

HOUSE BILL No. 2434

By Committee on Health and Human Services

1-16

1 AN ACT concerning social welfare; relating to eligibility requirements for
2 the Kansas program of medical assistance; amending K.S.A. 2013
3 Supp. 39-709 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. The changes to law in this act shall be known as the
7 healthy Kansas act.

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

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

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

35 (b) *Assistance to families with dependent children.* Assistance may be
36 granted under this act to any dependent child, or relative, subject to the

1 general eligibility requirements as set out in subsection (a), who resides in
2 the state of Kansas or whose parent or other relative with whom the child
3 is living resides in the state of Kansas. Such assistance shall be known as
4 aid to families with dependent children. Where husband and wife are
5 living together both shall register for work under the program
6 requirements for aid to families with dependent children in accordance
7 with criteria and guidelines prescribed by rules and regulations of the
8 secretary.

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

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

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

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

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

33 (3) In addition to the other requirements prescribed under this
34 subsection (d), the secretary shall adopt rules and regulations which
35 establish community work experience program requirements for eligibility
36 for the receipt of general assistance in any form and which establish
37 penalties to be imposed when a work assignment under a community work
38 experience program requirement is not completed without good cause. The
39 secretary may adopt rules and regulations establishing exemptions from
40 any such community work experience program requirements. A first time
41 failure to complete such a work assignment requirement shall result in
42 ineligibility to receive general assistance for a period fixed by such rules
43 and regulations of not more than three calendar months. A subsequent

1 failure to complete such a work assignment requirement shall result in a
2 period fixed by such rules and regulations of ineligibility of not more than
3 six calendar months.

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

28 (e) *Requirements for medical assistance for which federal moneys or*
29 *state moneys or both are expended.* (1) When the secretary has adopted a
30 medical care plan under which federal moneys or state moneys or both are
31 expended, medical assistance in accordance with such plan shall be
32 granted to any person who is a citizen of the United States or who is an
33 alien lawfully admitted to the United States and who is residing in the state
34 of Kansas, whose resources and income do not exceed the levels
35 prescribed by the secretary. In determining the need of an individual, the
36 secretary may provide for income and resource exemptions and protected
37 income and resource levels. Resources from inheritance shall be counted.
38 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
39 amendments thereto, shall constitute a transfer of resources. The secretary
40 shall exempt principal and interest held in irrevocable trust pursuant to
41 subsection (c) of K.S.A. 16-303, and amendments thereto, from the
42 eligibility requirements of applicants for and recipients of medical
43 assistance. Such assistance shall be known as medical assistance.

1 (2) For the purposes of medical assistance eligibility determinations
2 on or after July 1, 2004, if an applicant or recipient owns property in joint
3 tenancy with some other party and the applicant or recipient of medical
4 assistance has restricted or conditioned their interest in such property to a
5 specific and discrete property interest less than 100%, then such
6 designation will cause the full value of the property to be considered an
7 available resource to the applicant or recipient. *For the purposes of*
8 *medical assistance eligibility determinations on or after January 1, 2015,*
9 *medical assistance shall also be granted to any adult under 65 years of*
10 *age, not pregnant and whose income does not exceed 133% of the federal*
11 *poverty level, to the extent permitted under the provisions of 42 U.S.C. §*
12 *1396a.*

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

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

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

31 (4) (A) When an applicant or recipient of medical assistance is a party
32 to a contract, agreement or accord for personal services being provided by
33 a nonlicensed individual or provider and such contract, agreement or
34 accord involves health and welfare monitoring, pharmacy assistance, case
35 management, communication with medical, health or other professionals,
36 or other activities related to home health care, long term care, medical
37 assistance benefits, or other related issues, any moneys paid under such
38 contract, agreement or accord shall be considered to be an available
39 resource unless the following restrictions are met: (i) The contract,
40 agreement or accord must be in writing and executed prior to any services
41 being provided; (ii) the moneys paid are in direct relationship with the fair
42 market value of such services being provided by similarly situated and
43 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed

1 individuals or situations can be found, the value of services will be based
2 on federal hourly minimum wage standards; (iv) such individual providing
3 the services will report all receipts of moneys as income to the appropriate
4 state and federal governmental revenue agencies; (v) any amounts due
5 under such contract, agreement or accord shall be paid after the services
6 are rendered; (vi) the applicant or recipient shall have the power to revoke
7 the contract, agreement or accord; and (vii) upon the death of the applicant
8 or recipient, the contract, agreement or accord ceases.

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

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

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

34 (g) *Medical assistance; assignment of rights to medical support and*
35 *limited power of attorney; recovery from estates of deceased recipients.* (1)
36 Except as otherwise provided in K.S.A. 39-786 and 39-787, and
37 amendments thereto, or as otherwise authorized on and after September
38 30, 1989, under section 303 of the federal medicare catastrophic coverage
39 act of 1988, whichever is applicable, by applying for or receiving medical
40 assistance under a medical care plan in which federal funds are expended,
41 any accrued, present or future rights to support and any rights to payment
42 for medical care from a third party of an applicant or recipient and any
43 other family member for whom the applicant is applying shall be deemed

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

26 (2) The amount of any medical assistance paid after June 30, 1992,
27 under the provisions of subsection (e) is (A) a claim against the property or
28 any interest therein belonging to and a part of the estate of any deceased
29 recipient or, if there is no estate, the estate of the surviving spouse, if any,
30 shall be charged for such medical assistance paid to either or both, and (B)
31 a claim against any funds of such recipient or spouse in any account under
32 K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and
33 amendments thereto. There shall be no recovery of medical assistance
34 correctly paid to or on behalf of an individual under subsection (e) except
35 after the death of the surviving spouse of the individual, if any, and only at
36 a time when the individual has no surviving child who is under 21 years of
37 age or is blind or permanently and totally disabled. Transfers of real or
38 personal property by recipients of medical assistance without adequate
39 consideration are voidable and may be set aside. Except where there is a
40 surviving spouse, or a surviving child who is under 21 years of age or is
41 blind or permanently and totally disabled, the amount of any medical
42 assistance paid under subsection (e) is a claim against the estate in any
43 guardianship or conservatorship proceeding. The monetary value of any

1 benefits received by the recipient of such medical assistance under long-
2 term care insurance, as defined by K.S.A. 40-2227, and amendments
3 thereto, shall be a credit against the amount of the claim provided for such
4 medical assistance under this subsection (g). The secretary is authorized to
5 enforce each claim provided for under this subsection (g). The secretary
6 shall not be required to pursue every claim, but is granted discretion to
7 determine which claims to pursue. All moneys received by the secretary
8 from claims under this subsection (g) shall be deposited in the social
9 welfare fund. The secretary may adopt rules and regulations for the
10 implementation and administration of the medical assistance recovery
11 program under this subsection (g).

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

18 (A) If an individual receives any medical assistance before July 1,
19 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
20 and amendments thereto, which forms the basis for a claim under
21 subsection (g)(2), such claim is limited to the individual's probatable estate
22 as defined by applicable law; and

23 (B) if an individual receives any medical assistance on or after July 1,
24 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
25 and amendments thereto, which forms the basis for a claim under
26 subsection (g)(2), such claim shall apply to the individual's medical
27 assistance estate. The medical assistance estate is defined as including all
28 real and personal property and other assets in which the deceased
29 individual had any legal title or interest immediately before or at the time
30 of death to the extent of that interest or title. The medical assistance estate
31 includes, without limitation assets conveyed to a survivor, heir or assign of
32 the deceased recipient through joint tenancy, tenancy in common,
33 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
34 trust, annuities or similar arrangement.

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

43 (A) After the death of a recipient of medical assistance, the secretary

1 of health and environment or the secretary's designee may place a lien on
2 any interest in real property owned by such recipient.

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

28 (5) The lien filed by the secretary of health and environment or the
29 secretary's designee for medical assistance correctly received may be
30 enforced before or after the death of the recipient by the filing of an action
31 to foreclose such lien in the Kansas district court or through an estate
32 probate court action in the county where the real property of the recipient
33 is located. However, it may be enforced only:

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

35 (B) when there is no child of the recipient, natural or adopted, who is
36 20 years of age or less residing in the home;

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

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

43 (6) The lien remains on the property even after a transfer of the title

1 by conveyance, sale, succession, inheritance or will unless one of the
2 following events occur:

3 (A) The lien is satisfied. The recipient, the heirs, personal
4 representative or assigns of the recipient may discharge such lien at any
5 time by paying the amount of the lien to the secretary or the secretary's
6 designee;

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

9 (C) the value of the real property is consumed by the lien, at which
10 time the secretary or the secretary's designee may force the sale for the real
11 property to satisfy the lien.

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

20 (8) Within seven days of receipt of notice by the secretary for
21 children and families or the secretary's designee of the death of a recipient
22 of medical assistance under this subsection, the secretary for children and
23 families or the secretary's designee shall give notice of such recipient's
24 death to the secretary of health and environment or the secretary's
25 designee.

26 (h) *Placement under the revised Kansas code for care of children or*
27 *revised Kansas juvenile justice code; assignment of support rights and*
28 *limited power of attorney.* In any case in which the secretary for children
29 and families pays for the expenses of care and custody of a child pursuant
30 to K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
31 thereto, including the expenses of any foster care placement, an
32 assignment of all past, present and future support rights of the child in
33 custody possessed by either parent or other person entitled to receive
34 support payments for the child is, by operation of law, conveyed to the
35 secretary. Such assignment shall become effective upon placement of a
36 child in the custody of the secretary or upon payment of the expenses of
37 care and custody of a child by the secretary without the requirement that
38 any document be signed by the parent or other person entitled to receive
39 support payments for the child. When the secretary pays for the expenses
40 of care and custody of a child or a child is placed in the custody of the
41 secretary, the parent or other person entitled to receive support payments
42 for the child is also deemed to have appointed the secretary, or the
43 secretary's designee, as attorney in fact to perform the specific act of

1 negotiating and endorsing all drafts, checks, money orders or other
2 negotiable instruments representing support payments received by the
3 secretary on behalf of the child. This limited power of attorney shall be
4 effective from the date the assignment to support rights becomes effective
5 and shall remain in effect until the assignment of support rights has been
6 terminated in full.

7 (i) No person who voluntarily quits employment or who is fired from
8 employment due to gross misconduct as defined by rules and regulations
9 of the secretary or who is a fugitive from justice by reason of a felony
10 conviction or charge shall be eligible to receive public assistance benefits
11 in this state. Any recipient of public assistance who fails to timely comply
12 with monthly reporting requirements under criteria and guidelines
13 prescribed by rules and regulations of the secretary shall be subject to a
14 penalty established by the secretary by rules and regulations.

15 (j) If the applicant or recipient of aid to families with dependent
16 children is a mother of the dependent child, as a condition of the mother's
17 eligibility for aid to families with dependent children the mother shall
18 identify by name and, if known, by current address the father of the
19 dependent child except that the secretary may adopt by rules and
20 regulations exceptions to this requirement in cases of undue hardship. Any
21 recipient of aid to families with dependent children who fails to cooperate
22 with requirements relating to child support enforcement under criteria and
23 guidelines prescribed by rules and regulations of the secretary shall be
24 subject to a penalty established by the secretary by rules and regulations
25 which penalty shall progress to ineligibility for the family after three
26 months of noncooperation.

27 (k) By applying for or receiving child care benefits or food stamps,
28 the applicant or recipient shall be deemed to have assigned, pursuant to
29 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the
30 state only accrued, present or future rights to support from any other
31 person such applicant may have in such person's own behalf or in behalf of
32 any other family member for whom the applicant is applying for or
33 receiving aid. The assignment of support rights shall automatically become
34 effective upon the date of approval for or receipt of such aid without the
35 requirement that any document be signed by the applicant or recipient. By
36 applying for or receiving child care benefits or food stamps, the applicant
37 or recipient is also deemed to have appointed the secretary, or the
38 secretary's designee, as an attorney in fact to perform the specific act of
39 negotiating and endorsing all drafts, checks, money orders or other
40 negotiable instruments representing support payments received by the
41 secretary in behalf of any person applying for, receiving or having
42 received such assistance. This limited power of attorney shall be effective
43 from the date the secretary approves the application for aid and shall

1 remain in effect until the assignment of support rights has been terminated
2 in full. An applicant or recipient who has assigned support rights to the
3 secretary pursuant to this subsection shall cooperate in establishing and
4 enforcing support obligations to the same extent required of applicants for
5 or recipients of aid to families with dependent children.

6 (1) (1) A program of drug screening for applicants for cash assistance
7 as a condition of eligibility for cash assistance and persons receiving cash
8 assistance as a condition of continued receipt of cash assistance shall be
9 established, subject to applicable federal law, by the secretary for children
10 and families on or before January 1, 2014. Under such program of drug
11 screening, the secretary for children and families shall order a drug
12 screening of an applicant for or a recipient of cash assistance at any time
13 when reasonable suspicion exists that such applicant for or recipient of
14 cash assistance is unlawfully using a controlled substance or controlled
15 substance analog. The secretary for children and families may use any
16 information obtained by the secretary for children and families to
17 determine whether such reasonable suspicion exists, including, but not
18 limited to, an applicant's or recipient's demeanor, missed appointments and
19 arrest or other police records, previous employment or application for
20 employment in an occupation or industry that regularly conducts drug
21 screening, termination from previous employment due to unlawful use of a
22 controlled substance or controlled substance analog or prior drug screening
23 records of the applicant or recipient indicating unlawful use of a controlled
24 substance or controlled substance analog.

25 (2) Any applicant for or recipient of cash assistance whose drug
26 screening results in a positive test may request that the drug screening
27 specimen be sent to a different drug testing facility for an additional drug
28 screening. Any applicant for or recipient of cash assistance who requests
29 an additional drug screening at a different drug testing facility shall be
30 required to pay the cost of drug screening. Such applicant or recipient who
31 took the additional drug screening and who tested negative for unlawful
32 use of a controlled substance and controlled substance analog shall be
33 reimbursed for the cost of such additional drug screening.

34 (3) Any applicant for or recipient of cash assistance who tests
35 positive for unlawful use of a controlled substance or controlled substance
36 analog shall be required to complete a substance abuse treatment program
37 approved by the secretary for children and families, secretary of labor or
38 secretary of commerce, and a job skills program approved by the secretary
39 for children and families, secretary of labor or secretary of commerce.
40 Subject to applicable federal laws, any applicant for or recipient of cash
41 assistance who fails to complete or refuses to participate in the substance
42 abuse treatment program or job skills program as required under this
43 subsection shall be ineligible to receive cash assistance until completion of

1 such substance abuse treatment and job skills programs. Upon completion
2 of both substance abuse treatment and job skills programs, such applicant
3 for or recipient of cash assistance may be subject to periodic drug
4 screening, as determined by the secretary for children and families. Upon a
5 second positive test for unlawful use of a controlled substance or
6 controlled substance analog, a recipient of cash assistance shall be ordered
7 to complete again a substance abuse treatment program and job skills
8 program, and shall be terminated from cash assistance for a period of 12
9 months, or until such recipient of cash assistance completes both substance
10 abuse treatment and job skills programs, whichever is later. Upon a third
11 positive test for unlawful use of a controlled substance or controlled
12 substance analog, a recipient of cash assistance shall be terminated from
13 cash assistance, subject to applicable federal law.

14 (4) If an applicant for or recipient of cash assistance is ineligible for
15 or terminated from cash assistance as a result of a positive test for
16 unlawful use of a controlled substance or controlled substance analog, and
17 such applicant for or recipient of cash assistance is the parent or legal
18 guardian of a minor child, an appropriate protective payee shall be
19 designated to receive cash assistance on behalf of such child. Such parent
20 or legal guardian of the minor child may choose to designate an individual
21 to receive cash assistance for such parent's or legal guardian's minor child,
22 as approved by the secretary for children and families. Prior to the
23 designated individual receiving any cash assistance, the secretary for
24 children and families shall review whether reasonable suspicion exists that
25 such designated individual is unlawfully using a controlled substance or
26 controlled substance analog.

27 (A) In addition, any individual designated to receive cash assistance
28 on behalf of an eligible minor child shall be subject to drug screening at
29 any time when reasonable suspicion exists that such designated individual
30 is unlawfully using a controlled substance or controlled substance analog.
31 The secretary for children and families may use any information obtained
32 by the secretary for children and families to determine whether such
33 reasonable suspicion exists, including, but not limited to, the designated
34 individual's demeanor, missed appointments and arrest or other police
35 records, previous employment or application for employment in an
36 occupation or industry that regularly conducts drug screening, termination
37 from previous employment due to unlawful use of a controlled substance
38 or controlled substance analog or prior drug screening records of the
39 designated individual indicating unlawful use of a controlled substance or
40 controlled substance analog.

41 (B) Any designated individual whose drug screening results in a
42 positive test may request that the drug screening specimen be sent to a
43 different drug testing facility for an additional drug screening. Any

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

7 (C) Upon any positive test for unlawful use of a controlled substance
8 or controlled substance analog, the designated individual shall not receive
9 cash assistance on behalf of the parent's or legal guardian's minor child,
10 and another designated individual shall be selected by the secretary for
11 children and families to receive cash assistance on behalf of such parent's
12 or legal guardian's minor child.

13 (5) If a person has been convicted under federal or state law of any
14 offense which is classified as a felony by the law of the jurisdiction and
15 which has as an element of such offense the manufacture, cultivation,
16 distribution, possession or use of a controlled substance or controlled
17 substance analog, and the date of conviction is on or after July 1, 2013,
18 such person shall thereby become forever ineligible to receive any cash
19 assistance under this subsection unless such conviction is the person's first
20 conviction. First-time offenders convicted under federal or state law of any
21 offense which is classified as a felony by the law of the jurisdiction and
22 which has as an element of such offense the manufacture, cultivation,
23 distribution, possession or use of a controlled substance or controlled
24 substance analog, and the date of conviction is on or after July 1, 2013,
25 such person shall become ineligible to receive cash assistance for five
26 years from the date of conviction.

27 (6) Except for hearings before the Kansas department for children
28 and families or, the results of any drug screening administered as part of
29 the drug screening program authorized by this subsection shall be
30 confidential and shall not be disclosed publicly.

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

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

36 (9) As used in this subsection:

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

41 (B) "Controlled substance" means the same as in K.S.A. 2013 Supp.
42 21-5701, and amendments thereto, and 21 U.S.C. § 802.

43 (C) "Controlled substance analog" means the same as in K.S.A. 2013

1 Supp. 21-5701, and amendments thereto.

2 Sec. 3. K.S.A. 2013 Supp. 39-709 is hereby repealed.

3 Sec. 4. This act shall take effect and be in force from and after its

4 publication in the Kansas register.