

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

January 22, 2003
Room 531-N—Statehouse

Members Present

Representative Carl Holmes, Chairman
Senator U. L. "Rip" Gooch
Senator Dwayne Umbarger
Representative Jerry Henry
Representative Andrew Howell
Representative Janice Pauls
Representative L. Candy Ruff
Representative Sharon Schwartz

Members Absent

Senator Karin Brownlee
Senator Stan Clark
Senator Chris Steineger
Representative Daniel Williams

Staff Present

William G. Wolff, Kansas Legislative Research Department
Mitch Rice, Revisor of Statutes Office
Ken Wilke, Revisor of Statutes Office
Judy Glasgow, Committee Secretary

Others Present

Mary Obley, Department of Social and Rehabilitation Services
Dennis Priest, Department of Social and Rehabilitation Services
John Badger, Department of Social and Rehabilitation Services
Reid Stacey, Department of Social and Rehabilitation Services
Karen Braman, Department of Social and Rehabilitation Services

Dan Riley, Kansas Department of Agriculture
Dale Lambley, Kansas Department of Agriculture
Garry Keeler, Kansas Department of Agriculture

Wednesday, January 22, 2003

The meeting was called to order by Chairman Holmes at 12:05 p.m.

Dennis Priest was welcomed to the meeting by Chairman Holmes to speak to the proposed rules and regulations noticed for hearing by the Department of Social and Rehabilitation Services. KAR 30-4-96, funeral assistance program, revoked and KAR 30-6-106, general requirements for consideration of resources, including real property, personal property, and income.

Mr. Priest explained that the funeral assistance program was not funded under the Department's budget for the current year; therefore, the regulation is being revoked.

He next explained the main change to KAR 30-6-106 concerning the division of assets. The amendment is to ensure that, if a greater property allowance is required to increase the income allowance provided to the community spouse, a fair hearing officer must take into consideration the income generating value of the current property allowance as well as the additional proper allowance requested.

Mr. Priest answered several questions from Committee members concerning the regulation in general and its purpose. He explained that the rule exists to ensure that when one spouse went into a nursing home the other spouse is not forced to live in poverty. He went over the amounts that are currently allowed under the regulation, and explained that there are occasions when additional resources are allowed. Finally, he went over those items that are exempt from the distribution of assets to the spouse who is not in a nursing facility.

There being no further questions, Chairman Holmes thanked Mr. Priest for appearing before the Committee.

Mary Obley, program director, for SRS health care policy, was recognized by the Chairman to review proposed rules and regulations noticed for hearing by Social and Rehabilitation Services. KAR 30-5-64, prior authorization. She stated that these changes add additional drugs to the prior authorization list. This is the second round of drugs that are being included for the prior approval list.

In response to questions from staff, Ms. Obley stated that these regulations were submitted to the Drug Utilization Review Board and the response received back was more than 30 days ago. Further, staff suggested that the history section be reviewed and updated to reflect that the regulation is authorized under KSA 39-708c and also implemented by that

statute. KSA 2000 Supp. 39-7,120 and 7,120a also should be included. In further hearings under this program, staff suggested that KSA 77-421 (a)(3) should be cited which authorizes the 30-day hearing period.

The Chairman thanked Ms. Obley for her assistance with the review.

Chairman Holmes welcomed Dan Riley, Chief Counsel for the Department of Agriculture to review proposed rules and regulations noticed for hearing. KAR 4-20-11, civil penalties; KAR 4-20-15, agronomic application rates; KAR 4-21-1, "nutrient utilization plan" defined; amendments to the plan; exceptions; KAR 4-21-3, soil samples; KAR 4-21-4, soil tests; KAR 4-21-5, agreements to apply waste; KAR 4-21-6, recordkeeping; and KAR 4-21-7, exceeding phosphorus-holding capacity.

Mr. Riley stated there was one new regulation, and the others were being amended. The amendments were to provide clarification and consistency in the language, to allow the use of modified nutrient application plan forms which are easier to complete, and to allow grid sampling methods.

Regarding KAR 4-21-1, staff pointed out that the statute uses the term "swine waste" and that these regulations should be consistent with the statute. Mr. Riley stated that the agency would look at all the regulations and reinsert the word "swine" where it is needed. It also was suggested that, in subsection (b), whenever the term waste is referred to, Article 21 should be inserted. Staff further suggested it would be helpful in KAR 4-21-7 to include in subsection (a) that these are adopted by reference in KAR 4-21-4 as a cross reference.

Mr. Riley responded to Committee members questions concerning how the numbers were arrived at for the rain fall amounts used in KAR 4-21-7. He stated the data are from Kansas State University.

There being no further questions, Chairman Holmes thanked Mr. Riley for his appearance before the Committee.

The Chairman recognized *Representative Pauls, who moved and Senator Umbarger seconded, that the minutes for December 2-3, 2002, be approved. The motion passed.*

COMMENTS ON PROPOSED RULES AND REGULATIONS

Department of Social and Rehabilitation Services. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning funeral assistance, general requirements for consideration of resources, and prior authorization changes—pharmaceuticals. After discussion, the Committee had no comment.

Department of Agriculture. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning nutrient utilization plans. After discussion, the Committee expressed the following comments.

KAR 4-21-1. In subsection (b), in the definition of "waste," include the phrase "Article 21 of" inserted after "in." In subsection (f), make the definition of "swine facility" consistent with KSA 65-1,182 which contains the additional limitation "and that applies manure or waste to land."

KAR 4-21-7. Since the Bray and Kurz P-1, Mehlich 3, and Olsen analysis methods are adopted by reference in KAR 4-21-4, they can be cross referenced in this regulation.

Chairman Holmes stated that the next meeting would be January 29, 2003, at 12:00 noon. The meeting was adjourned at 1:00 p.m.

Prepared by Judy Glasgow and Bill Wolff

Approved by Committee on:

April 1, 2003