

HOUSE BILL No. 2552

By Committee on Health and Human Services

1-31

1 AN ACT concerning the Kansas medical assistance program ~~contracts~~
2 ~~with managed care organizations~~; **amending K.S.A. 2013 Supp. 39-**
3 **709 and repealing the existing section**};
4

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

6 Section 1. (a) Any contract between the Kansas medical assistance
7 program and any managed care organization serving the state of Kansas
8 shall require the processing and ~~payment~~ **full payment of the allowed**
9 **amount** or processing and denial by the managed care organization of all
10 clean claims within 30 days after receipt of the clean claim, and the
11 processing and ~~payment~~ **full payment of the allowed amount** or
12 processing and denial by the managed care organization of all claims
13 within 90 days after receipt of the claim. The contract shall also include a
14 late payment provision that requires the managed care organization to pay
15 interest to the provider at the rate of 12% per annum for each month that
16 the managed care organization has neither processed and ~~paid~~ **fully paid**
17 **the allowed amount** nor processed and denied a submitted claim or clean
18 claim after the time limits set forth in this section. **The Kansas medical**
19 **assistance program shall also require managed care organizations to**
20 **include a provision outlining the provider's rights under this section in**
21 **the managed care organization's contracts with providers. A provider**
22 **that has a claim that remains unpaid by a managed care organization**
23 **after the time limits set forth in this section may bring a direct cause**
24 **of action against the managed care organization for the interest**
25 **provided for in this section in addition to the amount of the unpaid**
26 **claim.**

27 (b) For the purposes of this section, the terms "claim" and "clean
28 claim" shall be assigned the same meanings as provided by 42 C.F.R. §
29 447.45(b).

30 (c) The secretary of health and environment shall adopt rules and
31 regulations to carry out the provisions of this section, and amendments
32 thereto.

33 *{Sec. 2. K.S.A. 2013 Supp. 39-709 is hereby amended to read as*
34 *follows: 39-709. (a) General eligibility requirements for assistance for*

1 *which federal moneys are expended. Subject to the additional*
2 *requirements below, assistance in accordance with plans under which*
3 *federal moneys are expended may be granted to any needy person who:*

4 *(1) Has insufficient income or resources to provide a reasonable*
5 *subsistence compatible with decency and health. Where a husband and*
6 *wife are living together, the combined income or resources of both shall*
7 *be considered in determining the eligibility of either or both for such*
8 *assistance unless otherwise prohibited by law. The secretary, in*
9 *determining need of any applicant for or recipient of assistance shall not*
10 *take into account the financial responsibility of any individual for any*
11 *applicant or recipient of assistance unless such applicant or recipient is*
12 *such individual's spouse or such individual's minor child or minor*
13 *stepchild if the stepchild is living with such individual. The secretary in*
14 *determining need of an individual may provide such income and*
15 *resource exemptions as may be permitted by federal law. For purposes of*
16 *eligibility for aid for families with dependent children, for food stamp*
17 *assistance and for any other assistance provided through the Kansas*
18 *department for children and families under which federal moneys are*
19 *expended, the secretary for children and families shall consider one*
20 *motor vehicle owned by the applicant for assistance, regardless of the*
21 *value of such vehicle, as exempt personal property and shall consider*
22 *any equity in any additional motor vehicle owned by the applicant for*
23 *assistance to be a nonexempt resource of the applicant for assistance.*

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

26 *(b) Assistance to families with dependent children. Assistance may*
27 *be granted under this act to any dependent child, or relative, subject to*
28 *the general eligibility requirements as set out in subsection (a), who*
29 *resides in the state of Kansas or whose parent or other relative with*
30 *whom the child is living resides in the state of Kansas. Such assistance*
31 *shall be known as aid to families with dependent children. Where*
32 *husband and wife are living together both shall register for work under*
33 *the program requirements for aid to families with dependent children in*
34 *accordance with criteria and guidelines prescribed by rules and*
35 *regulations of the secretary.*

36 *(c) Aid to families with dependent children; assignment of support*
37 *rights and limited power of attorney. By applying for or receiving aid to*
38 *families with dependent children such applicant or recipient shall be*
39 *deemed to have assigned to the secretary on behalf of the state any*
40 *accrued, present or future rights to support from any other person such*
41 *applicant may have in such person's own behalf or in behalf of any*
42 *other family member for whom the applicant is applying for or receiving*
43 *aid. In any case in which an order for child support has been established*

1 *and the legal custodian and obligee under the order surrenders physical*
2 *custody of the child to a caretaker relative without obtaining a*
3 *modification of legal custody and support rights on behalf of the child*
4 *are assigned pursuant to this section, the surrender of physical custody*
5 *and the assignment shall transfer, by operation of law, the child's*
6 *support rights under the order to the secretary on behalf of the state.*
7 *Such assignment shall be of all accrued, present or future rights to*
8 *support of the child surrendered to the caretaker relative. The*
9 *assignment of support rights shall automatically become effective upon*
10 *the date of approval for or receipt of such aid without the requirement*
11 *that any document be signed by the applicant, recipient or obligee. By*
12 *applying for or receiving aid to families with dependent children, or by*
13 *surrendering physical custody of a child to a caretaker relative who is an*
14 *applicant or recipient of such assistance on the child's behalf, the*
15 *applicant, recipient or obligee is also deemed to have appointed the*
16 *secretary, or the secretary's designee, as an attorney in fact to perform*
17 *the specific act of negotiating and endorsing all drafts, checks, money*
18 *orders or other negotiable instruments representing support payments*
19 *received by the secretary in behalf of any person applying for, receiving*
20 *or having received such assistance. This limited power of attorney shall*
21 *be effective from the date the secretary approves the application for aid*
22 *and shall remain in effect until the assignment of support rights has*
23 *been terminated in full.*

24 *(d) Eligibility requirements for general assistance, the cost of which*
25 *is not shared by the federal government. (1) General assistance may be*
26 *granted to eligible persons who do not qualify for financial assistance in*
27 *a program in which the federal government participates and who satisfy*
28 *the additional requirements prescribed by or under this subsection (d).*

29 *(A) To qualify for general assistance in any form a needy person*
30 *must have insufficient income or resources to provide a reasonable*
31 *subsistence compatible with decency and health and, except as provided*
32 *for transitional assistance, be a member of a family in which a minor*
33 *child or a pregnant woman resides or be unable to engage in*
34 *employment. The secretary shall adopt rules and regulations prescribing*
35 *criteria for establishing when a minor child may be considered to be*
36 *living with a family and whether a person is able to engage in*
37 *employment, including such factors as age or physical or mental*
38 *condition. Eligibility for general assistance, other than transitional*
39 *assistance, is limited to families in which a minor child or a pregnant*
40 *woman resides or to an adult or family in which all legally responsible*
41 *family members are unable to engage in employment. Where a husband*
42 *and wife are living together the combined income or resources of both*
43 *shall be considered in determining the eligibility of either or both for*

1 *such assistance unless otherwise prohibited by law. The secretary in*
2 *determining need of any applicant for or recipient of general assistance*
3 *shall not take into account the financial responsibility of any individual*
4 *for any applicant or recipient of general assistance unless such*
5 *applicant or recipient is such individual's spouse or such individual's*
6 *minor child or a minor stepchild if the stepchild is living with such*
7 *individual. In determining the need of an individual, the secretary may*
8 *provide for income and resource exemptions.*

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

12 *(2) General assistance in the form of transitional assistance may be*
13 *granted to eligible persons who do not qualify for financial assistance in*
14 *a program in which the federal government participates and who satisfy*
15 *the additional requirements prescribed by or under this subsection (d),*
16 *but who do not meet the criteria prescribed by rules and regulations of*
17 *the secretary relating to inability to engage in employment or are not a*
18 *member of a family in which a minor or a pregnant woman resides.*

19 *(3) In addition to the other requirements prescribed under this*
20 *subsection (d), the secretary shall adopt rules and regulations which*
21 *establish community work experience program requirements for*
22 *eligibility for the receipt of general assistance in any form and which*
23 *establish penalties to be imposed when a work assignment under a*
24 *community work experience program requirement is not completed*
25 *without good cause. The secretary may adopt rules and regulations*
26 *establishing exemptions from any such community work experience*
27 *program requirements. A first time failure to complete such a work*
28 *assignment requirement shall result in ineligibility to receive general*
29 *assistance for a period fixed by such rules and regulations of not more*
30 *than three calendar months. A subsequent failure to complete such a*
31 *work assignment requirement shall result in a period fixed by such rules*
32 *and regulations of ineligibility of not more than six calendar months.*

33 *(4) If any person is found guilty of the crime of theft under the*
34 *provisions of K.S.A. 39-720, and amendments thereto, such person shall*
35 *thereby become forever ineligible to receive any form of general*
36 *assistance under the provisions of this subsection (d) unless the*
37 *conviction is the person's first conviction under the provisions of K.S.A.*
38 *39-720, and amendments thereto, or the law of any other state*
39 *concerning welfare fraud. First time offenders convicted of a*
40 *misdemeanor under the provisions of such statute shall become*
41 *ineligible to receive any form of general assistance for a period of 12*
42 *calendar months from the date of conviction. First time offenders*
43 *convicted of a felony under the provisions of such statute shall become*

1 *ineligible to receive any form of general assistance for a period of 60*
2 *calendar months from the date of conviction. If any person is found*
3 *guilty by a court of competent jurisdiction of any state other than the*
4 *state of Kansas of a crime involving welfare fraud, such person shall*
5 *thereby become forever ineligible to receive any form of general*
6 *assistance under the provisions of this subsection (d) unless the*
7 *conviction is the person's first conviction under the law of any other*
8 *state concerning welfare fraud. First time offenders convicted of a*
9 *misdemeanor under the law of any other state concerning welfare fraud*
10 *shall become ineligible to receive any form of general assistance for a*
11 *period of 12 calendar months from the date of conviction. First time*
12 *offenders convicted of a felony under the law of any other state*
13 *concerning welfare fraud shall become ineligible to receive any form of*
14 *general assistance for a period of 60 calendar months from the date of*
15 *conviction.*

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

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

1 *act of 2010, public law 111-152, 124 stat. 1029, unless the legislature*
2 *expressly consents to, and approves of, the expansion of medicaid services*
3 *by an act of the legislature.*

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

8 *(B) If a trust has discretionary language, the trust shall be*
9 *considered to be an available resource to the extent, using the full extent*
10 *of discretion, the trustee may make any of the income or principal*
11 *available to the applicant or recipient of medical assistance. Any such*
12 *discretionary trust shall be considered an available resource unless: (i)*
13 *At the time of creation or amendment of the trust, the trust states a clear*
14 *intent that the trust is supplemental to public assistance; and (ii) the*
15 *trust: (a) Is funded from resources of a person who, at the time of such*
16 *funding, owed no duty of support to the applicant or recipient of medical*
17 *assistance; or (b) is funded not more than nominally from resources of a*
18 *person while that person owed a duty of support to the applicant or*
19 *recipient of medical assistance.*

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

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

1 *applicant or recipient, the contract, agreement or accord ceases.*

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

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

30 *(1) 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*
33 *coverage act of 1988, whichever is applicable, by applying for or*
34 *receiving medical assistance under a medical care plan in which federal*
35 *funds are expended, any accrued, present or future rights to support and*
36 *any rights to payment for medical care from a third party of an applicant*
37 *or recipient and any other family member for whom the applicant is*
38 *applying shall be deemed to have been assigned to the secretary on*
39 *behalf of the state. The assignment shall automatically become effective*
40 *upon the date of approval for such assistance without the requirement*
41 *that any document be signed by the applicant or recipient. By applying*
42 *for or receiving medical assistance the applicant or recipient is also*
43 *deemed to have appointed the secretary, or the secretary's designee, as*

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

21 *(2) The amount of any medical assistance paid after June 30, 1992,*
22 *under the provisions of subsection (e) is (A) a claim against the property*
23 *or any interest therein belonging to and a part of the estate of any*
24 *deceased recipient or, if there is no estate, the estate of the surviving*
25 *spouse, if any, shall be charged for such medical assistance paid to*
26 *either or both, and (B) a claim against any funds of such recipient or*
27 *spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264,*
28 *17-5828 or 17-5829, and amendments thereto. There shall be no*
29 *recovery of medical assistance correctly paid to or on behalf of an*
30 *individual under subsection (e) except after the death of the surviving*
31 *spouse of the individual, if any, and only at a time when the individual*
32 *has no surviving child who is under 21 years of age or is blind or*
33 *permanently and totally disabled. Transfers of real or personal property*
34 *by recipients of medical assistance without adequate consideration are*
35 *voidable and may be set aside. Except where there is a surviving spouse,*
36 *or a surviving child who is under 21 years of age or is blind or*
37 *permanently and totally disabled, the amount of any medical assistance*
38 *paid under subsection (e) is a claim against the estate in any*
39 *guardianship or conservatorship proceeding. The monetary value of any*
40 *benefits received by the recipient of such medical assistance under long-*
41 *term care insurance, as defined by K.S.A. 40-2227, and amendments*
42 *thereto, shall be a credit against the amount of the claim provided for*
43 *such medical assistance under this subsection (g). The secretary is*

1 *authorized to enforce each claim provided for under this subsection (g).*
2 *The secretary shall not be required to pursue every claim, but is granted*
3 *discretion to determine which claims to pursue. All moneys received by*
4 *the secretary from claims under this subsection (g) shall be deposited in*
5 *the social welfare fund. The secretary may adopt rules and regulations*
6 *for the implementation and administration of the medical assistance*
7 *recovery program under this subsection (g).*

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

14 (A) *If an individual receives any medical assistance before July 1,*
15 *2004, pursuant to article 7 of chapter 39 of the Kansas Statutes*
16 *Annotated, and amendments thereto, which forms the basis for a claim*
17 *under subsection (g)(2), such claim is limited to the individual's*
18 *probable estate as defined by applicable law; and*

19 (B) *if an individual receives any medical assistance on or after July*
20 *1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes*
21 *Annotated, and amendments thereto, which forms the basis for a claim*
22 *under subsection (g)(2), such claim shall apply to the individual's*
23 *medical assistance estate. The medical assistance estate is defined as*
24 *including all real and personal property and other assets in which the*
25 *deceased individual had any legal title or interest immediately before or*
26 *at the time of death to the extent of that interest or title. The medical*
27 *assistance estate includes, without limitation assets conveyed to a*
28 *survivor, heir or assign of the deceased recipient through joint tenancy,*
29 *tenancy in common, survivorship, transfer-on-death deed, payable-on-*
30 *death contract, life estate, trust, annuities or similar arrangement.*

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

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

42 (B) *The secretary of health and environment or the secretary's*
43 *designee may place a lien on any interest in real property owned by a*

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

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

30 (A) *After the death of the surviving spouse of the recipient;*

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

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

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

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

42 (A) *The lien is satisfied. The recipient, the heirs, personal*
43 *representative or assigns of the recipient may discharge such lien at any*

1 *time by paying the amount of the lien to the secretary or the secretary's*
2 *designee;*

3 *(B) the lien is terminated by foreclosure of prior lien of record or*
4 *settlement action taken in lieu of foreclosure; or*

5 *(C) the value of the real property is consumed by the lien, at which*
6 *time the secretary or the secretary's designee may force the sale for the*
7 *real property to satisfy the lien.*

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

16 *(8) Within seven days of receipt of notice by the secretary for*
17 *children and families or the secretary's designee of the death of a*
18 *recipient of medical assistance under this subsection, the secretary for*
19 *children and families or the secretary's designee shall give notice of*
20 *such recipient's death to the secretary of health and environment or the*
21 *secretary's designee.*

22 *(h) Placement under the revised Kansas code for care of children*
23 *or revised Kansas juvenile justice code; assignment of support rights and*
24 *limited power of attorney. In any case in which the secretary for children*
25 *and families pays for the expenses of care and custody of a child*
26 *pursuant to K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and*
27 *amendments thereto, including the expenses of any foster care*
28 *placement, an assignment of all past, present and future support rights*
29 *of the child in custody possessed by either parent or other person entitled*
30 *to receive support payments for the child is, by operation of law,*
31 *conveyed to the secretary. Such assignment shall become effective upon*
32 *placement of a child in the custody of the secretary or upon payment of*
33 *the expenses of care and custody of a child by the secretary without the*
34 *requirement that any document be signed by the parent or other person*
35 *entitled to receive support payments for the child. When the secretary*
36 *pays for the expenses of care and custody of a child or a child is placed*
37 *in the custody of the secretary, the parent or other person entitled to*
38 *receive support payments for the child is also deemed to have appointed*
39 *the secretary, or the secretary's designee, as attorney in fact to perform*
40 *the specific act of negotiating and endorsing all drafts, checks, money*
41 *orders or other negotiable instruments representing support payments*
42 *received by the secretary on behalf of the child. This limited power of*
43 *attorney shall be effective from the date the assignment to support rights*

1 *becomes effective and shall remain in effect until the assignment of*
2 *support rights has been terminated in full.*

3 *(i) No person who voluntarily quits employment or who is fired*
4 *from employment due to gross misconduct as defined by rules and*
5 *regulations of the secretary or who is a fugitive from justice by reason of*
6 *a felony conviction or charge shall be eligible to receive public*
7 *assistance benefits in this state. Any recipient of public assistance who*
8 *fails to timely comply with monthly reporting requirements under*
9 *criteria and guidelines prescribed by rules and regulations of the*
10 *secretary shall be subject to a penalty established by the secretary by*
11 *rules and regulations.*

12 *(j) If the applicant or recipient of aid to families with dependent*
13 *children is a mother of the dependent child, as a condition of the*
14 *mother's eligibility for aid to families with dependent children the*
15 *mother shall identify by name and, if known, by current address the*
16 *father of the dependent child except that the secretary may adopt by*
17 *rules and regulations exceptions to this requirement in cases of undue*
18 *hardship. Any recipient of aid to families with dependent children who*
19 *fails to cooperate with requirements relating to child support*
20 *enforcement under criteria and guidelines prescribed by rules and*
21 *regulations of the secretary shall be subject to a penalty established by*
22 *the secretary by rules and regulations which penalty shall progress to*
23 *ineligibility for the family after three months of noncooperation.*

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

1 *shall cooperate in establishing and enforcing support obligations to the*
2 *same extent required of applicants for or recipients of aid to families*
3 *with dependent children.*

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

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

34 *(3) Any applicant for or recipient of cash assistance who tests*
35 *positive for unlawful use of a controlled substance or controlled*
36 *substance analog shall be required to complete a substance abuse*
37 *treatment program approved by the secretary for children and families,*
38 *secretary of labor or secretary of commerce, and a job skills program*
39 *approved by the secretary for children and families, secretary of labor or*
40 *secretary of commerce. Subject to applicable federal laws, any applicant*
41 *for or recipient of cash assistance who fails to complete or refuses to*
42 *participate in the substance abuse treatment program or job skills*
43 *program as required under this subsection shall be ineligible to receive*

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

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

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

42 *(B) Any designated individual whose drug screening results in a*
43 *positive test may request that the drug screening specimen be sent to a*

1 *different drug testing facility for an additional drug screening. Any*
2 *designated individual who requests an additional drug screening at a*
3 *different drug testing facility shall be required to pay the cost of drug*
4 *screening. Such designated individual who took the additional drug*
5 *screening and who tested negative for unlawful use of a controlled*
6 *substance and controlled substance analog shall be reimbursed for the*
7 *cost of such additional drug screening.*

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

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

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

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

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

38 *(9) As used in this subsection:*

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

43 *(B) "Controlled substance" means the same as in K.S.A. 2013*

1 *Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.*

2 *(C) "Controlled substance analog" means the same as in K.S.A.*
3 *2013 Supp. 21-5701, and amendments thereto.*

4 *Sec. 3. K.S.A. 2013 Supp. 39-709 is hereby repealed.}*

5 *Sec. ~~2~~ {4.}* This act shall take effect and be in force from and after its
6 publication in the statute book.