

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

Senate Ways and Means Committee

January 15, 2004

Update on SRS Issues

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Update on SRS Issues

Chairman Morris and members of the Committee, thank you for the opportunity to appear before you today. My name is Janet Schalansky, and I am the Secretary of the Department of Social and Rehabilitation Services. I am here to provide you with updates regarding SRS issues, including three specific topics about which you requested information: local service delivery redesign efforts, the changes in our caseload estimates since the 2003 Legislative Session, and the status of three lawsuits against SRS.

1. Service Delivery Redesign Update

SRS continues to implement its phased service delivery redesign process: improve customer service by creating better access to services, creating efficiencies by consolidating staff into strategically located service centers, developing service delivery models which focus on customer service and community capacity building, and creating regional administrative structures that more closely align with updated service delivery models.

The Department is making progress towards its goal of increasing access to services in all counties, not just in counties where offices have closed. While a great deal of work is still needed, much has been accomplished in a few short months. SRS has developed over 400 Access Points statewide. Access Points are agreements with community partners to provide information about SRS services. Access Points range from a brochure and application rack in the local grocery store to private meeting space in a community library or in a community mental health center. An Access Point may also be a community partner who provides access to a phone, fax or the internet. With the development of Access Points and changes in federal regulations, most customers no longer need to come to an SRS office to receive services. A community capacity building base has been established through the collaborations that have occurred as Access Points are developed. These partnerships have been invaluable.

SRS has further improved customer access to services by establishing a statewide toll-free phone number, implementing "universal access" which allows customers to apply and receive services in a county other than their county of residence, and developing a web based application and assessment tool. Nearly 20,000 calls have been received on the toll free line since its June 2003 inception. During the first six months, 525 web based applications were submitted for processing. This is despite the application being in a "pilot" phase. Before fully marketing the web based application, SRS is completing work on a Spanish version and ensuring accessibility for persons with disabilities. In December, a statewide toll free fax number was established.

Through December 31, 2003, SRS has closed 30 local offices and plans to close an additional 20 offices between January - June, 2004 (see Attachment A). The majority of these offices are scheduled for closure in the next two months. An additional 12 offices are scheduled for closure

in FY 05. As the agency gains experience in providing access through technology and a redesigned service delivery model, additional offices may be closed. Opportunities have been identified already through collaborative efforts in communities.

Impact of Service Delivery Redesign on Customer Access

An initial review of office closures and its impact on customer access has been completed. The outcome of the review is an acknowledgment that it is too soon to draw any definitive conclusions. The early analysis reflected some promising data. Temporary Assistance to Families (TAF), Food Stamp, and Child Care caseloads were compared in counties where offices closed and in a sample of counties where offices remained open. The following data emerged:

- 75% of counties in which the SRS office closed, had an increase in TAF cases. 50% of counties in which the SRS office remained open, had an increase in TAF cases.
- 80% of counties in which the SRS office closed, had an increase in Food Stamp cases. 87% of counties in which the SRS office remained open, had an increase in Food Stamp cases.
- 95% of counties in which the SRS office closed, had an increase in Child Care cases. 87% of counties in which the SRS office remained open, had an increase in Child Care cases.

Again, it is too early to draw definitive conclusions based on this data, but office closures do not appear to be having a negative impact on access to SRS services. The Department is consulting with the Docking Institute of Public Affairs, which is affiliated with Fort Hays State University, to develop a longer term strategy to evaluate service delivery redesign. SRS can confirm:

- Customers no longer have to pay for a long distance call or fax.
- Customers can apply for and receive services in the community in which they live, work or trade.
- Customers are no longer required to drive to the SRS office to obtain information and applications or to apply for services.
- Customers are receiving more immediate access to SRS services. Prior to closure, many local offices were only open 1 day a week. Customer contact in that county usually occurred on that day. The toll free number provides access to services 5 days a week.
- Customer concerns regarding office closure have been minimal.
- Communities have strongly supported Access Points.
- SRS staff resources are being distributed based on caseload.

The Department is pleased with the progress made to increase customer access to SRS services. Much of that progress is due to the tremendous support of community partners and the hard work of local staff.

As mentioned earlier, the SRS service delivery redesign initiative includes updating regional

administrative structures. In October 2003, SRS announced plans to reduce the number of management areas from 11 areas to 6 regions by the end of FY 05. An internal realignment team has drafted an updated administrative structure developed from ideas generated by regional planning teams and central office staff. A final structure and an implementation plan are scheduled to be completed by March 1, 2004.

Realignment of management areas is a significant change in the way SRS operates. The agency is not just reducing the number of management regions, but changing the way we provide services. Realignment includes rethinking our service delivery models, assuring customer access in their communities and streamlining operations to target some staff resources to work with communities to identify needs and build capacity.

2. Changes in SRS Caseload Estimates since the 2003 Legislative Session

Compare Spring 2003 to Fall 2003 Consensus Estimates:

Estimates in Millions for Fiscal Year 2004

	Spring FY 2004 Consensus		Fall FY 2004 Consensus		Increase (Decrease)	
	SGF	AF	SGF	AF	SGF	AF
Temporary Assistance for Families	29.82	57.69	29.82	59.00	0.00	1.31
General Assistance	7.52	7.52	7.52	7.52	0.00	0.00
Foster Care Contract	34.81	89.48	39.04	89.50	4.23	0.02
Adoption Contract	16.23	34.37	14.48	33.65	-1.75	-0.72
Nursing Facilities-Mental Health	8.93	13.10	10.00	13.10	1.07	0.00
Regular Medical Assistance	358.00	1,069.00	315.05	1,039.05	-42.95	-29.95

Description of the changes:

Temporary Assistance for Families - TAF expenditures are projected to increase as caseloads increase and costs increase slightly. SGF was not increased because the entire increase was funded with TANF.

General Assistance - No change from the spring consensus was projected. These consensus estimates account for the people leaving GA after 24 months in the program. No adjustment has been made related to the lawsuit filed at the end of 2003.

Foster Care - Caseload and contract costs are not projected to change significantly from the spring estimate. The increase in SGF is due to federal policy changes and funding changes. Over the past couple years, Title IV-E and Title XIX funds were expended at a greater rate than claimed. This was possible due to balances in these funds from prior period adjustments. These funds have been exhausted, and this SGF adjustment corrects the funding. The SGF increase above reflects a \$1.1 million offset from enhanced Federal Medical Assistance Percentage (FMAP).

Adoption - Caseloads are projected to be slightly lower than the spring estimate. The majority of the savings however are the result of the temporary enhanced match rate in Title XIX and a claiming adjustment allowing additional Title IV-E to be used in the adoption contract.

Nursing Facilities for Mental Health (NFs/MH) - Caseload and costs are projected to remain constant. The increased SGF is because of changes in the ages of the people at NFs/MH; people 21 to 65 years of age are not eligible for federal financial participation and have increased as a percentage of the total NF/MH population. Clients who are eligible for Title XIX have decreased as clients not eligible for federal funding have increased.

Regular Medical Assistance - The decrease in medical assistance between the spring and the fall consensus is due to several factors. Caseload and cost projections were lowered slightly from the spring estimate. The temporary increase in the federal matching rate for Medicaid services accounts for \$29.0 million in SGF savings. The remaining savings are primarily a result of using additional fee funds from pharmacy supplemental rebates instead of SGF, in association with the implementation of the Preferred Drug List.

Compare Fall 2003 Consensus Estimates for FY 2005 to FY 2004 Estimates

Estimates in Millions

	FY 2004 Estimate		FY 2005 Consensus		Increase (Decrease)	
	SGF	AF	SGF	AF	SGF	AF
Temporary Assistance for Families	29.82	59.00	29.82	63.50	0.00	4.50
General Assistance	7.52	7.52	8.20	8.20	0.68	0.68
Foster Care	39.04	89.50	42.72	92.90	3.68	3.40
Adoption	14.48	33.65	15.97	35.22	1.49	1.57
Nursing Facilities-Mental Health	10.00	13.10	10.40	13.10	0.40	0.00
Regular Medical Assistance	315.05	1,039.05	376.96	1,161.91	61.91	122.86

Description of the changes:

Temporary Assistance for Families - Expenditures are estimated to increase as the TAF caseload continues to increase. SGF was not increased because the entire increase was funded with TANF funds. The TANF surplus is projected to be exhausted during FY 2005, so any additional increases will have to be funded in a different way.

General Assistance - The increased expenditures are because of a projected 9% increase in people in the program. This increase in people accounts for the people leaving GA after 24 months in the program.

Foster Care Contract - Increased caseload and contract costs account for approximately 9% of the increase. The remaining increase is due to federal policy changes, funding changes in Title IV-E and Title XIX, and the end of the enhanced FMAP.

Adoption Contract - Caseload and contract costs are expected to increase slightly over FY 2004 levels. The increase in adoption expenditures is primarily the result of policy changes, funding changes, and adjustments. The end of enhanced FMAP also contributed to the increase of SGF over FY 2004.

Nursing Facilities for Mental Health - Caseload and costs are projected to remain constant in FY 2005. The increased SGF is because of changes in the ages of the people at NFs/MH. People 21 to 65 years of age are not eligible for federal financial participation. Clients that are eligible for Title XIX have decreased as clients not eligible for federal funding have increased.

Regular Medical Assistance - The increase in medical expenditures is due to both increased caseload (5.8 percent increase) and a modest increase in the cost of services (5.7 percent). The enhanced federal match rate also ends in FY 2005 resulting in increased SGF needs over

FY 2004.

3. Status of lawsuits against SRS

Three cases that could potentially have a significant impact on certain programs operated by SRS are currently pending.

- The InterHab case was filed in October 2002, challenging the reimbursement amount being paid to Community Developmental Disabilities Organizations (CDDOs) and Community Service Providers (CSPs) for providing services to Kansans with developmental disabilities. The case is currently waiting for plaintiffs to file and serve their second amended petition, or until the judge grants their motion to file their third amended petition.
- The Jenkins case was filed in May 2003, challenging the length of time plaintiffs were required to wait prior to receiving services on the HCBS PD waiver. A motion to dismiss is currently pending with the Court.
- The Reed case was filed in Sedgwick County on December 31, 2003, challenging implementation of the 24 month lifetime limit for receiving General Assistance and Medikan. A temporary restraining order was issued on December 31, and a temporary injunction hearing is now scheduled for January 16, 2004. All cases that were to have benefits terminated on January 1 have been reinstated until further ruling by the Court.

A more detailed summary of each of these cases is attached for your information in Attachments B, C and D.

4. Additional SRS Issues

I would also like to provide the Committee with updates on some other key SRS issues:

- Medicaid Management Information System (MMIS) - SRS and our Medicaid fiscal agent, EDS, implemented a new MMIS in October 2003. There are always numerous challenges associated with the implementation of a new MMIS. Over the past three months, though, we have made continuous progress on claims processing. The number and amount of payments from the new MMIS is comparable to historical averages. We continue to work with individual providers to resolve specific billing issues.
- Rebidding of the Child Welfare contracts - SRS has extended the current child welfare contracts for family preservation, foster care and adoption services for one year. This decision was made to provide an opportunity to address some areas of the current community-based child welfare service contracts that need revision and some areas in which we would like to raise the bar on the successes already being achieved. The time line on which we are now operating is as follows:
 - May 2004 - Issue requests for proposals
 - September 2004 - Receive proposals for review
 - January 2005 - Issue new contracts
 - July 2005 - Begin services under the new contractsThe new contracts will be designed to continue to build a child welfare system that is

safe, secure, stable, family-centered, connected to the community, and relies on evidence-based practices. A letter seeking input about the child welfare contract rebidding process will be sent to all members of the Kansas Legislature within the next week.

- Home and Community-Based Services (HCBS) Waiting Lists - In an effort to manage the HCBS Developmental Disabilities (DD) and Physical Disabilities (PD) waivers, focus has been placed on the waiting lists and the number of individuals that may be served with the funding that is available. This is due to the numbers of individuals in need of assistance. There also have been legal decisions made in states that affect the way that states approach the issues of waiting lists, the Olmstead decision being the decision with the greatest impact. Kansas has been able to maintain continuous movement of the waiting list with the addition of funding each year as well as the decision that we made to continue to serve individuals in crisis even when new funding was not available specifically to serve new persons from the waiting lists. Included in the management of the programs, SRS considers the level of supports provided as well as the quality of supports provided.

The total funding approved for the DD waiver in FY 2004 supports services to an average of 6,079 persons each month, an increase of 531 persons from FY 2002. For FY 2005 it is projected that the DD waiver will serve an average of 6,349 each month, an increase of 270 persons from FY 2004.

The total funding approved for the PD waiver in FY 2004 supports an average of 4,047 persons per month, up 302 persons from the average number served in FY 2002. In FY 2005, it is projected that the waiver will serve an average of 4,572 per month, an increase of 525 from FY 2004.

- Future of Kansas Mental Health Hospitals - In follow-up to the recommendations and directives from the 2003 Legislature and to coalesce and build upon the work of several preceding mental health system task force groups, SRS commissioned a Future of State Hospitals Project Steering Committee.

The Steering Committee has completed its work and prepared a final report. That report will be shared with the 2004 Legislature in the next few weeks. In short, the Committee found that Kansans who need to utilize the public mental health system should have access to and receive a full spectrum of psychiatric services. Further, these services should provide state of the science care, use evidence-based practices, promote timely and durable recovery, build resilience of children, and support families. The Steering Committee concluded that any future reduction in the service capacity of state mental health hospitals should occur only with planning input by impacted stakeholders and concurrent implementation of capacity building measures in the affected communities. To these ends, the Steering Committee developed several short-term and long-term strategies to prevent further dissolution of community-based services resources and to explore new public/private partnerships to deliver acute care services.

The Steering Committee recommended implementation of a regional model for inpatient

psychiatric services for children in FY 2005. The Governor also addresses this issue in her 2005 budget with her recommendation that alternative community resources be used or developed to serve children under age 12 who currently are served at Larned State Hospital.

- Managing Health Care Costs - One of SRS' major roles is to provide health care coverage to tens of thousands of Kansans through Medicaid, Medikan and the State Children's Health Insurance Program. These vital health care services are critical to the well-being of Kansans, but health care costs continue to rise at an alarming rate. SRS employs two key strategies to address the rising costs of health care:
 1. Preferred Drug List - The 2002 Legislature authorized SRS to create a Preferred Drug List (PDL) which promotes clinically-appropriate utilization of pharmaceuticals in a cost-effective manner. SRS' PDL, which was implemented in December 2002, currently includes thirteen drug classes. The estimated savings to SRS for FY 2004 for the current PDL is approximately \$8.0 million. Additional information about SRS' PDL is contained in a report we will submit to the Legislature today.
 2. Care Management - SRS has placed increased focus on care management strategies in recent years. Through care management, a holistic approach is taken to balance each individual's health care needs with cost effectiveness. We are implementing a pilot project to utilize care managers to coordinate all aspects of care for high-risk individuals by utilizing disease management strategies, case management, evidence-based technology and expertise in communication, teaching and healthcare systems to improve care and cost effectiveness.
- High Performance Bonus Awards and Incentive Funds - In the fall of 2003 SRS received TANF high performance bonus awards for 2001 and 2002 from the U.S. Department of Health and Human Services totaling \$10.2 million. The bonuses were awarded for Kansas' high performance in the number of persons who became employed, the length of time they retained employment, and their wage increases following employment, as well as in recognition for increases in the households receiving food stamp and medical assistance.

For its performance in federal fiscal year 2002, SRS' Child Support Enforcement program also received \$1.5 million more in federal performance incentives than projected in the budget. To be eligible for federal incentives, states must first pass a data reliability audit to insure the data being used to calculate performance incentives is accurate and consistent among the states. Kansas passed this portion of the federal audit and became eligible for incentive payments.

- Coordinating across State Government - Governor Sebelius has challenged all state agencies to identify ways to improve the efficiency and effectiveness of state government and to improve the quality of life for all Kansans. To meet these goals, the Governor and the Cabinet have chartered several BEST groups, created cross-agency work groups, and sponsored statewide meetings to gather public input on issues such as education reform, economic development, and rural development. SRS has

participated in these activities and has increased our efforts to coordinate programs and policy with other state agencies and local governments. Examples include:

- SRS senior managers served on BEST Administrative Redundancies Teams studying facilities management, purchasing, human resources and information technology.
- SRS Health Care Policy staff worked to develop models and quantify Kansas government health care purchasing.
- SRS is working with other Health and Human Services Cabinet agencies and the Kansas Association of Counties to begin joint planning to meet social service needs across governmental boundaries.

Conclusion

This concludes my updates for the Committee. Thank you for the opportunity to talk with you today. I would be happy to stand for any questions at this time.

Attachment A: Local Office Closures

Closures through December 31, 2003: 30

County	City	Area Office	County	City	Area Office
Chase	Cottonwood Falls	Emporia	Lincoln	Lincoln	Manhattan
Cheyenne	St. Francis	Hays	Linn	Mound City	Chanute
Clark	Ashland	Garden City	Mitchell	Beloit	Manhattan
Clay	Clay Center	Manhattan	Nemaha	Seneca	Manhattan
Coffey	Burlington	Emporia	Ness	Ness City	Garden City
Comanche	Coldwater	Garden City	Pawnee	Larned	Hays
Edwards	Kinsley	Garden City	Ottawa	Minneapolis	Manhattan
Ellsworth	Ellsworth	Manhattan	Republic	Belleville	Manhattan
Grant	Ulysses	Garden City	Rooks	Stockton	Hays
Gray	Cimarron	Garden City	Scott	Scott City	Garden City
Greeley	Tribune	Garden City	Stanton	Johnson City	Garden City
Hodgeman	Jetmore	Garden City	Wabaunsee	Alma	Manhattan
Jewell	Mankato	Manhattan	Wallace	Sharon Springs	Hays
Kearny	Lakin	Garden City	Washington	Washington	Manhattan
Lane	Dighton	Garden City	Woodson	Yates Center	Chanute

Closures January to June 2004: 20

County	City	Area Office	County	City	Area Office
Barber	Medicine Lodge	Garden City	Meade	Meade	Garden City
Chautauqua	Sedan	Emporia	Morton	Elkhart	Garden City
Decatur	Oberlin	Hays	Osborne	Osborne	Hays
Elk	Howard	Emporia	Rawlins	Atwood	Hays
Gove	Gove	Hays	Rush	LaCrosse	Hays
Greenwood	Eureka	Emporia	Sheridan	Hoxie	Hays
Hamilton	Syracuse	Garden City	Smith	Smith Center	Hays
Haskell	Sublette	Garden City	Stevens	Hugoton	Garden City
Jefferson	Oskaloosa	Lawrence	Trego	WaKeeney	Hays
Logan	Oakley	Hays	Wichita	Leoti	Garden City

Attachment B: INTERHAB, et al. v. SCHALANSKY, et al.

This case was filed in Shawnee County District Court in October, 2002, by InterHab and five Community Developmental Disability Organizations (CDDOs) and Community Service Providers (CSPs) on behalf of themselves and all CDDOs and CSPs in Kansas who receive funding by and through the state, and provide and/or coordinate assistance to Kansas citizens with developmental disabilities. It names Secretary Schalansky, SRS, and the state of Kansas as defendants. The suit is based on several different theories of claim, including breach of contract, mandamus, injunction, civil rights, and constitutional grounds. Plaintiffs allege the community system is currently underfunded in excess of \$88.0 million annually, and they are seeking reimbursement for all state underfunding for fiscal years 1996 through 2003. They are also asking for attorney fees and costs.

In February, 2003, the Court denied plaintiffs' requests for temporary restraining orders as to both the initial allotment decisions of the Governor and Department of Administration officials, and the Secretary of SRS and her department in terms of her agency's implementation of the allotment reductions. Claims against the Governor and Department of Administration were also dismissed.

On September 11, 2003, the Court issued its Order on plaintiffs' motion to further amend their First Amended Petition, and on defendants' motions to dismiss. The ruling allowed the Petition to be further amended by adding two consumers as parties, and allowed claims related to those consumers to be included. The Judge denied plaintiffs' attempt to add the Governor as a party. He also ruled on the motions to dismiss, allowing several claims to remain while dismissing some of the federal law claims. The language in the Order indicated that at this early stage of the proceeding, when only the petitions, motions to dismiss and responses have been filed, there is not sufficient information before the Court to determine if the case has merit, or whether it should be dismissed at some future point.

Plaintiffs have now filed a motion to file a third amended petition which would include a claim for retaliation, but the Court has not yet ruled on whether or not it will be allowed. Litigation in the case is somewhat on hold until either the second amended petition is filed and served, or the Court grants permission to file and serve the third amended petition. Once this is done, the next step in the proceeding would be for defendants to respond to the further amended petition, and then to move forward with limited discovery to gather evidence for the Court's consideration. No definitive timelines have yet been established.

Attachment C: JENKINS v. SCHALANSKY

This case was filed in Shawnee County District Court in May, 2003, by the Topeka Independent Living Resource Center representing three named plaintiffs on behalf of themselves and all other persons similarly situated. The proposed class is described as all persons, residing in their own home and not in a nursing facility, on the HCBS PD waiver waiting list who have not been given a free choice of Medicaid long term care services and who have been on the waiting list for more than 90 days. Plaintiffs are seeking declaratory and injunctive relief against the Secretary of SRS in her official capacity.

In their Petition, plaintiffs request a declaration that defendant has violated their federally protected rights under Medicaid to a free choice of Medicaid long term care services by failing to provide services on the HCBS PD waiver, and by failing to provide those services with reasonable promptness. Plaintiffs further request injunctive relief ordering the defendant to provide HCBS PD waiver services with reasonable promptness within 90 days. Finally, plaintiffs ask that this case be certified as a class action, and that they be awarded attorney fees and costs.

On October 22, 2003, the defendant filed a motion to dismiss the case based on several different grounds. Plaintiffs responded to the motion and the defendant filed a further response. The case is now waiting for oral arguments on the motion to be scheduled, or a ruling by the Court.

Attachment D: REED, et al. v. SCHALANSKY, et al.

This case was filed in Sedgwick County District Court on December 31, 2003, by three named plaintiffs on behalf of themselves and other indigent and disabled Kansans who receive cash benefits and medical services from the Secretary, and who have cases pending before the Social Security Administration in which they are pursuing their rights to receive Supplemental Security Income (SSI). Plaintiffs are seeking a declaratory judgment, a temporary restraining order, and injunctive relief. An Ex Parte Restraining Order was issued by Judge Karl Friedel on December 31, 2003, ordering that defendants not implement Kansas Administrative Regulation 30-4-90 limiting General Assistance to twenty-four months of a recipient's lifetime, until a hearing can be held on plaintiffs' Motion for Temporary Injunction which is now scheduled for January 16, 2004.

For their first cause of action plaintiffs claim that K.A.R. 30-4-90 did not include the hardship clause as mandated by the 2002 appropriation bill, and as a result, this violated a constitutionally imposed duty of due process in making provisions for disabled and impoverished citizens who have claims upon society.

For their second cause of action plaintiffs claim the promulgation of K.A.R. 30-4-90 limiting assistance to 24 months violates the constitutional duty imposed upon the Secretary to provide benefits to plaintiffs and class members as set forth in Bullock v. Whiteman, the 1993 Kansas supreme court case dealing with GA and Medikan reductions.

Plaintiffs ask the Court to grant a Temporary Restraining Order prohibiting the Secretary from implementing the regulation, both temporary and permanent injunctive relief prohibiting its enforcement, and a declaration that the regulation is in violation of the due process clauses of both the Kansas and Federal Constitutions and therefore subject to remedies provided by 42 U.S.C. §1983. Plaintiffs also ask for an order selecting them as class representatives for all indigent and disabled citizens of Kansas who are entitled to GA and medical benefits under the Medikan program.

Defendant has filed a motion to dismiss for improper venue or in the alternative to change venue to Shawnee County; and a motion to vacate, set aside and dissolve the Ex Parte restraining order. It is anticipated these motions will be taken up at the hearing on January 16, 2004. Next steps in the litigation will depend on the outcomes of those proceedings.