

HOUSE BILL No. 2140

By Committee on Welfare Reform

1-23

1 AN ACT concerning food assistance; increasing the age range of able-
2 bodied adults without dependents required to complete an employment
3 and training program to receive food assistance; amending K.S.A. 2022
4 Supp. 39-709 and repealing the existing section.

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

7 Section 1. K.S.A. 2022 Supp. 39-709 is hereby amended to read as
8 follows: 39-709. (a) *General eligibility requirements for assistance for*
9 *which federal moneys are expended.* Subject to the additional requirements
10 below, assistance in accordance with plans under which federal moneys
11 are expended may be granted to any needy person who:

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

1 personal property in the secretary's discretion; or

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

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

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

26 (A) Is a caretaker of a disabled family member living in the
27 household;

28 (B) has a disability that precludes employment on a long-term basis
29 or requires substantial rehabilitation;

30 (C) needs a time limit extension to overcome the effects of domestic
31 ~~violence/sexual~~ violence or sexual assault;

32 (D) is involved with prevention and protection services and has an
33 open social service plan; or

34 (E) is determined by the 24th month to have an extreme hardship other
35 than what is designated in criteria listed in subparagraphs (A) through (D).
36 This determination will be made by the executive review team.

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

1 application processing period, applicants must complete at least one
2 module or its equivalent of the work program assessment to be considered
3 eligible for TANF benefits, unless good cause is found to be exempt from
4 the requirements. Good cause exemptions shall only include that the
5 applicant:

6 (A) Can document an existing certification verifying completion of
7 the work program assessment;

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

10 (C) is a parenting teen without a GED or high school diploma;

11 (D) is enrolled in job corps;

12 (E) is working with a refugee social services agency; or

13 (F) has completed the work program assessment within the last 12
14 months.

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

19 (4) (A) TANF mandatory work program applicants and recipients
20 shall participate in work components that lead to competitive, integrated
21 employment. Components are defined by the federal government as being
22 either primary or secondary.

23 (B) In order to meet federal work participation requirements,
24 households shall meet at least 30 hours of participation per week, at least
25 20 hours of which shall be primary and at least 10 hours may be secondary
26 components in one parent households where the youngest child is six years
27 of age or older. Participation hours shall be 55 hours in two parent
28 households, 35 hours per week if child care is not used. The maximum
29 assignment is 40 hours per week per individual. For two parent families to
30 meet the federal work participation rate, both parents shall participate in a
31 combined total of 55 hours per week, 50 hours of which shall be in
32 primary components, or one or both parents could be assigned a combined
33 total of 35 hours per week, 30 hours of which must be primary
34 components, if the Kansas department for children and families paid child
35 care is not received by the family. Single parent families with a child under
36 age six meet the federal participation requirement if the parent is engaged
37 in work or work activities for at least 20 hours per week in a primary work
38 component.

39 (C) 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 shall be
6 exempt from work participation activities until the month the child attains
7 three months of age. Such three-month limitation shall not apply to a
8 parent or other adult caretaker who is personally providing care for a child
9 born 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 by:

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

17 (B) 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) 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 attains 20 years of age; or

25 (D) any person assigned to a work participation activity for substance
26 use disorders.

27 (6) TANF work experience placements shall be reviewed after 90
28 days and are limited to six months per 24-month lifetime limit. A client's
29 progress shall be reviewed prior to each new placement regardless of the
30 length of time they are at the work experience site.

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

39 (8) Non-cooperation is the failure of the applicant or recipient to
40 comply with all requirements provided in state and federal law, federal and
41 state rules and regulations and agency policy. The period of ineligibility
42 for TANF benefits based on non-cooperation, as defined in K.S.A. 39-702,
43 and amendments thereto, with work programs shall be as follows, for a:

1 (A) First penalty, three months and full cooperation with work
2 program activities;

3 (B) second penalty, six months and full cooperation with work
4 program activities;

5 (C) third penalty, one year and full cooperation with work program
6 activities; and

7 (D) fourth or subsequent penalty, 10 years.

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

15 (10) Non-cooperation is the failure of the applicant or recipient to
16 comply with all requirements provided in state and federal law, federal and
17 state rules and regulations and agency policy. The period of ineligibility
18 for child care subsidy or TANF benefits based on parents' non-cooperation,
19 as defined in K.S.A. 39-702, and amendments thereto, with child support
20 services shall be as follows, for a:

21 (A) First penalty, three months and cooperation with child support
22 services prior to regaining eligibility;

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

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

27 (D) fourth penalty, 10 years.

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

32 (12) (A) Any individual who is found to have committed fraud or is
33 found guilty of the crime of theft pursuant to K.S.A. 39-720, and
34 amendments thereto, and K.S.A. 2022 Supp. 21-5801, and amendments
35 thereto, in either the TANF or child care program shall render all adults in
36 the family unit ineligible for TANF assistance. Adults in the household
37 who have been determined to have committed fraud or were convicted of
38 the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and
39 K.S.A. 2022 Supp. 21-5801, and amendments thereto, shall render
40 themselves and all adult household members ineligible for their lifetime
41 for TANF, even if fraud was committed in only one program. Households
42 who have been determined to have committed fraud or were convicted of
43 the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and

1 K.S.A. 2022 Supp. 21-5801, and amendments thereto, shall be required to
2 name a protective payee as approved by the secretary or the secretary's
3 designee to administer TANF benefits or food assistance on behalf of the
4 children. No adult in a household may have access to the TANF cash
5 assistance benefit.

6 (B) Any individual who has failed to cooperate with a fraud
7 investigation shall be ineligible to participate in the TANF cash assistance
8 program and the child care subsidy program until the Kansas department
9 for children and families determines that such individual is cooperating
10 with the fraud investigation. The Kansas department for children and
11 families shall maintain a sufficient level of fraud investigative staff to
12 enable the department to conduct fraud investigations in a timely manner
13 and in full accordance with state law and department rules and regulations
14 or policies.

15 (13) (A) Food assistance shall not be provided to any person
16 convicted of a felony offense occurring on or after July 1, 2015, that
17 includes as an element of such offense the manufacture, cultivation,
18 distribution, possession or use of a controlled substance or controlled
19 substance analog. For food assistance, the individual shall be permanently
20 disqualified if such individual has been convicted of a state or federal
21 felony offense occurring on or after July 1, 2015, involving possession or
22 use of a controlled substance or controlled substance analog.

23 (B) (i) Notwithstanding the provisions of subparagraph (A), an
24 individual shall be eligible for food assistance if the individual enrolls in
25 and participates in a drug treatment program approved by the secretary,
26 submits to and passes a drug test and agrees to submit to drug testing if
27 requested by the department pursuant to a drug testing plan.

28 (ii) An individual's failure to submit to testing or failure to
29 successfully pass a drug test shall result in ineligibility for food assistance
30 until a drug test is successfully passed. Failure to successfully complete a
31 drug treatment program shall result in ineligibility for food assistance until
32 a drug treatment plan approved by the secretary is successfully completed,
33 the individual passes a drug test and agrees to submit to drug testing if
34 requested by the department pursuant to a drug testing plan.

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

38 (14) No TANF cash assistance shall be used to purchase alcohol,
39 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
40 collegiate sporting event tickets or tickets for other entertainment events
41 intended for the general public or sexually oriented adult materials. No
42 TANF cash assistance shall be used in any retail liquor store, casino,
43 gaming establishment, jewelry store, tattoo parlor, massage parlor, body

1 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
2 vapor cigarette store, psychic or fortune telling business, bail bond
3 company, video arcade, movie theater, swimming pool, cruise ship, theme
4 park, dog or horse racing facility, parimutuel facility, or sexually oriented
5 business or any retail establishment that provides adult-oriented
6 entertainment in which performers disrobe or perform in an unclothed
7 state for entertainment, or in any business or retail establishment where
8 minors under age 18 are not permitted. No TANF cash assistance shall be
9 used for purchases at points of sale outside the state of Kansas.

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

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

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

26 (D) The Kansas department for children and families shall monitor all
27 recipient requests for a Kansas benefits card replacement and, upon the
28 fourth such request in a 12-month period, send a notice alerting the
29 recipient that the recipient's account is being monitored for potential
30 suspicious activity. If a recipient makes an additional request for
31 replacement subsequent to such notice, the department shall refer the
32 investigation to the department's fraud investigation unit.

33 (16) The secretary for children and families shall adopt rules and
34 regulations for:

35 (A) Determining eligibility for the child care subsidy program,
36 including an income of a cohabiting partner in a child care household; and

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

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

43 (ii) adults who are former TANF recipients who need child care for

1 employment after their TANF case has closed and earned income is a
2 factor in the closure in the two months immediately following TANF
3 closure;

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

7 (iv) adults who are participants in a food assistance employment and
8 training program;

9 (v) adults who are participants in an early head start child care
10 partnership program and are working or in school or training; or

11 (vi) adults who are caretakers of a child in custody of the secretary in
12 out-of-home placement needing child care.

13 The Kansas department for children and families shall provide child
14 care for the pursuit of any degree or certification if the occupation has at
15 least an average job outlook listed in the occupational outlook of the
16 United States department of labor, bureau of labor statistics. For
17 occupations with less than an average job outlook, educational plans shall
18 require approval of the secretary or secretary's designee. Child care may
19 also be approved if the student provides verification of a specific job offer
20 that will be available to such student upon completion of the program.
21 Child care for post-secondary education shall be allowed for a lifetime
22 maximum of 24 months per adult. The 24 months may not have to be
23 consecutive. Students shall be engaged in paid employment for a minimum
24 of 15 hours per week. In a two-parent adult household, child care would
25 not be allowed if both parents are adults and attending a formal education
26 or training program at the same time. The household may choose which
27 one of the parents is participating as a post-secondary student. The other
28 parent shall meet another approvable criteria for child care subsidy.

29 (17) (A) The secretary for children and families is prohibited from
30 requesting or implementing a waiver or program from the United States
31 department of agriculture for the time limited assistance provisions for
32 able-bodied adults aged 18 through ~~49~~ 59 without dependents in a
33 household under the food assistance program. The time on food assistance
34 for able-bodied adults aged 18 through ~~49~~ 59 without dependents in the
35 household shall be limited to three months in a 36-month period if such
36 adults are not meeting the requirements imposed by the U.S. department of
37 agriculture that they must work for at least 20 hours per week or
38 participate in a federally approved work program or its equivalent.

39 (B) Each food assistance household member who is not otherwise
40 exempt from the following work requirements shall: Register for work;
41 participate in an employment and training program, if assigned to such a
42 program by the department; accept a suitable employment offer; and not
43 voluntarily quit a job of at least 30 hours per week.

1 (C) Any recipient who has not complied with the work requirements
2 under subparagraph (B) shall be ineligible to participate in the food
3 assistance program for the following time period and until the recipient
4 complies with such work requirements for a:

- 5 (i) First penalty, three months;
- 6 (ii) second penalty, six months; and
- 7 (iii) third penalty and any subsequent penalty, one year.

8 (D) The Kansas department for children and families shall assign all
9 individuals subject to the requirements established under 7 U.S.C. §
10 2015(d)(1) to an employment and training program as defined in 7 U.S.C.
11 § 2015(d)(4). The provisions of this subparagraph shall only apply to:

12 (i) Able-bodied adults aged 18 through ~~49~~ 59 without dependents;
13 and

14 (ii) individuals who are not employed at least 30 hours per week.

15 (18) Eligibility for the food assistance program shall be limited to
16 those individuals who are citizens or who meet qualified non-citizen status
17 as determined by United States department of agriculture. Non-citizen
18 individuals who are unable or unwilling to provide qualifying immigrant
19 documentation, as defined by the United States department of agriculture,
20 residing within a household shall not be included when determining the
21 household's size for the purposes of assigning a benefit level to the
22 household for food assistance or comparing the household's monthly
23 income with the income eligibility standards. The gross non-exempt
24 earned and unearned income and resources of disqualified individuals shall
25 be counted in its entirety as available to the remaining household
26 members.

27 (19) The secretary for children and families shall not enact the state
28 option from the United States department of agriculture for broad-based
29 categorical eligibility for households applying for food assistance
30 according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).

31 (20) No federal or state funds shall be used for television, radio or
32 billboard advertisements that are designed to promote food assistance
33 benefits and enrollment. No federal or state funding shall be used for any
34 agreements with foreign governments designed to promote food
35 assistance.

36 (21) (A) The secretary for children and families shall not apply gross
37 income standards for food assistance higher than the standards specified in
38 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical
39 eligibility exempting households from such gross income standards
40 requirements shall not be granted for any non-cash, in-kind or other
41 benefit unless expressly required by federal law.

42 (B) The secretary for children and families shall not apply resource
43 limits standards for food assistance that are higher than the standards

1 specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal
2 law. Categorical eligibility exempting households from such resource
3 limits shall not be granted for any non-cash, in-kind or other benefit unless
4 expressly required by federal law.

5 (c) (1) The Kansas department for children and families shall conduct
6 an electronic check for any false information provided on an application
7 for TANF and other benefits programs administered by the department.
8 For TANF cash assistance, food assistance and the child care subsidy
9 program, the department shall verify the identity of all adults in the
10 assistance household.

11 (2) The department of administration shall provide monthly to the
12 Kansas department for children and families the social security numbers or
13 alternate taxpayer identification numbers of all persons who claim a
14 Kansas lottery prize in excess of \$5,000 during the reported month. The
15 Kansas department for children and families shall verify if individuals
16 with such winnings are receiving TANF cash assistance, food assistance or
17 assistance under the child care subsidy program and take appropriate
18 action. The Kansas department for children and families shall use data
19 received under this subsection solely, and for no other purpose, to
20 determine if any recipient's eligibility for benefits has been affected by
21 lottery prize winnings. The Kansas department for children and families
22 shall not publicly disclose the identity of any lottery prize winner,
23 including recipients who are determined to have illegally received
24 benefits.

25 (d) *Temporary assistance for needy families; assignment of support*
26 *rights and limited power of attorney.* By applying for or receiving
27 temporary assistance for needy families such applicant or recipient shall be
28 deemed to have assigned to the secretary on behalf of the state any
29 accrued, present or future rights to support from any other person such
30 applicant may have in such person's own behalf or in behalf of any other
31 family member for whom the applicant is applying for or receiving aid. In
32 any case in which an order for child support has been established and the
33 legal custodian and obligee under the order surrenders physical custody of
34 the child to a caretaker relative without obtaining a modification of legal
35 custody and support rights on behalf of the child are assigned pursuant to
36 this section, the surrender of physical custody and the assignment shall
37 transfer, by operation of law, the child's support rights under the order to
38 the secretary on behalf of the state. Such assignment shall be of all
39 accrued, present or future rights to support of the child surrendered to the
40 caretaker relative. The assignment of support rights shall automatically
41 become effective upon the date of approval for or receipt of such aid
42 without the requirement that any document be signed by the applicant,
43 recipient or obligee. By applying for or receiving temporary assistance for

1 needy families, or by surrendering physical custody of a child to a
2 caretaker relative who is an applicant or recipient of such assistance on the
3 child's behalf, the applicant, recipient or obligee is also deemed to have
4 appointed the secretary, or the secretary's designee, as an attorney-in-fact
5 to perform the specific act of negotiating and endorsing all drafts, checks,
6 money orders or other negotiable instruments representing support
7 payments received by the secretary in behalf of any person applying for,
8 receiving or having received such assistance. This limited power of
9 attorney shall be effective from the date the secretary approves the
10 application for aid and shall remain in effect until the assignment of
11 support rights has been terminated in full.

12 (e) *Requirements for medical assistance for which federal moneys or*
13 *state moneys or both are expended.* (1) When the secretary has adopted a
14 medical care plan under which federal moneys or state moneys or both are
15 expended, medical assistance in accordance with such plan shall be
16 granted to any person who is a citizen of the United States or who is an
17 alien lawfully admitted to the United States and who is residing in the state
18 of Kansas, whose resources and income do not exceed the levels
19 prescribed by the secretary. In determining the need of an individual, the
20 secretary may provide for income and resource exemptions and protected
21 income and resource levels. Resources from inheritance shall be counted.
22 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
23 amendments thereto, shall constitute a transfer of resources. The secretary
24 shall exempt principal and interest held in irrevocable trust pursuant to
25 K.S.A. 16-303(c), and amendments thereto, from the eligibility
26 requirements of applicants for and recipients of medical assistance. Such
27 assistance shall be known as medical assistance.

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

42 (3) (A) Resources from trusts shall be considered when determining
43 eligibility of a trust beneficiary for medical assistance. Medical assistance

1 is to be secondary to all resources, including trusts, that may be available
2 to an applicant or recipient of medical assistance.

3 (B) If a trust has discretionary language, the trust shall be considered
4 to be an available resource to the extent, using the full extent of discretion,
5 the trustee may make any of the income or principal available to the
6 applicant or recipient of medical assistance. Any such discretionary trust
7 shall be considered an available resource unless:

8 (i) At the time of creation or amendment of the trust, the trust states a
9 clear intent that the trust is supplemental to public assistance; and

10 (ii) the trust is funded:

11 (a) From resources of a person who, at the time of such funding,
12 owed no duty of support to the applicant or recipient of medical assistance;
13 or

14 (b) not more than nominally from resources of a person while that
15 person owed a duty of support to the applicant or recipient of medical
16 assistance.

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

20 (4) (A) When an applicant or recipient of medical assistance is a party
21 to a contract, agreement or accord for personal services being provided by
22 a nonlicensed individual or provider and such contract, agreement or
23 accord involves health and welfare monitoring, pharmacy assistance, case
24 management, communication with medical, health or other professionals,
25 or other activities related to home health care, long term care, medical
26 assistance benefits, or other related issues, any moneys paid under such
27 contract, agreement or accord shall be considered to be an available
28 resource unless the following restrictions are met:

29 (i) The contract, agreement or accord must be in writing and executed
30 prior to any services being provided;

31 (ii) the moneys paid are in direct relationship with the fair market
32 value of such services being provided by similarly situated and trained
33 nonlicensed individuals;

34 (iii) if no similarly situated nonlicensed individuals or situations can
35 be found, the value of services will be based on federal hourly minimum
36 wage standards;

37 (iv) such individual providing the services shall report all receipts of
38 moneys as income to the appropriate state and federal governmental
39 revenue agencies;

40 (v) any amounts due under such contract, agreement or accord shall
41 be paid after the services are rendered;

42 (vi) the applicant or recipient shall have the power to revoke the
43 contract, agreement or accord; and

1 (vii) upon the death of the applicant or recipient, the contract,
2 agreement or accord ceases.

3 (B) When an applicant or recipient of medical assistance is a party to
4 a written contract for personal services being provided by a licensed health
5 professional or facility and such contract involves health and welfare
6 monitoring, pharmacy assistance, case management, communication with
7 medical, health or other professionals, or other activities related to home
8 health care, long term care, medical assistance benefits or other related
9 issues, any moneys paid in advance of receipt of services for such
10 contracts shall be considered to be an available resource.

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

13 (f) *Eligibility for medical assistance of resident receiving medical*
14 *care outside state.* A person who is receiving medical care including long-
15 term care outside of Kansas whose health would be endangered by the
16 postponement of medical care until return to the state or by travel to return
17 to Kansas, may be determined eligible for medical assistance if such
18 individual is a resident of Kansas and all other eligibility factors are met.
19 Persons who are receiving medical care on an ongoing basis in a long-term
20 medical care facility in a state other than Kansas and who do not return to
21 a care facility in Kansas when they are able to do so, shall no longer be
22 eligible to receive assistance in Kansas unless such medical care is not
23 available in a comparable facility or program providing such medical care
24 in Kansas. For persons who are minors or who are under guardianship, the
25 actions of the parent or guardian shall be deemed to be the actions of the
26 child or ward in determining whether or not the person is remaining
27 outside the state voluntarily.

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

30 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
31 amendments thereto, or as otherwise authorized on and after September
32 30, 1989, under section 303 of the federal medicare catastrophic coverage
33 act of 1988, whichever is applicable, by applying for or receiving medical
34 assistance under a medical care plan in which federal funds are expended,
35 any accrued, present or future rights to support and any rights to payment
36 for medical care from a third party of an applicant or recipient and any
37 other family member for whom the applicant is applying shall be deemed
38 to have been assigned to the secretary on behalf of the state. The
39 assignment shall automatically become effective upon the date of approval
40 for such assistance without the requirement that any document be signed
41 by the applicant or recipient. By applying for or receiving medical
42 assistance the applicant or recipient is also deemed to have appointed the
43 secretary, or the secretary's designee, as an attorney-in-fact to perform the

1 specific act of negotiating and endorsing all drafts, checks, money orders
2 or other negotiable instruments, representing payments received by the
3 secretary in on behalf of any person applying for, receiving or having
4 received such assistance. This limited power of attorney shall be effective
5 from the date the secretary approves the application for assistance and
6 shall remain in effect until the assignment has been terminated in full. The
7 assignment of any rights to payment for medical care from a third party
8 under this subsection shall not prohibit a health care provider from directly
9 billing an insurance carrier for services rendered if the provider has not
10 submitted a claim covering such services to the secretary for payment.
11 Support amounts collected on behalf of persons whose rights to support
12 are assigned to the secretary only under this subsection and no other shall
13 be distributed pursuant to K.S.A. 39-756(d), and amendments thereto,
14 except that any amounts designated as medical support shall be retained by
15 the secretary for repayment of the unreimbursed portion of assistance.
16 Amounts collected pursuant to the assignment of rights to payment for
17 medical care from a third party shall also be retained by the secretary for
18 repayment of the unreimbursed portion of assistance.

19 (B) Notwithstanding the provisions of subparagraph (A), the
20 secretary of health and environment, or the secretary's designee, is hereby
21 authorized to and shall exercise any of the powers specified in
22 subparagraph (A) in relation to performance of such secretary's duties
23 pertaining to medical subrogation, estate recovery or any other duties
24 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
25 Annotated, and amendments thereto.

26 (2) The amount of any medical assistance paid after June 30, 1992,
27 under the provisions of subsection (e) is a claim against the property or
28 any interest therein belonging to and a part of the estate of any deceased
29 recipient or, if there is no estate, the estate of the surviving spouse, if any,
30 shall be charged for such medical assistance paid to either or both and a
31 claim against any funds of such recipient or spouse in any account under
32 K.S.A. 9-1215, 17-2263 or 17-2264, and amendments thereto. There shall
33 be no recovery of medical assistance correctly paid to or on behalf of an
34 individual under subsection (e) except after the death of the surviving
35 spouse of the individual, if any, and only at a time when the individual has
36 no surviving child who is under 21 years of age or is blind or permanently
37 and totally disabled. Transfers of real or personal property by recipients of
38 medical assistance without adequate consideration are voidable and may
39 be set aside. Except where there is a surviving spouse, or a surviving child
40 who is under 21 years of age or is blind or permanently and totally
41 disabled, the amount of any medical assistance paid under subsection (e) is
42 a claim against the estate in any guardianship or conservatorship
43 proceeding. The monetary value of any benefits received by the recipient

1 of such medical assistance under long-term care insurance, as defined by
2 K.S.A. 40-2227, and amendments thereto, shall be a credit against the
3 amount of the claim provided for such medical assistance under this
4 subsection. The secretary of health and environment is authorized to
5 enforce each claim provided for under this subsection. The secretary of
6 health and environment shall not be required to pursue every claim, but is
7 granted discretion to determine which claims to pursue. All moneys
8 received by the secretary of health and environment from claims under this
9 subsection shall be deposited in the social welfare fund. The secretary of
10 health and environment may adopt rules and regulations for the
11 implementation and administration of the medical assistance recovery
12 program under this subsection.

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

19 (A) If an individual receives any medical assistance before July 1,
20 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
21 and amendments thereto, which forms the basis for a claim under
22 paragraph (2), such claim is limited to the individual's probatable estate as
23 defined by applicable law; and

24 (B) if an individual receives any medical assistance on or after July 1,
25 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
26 and amendments thereto, which forms the basis for a claim under
27 paragraph (2), such claim shall apply to the individual's medical assistance
28 estate. The medical assistance estate is defined as including all real and
29 personal property and other assets in which the deceased individual had
30 any legal title or interest immediately before or at the time of death to the
31 extent of that interest or title. The medical assistance estate includes
32 without limitation, assets conveyed to a survivor, heir or assign of the
33 deceased recipient through joint tenancy, tenancy in common,
34 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
35 trust, annuities or similar arrangement.

36 (4) The secretary of health and environment or the secretary's
37 designee is authorized to file and enforce a lien against the real property of
38 a recipient of medical assistance in certain situations, subject to all prior
39 liens of record and transfers for value to a bona fide purchaser of record.
40 The lien must be filed in the office of the register of deeds of the county
41 where the real property is located within one year from the date of death of
42 the recipient and must contain the legal description of all real property in
43 the county subject to the lien.

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

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

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

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

36 (B) when there is no child of the recipient, natural or adopted, who is
37 20 years of age or less residing in the home;

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

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

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

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

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

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

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

21 (8) Within seven days of receipt of notice by the secretary for
22 children and families or the secretary's designee of the death of a recipient
23 of medical assistance under this subsection, the secretary for children and
24 families or the secretary's designee shall give notice of such recipient's
25 death to the secretary of health and environment or the secretary's
26 designee.

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

32 (h) *Placement under the revised Kansas code for care of children or*
33 *revised Kansas juvenile justice code; assignment of support rights and*
34 *limited power of attorney.* In any case in which the secretary for children
35 and families pays for the expenses of care and custody of a child pursuant
36 to K.S.A. 38-2201 et seq. or 38-2301 et seq., and amendments thereto,
37 including the expenses of any foster care placement, an assignment of all
38 past, present and future support rights of the child in custody possessed by
39 either parent or other person entitled to receive support payments for the
40 child is, by operation of law, conveyed to the secretary. Such assignment
41 shall become effective upon placement of a child in the custody of the
42 secretary or upon payment of the expenses of care and custody of a child
43 by the secretary without the requirement that any document be signed by

1 the parent or other person entitled to receive support payments for the
2 child. When the secretary pays for the expenses of care and custody of a
3 child or a child is placed in the custody of the secretary, the parent or other
4 person entitled to receive support payments for the child is also deemed to
5 have appointed the secretary, or the secretary's designee, as attorney in fact
6 to perform the specific act of negotiating and endorsing all drafts, checks,
7 money orders or other negotiable instruments representing support
8 payments received by the secretary on behalf of the child. This limited
9 power of attorney shall be effective from the date the assignment to
10 support rights becomes effective and shall remain in effect until the
11 assignment of support rights has been terminated in full.

12 (i) No person who voluntarily quits employment or who is fired from
13 employment due to gross misconduct as defined by rules and regulations
14 of the secretary or who is a fugitive from justice by reason of a felony
15 conviction or charge or violation of a condition of probation or parole
16 imposed under federal or state law shall be eligible to receive public
17 assistance benefits in this state. Any recipient of public assistance who
18 fails to timely comply with monthly reporting requirements under criteria
19 and guidelines prescribed by rules and regulations of the secretary shall be
20 subject to a penalty established by the secretary by rules and regulations.

21 (j) If the applicant or recipient of temporary assistance for needy
22 families is a mother of the dependent child, as a condition of the mother's
23 eligibility for temporary assistance for needy families the mother shall
24 identify by name and, if known, by current address the father of the
25 dependent child except that the secretary may adopt by rules and
26 regulations exceptions to this requirement in cases of undue hardship. Any
27 recipient of temporary assistance for needy families who fails to cooperate
28 with requirements relating to child support services under criteria and
29 guidelines prescribed by rules and regulations of the secretary shall be
30 subject to a penalty established by the secretary.

31 (k) By applying for or receiving child care benefits or food
32 assistance, the applicant or recipient shall be deemed to have assigned,
33 pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on
34 behalf of the state only accrued, present or future rights to support from
35 any other person such applicant may have in such person's own behalf or
36 in behalf of any other family member for whom the applicant is applying
37 for or receiving aid. The assignment of support rights shall automatically
38 become effective upon the date of approval for or receipt of such aid
39 without the requirement that any document be signed by the applicant or
40 recipient. By applying for or receiving child care benefits or food
41 assistance, the applicant or recipient is also deemed to have appointed the
42 secretary, or the secretary's designee, as an attorney in fact to perform the
43 specific act of negotiating and endorsing all drafts, checks, money orders

1 or other negotiable instruments representing support payments received by
2 the secretary in behalf of any person applying for, receiving or having
3 received such assistance. This limited power of attorney shall be effective
4 from the date the secretary approves the application for aid and shall
5 remain in effect until the assignment of support rights has been terminated
6 in full. An applicant or recipient who has assigned support rights to the
7 secretary pursuant to this subsection shall cooperate in establishing and
8 enforcing support obligations to the same extent required of applicants for
9 or recipients of temporary assistance for needy families.

10 (1) (1) A program of drug screening for applicants for cash assistance
11 as a condition of eligibility for cash assistance and persons receiving cash
12 assistance as a condition of continued receipt of cash assistance shall be
13 established, subject to applicable federal law, by the secretary for children
14 and families on and before January 1, 2014. Under such program of drug
15 screening, the secretary for children and families shall order a drug
16 screening of an applicant for or a recipient of cash assistance at any time
17 when reasonable suspicion exists that such applicant for or recipient of
18 cash assistance is unlawfully using a controlled substance or controlled
19 substance analog. The secretary for children and families may use any
20 information obtained by the secretary for children and families to
21 determine whether such reasonable suspicion exists, including, but not
22 limited to, an applicant's or recipient's demeanor, missed appointments and
23 arrest or other police records, previous employment or application for
24 employment in an occupation or industry that regularly conducts drug
25 screening, termination from previous employment due to unlawful use of a
26 controlled substance or controlled substance analog or prior drug screening
27 records of the applicant or recipient indicating unlawful use of a controlled
28 substance or controlled substance analog.

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

38 (3) Any applicant for or recipient of cash assistance who tests
39 positive for unlawful use of a controlled substance or controlled substance
40 analog shall be required to complete a substance abuse treatment program
41 approved by the secretary for children and families, secretary of labor or
42 secretary of commerce, and a job skills program approved by the secretary
43 for children and families, secretary of labor or secretary of commerce.

1 Subject to applicable federal laws, any applicant for or recipient of cash
2 assistance who fails to complete or refuses to participate in the substance
3 abuse treatment program or job skills program as required under this
4 subsection shall be ineligible to receive cash assistance until completion of
5 such substance abuse treatment and job skills programs. Upon completion
6 of both substance abuse treatment and job skills programs, such applicant
7 for or recipient of cash assistance may be subject to periodic drug
8 screening, as determined by the secretary for children and families. Upon a
9 second positive test for unlawful use of a controlled substance or
10 controlled substance analog, a recipient of cash assistance shall be ordered
11 to complete again a substance abuse treatment program and job skills
12 program, and shall be terminated from cash assistance for a period of 12
13 months, or until such recipient of cash assistance completes both substance
14 abuse treatment and job skills programs, whichever is later. Upon a third
15 positive test for unlawful use of a controlled substance or controlled
16 substance analog, a recipient of cash assistance shall be terminated from
17 cash assistance, subject to applicable federal law.

18 (4) If an applicant for or recipient of cash assistance is ineligible for
19 or terminated from cash assistance as a result of a positive test for
20 unlawful use of a controlled substance or controlled substance analog, and
21 such applicant for or recipient of cash assistance is the parent or legal
22 guardian of a minor child, an appropriate protective payee shall be
23 designated to receive cash assistance on behalf of such child. Such parent
24 or legal guardian of the minor child may choose to designate an individual
25 to receive cash assistance for such parent's or legal guardian's minor child,
26 as approved by the secretary for children and families. Prior to the
27 designated individual receiving any cash assistance, the secretary for
28 children and families shall review whether reasonable suspicion exists that
29 such designated individual is unlawfully using a controlled substance or
30 controlled substance analog.

31 (A) In addition, any individual designated to receive cash assistance
32 on behalf of an eligible minor child shall be subject to drug screening at
33 any time when reasonable suspicion exists that such designated individual
34 is unlawfully using a controlled substance or controlled substance analog.
35 The secretary for children and families may use any information obtained
36 by the secretary for children and families to determine whether such
37 reasonable suspicion exists, including, but not limited to, the designated
38 individual's demeanor, missed appointments and arrest or other police
39 records, previous employment or application for employment in an
40 occupation or industry that regularly conducts drug screening, termination
41 from previous employment due to unlawful use of a controlled substance
42 or controlled substance analog or prior drug screening records of the
43 designated individual indicating unlawful use of a controlled substance or

1 controlled substance analog.

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

11 (C) Upon any positive test for unlawful use of a controlled substance
12 or controlled substance analog, the designated individual shall not receive
13 cash assistance on behalf of the parent's or legal guardian's minor child,
14 and another designated individual shall be selected by the secretary for
15 children and families to receive cash assistance on behalf of such parent's
16 or legal guardian's minor child.

17 (5) If a person has been convicted under federal or state law of any
18 offense that is classified as a felony by the law of the jurisdiction and has
19 as an element of such offense the manufacture, cultivation, distribution,
20 possession or use of a controlled substance or controlled substance analog,
21 and the date of conviction is on or after July 1, 2013, such person shall
22 thereby become forever ineligible to receive any cash assistance under this
23 subsection unless such conviction is the person's first conviction. First-
24 time offenders convicted under federal or state law of any offense that is
25 classified as a felony by the law of the jurisdiction and has as an element
26 of such offense the manufacture, cultivation, distribution, possession or
27 use of a controlled substance or controlled substance analog, and the date
28 of conviction is on or after July 1, 2013, such person shall become
29 ineligible to receive cash assistance for five years from the date of
30 conviction.

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

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

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

40 (9) As used in this subsection:

41 (A) "Cash assistance" means cash assistance provided to individuals
42 under the provisions of article 7 of chapter 39 of the Kansas Statutes
43 Annotated, and amendments thereto, and any rules and regulations adopted

1 pursuant to such provisions.

2 (B) "Controlled substance" means the same as in K.S.A. 2022 Supp.
3 21-5701, and amendments thereto, and 21 U.S.C. § 802.

4 (C) "Controlled substance analog" means the same as in K.S.A. 2022
5 Supp. 21-5701, and amendments thereto.

6 Sec. 2. K.S.A. 2022 Supp. 39-709 is hereby repealed.

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