

Timothy Keck, Interim Secretary

Sam Brownback, Governor

To: House Judiciary Committee

From: Susan Barker Andrews, KDADS Chief Counsel

Date: March 14, 2016

Subject: SB 19, Electronic service of order or notice under the Kansas administrative procedure act and the Kansas judicial review act

Chairman Barker and members of the Committee:

I appreciate the opportunity to submit testimony in support of SB 19, legislation which will facilitate the ability of the Kansas Office of Administrative Hearings (OAH) to accept documents filed by electronic means. Many of the critical programs and services managed by KDADS necessitate participation in hearings governed by the Kansas Administrative Procedure Act. Electronic filing will immediately improve efficiencies in the allocation of KDADS' administrative staff time.

KDADS is a party to an Interagency Agreement for Administrative Hearing Services with OAH. Cases requiring hearings range from simple cases with few documents to extremely complex cases requiring thousands of pages of documents. An example of the types of hearings is state fair hearings resulting from KDADS' oversight of a system of community-based supports and services, as part of its responsibilities as party to an Interagency Agreement with the Kansas Department for Health & Environment (KDHE). As KDHE's agent, KDADS handles state fair hearings regarding participants receiving services under seven Medicaid waivers including Autism, Frail Elderly, Intellectual and Developmental Disability, Physical Disability, Technology Assisted, Traumatic Brain Injury and Serious Emotional Disturbance. In addition, KDADS also utilizes the OAH agreement for hearings stemming from certified staff alleged to have abused, neglected or exploited adult care home residents, license revocations, Senior Care Act, PACE, CARE/PASARR and adult care home rate setting. Though volume changes, currently KDADS' receives new hearing request cases filed with OAH at a rate of about 1-3 per business day.

Once a case is filed, KDADS' counsel assigned to the case must complete and file numerous documents including legal pleadings and exhibits. As a result, administrative staff physically travel to OAH every business day to file documents. This process has a direct cost to KDADS. Cost elements include, but are not limited to, the following:

1. Lost opportunity cost to KDADS for work not able to be completed when one of only two administrative staff are traveling to and from OAH for about ½ hour daily;
2. Gasoline, wear and tear on KDADS' state car used daily by staff to complete filings;
3. Estimated wage costs made using an hourly wage of about \$17.39 plus 33% for benefits indicate it costs about \$11.56 per day to file documents at OAH;
4. In addition, there is a further cost to the State in that OAH places numerous Orders, correspondence and pleadings in inter-office mail which hand couriered between agencies.

Based on 251 annual working days, the actual direct cost, not including vehicle expenses or lost opportunity cost, is about \$2,901.56 per year. Both direct and opportunity costs could be saved with passage of legislation authorizing OAH to implement and utilize electronic filing.

KDADS fully supports SB19. We appreciate the Committee's consideration of this bill.