

## SENATE BILL No. 254

By Joint Committee on Administrative Rules and Regulations

1-13

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1 AN ACT concerning certain administrative rules and regulations; relating  
2 to the medical assistance recovery program; relating to the children's  
3 health insurance program; amending K.S.A. 38-2002 and K.S.A. 2013  
4 Supp. 39-709 and repealing the existing sections.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 38-2002 is hereby amended to read as follows: 38-  
8 2002. (a) The secretary of ~~social and rehabilitation services~~*health and*  
9 *environment* shall adopt rules and regulations as necessary to implement  
10 and administer the provisions of this act.

11 (b) *All rules and regulations adopted on and after July 1, 2013, and*  
12 *prior to July 1, 2014, to implement this section shall continue to be*  
13 *effective and shall be deemed to be duly adopted rules and regulations of*  
14 *the secretary of health and environment until revised, amended, revoked or*  
15 *nullified pursuant to law.*

16 Sec. 2. K.S.A. 2013 Supp. 39-709 is hereby amended to read as  
17 follows: 39-709. (a) *General eligibility requirements for assistance for*  
18 *which federal moneys are expended.* Subject to the additional requirements  
19 below, assistance in accordance with plans under which federal moneys  
20 are expended may be granted to any needy person who:

21 (1) Has insufficient income or resources to provide a reasonable  
22 subsistence compatible with decency and health. Where a husband and  
23 wife are living together, the combined income or resources of both shall be  
24 considered in determining the eligibility of either or both for such  
25 assistance unless otherwise prohibited by law. The secretary, in  
26 determining need of any applicant for or recipient of assistance shall not  
27 take into account the financial responsibility of any individual for any  
28 applicant or recipient of assistance unless such applicant or recipient is  
29 such individual's spouse or such individual's minor child or minor  
30 stepchild if the stepchild is living with such individual. The secretary in  
31 determining need of an individual may provide such income and resource  
32 exemptions as may be permitted by federal law. For purposes of eligibility  
33 for aid for families with dependent children, for food stamp assistance and  
34 for any other assistance provided through the Kansas department for  
35 children and families under which federal moneys are expended, the  
36 secretary for children and families shall consider one motor vehicle owned

1 by the applicant for assistance, regardless of the value of such vehicle, as  
2 exempt personal property and shall consider any equity in any additional  
3 motor vehicle owned by the applicant for assistance to be a nonexempt  
4 resource of the applicant for assistance.

5 (2) Is a citizen of the United States or is an alien lawfully admitted to  
6 the United States and who is residing in the state of Kansas.

7 (b) *Assistance to families with dependent children.* Assistance may be  
8 granted under this act to any dependent child, or relative, subject to the  
9 general eligibility requirements as set out in subsection (a), who resides in  
10 the state of Kansas or whose parent or other relative with whom the child  
11 is living resides in the state of Kansas. Such assistance shall be known as  
12 aid to families with dependent children. Where husband and wife are  
13 living together both shall register for work under the program  
14 requirements for aid to families with dependent children in accordance  
15 with criteria and guidelines prescribed by rules and regulations of the  
16 secretary.

17 (c) *Aid to families with dependent children; assignment of support*  
18 *rights and limited power of attorney.* By applying for or receiving aid to  
19 families with dependent children such applicant or recipient shall be  
20 deemed to have assigned to the secretary on behalf of the state any  
21 accrued, present or future rights to support from any other person such  
22 applicant may have in such person's own behalf or in behalf of any other  
23 family member for whom the applicant is applying for or receiving aid. In  
24 any case in which an order for child support has been established and the  
25 legal custodian and obligee under the order surrenders physical custody of  
26 the child to a caretaker relative without obtaining a modification of legal  
27 custody and support rights on behalf of the child are assigned pursuant to  
28 this section, the surrender of physical custody and the assignment shall  
29 transfer, by operation of law, the child's support rights under the order to  
30 the secretary on behalf of the state. Such assignment shall be of all  
31 accrued, present or future rights to support of the child surrendered to the  
32 caretaker relative. The assignment of support rights shall automatically  
33 become effective upon the date of approval for or receipt of such aid  
34 without the requirement that any document be signed by the applicant,  
35 recipient or obligee. By applying for or receiving aid to families with  
36 dependent children, or by surrendering physical custody of a child to a  
37 caretaker relative who is an applicant or recipient of such assistance on the  
38 child's behalf, the applicant, recipient or obligee is also deemed to have  
39 appointed the secretary, or the secretary's designee, as an attorney in fact to  
40 perform the specific act of negotiating and endorsing all drafts, checks,  
41 money orders or other negotiable instruments representing support  
42 payments received by the secretary in behalf of any person applying for,  
43 receiving or having received such assistance. This limited power of

1 attorney shall be effective from the date the secretary approves the  
2 application for aid and shall remain in effect until the assignment of  
3 support rights has been terminated in full.

4 (d) *Eligibility requirements for general assistance, the cost of which*  
5 *is not shared by the federal government.* (1) General assistance may be  
6 granted to eligible persons who do not qualify for financial assistance in a  
7 program in which the federal government participates and who satisfy the  
8 additional requirements prescribed by or under this subsection (d).

9 (A) To qualify for general assistance in any form a needy person must  
10 have insufficient income or resources to provide a reasonable subsistence  
11 compatible with decency and health and, except as provided for  
12 transitional assistance, be a member of a family in which a minor child or  
13 a pregnant woman resides or be unable to engage in employment. The  
14 secretary shall adopt rules and regulations prescribing criteria for  
15 establishing when a minor child may be considered to be living with a  
16 family and whether a person is able to engage in employment, including  
17 such factors as age or physical or mental condition. Eligibility for general  
18 assistance, other than transitional assistance, is limited to families in which  
19 a minor child or a pregnant woman resides or to an adult or family in  
20 which all legally responsible family members are unable to engage in  
21 employment. Where a husband and wife are living together the combined  
22 income or resources of both shall be considered in determining the  
23 eligibility of either or both for such assistance unless otherwise prohibited  
24 by law. The secretary in determining need of any applicant for or recipient  
25 of general assistance shall not take into account the financial responsibility  
26 of any individual for any applicant or recipient of general assistance unless  
27 such applicant or recipient is such individual's spouse or such individual's  
28 minor child or a minor stepchild if the stepchild is living with such  
29 individual. In determining the need of an individual, the secretary may  
30 provide for income and resource exemptions.

31 (B) To qualify for general assistance in any form a needy person must  
32 be a citizen of the United States or an alien lawfully admitted to the United  
33 States and must be residing in the state of Kansas.

34 (2) General assistance in the form of transitional assistance may be  
35 granted to eligible persons who do not qualify for financial assistance in a  
36 program in which the federal government participates and who satisfy the  
37 additional requirements prescribed by or under this subsection (d), but who  
38 do not meet the criteria prescribed by rules and regulations of the secretary  
39 relating to inability to engage in employment or are not a member of a  
40 family in which a minor or a pregnant woman resides.

41 (3) In addition to the other requirements prescribed under this  
42 subsection (d), the secretary shall adopt rules and regulations which  
43 establish community work experience program requirements for eligibility

1 for the receipt of general assistance in any form and which establish  
2 penalties to be imposed when a work assignment under a community work  
3 experience program requirement is not completed without good cause. The  
4 secretary may adopt rules and regulations establishing exemptions from  
5 any such community work experience program requirements. A first time  
6 failure to complete such a work assignment requirement shall result in  
7 ineligibility to receive general assistance for a period fixed by such rules  
8 and regulations of not more than three calendar months. A subsequent  
9 failure to complete such a work assignment requirement shall result in a  
10 period fixed by such rules and regulations of ineligibility of not more than  
11 six calendar months.

12 (4) If any person is found guilty of the crime of theft under the  
13 provisions of K.S.A. 39-720, and amendments thereto, such person shall  
14 thereby become forever ineligible to receive any form of general  
15 assistance under the provisions of this subsection (d) unless the conviction  
16 is the person's first conviction under the provisions of K.S.A. 39-720, and  
17 amendments thereto, or the law of any other state concerning welfare  
18 fraud. First time offenders convicted of a misdemeanor under the  
19 provisions of such statute shall become ineligible to receive any form of  
20 general assistance for a period of 12 calendar months from the date of  
21 conviction. First time offenders convicted of a felony under the provisions  
22 of such statute shall become ineligible to receive any form of general  
23 assistance for a period of 60 calendar months from the date of conviction.  
24 If any person is found guilty by a court of competent jurisdiction of any  
25 state other than the state of Kansas of a crime involving welfare fraud,  
26 such person shall thereby become forever ineligible to receive any form of  
27 general assistance under the provisions of this subsection (d) unless the  
28 conviction is the person's first conviction under the law of any other state  
29 concerning welfare fraud. First time offenders convicted of a misdemeanor  
30 under the law of any other state concerning welfare fraud shall become  
31 ineligible to receive any form of general assistance for a period of 12  
32 calendar months from the date of conviction. First time offenders  
33 convicted of a felony under the law of any other state concerning welfare  
34 fraud shall become ineligible to receive any form of general assistance for  
35 a period of 60 calendar months from the date of conviction.

36 (e) *Requirements for medical assistance for which federal moneys or*  
37 *state moneys or both are expended.* (1) When the secretary has adopted a  
38 medical care plan under which federal moneys or state moneys or both are  
39 expended, medical assistance in accordance with such plan shall be  
40 granted to any person who is a citizen of the United States or who is an  
41 alien lawfully admitted to the United States and who is residing in the state  
42 of Kansas, whose resources and income do not exceed the levels  
43 prescribed by the secretary. In determining the need of an individual, the

1 secretary may provide for income and resource exemptions and protected  
2 income and resource levels. Resources from inheritance shall be counted.  
3 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and  
4 amendments thereto, shall constitute a transfer of resources. The secretary  
5 shall exempt principal and interest held in irrevocable trust pursuant to  
6 subsection (c) of K.S.A. 16-303, and amendments thereto, from the  
7 eligibility requirements of applicants for and recipients of medical  
8 assistance. Such assistance shall be known as medical assistance.

9 (2) For the purposes of medical assistance eligibility determinations  
10 on or after July 1, 2004, if an applicant or recipient owns property in joint  
11 tenancy with some other party and the applicant or recipient of medical  
12 assistance has restricted or conditioned their interest in such property to a  
13 specific and discrete property interest less than 100%, then such  
14 designation will cause the full value of the property to be considered an  
15 available resource to the applicant or recipient.

16 (3) (A) Resources from trusts shall be considered when determining  
17 eligibility of a trust beneficiary for medical assistance. Medical assistance  
18 is to be secondary to all resources, including trusts, that may be available  
19 to an applicant or recipient of medical assistance.

20 (B) If a trust has discretionary language, the trust shall be considered  
21 to be an available resource to the extent, using the full extent of discretion,  
22 the trustee may make any of the income or principal available to the  
23 applicant or recipient of medical assistance. Any such discretionary trust  
24 shall be considered an available resource unless: (i) At the time of creation  
25 or amendment of the trust, the trust states a clear intent that the trust is  
26 supplemental to public assistance; and (ii) the trust: (a) Is funded from  
27 resources of a person who, at the time of such funding, owed no duty of  
28 support to the applicant or recipient of medical assistance; or (b) is funded  
29 not more than nominally from resources of a person while that person  
30 owed a duty of support to the applicant or recipient of medical assistance.

31 (C) For the purposes of this paragraph, "public assistance" includes,  
32 but is not limited to, medicaid, medical assistance or title XIX of the social  
33 security act.

34 (4) (A) When an applicant or recipient of medical assistance is a party  
35 to a contract, agreement or accord for personal services being provided by  
36 a nonlicensed individual or provider and such contract, agreement or  
37 accord involves health and welfare monitoring, pharmacy assistance, case  
38 management, communication with medical, health or other professionals,  
39 or other activities related to home health care, long term care, medical  
40 assistance benefits, or other related issues, any moneys paid under such  
41 contract, agreement or accord shall be considered to be an available  
42 resource unless the following restrictions are met: (i) The contract,  
43 agreement or accord must be in writing and executed prior to any services

1 being provided; (ii) the moneys paid are in direct relationship with the fair  
2 market value of such services being provided by similarly situated and  
3 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed  
4 individuals or situations can be found, the value of services will be based  
5 on federal hourly minimum wage standards; (iv) such individual providing  
6 the services will report all receipts of moneys as income to the appropriate  
7 state and federal governmental revenue agencies; (v) any amounts due  
8 under such contract, agreement or accord shall be paid after the services  
9 are rendered; (vi) the applicant or recipient shall have the power to revoke  
10 the contract, agreement or accord; and (vii) upon the death of the applicant  
11 or recipient, the contract, agreement or accord ceases.

12 (B) When an applicant or recipient of medical assistance is a party to  
13 a written contract for personal services being provided by a licensed health  
14 professional or facility and such contract involves health and welfare  
15 monitoring, pharmacy assistance, case management, communication with  
16 medical, health or other professionals, or other activities related to home  
17 health care, long term care, medical assistance benefits or other related  
18 issues, any moneys paid in advance of receipt of services for such  
19 contracts shall be considered to be an available resource.

20 (5) Any trust may be amended if such amendment is permitted by the  
21 Kansas uniform trust code.

22 (f) *Eligibility for medical assistance of resident receiving medical*  
23 *care outside state.* A person who is receiving medical care including long-  
24 term care outside of Kansas whose health would be endangered by the  
25 postponement of medical care until return to the state or by travel to return  
26 to Kansas, may be determined eligible for medical assistance if such  
27 individual is a resident of Kansas and all other eligibility factors are met.  
28 Persons who are receiving medical care on an ongoing basis in a long-term  
29 medical care facility in a state other than Kansas and who do not return to  
30 a care facility in Kansas when they are able to do so, shall no longer be  
31 eligible to receive assistance in Kansas unless such medical care is not  
32 available in a comparable facility or program providing such medical care  
33 in Kansas. For persons who are minors or who are under guardianship, the  
34 actions of the parent or guardian shall be deemed to be the actions of the  
35 child or ward in determining whether or not the person is remaining  
36 outside the state voluntarily.

37 (g) *Medical assistance; assignment of rights to medical support and*  
38 *limited power of attorney; recovery from estates of deceased recipients.* (1)  
39 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
40 amendments thereto, or as otherwise authorized on and after September  
41 30, 1989, under section 303 of the federal medicare catastrophic coverage  
42 act of 1988, whichever is applicable, by applying for or receiving medical  
43 assistance under a medical care plan in which federal funds are expended,

1 any accrued, present or future rights to support and any rights to payment  
2 for medical care from a third party of an applicant or recipient and any  
3 other family member for whom the applicant is applying shall be deemed  
4 to have been assigned to the secretary on behalf of the state. The  
5 assignment shall automatically become effective upon the date of approval  
6 for such assistance without the requirement that any document be signed  
7 by the applicant or recipient. By applying for or receiving medical  
8 assistance the applicant or recipient is also deemed to have appointed the  
9 secretary, or the secretary's designee, as an attorney in fact to perform the  
10 specific act of negotiating and endorsing all drafts, checks, money orders  
11 or other negotiable instruments, representing payments received by the  
12 secretary in behalf of any person applying for, receiving or having  
13 received such assistance. This limited power of attorney shall be effective  
14 from the date the secretary approves the application for assistance and  
15 shall remain in effect until the assignment has been terminated in full. The  
16 assignment of any rights to payment for medical care from a third party  
17 under this subsection shall not prohibit a health care provider from directly  
18 billing an insurance carrier for services rendered if the provider has not  
19 submitted a claim covering such services to the secretary for payment.  
20 Support amounts collected on behalf of persons whose rights to support  
21 are assigned to the secretary only under this subsection and no other shall  
22 be distributed pursuant to subsection (d) of K.S.A. 39-756, and  
23 amendments thereto, except that any amounts designated as medical  
24 support shall be retained by the secretary for repayment of the  
25 unreimbursed portion of assistance. Amounts collected pursuant to the  
26 assignment of rights to payment for medical care from a third party shall  
27 also be retained by the secretary for repayment of the unreimbursed  
28 portion of assistance.

29 *(B) Notwithstanding the provisions of subparagraph (A), the*  
30 *secretary of health and environment, or the secretary's designee, is hereby*  
31 *authorized to and shall exercise any of the powers specified in*  
32 *subparagraph (A) in relation to performance of such secretary's duties*  
33 *pertaining to medical subrogation, estate recovery or any other duties*  
34 *assigned to such secretary in article 74 of chapter 75 of the Kansas*  
35 *Statutes Annotated, and amendments thereto.*

36 (2) The amount of any medical assistance paid after June 30, 1992,  
37 under the provisions of subsection (e) is (A) a claim against the property or  
38 any interest therein belonging to and a part of the estate of any deceased  
39 recipient or, if there is no estate, the estate of the surviving spouse, if any,  
40 shall be charged for such medical assistance paid to either or both, and (B)  
41 a claim against any funds of such recipient or spouse in any account under  
42 K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and  
43 amendments thereto. There shall be no recovery of medical assistance

1 correctly paid to or on behalf of an individual under subsection (e) except  
2 after the death of the surviving spouse of the individual, if any, and only at  
3 a time when the individual has no surviving child who is under 21 years of  
4 age or is blind or permanently and totally disabled. Transfers of real or  
5 personal property by recipients of medical assistance without adequate  
6 consideration are voidable and may be set aside. Except where there is a  
7 surviving spouse, or a surviving child who is under 21 years of age or is  
8 blind or permanently and totally disabled, the amount of any medical  
9 assistance paid under subsection (e) is a claim against the estate in any  
10 guardianship or conservatorship proceeding. The monetary value of any  
11 benefits received by the recipient of such medical assistance under long-  
12 term care insurance, as defined by K.S.A. 40-2227, and amendments  
13 thereto, shall be a credit against the amount of the claim provided for such  
14 medical assistance under this subsection (g). The secretary *of health and*  
15 *environment* is authorized to enforce each claim provided for under this  
16 subsection (g). The secretary *of health and environment* shall not be  
17 required to pursue every claim, but is granted discretion to determine  
18 which claims to pursue. All moneys received by the secretary *of health*  
19 *and environment* from claims under this subsection (g) shall be deposited  
20 in the social welfare fund. The secretary *of health and environment* may  
21 adopt rules and regulations for the implementation and administration of  
22 the medical assistance recovery program under this subsection (g).

23 (3) By applying for or receiving medical assistance under the  
24 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and  
25 amendments thereto, such individual or such individual's agent, fiduciary,  
26 guardian, conservator, representative payee or other person acting on  
27 behalf of the individual consents to the following definitions of estate and  
28 the results therefrom:

29 (A) If an individual receives any medical assistance before July 1,  
30 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
31 and amendments thereto, which forms the basis for a claim under  
32 subsection (g)(2), such claim is limited to the individual's probatable estate  
33 as defined by applicable law; and

34 (B) if an individual receives any medical assistance on or after July 1,  
35 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
36 and amendments thereto, which forms the basis for a claim under  
37 subsection (g)(2), such claim shall apply to the individual's medical  
38 assistance estate. The medical assistance estate is defined as including all  
39 real and personal property and other assets in which the deceased  
40 individual had any legal title or interest immediately before or at the time  
41 of death to the extent of that interest or title. The medical assistance estate  
42 includes, without limitation assets conveyed to a survivor, heir or assign of  
43 the deceased recipient through joint tenancy, tenancy in common,



1 survivorship, transfer-on-death deed, payable-on-death contract, life estate,  
2 trust, annuities or similar arrangement.

3 (4) The secretary of health and environment or the secretary's  
4 designee is authorized to file and enforce a lien against the real property of  
5 a recipient of medical assistance in certain situations, subject to all prior  
6 liens of record and transfers for value to a bona fide purchaser of record.  
7 The lien must be filed in the office of the register of deeds of the county  
8 where the real property is located within one year from the date of death of  
9 the recipient and must contain the legal description of all real property in  
10 the county subject to the lien.

11 (A) After the death of a recipient of medical assistance, the secretary  
12 of health and environment or the secretary's designee may place a lien on  
13 any interest in real property owned by such recipient.

14 (B) The secretary of health and environment or the secretary's  
15 designee may place a lien on any interest in real property owned by a  
16 recipient of medical assistance during the lifetime of such recipient. Such  
17 lien may be filed only after notice and an opportunity for a hearing has  
18 been given. Such lien may be enforced only upon competent medical  
19 testimony that the recipient cannot reasonably be expected to be  
20 discharged and returned home. A six-month period of compensated  
21 inpatient care at a nursing home or other medical institution shall  
22 constitute a determination by the department of health and environment  
23 that the recipient cannot reasonably be expected to be discharged and  
24 returned home. To return home means the recipient leaves the nursing or  
25 medical facility and resides in the home on which the lien has been placed  
26 for a continuous period of at least 90 days without being readmitted as an  
27 inpatient to a nursing or medical facility. The amount of the lien shall be  
28 for the amount of assistance paid by the department of health and  
29 environment until the time of the filing of the lien and for any amount paid  
30 thereafter for such medical assistance to the recipient. After the lien is filed  
31 against any real property owned by the recipient, such lien will be  
32 dissolved if the recipient is discharged, returns home and resides upon the  
33 real property to which the lien is attached for a continuous period of at  
34 least 90 days without being readmitted as an inpatient to a nursing or  
35 medical facility. If the recipient is readmitted as an inpatient to a nursing or  
36 medical facility for a continuous period of less than 90 days, another  
37 continuous period of at least 90 days shall be completed prior to  
38 dissolution of the lien.

39 (5) The lien filed by the secretary of health and environment or the  
40 secretary's designee for medical assistance correctly received may be  
41 enforced before or after the death of the recipient by the filing of an action  
42 to foreclose such lien in the Kansas district court or through an estate  
43 probate court action in the county where the real property of the recipient

1 is located. However, it may be enforced only:

2 (A) After the death of the surviving spouse of the recipient;

3 (B) when there is no child of the recipient, natural or adopted, who is  
4 20 years of age or less residing in the home;

5 (C) when there is no adult child of the recipient, natural or adopted,  
6 who is blind or disabled residing in the home; or

7 (D) when no brother or sister of the recipient is lawfully residing in  
8 the home, who has resided there for at least one year immediately before  
9 the date of the recipient's admission to the nursing or medical facility, and  
10 has resided there on a continuous basis since that time.

11 (6) The lien remains on the property even after a transfer of the title  
12 by conveyance, sale, succession, inheritance or will unless one of the  
13 following events occur:

14 (A) The lien is satisfied. The recipient, the heirs, personal  
15 representative or assigns of the recipient may discharge such lien at any  
16 time by paying the amount of the lien to the secretary of *health and*  
17 *environment* or the secretary's designee;

18 (B) the lien is terminated by foreclosure of prior lien of record or  
19 settlement action taken in lieu of foreclosure; or

20 (C) the value of the real property is consumed by the lien, at which  
21 time the secretary of *health and environment* or the secretary's designee  
22 may force the sale for the real property to satisfy the lien.

23 (7) If the secretary for aging and disability services or the secretary of  
24 health and environment, or both, or such secretary's designee has not filed  
25 an action to foreclose the lien in the Kansas district court in the county  
26 where the real property is located within 10 years from the date of the  
27 filing of the lien, then the lien shall become dormant, and shall cease to  
28 operate as a lien on the real estate of the recipient. Such dormant lien may  
29 be revived in the same manner as a dormant judgment lien is revived under  
30 K.S.A. 60-2403 et seq., and amendments thereto.

31 (8) Within seven days of receipt of notice by the secretary for  
32 children and families or the secretary's designee of the death of a recipient  
33 of medical assistance under this subsection, the secretary for children and  
34 families or the secretary's designee shall give notice of such recipient's  
35 death to the secretary of health and environment or the secretary's  
36 designee.

37 (9) *All rules and regulations adopted on and after July 1, 2013, and*  
38 *prior to July 1, 2014, to implement this subsection shall continue to be*  
39 *effective and shall be deemed to be duly adopted rules and regulations of*  
40 *the secretary of health and environment until revised, amended, revoked or*  
41 *nullified pursuant to law.*

42 (h) *Placement under the revised Kansas code for care of children or*  
43 *revised Kansas juvenile justice code; assignment of support rights and*

1 *limited power of attorney.* In any case in which the secretary for children  
2 and families pays for the expenses of care and custody of a child pursuant  
3 to K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments  
4 thereto, including the expenses of any foster care placement, an  
5 assignment of all past, present and future support rights of the child in  
6 custody possessed by either parent or other person entitled to receive  
7 support payments for the child is, by operation of law, conveyed to the  
8 secretary. Such assignment shall become effective upon placement of a  
9 child in the custody of the secretary or upon payment of the expenses of  
10 care and custody of a child by the secretary without the requirement that  
11 any document be signed by the parent or other person entitled to receive  
12 support payments for the child. When the secretary pays for the expenses  
13 of care and custody of a child or a child is placed in the custody of the  
14 secretary, the parent or other person entitled to receive support payments  
15 for the child is also deemed to have appointed the secretary, or the  
16 secretary's designee, as attorney in fact to perform the specific act of  
17 negotiating and endorsing all drafts, checks, money orders or other  
18 negotiable instruments representing support payments received by the  
19 secretary on behalf of the child. This limited power of attorney shall be  
20 effective from the date the assignment to support rights becomes effective  
21 and shall remain in effect until the assignment of support rights has been  
22 terminated in full.

23 (i) No person who voluntarily quits employment or who is fired from  
24 employment due to gross misconduct as defined by rules and regulations  
25 of the secretary or who is a fugitive from justice by reason of a felony  
26 conviction or charge shall be eligible to receive public assistance benefits  
27 in this state. Any recipient of public assistance who fails to timely comply  
28 with monthly reporting requirements under criteria and guidelines  
29 prescribed by rules and regulations of the secretary shall be subject to a  
30 penalty established by the secretary by rules and regulations.

31 (j) If the applicant or recipient of aid to families with dependent  
32 children is a mother of the dependent child, as a condition of the mother's  
33 eligibility for aid to families with dependent children the mother shall  
34 identify by name and, if known, by current address the father of the  
35 dependent child except that the secretary may adopt by rules and  
36 regulations exceptions to this requirement in cases of undue hardship. Any  
37 recipient of aid to families with dependent children who fails to cooperate  
38 with requirements relating to child support enforcement under criteria and  
39 guidelines prescribed by rules and regulations of the secretary shall be  
40 subject to a penalty established by the secretary by rules and regulations  
41 which penalty shall progress to ineligibility for the family after three  
42 months of noncooperation.

43 (k) By applying for or receiving child care benefits or food stamps,

1 the applicant or recipient shall be deemed to have assigned, pursuant to  
2 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the  
3 state only accrued, present or future rights to support from any other  
4 person such applicant may have in such person's own behalf or in behalf of  
5 any other family member for whom the applicant is applying for or  
6 receiving aid. The assignment of support rights shall automatically become  
7 effective upon the date of approval for or receipt of such aid without the  
8 requirement that any document be signed by the applicant or recipient. By  
9 applying for or receiving child care benefits or food stamps, the applicant  
10 or recipient is also deemed to have appointed the secretary, or the  
11 secretary's designee, as an attorney in fact to perform the specific act of  
12 negotiating and endorsing all drafts, checks, money orders or other  
13 negotiable instruments representing support payments received by the  
14 secretary in behalf of any person applying for, receiving or having  
15 received such assistance. This limited power of attorney shall be effective  
16 from the date the secretary approves the application for aid and shall  
17 remain in effect until the assignment of support rights has been terminated  
18 in full. An applicant or recipient who has assigned support rights to the  
19 secretary pursuant to this subsection shall cooperate in establishing and  
20 enforcing support obligations to the same extent required of applicants for  
21 or recipients of aid to families with dependent children.

22 (1) (1) A program of drug screening for applicants for cash assistance  
23 as a condition of eligibility for cash assistance and persons receiving cash  
24 assistance as a condition of continued receipt of cash assistance shall be  
25 established, subject to applicable federal law, by the secretary for children  
26 and families on or before January 1, 2014. Under such program of drug  
27 screening, the secretary for children and families shall order a drug  
28 screening of an applicant for or a recipient of cash assistance at any time  
29 when reasonable suspicion exists that such applicant for or recipient of  
30 cash assistance is unlawfully using a controlled substance or controlled  
31 substance analog. The secretary for children and families may use any  
32 information obtained by the secretary for children and families to  
33 determine whether such reasonable suspicion exists, including, but not  
34 limited to, an applicant's or recipient's demeanor, missed appointments and  
35 arrest or other police records, previous employment or application for  
36 employment in an occupation or industry that regularly conducts drug  
37 screening, termination from previous employment due to unlawful use of a  
38 controlled substance or controlled substance analog or prior drug screening  
39 records of the applicant or recipient indicating unlawful use of a controlled  
40 substance or controlled substance analog.

41 (2) Any applicant for or recipient of cash assistance whose drug  
42 screening results in a positive test may request that the drug screening  
43 specimen be sent to a different drug testing facility for an additional drug

1 screening. Any applicant for or recipient of cash assistance who requests  
2 an additional drug screening at a different drug testing facility shall be  
3 required to pay the cost of drug screening. Such applicant or recipient who  
4 took the additional drug screening and who tested negative for unlawful  
5 use of a controlled substance and controlled substance analog shall be  
6 reimbursed for the cost of such additional drug screening.

7 (3) Any applicant for or recipient of cash assistance who tests  
8 positive for unlawful use of a controlled substance or controlled substance  
9 analog shall be required to complete a substance abuse treatment program  
10 approved by the secretary for children and families, secretary of labor or  
11 secretary of commerce, and a job skills program approved by the secretary  
12 for children and families, secretary of labor or secretary of commerce.  
13 Subject to applicable federal laws, any applicant for or recipient of cash  
14 assistance who fails to complete or refuses to participate in the substance  
15 abuse treatment program or job skills program as required under this  
16 subsection shall be ineligible to receive cash assistance until completion of  
17 such substance abuse treatment and job skills programs. Upon completion  
18 of both substance abuse treatment and job skills programs, such applicant  
19 for or recipient of cash assistance may be subject to periodic drug  
20 screening, as determined by the secretary for children and families. Upon a  
21 second positive test for unlawful use of a controlled substance or  
22 controlled substance analog, a recipient of cash assistance shall be ordered  
23 to complete again a substance abuse treatment program and job skills  
24 program, and shall be terminated from cash assistance for a period of 12  
25 months, or until such recipient of cash assistance completes both substance  
26 abuse treatment and job skills programs, whichever is later. Upon a third  
27 positive test for unlawful use of a controlled substance or controlled  
28 substance analog, a recipient of cash assistance shall be terminated from  
29 cash assistance, subject to applicable federal law.

30 (4) If an applicant for or recipient of cash assistance is ineligible for  
31 or terminated from cash assistance as a result of a positive test for  
32 unlawful use of a controlled substance or controlled substance analog, and  
33 such applicant for or recipient of cash assistance is the parent or legal  
34 guardian of a minor child, an appropriate protective payee shall be  
35 designated to receive cash assistance on behalf of such child. Such parent  
36 or legal guardian of the minor child may choose to designate an individual  
37 to receive cash assistance for such parent's or legal guardian's minor child,  
38 as approved by the secretary for children and families. Prior to the  
39 designated individual receiving any cash assistance, the secretary for  
40 children and families shall review whether reasonable suspicion exists that  
41 such designated individual is unlawfully using a controlled substance or  
42 controlled substance analog.

43 (A) In addition, any individual designated to receive cash assistance

1 on behalf of an eligible minor child shall be subject to drug screening at  
2 any time when reasonable suspicion exists that such designated individual  
3 is unlawfully using a controlled substance or controlled substance analog.  
4 The secretary for children and families may use any information obtained  
5 by the secretary for children and families to determine whether such  
6 reasonable suspicion exists, including, but not limited to, the designated  
7 individual's demeanor, missed appointments and arrest or other police  
8 records, previous employment or application for employment in an  
9 occupation or industry that regularly conducts drug screening, termination  
10 from previous employment due to unlawful use of a controlled substance  
11 or controlled substance analog or prior drug screening records of the  
12 designated individual indicating unlawful use of a controlled substance or  
13 controlled substance analog.

14 (B) Any designated individual whose drug screening results in a  
15 positive test may request that the drug screening specimen be sent to a  
16 different drug testing facility for an additional drug screening. Any  
17 designated individual who requests an additional drug screening at a  
18 different drug testing facility shall be required to pay the cost of drug  
19 screening. Such designated individual who took the additional drug  
20 screening and who tested negative for unlawful use of a controlled  
21 substance and controlled substance analog shall be reimbursed for the cost  
22 of such additional drug screening.

23 (C) Upon any positive test for unlawful use of a controlled substance  
24 or controlled substance analog, the designated individual shall not receive  
25 cash assistance on behalf of the parent's or legal guardian's minor child,  
26 and another designated individual shall be selected by the secretary for  
27 children and families to receive cash assistance on behalf of such parent's  
28 or legal guardian's minor child.

29 (5) If a person has been convicted under federal or state law of any  
30 offense which is classified as a felony by the law of the jurisdiction and  
31 which has as an element of such offense the manufacture, cultivation,  
32 distribution, possession or use of a controlled substance or controlled  
33 substance analog, and the date of conviction is on or after July 1, 2013,  
34 such person shall thereby become forever ineligible to receive any cash  
35 assistance under this subsection unless such conviction is the person's first  
36 conviction. First-time offenders convicted under federal or state law of any  
37 offense which is classified as a felony by the law of the jurisdiction and  
38 which has as an element of such offense the manufacture, cultivation,  
39 distribution, possession or use of a controlled substance or controlled  
40 substance analog, and the date of conviction is on or after July 1, 2013,  
41 such person shall become ineligible to receive cash assistance for five  
42 years from the date of conviction.

43 (6) Except for hearings before the Kansas department for children

1 and families or, the results of any drug screening administered as part of  
2 the drug screening program authorized by this subsection shall be  
3 confidential and shall not be disclosed publicly.

4 (7) The secretary for children and families may adopt such rules and  
5 regulations as are necessary to carry out the provisions of this subsection.

6 (8) Any authority granted to the secretary for children and families  
7 under this subsection shall be in addition to any other penalties prescribed  
8 by law.

9 (9) As used in this subsection:

10 (A) "Cash assistance" means cash assistance provided to individuals  
11 under the provisions of article 7 of chapter 39 of the Kansas Statutes  
12 Annotated, and amendments thereto, and any rules and regulations adopted  
13 pursuant to such statutes.

14 (B) "Controlled substance" means the same as in K.S.A. 2013 Supp.  
15 21-5701, and amendments thereto, and 21 U.S.C. § 802.

16 (C) "Controlled substance analog" means the same as in K.S.A. 2013  
17 Supp. 21-5701, and amendments thereto.

18 Sec. 3. K.S.A. 38-2002 and K.S.A. 2013 Supp. 39-709 are hereby  
19 repealed.

20 Sec. 4. This act shall take effect and be in force from and after its  
21 publication in the statute book.