

HOUSE BILL No. 2602

By Committee on Insurance and Financial Institutions

2-3

1 AN ACT concerning social welfare; relating to the Kansas program of
2 medical assistance; income and resource exemptions; amending K.S.A.
3 2015 Supp. 39-709 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2015 Supp. 39-709 is hereby amended to read as
7 follows: 39-709. (a) *General eligibility requirements for assistance for*
8 *which federal moneys are expended.* Subject to the additional requirements
9 below, assistance in accordance with plans under which federal moneys
10 are expended may be granted to any needy person who:

11 (1) Has insufficient income or resources to provide a reasonable
12 subsistence compatible with decency and health. Where a husband and
13 wife or cohabiting partners are living together, the combined income or
14 resources of both shall be considered in determining the eligibility of
15 either or both for such assistance unless otherwise prohibited by law. The
16 secretary, in determining need of any applicant for or recipient of
17 assistance shall not take into account the financial responsibility of any
18 individual for any applicant or recipient of assistance unless such applicant
19 or recipient is such individual's spouse, cohabiting partner or such
20 individual's minor child or minor stepchild if the stepchild is living with
21 such individual. The secretary in determining need of an individual may
22 provide such income and resource exemptions as may be permitted by
23 federal law. For purposes of eligibility for temporary assistance for needy
24 families, for food assistance and for any other assistance provided through
25 the Kansas department for children and families under which federal
26 moneys are expended, the secretary for children and families shall
27 consider one motor vehicle owned by the applicant for assistance,
28 regardless of the value of such vehicle, as exempt personal property and
29 shall consider any equity in any boat, personal water craft, recreational
30 vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined
31 by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle
32 owned by the applicant for assistance to be a nonexempt resource of the
33 applicant for assistance except that any additional motor vehicle used by
34 the applicant, the applicant's spouse or the applicant's cohabiting partner
35 for the primary purpose of earning income may be considered as exempt
36 personal property in the secretary's discretion.

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

3 (b) *Temporary assistance for needy families.* Assistance may be
4 granted under this act to any dependent child, or relative, subject to the
5 general eligibility requirements as set out in subsection (a), who resides in
6 the state of Kansas or whose parent or other relative with whom the child
7 is living resides in the state of Kansas. Such assistance shall be known as
8 temporary assistance for needy families. On and after January 1, 2017, the
9 department shall conduct an electronic check for any false information
10 provided on an application for TANF and other benefits programs
11 administered by the department. Where the husband and wife or
12 cohabiting partners are living together, both shall register for work under
13 the program requirements for temporary assistance for needy families in
14 accordance with criteria and guidelines prescribed by rules and regulations
15 of the secretary.

16 (1) As used in this subsection, "family group" or "household" means
17 the applicant or recipient for TANF, child care subsidy or employment
18 services and all individuals living together in which there is a relationship
19 of legal responsibility or a qualifying caretaker relationship. This will
20 include a cohabiting boyfriend or girlfriend living with the person legally
21 responsible for the child. The family group shall not be eligible for TANF
22 if the family group contains at least one adult member who has received
23 TANF, including the federal TANF assistance received in any other state,
24 for 36 calendar months beginning on and after October 1, 1996, unless the
25 secretary determines a hardship exists and grants an extension allowing
26 receipt of TANF until the 48-month limit is reached. No extension beyond
27 48 months shall be granted. Hardship provisions for a recipient include:

28 (A) Is a caretaker of a disabled family member living in the
29 household;

30 (B) has a disability which precludes employment on a long-term basis
31 or requires substantial rehabilitation;

32 (C) needs a time limit extension to overcome the effects of domestic
33 violence/sexual assault;

34 (D) is involved with prevention and protection services (PPS) and has
35 an open social service plan; or

36 (E) is determined by the 36th month to have an extreme hardship other
37 than what is designated in criteria listed in subparagraphs (A) through (E).
38 This determination will be made by the executive review team.

39 (2) All adults applying for TANF shall be required to complete a
40 work program assessment as specified by the Kansas department for
41 children and families, including those who have been disqualified for or
42 denied TANF due to non-cooperation, drug testing requirements or fraud.
43 Adults who are not otherwise eligible for TANF, such as ineligible aliens,

1 relative/non-relative caretakers and adults receiving supplemental security
2 income are not required to complete the assessment process. During the
3 application processing period, applicants must complete at least one
4 module or its equivalent of the work program assessment to be considered
5 eligible for TANF benefits, unless good cause is found to be exempt from
6 the requirements. Good cause exemptions shall only include:

7 (A) The applicant can document an existing certification verifying
8 completion of the work program assessment;

9 (B) the applicant has a valid offer of employment or is employed a
10 minimum of 20 hours a week;

11 (C) the applicant is a parenting teen without a GED or high school
12 diploma;

13 (D) the applicant is enrolled in job corps;

14 (E) the applicant is working with a refugee social services agency; or

15 (F) the applicant has completed the work program assessment within
16 the last 12 months.

17 (3) The department for children and families shall maintain a
18 sufficient level of dedicated work program staff to enable the agency to
19 conduct work program case management services to TANF recipients in a
20 timely manner and in full accordance with state law and agency policy.

21 (4) TANF mandatory work program applicants and recipients shall
22 participate in work components that lead to competitive, integrated
23 employment. Components are defined by the federal government as being
24 either primary or secondary. In order to meet federal work participation
25 requirements, households need to meet at least 30 hours of participation
26 per week, at least 20 hours of which need to be primary and at least 10
27 hours may be secondary components in one parent households where the
28 youngest child is six years of age or older. Participation hours shall be 55
29 hours in two parent households (35 hours per week if child care is not
30 used). The maximum assignment is 40 hours per week per individual. For
31 two parent families to meet the federal work participation rate both parents
32 must participate in a combined total of 55 hours per week, 50 hours of
33 which must be in primary components, or one or both parents could be
34 assigned a combined total of 35 hours per week (30 hours of which must
35 be primary components) if department for children and families paid child
36 care is not received by the family. Single parent families with a child under
37 age six meet the federal participation requirement if the parent is engaged
38 in work or work activities for at least 20 hours per week in a primary work
39 component. The following components meet federal definitions of primary
40 hours of participation: Full or part-time employment, apprenticeship, work
41 study, self-employment, job corps, subsidized employment, work
42 experience sites, on-the-job training, supervised community service,
43 vocational education, job search and job readiness. Secondary components

1 include: Job skills training, education directly related to employment such
2 as adult basic education and English as a second language, and completion
3 of a high school diploma or GED.

4 (5) A parent or other adult caretaker personally providing care for a
5 child under the age of three months in their TANF household is exempt
6 from work participation activities until the month the child turns three
7 months of age. Such three-month limitation shall not apply to a parent or
8 other adult caretaker who is personally providing care for a child born
9 significantly premature, with serious medical conditions or with a
10 disability as defined by the secretary, in consultation with the secretary of
11 health and environment, and adopted in the rules and regulations. The
12 three-month period is defined as two consecutive months starting with the
13 month after childbirth. The exemption for caring for a child under three
14 months cannot be claimed:

15 (A) By either parent when two parents are in the home and the
16 household meets the two-parent definition for federal reporting purposes;

17 (B) by one parent or caretaker when the other parent or caretaker is in
18 the home, and available, capable and suitable to provide care and the
19 household does not meet the two-parent definition for federal reporting
20 purposes;

21 (C) by a person age 19 or younger when such person is pregnant or a
22 parent of a child in the home and the person does not possess a high school
23 diploma or its equivalent. Such person shall become exempt the month
24 such person turns age 20;

25 (D) by any adult in the TANF assistance plan when at least one adult
26 has reached the 36 months of TANF cash assistance; or

27 (E) by any person assigned to a work participation activity for
28 substance use disorders.

29 (6) TANF work experience placements shall be reviewed after 90
30 days and are limited to six months per 48-month lifetime limit. A client's
31 progress shall be reviewed prior to each new placement regardless of the
32 length of time they are at the work experience site.

33 (7) TANF participants with disabilities shall engage in required
34 employment activities to the maximum extent consistent with their
35 abilities. TANF participants shall provide current documentation by a
36 qualified medical practitioner that details the abilities to engage in
37 employment and any limitations in work activities along with the expected
38 duration of such limitations. Disability is defined as a physical or mental
39 impairment constituting or resulting in a substantial impediment to
40 employment for such individual.

41 (8) Non-cooperation is the failure of the applicant or recipient to
42 comply with all requirements provided in state and federal law, federal and
43 state rules and regulations and agency policy. The period of ineligibility

1 for TANF benefits based on non-cooperation with work programs shall be
2 as follows:

3 (A) For a first penalty, three months and full cooperation with work
4 program activities;

5 (B) for a second penalty, six months and full cooperation with work
6 program activities;

7 (C) for a third penalty, one year and full cooperation with work
8 program activities; and

9 (D) for a fourth or subsequent penalty, 10 years.

10 (9) Individuals that have not cooperated with TANF work programs
11 shall be ineligible to participate in the food assistance program. The
12 comparable penalty shall be applied to only the individual in the food
13 assistance program who failed to comply with the TANF work
14 requirement. The agency shall impose the same penalty to the member of
15 the household who failed to comply with TANF requirements. The penalty
16 periods are three months, six months, one year, or 10 years.

17 (10) Non-cooperation is the failure of the applicant or recipient to
18 comply with all requirements provided in state and federal law, federal and
19 state rules and regulations and agency policy. The period of ineligibility
20 for child care subsidy or TANF benefits based on parents' non-cooperation
21 with child support services shall be as follows:

22 (A) For the first penalty, three months and cooperation with child
23 support services prior to regaining eligibility;

24 (B) for a second penalty, six months and cooperation with child
25 support services prior to regaining eligibility;

26 (C) for a third penalty, one year and cooperation with child support
27 services prior to regaining eligibility; and

28 (D) for a fourth penalty, 10 years.

29 (11) Individuals that have not cooperated without good cause with
30 child support services shall be ineligible to participate in the food
31 assistance program. The period of disqualification ends once it has been
32 determined that such individual is cooperating with child support services.

33 (12) Any individual who is found to have committed fraud or is
34 found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A.
35 2015 Supp. 21-5801, and amendments thereto, in either the TANF or child
36 care program shall render all adults in the family unit ineligible for TANF
37 assistance. Adults in the household who were determined to have
38 committed fraud or were convicted of the crime of theft pursuant to K.S.A.
39 39-720 and K.S.A. 2015 Supp. 21-5801, and amendments thereto, shall
40 render themselves and all adult household members ineligible for their
41 lifetime for TANF, even if fraud was committed in only one program.
42 Households who have been determined to have committed fraud or were
43 convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2015

1 Supp. 21-5801, and amendments thereto, shall be required to name a
2 protective payee as approved by the secretary or the secretary's designee to
3 administer TANF benefits or food assistance on behalf of the children. No
4 adult in a household may have access to the TANF cash assistance benefit.

5 (13) (A) Food assistance shall not be provided to any person
6 convicted of a felony offense occurring on or after July 1, 2015, which
7 includes as an element of such offense the manufacture, cultivation,
8 distribution, possession or use of a controlled substance or controlled
9 substance analog. For food assistance, the individual shall be permanently
10 disqualified if they have been convicted of a state or federal felony offense
11 occurring on or after July 1, 2015, involving possession or use of a
12 controlled substance or controlled substance analog.

13 (B) Notwithstanding the provisions of subparagraph (A), an
14 individual shall be eligible for food assistance if the individual enrolls in
15 and participates in a drug treatment program approved by the secretary,
16 submits to and passes a drug test and agrees to submit to drug testing if
17 requested by the department pursuant to a drug testing plan.

18 An individual's failure to submit to testing or failure to successfully
19 pass a drug test shall result in ineligibility for food assistance until a drug
20 test is successfully passed. Failure to successfully complete a drug
21 treatment program shall result in ineligibility for food assistance until a
22 drug treatment plan approved by the secretary is successfully completed,
23 the individual passes a drug test and agrees to submit to drug testing if
24 requested by the department pursuant to a drug testing plan.

25 (C) The provisions of subparagraph (B) shall not apply to any
26 individual who has been convicted for a second or subsequent felony
27 offense as provided in subparagraph (A).

28 (14) No TANF cash assistance shall be used to purchase alcohol,
29 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
30 collegiate sporting event tickets or tickets for other entertainment events
31 intended for the general public or sexually oriented adult materials. No
32 TANF cash assistance shall be used in any retail liquor store, casino,
33 gaming establishment, jewelry store, tattoo parlor, massage parlor, body
34 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
35 vapor cigarette store, psychic or fortune telling business, bail bond
36 company, video arcade, movie theater, swimming pool, cruise ship, theme
37 park, dog or horse racing facility, parimutuel facility, or sexually oriented
38 business or any retail establishment which provides adult-oriented
39 entertainment in which performers disrobe or perform in an unclothed
40 state for entertainment, or in any business or retail establishment where
41 minors under age 18 are not permitted. TANF cash assistance transactions
42 for cash withdrawals from automated teller machines shall be limited to
43 \$25, per transaction and to one transaction per day. No TANF cash

1 assistance shall be used for purchases at points of sale outside the state of
2 Kansas. The secretary for children and families is authorized to raise or
3 rescind the automated teller machine withdrawal limit established by this
4 section in order to ensure continued appropriation of the TANF block grant
5 through compliance with the provisions of the middle class tax relief and
6 job creation act of 2012 which govern adequate access to cash assistance.

7 (15) (A) The secretary for children and families shall place a
8 photograph of the recipient, if agreed to by such recipient of public
9 assistance, on any Kansas benefits card issued by the Kansas department
10 for children and families that the recipient uses in obtaining food, cash or
11 any other services. When a recipient of public assistance is a minor or
12 otherwise incapacitated individual, a parent or legal guardian of such
13 recipient may have a photograph of such parent or legal guardian placed
14 on the card.

15 (B) Any Kansas benefits card with a photograph of a recipient shall
16 be valid for voting purposes as a public assistance identification card in
17 accordance with the provisions of K.S.A. 25-2908, and amendments
18 thereto.

19 (C) As used in this paragraph and its subparagraphs, "Kansas benefits
20 card" means any card issued to provide food assistance, cash assistance or
21 child care assistance, including, but not limited to, the vision card, EBT
22 card and Kansas benefits card.

23 (16) The secretary for children and families shall adopt rules and
24 regulations:

25 (A) In determining eligibility for the child care subsidy program,
26 including an income of a cohabiting partner in a child care household; and

27 (B) in determining and maintaining eligibility for non-TANF child
28 care, requiring that all included adults shall be employed a minimum of 20
29 hours per week or more as defined by the secretary or meet the following
30 specific qualifying exemptions:

31 (i) Adults who are not capable of meeting the requirement due to a
32 documented physical or mental condition;

33 (ii) adults who are former TANF recipients who need child care for
34 employment after their TANF case has closed and earned income is a
35 factor in the closure in the two months immediately following TANF
36 closure;

37 (iii) adult parents included in a case in which the only child receiving
38 benefits is the child of a minor parent who is working on completion of
39 high school or obtaining a GED; or

40 (iv) adults who are participants in a mandatory food assistance
41 education and training program.

42 The department for children and families shall provide child care for
43 the pursuit of any degree or certification if the occupation has at least an

1 average job outlook listed in the occupational outlook of the U.S.
2 department of labor, bureau of labor statistics. For occupations with less
3 than an average job outlook, educational plans shall require approval of
4 the secretary or secretary's designee. Child care may also be approved if
5 the student provides verification of a specific job offer that will be
6 available to such student upon completion of the program. Child care for
7 post-secondary education shall be allowed for a lifetime maximum of 24
8 months per adult. The 24 months may not have to be consecutive. Students
9 shall be engaged in paid employment for a minimum of 15 hours per
10 week. In a two-parent adult household, child care would not be allowed if
11 both parents are adults and attending a formal education or training
12 program at the same time. The household may choose which one of the
13 parents is participating as a post-secondary student. The other parent shall
14 meet another approvable criteria for child care subsidy.

15 (17) The secretary for children and families is prohibited from
16 requesting or implementing a waiver or program from the U.S. department
17 of agriculture for the time limited assistance provisions for able-bodied
18 adults aged 18 through 49 without dependents in a household under the
19 food assistance program. The time on food assistance for able-bodied
20 adults aged 18 through 49 without dependents in the household shall be
21 limited to three months in a 36-month period if such adults are not meeting
22 the requirements imposed by the U.S. department of agriculture that they
23 must work for at least 20 hours per week or participate in a federally
24 approved work program or its equivalent.

25 (18) Eligibility for the food assistance program shall be limited to
26 those individuals who are citizens or who meet qualified non-citizen status
27 as determined by U.S. department of agriculture. Non-citizen individuals
28 who are unable or unwilling to provide qualifying immigrant
29 documentation, as defined by the U.S. department of agriculture, residing
30 within a household shall not be included when determining the household's
31 size for the purposes of assigning a benefit level to the household for food
32 assistance or comparing the household's monthly income with the income
33 eligibility standards. The gross non-exempt earned and unearned income
34 and resources of disqualified individuals shall be counted in its entirety as
35 available to the remaining household members.

36 (19) The secretary for children and families shall not enact the state
37 option from the U.S. department of agriculture for broad-based categorical
38 eligibility for households applying for food assistance according to the
39 provisions of 7 C.F.R. § 273.2(j)(2)(ii).

40 (20) No federal or state funds shall be used for television, radio or
41 billboard advertisements that are designed to promote food assistance
42 benefits and enrollment. No federal or state funding shall be used for any
43 agreements with foreign governments designed to promote food

1 assistance.

2 (21) (A) The secretary for children and families shall not apply gross
3 income standards for food assistance higher than the standards specified in
4 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical
5 eligibility exempting households from such gross income standards
6 requirements shall not be granted for any non-cash, in-kind or other
7 benefit unless expressly required by federal law.

8 (B) The secretary for children and families shall not apply resource
9 limits standards for food assistance that are higher than the standards
10 specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal
11 law. Categorical eligibility exempting households from such resource
12 limits shall not be granted for any non-cash, in-kind or other benefit unless
13 expressly required by federal law.

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

1 (d) *Requirements for medical assistance for which federal moneys or*
2 *state moneys or both are expended.* (1) When the secretary has adopted a
3 medical care plan under which federal moneys or state moneys or both are
4 expended, medical assistance in accordance with such plan shall be
5 granted to any person who is a citizen of the United States or who is an
6 alien lawfully admitted to the United States and who is residing in the state
7 of Kansas, whose resources and income do not exceed the levels
8 prescribed by the secretary. In determining the need of an individual, the
9 secretary may provide for income and resource exemptions and protected
10 income and resource levels. Resources from inheritance shall be counted.
11 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
12 amendments thereto, shall constitute a transfer of resources. The secretary
13 shall exempt principal and interest held in irrevocable trust pursuant to
14 K.S.A. 16-303(c), and amendments thereto, from the eligibility
15 requirements of applicants for and recipients of medical assistance. *The*
16 *secretary shall exempt annual social security disability benefits of \$15,000*
17 *or less from the eligibility requirements of applicants for and recipients of*
18 *medical assistance if such social security disability benefits are the sole*
19 *source of income for an individual.* Such assistance shall be known as
20 medical assistance.

21 (2) For the purposes of medical assistance eligibility determinations
22 on or after July 1, 2004, if an applicant or recipient owns property in joint
23 tenancy with some other party and the applicant or recipient of medical
24 assistance has restricted or conditioned their interest in such property to a
25 specific and discrete property interest less than 100%, then such
26 designation will cause the full value of the property to be considered an
27 available resource to the applicant or recipient. Medical assistance
28 eligibility for receipt of benefits under the title XIX of the social security
29 act, commonly known as medicaid, shall not be expanded, as provided for
30 in the patient protection and affordable care act, public law 111-148, 124
31 stat. 119, and the health care and education reconciliation act of 2010,
32 public law 111-152, 124 stat. 1029, unless the legislature expressly
33 consents to, and approves of, the expansion of medicaid services by an act
34 of the legislature.

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

39 (B) If a trust has discretionary language, the trust shall be considered
40 to be an available resource to the extent, using the full extent of discretion,
41 the trustee may make any of the income or principal available to the
42 applicant or recipient of medical assistance. Any such discretionary trust
43 shall be considered an available resource unless: (i) At the time of creation

1 or amendment of the trust, the trust states a clear intent that the trust is
2 supplemental to public assistance; and (ii) the trust: (a) Is funded from
3 resources of a person who, at the time of such funding, owed no duty of
4 support to the applicant or recipient of medical assistance; or (b) is funded
5 not more than nominally from resources of a person while that person
6 owed a duty of support to the applicant or recipient of medical assistance.

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

10 (4) (A) When an applicant or recipient of medical assistance is a party
11 to a contract, agreement or accord for personal services being provided by
12 a nonlicensed individual or provider and such contract, agreement or
13 accord involves health and welfare monitoring, pharmacy assistance, case
14 management, communication with medical, health or other professionals,
15 or other activities related to home health care, long term care, medical
16 assistance benefits, or other related issues, any moneys paid under such
17 contract, agreement or accord shall be considered to be an available
18 resource unless the following restrictions are met: (i) The contract,
19 agreement or accord must be in writing and executed prior to any services
20 being provided; (ii) the moneys paid are in direct relationship with the fair
21 market value of such services being provided by similarly situated and
22 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed
23 individuals or situations can be found, the value of services will be based
24 on federal hourly minimum wage standards; (iv) such individual providing
25 the services will report all receipts of moneys as income to the appropriate
26 state and federal governmental revenue agencies; (v) any amounts due
27 under such contract, agreement or accord shall be paid after the services
28 are rendered; (vi) the applicant or recipient shall have the power to revoke
29 the contract, agreement or accord; and (vii) upon the death of the applicant
30 or recipient, the contract, agreement or accord ceases.

31 (B) When an applicant or recipient of medical assistance is a party to
32 a written contract for personal services being provided by a licensed health
33 professional or facility and such contract involves health and welfare
34 monitoring, pharmacy assistance, case management, communication with
35 medical, health or other professionals, or other activities related to home
36 health care, long term care, medical assistance benefits or other related
37 issues, any moneys paid in advance of receipt of services for such
38 contracts shall be considered to be an available resource.

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

41 (e) *Eligibility for medical assistance of resident receiving medical*
42 *care outside state.* A person who is receiving medical care including long-
43 term care outside of Kansas whose health would be endangered by the

1 postponement of medical care until return to the state or by travel to return
2 to Kansas, may be determined eligible for medical assistance if such
3 individual is a resident of Kansas and all other eligibility factors are met.
4 Persons who are receiving medical care on an ongoing basis in a long-term
5 medical care facility in a state other than Kansas and who do not return to
6 a care facility in Kansas when they are able to do so, shall no longer be
7 eligible to receive assistance in Kansas unless such medical care is not
8 available in a comparable facility or program providing such medical care
9 in Kansas. For persons who are minors or who are under guardianship, the
10 actions of the parent or guardian shall be deemed to be the actions of the
11 child or ward in determining whether or not the person is remaining
12 outside the state voluntarily.

13 (f) *Medical assistance; assignment of rights to medical support and*
14 *limited power of attorney; recovery from estates of deceased recipients.* (1)
15 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
16 amendments thereto, or as otherwise authorized on and after September
17 30, 1989, under section 303 of the federal medicare catastrophic coverage
18 act of 1988, whichever is applicable, by applying for or receiving medical
19 assistance under a medical care plan in which federal funds are expended,
20 any accrued, present or future rights to support and any rights to payment
21 for medical care from a third party of an applicant or recipient and any
22 other family member for whom the applicant is applying shall be deemed
23 to have been assigned to the secretary on behalf of the state. The
24 assignment shall automatically become effective upon the date of approval
25 for such assistance without the requirement that any document be signed
26 by the applicant or recipient. By applying for or receiving medical
27 assistance the applicant or recipient is also deemed to have appointed the
28 secretary, or the secretary's designee, as an attorney in fact to perform the
29 specific act of negotiating and endorsing all drafts, checks, money orders
30 or other negotiable instruments, representing payments received by the
31 secretary in on behalf of any person applying for, receiving or having
32 received such assistance. This limited power of attorney shall be effective
33 from the date the secretary approves the application for assistance and
34 shall remain in effect until the assignment has been terminated in full. The
35 assignment of any rights to payment for medical care from a third party
36 under this subsection shall not prohibit a health care provider from directly
37 billing an insurance carrier for services rendered if the provider has not
38 submitted a claim covering such services to the secretary for payment.
39 Support amounts collected on behalf of persons whose rights to support
40 are assigned to the secretary only under this subsection and no other shall
41 be distributed pursuant to K.S.A. 39-756(d), and amendments thereto,
42 except that any amounts designated as medical support shall be retained by
43 the secretary for repayment of the unreimbursed portion of assistance.

1 Amounts collected pursuant to the assignment of rights to payment for
2 medical care from a third party shall also be retained by the secretary for
3 repayment of the unreimbursed portion of assistance.

4 (B) Notwithstanding the provisions of subparagraph (A), the
5 secretary of health and environment, or the secretary's designee, is hereby
6 authorized to and shall exercise any of the powers specified in
7 subparagraph (A) in relation to performance of such secretary's duties
8 pertaining to medical subrogation, estate recovery or any other duties
9 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
10 Annotated, and amendments thereto.

11 (2) The amount of any medical assistance paid after June 30, 1992,
12 under the provisions of subsection (d) is: (A) A claim against the property
13 or any interest therein belonging to and a part of the estate of any deceased
14 recipient or, if there is no estate, the estate of the surviving spouse, if any,
15 shall be charged for such medical assistance paid to either or both; and (B)
16 a claim against any funds of such recipient or spouse in any account under
17 K.S.A. 9-1215, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments
18 thereto. There shall be no recovery of medical assistance correctly paid to
19 or on behalf of an individual under subsection (d) except after the death of
20 the surviving spouse of the individual, if any, and only at a time when the
21 individual has no surviving child who is under 21 years of age or is blind
22 or permanently and totally disabled. Transfers of real or personal property
23 by recipients of medical assistance without adequate consideration are
24 voidable and may be set aside. Except where there is a surviving spouse,
25 or a surviving child who is under 21 years of age or is blind or
26 permanently and totally disabled, the amount of any medical assistance
27 paid under subsection (d) is a claim against the estate in any guardianship
28 or conservatorship proceeding. The monetary value of any benefits
29 received by the recipient of such medical assistance under long-term care
30 insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall
31 be a credit against the amount of the claim provided for such medical
32 assistance under this subsection. The secretary of health and environment
33 is authorized to enforce each claim provided for under this subsection. The
34 secretary of health and environment shall not be required to pursue every
35 claim, but is granted discretion to determine which claims to pursue. All
36 moneys received by the secretary of health and environment from claims
37 under this subsection shall be deposited in the social welfare fund. The
38 secretary of health and environment may adopt rules and regulations for
39 the implementation and administration of the medical assistance recovery
40 program under this subsection.

41 (3) By applying for or receiving medical assistance under the
42 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and
43 amendments thereto, such individual or such individual's agent, fiduciary,

1 guardian, conservator, representative payee or other person acting on
2 behalf of the individual consents to the following definitions of estate and
3 the results therefrom:

4 (A) If an individual receives any medical assistance before July 1,
5 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
6 and amendments thereto, which forms the basis for a claim under
7 paragraph (2), such claim is limited to the individual's probatable estate as
8 defined by applicable law; and

9 (B) if an individual receives any medical assistance on or after July 1,
10 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
11 and amendments thereto, which forms the basis for a claim under
12 paragraph (2), such claim shall apply to the individual's medical assistance
13 estate. The medical assistance estate is defined as including all real and
14 personal property and other assets in which the deceased individual had
15 any legal title or interest immediately before or at the time of death to the
16 extent of that interest or title. The medical assistance estate includes,
17 without limitation assets conveyed to a survivor, heir or assign of the
18 deceased recipient through joint tenancy, tenancy in common,
19 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
20 trust, annuities or similar arrangement.

21 (4) The secretary of health and environment or the secretary's
22 designee is authorized to file and enforce a lien against the real property of
23 a recipient of medical assistance in certain situations, subject to all prior
24 liens of record and transfers for value to a bona fide purchaser of record.
25 The lien must be filed in the office of the register of deeds of the county
26 where the real property is located within one year from the date of death of
27 the recipient and must contain the legal description of all real property in
28 the county subject to the lien.

29 (A) After the death of a recipient of medical assistance, the secretary
30 of health and environment or the secretary's designee may place a lien on
31 any interest in real property owned by such recipient.

32 (B) The secretary of health and environment or the secretary's
33 designee may place a lien on any interest in real property owned by a
34 recipient of medical assistance during the lifetime of such recipient. Such
35 lien may be filed only after notice and an opportunity for a hearing has
36 been given. Such lien may be enforced only upon competent medical
37 testimony that the recipient cannot reasonably be expected to be
38 discharged and returned home. A six-month period of compensated
39 inpatient care at a nursing home or other medical institution shall
40 constitute a determination by the department of health and environment
41 that the recipient cannot reasonably be expected to be discharged and
42 returned home. To return home means the recipient leaves the nursing or
43 medical facility and resides in the home on which the lien has been placed

1 for a continuous period of at least 90 days without being readmitted as an
2 inpatient to a nursing or medical facility. The amount of the lien shall be
3 for the amount of assistance paid by the department of health and
4 environment until the time of the filing of the lien and for any amount paid
5 thereafter for such medical assistance to the recipient. After the lien is filed
6 against any real property owned by the recipient, such lien will be
7 dissolved if the recipient is discharged, returns home and resides upon the
8 real property to which the lien is attached for a continuous period of at
9 least 90 days without being readmitted as an inpatient to a nursing or
10 medical facility. If the recipient is readmitted as an inpatient to a nursing or
11 medical facility for a continuous period of less than 90 days, another
12 continuous period of at least 90 days shall be completed prior to
13 dissolution of the lien.

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

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

21 (B) when there is no child of the recipient, natural or adopted, who is
22 20 years of age or less residing in the home;

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

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

29 (6) The lien remains on the property even after a transfer of the title
30 by conveyance, sale, succession, inheritance or will unless one of the
31 following events occur:

32 (A) The lien is satisfied. The recipient, the heirs, personal
33 representative or assigns of the recipient may discharge such lien at any
34 time by paying the amount of the lien to the secretary of health and
35 environment or the secretary's designee;

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

38 (C) the value of the real property is consumed by the lien, at which
39 time the secretary of health and environment or the secretary's designee
40 may force the sale for the real property to satisfy the lien.

41 (7) If the secretary for aging and disability services or the secretary of
42 health and environment, or both, or such secretary's designee has not filed
43 an action to foreclose the lien in the Kansas district court in the county

1 where the real property is located within 10 years from the date of the
2 filing of the lien, then the lien shall become dormant, and shall cease to
3 operate as a lien on the real estate of the recipient. Such dormant lien may
4 be revived in the same manner as a dormant judgment lien is revived under
5 K.S.A. 60-2403 et seq., and amendments thereto.

6 (8) Within seven days of receipt of notice by the secretary for
7 children and families or the secretary's designee of the death of a recipient
8 of medical assistance under this subsection, the secretary for children and
9 families or the secretary's designee shall give notice of such recipient's
10 death to the secretary of health and environment or the secretary's
11 designee.

12 (9) All rules and regulations adopted on and after July 1, 2013, and
13 prior to July 1, 2014, to implement this subsection shall continue to be
14 effective and shall be deemed to be duly adopted rules and regulations of
15 the secretary of health and environment until revised, amended, revoked or
16 nullified pursuant to law.

17 (g) *Placement under the revised Kansas code for care of children or*
18 *revised Kansas juvenile justice code; assignment of support rights and*
19 *limited power of attorney.* In any case in which the secretary for children
20 and families pays for the expenses of care and custody of a child pursuant
21 to K.S.A. 2015 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
22 thereto, including the expenses of any foster care placement, an
23 assignment of all past, present and future support rights of the child in
24 custody possessed by either parent or other person entitled to receive
25 support payments for the child is, by operation of law, conveyed to the
26 secretary. Such assignment shall become effective upon placement of a
27 child in the custody of the secretary or upon payment of the expenses of
28 care and custody of a child by the secretary without the requirement that
29 any document be signed by the parent or other person entitled to receive
30 support payments for the child. When the secretary pays for the expenses
31 of care and custody of a child or a child is placed in the custody of the
32 secretary, the parent or other person entitled to receive support payments
33 for the child is also deemed to have appointed the secretary, or the
34 secretary's designee, as attorney in fact to perform the specific act of
35 negotiating and endorsing all drafts, checks, money orders or other
36 negotiable instruments representing support payments received by the
37 secretary on behalf of the child. This limited power of attorney shall be
38 effective from the date the assignment to support rights becomes effective
39 and shall remain in effect until the assignment of support rights has been
40 terminated in full.

41 (h) No person who voluntarily quits employment or who is fired from
42 employment due to gross misconduct as defined by rules and regulations
43 of the secretary or who is a fugitive from justice by reason of a felony

1 conviction or charge or violation of a condition of probation or parole
2 imposed under federal or state law shall be eligible to receive public
3 assistance benefits in this state. Any recipient of public assistance who
4 fails to timely comply with monthly reporting requirements under criteria
5 and guidelines prescribed by rules and regulations of the secretary shall be
6 subject to a penalty established by the secretary by rules and regulations.

7 (i) If the applicant or recipient of temporary assistance for needy
8 families is a mother of the dependent child, as a condition of the mother's
9 eligibility for temporary assistance for needy families the mother shall
10 identify by name and, if known, by current address the father of the
11 dependent child except that the secretary may adopt by rules and
12 regulations exceptions to this requirement in cases of undue hardship. Any
13 recipient of temporary assistance for needy families who fails to cooperate
14 with requirements relating to child support services under criteria and
15 guidelines prescribed by rules and regulations of the secretary shall be
16 subject to a penalty established by the secretary.

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

39 (k) (1) A program of drug screening for applicants for cash assistance
40 as a condition of eligibility for cash assistance and persons receiving cash
41 assistance as a condition of continued receipt of cash assistance shall be
42 established, subject to applicable federal law, by the secretary for children
43 and families on and before January 1, 2014. Under such program of drug

1 screening, the secretary for children and families shall order a drug
2 screening of an applicant for or a recipient of cash assistance at any time
3 when reasonable suspicion exists that such applicant for or recipient of
4 cash assistance is unlawfully using a controlled substance or controlled
5 substance analog. The secretary for children and families may use any
6 information obtained by the secretary for children and families to
7 determine whether such reasonable suspicion exists, including, but not
8 limited to, an applicant's or recipient's demeanor, missed appointments and
9 arrest or other police records, previous employment or application for
10 employment in an occupation or industry that regularly conducts drug
11 screening, termination from previous employment due to unlawful use of a
12 controlled substance or controlled substance analog or prior drug screening
13 records of the applicant or recipient indicating unlawful use of a controlled
14 substance or controlled substance analog.

15 (2) Any applicant for or recipient of cash assistance whose drug
16 screening results in a positive test may request that the drug screening
17 specimen be sent to a different drug testing facility for an additional drug
18 screening. Any applicant for or recipient of cash assistance who requests
19 an additional drug screening at a different drug testing facility shall be
20 required to pay the cost of drug screening. Such applicant or recipient who
21 took the additional drug screening and who tested negative for unlawful
22 use of a controlled substance and controlled substance analog shall be
23 reimbursed for the cost of such additional drug screening.

24 (3) Any applicant for or recipient of cash assistance who tests
25 positive for unlawful use of a controlled substance or controlled substance
26 analog shall be required to complete a substance abuse treatment program
27 approved by the secretary for children and families, secretary of labor or
28 secretary of commerce, and a job skills program approved by the secretary
29 for children and families, secretary of labor or secretary of commerce.
30 Subject to applicable federal laws, any applicant for or recipient of cash
31 assistance who fails to complete or refuses to participate in the substance
32 abuse treatment program or job skills program as required under this
33 subsection shall be ineligible to receive cash assistance until completion of
34 such substance abuse treatment and job skills programs. Upon completion
35 of both substance abuse treatment and job skills programs, such applicant
36 for or recipient of cash assistance may be subject to periodic drug
37 screening, as determined by the secretary for children and families. Upon a
38 second positive test for unlawful use of a controlled substance or
39 controlled substance analog, a recipient of cash assistance shall be ordered
40 to complete again a substance abuse treatment program and job skills
41 program, and shall be terminated from cash assistance for a period of 12
42 months, or until such recipient of cash assistance completes both substance
43 abuse treatment and job skills programs, whichever is later. Upon a third

1 positive test for unlawful use of a controlled substance or controlled
2 substance analog, a recipient of cash assistance shall be terminated from
3 cash assistance, subject to applicable federal law.

4 (4) If an applicant for or recipient of cash assistance is ineligible for
5 or terminated from cash assistance as a result of a positive test for
6 unlawful use of a controlled substance or controlled substance analog, and
7 such applicant for or recipient of cash assistance is the parent or legal
8 guardian of a minor child, an appropriate protective payee shall be
9 designated to receive cash assistance on behalf of such child. Such parent
10 or legal guardian of the minor child may choose to designate an individual
11 to receive cash assistance for such parent's or legal guardian's minor child,
12 as approved by the secretary for children and families. Prior to the
13 designated individual receiving any cash assistance, the secretary for
14 children and families shall review whether reasonable suspicion exists that
15 such designated individual is unlawfully using a controlled substance or
16 controlled substance analog.

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

31 (B) Any designated individual whose drug screening results in a
32 positive test may request that the drug screening specimen be sent to a
33 different drug testing facility for an additional drug screening. Any
34 designated individual who requests an additional drug screening at a
35 different drug testing facility shall be required to pay the cost of drug
36 screening. Such designated individual who took the additional drug
37 screening and who tested negative for unlawful use of a controlled
38 substance and controlled substance analog shall be reimbursed for the cost
39 of such additional drug screening.

40 (C) Upon any positive test for unlawful use of a controlled substance
41 or controlled substance analog, the designated individual shall not receive
42 cash assistance on behalf of the parent's or legal guardian's minor child,
43 and another designated individual shall be selected by the secretary for

1 children and families to receive cash assistance on behalf of such parent's
2 or legal guardian's minor child.

3 (5) If a person has been convicted under federal or state law of any
4 offense which is classified as a felony by the law of the jurisdiction and
5 which has as an element of such offense the manufacture, cultivation,
6 distribution, possession or use of a controlled substance or controlled
7 substance analog, and the date of conviction is on or after July 1, 2013,
8 such person shall thereby become forever ineligible to receive any cash
9 assistance under this subsection unless such conviction is the person's first
10 conviction. First-time offenders convicted under federal or state law of any
11 offense which is classified as a felony by the law of the jurisdiction and
12 which has as an element of such offense the manufacture, cultivation,
13 distribution, possession or use of a controlled substance or controlled
14 substance analog, and the date of conviction is on or after July 1, 2013,
15 such person shall become ineligible to receive cash assistance for five
16 years from the date of conviction.

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

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

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

26 (9) As used in this subsection:

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

31 (B) "Controlled substance" means the same as in K.S.A. 2015 Supp.
32 21-5701, and amendments thereto, and 21 U.S.C. § 802.

33 (C) "Controlled substance analog" means the same as in K.S.A. 2015
34 Supp. 21-5701, and amendments thereto.

35 Sec. 2. K.S.A. 2015 Supp. 39-709 is hereby repealed.

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