

HOUSE BILL No. 2045

By Representative Ward

1-20

1 AN ACT concerning social welfare; relating to eligibility requirements for
2 the Kansas program of medical assistance; amending K.S.A. 2014
3 Supp. 39-709 and repealing the existing section.
4

5 WHEREAS, The expansion of medicaid will result in more than \$3
6 billion of Kansas taxpayer money being returned to the state during the
7 first seven years of expansion. Medicaid expansion will also result in \$1.9
8 billion of increased gross state product. (Report prepared for Kansas
9 Hospital Association); and

10 WHEREAS, The expansion of medicaid will create 3,400 new jobs in
11 the high wage, good benefit health care sector of Kansas in its first year
12 and 4,000 total jobs after seven years. (Report prepared for Kansas
13 Hospital Association); and

14 WHEREAS, The cost associated with expansion of medicaid without
15 looking at economic benefits is estimated to total \$600 million over 10
16 years. (Report prepared for Kansas Department of Health and
17 Environment). After calculating economic benefits such as increased
18 revenue collections as a result of new jobs and eliminating state
19 expenditures for mental health services that would be unnecessary with
20 expansion, state revenues would increase \$82 million over seven years.
21 (Report prepared for Kansas Hospital Association); and

22 WHEREAS, Failure to expand medicaid will result in an increased cost
23 of health care insurance for every insured Kansan. Federal aid provided to
24 hospitals for the care of people without insurance is reduced by
25 approximately 1.3 billion dollars. (Kansas Hospital Association; Patient
26 Protection and Affordable Care Act, public law 111-148). People without
27 insurance will continue to use the emergency room for primary health care.
28 The elimination of federal aid and the failure to expand medicaid will
29 result in increases in charges to people with health insurance; and

30 WHEREAS, The federal government is paying 100% of the costs
31 associated with expansion for the first three years and then will gradually
32 reduce the federal share to 90% by the year 2020. The federal government
33 will thereafter pay 90% of the costs of medicaid expansion. (Patient
34 Protection and Affordable Care Act, public law 111-148); and

35 WHEREAS, Participation in medicaid by the state of Kansas is
36 voluntary and expansion of medicaid benefits is voluntary. Kansas retains

1 the right to withdraw from medicaid expansion should the federal
2 government change its contribution rates; and

3 WHEREAS, The medicaid insurance program has been in existence
4 since 1965 and the federal government has never failed to meet its
5 obligations under the program; and

6 WHEREAS, Refusing to expand medicaid will not result in a reduction
7 of the federal deficit nor will Kansas taxpayers get a federal tax reduction;
8 and

9 WHEREAS, Refusing to expand medicaid will result in Kansas tax
10 dollars being spent in other states like Florida and Arizona; and

11 WHEREAS, There are more than 380,000 Kansans under the age of 65
12 who are uninsured. This number is increasing rapidly. (Latest U.S. Census
13 Bureau estimate on health insurance coverage); and

14 WHEREAS, There are thousands of Kansans who have inadequate
15 health insurance coverage. Underinsured Kansans face staggering out-of-
16 pocket expenses that lead them to delay or forgo necessary medical care.
17 There are no exact figures for underinsured Kansans, but there are
18 approximately 25 million such individuals in the United States; and

19 WHEREAS, The expansion of medicaid will provide health insurance
20 to 226,000 uninsured and underinsured Kansans. (Report prepared for
21 Kansas Department of Health and Environment); and

22 WHEREAS, 62% of all bankruptcies are tied to medical expenses.
23 Three-quarters of the people who filed for bankruptcy had health
24 insurance. Most medical debtors are well-educated, own homes and have
25 middle-class occupations. (American Journal of Medicine, Jan. 2012); and

26 WHEREAS, The average cost for single health care coverage in 2012
27 was \$468 a month or \$5,616 a year. The average cost for family health
28 care coverage in 2012 was \$1,312 a month or \$15,744 a year. Health
29 insurance premiums have doubled in the last 10 years. (Kaiser Family
30 Foundation 2012 Annual Survey). Today, in Kansas, one in four people
31 work for \$10 an hour or less. At \$10 an hour, an individual would gross
32 \$1,733 a month and gross \$20,800 annually. (Kansas Department of
33 Labor); and

34 WHEREAS, The expansion of medicaid would provide health
35 insurance to individuals and families earning 133% of the federal poverty
36 level, which is about \$1,274 a month and \$15,282 annually for an
37 individual and \$2,610 a month and \$31,322 annually for a family of four.
38 (Federal Poverty Guidelines for 2013).

39 Now, therefore:

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

41 New Section 1. The changes to law in this act shall be known as the
42 healthy Kansas act.

43 Sec. 2. K.S.A. 2014 Supp. 39-709 is hereby amended to read as

1 follows: 39-709. (a) *General eligibility requirements for assistance for*
2 *which federal moneys are expended.* Subject to the additional requirements
3 below, assistance in accordance with plans under which federal moneys
4 are expended may be granted to any needy person who:

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

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

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

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

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

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

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

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

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

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

32 (4) If any person is found guilty of the crime of theft under the
33 provisions of K.S.A. 39-720, and amendments thereto, such person shall
34 thereby become forever ineligible to receive any form of general
35 assistance under the provisions of this subsection (d) unless the conviction
36 is the person's first conviction under the provisions of K.S.A. 39-720, and
37 amendments thereto, or the law of any other state concerning welfare
38 fraud. First time offenders convicted of a misdemeanor under the
39 provisions of such statute shall become ineligible to receive any form of
40 general assistance for a period of 12 calendar months from the date of
41 conviction. First time offenders convicted of a felony under the provisions
42 of such statute shall become ineligible to receive any form of general
43 assistance for a period of 60 calendar months from the date of conviction.

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

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

29 (2) For the purposes of medical assistance eligibility determinations
30 on or after July 1, 2004, if an applicant or recipient owns property in joint
31 tenancy with some other party and the applicant or recipient of medical
32 assistance has restricted or conditioned their interest in such property to a
33 specific and discrete property interest less than 100%, then such
34 designation will cause the full value of the property to be considered an
35 available resource to the applicant or recipient. ~~Medical assistance~~
36 ~~eligibility for receipt of benefits under the title XIX of the social security~~
37 ~~act, commonly known as medicaid, shall not be expanded, as provided for~~
38 ~~in the patient protection and affordable care act, public law 111-148, 124~~
39 ~~stat. 119, and the health care and education reconciliation act of 2010,~~
40 ~~public law 111-152, 124 stat. 1029, unless the legislature expressly~~
41 ~~consents to, and approves of, the expansion of medicaid services by an act~~
42 ~~of the legislature~~ *For purposes of medical assistance eligibility*
43 *determinations on or after January 1, 2016, medical assistance shall also*

1 *be granted to any adult under 65 years of age, not pregnant and whose*
2 *income does not exceed 133% of the federal poverty level, to the extent*
3 *permitted under the provisions of 42 U.S.C. § 1396a.*

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

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

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

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

43 (B) When an applicant or recipient of medical assistance is a party to

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

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

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

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

27 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
28 amendments thereto, or as otherwise authorized on and after September
29 30, 1989, under section 303 of the federal medicare catastrophic coverage
30 act of 1988, whichever is applicable, by applying for or receiving medical
31 assistance under a medical care plan in which federal funds are expended,
32 any accrued, present or future rights to support and any rights to payment
33 for medical care from a third party of an applicant or recipient and any
34 other family member for whom the applicant is applying shall be deemed
35 to have been assigned to the secretary on behalf of the state. The
36 assignment shall automatically become effective upon the date of approval
37 for such assistance without the requirement that any document be signed
38 by the applicant or recipient. By applying for or receiving medical
39 assistance the applicant or recipient is also deemed to have appointed the
40 secretary, or the secretary's designee, as an attorney in fact to perform the
41 specific act of negotiating and endorsing all drafts, checks, money orders
42 or other negotiable instruments, representing payments received by the
43 secretary ~~in~~ on behalf of any person applying for, receiving or having

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

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

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

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

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

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

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

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

42 (A) After the death of a recipient of medical assistance, the secretary
43 of health and environment or the secretary's designee may place a lien on

1 any interest in real property owned by such recipient.

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

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

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

34 (B) when there is no child of the recipient, natural or adopted, who is
35 20 years of age or less residing in the home;

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

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

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

1 following events occur:

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

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

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

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

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

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

30 (h) *Placement under the revised Kansas code for care of children or*
31 *revised Kansas juvenile justice code; assignment of support rights and*
32 *limited power of attorney.* In any case in which the secretary for children
33 and families pays for the expenses of care and custody of a child pursuant
34 to K.S.A. 2014 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
35 thereto, including the expenses of any foster care placement, an
36 assignment of all past, present and future support rights of the child in
37 custody possessed by either parent or other person entitled to receive
38 support payments for the child is, by operation of law, conveyed to the
39 secretary. Such assignment shall become effective upon placement of a
40 child in the custody of the secretary or upon payment of the expenses of
41 care and custody of a child by the secretary without the requirement that
42 any document be signed by the parent or other person entitled to receive
43 support payments for the child. When the secretary pays for the expenses

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

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

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

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

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

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

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

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

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

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

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

1 controlled substance analog.

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

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

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

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

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

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

40 (9) As used in this subsection:

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

1 pursuant to such statutes.

2 (B) "Controlled substance" means the same as in K.S.A. 2014 Supp.
3 21-5701, and amendments thereto, and 21 U.S.C. § 802.

4 (C) "Controlled substance analog" means the same as in K.S.A. 2014
5 Supp. 21-5701, and amendments thereto.

6 Sec. 3. K.S.A. 2014 Supp. 39-709 is hereby repealed.

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