

Approved _____
Date 3-15-89

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at _____
Chairperson

10:00 a.m. ~~xxx~~ on March 2, 19 89 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

L. Kathryn Klassen, Director, Division of Medical Programs, SRS
Bob Hiller, Attorney, SRS
Tom C. Hitchcock, Executive Secretary, State Board of Pharmacy
Kyle Smith, Assistant Attorney General, Kansas Bureau of Investigation

Kathryn Klassen, Division of Medical Programs, SRS, spoke to the committee in support of SB-302 stating difficulties encountered due to the "six month from date of claim" clause in the statutes. Two examples concerned foster children whose foster parents were not familiar with SRS policy and took a child to a doctor of choice rather than an SRS provider with Kansas Medicaid; the second was when emergency service may be provided in some other state where the provider is unaware of the six months rule. (Attachment 1) Claims for medical service rightfully owed by the State of Kansas could be paid using Medicaid or MediKan funds.

Tom Hitchcock, State Board of Pharmacy, appeared in support of SB-293 requesting changes in the uniform controlled substances act. The changes are listed in Attachment 2 and would update the controlled substances schedule. These changes will bring about conformity with the federal regulations and enable enforcement concerning these drugs on a state level. Other changes concerned a misspelled word and errors in printing.

Bob Hiller, SRS appeared in support of SB-304 which would bring K.S.A. 59-2006(b) into compliance with other S.R.S. civil recovery statutes now on the books by eliminating the three year statute of limitations. A side effect will be that recoveries should gradually increase because 1) more civil suits are likely to be filed in the future and 2) the number of affirmative defenses allowed in future suits is likely to decrease. (Attachment 3)

Senator Burke's pages were introduced, Monica Fancher, Sarah Harrington and Allison Unruh who were in committee.

Following a brief discussion Senator Salisbury moved, with a second from Senator Langworthy, to report SB-304 favorable for passage. The motion carried. Senator Salisbury will carry SB-304.

Discussion concerning SB-302 between staff and the committee centered on the effect of this bill. Adoption of rules and regulations would be extremely difficult. Senator Salisbury commented that if the committee was going to recommend this bill that parameters needed to be provided for rules and regulations rather than a general authority to adopt such regulations.

Kyle Smith, Assistant Attorney General, KBI requested permission to speak concerning SB-293 stating it was a constant battle to keep the list of drugs up to date. He requested that the changes mentioned by Mr. Hitchcock concerning the scheduled drugs, also a number of technical corrections of spelling and changing codes to conform with federally

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m. ~~p.m.~~ on March 2, 1989.

assigned code numbers be enacted. Specifically mentioned was the inclusion on one designer drug with the street name of "ecstasy" which needed to be included in the statutes to make it illegal. He also proposed an amendment making this bill effective on publication in the Kansas Register.

Senator Hayden moved the amendments to make needed corrections and to change the effective date to publication in the Kansas Register. Senator Reilly seconded the motion and the motion carried.

Senator Anderson moved to pass out SB-293 as amended favorable for passage. Senator Strick seconded the motion and the motion carried. Senator Strick will carry SB-293.

The chairman requested the wishes of the committee concerning SB-97 stating the proponents had requested the committee take action on the bill. After calling twice for the wishes of the committee on SB-97 with no reply from any committee member the chairman passed on to the subcommittee report on SB-15.

Senator Langworthy presented the subcommittee report concerning SB-15 held February 23, 1989. (Attachment 4) Following discussion of alternatives staff was instructed to draw an amendment to provide for the suspension of K.S.A. 1988 Supp. 29-785 through 39-750 effective on the date the federal legislation becomes effective and until any applicable federal legislation ceases to be in effect. This is similar to the suspension of the 65 mile an hour speed limit used some years ago. This amendment was presented in balloon form. (Attachment 5) Following an explanation by Norm Furse as to exactly what the balloon bill of SB-15 would accomplish, Senator Strick was called on concerning the subcommittee report. Senator Strick replied that this action keeps the original bill intact with no loop holes. The federal bill preempts Kansas law but should federal law cease to be in effect this bill would take over.

Senator Langworthy moved to adopt the committee report with a second by Senator Strick. The motion carried.

Senator Strick moved to pass out favorable SB-15 as amended. Senator Langworthy seconded the motion and the motion carried. Senator Langworthy will carry SB-15.

The meeting adjourned at 10:55 a.m. and will convene March 3, 10:00 a.m. in room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 2, 1989

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Dwight Young

Assn. Com. P.H.C. Ks.

Allyn Rockner Tojka

L.S.

Tom Hitchcock "

Bd. of Pharmacy

Sheila Flaska Great Bend

Kyle Smith

KBI

Stan Welfley

KBT

William E. Swana

WASW

Richard Hannon

Bd of Healing Arts

Charles E. Kienm

Ks. Assn. Osteopathic Med

Bob Hiller

SRS

~~James Hill~~

SRS

Department of Social & Rehabilitation Services
Winston Barton, Secretary

Statement Regarding Senate Bill 302

Title: An act concerning payment of claims to medical vendors by the Secretary of Social and Rehabilitation Services; amending K.S.A. 39-708a and repealing the existing section.

Purpose: This bill would allow the six (6) month timely filing limitation to be over ridden by a regulation adopted by the Secretary of Social and Rehabilitation Services outlining under what circumstances claims received beyond the six (6) month timely filing limitation may be paid.

Background: In 1969, when the Department of Social and Rehabilitation Services began using a fiscal agent to pay claims for medical services, it was realized that frequently claims could not be paid because of the annual closure of books on June 30 as required by Kansas law. This was because providers had not had sufficient time prior to the year-end closing to submit claims. Money could not be encumbered because no one had any knowledge of how many payable claims were outstanding nor the amount. Budgeting was difficult when it was impossible to know the large number of claims that would be received just before year end. To accomodate this, the legislature passed the six (6) month timely filing legislation. This resolved this issue to a very great degree. Providers now had six (6) months to file a claim from the date a service was rendered. Budgets could be projected and claims paid.

There are, however, a few situations which unfairly prevent bills from being paid and cause some one to pay bills not theirs' to pay or the provider is not paid. Two examples are:

- (1) A foster parent not familiar with SRS policy takes their foster child to the doctor of their choice not knowing he is not a provider with Kansas Medicaid. By the time SRS staff has assisted them in resolving the problem and the provider is enrolled, six (6) months have passed. Medicaid cannot pay, foster care funds are used, but the Medicaid match is lost.
- (2) Emergency service may be provided in some other state. The physician or hospital, not being familiar with our Kansas law, submits their claim beyond the six (6) months timely filing deadline and cannot be paid for an emergency service.

These types of situations occur about 25-50 times annually.

This bill would allow payment by Medicaid/MediKan in the above situations.

Effects of Passage: Claims for medical service rightfully owed by the State of Kansas could be paid using Medicaid or MediKan funds. Providers foster parents and others would be served as they should be and our commitment would be met.

L. Kathryn Klassen
Director, Division of
Medical Program
296-3981

S. P. Klassen
3-2-89
Attachment 1

Kansas State Board of Pharmacy

LONDON STATE OFFICE BUILDING
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TOPEKA, KANSAS 66612-1220
PHONE (913) 296-4056

STATE OF KANSAS



MIKE HAYDEN
GOVERNOR

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BARBARA A. RENICK, GARDEN CITY

EXECUTIVE SECRETARY

TOM C. HITCHCOCK

BOARD ATTORNEY

JOHN C. WHITAKER

SENATE BILL 293

SENATE PUBLIC HEALTH & WELFARE COMMITTEE

10 A.M. - March 2, 1989

Mr. Chairman, members of the Committee, I am Tom Hitchcock, Executive Secretary for the Kansas State Board of Pharmacy. I appear before you today on behalf of the Board to speak in support of Senate Bill 293.

The changes requested in this bill would:

- 1) move from another location in the same schedule to list the drug in proper alphabetical order (two such changes);
- 2) make a corrective change in the four digit code to conform with the DEA controlled substance assigned code number (eight such corrections);
- 3) correct typographical errors (twelve such corrections);
- 4) move to the proper alphabetical order plus correction of the DEA controlled substance assigned code number (four such changes);
- 5) slot into the controlled substances schedule of Kansas such products that are listed in the DEA controlled substances listing (seventeen such changes);
- 6) correct such terminology to coincide with the federal listing (one such correction);
- 7) slot in verbage to coincide with federal listing (one such addition).

The above listed changes in the Kansas Controlled Substances Act will bring such Act into uniformity and conformity with the federal listing of controlled substances. These changes will enable the control of both legal and illegal distribution of such products.

The Board respectfully requests the passage of SB 293.

Thank you.

S P4/WC
3-2-89
Attachment 2

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Winston Barton, Secretary

Statement regarding: SB 304

TITLE: An Act concerning patients in certain state institutions; relating to payment for the maintenance, care and treatment thereof; amending K.S.A. 1988 Supp. 59-2006 and repealing the existing section.

PURPOSE: To amend K.S.A. 59-2006 in such a way that the three-year time limitation is deleted.

BACKGROUND: The present wording of K.S.A. 59-2006(b) states that "no action shall be commenced by the secretary . . . unless such action is commenced within three years after the date of such written demand." (Written demands are required "periodically and not less than once each fiscal year".)

The amendment proposes to delete any reference to the three year time limitation in order to bring the statute into conformance with other S.R.S. civil recovery statutes and applicable Kansas case law.

Examples of other S.R.S. civil recovery statutes (which do not contain any time limitation) are 1) K.S.A. 39-719b (recovery of public assistance obtained by ineligible recipients, 2) K.S.A. 39-719a (medical assistance subrogation recoveries, and 3) 39-718b (liability of parent or guardian for assistance provided to a dependent child).

Case law states that statutes of limitation do not run against a state agency unless specifically provided by statute. See State ex rel Schneider v. McAfee, 2 Kan.App. 2d 274(1978).

Case law also states that statutes of limitation do not run against the state when the action arises out of the performance of a governmental function. See U.S.D. No. 490 v. Celotex Corp., 6 Kan. App. 2d 346 (1981).

Effect of passage: The bill merely brings this statute into compliance with other S.R.S. civil recovery statutes now on the books. A side effect will be that K.S.A. 59-2006 recoveries should gradually increase because 1) more civil suits are likely to be filed in the future and 2) the number of affirmative defenses allowed in future suits is likely to decrease.

Recommendation: The bill should be passed.

S P/H/W
3-2-89
Attachment 3

REPORT OF SUBCOMMITTEE ON SENATE BILL NO. 15

The Subcommittee on S.B. 15 met on Thursday, February 23, 1989, with Senators Langworthy and Strick, Clair McCurdy from the Department on Aging, Dennis Priest from the Department of Social and Rehabilitation Services, and Committee staff present.

After discussion of the difficulties involved in trying to amend K.S.A. 39-785 through 39-790 to reflect the new federal legislation, the Subcommittee considered alternatives that would keep the Kansas statutes intact should the federal legislation be postponed as to its effective date or repealed. In discussion it was emphasized that Congress apparently intended to preempt any state laws that are not in conformance with the federal act, that the federal act allows deductions from the income of the institutionalized spouse not permitted by the Kansas laws as they are presently constituted creating a problem with the procedure set out in the state laws, and that Kansas would lose federal cost-sharing for eligible Medicaid clients were Kansas to continue the existing division of income and resources program once the federal legislation is effective.

After discussion of alternatives, the Subcommittee directed staff to amend S.B. 15 to provide for the suspension of K.S.A. 1988 Supp. 29-785 through 39-790 effective on the date the federal legislation becomes effective and until any applicable federal legislation ceases to be in effect. It was noted that the suspension of the 65 mile an hour speed limit is an example of this type of legislation. A balloon has been prepared to implement this recommendation of the Subcommittee.



Senator Audrey Langworthy, Chairperson

subrpt15.ec/aem

SPH/W
3-2-89
Attachment 4

SPR/WRD
3-2-89
Attachment 5

SENATE BILL No. 15

By Special Committee on Public Health and Welfare

Re Proposal No. 39

12-21

18 AN ACT relating to public assistance; relating to determination of
19 persons eligible for assistance; amending K.S.A. 21-3605 and
20 K.S.A. 1988 Supp. 39-709 and 39-719a and repealing the existing
21 sections, also repealing K.S.A. 1988 Supp. 39-785, 39-786, 39-787,
22 39-788, 39-789 and 39-790.

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

24 Section 1. On September 30, 1989, K.S.A. 21-3605 is hereby
25 amended to read as follows: 21-3605. (1) (a) Nonsupport of a child
26 is a parent's failure, neglect or refusal without lawful excuse to
27 provide for the support and maintenance of the parent's child in
28 necessitous circumstances.

29 (b) As used in this section, "child" means a child under the age
30 of 18 years and includes an adopted child or a child born out of
31 wedlock whose parentage has been judicially determined or has been
32 acknowledged in writing by the person to be charged with the sup-
33 port of such child.

34 (c) At any time before the trial, upon petition and notice, the
35 court may enter such temporary order as may seem just providing
36 for support of such child, and may punish for violation of such order
37 as for contempt.

38 (d) At any stage of the proceeding, instead of or in addition to
39 imposing the penalty hereinafter provided, the court, in its discretion
40 and having regard for the circumstances and the financial ability or
41 earning capacity of the defendant, may enter an order which shall
42 be subject to change by the court, as circumstances may require,
43 directing the defendant to pay a certain sum periodically, for a term

not exceeding the period during which the obligation to support shall
continue, to the guardian, conservator or custodian of such child or
to an organization or individual approved by the court as trustee.
The court shall also have the power to release the defendant on
probation for the period so fixed, upon the defendant's entering into
a recognizance, with or without surety, in such sum as the court
may order and approve. The condition of the recognizance shall be
such that if the defendant shall make a personal appearance in court
whenever ordered to do so and shall further comply with the terms
of such order of support, or of any subsequent modification thereof,
then such recognizance shall be void; otherwise the recognizance
shall be of full force and effect.

(e) If the court is satisfied by due proof that, at any time during
the period while the obligation to support continues, the defendant
has violated the terms of such order, the court may forthwith proceed
with the trial of the defendant under the original charge, or sentence
the defendant under the original conviction, or enforce the sus-
pended sentence as the case may be.

(f) A preponderance of the evidence shall be sufficient to prove
that the defendant is the father or mother of such child. In no
prosecution under this act shall any existing statute or rule of law
prohibiting the disclosure of confidential communications between
husband and wife apply, and both husband and wife shall be com-
petent witnesses to testify against each other to any and all relevant
matters, including the parentage of such child. Proof of the non-
support of such child in necessitous circumstances or neglect or
refusal to provide for the support and maintenance of such child
shall be prima facie evidence that such neglect or refusal is willful.

(g) Nonsupport of a child is a class E felony.

(2) (a) Nonsupport of a spouse is an individual's failure without
just cause to provide for the support of such individual's spouse in
necessitous circumstances.

(b) At any time before the trial in a prosecution for nonsupport
of a spouse, upon petition and notice, the court may enter such
temporary order as may seem just providing for support of such
spouse, and may punish for violation of such order as for contempt.

(c) At any stage of the proceeding, instead of or in addition to

82 imposing the penalty hereinafter provided, the court, in its discretion
 83 and having regard for the circumstances and the financial ability or
 84 earning capacity of the defendant, may enter an order which shall
 85 be subject to change by the court, as circumstances may require,
 86 directing the defendant to pay a certain sum periodically, for a term
 87 not exceeding the period during which the obligation to support shall
 88 continue, to the spouse or to the guardian or conservator of such
 89 spouse or to an organization or individual approved by the court as
 90 trustee. The court shall also have the power to release the defendant
 91 on probation for the period so fixed, upon the defendant's entering
 92 into a recognizance, with or without surety, in such sum as the court
 93 may order and approve. The condition of the recognizance shall be
 94 such that if the defendant shall make a personal appearance in court
 95 whenever ordered to do so, and shall further comply with the terms
 96 of such order of support, or of any subsequent modification thereof,
 97 then such recognizance shall be void; otherwise the recognizance
 shall be of full force and effect.

98 (d) If the court is satisfied by due proof that, at any time during
 99 the period while the obligation to support continues, the defendant
 100 has violated the terms of such order, the court may forthwith proceed
 101 with the trial of the defendant under the original charge, or sentence
 102 the defendant under the original conviction, or enforce the sus-
 103 pended sentence as the case may be.

104 ~~(e) (i) A division of resources by an individual and such individ-~~
 105 ~~ual's spouse in accordance with K.S.A. 1988 Supp. 30-786 shall be~~
 106 ~~considered just cause for failure to use such individual's share of~~
 107 ~~such resources to provide medical support of such individual's spouse~~
 108 ~~so long as such spouse is receiving medical assistance as defined by~~
 109 ~~K.S.A. 30-702 and amendments thereto.~~

110 ~~(ii) A division of income by an individual and such individual's~~
 111 ~~spouse in accordance with K.S.A. 1988 Supp. 30-787 shall be con-~~
 112 ~~sidered just cause for using only that portion of such individual's~~
 113 ~~annual income which exceeds \$9,000 plus any allowable excess shel-~~
 114 ~~ter allowance up to a maximum total of \$14,400 to provide medical~~
 115 ~~support of such individual's spouse so long as such spouse is receiving~~
 116 ~~medical assistance as defined by K.S.A. 30-702 and amendments~~
 117 ~~thereto.~~

18 (e) Failure by a community spouse to use resources or income,
 119 or both, allowed to the community spouse under section 303 of the
 120 federal medicare catastrophic coverage act of 1988 to provide medical
 121 support for an institutionalized spouse shall not constitute a violation
 122 of subsection (2)(a) so long as the institutionalized spouse is receiving
 123 medical assistance as defined by K.S.A. 39-702 and amendments
 124 thereto. As used in this subsection (2)(e), "community spouse" and
 125 "institutionalized spouse" shall have the meaning ascribed to these
 126 terms under section 303 of the federal medicare catastrophic coverage
 127 act of 1988. or under K.S.A. 39-785 through 39-790, and amendments
 thereto, as applicable,
 the other
 other

128 (f) Nonsupport of a spouse is a class E felony.

129 Section 2. On July 1, 1989, K.S.A. 1988 Supp. 39-709 is hereby
 130 amended to read as follows: 39-709. (a) *General eligibility require-*
 131 *ments for assistance for which federal moneys are expended.* Subject
 132 to the additional requirements below, assistance in accordance with
 133 plans under which federal moneys are expended may be granted to
 134 any needy person who:

135 (1) Has insufficient income or resources to provide a reasonable
 136 subsistence compatible with decency and health. Where a husband
 137 and wife are living together, the combined income or resources of
 138 both shall be considered in determining the eligibility of either or
 139 both for such assistance unless otherwise prohibited by law. The
 140 secretary, in determining need of any applicant for or recipient of
 141 assistance shall not take into account the financial responsibility of
 142 any individual for any applicant or recipient of assistance unless such
 143 applicant or recipient is such individual's spouse or such individual's
 144 minor child or minor stepchild if the stepchild is living with such
 145 individual. The secretary in determining need of an individual may
 146 provide such income and resource exemptions as may be permitted
 147 by federal ~~legislation~~ law.

148 (2) Is a citizen of the United States or is an alien lawfully admitted
 149 to the United States and who is residing in the state of Kansas. If
 150 ~~any person transfers or assigns property without adequate consid-~~
 151 ~~eration or for the purpose of becoming eligible for assistance (A)~~
 152 ~~within the two year period immediately preceding the application if~~
 153 ~~the value of the property so transferred or assigned is \$12,000 or~~
 154 ~~less or (B) within a period of time in excess of two years, as estab-~~

155 ~~lished by rules and regulations of the secretary, if the value of the~~
156 ~~property so transferred or assigned is in excess of \$12,000, such~~
157 ~~person shall thereby become ineligible to receive assistance for such~~
158 ~~period of time as the value of the property assigned or transferred~~
159 ~~would have reasonably maintained such person at a standard com-~~
160 ~~patible with decency and health. If any person without the consent~~
161 ~~of the secretary assigns or transfers property without adequate con-~~
162 ~~sideration while on the assistance rolls, after making application for~~
3 ~~assistance or while receiving assistance, such person shall thereby~~
164 ~~become ineligible to receive assistance for such period of time as~~
165 ~~the value of the property assigned or transferred would have rea-~~
166 ~~sonably maintained such person at a standard compatible with de-~~
167 ~~ecency and health.~~

168 (b) *Assistance to families with dependent children.* Assistance may
169 be granted under this act to any dependent child, or relative, subject
170 to the general eligibility requirements as set out in subsection (a),
171 who resides in the state of Kansas or whose parent or other relative
3 172 with whom the child is living resides in the state of Kansas. Such
173 assistance shall be known as aid to families with dependent children.

174 (c) *Aid to families with dependent children; assignment of support*
175 *rights and limited power of attorney.* (1) By applying for or receiving
176 aid to families with dependent children such applicant or recipient
7 shall be deemed to have assigned to the secretary on behalf of the
178 state any accrued, present or future rights to support from any other
179 person such applicant may have in such person's own behalf or in
180 behalf of any other family member for whom the applicant is applying
181 for or receiving aid. In any case in which an order for child support
182 has been established and the legal custodian and obligee under the
183 order surrenders physical custody of the child to a caretaker relative
184 without obtaining a modification of legal custody and the caretaker
185 relative's support rights are assigned pursuant to this section, the
186 surrender of physical custody and the assignment shall transfer, by
187 operation of law, the child support obligation under the order to
the secretary on behalf of the state. Such assignment shall be of all
accrued, present or future rights to support of the child surrendered
to the caretaker relative. The assignment of support rights shall
1 90 automatically become effective upon the date of approval for or
191

192 receipt of such aid without the requirement that any document be
193 signed by the applicant, recipient or obligee. Except as provided by
194 subsection (c)(2), the assignment shall remain in full force and effect
195 so long as such person is an applicant for or recipient of such aid
196 or a caretaker relative no longer has physical custody of the child
197 and aid to dependent children is discontinued. Upon the discontin-
198 uance of such aid, the assignment shall remain in effect as to unpaid
199 support obligations due and owing at the time of the discontinuance
200 of such aid until the claim of the secretary of social and rehabilitation
201 services for repayment of the unreimbursed portion of such aid is
202 satisfied. By applying for or receiving aid to dependent children
203 assistance, or by surrendering physical custody of a child to a care-
204 taker relative whose support rights are assigned, the applicant, re-
205 cipient or obligee is also deemed to have appointed the secretary,
206 or the secretary's designee, as an attorney in fact to perform the
207 specific act of negotiating and endorsing all drafts, checks, money
208 orders or other negotiable instruments representing support pay-
209 ments received by the secretary in behalf of any person applying
210 for, receiving or having received such assistance or in behalf of an
211 obligee whose child receives or has received aid to dependent chil-
212 dren because of the child's placement with a caretaker relative. This
213 limited power of attorney shall be effective from the date the sec-
214 retary approves the application for aid and shall remain in full force
215 and effect as to the respective support rights assigned to the secretary
216 under this subsection (c). The secretary retains the power to endorse
217 all drafts, checks, money orders or other negotiable instruments
218 representing support to which the secretary retains a partial claim
219 pursuant to subsection (c) of K.S.A. 39-754 and amendments thereto.

220 (2) For a period of five calendar months after a recipient's final
221 aid to families with dependent children payment, the secretary of
222 social and rehabilitation services shall continue to provide all ap-
223 propriate support enforcement services for the persons who were
224 receiving assistance, unless the former recipient requests that support
225 enforcement services be discontinued. Before the end of the five-
226 month period, the secretary shall send notice to the former recipient
227 that support enforcement services pursuant to this subsection wil-
228 continue unless a request to discontinue the services is received.

229 The notice shall summarize the services available, any fees charged
 230 and policies for cost recovery and collection distribution. During the
 231 period services are being provided pursuant to this subsection, the
 232 assignment and limited power of attorney provided in subsection
 233 (c)(1) shall continue in full force and effect, except that the secretary's
 234 claim for repayment of the unreimbursed portion of aid to families
 235 with dependent children previously provided shall not be satisfied
 236 from support obligations which accrue after the final assistance pay-
 237 ment. Nothing in this subsection (c)(2) shall affect or limit any as-
 38 signment of support rights pursuant to subsection (c)(1) which occurs
 239 after the final assistance payment to the recipient.

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

246 (A) To qualify for general assistance in any form a needy person
 247 must have insufficient income or resources to provide a reasonable
 248 subsistence compatible with decency and health and, except as pro-
 249 vided for transitional assistance, be a member of a family in which
 250 a minor child or a pregnant woman resides or be unable to engage
 251 in employment. The secretary shall adopt rules and regulations pre-
 52 scribing criteria for establishing when a minor child may be consid-
 253 ered to be living with a family and whether a person is able to
 254 engage in employment, including such factors as age or physical or
 255 mental condition. Eligibility for general assistance, other than tran-
 256 sitional assistance, is limited to families in which a minor child or
 257 a pregnant woman resides or to an adult or family in which all legally
 258 responsible family members are unable to engage in employment.
 259 Where a husband and wife are living together the combined income
 260 or resources of both shall be considered in determining the eligibility
 261 of either or both for such assistance unless otherwise prohibited by
 262 law. The secretary in determining need of any applicant for or re-
 3 recipient of general assistance shall not take into account the financial
 265 responsibility of any individual for any applicant or recipient of gen-
 eral assistance unless such applicant or recipient is such individual's

266 spouse or such individual's minor child or a minor stepchild if the
267 stepchild is living with such individual. In determining the need of
268 an individual, the secretary may provide for income and resource
269 exemptions.

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

273 (2) General assistance in the form of transitional assistance may
274 be granted to eligible persons who do not qualify for financial as-
275 sistance in a program in which the federal government participates
276 and who satisfy the additional requirements prescribed by or under
277 this subsection (d), but who do not meet the criteria prescribed by
278 rules and regulations of the secretary relating to inability to engage
279 in employment or are not a member of a family in which a minor
280 or a pregnant woman resides.

281 (3) In addition to the other requirements prescribed under this
282 subsection (d), the secretary shall adopt rules and regulations which
283 establish community work experience program requirements for el-
284 igibility for the receipt of general assistance in any form and which
285 establish penalties to be imposed when a work assignment under a
286 community work experience program requirement is not completed
287 without good cause. The secretary may adopt rules and regulations
38 establishing exemptions from any such community work experience
289 program requirements. A first time failure to complete such a work
290 assignment requirement shall result in ineligibility to receive general
291 assistance for a period fixed by such rules and regulations of not
292 more than three calendar months. A subsequent failure to complete
293 such a work assignment requirement shall result in a period fixed
294 by such rules and regulations of ineligibility of not more than six
295 calendar months.

296 ~~(4) If any person transfers or assigns property without adequate~~
297 ~~consideration or for the purpose of becoming eligible for any form~~
298 ~~of general assistance (A) within the two year period immediately~~
9 ~~preceding the application if the value of the property so transferred~~
10 ~~or assigned is \$12,000 or less or (B) within a period of time in excess~~
301 ~~of two years, as established by rules and regulations of the secretary,~~
302 ~~if the value of the property so transferred or assigned is in excess~~

303 of \$12,000, such person shall thereby become ineligible to receive
304 any form of general assistance for such period of time as the value
305 of the property assigned or transferred would have reasonably main-
306 tained such person at a standard compatible with decency and health.
307 If any person without the consent of the secretary assigns or transfers
308 property without adequate consideration while on the assistance rolls
309 after making application for assistance or while receiving assistance,
310 such person shall thereby become ineligible to receive assistance for
311 such period of time as the value of the property assigned or trans-
312 ferred would have reasonably maintained such person at a standard
313 compatible with decency and health. If any person is found guilty
314 of the crime of theft under the provisions of K.S.A. 39-720 and
315 amendments thereto, such person shall thereby become forever in-
316 eligible to receive any form of general assistance under the provisions
317 of this subsection (d) unless the conviction is the person's first con-
318 viction under the provisions of K.S.A. 39-720 and amendments
319 thereto or the law of any other state concerning welfare fraud. First
320 time offenders convicted of a misdemeanor under the provisions of
321 such statute shall become ineligible to receive any form of general
322 assistance for a period of 12 calendar months from the date of con-
323 viction. First time offenders convicted of a felony under the pro-
324 visions of such statute shall become ineligible to receive any form
325 of general assistance for a period of 60 calendar months from the
326 date of conviction. If any person is found guilty by a court of com-
327 petent jurisdiction of any state other than the state of Kansas of a
328 crime involving welfare fraud, such person shall thereby become
329 forever ineligible to receive any form of general assistance under
330 the provisions of this subsection (d) unless the conviction is the
331 person's first conviction under the law of any other state concerning
332 welfare fraud. First time offenders convicted of a misdemeanor under
333 the law of any other state concerning welfare fraud shall become
334 ineligible to receive any form of general assistance for a period of
335 12 calendar months from the date of conviction. First time offenders
336 convicted of a felony under the law of any other state concerning
337 welfare fraud shall become ineligible to receive any form of general
338 assistance for a period of 60 calendar months from the date of
339 conviction.

(e) *Requirements for medical assistance for which federal money:*
 341 *or state moneys or both are expended.* When the secretary has
 342 adopted a medical care plan under which federal moneys or state
 343 moneys or both are expended, medical assistance in accordance with
 344 such plan shall be granted to any person who is a citizen of the
 345 United States or who is an alien lawfully admitted to the United
 346 States and who is residing in the state of Kansas, whose resources
 347 and income do not exceed the levels prescribed by the secretary.
 348 In determining the need of an individual, the secretary may provide
 349 for income and resource exemptions and protected income and re-
 350 source levels. The secretary shall exempt principal and interest held
 351 in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303 and
 352 amendments thereto from the eligibility requirements of applicants
 353 for and recipients of medical assistance. Such assistance shall be
 354 known as medical assistance.

(f) *Eligibility for medical assistance of resident receiving medical*
 356 *care outside state.* A person who is receiving medical care including
 357 long-term care outside of Kansas whose health would be endangered
 358 by the postponement of medical care until return to the state or by
 359 travel to return to Kansas, may be determined eligible for medical
 360 assistance if such individual is a resident of Kansas and all other
 361 eligibility factors are met. Persons who are receiving medical care
 362 on an ongoing basis in a long-term medical care facility in a state
 363 other than Kansas and who do not return to a care facility in Kansas
 4 when they are able to do so, shall no longer be eligible to receive
 365 assistance in Kansas unless such medical care is not available in a
 366 comparable facility or program providing such medical care in Kan-
 367 sas. For persons who are minors or who are under guardianship,
 368 the actions of the parent or guardian shall be deemed to be the
 369 actions of the child or ward in determining whether or not the person
 370 is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support*
 372 *and limited power of attorney.* Except as otherwise ~~provided in~~
 373 ~~K.S.A. 1988 Supp. 39-786 and 39-787~~ *authorized on and after Sep-*
 374 *tember 30, 1989, under section 303 and amendments thereto of the*
federal medicare catastrophic coverage act of 1988, by applying for
 or receiving medical assistance under a medical care plan in which

provided in K.S.A. 1988 Supp. 39-786 and 39-787, and
 amendments thereto, or as otherwise

whichever is applicable,

377 federal funds are expended, any accrued, present or future rights
378 to medical support and any rights to payment for medical care from
379 a third party of an applicant or recipient and any other family mem-
380 ber for whom the applicant is applying shall be deemed to have
381 been assigned to the secretary on behalf of the state. The assignment
382 shall automatically become effective upon the date of approval for
383 such assistance without the requirement that any document be signed
384 by the applicant or recipient. Upon the discontinuance of such as-
385 sistance, the assignment shall remain in effect as to unpaid obligations
386 due and owing at the time of the discontinuance of such assistance
387 until the claim of the secretary for repayment of the unreimbursed
388 portion of such assistance is satisfied. By applying for or receiving
389 medical assistance the applicant or recipient is also deemed to have
390 appointed the secretary, or the secretary's designee, as an attorney
391 in fact to perform the specific act of negotiating and endorsing all
392 drafts, checks, money orders or other negotiable instruments, rep-
393 resenting payments received by the secretary in behalf of any person
394 applying for, receiving or having received such assistance. This lim-
395 ited power of attorney shall be effective from the date the secretary
396 approves the application for assistance and shall remain in full force
397 and effect as to the respective rights assigned to the secretary under
398 this subsection. The secretary retains the power to endorse all drafts,
399 checks, money orders or other negotiable instruments representing
400 support to which the secretary retains a partial claim pursuant to
401 subsection (c) of K.S.A. 39-754 and amendments thereto. The as-
402 signment of any rights to payment for medical care from a third
403 party under this subsection shall not prohibit a health care provider
404 from directly billing an insurance carrier for services rendered if the
405 provider has not submitted a claim covering such services to the
406 secretary for payment.

407 (h) *Placement under code for care of children or juvenile of-*
408 *fenders code; assignment of support rights and limited power of*
409 *attorney.* In any case in which the secretary of social and rehabil-
410 itation services pays for the expenses of care and custody of a child
411 pursuant to K.S.A. 38-1501 *et seq.* or 38-1601 *et seq.*, and amend-
412 ments thereto, including the expenses of any foster care placement,
413 an assignment of all past, present and future support rights of the

414 child in custody possessed by either parent or other person entitled
415 to receive support payments for the child is, by operation of law,
416 conveyed to the secretary. Such assignment shall become effective
417 upon placement of a child in the custody of the secretary or upon
418 payment of the expenses of care and custody of a child by the
419 secretary without the requirement that any document be signed by
420 the parent or other person entitled to receive support payments and
421 shall remain in full force and effect so long as such expenses are
422 paid or the child remains in the custody of the secretary. When the
423 payment of expenses by the secretary ceases or the secretary is
424 relieved of custody of the child, the assignment shall remain in effect
425 as to unpaid support obligations due and owing for the child who
426 was in custody at the time payments for expense of care and custody
427 or custody of the child are discontinued until the claim of the sec-
428 retary of social and rehabilitation services has been satisfied. Such
429 claim under this subsection is limited to an amount not exceeding
430 the amount of assistance provided to the child. When the secretary
431 pays for the expenses of care and custody of a child or a child is
432 placed in the custody of the secretary, the parent or other person
433 to whom support is ordered paid in a previously existing order for
434 support is also deemed to have appointed the secretary, or the
435 secretary's designee, as attorney in fact to perform the specific act
436 of negotiating and endorsing all drafts, checks, money orders or other
437 negotiable instruments representing support payments received by
438 the secretary on behalf of any parent or other person otherwise
439 entitled to receive support payments pursuant to the assignment of
440 support rights. This limited power of attorney shall be effective from
441 the date the assignment to support rights becomes effective and shall
442 remain in full force and effect as to the respective support rights
443 assigned to the secretary under this subsection. The secretary retains
444 the power to endorse all drafts, checks, money orders or other
445 negotiable instruments representing support to which the secretary
446 retains a partial claim pursuant to K.S.A. 39-754 and amendments
447 thereto.

48 Section 3. On September 30, 1989, K.S.A. 1988 Supp. 39-719a
449 is hereby amended to read as follows: 39-719a. Where medical as-
450 sistance has been paid by the secretary and a third party has a legal

451 obligation to pay such medical expenses to or on behalf of the re-
 4 recipient, the secretary may recover the same from the recipient or
 45 from the third party and shall be in all respects subrogated to the
 454 rights of the recipient in such cases ~~except as provided in K.S.A.~~
 455 ~~1988 Supp. 39-786 and 39-787.~~ *Payment of medical assistance by the*
 456 *secretary shall be secondary to any other insurance coverage or*
 457 *third party with a legal obligation to pay such medical expenses to*
 458 *or on behalf of the recipient.*

except as provided under K.S.A. 1988 Supp. 39-786 and 39-787, and amendments thereto, or under section 303 and amendments thereto of the federal medicare catastrophic coverage act of 1988, whichever is applicable

459 New Sec. 4. The amendments made by this act to K.S.A. 21-
 460 3605 and K.S.A. 1988 Supp. 39-719a and the repeal made by this
 461 act of K.S.A. 1988 Supp. 39-785 through 39-790 shall be operative
 462 only if the payments under title XIX of the federal social security
 463 act authorized by subsection (g)(1)(A) of section 303 and amendments
 464 thereto of the federal medicare catastrophic coverage act of 1988
 465 commence for calendar quarters beginning on and after September
 466 30, 1989, as provided in subsection (g)(1)(A) of section 303 and
 467 amendments thereto. The amendments made by this act to K.S.A.
 468 21-3605 and K.S.A. 1988 Supp. 39-719a and the repeal made by
 469 this act of K.S.A. 1988 Supp. 39-785 through 39-790 shall not be
 470 operative but shall be void if the payments under title XIX of the
 471 federal social security act authorized by subsection (g)(1)(A) of section
 472 303 and amendments thereto of the federal medicare catastrophic
 473 coverage act of 1988 do not commence for calendar quarters begin-
 474 ning on and after September 30, 1989, as otherwise authorized in
 475 subsection (g)(1)(A) of section 303 and amendments thereto.

Upon the date payments commence under title XIX of the federal social security act as authorized by subsection (g)(1)(A) of section 303 and amendments thereto of the federal medicare catastrophic coverage act of 1988 for calendar quarters beginning on and after September 30, 1989, the provisions of K.S.A. 1988 Supp. 39-785, 39-786, 39-787, 39-788, 39-789 and 39-790 are hereby suspended. The provisions of this section shall expire on the date payments under title XIX of the federal social security act authorized by subsection (g)(1)(A) of section 303 and amendments thereto of the federal medicare catastrophic coverage act of 1988 cease to be made pursuant to an act of the congress of the United States which repeals such section or directs that payments authorized under subsection (g)(1)(A) of such section not be made.

476 Sec. 5. On July 1, 1989, K.S.A. 1988 Supp. 39-709 is hereby
 477 repealed.

478 Sec. 6. On September 30, 1989, K.S.A. 21-3605 and K.S.A. 1988
 479 Supp. 39-719a, 39-785, 39-786, 39-787, 39-788, 39-789 and 39-790
 480 are hereby repealed.

481 Sec. 7. This act shall take effect and be in force from and after
 482 its publication in the statute book.

483