providers also maintain TCM programs. All of the TCM programs would be in jeopardy if our state chooses to force service providers to divest from TCM provision. Forced divestiture on such a large scale across Kansas is unprecedented and will have an enormous impact on TCM service capacity.

Our state is already experiencing capacity shortages of TCM in several regions across the state. KDADS' plan would sacrifice established capacity for the unsubstantiated hope that new capacity will be developed. Our members report inadequate TCM capacity within their regions to absorb individuals who would lose their case managers, with over 65% of providers reporting little to no additional TCM capacity in their areas.

We believe that the state should submit a plan to CMS that preserves agency-based TCM, as other states have done. The Special Committee on TCM included that recommendation in its findings as well.

MFEI Level of Care Assessment and IDD Funding Structure Overhaul:

There is widespread support for the adoption of a new level of care assessment tool. However, as in the scenario above, KDADS' proposed plan for implementation is so flawed that the larger stakeholder community cannot get behind it.

80% of CDDOs surveyed by InterHab report that they are not ready to implement the new MFEI tool by July 1. Over 91% of providers surveyed indicated that they have not been provided sufficient information by KDADS to adequately plan for either the new MFEI tool or the changes to the IDD funding structure. Providers are struggling to calculate fiscal impacts from these changes, and no feasibility study has been performed by KDADS on impacts to providers.

Further, KDADS' proposed implementation of the MFEI tool has ignored the ultimate end user of the process – individuals and families. The new assessment will take approximately twice as long to complete. CDDOs who are tasked with carrying out a significant portion of the new assessment report that the time to complete will not appreciably reduce over time, due to the excessive requirements that KDADS has built into the process.

Unbundled Day Services:

KDADS has announced that it will submit new IDD HCBS Waiver definitions for services that fall under the Day Services category to CMS. These new definitions have been 'unbundled' meaning that instead of the current blanket definition for Day Services, a new series of definitions will be used for discrete activities which fall under the category of Day Services. These new unbundled definitions were developed largely without any substantive input from stakeholders or providers.

Further, versions of these definitions that were shared with the IDD community in November 2024 unnecessarily restricted Kansans with IDD from some services and settings that they have chosen to best meet their personal needs and goals including capping center-based work opportunities (workshops) at six months of participation.

More than 56% of providers InterHab surveyed indicated they do not have enough staff to adequately carry out the new unbundled Day Service definitions proposed by KDADS. More than 65% report inadequate additional resources, such as vehicles, for these new definitions.

The goal is to improve KDADS' IDD Systems Change Proposals:

Our goal is not to indefinitely delay any resolution of these issues. Rather, we hope that a legitimate planning process that is inclusive of families, providers and legislators will occur thanks to legislative intervention. The greatest concentration of subject matter expertise on these issues has yet to be tapped by KDADS in their planning. The inclusion of families and providers will only improve each of KDADS' proposed systems change initiatives.