

HOUSE BILL No. 2714

By Committee on Health and Human Services

1-25

9 AN ACT concerning certain applications for medical assistance under
10 medicaid; requiring certain applicants to have a living will and advance
11 directives prior to approval of the application; amending K.S.A. 2005
12 Supp. 39-709 and repealing the existing section.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2005 Supp. 39-709 is hereby amended to read as
16 follows: 39-709. (a) *General eligibility requirements for assistance for*
17 *which federal moneys are expended.* Subject to the additional require-
18 ments below, assistance in accordance with plans under which federal
19 moneys are expended may be granted to any needy person who:

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

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

42 (b) *Assistance to families with dependent children.* Assistance may be
43 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
2 in the state of Kansas or whose parent or other relative with whom the
3 child is living resides in the state of Kansas. Such assistance shall be known
4 as aid to families with dependent children. Where husband and wife are
5 living together both shall register for work under the program require-
6 ments for aid to families with dependent children in accordance with
7 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 ac-
13 crued, 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.
16 In any case in which an order for child support has been established and
17 the legal custodian and obligee under the order surrenders physical cus-
18 tody of the child to a caretaker relative without obtaining a modification
19 of legal custody and support rights on behalf of the child are assigned
20 pursuant to this section, the surrender of physical custody and the as-
21 signment shall transfer, by operation of law, the child's support rights
22 under the order to the secretary on behalf of the state. Such assignment
23 shall be of all accrued, present or future rights to support of the child
24 surrendered to the caretaker relative. The assignment of support rights
25 shall automatically become effective upon the date of approval for or
26 receipt of such aid without the requirement that any document be signed
27 by the applicant, recipient or obligee. By applying for or receiving aid to
28 families with dependent children, or by surrendering physical custody of
29 a child to a caretaker relative who is an applicant or recipient of such
30 assistance on the child's behalf, the applicant, recipient or obligee is also
31 deemed to have appointed the secretary, or the secretary's designee, as
32 an attorney in fact to perform the specific act of negotiating and endorsing
33 all drafts, checks, money orders or other negotiable instruments repre-
34 senting support payments received by the secretary in behalf of any per-
35 son applying for, receiving or having received such assistance. This limited
36 power of attorney shall be effective from the date the secretary approves
37 the 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
42 a program in which the federal government participates and who satisfy
43 the 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 transi-
4 tional assistance, be a member of a family in which a minor child or a
5 pregnant woman resides or be unable to engage in employment. The
6 secretary shall adopt rules and regulations prescribing criteria for estab-
7 lishing when a minor child may be considered to be living with a family
8 and whether a person is able to engage in employment, including such
9 factors as age or physical or mental condition. Eligibility for general as-
10 sistance, 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 eli-
15 gibility 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 indi-
21 vidual. In determining the need of an individual, the secretary may pro-
22 vide 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
25 United 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
28 a program in which the federal government participates and who satisfy
29 the additional requirements prescribed by or under this subsection (d),
30 but who do not meet the criteria prescribed by rules and regulations of
31 the secretary relating to inability to engage in employment or are not a
32 member of a family in which a minor or a pregnant woman resides.

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

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

4 (4) If any person is found guilty of the crime of theft under the pro-
5 visions of K.S.A. 39-720, and amendments thereto, such person shall
6 thereby become forever ineligible to receive any form of general assis-
7 tance under the provisions of this subsection (d) unless the conviction is
8 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 pro-
11 visions 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
19 of general assistance under the provisions of this subsection (d) unless
20 the conviction is the person's first conviction under the law of any other
21 state concerning welfare fraud. First time offenders convicted of a mis-
22 demeanor under the law of any other state concerning welfare fraud shall
23 become ineligible to receive any form of general assistance for a period
24 of 12 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
30 a medical care plan under which federal moneys or state moneys or both
31 are 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
34 state 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 amend-
39 ments thereto, shall constitute a transfer of resources. The secretary shall
40 exempt principal and interest held in irrevocable trust pursuant to sub-
41 section (c) of K.S.A. 16-303, and amendments thereto, from the eligibility
42 requirements of applicants for and recipients of medical assistance. Such
43 assistance shall be known as medical assistance.

1 (2) For the purposes of medical assistance eligibility determinations
2 on or after July 1, 2004:

3 (A) If an applicant or recipient owns property in joint tenancy with
4 some other party and the applicant or recipient of medical assistance has
5 restricted or conditioned their interest in such property to a specific and
6 discrete property interest less than 100%, then such designation will cause
7 the full value of the property to be considered an available resource to
8 the applicant or recipient.

9 (B) (i) *Any application for assistance under the medicaid program*
10 *submitted by a person who is at least 40 years old shall also contain a*
11 *copy of the applicant's living will and advance directives unless current*
12 *copies of such documents are already on file with the department of social*
13 *and rehabilitation services. No application for assistance under the med-*
14 *icaid program submitted by an applicant who is at least 40 years old shall*
15 *be approved by the department of social and rehabilitation services unless*
16 *copies of the applicant's current living will and advance directives are*
17 *attached to the application or are already on file with the department.*

18 (ii) *For the purposes of this provision:*

19 (a) *The term "advance directives" shall have the meaning ascribed to*
20 *the term "durable power of attorney for health care decisions" in K.S.A.*
21 *58-625 and amendments thereto.*

22 (b) *The term "living will" shall have the meaning ascribed to the term*
23 *"declaration" in K.S.A. 65-28,102 and amendments thereto.*

24 (3) Resources from trusts shall be considered when determining el-
25 igibility of a trust beneficiary for medical assistance. Medical assistance is
26 to be secondary to all resources, including trusts, that may be available
27 to an applicant or recipient of medical assistance. If a trust has discre-
28 tionary language, the trust shall be considered to be an available resource
29 to the extent, using the full extent of discretion, the trustee may make
30 any of the income or principal available to the applicant or recipient of
31 medical assistance. Any such discretionary trust shall be considered an
32 available resource unless: (1) The trust is funded exclusively from re-
33 sources of a person who, at the time of creation of the trust, owed no
34 duty of support to the applicant or recipient; and (2) the trust contains
35 specific contemporaneous language that states an intent that the trust be
36 supplemental to public assistance and the trust makes specific reference
37 to medicaid, medical assistance or title XIX of the social security act.

38 (4) (A) When an applicant or recipient of medical assistance is a party
39 to a contract, agreement or accord for personal services being provided
40 by a nonlicensed individual or provider and such contract, agreement or
41 accord involves health and welfare monitoring, pharmacy assistance, case
42 management, communication with medical, health or other professionals,
43 or other activities related to home health care, long term care, medical

1 assistance benefits, or other related issues, any moneys paid under such
2 contract, agreement or accord shall be considered to be an available re-
3 source unless the following restrictions are met: (i) The contract, agree-
4 ment or accord must be in writing and executed prior to any services
5 being provided; (ii) the moneys paid are in direct relationship with the
6 fair market value of such services being provided by similarly situated and
7 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed
8 individuals or situations can be found, the value of services will be based
9 on federal hourly minimum wage standards; (iv) such individual providing
10 the services will report all receipts of moneys as income to the appropriate
11 state and federal governmental revenue agencies; (v) any amounts due
12 under such contract, agreement or accord shall be paid after the services
13 are rendered; (vi) the applicant or recipient shall have the power to revoke
14 the contract, agreement or accord; and (vii) upon the death of the appli-
15 cant or recipient, the contract, agreement or accord ceases.

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

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

39 (g) *Medical assistance; assignment of rights to medical support and*
40 *limited power of attorney; recovery from estates of deceased recipients.*

41 (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
42 amendments thereto, or as otherwise authorized on and after September
43 30, 1989, under section 303 and amendments thereto of the federal med-

1 icare catastrophic coverage act of 1988, whichever is applicable, by ap-
2 plying for or receiving medical assistance under a medical care plan in
3 which federal funds are expended, any accrued, present or future rights
4 to support and any rights to payment for medical care from a third party
5 of an applicant or recipient and any other family member for whom the
6 applicant is applying shall be deemed to have been assigned to the sec-
7 retary on behalf of the state. The assignment shall automatically become
8 effective upon the date of approval for such assistance without the re-
9 quirement that any document be signed by the applicant or recipient. By
10 applying for or receiving medical assistance the applicant or recipient is
11 also deemed to have appointed the secretary, or the secretary's designee,
12 as an attorney in fact to perform the specific act of negotiating and en-
13 dorsing all drafts, checks, money orders or other negotiable instruments,
14 representing payments received by the secretary in behalf of any person
15 applying for, receiving or having received such assistance. This limited
16 power of attorney shall be effective from the date the secretary approves
17 the application for assistance and shall remain in effect until the assign-
18 ment has been terminated in full. The assignment of any rights to pay-
19 ment for medical care from a third party under this subsection shall not
20 prohibit a health care provider from directly billing an insurance carrier
21 for services rendered if the provider has not submitted a claim covering
22 such services to the secretary for payment. Support amounts collected on
23 behalf of persons whose rights to support are assigned to the secretary
24 only under this subsection and no other shall be distributed pursuant to
25 subsection (d) of K.S.A. 39-756, and amendments thereto, except that
26 any amounts designated as medical support shall be retained by the sec-
27 retary for repayment of the unreimbursed portion of assistance. Amounts
28 collected pursuant to the assignment of rights to payment for medical
29 care from a third party shall also be retained by the secretary for repay-
30 ment of the unreimbursed portion of assistance.

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

1 adequate consideration are voidable and may be set aside. Except where
2 there is a surviving spouse, or a surviving child who is under 21 years of
3 age or is blind or permanently and totally disabled, the amount of any
4 medical assistance paid under subsection (e) is a claim against the estate
5 in any guardianship or conservatorship proceeding. The monetary value
6 of any benefits received by the recipient of such medical assistance under
7 long-term care insurance, as defined by K.S.A. 40-2227, and amendments
8 thereto, shall be a credit against the amount of the claim provided for
9 such medical assistance under this subsection (g). The secretary is au-
10 thorized to enforce each claim provided for under this subsection (g).
11 The secretary shall not be required to pursue every claim, but is granted
12 discretion to determine which claims to pursue. All moneys received by
13 the secretary from claims under this subsection (g) shall be deposited in
14 the social welfare fund. The secretary may adopt rules and regulations
15 for the implementation and administration of the medical assistance re-
16 covery program under this subsection (g).

17 (3) By applying for or receiving medical assistance under the provi-
18 sions of article 7 of chapter 39 of the Kansas Statutes Annotated, such
19 individual or such individual's agent, fiduciary, guardian conservator, rep-
20 resentative payee or other person acting on behalf of the individual con-
21 sents to the following definitions of estate and the results therefrom:

22 (A) If an individual receives any medical assistance before July 1,
23 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
24 which forms the basis for a claim under subsection (g)(2), such claim is
25 limited to the individual's probatable estate as defined by applicable law;
26 and

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

39 (4) The secretary of social and rehabilitation services or the secre-
40 tary's designee is authorized to file and enforce a lien against the real
41 property of a recipient of medical assistance in certain situations, subject
42 to all prior liens of record. The lien must be filed in the office of the
43 register of deeds of the county where the real property is located and

1 must contain the legal description of all real property in the county subject
2 to the lien. This lien is for payments of medical assistance made by the
3 department of social and rehabilitation services to the recipient who is an
4 inpatient in a nursing home or other medical institution. Such lien may
5 be filed only after notice and an opportunity for a hearing has been given.
6 Such lien may be enforced only upon competent medical testimony that
7 the recipient cannot reasonably be expected to be discharged and re-
8 turned home. A six-month period of compensated inpatient care at a
9 nursing home, nursing homes or other medical institution shall constitute
10 a determination by the department of social and rehabilitation services
11 that the recipient cannot reasonably be expected to be discharged and
12 returned home. To return home means the recipient leaves the nursing
13 or medical facility and resides in the home on which the lien has been
14 placed for a period of at least 90 days without being readmitted as an
15 inpatient to a nursing or medical facility. The amount of the lien shall be
16 for the amount of assistance paid by the department of social and reha-
17 bilitation services after the expiration of six months from the date the
18 recipient became eligible for compensated inpatient care at a nursing
19 home, nursing homes or other medical institution until the time of the
20 filing of the lien and for any amount paid thereafter for such medical
21 assistance to the recipient.

22 (5) The lien filed by the secretary or the secretary's designee for med-
23 ical assistance correctly received may be enforced before or after the
24 death of the recipient by the filing of an action to foreclose such lien in
25 the Kansas district court or through an estate probate court action in the
26 county where the real property of the recipient is located. However, it
27 may be enforced only:

- 28 (A) After the death of the surviving spouse of the recipient;
29 (B) when there is no child of the recipient, natural or adopted, who
30 is 20 years of age or less residing in the home;
31 (C) when there is no adult child of the recipient, natural or adopted,
32 who is blind or disabled residing in the home; or
33 (D) when no brother or sister of the recipient is lawfully residing in
34 the home, who has resided there for at least one year immediately before
35 the date of the recipient's admission to the nursing or medical facility,
36 and has resided there on a continuous basis since that time.

37 (6) The lien remains on the property even after a transfer of the title
38 by conveyance, sale, succession, inheritance or will unless one of the fol-
39 lowing events occur:

- 40 (A) The lien is satisfied. The recipient, the heirs, personal represen-
41 tative or assigns of the recipient may discharge such lien at any time by
42 paying the amount of the lien to the secretary or the secretary's designee;
43 (B) The lien is terminated by foreclosure of prior lien of record or

1 settlement action taken in lieu of foreclosure;

2 (C) the value of the real property is consumed by the lien, at which
3 time the secretary or the secretary's designee may force the sale for the
4 real property to satisfy the lien; or

5 (D) after a lien is filed against the real property, it will be dissolved
6 if the recipient leaves the nursing or medical facility and resides in the
7 property to which the lien is attached for a period of more than 90 days
8 without being readmitted as an inpatient to a nursing or medical facility,
9 even though there may have been no reasonable expectation that this
10 would occur. If the recipient is readmitted to a nursing or medical facility
11 during this period, and does return home after being released, another
12 90 days must be completed before the lien can be dissolved.

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

21 (h) *Placement under code for care of children or juvenile offenders*
22 *code; assignment of support rights and limited power of attorney.* In any
23 case in which the secretary of social and rehabilitation services pays for
24 the expenses of care and custody of a child pursuant to K.S.A. 38-1501
25 *et seq.* or 38-1601 *et seq.*, and amendments thereto, including the ex-
26 penses of any foster care placement, an assignment of all past, present
27 and future support rights of the child in custody possessed by either
28 parent or other person entitled to receive support payments for the child
29 is, by operation of law, conveyed to the secretary. Such assignment shall
30 become effective upon placement of a child in the custody of the secretary
31 or upon payment of the expenses of care and custody of a child by the
32 secretary without the requirement that any document be signed by the
33 parent or other person entitled to receive support payments for the child.
34 When the secretary pays for the expenses of care and custody of a child
35 or a child is placed in the custody of the secretary, the parent or other
36 person entitled to receive support payments for the child is also deemed
37 to have appointed the secretary, or the secretary's designee, as attorney
38 in fact to perform the specific act of negotiating and endorsing all drafts,
39 checks, money orders or other negotiable instruments representing sup-
40 port payments received by the secretary on behalf of the child. This lim-
41 ited power of attorney shall be effective from the date the assignment to
42 support rights becomes effective and shall remain in effect until the as-
43 signment of support rights has been terminated in full.

1 (i) No person who voluntarily quits employment or who is fired from
2 employment due to gross misconduct as defined by rules and regulations
3 of the secretary or who is a fugitive from justice by reason of a felony
4 conviction or charge shall be eligible to receive public assistance benefits
5 in this state. Any recipient of public assistance who fails to timely comply
6 with monthly reporting requirements under criteria and guidelines pre-
7 scribed by rules and regulations of the secretary shall be subject to a
8 penalty established by the secretary by rules and regulations.

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

21 (k) By applying for or receiving child care benefits or food stamps,
22 the applicant or recipient shall be deemed to have assigned, pursuant to
23 K.S.A. 39-756 and amendments thereto, to the secretary on behalf of the
24 state only accrued, present or future rights to support from any other
25 person such applicant may have in such person's own behalf or in behalf
26 of any other family member for whom the applicant is applying for or
27 receiving aid. The assignment of support rights shall automatically be-
28 come effective upon the date of approval for or receipt of such aid without
29 the requirement that any document be signed by the applicant or recip-
30 ient. By applying for or receiving child care benefits or food stamps, the
31 applicant or recipient is also deemed to have appointed the secretary, or
32 the secretary's designee, as an attorney in fact to perform the specific act
33 of negotiating and endorsing all drafts, checks, money orders or other
34 negotiable instruments representing support payments received by the
35 secretary in behalf of any person applying for, receiving or having received
36 such assistance. This limited power of attorney shall be effective from the
37 date the secretary approves the application for aid and shall remain in
38 effect until the assignment of support rights has been terminated in full.
39 An applicant or recipient who has assigned support rights to the secretary
40 pursuant to this subsection shall cooperate in establishing and enforcing
41 support obligations to the same extent required of applicants for or re-
42 cipients of aid to families with dependent children.

43 Sec. 2. K.S.A. 2005 Supp. 39-709 is hereby repealed.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.