



OLDER ADULT PRIORITIES

2019



**Elder Health & Safety,
Abuse, Neglect & Exploitation
Long-Term Care Quality**

Kansas Advocates for Better Care

Kansas Advocates for Better Care



- *For* older adult consumers of long-term care and their families
- *For* policies which improve long-term care
- *For* prevention of elder abuse, neglect and exploitation

Kansas Advocates for Better Care



- KABC founded in 1975 by citizen volunteers to address the poor care and neglect of frail elders in Kansas nursing facilities and to bring family and elder concerns to policy making.
- Expertise area and focus: Quality for consumers of long term care at home, in assisted type facilities, in nursing facilities. Elder Abuse Prevention and Rights of long-term care consumers.

Kansas Advocates for Better Care



- KABC is a statewide, not-for-profit consumer advocacy organization.
- Funded by individual citizens, not beholden to commercial interests.
- 700 Members and Volunteers across Kansas
- Governed by volunteer Board of Directors including older adults, family caregivers, professionals with expertise in consumer rights and health concerns.

Functions



- Resource to Policy Makers and Constituents
- Guidance, support and educational materials for older adults facing long-term care decisions or when they have problems with abuse, neglect and poor care
- KABC provides training to paid care providers and family caregivers
- KABC provides consumer-based information and data to policy makers

Consumer Assistance 2018



- KABC assists about 1,000 persons annually who are dealing with long-term care issues or problems.
- There is no fee for our assistance or resources.

Nursing Facilities for Mental Health



- KS has 11 Nursing Facilities for Mental Health which are used by adults with mental illness needing support in order to transition to community living.
- While these are called NFMH's, the facilities don't receive federal Medicaid funding at the level of other NF's. Primary funding is State General Funds. Persons residing in NFMH's typically do not need the level of care and assistance with activities of daily living required by traditional nursing home residents.
- Residents report a lack of supports to make successful transitions back into the community
- Providers report too little reimbursement to adequately staff and meet residents mental health and support needs

2019 Older Adults & Nursing Facility Care



- Approximately 18,000 older adults and adults with disabilities living in 350 KS nursing facilities and hospital long-term care units
- Medicaid 53%. Private Pay 47%.
- Medicare covers up to 100 days rehab – does not cover long-term care

*KS has more older adults paying privately than most other states

2019 Older Adults & Nursing Facility Care



- Nursing Facilities and Long-Term Care Units are regulated by Federal and State governments
- Medicaid covers all costs for a residents care, room, and board in this setting.
- Residents are allowed to keep \$62 monthly to pay for what they need or want, which is not covered by Medicaid
- Resident rights are covered by Federal and State laws

2019 Older Adults & Assisted Adult Care Facilities



- Approximately 10,000 older adults live in 400+ assisted type adult care facilities, many with dementia or Alzheimer's disease
- This category: Assisted Living, Residential Health Care, Home Plus, and Boarding Care
- Regulated only by state-law (see Assisted Adult Care Facilities booklet)
- Medicaid is generally not a payer source, as it only covers the cost of care, not room and board
- Residents Rights are covered by State Law

Health Safety & Abuse Concerns of Older Adults



Facility Health & Inspections/Surveys:

- State inspection performance is non-compliant with federal and state legal requirements of 12 months (average across facilities)
- NF's 17-24 months inspection timeframe in 2018. Assisted facilities 17-36 months in 2018
- Inspection delays fail to identify non-compliant health and safety practices by facilities which harm older adults
- Delays permit harm and suffering by older adults to go unchecked
- KDADS Failure to confirm facilities make corrections of deficient practices cited during inspections (OIG HHS report)

<https://oig.hhs.gov/oas/reports/region7/71703218.asp>

Health Safety & Abuse Concerns of Older Adults



Facility Health & Inspections/Surveys:

- Inspection/Survey unit understaffed 17-22 inspectors in 2018 or 1/3 of unit
- Currently 12 inspector positions vacant
- New inspectors are under-trained. Average length of training and on the job experience to accurately identify and cite harm is 2 years

Misuse/Overuse of Anti-Psychotic Drugs



- Misuse and Overuse of Anti-psychotic drugs on older adults with dementia in KS Nursing Facilities
- In 2011 KS ranked 46th worst in US
- In 2017-18 KS ranked 51st worst
- Current data shows KS ranked 42nd worst
- Black Box warning since 2005; risk of death doubles within 10 weeks of use; increased falls, infections, confusion

Misuse/Overuse of Anti-Psychotic Drugs



- 2018 Report by international human rights organization focused on Kansas.
<https://www.hrw.org/report/2018/02/05/they-want-docile/how-nursing-homes-united-states-overmedicate-people-dementia>
- Recommendations: Enforce the right to be fully informed and to refuse treatment. Require free and informed consent requirement. Require safe minimum staffing levels. Enforce regulations against Chemical Restraint.

Chemical Restraint or Sedation - Kansas nursing homes have 'become far too dependent' on mind-altering meds

BY ANDY MARSO AND KELSEY RYAN

The Kansas City Star NOV. 26, 2017



Ceiling collapse, no hot water: Despite new owner, KC-area nursing homes struggle



- “In order to monitor the temperature of the water, staff has been putting water in the microwave so the residents who want to bathe, wash their face, drink tea, etc., can do so in the meantime,” Jacomowitz said.
- Serenity/Centers Health Care’s facility in Overland Park has had at least five inspections since then (take over), each in response to a complaint. The inspection findings include unsanitary food storing and handling, failure to develop care plans and discuss them with residents and families, failure to prevent pressure sores and failure to properly inventory and track residents’ property.
- <https://www.kansascity.com/news/business/health-care/article224957840.html> KC Star 1/27/2019

Health Safety & Abuse – At Home Concerns



Medicaid Home & Community Based Care Service for the Frail Elderly (HCBS FE)

- Medicaid waiver HCBS-FE pays retroactively to date of application in Nursing Facilities. Medicaid waiver pays only to date-of-approval for elders at home. This policy promotes institutionalization of older adults who need care and don't have the financial resources to pay for it out of pocket
- Inadequate network of HCBS Medicaid providers
- Lack of Home Health Agencies in many KS counties preventing older adults from remaining at home

Health Safety & Abuse – At Home Concerns

- Lack of 24/7 Dementia Adult Day. Promotes higher cost institutional care as illness progresses & caregiver is up 24/7
- Lack of access to and coverage for dental care. Medicare covers extractions but not routine or periodontal disease
- Lack of access to in-home mental health care
- Older adults have a high risk of depression due to the significant personal and functional age-related losses

Suicidal behavior in older adults (65 years old and over) is a major public health issue

Suicide attempts are higher in adolescents, but deaths from suicide are higher in older men and women. Suicide rates increase during the life course and are as high as 48.7/100,000 among older white men in the USA.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5916258/pdf/cia-13-691.pdf>

KanCare – Access & Eligibility Concerns



Older adults continue to experience long delays in Medicaid financial eligibility determinations. The delays have significant impact on older adults.

- Many go without the help they need, risking their health and future well-being.
- Hospitals report having to keep patients longer (highest cost setting), because facilities are not accepting Medicaid-pending individuals. Many older adults are unable to pay for home based services, and HCBS-FE Medicaid does not cover services to the date of application, but only to date of approval.
- Funding to bring eligibility determinations back within KDHE or an appropriate agency is a long overdue solution.

KanCare – Access & Eligibility Concerns



Despite aging demographics that demonstrate more not fewer older adults do and will need long-term care, KanCare serves *fewer* older adults in nursing facilities and under the Home and Community Based Services - Frail Elder Waiver than were served pre-KanCare.

Prior data has indicated as many as 3,000 fewer served. Legislators and the public deserve a clear explanation why this is the case and of whether or not older adults who qualify are being served.

Authorized Advocates Shrink



- The State Long-Term Care Ombuds Program is authorized by State and Federal law to advocate (non-legal) for older adults and adults with disabilities which live in adult care homes (not in nursing facilities for mental health). *(This is not the KanCare Ombudman program.)*
- The ratio of ombuds to residents recommended is 1:2,000. In 2016, the average ratio in the US was one paid program staff/ 2,329.65 beds; in KS we are currently at 1 to 4,369.63; with the highest ratio being in KC region which has 1 staff/8, 651 beds.
- Ombuds Staff has shrunk to 2008 levels.

Licensed Beds in KS

• Nursing Facilities/NF	19,296
• Long Term Care Units (hospitals) LTCU	1,190
• Assisted Living Facilities/ALF	9,527
• Residential Health Care Facilities/RHCF	3,658
• Boarding Care Homes/BCH	31
• Home Plus/HP	<u>1,255</u>
• Total	34,957

Health Safety & Abuse Additional Concerns



- Facility Involuntary Transfers and Illegal Evictions, especially Assisted Adult Care Facilities (non-nursing facility)
- Understaffing and under-training of Nurses and Certified Nurse Aides (4.5 hours of direct care daily to avoid harm)
- Lack of Staff Competency and uniformity of Facility Standards which address long-term care needs for adults with dementia, I/DD, and other cognitive challenges or mental illness
- Delay of investigations and findings of abuse published by KDADS/Nurse Aide and Operator Registry (Aides & Operators of non-nursing facility adult care facilities) and Board of Nursing (Nurses). Can take up to 3 years.
- Lack of reporting to, or investigation by law enforcement of suspected abuse. Lack of training of law enforcement officers regarding elder abuse. Lack of coordination between state survey/inspectors and law enforcement investigations to assure justice for elder victims.

Gains for Older Adult Safety in 2018



Laws passed in 2018

- Added Elder Crime Victim Category of Physical Abuse
- Required Background Checks for new hires of home health agencies and adult care facilities
- Electronic Monitoring in Care Facilities

Priority Areas for Legislative Action



- Elder Crime Victim Physical Abuse law:
Review for appropriate penalty(ies) for abuse crimes

Priority Areas for Legislative Action



- Electronic Monitoring Law: Revise Electronic Monitoring law to eliminate the higher evidentiary standard created in the 2018 law regarding use of electronic recording in court proceedings.
- Current language results in increased vulnerability for older adults in adult care facilities.

Priority Areas for Legislative Action



Background Check Law:

- Eliminate 60-day provisional employment for facility employers.
- With provisional employment: Uncleared hires work providing hands-on care, without eyes on supervision, without the vulnerable older adult being informed of risk, and with no civil liability for the facility when harm occurs at the hands of a provisional employee.

Priority Areas for Legislative Action



- **LACK of RIGHT TO CHALLENGE EVICTION:** Create right of appeal for older adults faced with involuntary transfers in state regulated adult care facilities (non-nursing facility) to address illegal evictions of residents and to prevent transfer trauma, especially for those with dementia.
- **MEDICAID ELIGIBILITY DETERMINATIONS:** During the KANCARE demonstration project beginning in 2013, older adults have frequently waited as long as 6-months to 1 year for a required 45 day eligibility determination. Many are denied access to facility or home-based care they qualify for and need remaining at risk of avoidable negative health incidents and outcomes which are preventable and which unnecessarily increase the health care costs.

Priority Areas for Legislative Action



Publish Findings of Abuse for adult care facility staff.

- KDADS and the Board of Nursing have delayed timeframes of up to 3 years to complete investigations and findings of abuse involving a paid care provider (nurses, aides, operators) resulting in harm or serious risk of harm to older adults in facilities or home health agencies.
- While a facility may fire the person at the time of abuse, without a published finding, the staffperson will likely work in additional care settings until the finding is published.

Priority Areas for Legislative Action



Workforce policies which:

- Promote health and safety for older adults without creating additional risk of harm
- Support family caregivers, who provider the overwhelming majority of care in our State
- Equip paid care providers to competently meet the care needs of older adults, including those with dementia

Priority Areas for Legislative Action



- Recommendations from Alzheimer's Dementia State Plan (testimony House Health 1/29/2019)

2018 Cost of Long-Term Care

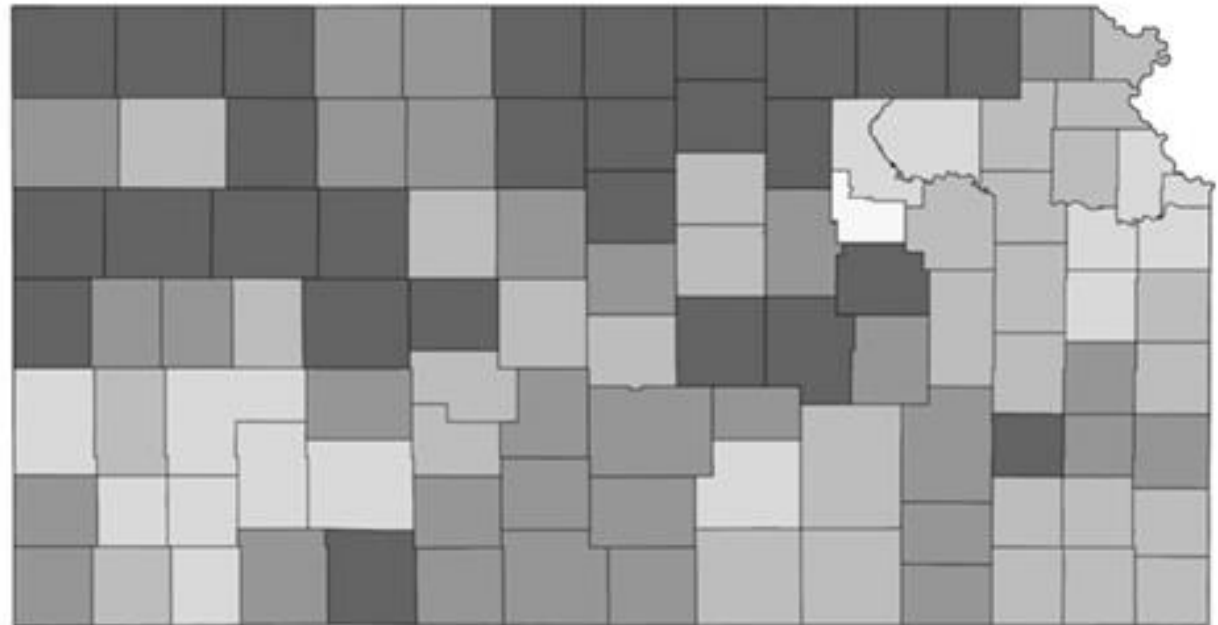
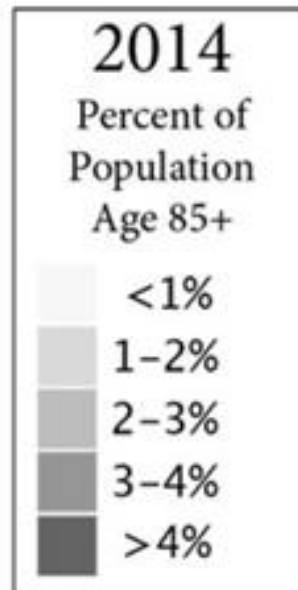


Average Monthly Cost of Care Kansas State Median

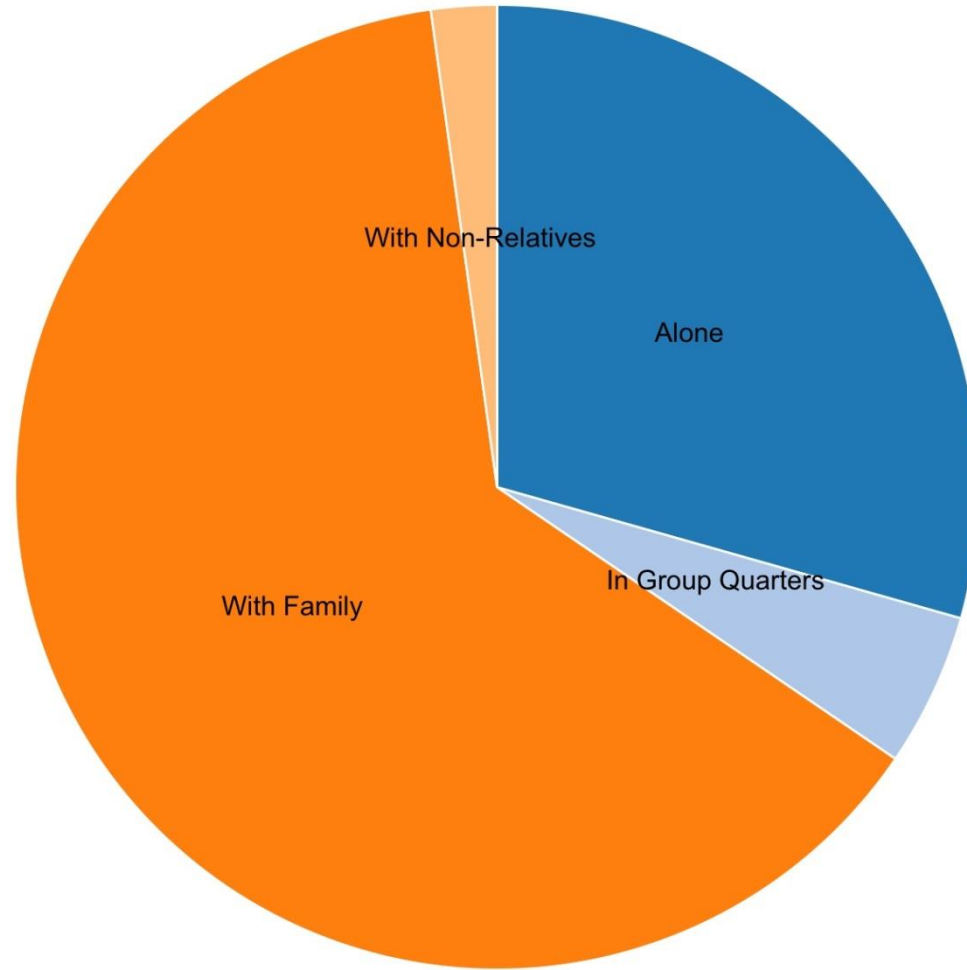
- In Nursing Facilities \$5,414 semi private/\$5,865 private
- In Assisted Adult Care Facilities \$4,556
- At Home
 - Homemaker services (44 hrs monthly) \$3,813
 - Home Health Aide (44 hrs monthly) \$4,004
 - Adult Day Health Care \$1,760

From Genworth - <https://www.genworth.com/aging-and-you/finances/cost-of-care.html>

Kansas 85+ Population by County



Who do Seniors Live with?



Source: Census.gov

LONG-TERM CARE RESOURCES



- Kansas Long-Term Care Ombuds Program - Federally and state authorized and funded program to advocate (non-legal) on behalf of adults living in long term care facilities <https://ombudsman.ks.gov/>
- Disability Rights Center of KS - federally authorized program to advocate (legal and non-legal) on behalf of persons with disabilities (NFMH).
<https://www.drckansas.org/>
- KS Guardianship Program - State authorized program to support/address guardianship and conservatorship needs for persons without family or financial resources.
<http://www.ksgprog.org/>

LONG-TERM CARE RESOURCES



- Area Agencies on Aging - 11 regional offices to serve older adults. Implement state and federal support and information programs. Act as the KanCare Aging and Disability Resource Center to complete functional assessments of adults applying for Medicaid (Medicaid eligibility requires a financial eligibility determination and a functional eligibility determination, the ADRC completes the latter).
<https://www.kdads.ks.gov/commissions/commission-on-aging/aging-and-disability-resource-centers>
- Silver-Haired Legislators <http://kansas-shl.org/>
- AARP - <https://states.aarp.org/region/kansas/>
- KS Long-term Care Report Card AARP
<http://www.longtermscorecard.org/>
- Alzheimer's Association
central and western KS <https://www.alz.org/cwkansas>
KC metro counties <https://www.alz.org/kansascity>

REPORTING ELDER ABUSE



- KDADS Abuse Hotline (in facilities) 800-842-0078 (M-F, 8 to 5)
- Adult Protective Services Hotline (at home) 800-922-5330 (24/7)
- Ks Attorney General - Training and legal resources which may address elder abuse in facilities and in the community. Medicaid/Medicare fraud unit - abuse in facilities, Abuse, Neglect, and Exploitation unit - abuse at home or assisted facilities.

<https://ag.ks.gov/about-the-office/contact-us>



**KANSAS
ADVOCATES
for BETTER CARE**

making elder care better every day



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