The following information is the Special Terms and Conditions (STC) and Attachment H for the KanCare Ombudsman Office for the 2019-2023 contract with CMS. The full document can be found on the KanCare website.

CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

SPECIAL TERMS AND CONDITIONS

NUMBER: 11-W-00283/7

TITLE: KanCare

AWARDEE: Kansas Department of Health and Environment

36. Independent Consumer Supports (Ombudsman). To support the beneficiary's

experience receiving medical assistance and long term services and supports in a managed care environment, the state shall maintain a permanent system of independent consumer supports (hereafter referred to as the Ombudsman) to assist enrollees in understanding the coverage model and in resolving problems regarding services, coverage, access and rights. Please see Attachment H for additional information on the Ombudsman Plan.

a. Core Elements of the Ombudsman.

i. *Organizational Structure*. The Ombudsman shall be autonomous to any KanCare MCO and the State Medicaid agency. If the Ombudsman operates within a sister state agency, the State shall establish protections such that no undue influence will be imposed that restricts the ability of the Ombudsman to perform all of the core functions. The organizational structure of the Ombudsman shall demonstrate transparency and collaboration with beneficiaries, MCOs, community based organizations, and state government.

ii. *Accessibility*. The services of the Ombudsman are available to all Medicaid beneficiaries enrolled in KanCare, with priority given to those receiving

long- term services and supports (institutional, residential and community based). The Ombudsman must be accessible through multiple entryways (e.g., phone, internet, office) and must use various means (mail, phone, in person), as appropriate, to reach out to beneficiaries and/or authorized representatives through.

iii. *Functions*. The Ombudsman assists beneficiaries to navigate and access covered health care services and supports. The services of the Ombudsman help individuals understand the delivery system and resolve problems and concerns that may arise between the individual and a provider/payer. The following list encompasses the Ombudsman's minimum scope of activity. The Ombudsman:

A. Shall serve as an access point for complaints and concerns about access to services and other related matters when the beneficiary isn't able to resolve their concern directly with a provider or health plan

B. The Ombudsman shall help enrollees understand the state's Medicaid fair hearing process, grievance and appeal rights, and grievance and appeal processes provided by the health plan, and shall assist enrollees in navigating those processes and/or accessing community legal resources, if needed/requested.

C. The Ombudsman shall develop a protocol for referring unresolvable issues to the State Medicaid Agency and other state officials as necessary to ensure the safety and well-being of beneficiaries.

D. The Ombudsman shall develop and implement a program of training and outreach with KanCare MCOs, providers, and community based organizations to facilitate cross-organizational collaboration, understanding, and the development of system capacity to support beneficiaries in obtaining covered plan benefits. The state shall track and report all such activities to the State Medicaid Agency and CMS, as specified in subparagraph v. of this STC.

E. The Ombudsman shall assist enrollees to understand and resolve billing issues, or notices of action.

iv. *Staffing and training*. The Ombudsman must employ individuals who are knowledgeable about the state's Medicaid programs; beneficiary protections and rights under Medicaid managed care arrangements; the health and support needs of persons with complex needs, including those with a chronic condition, disability, and cognitive or behavioral needs, and the community based systems that support them. In addition, the Ombudsman shall ensure that its services are delivered in a culturally competent manner and are accessible to individuals with limited English proficiency and people with disabilities. The state shall develop an access standard to measure the availability and responsiveness of the system to beneficiaries and others seeking support from the Ombudsman, and shall report compliance with this standard to CMS in its quarterly and annual reports, as specified in STC 64. The system shall be staffed sufficiently to address all requests for support consistent with this access standard.

v. The State and CMS will review the performance of the Ombudsman against this access standard and against the functions described in these STCs 12 months following approval of this demonstration. The State shall take any

necessary corrective action to comply with this standard.

vi. *Data Collection and Reporting*. The Ombudsman shall include a robust system of data collection and reporting. The state shall include this data in all quarterly and annual reports to CMS as specified in STC 64. The state shall also develop a mechanism for public reporting. At a minimum, the state shall collect and report on the following elements:

1) The date of the incoming request as well as the date of any change in status.

2) The volume and type (email, phone, verbal, etc.) of incoming request for assistance.

3) Time required for beneficiaries to receive assistance from the Ombudsman, including time from initial request to resolution.

4) The issue(s) presented in incoming requests for assistance.

5) The health plan (s) involved in the request for assistance, if any.

6) The geographic area where the beneficiary involved resides, if applicable.

7) Which 1915(c) waiver authority if applicable (ID/DD, PD, Aging, etc) the beneficiary receives services from.

8) The current status of the request for assistance, including actions taken to resolve.

9) The number and type of education and outreach events conducted by the Ombudsman.

10) System Enhancement. The Ombudsman shall generate periodic public reports that describe the functioning of the Ombudsman and any enhancements to the program that the state makes. The first report of the new demonstration period will be submitted to CMS within 6 months of approval of the demonstration. Subsequent reports will be submitted to CMS within 6 months of the end of the calendar year.

11) Transparency and Stakeholder Involvement. The State shall assure transparency in the operation of the Ombudsman, including public reporting of all aggregate data and performance reports and changes made to improve the Ombudsman program. The State shall develop a mechanism to secure stakeholder input into the operation and performance of the Ombudsman and demonstrate inclusion of stakeholder input in its on-going operation, evaluation, and enhancement of the program.

b. The State will evaluate the impact of the Ombudsman program in the demonstration evaluation per STC 97.

ATTACHMENT H

Ombudsman Plan

The following report was submitted by the state of Kansas on November 26, 2012, as a part of

CMS' KanCare review. This report describes the qualified independent, conflict-free entity which will assist KanCare enrollees in the resolution of problems and conflicts between the MCOs and participants regarding services, coverage, access and rights. The Ombudsman should help participants understand the fair hearing, grievance, and appeal rights and processes at each MCO and proactively assist them through the process if needed. Ombudsman activities are available to all demonstration eligible populations, but specific focus and outreach activities will be directed towards KanCare enrollees utilizing LTSS (institutional, residential and community based). (see STC 36).

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Robert Moser, MD, Secretary
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Sam Brownback,

KanCare Implementation Activity: KanCare Consumer Ombudsman
Date Updated: **Dec. 5, 2012**

Purpose:
The ombudsman will help Kansas consumers enrolled in a KanCare plan, with a primary focus on individuals participating in the HCBS waiver program or receiving other long term care services through KanCare.

The ombudsman will assist KanCare consumers with access, service and benefit problems. The ombudsman will provide information about the KanCare grievance and appeal process that is available through the KanCare plans and the State fair hearing process, and assist KanCare consumers seek resolution to complaints or concerns regarding their fair treatment and interaction with their KanCare plan.

The ombudsman will:

i. Help consumers to resolve service-related problems when resolution is not available directly through a provider or health plan.
ii. Help consumers understand and resolve billing issues, or notices of non-coverage.
iii. Assist consumers learn and navigate the grievance and appeal process at the KanCare plan, and the State fair hearing process, and help them as needed.
iv. Assist consumers to seek remedies when they feel their rights have been violated.
v. Assist consumers understand their KanCare plan and how to interact with the programs benefits.
vi. Serve as a point of contact and resource for legislative and other inquiries into the provision of LTSS in managed care.

Organization:

The KanCare Ombudsman will be located in the Kansas Department for Aging and Disability Services (KDADS). The Ombudsman will be organizationally independent from other KDADS commissions which set and direct Medicaid program, and reimbursement policy. The Ombudsman will receive administrative and legal support from the Office of the Secretary division of KDADS.

The Ombudsman will make an annual report to the legislature detailing the activities of the office and other relevant information related to the provision of LTSS in KanCare.

Personnel:

Recruitment of candidates for the Ombudsman position began November 12. Interviews are scheduled for the week of November 26. The Ombudsman will be selected and hired by January 1, 2013.

Program and Training:

Initially, the Ombudsman will be trained on the grievance and appeals process available through the KanCare plans, and the State fair hearing process, as well as the utilization management policies and procedures adopted by the KanCare plans, State Medicaid policy and the State contract governing the KanCare plans.

Additionally, the Ombudsman will receive orientation covering Kansas eligibility processes, KanCare covered benefits, and care coordination.

The Ombudsman will work with consumers and providers in distributing information about the Ombudsman services. Contact information for the Ombudsman will be provided through state processes and contractors such as eligibility offices, KanCare hotline and mailings, Aging and Disability Resource Centers, KanCare member materials, and consumer and provider advocates. In addition to assisting consumers with the items listed in the overview, the Ombudsman will provide information, assistance, and referrals to consumers with issues not covered in the Ombudsman's scope of work.

Supporting Resources:
The Ombudsman will be presented as a source for assistance when a consumer cannot find an
acceptable outcome by speaking directly with their KanCare plan, or through the normal processes. While the Ombudsman will be trained on eligibility criteria and covered benefits, the State does not expect the Ombudsman's office to be the first contact for all such questions. The state's enrollment broker, MCO call centers, State eligibility staff, and the ADRC are established resources for member inquiries. Similarly, while the Ombudsman will assist individuals exercise their rights to the grievance and appeals process, the Ombudsman is not expected to file or represent the consumer in the grievance or appeal. The Ombudsman will assist in mediating those cases that cannot be handled by state eligibility case workers, hotline staff, or the ADRC, when assistance is needed in starting a grievance or appeal, and when satisfaction cannot be
obtained through the grievance and appeals processes.

There have not been calls for an Ombudsman program for the current managed care population,
suggesting the new Ombudsman's efforts will likely be focused on the new populations entering managed care. The following additional resources can be added as needed:

In the event contacts with the Ombudsman office exceed capacity of the full time Ombudsman, up to five administrative positions can be reallocated to assist in providing information and referral services to consumers seeking assistance with issues that may be properly addressed by other entities. These administrative positions may be supported by 40 QM staff with training and knowledge of the waiver systems. Administrative staff and QM support will identify and transfer appropriate cases to the Ombudsman.

Additionally, the Ombudsman will receive legal support through the office of the Secretary. The office of the Secretary includes nine legal staff that can support the Ombudsman with legal research and information.

These resources will be made available to the Ombudsman as need develops and may be deployed within five business days.

Following the implementation and transition to KanCare, the Ombudsman will develop volunteer
resources in the state to assist in one-to-one assistance and other cases.

Policy and Advocacy:
As noted, the Ombudsman will advocate for the rights and proper treatment of KanCare consumers through direct involvement and mediation with consumers, State policy divisions, and KanCare plans. Additionally, the Ombudsman will represent the Secretary of KDADS on consumer councils and focus groups convened by the KanCare plans, and provide the Secretary with counsel on suggested policy changes or additions to enhance consumer protections and engagement under KanCare. The Ombudsman will present the Legislature an annual report detailing the activities of the office, summarizing major issues of concern, and present suggested policy changes or additions to enhance consumer protections and engagement under KanCare.

Coordination with Quality Oversight:
KanCare program quality and outcome performance will be monitored through an Interagency Monitoring Team, which includes program managers, contract managers, fiscal staff and other relevant staff/resources from both KDHE and KDADS. Key activities of the KanCare Ombudsman will be included as a critical component of monitoring the performance of MCOs and providers within the KanCare program, as part of the statewide quality improvement strategy and the operating protocols of the Interagency Monitoring Team.