MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

November 8, 2010
Room 456-S—Statehouse

Members Present

Senator Vicki Schmidt, Chairperson
Representative Carl Holmes, Vice-chairperson
Senator Karin Brownlee
Senator Janis Lee
Senator Ralph Ostmeyer
Representative Steve Huebert
Representative Shirley Palmer
Representative Joe Patton
Representative Jan Pauls
Representative Ed Trimmer

Members Absent

Senator Chris Steineger
Representative John Faber

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Sharon Wenger, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Judy Glasgow, Committee Assistant

Conferees

Nadira Hacim-Patrick, Kansas Department of Commerce
John Wine, Kansas Department of Insurance
LeAnn Bell, PharmD., Kansas Health Policy Authority
Pat Hubbell, Pharmaceutical Research and Manufacturers of America
Doug Farmer, Kansas State Employees Health Care Commission
Sarah Byrne, Kansas Department of Revenue
Lane Hemsley, Department of Administration
Carol Williams, Governmental Ethics Commission

Sandra Springer, Kansas Department of Health and Environment
Bill Bider, Kansas Department of Health and Environment
Christine Mennicke, Kansas Department of Health and Environment

Others Present

Susan Zalenski, J and J
Berend Koops, Hein Law Firm
Merrill Befort, Kansas Department of Commerce
Karen Kluczykowski, HP
Sean Miller, Capitol Strategies
Barbara Belcher, Merck
Nancy Zogleman, Pfizer
Patrick Vogelsberg, Kearney and Associates
Matt Jones, Department of Administration
Chris Howe, Department of Administration
Susan Vogel, Kansas Department of Health and Environment
Brenda Walker, Kansas Department of Health and Environment
Phil Griffin, Kanss Department of Health and Environment
Leslie Kaufman, Kansas Co-op Council

Morning Session

Chairperson Schmidt called the meeting to order at 9:00 a.m.

The Chairperson welcomed Nadira Hacim-Patrick to speak to the proposed rules and regulations noticed for hearing by the Department of Commerce. KAR 110-4-1, definitions; KAR 110-4-2, review standards and priorities for approval of proposed agreements; limits on program costs and on project and program size; KAR 110-4-3, limit on maximum funding amount; KAR 110-4-4, enforcement of agreements by the secretary; and KAR 110-4-5, compliance with KSA 74-50,106(d), and amendments thereto.

Ms. Hacim-Patrick stated that the rules and regulations were being amended for housekeeping purposes and to clarify information requested. She stated that KAR 110-4-2 was updated to clarify and reflect the specific information required by the Department in order to consider such proposals for approval.

A Committee member noted that the economic impact statement showed that there was an increase in spending for the years 2009 and 2010. The Committee requested that the Department provide the Committee members with a breakdown of each year from 2006 to 2010, showing how much it cost for each new and retrained job. Ms. Hacim-Patrick stated that this would be done.

Chairperson Schmidt asked for action on the Committee's minutes from the September 20, 2010, meeting. *Senator Lee moved that the minutes be approved as presented; Representative Pauls seconded the motion; and the motion carried.*

John Wine, Insurance Department, was recognized by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Kansas Insurance Department (Attachments 1, 2, and 3). KAR 40-9-23, insurance companies; advertising; senior-specific certifications and professional designations; KAR 40-1-48, risk-based capital instructions for health organizations; KAR 40-7-26, public adjuster; examinations; and KAR 40-7-27, public adjuster; reporting requirements.

A Committee member asked, concerning KAR 40-1-48, paragraph two, whether the newsletter and health risk-based capital forecasting spreadsheet instructions were to be included or excluded. Mr. Wine stated that the agency would look at the language again for clarification.

The Chairperson recognized Dr. LeAnn Bell to speak to the proposed rules and regulations noticed for hearing by the Kansas Health Policy Authority. KAR 129-5-1, revoked; and KAR 129-5-64, prior authorization.

Dr. Bell stated that the new regulation will define the placement of medical services and pharmaceuticals on the prior authorization list for the Medicaid program. To ensure the utilization of these drugs in the most cost-effective manner, listing of drug classes on the Preferred Drug List (PDL) without specification of the agents in the class allows the Medicaid pharmacy program to respond to market changes. She stated that preliminary estimates showed cost savings would be $1.5 million in the first fiscal year. Potential cost savings in subsequent years are expected to be $10 million to $20 million per year.

The Committee members expressed concern that this was a major change in procedure for the agency and would take away the opportunity for public comment. Dr. Bell stated there is a PDL monthly meeting on class review and at the close of each meeting, there is an opportunity for the public to comment. Dr. Bell stated that the whole class would be reviewed only if there was a new drug added to that class. The Committee suggested that the agency look for a way for the public to have more input. A Committee member questioned the fact that there is a PDL, but it states that drugs specified in the class subsection may require prior authorization, which makes the whole list redundant. She was asked whether the agency had a list showing the PDL. Dr. Bell stated that the drugs which require prior authorization are listed on the agency's website. Dr. Bell stated that the agency's selection for preferred drugs is based on the rebate received by the state from the drug company. The Committee members expressed concern that the new procedure was not following the intent of the Legislature. The Committee asked whether the agency had responded to the letters from the Pharmaceutical Research and Manufacturer's Association concerning this change and, if they had, the Committee would appreciate a copy. Dr. Bell stated that they had and said that she would provide a copy of those responses to the Committee.

The Chairperson recognized Pat Hubbell, representing the Pharmaceutical Research and Manufacturers of America, to speak in opposition to the new regulation (Attachments 4, 5, 6, 7. 8, 9, and 10). Mr. Hubbell stated that, under the present system, the pharmaceutical companies are allowed 15 minutes to speak on each proposed drug change. Under the new system, they would have only five minutes at the end of the meeting to review all drug changes.

The Committee strongly recommended that Kansas Health Policy Authority not go forward with this regulation and that the appropriate legislative Committee chairpersons, including the Health Policy Oversight Committee chairperson, be made aware of this rule and regulation. The Chairperson requested that the letter sent to the agency following this hearing be accompanied with a request that it be read aloud in its entirety at the public hearing.

Doug Farmer was recognized by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Kansas State Employees Health Care Commission. KAR 108-1-1, eligibility; KAR 108-1-3, school district employee health care benefits plan; and KAR 108-1-4, local unit of government employee health care benefits plan.

Mr. Farmer stated that these three proposed rules and regulations are identical, and increase the age that eligible dependents may participate in the state's health care benefits program from up to age 23 to up to age 26 for the three groups. This change was prompted by federal health care reform legislation, the Patient Protection and Affordable Care Act, to change the age limit and definition of an eligible dependent effective January 1, 2011. Mr. Farmer stated that these rules and regulations had been approved temporarily in August. Staff noted that the temporary rules and regulations would expire on January 1, 2011, and asked when the permanent ones would become effective. Mr. Farmer stated that they would become effective January 11, 2011, after the public hearing. He stated that between January 1 and January 11, the federal guidelines would be in effect. A Committee member asked why the definitions of a dependent had been deleted. Mr. Farmer stated that the agency is using the federal IRS language for its definition.

Chairperson Schmidt recognized Sarah Byrne to speak to the proposed rule and regulation noticed for hearing by the Department of Revenue. KAR 14-11-27, revoked.

Ms. Byrne stated this was the rule and regulation that had been discussed at the last meeting and the Department was officially revoking it pursuant to the Committee's recommendation. There were no questions.

Lane Hemsley was recognized by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Department of Administration (Attachments 11, 12, and 13). KAR 1-65-1, purchase of energy star products and equipment; KAR 1-66-1, definitions; KAR 1-66-2, energy audit required for each state-owned building; KAR 1-66-3, energy audit required for new lease, or lease renewal or extension, of non-state-owned real property; KAR 1-67-1, definitions; KAR 1-67-2, energy efficiency performance standards for new construction; KAR 1–67-3, energy efficiency performance standards for renovated, retrofitted, or repaired buildings; KAR 1-68-1, definitions; and KAR 1-68-2, purchase of a new motor vehicle during fiscal year 2011.

Staff noted that KSA 2009 Supp.75-37,127 does not require the purchasing of Energy Star products, but does require that items purchased be equivalent to the Energy Star item. Staff stated that by requiring Energy Star purchases, the Department appeared to be going beyond its statutory authority. In KAR 1-66-1, page 2, subsection (i), the definition of state agency using KSA 75-3701 needs to be clarified to exclude certain items, since it identifies any entity requesting an appropriation from the state as a state agency. This could include persons requesting money before the Legislature in the Joint Committee on Special Claims Against the State, as well as in other similar situations. The Committee recommended that the agency review all their rules and regulations and clarify that the submission of reports can be made by written and electronic means. The Committee directed the staff to draft a letter to the Attorney General's Office asking if the agency is authorized to promulgate rules and regulations which require that Energy Star products be purchased when the statute indicates that products should be Energy Star equivalent.

Chairperson Schmidt welcomed Carol Williams to speak to the proposed rules and regulations noticed for hearing by the Governmental Ethics Commission. KAR 19-22-1, contributions; KAR 19-23-1, expenditures; and KAR 19-30-4, revoked.

Ms. Williams stated that the proposed rules and regulations reflect the Kansas Supreme Court decision in *Cole v. Mayans, 276 Kan. 866*, issued in 2003, which held that the Kansas Campaign Finance Act prohibits candidates from transferring campaign funds which were raised for one office to that same candidate's campaign account for a different office. She explained that the reason it took so long for her agency to revise these rules and regulations was due to the thought that the Legislature would pass a new statute, but each year it passed in one house, but would not make it through the other.

Raney Gilliland distributed a copy of a letter received from the Kansas Department on Aging responding to the Committee's requests at the September 20, 2010, meeting of this Committee (Attachment 14).

Chairperson Schmidt recessed the meeting until 1:30 p.m.

Afternoon Session

The Chairperson reconvened the meeting at 1:30 p.m.

Chairperson Schmidt welcomed Sandra Springer to speak to the proposed rule and regulation noticed for hearing by Kansas Department of Health and Environment. KAR 28-1-27, HIV screening guidelines.

Ms. Springer stated that this proposed rule and regulation was the result of SB 62 being passed by the 2010 Legislature. This regulation establishes guidelines for HIV screening for pregnant women and newborn children when the HIV status of a mother is unknown at the time of birth.

Staff suggested that the agency clarify which part of pages 11 and 14 were being adopted by reference, since it appeared that all of the beginning and ending pages were being adopted. Ms. Springer stated that this could be done.

Bill Bider, Director of Waste Management, was recognized by the Chairperson to address the proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment. KAR 28-31-4, EPA identification numbers; notification requirement for hazardous waste, universal waste, and used oil activities; KAR 28-31-6, registration and insurance requirements for transporters of hazardous waste and used oil; KAR 28-31-10, hazardous waste monitoring fees; KAR 28-31-12, inspections; KAR 28-31-13, variances; KAR 28-31-100, substitution of state terms for federal terms; internal references to federal regulations; KAR 28-31-100a, substitution of state terms for federal terms; administrator; KAR 28-31-100d, substitution of state terms for federal terms; DOT, director; KAR 28-31-100e, substitution of state terms for federal terms; engineer, environmental appeals board, EPA; KAR 28-31-100f, substitution of state terms for federal terms; federal register; KAR 28-31-100p, substitution of state terms for federal terms; part B, permitting agency or authority; KAR 28-31-100q, substitution of state terms for federal terms; qualified geologist, qualified soil scientist; KAR 28-31-100r, substitution of state terms for federal terms; RCRA; KAR 28-31-100s, substitution of state terms for federal terms; state; KAR 28-31-124, procedures for permitting; adoption and modification of federal regulations; KAR 28-31-124a, procedures for permitting; application for a permit; KAR 28-31-124b, procedures for permitting; modification, revocation and reissuance, or termination of permits; KAR 28-31-124c, procedures for permitting; draft permits; KAR 28-31-124d, procedures for permitting; fact sheet;

KAR 28-31-124e, procedures for permitting; public notice of permit actions and public comment period; KAR 28-31-260, general provisions and definitions; adoption and modification of federal regulations; KAR 28-31-260a, general provisions and definitions; additional state definitions; KAR 28-31-261, identification and listing of hazardous waste; adoption and modification of federal regulations; KAR 28-31-261a, identification and listing of hazardous waste; additional state requirements; KAR 28-31-262, generators of hazardous waste; adoption and modification of federal regulations; KAR 28-31-262a, generators of hazardous waste; additional state requirements; KAR 28-31-263, transporters of hazardous waste; adoption and modification of federal regulations; KAR 28-31-263a, transporters of hazardous waste; additional state requirements; KAR 28-31-264, hazardous waste treatment storage and disposal facilities; adoption and modification of federal regulation; KAR 28-31-264a, hazardous waste treatment storage and disposal facilities; additional state requirements; KAR 28-31-265, interim status hazardous waste treatment storage and disposal facilities; adoption and modification of federal regulations; KAR 28-31-265a, interim status hazardous waste treatment storage and disposal facilities; additional state requirements; KAR 28-31-266, specific hazardous wastes and specific types of hazardous waste management facilities; adoption and modification of federal regulations; KAR 28-31-267, hazardous waste facilities operating under a standardized permit; adoption and modification of federal regulations; KAR 28-31-267a, hazardous waste facilities operating under a standardized permit; additional state requirements; KAR 28-31-268, land disposal restrictions; adoption and modification of federal regulations; KAR 28-31-270, hazardous waste permits; adoption and modification of federal regulations; KAR 28-31-270a, hazardous waste permits; petition to be granted an exception to the prohibition against underground burial of hazardous waste; KAR 28-31-273, universal waste; adoption and modification of federal regulations; KAR 28-31-279, used oil; adoption and modification of federal regulations; and KAR 28-31-279a, used oil; additional state prohibitions and requirements. KAR 28-31-1; KAR 28-31-2; KAR 28-31-3; KAR 28-31-5; KAR 28-31-7; KAR 28-31–8; KAR 28-31-8b; KAR 28-31-9; KAR 28-31-14; KAR 28-31-15; and KAR 28-31-16, REVOKED.

Mr. Bider gave the Committee an introduction and background to the proposed rules and regulations (Attachments 15, 16, and 17). Mr. Bider stated the primary purpose of the regulatory changes proposed in these rules and regulations is to address concerns of the federal Environmental Protection Agency (EPA) regarding the stringency and consistency of certain Kansas regulations; to rewrite the Kansas adoptions by reference of the federal regulations, so that they more closely follow EPA's adoption by reference guidance; and to incorporate changes to existing hazardous waste regulations which have been promulgated by EPA between July 1, 2000, and July 1, 2006. He stated that the state receives a little more than $1 million from the federal government to administer this program. At this time these fees cover 50 percent of the costs; the additional costs are covered by fee funds, so no state general funds are used. Mr. Bider introduced Christine Mennicke to review each KAR for the Committee.

A question was raised concerning KAR 28-31-4, page 2, the first sentence of (a), which references CFR Title 40. Staff noted that these include numerous items that are outside the scope of these regulations, and suggested that language needs to be added to clarify that only those relevant items referenced. A Committee member asked whether the EPA had reviewed these rules and regulations and whether it would approve them. Ms. Mennicke stated the EPA was reviewing them at the present time, and the federal agency has been tracking them as the regulations have gone through the process. Ms. Mennicke stated that KAR 28-31-124 through KAR 28-31-279a use the new numbering system that will follow EPA's adoption by reference guidance. Staff noted that a comma needs to be added in the heading of KAR 28-31-264; KAR 28-31-264a; KAR 28-31-265; KAR 28-31-265a; and perhaps others. Ms. Mennicke stated that they will take care of this before the public hearing. A Committee member asked what the definition of "used oil" was and if this included vegetable oil or plant oil. Ms. Mennicke stated she thought the definition was in other regulations and that she would provide it to the Committee members. The Committee questioned

whether synthetic oil used in cars would be included in the definition. Ms. Mennicke stated she would get back to the Committee on this question. Staff noted that all of the reference material was adopted as of July 1, 2006, and asked why a later date was not chosen. Ms. Mennicke said that the updating process was started in July 2006, and that is why they selected that date. Staff noted that in KSA 65-3431, subsection (k), there is a limit on the authority for the regulation of hazardous wastes to that granted no later than 1984. When asked if any of these items to be regulated came after 1984, Mr. Bider stated that he had not been aware of any limitations, but the Department would investigate the matter further.

The next meeting was scheduled to be January 5, 2011.

The Chairperson adjourned the meeting at 3:30 p.m.

Prepared by Judy Glasgow
Edited by Raney Gilliland

Approved by the Committee on:

January 5, 2011
(Date)

Committee Comments on Proposed Rules and Regulations

Kansas Department of Commerce. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; review standards and priorities for approval of proposed agreements, limits on program costs and on project and program size; limit on maximum funding amount; enforcement of agreements by the secretary; and compliance with KSA 74-50,106(d), and amendments thereto. After discussion, the Committee had the following request.

Request. The members of the Committee request that the agency provide the cost of each of the new jobs created or retained through the IMPACT Program beginning in 2006. Please provide this information to Raney Gilliland of the Kansas Legislative Research Department, who will provide the information to Committee members.

Kansas Insurance Department. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning insurance companies, advertising, senior-specific certifications and professional designations. After discussion, the Committee had no comment.

Kansas Insurance Department. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning risk-based capital instructions for health organizations; public adjuster, examinations; and public adjuster, reporting requirements. After discussion, the Committee had the following comment.

> KAR 40-1-48. Please review the punctuation in this regulation and clarify the language if necessary, because as the regulation is written, it appears that the agency may be excluding some documents that it intends to include.

Kansas Department of Revenue. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning a revocation. After discussion, the Committee had no comment.

Kansas Health Policy Authority. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning prior authorization; and revocation. After discussion, the Committee had the following comments.

> Request. The Committee requests that the agency not move forward with this regulation until it has provided interested parties adequate participation in the selection of drugs and their alternatives. It is apparent that the process for this regulation's development has not been open and interested parties have not had the opportunity to adequately comment and offer alternatives. It appears that patients, physicians, and drug manufacturers are excluded from the development process. This not only jeopardizes the health of Kansans, but also may lead to costs that are unnecessary. The Committee suggests that the letter of the Joint Committee be read

aloud at the public hearing on this regulation if the agency determines that it will proceed. The Committee also will provide a copy of its letter to the Chairperson of the Health Policy Oversight Committee.

Kansas Health Policy Authority. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning eligibility; school district employee health care benefits plan; and local unit of government employee health care benefits plan (Employees Health Care Commission). After discussion, the Committee had no comment.

Kansas Department of Administration. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning purchase of energy star products and equipment; definitions; energy audit required for each state-owned building; energy audit required for new lease, or lease renewal or extension, of non-state-owned real property; definitions; energy efficiency performance standards for new construction; energy efficiency performance standards for renovated, retrofitted, or repaired buildings; definitions; and purchase of a new motor vehicle during fiscal year 2011. After discussion, the Committee had the following comments.

KAR 1-65-1. The members of the Committee question the authority for this regulation. The statute (KSA 2009 Supp. 75-37,127) requires that the Secretary of Administration adopt regulations requiring the purchase of certain items "which meet energy efficiency guidelines adopted for such products to qualify as an energy star product." The statute does not require that each product be designated as an Energy Star product as this regulation proposes. The Committee intends to correspond with the Attorney General regarding this matter.

KAR 1-66-2. Please review this regulation and others in this set which require a report to be provided. Please determine whether the language should be "written or electronic" and address how the reports may be submitted in a standardized form.

Kansas Governmental Ethics Commission. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning contributions; expenditures; and revocation. After discussion, the Committee had no comment.

Kansas Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning HIV screening guidelines. After discussion, the Committee had the following comment.

KAR 28-1-27. The Committee suggests that the agency clarify which portions of pages 11 and 14 are necessary for inclusion in the reference. It appears that portions of each page are not relevant to the reference made in this rule and regulation.

Kansas Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning EPA identification numbers, notification requirement for hazardous waste, universal waste, and used oil activities;

registration and insurance requirements for transporters of hazardous waste and used oil; hazardous waste monitoring fees; inspections; variances; substitution of state terms for federal terms, internal references to federal regulations; substitution of state terms for federal terms, administrator; substitution of state terms for federal terms, DOT, director; substitution of state terms for federal terms, engineer, environmental appeals board, EPA; substitution of state terms for federal terms, federal register; substitution of state terms for federal terms, part B, permitting agency or authority; substitution of state terms for federal terms, qualified geologist, qualified soil scientist; substitution of state terms for federal terms, RCRA; substitution of state terms for federal terms, state; procedures for permitting, adoption and modification of federal regulations, procedures for permitting, application for a permit; procedures for permitting, modification, revocation and reissuance, or termination of permits; procedures for permitting, draft permits; procedures for permitting, fact sheet; procedures for permitting, public notice of permit actions and public comment period; general provisions and definitions, adoption and modification of federal regulations; general provisions and definitions, additional state definitions; identification and listing of hazardous waste, adoption and modification of federal regulations; identification and listing of hazardous waste, additional state requirements; generators of hazardous waste, adoption and modification of federal regulations; generators of hazardous waste, additional state requirements; transporters of hazardous waste, adoption and modification of federal regulations; transporters of hazardous waste, additional state requirements; hazardous waste treatment storage and disposal facilities, adoption and modification of federal regulations; hazardous waste treatment storage and disposal facilities, additional state requirements; interim status hazardous waste treatment storage and disposal facilities, adoption and modification of federal regulations; interim status hazardous waste treatment storage and disposal facilities, additional state requirements; specific hazardous wastes and specific types of hazardous waste management facilities, adoption and modification of federal regulations; hazardous waste facilities operating under a standardized permit, adoption and modification of federal regulations; hazardous waste facilities operating under a standardized permit, additional state requirements; land disposal restrictions, adoption and modification of federal regulations; hazardous waste permits, adoption and modification of federal regulations; hazardous waste permits, petition to be granted an exception to the prohibition against underground burial of hazardous waste; universal waste, adoption and modification of federal regulations; used oil, adoption and modification of federal regulations; used oil, additional state prohibitions and requirements; and revocations. After discussion, the Committee had the following comments.

KAR 28-31-4. The first sentence of subsection(a) requires " [e]ach person who is required to obtain an EPA identification number by 40 CFR parts 124 through 279..." to submit a form to the department and to meet other requirements. It appears that not all of 40 CFR parts 279 relate to hazardous waste generators. Please review the 40 CFR parts being referenced to insure that each is appropriate to the subject matter of these regulations.

KAR 28-31-264. In this proposed regulation and others there is a need to insert a comma after the word "treatment" and after the word "storage." Please review this set of proposed rules and regulations for similar punctuation issues.

KAR 28-31-279a. The Committee is curious as to whether there is a definition for "used oil" and its location for reference purposes. In addition, the members of the Committee are curious as to how used synthetic oil and used vegetable oil may be treated under these proposed rules and regulations.

Suggestion. These regulations list as their statutory authority KSA 65-3431. Subsection (k) of that statute says in part that "[t]he criteria for identification and listing shall be consistent with the criteria for identification and listing adopted by the administrator of the United States environmental protection agency under the authority vested in the administrator by the Resource Conservation and Recovery Act of 1976 (42 USC 6921) as amended by the Solid Waste Disposal Act of 1980 (P.L. 94-482, October 21, 1980), and as amended by the Hazardous and Solid Waste Act of 1984 (P.L. 98-616, November 8, 1984)." The Committee requests the agency review these regulations to determine whether any criteria for identification and listing are based on authority granted to the Environmental Protection Agency subsequent to P.L. 98-616. Does this jeopardize the authority of KDHE to regulate any designated hazardous waste?

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
COMMITTEE GUEST LIST

DATE: Nov. 8, 2010

NAME	REPRESENTING
Patricia R Hubbell	Pfizer
Susan Zalenski	J&J
Brenda Knoops	Hein Law Firm
[illegible]	GBA
Merrill Befort	Commerce
Jyotika Patnaik Hacim-	Commerce
Karen Klucaykowski	HP
Sean Miller	Capitol Strategies
John Wine	Insurance Dept
Barbara Belden	Merck
Patrick Vagelsbarg	Kearney and Associates
[illegible] Mitt	DOA Mail Room
Chris Howe	DofA
[illegible]	KMHA
Susan Vogel	KDHE
Brenda Walker	KDHE
Phil Griffin	KDHE
Sandra Springer	KDHE
Bill Bider	KDHE

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
COMMITTEE GUEST LIST

DATE: 11-8-10

NAME	REPRESENTING
Christine Mennicke	KDHE
Leslie Kaufman	Ks Co-op Council

MEMORANDUM

To: Joint Committee on Administrative Rules and Regulations

From: John Wine
Kansas Insurance Department

Re: K.A.R. 40-9-23

Date: November 8, 2010

My name is John Wine and I am a Staff Attorney for the Kansas Insurance Department. With me today is Nancy Strasburg, Director of our Producers Division. I would like to thank the committee for allowing the Department to appear and comment on the proposed regulation K.A.R. 40-9-23.

This regulation is being proposed to adopt by reference the Department policy adopting the National Association of Insurance Commissioners (NAIC) model regulation on the use of senior-specific certifications and professional designations in the sale of life insurance and annuities. The regulation would describe and prohibit certain unfair practices that could mislead consumers about the training or qualifications of an agent.

The economic impact, if any, would be minimal because these standards are already applicable in many jurisdictions. Companies and agents will generally be in compliance with these requirements already. There will be little or no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies and no other less costly or less intrusive approach for achieving the stated purpose was found.

We would be happy to answer any questions the members of the committee might have. Again, thank you for allowing us to appear today and comment on the proposed regulation.

MEMORANDUM

To: Joint Committee on Administrative Rules and Regulations

From: John Wine
Kansas Insurance Department

Re: K.A.R. 40-7-26 & 40-7-27

Date: November 8, 2010

My name is John Wine and I am a Staff Attorney for the Kansas Insurance Department. With me today is Nancy Strasburg, Director of our Producers Division. I would like to thank the committee for allowing the Department to appear and comment on the proposed regulations K.A.R. 40-7-26 and 40-7-27.

These regulations are being proposed to comply with the requirement in K.S.A. 2009 Supp. 40-5518 that the Commissioner promulgate regulations necessary to carry out the provisions of the public adjusters licensing act. (K.S.A. 2009 Supp. 5501 *et seq.*) Because there is only one Kansas licensed public adjuster it has been difficult for us to determine precisely what was necessary.

These regulations should not have any economic impact on the one adjuster or any other entity. The Department made the requirements similar to those imposed on licensed agents so that members of the industry might have general familiarity with the process if they ever seek licensure. There will be no known economic impact on the Department or other government agencies, small businesses or the general public and

no other less costly or less intrusive approach for achieving the stated purpose was found.

We would be happy to answer any questions the members of the committee might have. Again, thank you for allowing us to appear today and comment on the proposed regulations.

MEMORANDUM

To: Joint Committee on Administrative Rules and Regulations

From: John Wine
Kansas Insurance Department

Re: K.A.R. 40-1-48

Date: November 8, 2010

My name is John Wine and I am a Staff Attorney for the Kansas Insurance Department. With me today is Ken Abitz, Director of our Financial Surveillance Division. I would like to thank the committee for allowing the Department to appear and comment on the proposed amendment to K.A.R. 40-1-48.

This amendment to the regulation is being proposed to adopt by reference the most recent version of National Association of Insurance Commissioners ("NAIC") health risk-based capital reports for companies. Risk based capital is a method of measuring the minimum amount of capital appropriate for an insurance entity to support its overall business operation in consideration of its size and risk profile. Risk based capital standards for health organizations were enacted in Kansas in the year 2000 and have been amended. This regulation sets out the requirements and format of the risk-based capital report that all domestic health organizations are required to file each year.

The economic impact on companies, if any, is positive because the reports that are required to be filed in Kansas will use uniform formats as established by the NAIC. Affected companies will already be familiar with the format and requirements of these

reports. There will be no known economic impact on the Department or other government agencies, small businesses or the general public and no other less costly or less intrusive approach for achieving the stated purpose was found.

We would be happy to answer any questions the members of the committee might have. Again, thank you for allowing us to appear today and comment on the proposed regulation.

att 4

Jeff Woodhouse
Director, Rocky Mountain
Regional Office
State Government Affairs

PhRMA

November 8, 2010

Honorable Vicki Schmidt
Kansas State Senate
300 SW 10th Avenue, 542-N
Topeka, Kansas 66612

Dear Chairman Schmidt:

On behalf of the Pharmaceutical Research and Manufacturer's Association (PhRMA), I would like to take this opportunity to share some of the biopharmaceutical industry's concerns with the Kansas Health Policy Authority (KHPA) proposed rule on the Medicaid pharmacy program and urge the Joint Committee on Administrative Rules and Regulations to reject this proposed rule as written.

While we do not oppose the implementation of a Medicaid electronic prior authorization system for pharmaceutical prescriptions, provided there are appropriate patient safeguards, we believe KHPA is going beyond the legislative intent through this proposed rule to eliminate the Medicaid Preferred Drug List (PDL) program public input process that was established by the Legislature when it passed SB 422 in 2002. After this bill was passed, the Department of Social and Rehabilitative Services made it clear through the attached June 25, 2002, letter that the Medicaid PDL Committee meetings that public testimony would be a part of the PDL process before any final drug recommendations were made by Committee. Those PDL Committee recommendations would be given one more opportunity for public input by the Medicaid Drug Utilization (DUR) Board before any final decision would be made by SRS and later KHPA.

If this rule is allowed to go forward, we have great concerns that it will result in a complete elimination of the PDL process as it is currently defined in statute. This would leave only one opportunity for any input to occur at the DUR Board meetings; and even then only public comment would be allowed on new drugs, not on all drugs or drug classes, which are required to be reviewed annually. Furthermore, the proposed rule will eliminate the administrative rule process established in 2002 by statute to promulgate an administrative rule for each change, addition or deletion of individual drugs in the Medicaid PDL program – thus eliminating the last opportunity for public comment.

Consideration also needs to be made regarding the flexibility of the system with fluctuating federal health care mandates and future health care delivery changes. This proposed rule appears to pave the way for even greater limitations of appropriate pharmaceuticals for Medicaid clients that extend beyond the existing Medicaid program,

Pharmaceutical Research and Manuj
1675 Broadway, Suite 1110 • Denver, CO 80202 • Tel: 303-5
E-Mail: jwoodhouse@phrma.org • http://ww

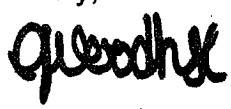
particularly with the federal passage of the Patient Protection and Affordable Care Act of 2010.

Finally, the cost analysis cited in the proposed rule is incredibly arbitrary and without consideration of the major financial impact of many of the major brand name drugs becoming available in the generic form in the very near future. Nor is there consideration of the impact of treating a Medicaid patient cost effectively with the appropriate medication that their doctor prescribes based on their unique medical profile. The cost analysis provided in the proposed rule does not delineate if this is the federal and state shared amount or both.

Please see the attached copies of letters PhRMA has previously written to KHPA to express our concerns outlining a myriad of issues involving KHPA operating outside of public inclusion and transparency. It is our hope that these concerns can be remedied and our partnership with KHPA can move forward in an effective manner benefiting all parties.

We appreciate the opportunity to provide these concerns and again urge you to reject this proposed rule as written. Please feel free to contact me if you have any additional questions or would like discuss any of these issues raised in greater detail.

Sincerely,



Jeff Woodhouse

CC: Joint Committee on Administrative Rule and Regulation members
Senator Karin Brownlee
Senator Janis Lee
Senator Ralph Ostmeyer
Senator Chris Steineger
Representative Carl Holmes
Representative John Faber
Representative Steve Huebert
Representative Shirley Palmer
Representative Joe Patton
Representative Janice Pauls
Representative Ed Trimmer

Pharmaceutical Research and Manufacturers of America
1675 Broadway, Suite 1110 • Denver, CO 80202 • Tel: 303-534-1656 • FAX: 303-534-1734
E-Mail: jwoodhouse@phrma.org • http://www.phrma.org

4-2

Jeff Woodhouse
Director, Rocky Mountain
Regional Office
State Government Affairs

PhRMA

May 27, 2010

Andrew Allison, PhD.
Executive Director
Kansas Health Policy Authority
Landon Building, 9th Floor
900 SW Jackson Street
Topeka, Kansas 6612-1220

Dear Dr. Allison:

As the organization that represents the leading pharmaceutical and biotechnology companies, I would like to take this opportunity to share some concerns our member companies have with the recent changes with the Kansas Medicaid preferred drug list (PDL) review process.

Many of our members received electronic mail communication in November 2009 that indicated there would be a new monthly PDL manufacturer drug contract review process implemented in 2010 in order to eliminate multiple contract starting and ending dates within drug categories. This has resulted in confusion among our member companies and the public in understanding how this new "streamlined contract review" coincides with the long-established public drug reviews of the drug categories under the PDL program since Senate Bill 422 (K.S.A. Chapters 39-7,120; 39-7,121a; 39-7,118; 39-7,119; 39-7,120; and K.S.A. Chapters 77-415; 77-416; 77-421; 77-436 and K.S.A. 75-4317) was signed into law on July 1, 2002.

After concerns were raised with LeAnn Bell, PharmD., she was quite forthcoming in explaining the administrative burden of multiple contract dates within the drug classes and we can understand why it would be more efficient and less costly to coordinate the contract dates into systematic order. However, we believe the new PDL drug review process that Dr. Bell described does not follow the original legislative intent of SB 422, or the long-implemented process of coordinated public drug reviews prior to the contracting period for supplemental rebate bids established and followed by the Kansas Department of Social and Rehabilitation Services (SRS) under Secretary Janet Schalansky on June 25, 2002, up until 2010. Please see the attached documents: Attachment 1 - June 25, 2002 Robert Day letter under Secretary Janet Schalansky (includes Suggested Format for Formulary Submissions, Rules for Public Forum, and Proposed Drug Classes for Inclusion in PDL); Attachment 2 - Preferred Drug List Process (01/2005); Attachment 3 - Preferred Drug List Committee – Rules for Public Forum (01/26/2006); and Attachment 4 - "Further Explanation" from the Kansas Medical Assistance Programs (KMAP) Pharmacy Information (10/3/2006).

As we understand Dr. Bell, manufacturers are now being asked to provide supplemental rebates without the opportunity for patients, providers or manufacturers to provide public input on clinically appropriate utilization of pharmaceuticals prior to supplemental bid offers as described on the KHPA website:

SUPPLEMENTAL REBATE BID SUBMISSION PROCESS

"General Information: Supplemental rebate offers must be submitted to Kansas Medical Assistance Program (KMAP) by the close of business on the fifteenth working day after the Preferred Drug List (PDL) Advisory Committee Meeting date. KMAP will not accept offers after the fifteenth working day deadline."

As stated above, the process implemented by SRS and posted on the KHAP website outlined the complete public PDL drug process, which provided for quarterly or as needed PDL Advisory Committee meetings to review advance posted therapeutic drug classes to determine clinical efficiency or superiority. Every PDL Advisory Committee meeting provided a public forum for the manufacturers, patient advocates, the medical provider community and the public at large to provide input before decisions regarding the preferred or non-preferred status of drugs; and the ultimate recommendations to SRS/KHPA were made by the Committee. Therapeutic drug classes were reviewed on an annual basis for a clinical update and supplemental bid process.

Dr. Bell informed us that the new PDL process allows for public comment at the time of the initial therapeutic drug class review and any time the class is subsequently reviewed. However, the PDL Advisory Committee no longer reviews every therapeutic category on an annual basis. Bids for supplemental rebates are being requested on drugs, including new drugs in existing categories and non-existent categories without the benefit of the public review by the PDL Advisory Committee.

Therefore, PhRMA is respectfully requesting the annual public drug category review by the PDL Advisory Committee be reinstated, whereby, public input can be provided as originally established by SRS and maintained by KHPA until this year. We believe this will accomplish two goals: 1) Adhere to the legislative intent of SB 422, the long-established public PDL drug review process and the Kansas open meetings statutes; and 2) Facilitate a better decision-making process with public transparency.

We would appreciate a meeting with you and your staff to discuss this matter at the earliest convenience.

Sincerely,

Jeff Woodhouse
Regional Director

cc: Lt. Governor Troy Findley, Chief of Staff for Governor Mark Parkinson
Senate Public Health and Welfare
House Health and Human Services
LeAnn Bell, PharmD
Kansas Medical Society
Kansas Pharmacy Association
Doug Farmer
LeAnn Bell, PharmD

5-2

Jeff Woodhouse
Director, Rocky Mountain
Regional Office
State Government Affairs

PhRMA

February 9, 2010

Andrew Allison, PhD
Kansas Health Policy Authority
Landon Building, 9th Floor
900 SW Jackson Street
Topeka, KS 66612-1220

Dear Dr. Allison:

As the organization that represents the country's leading pharmaceutical research and biotechnology companies, I would like to take the opportunity to share with you some concerns that have been brought to PhRMA's attention regarding some inconsistencies with the State's Drug Utilization Committee and Product and Therapeutics Committee.

One of the items brought to my attention was that a therapeutic category was added for review to the P&T meeting in December after the agenda was posted. We appreciate that the agendas are in draft form, however, companies should have a fair opportunity and adequate time to prepare for presentations to the committee. In this case, Dr. Burke did honor requests made to postpone consideration of the therapeutic category that was added late. We respectfully request that KHPA publish the agenda at least two weeks ahead of the meeting date and that it not change anytime within that two week period.

Another area of concern is the availability of documents for public consumption. Specifically, we would like the prior authorization criteria being recommended to the DUR Committee be made available before the meeting. As I'm sure you would agree, DUR Committee members would benefit from comments that could address the proposed prior authorization language.

Additionally, it would be beneficial for all if the documents shown at the DUR Committee and P&T Committee be made available to the public through the internet prior to the meeting or in hard copy at the meeting. At the December P&T Committee meeting and the January DUR meeting, both committees referred to information projected on the wall. Committee members had the information to refer to, but unfortunately the public could not see any of the data that was being used by the committee to develop prior authorization criteria.

I would also like to caution against the sharing of specific cost information. The disclosure of such information could result in violations of contracts and various federal laws. If there is a need to conduct a discussion regarding cost, such discussions should only refer to costs in the aggregate in order to avoid any legal infringement.

And finally, we strongly feel that the DUR Committee needs to follow KHPA policy by announcing PDL preferred and non-preferred products before making prior authorization criteria. Financial negotiations and contracts need to be completed and companies need to be notified of their product position before asking the DUR to develop prior authorization criteria.

It is our hope that we are able to continue our partnership with you in providing a great Medicaid program in Kansas. Thank you for your time and please feel free to contact me if you wish to explore our concerns further.

Sincerely,

Jeff Woodhouse
Regional Director

BILL GRAVES, GOVERNOR OF THE STATE OF KANSAS

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

JANET SCHALANSKY, SECRETARY

Docking State Office Bldg.
Room 651 South

Health Care Policy / Medical Policy
Robert Day, Director

Phone: (785) 296-3981
Fax: (785) 296-4813

June 25, 2002

Dear

On July 1, 2002, Senate Bill 422 becomes Kansas law. Senate Bill 422 requires the state to provide the most effective prescription drugs in the most cost-effective manner to patients in the Kansas Medicaid program. SRS will utilize evidence-based evaluations of the effectiveness of similar medications within therapeutic classes to determine Medicaid coverage status.

SRS has selected four prescription drug classes for the initial preferred drug list (PDL) evaluations: Proton Pump Inhibitors, H_2 Antagonists, HMG CoA Reductase Inhibitors ("Statins"), and Non-Sedating Antihistamines. The drug class evaluation will be conducted by a PDL committee, formed pursuant to SB422. Once the PDL committee has determined the relative effectiveness of the medications under review, SRS will place priority on using the least costly drugs among those found to be equally effective.

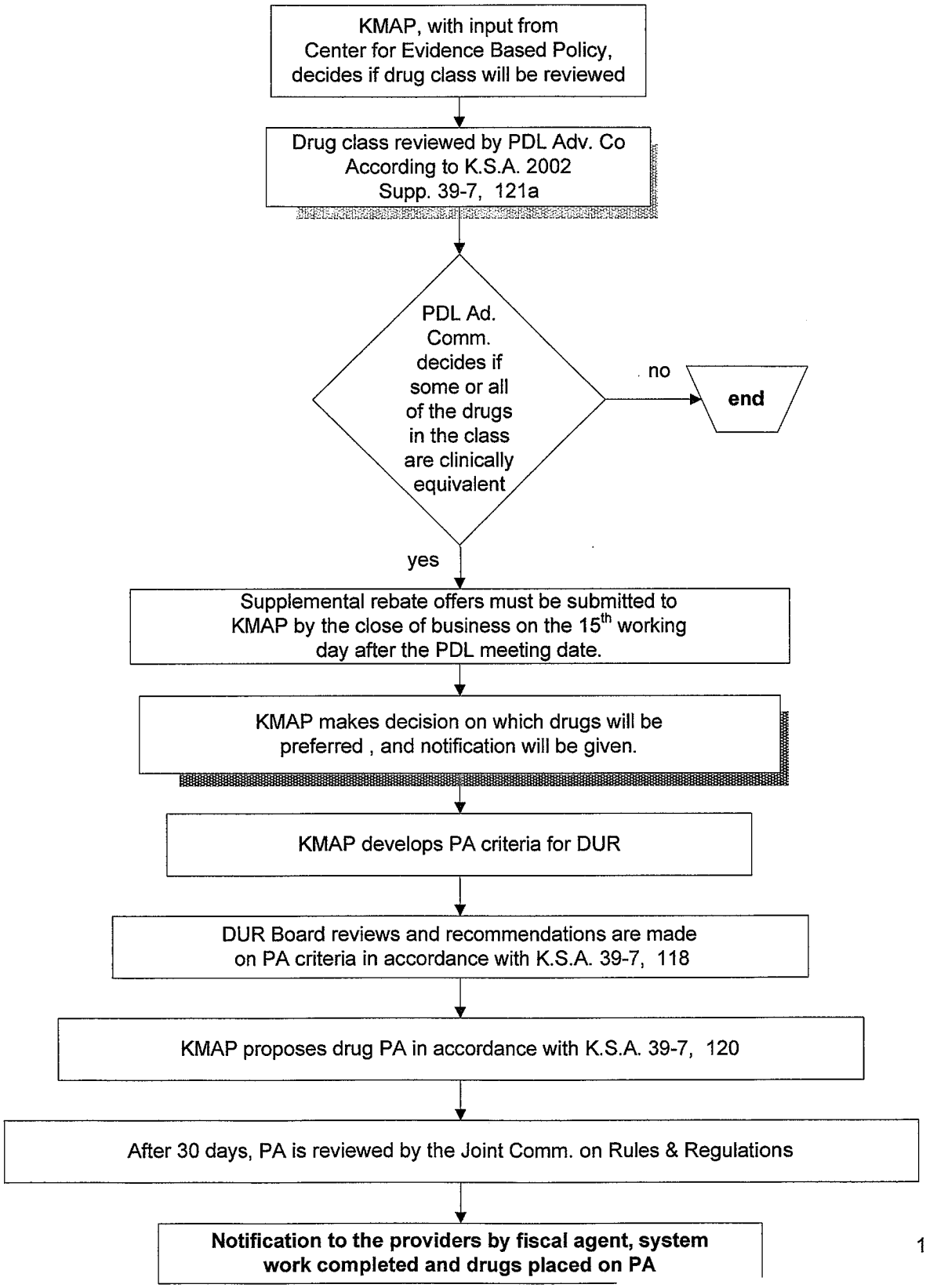
In order to effectively evaluate the drugs under review, it is important that the manufacturers of these medications provide SRS and the PDL committee with standardized, relevant information regarding the effectiveness of their products. If your company sells a drug within one or more of the selected classes, please submit relevant information according to the formulary submission protocol attached. Feel free to consult the Academy of Managed Health Care Pharmacy's "Format for Formulary Submissions" for reference.

Sincerely,

Robert M. Day, Ph.D.
Medical Policy / Medicaid Director
Health Care Policy Division

RMD:MHO:rjb

Preferred Drug List Process



12/27/07

Joint Committee on
Administrative Rules & Regulations
November 8, 2010
Attachment 8

Preferred Drug List Committee

Rules for Public Forum

Pursuant to the Kansas Open Meetings Act (K.S.A. 75-4317), meetings of the Preferred Drug List Committee are open to the public. In order to facilitate organized and efficient meetings, the following rules for public forum apply:

- Non-members of the committee and other interested parties will be recognized by the Committee Chairperson only during designated public comment periods.
- Pharmaceutical manufacturers or other interested parties must submit their formulary submission in a standardized format to the SRS designee at least three to four weeks prior to the Preferred Drug List Committee Meeting.
- Prior to final committee action on a drug or drug class coverage decision, there will be a designated public comment period that will be clearly identified on the meeting agenda.
- Pharmaceutical manufacturers or other interested parties will be given a total of 15 minutes per drug in the therapeutic drug class under discussion. This will be during the designated public comment period. The following will apply:
  1) This is to provide key points outlining the evidence-based value of the drug product
  2) Name, position, and company represented of the persons wishing to speak must be given to the committee in advance.
  3) The 15 minute allotment for each drug will be divided by the number of people speaking
- Following the brief presentations, time will be allowed for committee members to ask questions of the presenter.
- The Committee Chairperson will serve as the designated timekeeper for presentations.

(Published in the Kansas Register October 21, 2010.)

Workforce Investment Board of Kansas

Request for Proposals

The Chief Elected Officials Board and Workforce Investment Board of Kansas Local Area III are issuing a request for proposals (RFP) to provide One-Stop Operator and Adult/Dislocated Worker Program Operator services under Title I of the Workforce Investment Act. The boards are seeking providers throughout Local Workforce Investment Area III, comprised of Johnson, Leavenworth and Wyandotte counties in Kansas.

To request an RFP package including all specifications, contact Brenda Wilson at (913) 287-1116 or brendaw@workforcepartnership.com, or write to Workforce Partnership, 1333 Meadowlark Lane, Suite 102B, Kansas City, KS 66102.

A pre-bid conference will be held at 9 a.m. October 26 in the McCarthy Gallery of the Jack Reardon Civic Center, 500 Minnesota Ave., Kansas City, Kansas. A conference call option will be available for persons unable to attend the conference in person. Participation in the conference, either in person or by conference call, is required for any organization desiring to submit a proposal. Attendees are encouraged to submit questions in writing in advance of the conference to Brenda Wilson at the address above.

All proposals must be received by 3 p.m. December 13 at the address above. The board welcomes all interested organizations to submit proposals.

Brenda J. Wilson
Executive Assistant/Office Manager
Workforce Partnership

Doc. No. 038822

State of Kansas

Kansas Health Policy Authority

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 1 p.m. Tuesday, November 23, in Room 900-N of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of a new regulation and the revocation of an existing regulation on a permanent basis effective 15 days after publication in the Kansas Register. Telephone conference is not available.

Chapter 187, 2005 Session Laws of Kansas transferred specific powers, duties and regulatory authority from the Department of Social and Rehabilitation Services to the Division of Health Policy and Finance (DHPF) within the Department of Administration, and then transferred those powers, duties and regulatory authority to the Kansas Health Policy Authority (KHPA), effective July 1, 2006. The statutes provide that KHPA will be the single state agency for Medicaid, Medikan and HealthWave in Kansas.

This 30-day notice of the public hearing shall constitute a public comment period for the proposed regulations as stated in K.S.A. 2009 Supp. 77-421(a)(3). All interested parties may submit written comments before the hearing to Rita Haverkamp, Kansas Health Policy Authority, Room 900-N, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612-1220, or by e-mail at Rita.Haverkamp@khpa.ks.gov. At the hearing, the Kansas Health Policy Authority will give all interested parties a reasonable opportunity to present their views, but it may be necessary to request each participant to limit any oral presentation to five minutes.

A copy of the regulations and the economic impact statement may be obtained by contacting Rita Haverkamp at (785) 296-5107 or from the KHPA Web site at www.khpa.ks.gov.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Please make any request for accommodation at least five working days before the hearing by contacting Rita Haverkamp at (785) 296-5107 or by calling the Kansas Relay Center at (800) 766-3777.

A summary of the regulations and the economic impact follows:

Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

129-5-1. Prior authorization. This regulation is being revoked and replaced with the new proposed regulation.

129-5-64. Prior authorization. Regulation 129-5-64 will define the placement of medical services and pharmaceuticals on prior authorization for the Medicaid program. Placement of medical services (for example, home health, radiology services, durable medical equipment, etc.) on prior authorization to ensure use is medically necessary, appropriate, and/or cost-effective deters fraud and abuse and ensures appropriate use of state and federal funds. To ensure the utilization of these drugs in the most cost-effective manner, the following drug classes will be added to the preferred drug list, with non-preferred medications requiring prior authorization:

a. Alphaglucosidase inhibitors
b. Angiotensin II receptor antagonists — calcium channel blockers
c. Beta2 agonists
d. Biguanides
e. Dipeptidyl peptidase-4 inhibitors
f. Erythropoesis stimulating agents
g. Intranasal antihistamines
h. Long-acting insulins
i. Long-acting opioids
j. Meglitinides
k. Ophthalmic antihistamines-mast cell stabilizers
l. Oral contraceptives
m. Pancreatic enzyme replacement products
n. Targeted immune modulators
o. Thiazolinediones
p. Xanthine oxidase inhibitors

The following drug classes are already listed on the preferred drug list:

a. ACE inhibitors;

(continued)

b. ACE inhibitors-calcium channel blockers;
c. adjunct antiepileptic drugs;
d. angiotensin II receptor antagonists;
e. anticholinergic urinary incontinence drugs;
f. beta-blockers;
g. bisphosphonates;
h. calcium channel blockers;
i. fibric acid derivatives;
j. growth hormones and growth hormone stimulating factor;
k. H2 antagonists;
l. HMG-CoA reductase inhibitors;
m. hypnotics;
n. inhaled corticosteroids;
o. intranasal corticosteroids;
p. muscle relaxants;
q. nonsedating antihistamines;
r. nonsteroidal, anti-inflammatory drugs;
s. ophthalmic prostaglandin analogues;
t. proton pump inhibitors;
u. serotonin 5-HT3 receptor antagonist antiemetics;
v. syringes, penfills, and cartridges of insulin;
w. triptans

Listings of drug classes on the preferred drug list (PDL) without specification of the agents in the class allows the Medicaid pharmacy program to respond to market changes, such as new generic medication approval by the Food and Drug Administration or approval by the Medicaid Preferred Drug List Committee of a new agent's addition to a PDL class, and provides more cost-effective use of pharmaceuticals within the Medicaid program.

Expansion of prior authorization with automated processing will maximize cost savings with minimal impact on Medicaid beneficiary access to medications. Automated prior authorization allows for instantaneous, point-of-sale prior authorization processing. All prior authorization criteria will be submitted to the Medicaid Drug Utilization Review Board during open meetings, where public comment is heard and taken into consideration by the DUR Board. No medication with a statutory exception from prior authorization will be impacted by the expanded use of automated prior authorization.

For certain medications, when the information required for prior authorization cannot be practicably obtained via an automated mechanism, completion of a manual process will be required. Medications subject to this requirement will be:

a. all decubitus and wound care products;
b. all intravenous and oral dietary and nutritional products;
c. becaplermin;
d. botulinum toxin;
e. human growth hormone products;
f. linezolid;
g. omalizumab;
h. palivizumab;
i. pramlintide acetate;

Federal Mandate: This regulation change is not federally mandated.

Economic Impact: Preliminary estimates of cost savings accrued from use of enhanced prior authorization suggest a savings of $1.5 million in the first fiscal year. Cost savings in subsequent years is expected to increase significantly. Application of savings experienced by other state Medicaid agencies utilizing an enhanced prior authorization to Kansas Medicaid population data suggest a potential savings of $10-$20 million per year.

By placing select agents in these newly approved preferred drug list classes on prior authorization and ensuring appropriate use, it is expected to ensure the most cost effective use of the drugs in these drug classes.

Drug Class	Expenditures per drug class
a. Alphaglucosidase inhibitors	No direct fiscal impact; part of antidiabetic agents
b. Angiotensin II receptor antagonists—calcium channel blockers	$70,000
c. Beta2 agonists	No direct fiscal impact; combining short acting and long acting agents
d. Biguanides	No direct fiscal impact; part of antidiabetic agents
e. Dipeptidyl peptidase-4 inhibitors	$400,000
f. Erythropoesis stimulating agents	$300,000
g. Intranasal antihistamines	$50,000
h. Long-acting insulins	$1,500,000
i. Long-acting opiods	$3,500,000
j. Meglitinides	No direct fiscal impact; part of antidiabetic agents
k. Ophthalmic antihistamines-mast cell stabilizers	$150,000
l. Oral contraceptives	$500,000
m. Pancreatic enzyme replacement products	$400,000
n. Targeted immune modulators	$1,200,000
o. Thiazolinediones	No direct fiscal impact; part of antidiabetic agents
p. Xanthine oxidase inhibitors	$13,000

Listing of drug classes already on the preferred drug list without specification of the agents within the class will provide a cost saving by allowing KHPA to revise the preferred drug list when changes to the class occur, such as the entry of a new generic equivalent to a drug in the class. Additionally, it will allow for more efficient addition of drugs new to the class, preventing market shift to more expensive, but not more effective, agents. Addition of new drugs to a class will only occur after review and approval of the new agent by the Medicaid Preferred Drug List Committee, which is composed of actively practicing physicians and pharmacists.

Bearer of Cost: The cost of reviewing prior authorization will be borne by KHPA. If a Medicaid consumer wishes to have a drug despite a prior authorization denial the cost will be borne by the consumer.

Affected Parties: Medicaid consumers, pharmacists, physicians and the Medicaid agency.

Other Methods: There were no other appropriate methods for the desired outcome.

Andrew Allison, Ph.D.
Executive Director

Doc. No. 038820

10-2

Products that earn the ENERGY STAR prevent greenhouse gas emissions by meeting strict energy efficiency guidelines set by the U.S. Environmental Protection Agency and the U.S. Department of Energy.
www.energystar.gov

CHANGE FOR THE BETTER WITH ENERGY STAR

Life Cycle Cost Estimate for 100 ENERGY STAR Qualified Television(s)

This energy savings calculator was developed by the U.S. EPA and U.S. DOE and is provided for estimating purposes only. Actual energy savings may vary based on use and other factors.

Enter your own values in the gray boxes or use our default values.

Number of units	100
Electric Rate ($/kWh)	$0.103
Screen Size (Diagonal Inches)	31"-40"
Average Hours TV is On per Day	5
Average Hours TV is Off (standby) per Day	19

	ENERGY STAR Qualified Unit	Conventional Unit
Initial Cost per Unit (estimated retail price)	$625	$800

Annual and Life Cycle Costs and Savings for 100 Television(s)

	100 ENERGY STAR Qualified Unit(s)	100 Conventional Unit(s)	Savings with ENERGY STAR
Annual Operating Costs*			
Energy cost	$2,681	$3,190	$508
Total	**$2,681**	**$3,190**	**$508**
Life Cycle Costs*			
Energy costs	$14,055	$16,720	$2,665
Maintenance costs	$0	$0	$0
Purchase price for 100 unit(s)	$82,500	$79,999	-$2,501
Total	**$96,555**	**$96,719**	**$164**
Simple payback of initial additional cost (years)†			4.9

** Annual costs exclude the initial purchase price. All costs, except initial cost, are discounted over the products' lifetime using a real discount rate of 4%. See "Assumptions" to change factors including the discount rate.*

† A simple payback period of zero years means that the payback is immediate.

Summary of Benefits for 100 Television(s)

Initial cost difference	$2,501
Life cycle savings	$2,665
Net life cycle savings (life cycle savings - additional cost)	$164
Simple payback of additional cost (years)	4.9
Life cycle energy saved (kWh)	29,620
Life cycle air pollution reduction (lbs of CO_2)	45,614
Air pollution reduction equivalence (number of cars removed from the road for a year)	3.8
Air pollution reduction equivalence (acres of forest)	4.7
Savings as a percent of retail price	0%

Joint Committee on
Administrative Rules & Regulations
November 8, 2010
Attachment 11

OMB No. 2060-0347

STATEMENT OF ENERGY PERFORMANCE
Office Sample Facility

Building ID: 1678984
For 12-month Period Ending: May 31, 2009[1]
Date SEP becomes ineligible: September 28, 2009

Date SEP Generated: August 27, 2009

Facility
Office Sample Facility
1234 Main Street
Charlotte, NC 28227

Facility Owner
Sample Owner
1500 Test Avenue
Charlotte, NC 28227
555-555-5555

Primary Contact for this Facility
Jane Smith
1500 Test Avenue
Charlotte, NC 28227
555-555-5555
jsmith@jsmith.com

Year Built: 2000
Gross Floor Area (ft²): 53,232

Energy Performance Rating[2] (1-100) 85

Site Energy Use Summary[3]

Electricity - Grid Purchase(kBtu)	2,288,770
Natural Gas (kBtu)[4]	1,162,996
Total Energy (kBtu)	3,451,766

Energy Intensity[5]

Site (kBtu/ft²/yr)	65
Source (kBtu/ft²/yr)	166

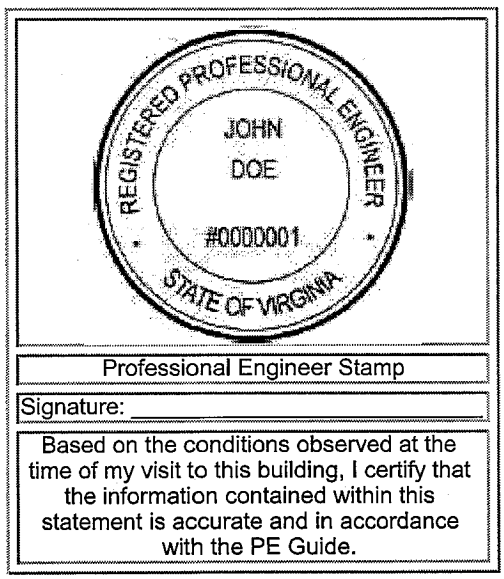
Emissions (based on site energy use)

Greenhouse Gas Emissions ($MtCO_2e$/year)	409

Electric Distribution Utility
Duke Energy Carolinas, LLC

National Average Comparison

National Average Site EUI	102
National Average Source EUI	261
% Difference from National Average Source EUI	-36%
Building Type	Office



Professional Engineer Stamp

Signature: _____

Based on the conditions observed at the time of my visit to this building, I certify that the information contained within this statement is accurate and in accordance with the PE Guide.

Meets Industry Standards[6] **for Indoor Environmental Conditions:**

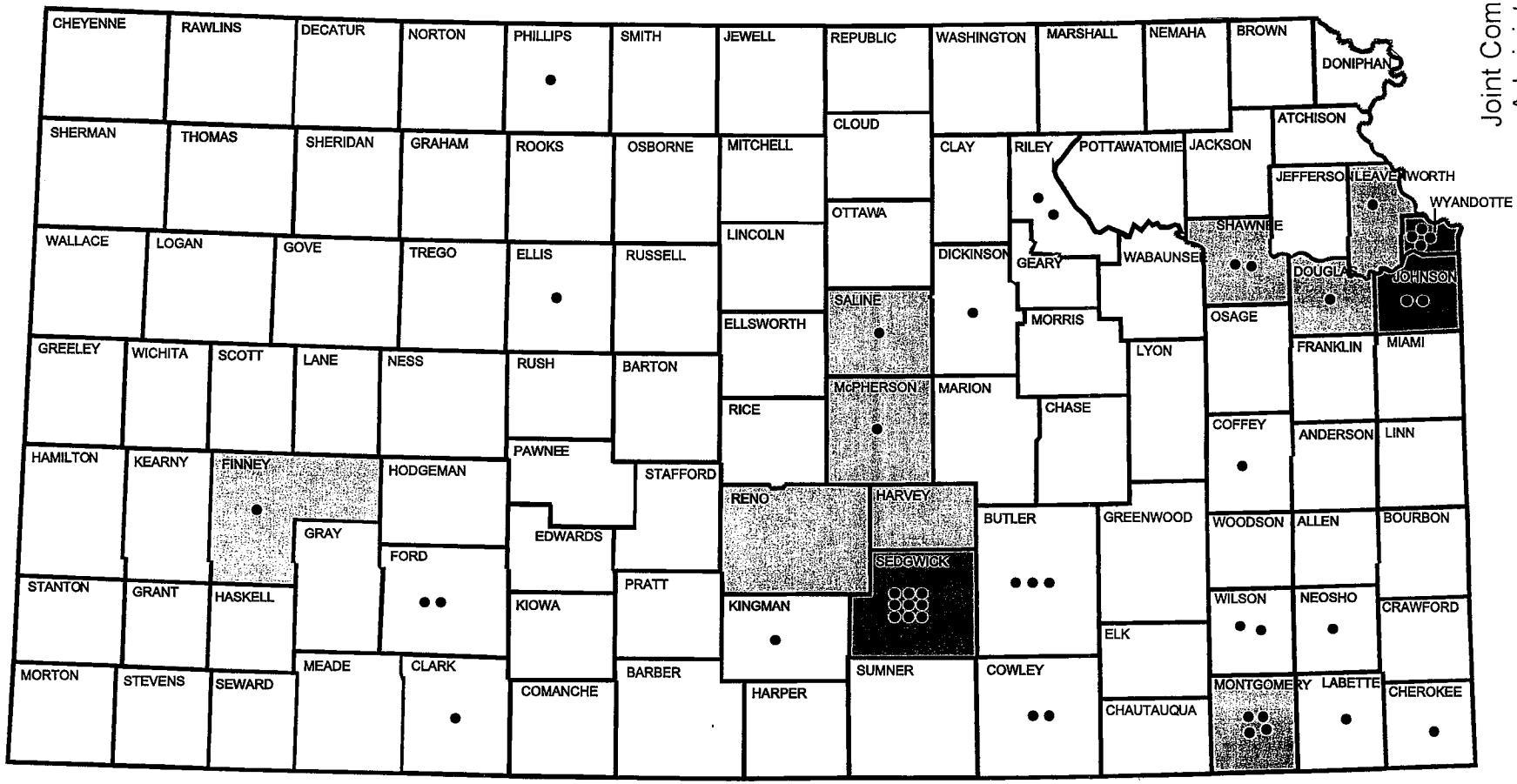
Ventilation for Acceptable Indoor Air Quality	**Yes**
Acceptable Thermal Environmental Conditions	**Yes**
Adequate Illumination	**Yes**

Professional Engineer
License Number: 0000203
State: NC
John Doe
33 Country Lane
Charlotte, NC 28227
555-555-7788

Notes:
1. Application for the ENERGY STAR must be submitted to EPA within 4 months of the Period Ending date. Award of the ENERGY STAR is not final until approval is received from EPA.
2. The EPA Energy Performance Rating is based on total source energy. A rating of 75 is the minimum to be eligible for the ENERGY STAR.
3. Values represent energy consumption, annualized to a 12-month period.
4. Natural Gas values in units of volume (e.g. cubic feet) are converted to kBtu with adjustments made for elevation based on Facility zip code.
5. Values represent energy intensity, annualized to a 12-month period.
6. Based on Meeting ASHRAE Standard 62 for ventilation for acceptable indoor air quality, ASHRAE Standard 55 for thermal comfort, and IESNA Lighting Handbook for lighting quality.

Tracking Number: SEP200908270001037162

Hazardous Waste Generators and TSDs



Kansas Department of Health and Environment
Bureau of Waste Management

11/10

Joint Committee on
Administrative Rules & Regulations
November 8, 2010
Attachment 13

KANSAS
DEPARTMENT ON AGING

Mark Parkinson, Governor
Martin Kennedy, Secretary
www.agingkansas.org

October 29, 2010

Raney L. Gilliland
Assistant Director for Research
Kansas Legislative Research Department
Room 68 West, State Capitol Building
300 S.W. 10th Avenue
Topeka, KS 66612

RE: Response to Joint Committee on Administrative Rules and Regulations

Dear Mr. Gilliland:

At its meeting on September 20, 2010, the Joint Committee on Administrative Rules and Regulations reviewed for public comment proposed Nursing Facility Physical Environment regulations. After discussion, the Committee had several comments, including the following:

> "The Committee requests the Department on Aging reach out to adult care homes and nursing facilities located in rural and western Kansas for input on these regulations. It also requests the Department review comments submitted to the Committee and attached to this letter. Prior to the Committee's November 8 meeting, please respond in writing with a summary of the Department's efforts."

Agency's Response:

The Kansas Department on Aging's (KDOA's) Director of Long Term Care made a presentation on the proposed nursing facility regulations at the Kansas Association of Homes and Services for the Aging (KAHSA) Conference in Junction City, KS on September 28, 2010, which was attended by approximately 35 nursing facility professionals. Provider feedback on the proposed regulations was encouraged as part of the presentation. In response to the Joint Committee's request for KDOA to solicit additional input on these proposed regulations from nursing facilities located in rural and western Kansas, an audio/video presentation was created based on the material presented at the KAHSA Conference and added to KDOA's website. On October 8th, KDOA sent e-mails to administrators of licensed nursing facilities throughout the state to inform them of the availability of this 35-minute presentation on KDOA's website. Submission of written or oral comments on the proposed regulations was encouraged. To date, no written comments have been received; however, providers have until November 9th to submit a formal written response or they may elect to provide oral or written testimony during the public hearing scheduled for Tuesday, November 9th.

New England Building, 503 S. Kansas Avenue, Topeka, KS 66603-3404
Voice: (785) 296-4986 • Toll-Free: (800) 432-3535 • Fax: (785) 296-0256
TTY (Hearing Impaired): (785) 291-3167 • E-Mail: wwwmail@aging.ks.gov

KDOA staff appreciate the comments received from the Joint Committee and will include these, along with the written testimony presented to the Joint Committee, with the public comments it receives during the 60-day comment period and at the public hearing. Once all comments have been received and a final determination has been made on recommended revisions, KDOA staff will respond to the remaining Joint Committee comments included in its letter dated September 24, 2010.

Thank you for your comments. The agency will follow the directives presented in the Joint Committee's letter and will continue to keep the committee informed as required.

Sincerely,

Martin Kennedy

Martin Kennedy
Secretary

MK:ps

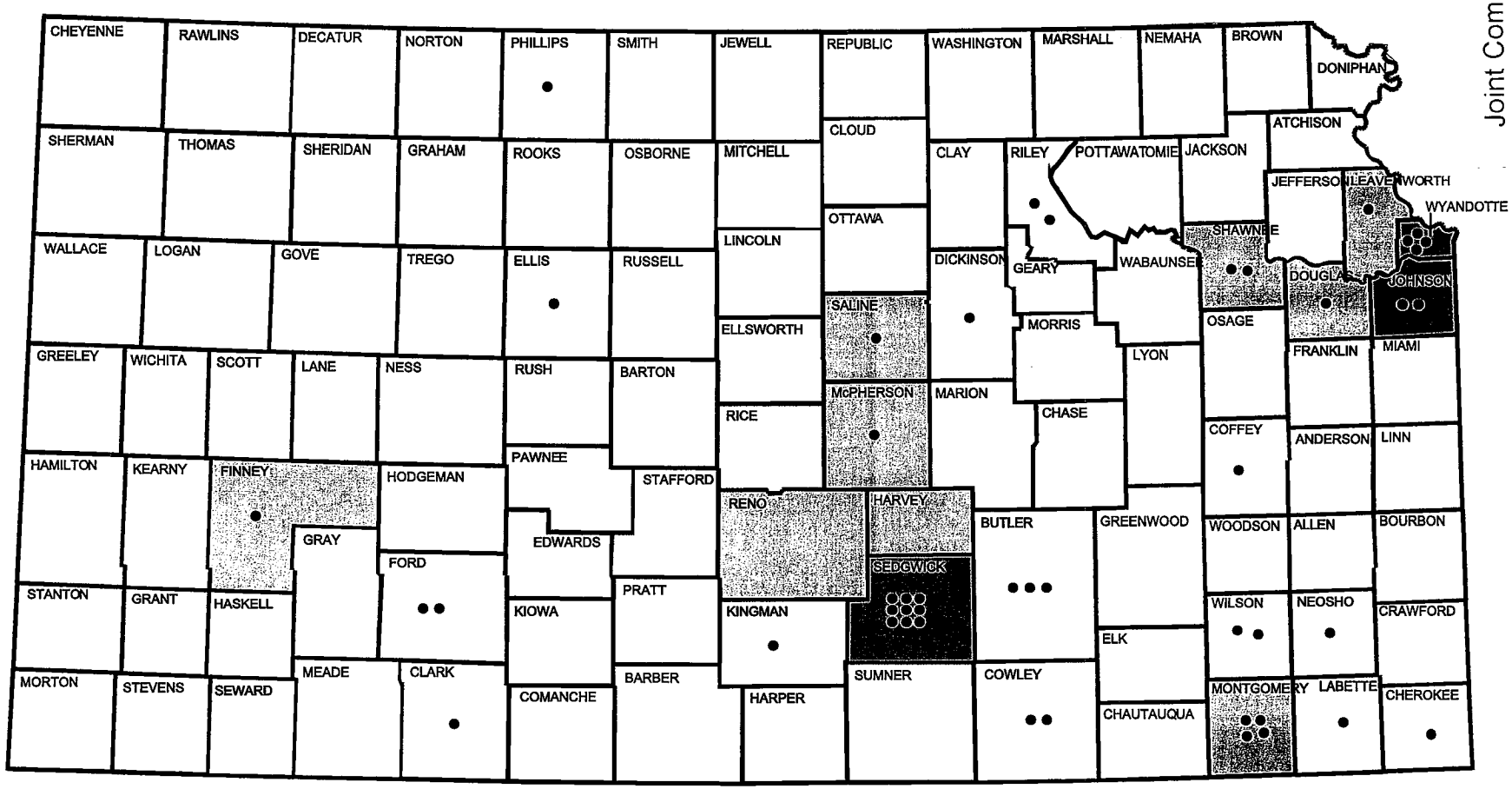
egulations

14-2

Accumulation Limits for Hazardous Waste Generators

Current regulations			Proposed regulations		
Name	**Quantity Limit**	**Time Limit**	**Name**	**Quantity Limit**	**Time Limit**
SQG	1000 kg	No limit	CESQG	1000 kg	No limit
KS Generator	1000 kg	No limit	KSQG	1000 kg	No limit
			SQG	6000 kg	180 (or 270) days
EPA Generator	No limit	90 days plus multiple 30-day extensions	LQG	No limit	90 days plus one 30-day extension

Hazardous Waste Generators and TSDs

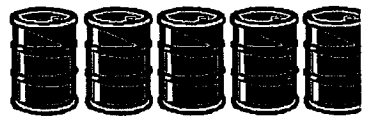


Kansas Department of Health and Environment
Bureau of Waste Management

11/10

Joint Committee on Administrative Rules & Regulations
November 8, 2010
Attachment 16

Comparison of Terms Used for Generators by Kansas and EPA

Generator size in kg of HW/month	Kansas Current Classification	Kansas Proposed Classification (# of generators)	Federal (EPA) Classification
< 25 kg 	Small quantity generator	Conditionally exempt small quantity generator (4000)	Conditionally exempt small quantity generator
25 - 100 kg 	Kansas generator	Kansas small quantity generator (700)	
100 - 1,000 kg 		Small quantity generator (700)	Small quantity generator
> 1,000 kg 	EPA generator	Large quantity generator (200)	Large quantity generator