

SENATE BILL No. 436

By Committee on Ways and Means

2-20

1 AN ACT concerning the department of health and environment; relating to
2 education and screening for congenital hypothyroidism, galactosemia,
3 phenylketonuria and other genetic diseases and disorders; creating the
4 Kansas newborn screening fund; amending K.S.A. 2011 Supp. **40-3213**
5 **and** 65-180 and repealing the existing ~~section~~ **sections**.
6

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

8 Section 1. *K.S.A. 2011 Supp. 40-3213 is hereby amended to read as*
9 *follows: 40-3213. (a) Every health maintenance organization and*
10 *medicare provider organization subject to this act shall pay to the*
11 *commissioner the following fees:*

12 *(1) For filing an application for a certificate of authority, \$150;*

13 *(2) for filing each annual report, \$50;*

14 *(3) for filing an amendment to the certificate of authority, \$10.*

15 *(b) Every health maintenance organization subject to this act shall*
16 *pay annually to the commissioner at the time such organization files its*
17 *annual report, a privilege fee in an amount equal to 1% per annum of*
18 *the total of all premiums, subscription charges or any other term which*
19 *may be used to describe the charges made by such organization to*
20 *enrollees. In such computations all such organizations shall be entitled*
21 *to deduct therefrom any premiums or subscription charges returned on*
22 *account of cancellations and dividends returned to enrollees. If the*
23 *commissioner shall determine at any time that the application of the*
24 *privilege fee would cause a denial of, reduction in or elimination of*
25 *federal financial assistance to the state or to any health maintenance*
26 *organization subject to this act, the commissioner is hereby authorized to*
27 *terminate the operation of such privilege fee.*

28 *(c) For the purpose of insuring the collection of the privilege fee*
29 *provided for by subsection (b), every health maintenance organization*
30 *subject to this act and required by subsection (b) to pay such privilege*
31 *fee shall at the time it files its annual report, as required by K.S.A. 40-*
32 *3220, and amendments thereto, make a return, generated by or at the*
33 *direction of its chief officer or principal managing director, under*
34 *penalty of K.S.A. 2011 Supp. 21-5824, and amendments thereto, to the*
35 *commissioner, stating the amount of all premiums, assessments and*
36 *charges received by the health maintenance organization, whether in*

1 *cash or notes, during the year ending on the last day of the preceding*
2 *calendar year. Upon the receipt of such returns the commissioner of*
3 *insurance shall verify the same and assess the fees upon such*
4 *organization on the basis and at the rate provided herein and such fees*
5 *shall thereupon become due and payable.*

6 *(d) Premiums or other charges received by an insurance company*
7 *from the operation of a health maintenance organization subject to this*
8 *act shall not be subject to any fee or tax imposed under the provisions of*
9 *K.S.A. 40-252, and amendments thereto.*

10 *(e) Fees charged under this section shall be remitted to the state*
11 *treasurer in accordance with the provisions of K.S.A. 75-4215, and*
12 *amendments thereto. Upon receipt of each such remittance, except as*
13 *provided by K.S.A. 65-180, and amendments thereto, the state treasurer*
14 *shall deposit the entire amount in the state treasury to the credit of the*
15 *state general fund.*

16 **Sec. 2.** K.S.A. 2011 Supp. 65-180 is hereby amended to read as
17 follows: 65-180. The secretary of health and environment shall:

18 (a) Institute and carry on an intensive educational program among
19 physicians, hospitals, public health nurses and the public concerning
20 congenital hypothyroidism, galactosemia, phenylketonuria and other
21 genetic diseases detectable with the same specimen. This educational
22 program shall include information about the nature of such conditions and
23 examinations for the detection thereof in early infancy in order that
24 measures may be taken to prevent the mental retardation or morbidity
25 resulting from such conditions.

26 (b) Provide recognized screening tests for phenylketonuria,
27 galactosemia, hypothyroidism and such other diseases as may be
28 appropriately detected with the same specimen. The initial laboratory
29 screening tests for these diseases shall be performed by the department of
30 health and environment or its designee for all infants born in the state.
31 Such services shall be performed without charge.

32 (c) Provide a follow-up program by providing test results and other
33 information to identified physicians; locate infants with abnormal newborn
34 screening test results; with parental consent, monitor infants to assure
35 appropriate testing to either confirm or not confirm the disease suggested
36 by the screening test results; with parental consent, monitor therapy and
37 treatment for infants with confirmed diagnosis of congenital
38 hypothyroidism, galactosemia, phenylketonuria or other genetic diseases
39 being screened under this statute; and establish ongoing education and
40 support activities for individuals with confirmed diagnosis of congenital
41 hypothyroidism, galactosemia, phenylketonuria and other genetic diseases
42 being screened under this statute and for the families of such individuals.

43 (d) Maintain a registry of cases including information of importance

1 for the purpose of follow-up services to prevent mental retardation or
2 morbidity.

3 (e) Provide, within the limits of appropriations available therefor, the
4 necessary treatment product for diagnosed cases for as long as medically
5 indicated, when the product is not available through other state agencies.
6 In addition to diagnosed cases under this section, diagnosed cases of maple
7 syrup urine disease shall be included as a diagnosed case under this
8 subsection. Where the applicable income of the person or persons who
9 have legal responsibility for the diagnosed individual meets medicaid
10 eligibility, such individuals' needs shall be covered under the medicaid
11 state plan. Where the applicable income of the person or persons who have
12 legal responsibility for the diagnosed individual is not medicaid eligible,
13 but is below 300% of the federal poverty level established under the most
14 recent poverty guidelines issued by the United States department of health
15 and human services, the department of health and environment shall
16 provide reimbursement of between 50% to 100% of the product cost in
17 accordance with rules and regulations adopted by the secretary of health
18 and environment. Where the applicable income of the person or persons
19 who have legal responsibility for the diagnosed individual exceeds 300%
20 of the federal poverty level established under the most recent poverty
21 guidelines issued by the United States department of health and human
22 services, the department of health and environment shall provide
23 reimbursement of an amount not to exceed 50% of the product cost in
24 accordance with rules and regulations adopted by the secretary of health
25 and environment.

26 (f) Provide state assistance to an applicant pursuant to subsection (e)
27 only after it has been shown that the applicant has exhausted all benefits
28 from private third-party payers, medicare, medicaid and other government
29 assistance programs and after consideration of the applicant's income and
30 assets. The secretary of health and environment shall adopt rules and
31 regulations establishing standards for determining eligibility for state
32 assistance under this section.

33 (g) (1) Except for treatment products provided under subsection (e), if
34 the medically necessary food treatment product for diagnosed cases must
35 be purchased, the purchaser shall be reimbursed by the department of
36 health and environment for costs incurred up to \$1,500 per year per
37 diagnosed child age 18 or younger at 100% of the product cost upon
38 submission of a receipt of purchase identifying the company from which
39 the product was purchased. For a purchaser to be eligible for
40 reimbursement under this subsection (g)(1), the applicable income of the
41 person or persons who have legal responsibility for the diagnosed child
42 shall not exceed 300% of the poverty level established under the most
43 recent poverty guidelines issued by the federal department of health and

1 human services.

2 (2) As an option to reimbursement authorized under subsection (g)
3 (1), the department of health and environment may purchase food
4 treatment products for distribution to diagnosed children in an amount not
5 to exceed \$1,500 per year per diagnosed child age 18 or younger. For a
6 diagnosed child to be eligible for the distribution of food treatment
7 products under ~~this~~ subsection (g)(2), the applicable income of the person
8 or persons who have legal responsibility for the diagnosed child shall not
9 exceed 300% of the poverty level established under the most recent
10 poverty guidelines issued by the federal department of health and human
11 services.

12 (3) In addition to diagnosed cases under this section, diagnosed cases
13 of maple syrup urine disease shall be included as a diagnosed case under
14 this subsection ~~(g)~~.

15 (h) The department of health and environment shall continue to
16 receive orders for both necessary treatment products and necessary food
17 treatment products, purchase such products, and shall deliver the products
18 to an address prescribed by the diagnosed individual. The department of
19 health and environment shall bill the person or persons who have legal
20 responsibility for the diagnosed patient for a pro-rata share of the total
21 costs, in accordance with the rules and regulations adopted pursuant to this
22 section.

23 ~~(i) Not later than July 1, 2008,~~ The secretary of health and
24 environment shall adopt rules and regulations as needed to require, to the
25 extent of available funding, newborn screening tests to screen for treatable
26 disorders listed in the core uniform panel of newborn screening conditions
27 recommended in the 2005 report by the American college of medical
28 genetics entitled "Newborn Screening: Toward a Uniform Screening Panel
29 and System" or another report determined by the department of health and
30 environment to provide more appropriate newborn screening guidelines to
31 protect the health and welfare of newborns for treatable disorders.

32 (j) In performing the duties under subsection (i), the secretary of
33 health and environment shall appoint an advisory council to advise the
34 department of health and environment on implementation of subsection (i).

35 (k) The department of health and environment shall periodically
36 review the newborn screening program to determine the efficacy and cost
37 effectiveness of the program and determine whether adjustments to the
38 program are necessary to protect the health and welfare of newborns and
39 to maximize the number of newborn screenings that may be conducted
40 with the funding available for the screening program.

41 *(l) There is hereby established in the state treasury the Kansas*
42 *newborn screening fund which shall be administered by the secretary of*
43 *health and environment. All expenditures from the fund shall be for the*

1 *newborn screening program. All expenditures from the fund shall be made*
2 *in accordance with appropriation acts upon warrants of the director of*
3 *accounts and reports issued pursuant to vouchers approved by the*
4 *secretary of health and environment or the secretary's designee. Each*
5 *month, the director of accounts and reports shall determine the amount*
6 *credited to the state general fund pursuant to K.S.A. 40-3213, and*
7 *amendments thereto, and shall transfer the ~~amount equal to the amount so~~*
8 *~~determined from the state general fund to the Kansas newborn screening~~*
9 *~~fund, except that the agregate amount transferred for any fiseal year shall~~*
10 *~~not exceed \$3,000,000 portion of such amount that is necessary to fund~~*
11 *~~the newborn screening program for the preceding month as certified by~~*
12 *~~the secretary of health and environment or the secretary's designee, to~~*
13 *~~the newborn screening fund, except that such amount shall not exceed~~*
14 *~~the amount to be credited to the state general fund pursuant to K.S.A.~~*
15 *~~40-3213, and amendments thereto.~~*

16 Sec.~~-2~~. 3. K.S.A. 2011 Supp. **40-3213** and 65-180 is *are* hereby
17 repealed.

18 Sec.~~-3~~. 4. This act shall take effect and be in force from and after its
19 publication in the statute book.