

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 4, 2002 in Room 231-N of the Capitol.

All members were present except: Senator Nancy Harrington  
Ms. Emalene Correl., KS Legislative Research Department  
Ms. Margaret Cianciarulo, Administrative Assistant

Committee staff present: Ms. Lisa Montgomery, Revisor of Statutes  
Ms. Mary Best, Administrative Assistant

Conferees appearing before the committee: Ms. Janet Schalansky, Secretary  
Social Rehabilitation Services

Others attending: See attached guest list.

**Introduction of bills**

Chairperson Wagle opened the meeting saying because of inclement weather, the meeting scheduled for January 30, 2002 was being held today. She then recognizing the Secretary of Social Rehabilitation Services, Ms. Janet Schalansky. Ms. Schalansky began by presenting a legislative proposal (Irs1375) regarding Estate Recovery - Funeral Balances. The bill concerns recipients and the recouping of certain monies and repayment to the Secretary of Social Rehabilitation Services. It amends K.S.A. 16-301 and repeals the existing section. A copy of her request is (Attachment 1) attached hereto and incorporated into the Minutes by reference. A motion was made by Senator Jim Barnett to introduce the bill and was seconded by Senator Nick Jordan. A vote of the Committee was taken and the motion was passed.

**Overview of Kansas Department of Social and Rehabilitation Services**

Before the Committee, Ms. Schalansky next presented an overview of her department. Highlights included the SRS Agency's mission, their roots, their central functions, expenditures, keyed policy initiatives and budget investments. Before giving her presentation, Ms. Schalansky introduced her staff, who were present in the audience. A copy of the agency overview is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

A question and comment discussion followed between Senators Praeger and Barnett with Ms. Schalansky. Discussions covered the attraction of multiple families and single people into Kansas because of better benefits and no specific rules governing time element establishing residency to receive Kansas benefits.

Ms. Laura Howard, Department of Social and Rehabilitation Services, addressed Pharmacies and Medicaid fraud. There was no written testimony and no questions from the Committee.

**Adjournment**

Request was made for further bills or business, and with none coming forth, the meeting was adjourned. The time was 2:25 p.m.

The next meeting is scheduled for February 5, 2002.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Feb 4, 2002

NAME	REPRESENTING
Janet Schelansky	SRS
Laura Howard	SRS
Marilyn Jacobson	SRS
Candy Shively	SRS
Treacy Racine	SRS
Chip Wheelen	Assn of Osteopathic Med.
Liana Lukensky	KS Home Care Assoc
Tom Bell	KHA
Vicki Helsel	Budget
Valerie Mize	Washburn University
Mary Jennings	Washburn University
Merissa Renschler	Washburn University
Ed Gray	JJA
Ron Miller	JJA
Mindy Shaw	Kearney Law Office
David Smoot	Pfizer & Abbott
Mike Hattles	pharmacia
Michelle Peterson	Environmental Consulting
Barbara M Belcher	Merck

Tom Rickman

AVANTI'S



KANSAS DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

JANET SCHALANSKY, SECRETARY

February 4, 2002

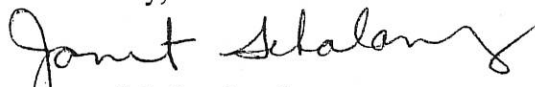
Senator Susan Wagle, Chair  
Senate Public Health and Welfare Committee  
Room 128-S, Statehouse  
Topeka, Kansas 66612

Dear Senator Wagle:

I would like to request the introduction of a legislative proposal regarding Estate Recovery - Funeral Balances. This proposal contains statutory changes that would strengthen the language to help simplify the process for recovering public-paid medical expenses from a recipient's estate. This proposal amends current statute to provide that, for Medicaid recipients, any balances of assigned life insurance or other funeral agreements remaining after 30 days would be forwarded to the Secretary of SRS.

I appreciate your Committee's introduction of this bill, and will be glad to testify or provide additional information as requested.

Sincerely,

  
Janet Schalansky, Secretary

cc: Emalene Correll, KLRD  
Hank Avila, KLRD  
Renaë Jeffries, Revisor of Statutes Office

Senate Public Health & Welfare Committee  
Date: 2-4-02  
Attachment 1

## ESTATE RECOVERY PROGRAM

Initially authorized by the Kansas legislature in 1992, the Estate Recovery Program allows SRS to recover medical care costs from the estates of certain deceased Medicaid consumers. Congress acknowledged the importance of such efforts in both controlling Medicaid costs and assuring that the program is targeted to the truly needy by mandating that all states develop estate recovery programs. Since inception, the Kansas program has recouped approximately \$20 million from 11,000 cases.

Under federal law, the State agency is allowed to establish a claim for Medicaid on consumers who, prior to their death:

- (1) were 55 year of age or older; or
- (2) were receiving long-term institutional or HCBS care at the time of death.

In Kansas, most recoveries occur from probate actions and family agreements. The claim is normally filed against the client's estate. However, if there is a surviving spouse or surviving child who is under the age of 21 years, blind or permanently disabled according to Social Security criteria, no claim is filed. Upon the death of the surviving spouse, a claim is filed in that spouse's estate. The claim is for medical care paid by Medicaid on and after July 1, 1992, the effective date of the Kansas law.

All claims are first class claims against the estate of the deceased person. Reasonable funeral expenses are the only allowable claim superior to the medical assistance claim. No liens are filed against the property of a recipient or the recipient's spouse in order to establish a claim prior to the individual's death. Claims are filed against property that is still available at the time of death.

The determination of recovery action, if any, is a three-step process: (1) notification of death, (2) determination of the claim based on the amount of medical assistance paid by the agency since July 1, 1992, and (3) resource assessment.

The Estate Recovery Unit (ERU) uses several avenues, including, but not limited to, agreements with heirs, claims against financial accounts, and filing of probate actions. In some circumstances, the heirs of the deceased may choose not to initiate probate proceedings. In these instances, ERU determines whether to proceed with probate based on the amount of the agency's claim, value of estate assets, presence of other creditors, and any other relevant information.

### FISCAL SUMMARY – Last Three Years

PERIOD	# OF CASES	AMOUNT RECOVERED
FY 2001	2,162	\$ 3,766,198
FY 2000	2,183	\$ 4,522,438
FY 1999	1,769	\$ 3,266,033

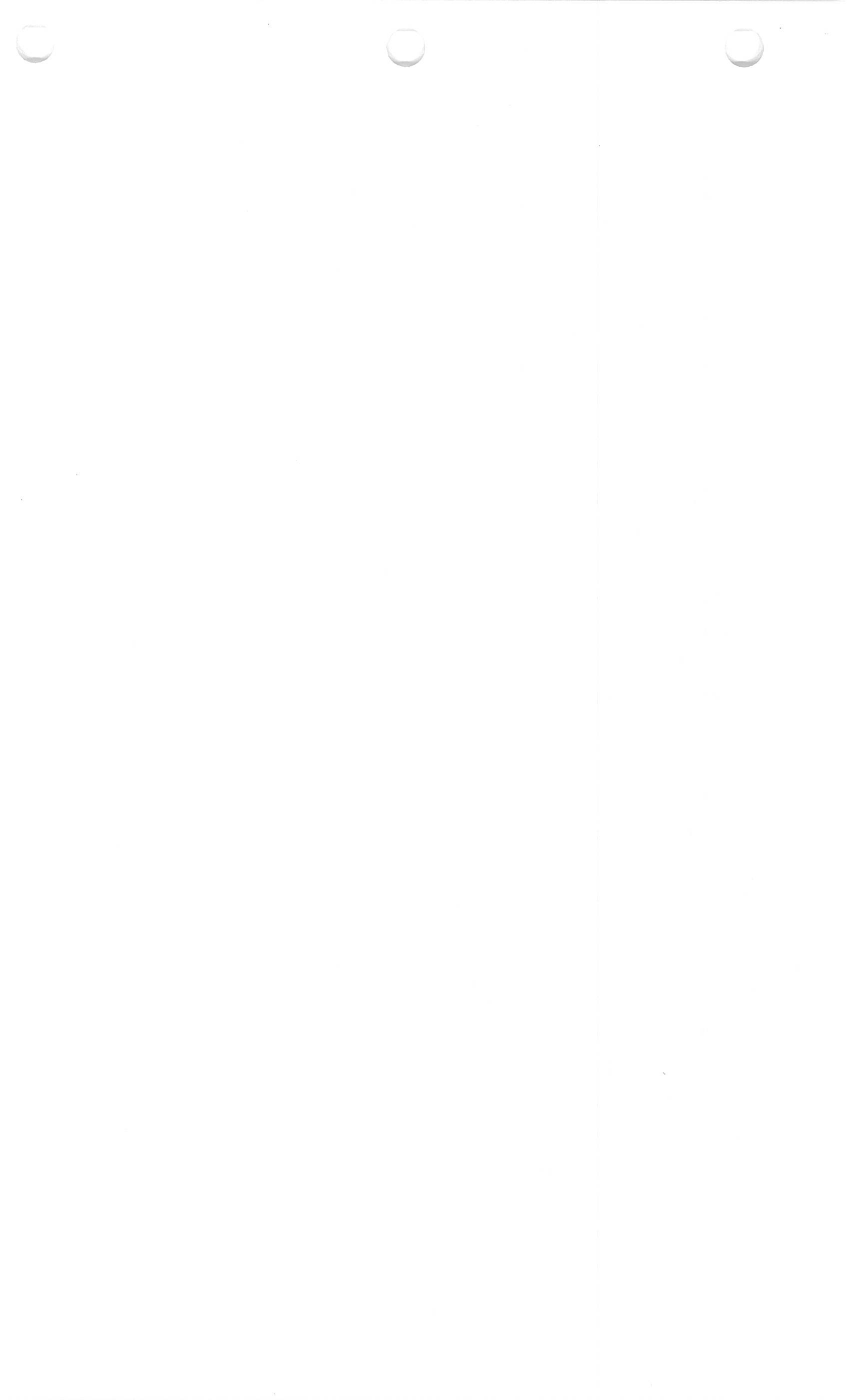
By

AN ACT concerning recipients of medicaid; after death requiring certain moneys to be recouped and repaid to the secretary of social and rehabilitation services; amending K.S.A. 16-301 and repealing the existing section.

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

Section 1. K.S.A. 16-301 is hereby amended to read as follows: 16-301. Any agreement, contract or plan requiring the payment of money in a lump sum or installments which is made or entered into with a medicaid recipient, or any other person, association, partnership, firm or corporation for the final disposition of a dead human body, or for funeral or burial services, or for the furnishing of personal property or funeral or burial merchandise, wherein the delivery of the personal property or the funeral or burial merchandise or the furnishing of services is not immediately required, is hereby declared to be against public policy and void, unless all money paid thereunder shall be deposited in a bank or savings and loan association which is authorized to do business in this state and insured by a federal agency, or invested in a credit union which is insured with an insurer or guarantee corporation as required under K.S.A. 17-2246, and amendments thereto, all as herein provided, and subject to the terms of an agreement for the benefit of the purchaser of the agreement, contract or plan. For the purposes of this act, personal property or funeral or burial merchandise shall include caskets, vaults and all other articles of merchandise incidental to a funeral service, but shall not include grave lots, grave spaces, grave memorials, tombstones, crypts, niches and mausoleums.

New Sec. 2. (a) Whenever a person, who is a medicaid recipient or a person who receives medical assistance from the department of social and rehabilitation services and such person enters into an agreement, contract or plan requiring the payment of money in a lump sum or installments for the final disposition of a dead human body or funeral or burial services, or for the furnishing of personal property or funeral or burial merchandise,



including any assigned or purchased insurance being used as part of and in conjunction with the agreement, contract, or plan, such persons shall inform the secretary of social and rehabilitation services or the secretary's designee the existence of such agreement, contract, plan or insurance.

(b) After the payment to a person, association, partnership, firm or corporation for the final disposition of a dead human body, or for funeral or burial services, or funeral or burial merchandise, including any assigned or purchased insurance being used as part of and in conjunction with the agreement, contract or plan, and the purchaser of the agreement, contract, plan or insurance is or has been a recipient of medical assistance or a deceased surviving spouse of a recipient of medical assistance, any remaining balance shall be paid to the secretary of social and rehabilitation services or the secretary's designee for recoupment of medical assistance expended on the deceased recipient.

(c) Payments under subsection (b) shall be governed by subsection (g)(2) of K.S.A. 39-709, and amendments thereto.

Sec. 3. K.S.A. 16-301 is hereby repealed.

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

# Kansas Department of Social and Rehabilitation Services



Agency Overview

Senate Committee on  
Public Health and Welfare

Janet Schalansky, Secretary  
February 4, 2002

*Senate Public Health & Welfare Committee  
Date: February 4, 2002  
Attachment 2*



# SRS Mission, Vision, and Guiding Principles



Mission: To Protect Children  
and Promote Adult Self-Sufficiency

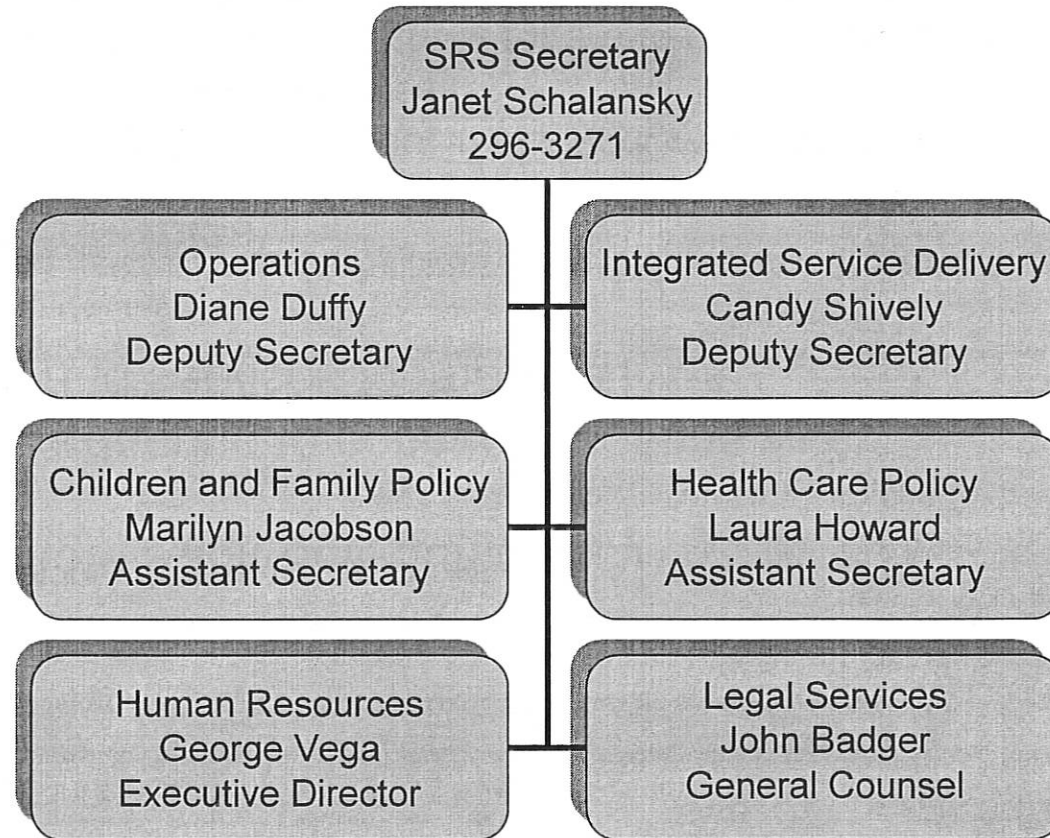
Vision: Partnering to connect Kansans with  
supports and services to improve lives

## Guiding Principles:

- Act with integrity and respect in our work with customers, partners, and each other
- Champion customer success
- Demonstrate leadership without regard to position or title; embrace responsibility, take risks, make decisions and act to overcome challenges
- Strive for continuous improvement
- Demonstrate passion for our mission
- Recognize the value of partnerships both within the agency and with community partners to stretch capacity and achieve extraordinary results

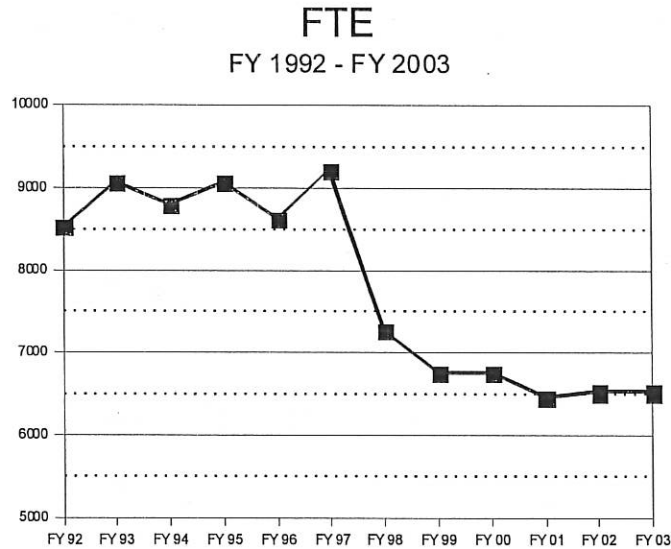
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# Kansas Department of Social and Rehabilitation Services



# SRS Full Time Employees

## FTE Trend over Time



## Current Distribution of Staff

<b>Central Office</b>	<b>980.4</b>
<b>Field Operations</b>	<b>3,041.11</b>
<b>Hospitals</b>	<b>2,498.99</b>
Kansas Neurological Institute	655.5
Larned State Hospital	725.8
Osawatomie State Hospital	477.4
Parsons State Hospital & TC	513.49
Rainbow Mental Health Facility	126.8
<b>Total</b>	<b>6,520.5</b>

# Services SRS Provides

- Leadership, guidance, and policy direction for social services
- Service delivery through in-house resources or contracts with allies and partners
- Access to services including health care, mental health services, food assistance, energy assistance, and child welfare services for thousands of Kansans each year

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# Summary of Persons Assisted

## Child, Adult, and Family Safety and Well-Being Services SFY 2001

Adoption Contracts	1,443
Adoption Subsidy	4,053
Foster Care Contracts	3,661

## Financial and Employment Services

Child Care	15,312
Child Support Collections	154,968
Food Assistance	117,241
General Assistance	2,616
Low Income Energy Assistance	34,850
Rehabilitation Services	7,033
Temporary Assistance for Families (TAF)	31,788
TAF Employment Services	6,762

# Summary of Persons Assisted

## Health and Medical Services

## SFY 2001

State Mental Retardation Hospitals	378
Developmental Disability Services	8,678
Mental Health Services	21,943*
Physical Disability Services	4,707
State Mental Health Hospitals	450
Substance Abuse Treatment and Recovery	13,500
Health Care Services:	
People Primarily in Managed Care Programs	
Families	43,600
Children	68,500
Pregnant Women	5,300
People Primarily in the Fee-for-Service Program	
Persons who are Elderly and Disabled	61,920
Children in Foster Care, Adoption, or JJA	9,700
Persons Provided Partial Health Care Coverage	6,401
MediKan Fee-for-Service	2,440
Children's Health Insurance Program	19,280

\*Figure represents persons served per year

# SRS Expenditures

- Major purchaser of human services, resulting in economic impact in every Kansas county
- \$1.4 billion for direct services on behalf of clients in FY 2001, including \$717 million for health care services
- Types of expenditures have changed: Cash assistance rolls have declined and health services have increased dramatically
- Vast majority of expenditures made to, or on behalf of, persons with very low incomes

# Summary of Expenditures

<u>Child, Adult, and Family Safety and Well-Being Services</u>	<u>SFY 2001</u>
Adoption Contracts	\$40.6*
Adoption Subsidy	\$16.6
Foster Care Contracts	\$94.6
<u>Financial and Employment Services</u>	
Child Care	\$46.6
Child Support Collections **	\$141.9
Food Assistance	\$89.2
General Assistance	\$4.9
Low Income Energy Assistance	\$17.3
Rehabilitation Services	\$20.1
Temporary Assistance for Families (TAF)	\$44.7
TAF Employment Services	\$7.5

(In Millions)

\*Total includes one-time payments to contractors to stabilize the system

\*\*This line-item is not an expenditure, but total SRS child support collected on behalf of families



# Summary of Expenditures

**Health and Medical Services** **SFY 2001**

State Mental Retardation Hospitals	\$44.4
Developmental Disability Services	\$220.6
Mental Health Services	\$74.9
Physical Disability Services	\$62.8
State Mental Health Hospitals	\$57.4
Substance Abuse Treatment and Recovery	\$14.6
Health Care Services:	
People Primarily in Managed Care Programs	
Families	\$75.8
Children	\$103.2
Pregnant Women	\$33.9
People Primarily in the Fee-for-Service Program	
Persons who are Elderly and Disabled	\$403.1
Children in Foster Care, Adoption, or JJA	\$22.9
Persons Provided Partial Health Care Coverage	\$13.4
MediKan Fee-for-Service	\$12.5
Children's Health Insurance Program	\$28.8

(In Millions)

# FY 2002-2003 Budgets

- At the close of the 2001 Legislative Session, as SRS began preparing a budget submission for FY 2003, we had serious concerns about our FY 2002 budget.
- SRS developed a long list of targeted policy changes to reduce expenditures to meet the allocated resource estimate.
- SRS subsequently proposed additional changes specifically targeted to slow down cost increases in the Medicaid program.

# FY 2002-2003 Budgets -- cont'd

- Governor Graves adopted all but one of the proposals presented by SRS in his “existing resources” budget while adding resources to cover consensus caseload estimates and ensure that vital services are maintained.
- The Governor avoided more drastic cuts, such as eliminating the purchase of wheelchairs, ventilators, or oxygen for disabled adults, and eliminating the General Assistance and MediKan programs.
- In his “enhanced resources budget,” the Governor made targeted restorations and enhancements such as restoring funding for family preservation, developmental disability and mental health grants, and the funeral assistance program, and proposed a revenue package to fund them.

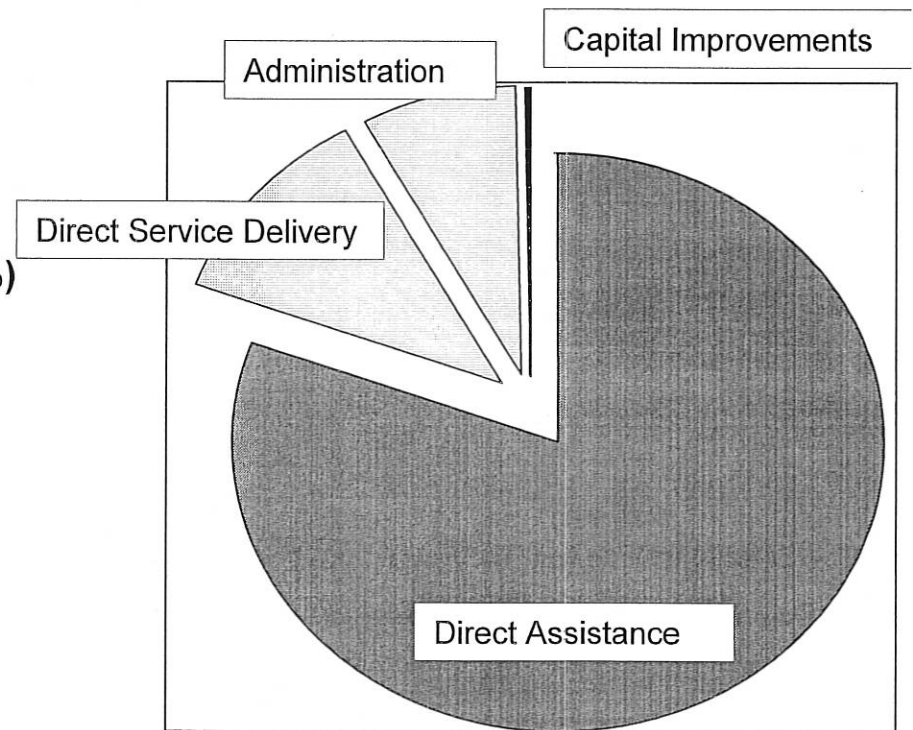
# SRS Expenditures by Category

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FY 2003 Budget –GBR Existing Resources (in Millions)

<b>Direct Service Delivery</b>	<b>\$234.3 (11.3%)</b>
<b>Administration</b>	<b>\$163.0 (7.9%)</b>
<b>Capital Improvements</b>	<b>\$4.2 (.20%)</b>
<b>Direct Assistance</b>	<b>\$1,665.3 (80.6%)</b>

Cash Assistance	\$57.9
Child Care & Employment	\$59.4
Medical Assistance	\$909.9
Substance Abuse	\$16.8
Mental Health	\$66.2
Developmental & Physical	
Disability	\$302.0
Children & Family	\$192.9
Rehabilitation Services	\$21.9
Other	\$38.3

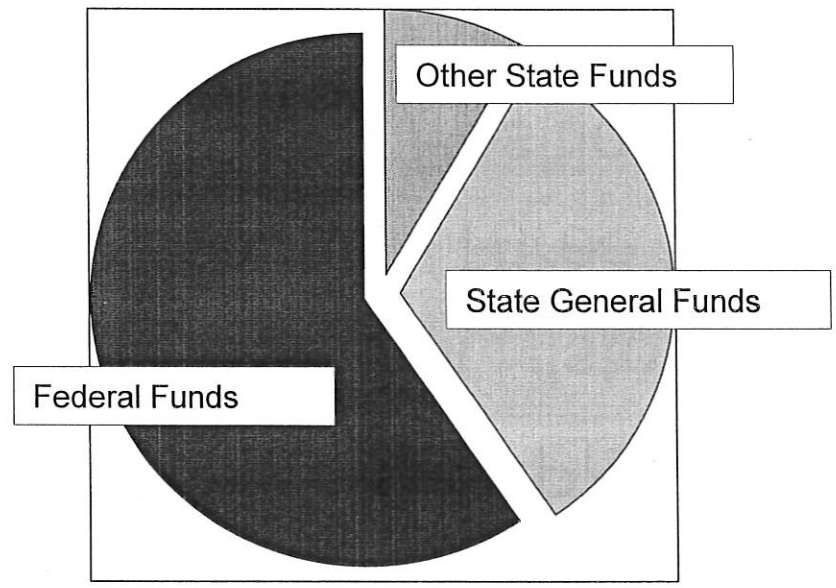


**Total \$2,066.8**

Totals may not add due to rounding

# SRS Expenditures by Revenue Source

FY 2003 Budget – GBR Existing Resources (In Millions)



**Total \$2,066.8**  
(Totals may not add due to rounding)

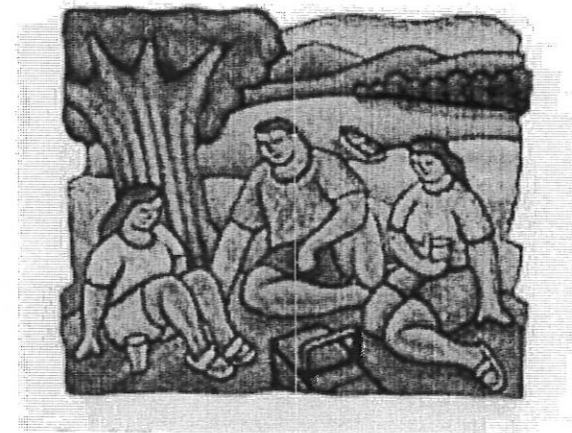
State General Funds	\$672.7 (32.5%)
Federal Funds	\$1,222.8 (59.2%)
Other State Funds	\$171.2 (8.3%)
Fee Funds	\$70.4
Children's Initiative Fund (tobacco)	\$22.1
Intergovernmental Transfer	\$74.8
State Building Fund	\$3.9

# 2002 Legislative Proposals

- Medicaid Pharmacy Program Management
- Access to Criminal History Information
- Estate Recovery (Three Proposals)
- Adding to List of Positions in Unclassified Service
- Parental Financial Participation
- Commitment of Sexually Violent Predators

# Emerging Issues

- **Declining Economy and Rising Social Service Caseloads**
- **Human Services Workforce Issues**
- **Changing Role of Medicaid**
- **Continuing Social Service System Changes:**
  - Mental Health
  - Developmental Disabilities
  - Child Welfare
- **Federal Reauthorization of Programs:**
  - TANF
  - Food Stamps
  - Child Care



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# SRS Information Resources

- Secretary's Office: 785-296-3271
- Customer Affairs: 785-296-4687
- Finger-Tip Facts: A Legislator's Guide
  - Hard copy provided to each legislator
  - Also available on the Internet
- Agency Web Site: [srskansas.org](http://srskansas.org)
  - Statistics, including county data
  - Publications, including Finger-Tip Facts and the Agency Business Plan
  - Current news and recent testimony



# Federal Poverty Guidelines for SRS Programs

## Annual Income Guidelines for 1-5 Member Households (HH) FY 2001

<u>Selected SRS Services</u>	<u>% of FPL*</u>	<u>HH-1</u>	<u>HH-2</u>	<u>HH-3</u>	<u>HH-4</u>	<u>HH-5</u>
TAF and GA-Cash & Medical	34%	\$2,921	\$3,947	\$4,974	\$6,001	\$7,028
Elderly/Disabled Persons on SSI-Medical	74%	6,357	8,591	10,826	13,061	15,296
Children 6-18 Medicaid & Medicaid Waivers	100%	8,590	11,610	14,630	17,650	20,670
Food Assistance and Energy Assistance	130%	11,167	15,093	19,019	22,945	26,871
Children Age 1-5 - Medicaid	133%	11,424	15,441	19,457	23,474	27,491
Pregnant Women & Infants - Medicaid	150%	12,885	17,415	21,945	26,475	31,005
Child Care Subsidy	185%	15,892	21,479	27,066	32,653	38,240
Children's Health Insurance Program	200%	17,180	23,221	29,260	35,300	41,340

\*FPL is the Federal Poverty Level

Cash benefit amounts are also well within federal poverty levels. For example, a family of three receives an average of \$400 a month in Temporary Assistance for Needy Families. Single, disabled individuals who are eligible for General Assistance receive an average benefit of \$160.