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

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

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

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

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

Sec. 2. K.S.A. 2013 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) General eligibility requirements for assistance for
which federal moneys are expended. Subject to the additional
requirements below, assistance in accordance with plans under which
federal moneys are expended may be granted to any needy person who:
(1) Has insufficient income or resources to provide a reasonable
subsistence compatible with decency and health. Where a husband and
wife are living together, the combined income or resources of both shall
be considered in determining the eligibility of either or both for such
assistance unless otherwise prohibited by law. The secretary, in
determining need of any applicant for or recipient of assistance shall not
take into account the financial responsibility of any individual for any
applicant or recipient of assistance unless such applicant or recipient is
such individual's spouse or such individual's minor child or minor
stepchild if the stepchild is living with such individual. The secretary in
determining need of an individual may provide such income and
resource exemptions as may be permitted by federal law. For purposes of
eligibility for aid for families with dependent children, for food stamp
assistance and for any other assistance provided through the Kansas
department for children and families under which federal moneys are
expended, the secretary for children and families shall consider one
motor vehicle owned by the applicant for assistance, regardless of the
value of such vehicle, as exempt personal property and shall consider
any equity in any additional motor vehicle owned by the applicant for
assistance to be a nonexempt resource of the applicant for assistance.
(2) Is a citizen of the United States or is an alien lawfully admitted
to the United States and who is residing in the state of Kansas.
(b) Assistance to families with dependent children. Assistance may
be granted under this act to any dependent child, or relative, subject to
the general eligibility requirements as set out in subsection (a), who
resides in the state of Kansas or whose parent or other relative with
whom the child is living resides in the state of Kansas. Such assistance
shall be known as aid to families with dependent children. Where
husband and wife are living together both shall register for work under
the program requirements for aid to families with dependent children in
accordance with criteria and guidelines prescribed by rules and
regulations of the secretary.
(c) Aid to families with dependent children; assignment of support
rights and limited power of attorney. By applying for or receiving aid to
families with dependent children such applicant or recipient shall be
deemed to have assigned to the secretary on behalf of the state any
accrued, present or future rights to support from any other person such
applicant may have in such person's own behalf or in behalf of any
other family member for whom the applicant is applying for or receiving
aid. In any case in which an order for child support has been established
and the legal custodian and obligee under the order surrenders physical
custody of the child to a caretaker relative without obtaining a
modification of legal custody and support rights on behalf of the child
are assigned pursuant to this section, the surrender of physical custody
and the assignment shall transfer, by operation of law, the child's
support rights under the order to the secretary on behalf of the state.
Such assignment shall be of all accrued, present or future rights to
support of the child surrendered to the caretaker relative. The
assignment of support rights shall automatically become effective upon
the date of approval for or receipt of such aid without the requirement
that any document be signed by the applicant, recipient or obligee. By
applying for or receiving aid to families with dependent children, or by
surrendering physical custody of a child to a caretaker relative who is an
applicant or recipient of such assistance on the child's behalf, the
applicant, recipient or obligee is also deemed to have appointed the
secretary, or the secretary's designee, as an attorney in fact to perform
the specific act of negotiating and endorsing all drafts, checks, money
orders or other negotiable instruments representing support payments
received by the secretary in behalf of any person applying for, receiving
or having received such assistance. This limited power of attorney shall
be effective from the date the secretary approves the application for aid
and shall remain in effect until the assignment of support rights has
been terminated in full.

(d) Eligibility requirements for general assistance, the cost of which
is not shared by the federal government. (1) General assistance may be
granted to eligible persons who do not qualify for financial assistance in
a program in which the federal government participates and who satisfy
the additional requirements prescribed by or under this subsection (d).
(A) To qualify for general assistance in any form a needy person
must have insufficient income or resources to provide a reasonable
subistence compatible with decency and health and, except as provided
for transitional assistance, be a member of a family in which a minor
child or a pregnant woman resides or be unable to engage in
employment. The secretary shall adopt rules and regulations prescribing
criteria for establishing when a minor child may be considered to be
living with a family and whether a person is able to engage in
employment, including such factors as age or physical or mental
condition. Eligibility for general assistance, other than transitional
assistance, is limited to families in which a minor child or a pregnant
woman resides or to an adult or family in which all legally responsible
family members are unable to engage in employment. Where a husband
and wife are living together the combined income or resources of both
shall be considered in determining the eligibility of either or both for
such assistance unless otherwise prohibited by law. The secretary in
determining need of any applicant for or recipient of general assistance
shall not take into account the financial responsibility of any individual
for any applicant or recipient of general assistance unless such
applicant or recipient is such individual's spouse or such individual's
minor child or a minor stepchild if the stepchild is living with such
individual. In determining the need of an individual, the secretary may
provide for income and resource exemptions.

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

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

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

(4) If any person is found guilty of the crime of theft under the
provisions of K.S.A. 39-720, and amendments thereto, such person shall
thereby become forever ineligible to receive any form of general
assistance under the provisions of this subsection (d) unless the
conviction is the person's first conviction under the provisions of K.S.A.
39-720, and amendments thereto, or the law of any other state
concerning welfare fraud. First time offenders convicted of a
misdemeanor under the provisions of such statute shall become
ineligible to receive any form of general assistance for a period of 12
calendar months from the date of conviction. First time offenders
convicted of a felony under the provisions of such statute shall become
ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person’s first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

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

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient. Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation
(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

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

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

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

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

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

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

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

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

(2) The amount of any medical assistance paid after June 30, 1992,
under the provisions of subsection (e) is (A) a claim against the property
or any interest therein belonging to and a part of the estate of any
deceased recipient or, if there is no estate, the estate of the surviving
spouse, if any, shall be charged for such medical assistance paid to
either or both, and (B) a claim against any funds of such recipient or
spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264,
17-5828 or 17-5829, and amendments thereto. There shall be no
recovery of medical assistance correctly paid to or on behalf of an
individual under subsection (e) except after the death of the surviving
spouse of the individual, if any, and only at a time when the individual
has no surviving child who is under 21 years of age or is blind or
permanently and totally disabled. Transfers of real or personal property
by recipients of medical assistance without adequate consideration are
voidable and may be set aside. Except where there is a surviving spouse,
or a surviving child who is under 21 years of age or is blind or
permanently and totally disabled, the amount of any medical assistance
paid under subsection (e) is a claim against the estate in any
guardianship or conservatorship proceeding. The monetary value of any
benefits received by the recipient of such medical assistance under long-
term care insurance, as defined by K.S.A. 40-2227, and amendments
thereto, shall be a credit against the amount of the claim provided for
such medical assistance under this subsection (g). The secretary is
authorized to enforce each claim provided for under this subsection (g). The secretary shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary from claims under this subsection (g) shall be deposited in the social welfare fund. The secretary may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection (g).

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

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

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

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

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

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

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

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

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

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

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

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

(A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any
time by paying the amount of the lien to the secretary or the secretary's
designee;
(B) the lien is terminated by foreclosure of prior lien of record or
settlement action taken in lieu of foreclosure; or
(C) the value of the real property is consumed by the lien, at which
time the secretary or the secretary's designee may force the sale for the
real property to satisfy the lien.

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

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

(h) Placement under the revised Kansas code for care of children
or revised Kansas juvenile justice code; assignment of support rights and
limited power of attorney. In any case in which the secretary for children
and families pays for the expenses of care and custody of a child
pursuant to K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and
amendments thereto, including the expenses of any foster care
placement, an assignment of all past, present and future support rights
of the child in custody possessed by either parent or other person entitled
to receive support payments for the child is, by operation of law,
conveyed to the secretary. Such assignment shall become effective upon
placement of a child in the custody of the secretary or upon payment of
the expenses of care and custody of a child by the secretary without the
requirement that any document be signed by the parent or other person
entitled to receive support payments for the child. When the secretary
pays for the expenses of care and custody of a child or a child is placed
in the custody of the secretary, the parent or other person entitled to
receive support payments for the child is also deemed to have appointed
the secretary, or the secretary's designee, as attorney in fact to perform
the specific act of negotiating and endorsing all drafts, checks, money
orders or other negotiable instruments representing support payments
received by the secretary on behalf of the child. This limited power of
attorney shall be effective from the date the assignment to support rights
becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

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

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

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

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

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

(3) Any applicant for or recipient of cash assistance who tests
positive for unlawful use of a controlled substance or controlled
substance analog shall be required to complete a substance abuse
treatment program approved by the secretary for children and families,
secretary of labor or secretary of commerce, and a job skills program
approved by the secretary for children and families, secretary of labor or
secretary of commerce. Subject to applicable federal laws, any applicant
for or recipient of cash assistance who fails to complete or refuses to
participate in the substance abuse treatment program or job skills
program as required under this subsection shall be ineligible to receive
cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

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

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

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

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

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

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

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

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

(9) As used in this subsection:

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

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

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

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

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.