

HOUSE BILL No. 2032

By Committee on Corrections and Juvenile Justice

1-13

1 AN ACT concerning social welfare; relating to food assistance; allowing
2 persons with felony drug convictions to receive assistance; amending
3 K.S.A. 2022 Supp. 39-709 and repealing the existing section.
4

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

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

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

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

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

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

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

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

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

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

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

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

1 module or its equivalent of the work program assessment to be considered
2 eligible for TANF benefits, unless good cause is found to be exempt from
3 the requirements. Good cause exemptions shall only include that the
4 applicant:

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

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

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

10 (D) is enrolled in job corps;

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

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

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

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

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

38 (C) The following components meet federal definitions of primary
39 hours of participation: Full or part-time employment, apprenticeship, work
40 study, self-employment, job corps, subsidized employment, work
41 experience sites, on-the-job training, supervised community service,
42 vocational education, job search and job readiness. Secondary components
43 include: Job skills training, education directly related to employment such

1 as adult basic education and English as a second language, and completion
2 of a high school diploma or GED.

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

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

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

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

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

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

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

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

43 (A) First penalty, three months and full cooperation with work

1 program activities;

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

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

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

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

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

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

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

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

26 (D) fourth penalty, 10 years.

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

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

1 name a protective payee as approved by the secretary or the secretary's
2 designee to administer TANF benefits or food assistance on behalf of the
3 children. No adult in a household may have access to the TANF cash
4 assistance benefit.

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

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

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

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

34 (C) ~~The provisions of subparagraph (B) shall not apply to any~~
35 ~~individual who has been convicted for a second or subsequent felony~~
36 ~~offense as provided in subparagraph (A) *A person shall not be denied food*~~
37 ~~*assistance solely because such person has been convicted of a drug-*~~
38 ~~*related felony. The secretary for children and families shall submit to the*~~
39 ~~*federal government any approval request required to implement the*~~
40 ~~*provisions of this paragraph.*~~

41 (14) No TANF cash assistance shall be used to purchase alcohol,
42 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
43 collegiate sporting event tickets or tickets for other entertainment events

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

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

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

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

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

36 (16) The secretary for children and families shall adopt rules and
37 regulations for:

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

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

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

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

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

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

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

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

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

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

42 (B) Each food assistance household member who is not otherwise
43 exempt from the following work requirements shall: Register for work;

1 participate in an employment and training program, if assigned to such a
2 program by the department; accept a suitable employment offer; and not
3 voluntarily quit a job of at least 30 hours per week.

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

8 (i) First penalty, three months;

9 (ii) second penalty, six months; and

10 (iii) third penalty and any subsequent penalty, one year.

11 (D) The Kansas department for children and families shall assign all
12 individuals subject to the requirements established under 7 U.S.C. §
13 2015(d)(1) to an employment and training program as defined in 7 U.S.C.
14 § 2015(d)(4). The provisions of this subparagraph shall only apply to:

15 (i) Able-bodied adults aged 18 through 49 without dependents; and

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

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

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

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

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

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

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

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

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

1 without the requirement that any document be signed by the applicant,
2 recipient or obligee. By applying for or receiving temporary assistance for
3 needy families, or by surrendering physical custody of a child to a
4 caretaker relative who is an applicant or recipient of such assistance on the
5 child's behalf, the applicant, recipient or obligee is also deemed to have
6 appointed the secretary, or the secretary's designee, as an attorney-in-fact
7 to perform the specific act of negotiating and endorsing all drafts, checks,
8 money orders or other negotiable instruments representing support
9 payments received by the secretary in behalf of any person applying for,
10 receiving or having received such assistance. This limited power of
11 attorney shall be effective from the date the secretary approves the
12 application for aid and shall remain in effect until the assignment of
13 support rights has been terminated in full.

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

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

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

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

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

12 (ii) the trust is funded:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the recipient and must contain the legal description of all real property in
2 the county subject to the lien.

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

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

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

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

38 (B) when there is no child of the recipient, natural or adopted, who is
39 20 years of age or less residing in the home;

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

42 (D) when no brother or sister of the recipient is lawfully residing in
43 the home, who has resided there for at least one year immediately before

1 the date of the recipient's admission to the nursing or medical facility, and
2 has resided there on a continuous basis since that time.

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

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

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

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

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

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

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

34 (h) *Placement under the revised Kansas code for care of children or*
35 *revised Kansas juvenile justice code; assignment of support rights and*
36 *limited power of attorney.* In any case in which the secretary for children
37 and families pays for the expenses of care and custody of a child pursuant
38 to K.S.A. 38-2201 et seq. or 38-2301 et seq., and amendments thereto,
39 including the expenses of any foster care placement, an assignment of all
40 past, present and future support rights of the child in custody possessed by
41 either parent or other person entitled to receive support payments for the
42 child is, by operation of law, conveyed to the secretary. Such assignment
43 shall become effective upon placement of a child in the custody of the

1 secretary or upon payment of the expenses of care and custody of a child
2 by the secretary without the requirement that any document be signed by
3 the parent or other person entitled to receive support payments for the
4 child. When the secretary pays for the expenses of care and custody of a
5 child or a child is placed in the custody of the secretary, the parent or other
6 person entitled to receive support payments for the child is also deemed to
7 have appointed the secretary, or the secretary's designee, as attorney in fact
8 to perform the specific act of negotiating and endorsing all drafts, checks,
9 money orders or other negotiable instruments representing support
10 payments received by the secretary on behalf of the child. This limited
11 power of attorney shall be effective from the date the assignment to
12 support rights becomes effective and shall remain in effect until the
13 assignment of support rights has been terminated in full.

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

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

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

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

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

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

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

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

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

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

1 or controlled substance analog or prior drug screening records of the
2 designated individual indicating unlawful use of a controlled substance or
3 controlled substance analog.

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

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

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

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

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

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

42 (9) As used in this subsection:

43 (A) "Cash assistance" means cash assistance provided to individuals

1 under the provisions of article 7 of chapter 39 of the Kansas Statutes
2 Annotated, and amendments thereto, and any rules and regulations adopted
3 pursuant to such provisions.

4 (B) "Controlled substance" means the same as in K.S.A. 2022 Supp.
5 21-5701, and amendments thereto, and 21 U.S.C. § 802.

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

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

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