

HOUSE BILL No. 2270

By Committee on Vision 2020

2-9

1 AN ACT concerning medical assistance; relating to KanCare II expansion
2 and the department of health and environment; amending K.S.A. 2014
3 Supp. 39-709 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. Sections 1 through 10, and amendments thereto, shall
7 be known and may be cited as the KanCare II expansion act.

8 New Sec. 2. As used in sections 1 through 10, and amendments
9 thereto:

10 (a) "Beneficiary" means anyone receiving benefits under the
11 expanded KanCare program;

12 (b) "KanCare II" means the expansion of KanCare, the state's
13 medicaid managed care program, to include individuals earning up to
14 138% of the federal poverty level;

15 (c) "PEAK" means the department of commerce program for
16 promoting employment across Kansas, K.S.A. 74-50,210 through 74-
17 50,216, and amendments thereto; and

18 (d) "secretary" means the secretary of health and environment.

19 New Sec. 3. (a) The legislature recognizes that expanding KanCare to
20 cover people earning up to 138% of the federal poverty level is essential to
21 cost-effectively improving the health of an estimated 169,000 Kansans,
22 100,000 of whom are "working poor." KanCare expansion is also essential
23 for the financial health of rural critical access hospitals, other Kansas
24 hospitals, and health care providers. KanCare expansion is the bridge to
25 receiving an estimated \$2.2 billion in federal health care aid between
26 2016-2020.

27 (b) The secretary shall establish a tiered Kansas health care
28 administrative support fee.

29 The tiers shall be as follows:

30 (1) Tier 1 - hospitals;

31 (2) tier 2 - safety net clinics and other qualified health care providers
32 that receive federal or state health care payments or both; and

33 (3) tier 3 - which includes at the secretary's discretion, other
34 recipients of federal or state health care reimbursements and who will
35 benefit from KanCare II.

36 (c) The secretary shall, by rules and regulations, establish the Kansas

1 health care administrative support fees based on each service provider
2 identified in subsection (b) and the total revenue data from the medical
3 assistance report from the previous year. For guidance in establishing the
4 support fees, the secretary shall collect no more fees in an amount no
5 greater than 105% of the following annual base amounts: \$10.3 million in
6 2016; \$68.4 million in 2017; \$72.9 million in 2018; \$77.6 million in 2019;
7 and \$82.7 million in 2020.

8 The 5% above the 100% will be used to cover administrative and
9 contract fee costs for verifying and evaluating program performance.

10 (d) The secretary, in cooperation with the managed care organizations
11 and health care providers, shall evaluate alternative funding options
12 beginning with fiscal year 2019 and make recommendations to the 2017
13 legislature. Options to be evaluated, include, but are not limited to: (1) A
14 program recognizing growth in health care sector employment equivalent
15 to the department of commerce administered PEAK program; and (2) a
16 program equivalent to the bioscience authority's revenue methodology.

17 (e) The secretary, in conjunction with the managed care
18 organizations, shall establish:

19 (1) A sliding co-pay scale based on an individual's income level. Such
20 scale shall be based on experience in Kansas and other states to maximize
21 patient recognition of the costs associated with treating chronic conditions
22 and the benefits from preventive and managed care;

23 (2) a monthly premium payment system for which beneficiaries are
24 eligible, on the basis of a beneficiary payment sliding scale, for KanCare
25 subsidies to pay for private insurance policies through the health care
26 exchange; or

27 (3) both models.

28 (e) The secretary, in cooperation with the managed care
29 organizations, shall establish a statewide pilot program for a direct primary
30 care service health care delivery business model for KanCare
31 beneficiaries. This concierge-type statewide pilot program shall provide
32 for a monthly capitated health care provider payment rate, rather than the
33 more prevalent coding for reimbursement model. The statewide concierge-
34 type program shall be available to physicians, advanced practice registered
35 nurses, physician assistants, registered nurses, and other health care
36 providers designated by the secretary, whether such practices are solely
37 based on the concierge-type model or are a component of that health care
38 provider's regular practice. The secretary shall establish the monthly
39 capitative subscription fee, primary services to be provided on an
40 "including, but not limited to," basis and such other criteria as the
41 secretary shall deem appropriate.

42 (f) The secretary, in cooperation with the managed care organizations,
43 shall establish KanCare II reimbursement rates that recognize holistic

1 patient-centered case management and health care services by reflecting
2 the value of regular or on-going patient health care monitoring and patient
3 education in reducing costs associated with treating chronic conditions.
4 Beneficiary visits to physician offices, clinics, hospitals or other settings
5 shall largely be based on the health monitoring results, regular check-ups
6 and emergencies. This is not to mean that KanCare participants are not to
7 see physicians, rather that the monitoring and education programs should
8 minimize the need for such visits. Reimbursement rates shall reward
9 monitoring of patient health through home monitoring systems and direct
10 patient education programs overseen by a physician, physician assistant,
11 advanced practice registered nurse or registered nurse.

12 (g) The secretary, in cooperation with the managed care
13 organizations, shall ensure that the frail elderly, physically disabled, aged,
14 blind and disabled, and other persons with chronic conditions as the
15 secretary shall designate are eligible for tele-health monitoring and
16 education services with no non-medical restrictions related to patient
17 setting, provider type or originating site. Originating site fees shall be
18 included in the reimbursement schedule on an appropriate basis.

19 (h) The secretary, in cooperation with the managed care
20 organizations, shall establish reimbursement rates that include physician-
21 to-physician specific patient-directed continuing education that is
22 conducted electronically with the patient present, when such consultations
23 with a specialist physician otherwise would result in the patient traveling
24 to the consulting physician's office, clinic or hospital.

25 (i) Reimbursement rates for tele-health monitoring, education,
26 diagnosis, and other approved services shall be no less than for similar
27 services delivered within a physician's office or clinical or hospital setting.
28 Tele-health rates may be used to encourage fewer visits to higher cost
29 service locations.

30 (j) The secretary, in cooperation with managed care organizations,
31 shall ensure that, with telemedicine links to other health care professionals,
32 mid-level health care providers or their employing organizations who
33 independently deliver direct patient or client care within hospitals, clinics
34 and other approved health care delivery locations qualify as KanCare II
35 providers.

36 New Sec. 4. Health care outcomes data, as specified by the secretary,
37 for all services provided to KanCare II beneficiaries shall be provided
38 quarterly to the secretary and analyzed by the Kansas university medical
39 center to identify the most successful patient treatment, monitoring, and
40 education programs in terms of cost-effectiveness in improving health
41 outcomes. Such analysis shall include indications of comparative health
42 care improvement outcome benefits and cost benefits of the sliding co-pay
43 model, the sliding monthly insurance premium payment model, a

1 combination of the two models and the direct primary care service or
2 concierge-type service. The secretary may identify additional metrics that
3 will be beneficial to evaluating the most cost-effective means of delivering
4 improved health care outcomes through the KanCare II program. Kansas
5 university medical center's analysis results shall be reported quarterly to
6 the secretary and the Robert G. (Bob) Bethell joint committee on home
7 and community based services and KanCare oversight. The secretary shall
8 provide such data annually to the house committee on health and human
9 services and senate committee on public health and welfare. The secretary
10 shall contract with Kansas university medical center for these analytical
11 services using the Kansas health care administrative support fees.

12 New Sec. 5. Patient-funded or family-funded health care savings
13 accounts, or both, as defined in 26 U.S.C. § 233(d), and amendments
14 thereto, are authorized to assist KanCare II beneficiaries in meeting co-pay
15 obligations under both the sliding co-pay and sliding insurance premium
16 co-pay models described in section 3(d), and amendments thereto.

17 New Sec. 6. (a) The secretary shall seek waivers for any components
18 of the KanCare II program that are not currently authorized in KanCare.

19 (b) All programs shall be offered statewide to ensure full federal
20 participation in reimbursing health care providers. If the federal
21 reimbursement rate under the expanded KanCare II costs drop below 90%,
22 the state may re-evaluate its continuation of this act.

23 New Sec. 7. (a) The secretary shall explore with the managed care
24 organizations the feasibility of establishing an integrated overall treatment
25 price for specific health care delivery situations, instead of billing for each
26 patient encounter and procedure. For example, such integrated prices
27 would reflect the average cost of treating a heart attack or broken leg,
28 rather than billing for every x-ray, consultation or service relating to such
29 treatment. The exploration shall focus on whether health care outcomes
30 will be the same or better under such a program and whether reducing the
31 incentives associated with "over testing" promotes the expectation that
32 overall costs to the beneficiaries and KanCare system will be lower under
33 such a program. The secretary shall report the secretary's recommendation
34 to the legislature by January 1, 2016.

35 (b) The secretary shall explore with the managed care organizations,
36 private insurance companies, the Kansas medical society, Kansas hospital
37 association, and such other health care stakeholders as the secretary deems
38 appropriate, ways to facilitate better coordination between urban and rural
39 hospitals to improve medical outcomes and reduce costs. The secretary
40 shall report the secretary's recommendation to the legislature by January 1,
41 2017.

42 New Sec. 8. The secretary may require a work component for able-
43 bodied beneficiaries under KanCare II. Such work may be in paying

1 positions or with volunteer organizations. Appropriate documentation of
2 such work experience may be required by the secretary.

3 New Sec. 9. There is hereby established in the state treasury the
4 Kansas health care administrative support fee fund which shall be
5 administered by the department of health and environment. All moneys
6 that are credited to the Kansas health care administrative support fee fund
7 pursuant to section 3, and amendments thereto, and shall be deposited in
8 the state treasury in accordance with the provisions of K.S.A. 75-4215, and
9 amendments thereto, and shall be credited to the Kansas health care
10 administrative support fee fund. All expenditures from the Kansas health
11 care administrative support fee fund shall be in support of KanCare II. All
12 expenditures from the Kansas health care administrative support fee fund
13 shall be made upon warrants of the director of accounts and reports issued
14 pursuant to vouchers approved by the secretary or the secretary's designee.

15 New Sec. 10. The secretary shall adopt rules and regulations to
16 implement the provisions of this act.

17 Sec. 11. K.S.A. 2014 Supp. 39-709 is hereby amended to read as
18 follows: 39-709. (a) *General eligibility requirements for assistance for*
19 *which federal moneys are expended.* Subject to the additional requirements
20 below, assistance in accordance with plans under which federal moneys
21 are expended may be granted to any needy person who:

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

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

1 (b) *Assistance to families with dependent children.* Assistance may be
2 granted under this act to any dependent child, or relative, subject to the
3 general eligibility requirements as set out in subsection (a), who resides in
4 the state of Kansas or whose parent or other relative with whom the child
5 is living resides in the state of Kansas. Such assistance shall be known as
6 aid to families with dependent children. Where husband and wife are
7 living together both shall register for work under the program
8 requirements for aid to families with dependent children in accordance
9 with criteria and guidelines prescribed by rules and regulations of the
10 secretary.

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

41 (d) *Eligibility requirements for general assistance, the cost of which*
42 *is not shared by the federal government.* (1) General assistance may be
43 granted to eligible persons who do not qualify for financial assistance in a

1 program in which the federal government participates and who satisfy the
2 additional requirements prescribed by or under this subsection (d).

3 (A) To qualify for general assistance in any form a needy person must
4 have insufficient income or resources to provide a reasonable subsistence
5 compatible with decency and health and, except as provided for
6 transitional assistance, be a member of a family in which a minor child or
7 a pregnant woman resides or be unable to engage in employment. The
8 secretary shall adopt rules and regulations prescribing criteria for
9 establishing when a minor child may be considered to be living with a
10 family and whether a person is able to engage in employment, including
11 such factors as age or physical or mental condition. Eligibility for general
12 assistance, other than transitional assistance, is limited to families in which
13 a minor child or a pregnant woman resides or to an adult or family in
14 which all legally responsible family members are unable to engage in
15 employment. Where a husband and wife are living together the combined
16 income or resources of both shall be considered in determining the
17 eligibility of either or both for such assistance unless otherwise prohibited
18 by law. The secretary in determining need of any applicant for or recipient
19 of general assistance shall not take into account the financial responsibility
20 of any individual for any applicant or recipient of general assistance unless
21 such applicant or recipient is such individual's spouse or such individual's
22 minor child or a minor stepchild if the stepchild is living with such
23 individual. In determining the need of an individual, the secretary may
24 provide for income and resource exemptions.

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

28 (2) General assistance in the form of transitional assistance may be
29 granted to eligible persons who do not qualify for financial assistance in a
30 program in which the federal government participates and who satisfy the
31 additional requirements prescribed by or under this subsection (d), but who
32 do not meet the criteria prescribed by rules and regulations of the secretary
33 relating to inability to engage in employment or are not a member of a
34 family in which a minor or a pregnant woman resides.

35 (3) In addition to the other requirements prescribed under this
36 subsection (d), the secretary shall adopt rules and regulations which
37 establish community work experience program requirements for eligibility
38 for the receipt of general assistance in any form and which establish
39 penalties to be imposed when a work assignment under a community work
40 experience program requirement is not completed without good cause. The
41 secretary may adopt rules and regulations establishing exemptions from
42 any such community work experience program requirements. A first time
43 failure to complete such a work assignment requirement shall result in

1 ineligibility to receive general assistance for a period fixed by such rules
2 and regulations of not more than three calendar months. A subsequent
3 failure to complete such a work assignment requirement shall result in a
4 period fixed by such rules and regulations of ineligibility of not more than
5 six calendar months.

6 (4) If any person is found guilty of the crime of theft under the
7 provisions of K.S.A. 39-720, and amendments thereto, such person shall
8 thereby become forever ineligible to receive any form of general
9 assistance under the provisions of this subsection (d) unless the conviction
10 is the person's first conviction under the provisions of K.S.A. 39-720, and
11 amendments thereto, or the law of any other state concerning welfare
12 fraud. First time offenders convicted of a misdemeanor under the
13 provisions of such statute shall become ineligible to receive any form of
14 general assistance for a period of 12 calendar months from the date of
15 conviction. First time offenders convicted of a felony under the provisions
16 of such statute shall become ineligible to receive any form of general
17 assistance for a period of 60 calendar months from the date of conviction.
18 If any person is found guilty by a court of competent jurisdiction of any
19 state other than the state of Kansas of a crime involving welfare fraud,
20 such person shall thereby become forever ineligible to receive any form of
21 general assistance under the provisions of this subsection (d) unless the
22 conviction is the person's first conviction under the law of any other state
23 concerning welfare fraud. First time offenders convicted of a misdemeanor
24 under the law of any other state concerning welfare fraud shall become
25 ineligible to receive any form of general assistance for a period of 12
26 calendar months from the date of conviction. First time offenders
27 convicted of a felony under the law of any other state concerning welfare
28 fraud shall become ineligible to receive any form of general assistance for
29 a period of 60 calendar months from the date of conviction.

30 (e) *Requirements for medical assistance for which federal moneys or*
31 *state moneys or both are expended.* (1) When the secretary has adopted a
32 medical care plan under which federal moneys or state moneys or both are
33 expended, medical assistance in accordance with such plan shall be
34 granted to any person who is a citizen of the United States or who is an
35 alien lawfully admitted to the United States and who is residing in the state
36 of Kansas, whose resources and income do not exceed the levels
37 prescribed by the secretary. In determining the need of an individual, the
38 secretary may provide for income and resource exemptions and protected
39 income and resource levels. Resources from inheritance shall be counted.
40 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
41 amendments thereto, shall constitute a transfer of resources. The secretary
42 shall exempt principal and interest held in irrevocable trust pursuant to
43 ~~subsection (e) of K.S.A. 16-303(c), and amendments thereto, from the~~

1 eligibility requirements of applicants for and recipients of medical
2 assistance. Such assistance shall be known as medical assistance.

3 (2) For the purposes of medical assistance eligibility determinations
4 on or after July 1, 2004, if an applicant or recipient owns property in joint
5 tenancy with some other party and the applicant or recipient of medical
6 assistance has restricted or conditioned their interest in such property to a
7 specific and discrete property interest less than 100%, then such
8 designation will cause the full value of the property to be considered an
9 available resource to the applicant or recipient. ~~Medical assistance~~
10 ~~eligibility for receipt of benefits under the title XIX of the social security~~
11 ~~act, commonly known as medicaid, shall not be expanded, as provided for~~
12 ~~in the patient protection and affordable care act, public law 111-148, 124~~
13 ~~stat. 119, and the health care and education reconciliation act of 2010,~~
14 ~~public law 111-152, 124 stat. 1029, unless the legislature expressly~~
15 ~~consents to, and approves of, the expansion of medicaid services by an act~~
16 ~~of the legislature.~~ *For the purposes of medical assistance eligibility*
17 *determinations on or after January 1, 2016, medical assistance shall also*
18 *be granted to any adult under 65 years of age, not pregnant and whose*
19 *income does not exceed 138% of the federal poverty level, to the extent*
20 *permitted under the provisions of 42 U.S.C. § 1396a.*

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

25 (B) If a trust has discretionary language, the trust shall be considered
26 to be an available resource to the extent, using the full extent of discretion,
27 the trustee may make any of the income or principal available to the
28 applicant or recipient of medical assistance. Any such discretionary trust
29 shall be considered an available resource unless: (i) At the time of creation
30 or amendment of the trust, the trust states a clear intent that the trust is
31 supplemental to public assistance; and (ii) the trust: (a) Is funded from
32 resources of a person who, at the time of such funding, owed no duty of
33 support to the applicant or recipient of medical assistance; or (b) is funded
34 not more than nominally from resources of a person while that person
35 owed a duty of support to the applicant or recipient of medical assistance.

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

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

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

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

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

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

42 (g) *Medical assistance; assignment of rights to medical support and*
43 *limited power of attorney; recovery from estates of deceased recipients.* (1)

1 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
2 amendments thereto, or as otherwise authorized on and after September
3 30, 1989, under section 303 of the federal medicare catastrophic coverage
4 act of 1988, whichever is applicable, by applying for or receiving medical
5 assistance under a medical care plan in which federal funds are expended,
6 any accrued, present or future rights to support and any rights to payment
7 for medical care from a third party of an applicant or recipient and any
8 other family member for whom the applicant is applying shall be deemed
9 to have been assigned to the secretary on behalf of the state. The
10 assignment shall automatically become effective upon the date of approval
11 for such assistance without the requirement that any document be signed
12 by the applicant or recipient. By applying for or receiving medical
13 assistance the applicant or recipient is also deemed to have appointed the
14 secretary, or the secretary's designee, as an attorney in fact to perform the
15 specific act of negotiating and endorsing all drafts, checks, money orders
16 or other negotiable instruments, representing payments received by the
17 secretary ~~in~~ on behalf of any person applying for, receiving or having
18 received such assistance. This limited power of attorney shall be effective
19 from the date the secretary approves the application for assistance and
20 shall remain in effect until the assignment has been terminated in full. The
21 assignment of any rights to payment for medical care from a third party
22 under this subsection shall not prohibit a health care provider from directly
23 billing an insurance carrier for services rendered if the provider has not
24 submitted a claim covering such services to the secretary for payment.
25 Support amounts collected on behalf of persons whose rights to support
26 are assigned to the secretary only under this subsection and no other shall
27 be distributed pursuant to ~~subsection (d) of~~ K.S.A. 39-756(d), and
28 amendments thereto, except that any amounts designated as medical
29 support shall be retained by the secretary for repayment of the
30 unreimbursed portion of assistance. Amounts collected pursuant to the
31 assignment of rights to payment for medical care from a third party shall
32 also be retained by the secretary for repayment of the unreimbursed
33 portion of assistance.

34 (B) Notwithstanding the provisions of subparagraph (A), the secretary
35 of health and environment, or the secretary's designee, is hereby
36 authorized to and shall exercise any of the powers specified in
37 subparagraph (A) in relation to performance of such secretary's duties
38 pertaining to medical subrogation, estate recovery or any other duties
39 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
40 Annotated, and amendments thereto.

41 (2) The amount of any medical assistance paid after June 30, 1992,
42 under the provisions of subsection (e) is: (A) A claim against the property
43 or any interest therein belonging to and a part of the estate of any deceased

1 recipient or, if there is no estate, the estate of the surviving spouse, if any,
2 shall be charged for such medical assistance paid to either or both; and
3 (B) a claim against any funds of such recipient or spouse in any account
4 under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and
5 amendments thereto. There shall be no recovery of medical assistance
6 correctly paid to or on behalf of an individual under subsection (e) except
7 after the death of the surviving spouse of the individual, if any, and only at
8 a time when the individual has no surviving child who is under 21 years of
9 age or is blind or permanently and totally disabled. Transfers of real or
10 personal property by recipients of medical assistance without adequate
11 consideration are voidable and may be set aside. Except where there is a
12 surviving spouse, or a surviving child who is under 21 years of age or is
13 blind or permanently and totally disabled, the amount of any medical
14 assistance paid under subsection (e) is a claim against the estate in any
15 guardianship or conservatorship proceeding. The monetary value of any
16 benefits received by the recipient of such medical assistance under long-
17 term care insurance, as defined by K.S.A. 40-2227, and amendments
18 thereto, shall be a credit against the amount of the claim provided for such
19 medical assistance under this subsection (g). The secretary of health and
20 environment is authorized to enforce each claim provided for under this
21 subsection (g). The secretary of health and environment shall not be
22 required to pursue every claim, but is granted discretion to determine
23 which claims to pursue. All moneys received by the secretary of health and
24 environment from claims under this subsection (g) shall be deposited in
25 the social welfare fund. The secretary of health and environment may
26 adopt rules and regulations for the implementation and administration of
27 the medical assistance recovery program under this subsection (g).

28 (3) By applying for or receiving medical assistance under the
29 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and
30 amendments thereto, such individual or such individual's agent, fiduciary,
31 guardian, conservator, representative payee or other person acting on
32 behalf of the individual consents to the following definitions of estate and
33 the results therefrom:

34 (A) If an individual receives any medical assistance before July 1,
35 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
36 and amendments thereto, which forms the basis for a claim under
37 subsection (g)(2), such claim is limited to the individual's probatable estate
38 as defined by applicable law; and

39 (B) if an individual receives any medical assistance on or after July 1,
40 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
41 and amendments thereto, which forms the basis for a claim under
42 subsection (g)(2), such claim shall apply to the individual's medical
43 assistance estate. The medical assistance estate is defined as including all

1 real and personal property and other assets in which the deceased
2 individual had any legal title or interest immediately before or at the time
3 of death to the extent of that interest or title. The medical assistance estate
4 includes, without limitation assets conveyed to a survivor, heir or assign of
5 the deceased recipient through joint tenancy, tenancy in common,
6 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
7 trust, annuities or similar arrangement.

8 (4) The secretary of health and environment or the secretary's
9 designee is authorized to file and enforce a lien against the real property of
10 a recipient of medical assistance in certain situations, subject to all prior
11 liens of record and transfers for value to a bona fide purchaser of record.
12 The lien must be filed in the office of the register of deeds of the county
13 where the real property is located within one year from the date of death of
14 the recipient and must contain the legal description of all real property in
15 the county subject to the lien.

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

19 (B) The secretary of health and environment or the secretary's
20 designee may place a lien on any interest in real property owned by a
21 recipient of medical assistance during the lifetime of such recipient. Such
22 lien may be filed only after notice and an opportunity for a hearing has
23 been given. Such lien may be enforced only upon competent medical
24 testimony that the recipient cannot reasonably be expected to be
25 discharged and returned home. A six-month period of compensated
26 inpatient care at a nursing home or other medical institution shall
27 constitute a determination by the department of health and environment
28 that the recipient cannot reasonably be expected to be discharged and
29 returned home. To return home means the recipient leaves the nursing or
30 medical facility and resides in the home on which the lien has been placed
31 for a continuous period of at least 90 days without being readmitted as an
32 inpatient to a nursing or medical facility. The amount of the lien shall be
33 for the amount of assistance paid by the department of health and
34 environment until the time of the filing of the lien and for any amount paid
35 thereafter for such medical assistance to the recipient. After the lien is filed
36 against any real property owned by the recipient, such lien will be
37 dissolved if the recipient is discharged, returns home and resides upon the
38 real property to which the lien is attached for a continuous period of
39 at least 90 days without being readmitted as an inpatient to a nursing or
40 medical facility. If the recipient is readmitted as an inpatient to a nursing
41 or medical facility for a continuous period of less than 90 days, another
42 continuous period of at least 90 days shall be completed prior to
43 dissolution of the lien.

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

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

8 (B) when there is no child of the recipient, natural or adopted, who is
9 20 years of age or less residing in the home;

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

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

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

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

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

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

28 (7) If the secretary for aging and disability services or the secretary of
29 health and environment, or both, or such secretary's designee has not filed
30 an action to foreclose the lien in the Kansas district court in the county
31 where the real property is located within 10 years from the date of the
32 filing of the lien, then the lien shall become dormant, and shall cease to
33 operate as a lien on the real estate of the recipient. Such dormant lien may
34 be revived in the same manner as a dormant judgment lien is revived under
35 K.S.A. 60-2403 et seq., and amendments thereto.

36 (8) Within seven days of receipt of notice by the secretary for
37 children and families or the secretary's designee of the death of a recipient
38 of medical assistance under this subsection, the secretary for children and
39 families or the secretary's designee shall give notice of such recipient's
40 death to the secretary of health and environment or the secretary's
41 designee.

42 (9) All rules and regulations adopted on and after July 1, 2013, and
43 prior to July 1, 2014, to implement this subsection shall continue to be

1 effective and shall be deemed to be duly adopted rules and regulations of
2 the secretary of health and environment until revised, amended, revoked or
3 nullified pursuant to law.

4 (h) *Placement under the revised Kansas code for care of children or*
5 *revised Kansas juvenile justice code; assignment of support rights and*
6 *limited power of attorney.* In any case in which the secretary for children
7 and families pays for the expenses of care and custody of a child pursuant
8 to K.S.A. 2014 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
9 thereto, including the expenses of any foster care placement, an
10 assignment of all past, present and future support rights of the child in
11 custody possessed by either parent or other person entitled to receive
12 support payments for the child is, by operation of law, conveyed to the
13 secretary. Such assignment shall become effective upon placement of a
14 child in the custody of the secretary or upon payment of the expenses of
15 care and custody of a child by the secretary without the requirement that
16 any document be signed by the parent or other person entitled to receive
17 support payments for the child. When the secretary pays for the expenses
18 of care and custody of a child or a child is placed in the custody of the
19 secretary, the parent or other person entitled to receive support payments
20 for the child is also deemed to have appointed the secretary, or the
21 secretary's designee, as attorney in fact to perform the specific act of
22 negotiating and endorsing all drafts, checks, money orders or other
23 negotiable instruments representing support payments received by the
24 secretary on behalf of the child. This limited power of attorney shall be
25 effective from the date the assignment to support rights becomes effective
26 and shall remain in effect until the assignment of support rights has been
27 terminated in full.

28 (i) No person who voluntarily quits employment or who is fired from
29 employment due to gross misconduct as defined by rules and regulations
30 of the secretary or who is a fugitive from justice by reason of a felony
31 conviction or charge shall be eligible to receive public assistance benefits
32 in this state. Any recipient of public assistance who fails to timely comply
33 with monthly reporting requirements under criteria and guidelines
34 prescribed by rules and regulations of the secretary shall be subject to a
35 penalty established by the secretary by rules and regulations.

36 (j) If the applicant or recipient of aid to families with dependent
37 children is a mother of the dependent child, as a condition of the mother's
38 eligibility for aid to families with dependent children the mother shall
39 identify by name and, if known, by current address the father of the
40 dependent child except that the secretary may adopt by rules and
41 regulations exceptions to this requirement in cases of undue hardship. Any
42 recipient of aid to families with dependent children who fails to cooperate
43 with requirements relating to child support enforcement under criteria and

1 guidelines prescribed by rules and regulations of the secretary shall be
2 subject to a penalty established by the secretary by rules and regulations
3 which penalty shall progress to ineligibility for the family after three
4 months of noncooperation.

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

27 (l) (1) A program of drug screening for applicants for cash assistance
28 as a condition of eligibility for cash assistance and persons receiving cash
29 assistance as a condition of continued receipt of cash assistance shall be
30 established, subject to applicable federal law, by the secretary for children
31 and families on and before January 1, 2014. Under such program of drug
32 screening, the secretary for children and families shall order a drug
33 screening of an applicant for or a recipient of cash assistance at any time
34 when reasonable suspicion exists that such applicant for or recipient of
35 cash assistance is unlawfully using a controlled substance or controlled
36 substance analog. The secretary for children and families may use any
37 information obtained by the secretary for children and families to
38 determine whether such reasonable suspicion exists, including, but not
39 limited to, an applicant's or recipient's demeanor, missed appointments and
40 arrest or other police records, previous employment or application for
41 employment in an occupation or industry that regularly conducts drug
42 screening, termination from previous employment due to unlawful use of a
43 controlled substance or controlled substance analog or prior drug screening

1 records of the applicant or recipient indicating unlawful use of a controlled
2 substance or controlled substance analog.

3 (2) Any applicant for or recipient of cash assistance whose drug
4 screening results in a positive test may request that the drug screening
5 specimen be sent to a different drug testing facility for an additional drug
6 screening. Any applicant for or recipient of cash assistance who requests
7 an additional drug screening at a different drug testing facility shall be
8 required to pay the cost of drug screening. Such applicant or recipient who
9 took the additional drug screening and who tested negative for unlawful
10 use of a controlled substance and controlled substance analog shall be
11 reimbursed for the cost of such additional drug screening.

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

35 (4) If an applicant for or recipient of cash assistance is ineligible for
36 or terminated from cash assistance as a result of a positive test for
37 unlawful use of a controlled substance or controlled substance analog, and
38 such applicant for or recipient of cash assistance is the parent or legal
39 guardian of a minor child, an appropriate protective payee shall be
40 designated to receive cash assistance on behalf of such child. Such parent
41 or legal guardian of the minor child may choose to designate an individual
42 to receive cash assistance for such parent's or legal guardian's minor child,
43 as approved by the secretary for children and families. Prior to the

1 designated individual receiving any cash assistance, the secretary for
2 children and families shall review whether reasonable suspicion exists that
3 such designated individual is unlawfully using a controlled substance or
4 controlled substance analog.

5 (A) In addition, any individual designated to receive cash assistance
6 on behalf of an eligible minor child shall be subject to drug screening at
7 any time when reasonable suspicion exists that such designated individual
8 is unlawfully using a controlled substance or controlled substance analog.
9 The secretary for children and families may use any information obtained
10 by the secretary for children and families to determine whether such
11 reasonable suspicion exists, including, but not limited to, the designated
12 individual's demeanor, missed appointments and arrest or other police
13 records, previous employment or application for employment in an
14 occupation or industry that regularly conducts drug screening, termination
15 from previous employment due to unlawful use of a controlled substance
16 or controlled substance analog or prior drug screening records of the
17 designated individual indicating unlawful use of a controlled substance or
18 controlled substance analog.

19 (B) Any designated individual whose drug screening results in a
20 positive test may request that the drug screening specimen be sent to a
21 different drug testing facility for an additional drug screening. Any
22 designated individual who requests an additional drug screening at a
23 different drug testing facility shall be required to pay the cost of drug
24 screening. Such designated individual who took the additional drug
25 screening and who tested negative for unlawful use of a controlled
26 substance and controlled substance analog shall be reimbursed for the cost
27 of such additional drug screening.

28 (C) Upon any positive test for unlawful use of a controlled substance
29 or controlled substance analog, the designated individual shall not receive
30 cash assistance on behalf of the parent's or legal guardian's minor child,
31 and another designated individual shall be selected by the secretary for
32 children and families to receive cash assistance on behalf of such parent's
33 or legal guardian's minor child.

34 (5) If a person has been convicted under federal or state law of any
35 offense which is classified as a felony by the law of the jurisdiction and
36 which has as an element of such offense the manufacture, cultivation,
37 distribution, possession or use of a controlled substance or controlled
38 substance analog, and the date of conviction is on or after July 1, 2013,
39 such person shall thereby become forever ineligible to receive any cash
40 assistance under this subsection unless such conviction is the person's first
41 conviction. First-time offenders convicted under federal or state law of any
42 offense which is classified as a felony by the law of the jurisdiction and
43 which has as an element of such offense the manufacture, cultivation,

1 distribution, possession or use of a controlled substance or controlled
2 substance analog, and the date of conviction is on or after July 1, 2013,
3 such person shall become ineligible to receive cash assistance for five
4 years from the date of conviction.

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

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

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

14 (9) As used in this subsection:

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

19 (B) "Controlled substance" means the same as in K.S.A. 2014 Supp.
20 21-5701, and amendments thereto, and 21 U.S.C. § 802.

21 (C) "Controlled substance analog" means the same as in K.S.A. 2014
22 Supp. 21-5701, and amendments thereto.

23 Sec. 12. K.S.A. 2014 Supp. 39-709 is hereby repealed.

24 Sec. 13. This act shall take effect and be in force from and after its
25 publication in the statute book.