

KANSAS REGISTER

State of Kansas

JACK H. BRIER
Secretary of State

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March 28, 1985

Pages 361-456

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State of Kansas

**STATE EMPLOYEES
HEALTH CARE COMMISSION**

NOTICE OF MEETING

The Kansas State Employees Health Care Commission will hold its regular monthly meeting on April 5, 1985, at 2 p.m., in the Third Floor Conference Room, Insurance Department, 420 S.W. 9th, Topeka, KS.

MARVIN A. HARDER
Chairman

Doc. No. 003038

State of Kansas

**SOCIAL AND REHABILITATION SERVICES
ADVISORY COMMISSION ON
JUVENILE OFFENDER PROGRAMS**

NOTICE OF MEETING

The Advisory Commission on Juvenile Offender Programs will meet on Friday, April 12, 1985, in the Conference Room of the Smith/Wilson Building, 2700 W. 6th, Topeka, KS, at 10:30 a.m.

MARY ILENE SLAYBAUGH
Clerk

Doc. No. 003026

State of Kansas

**SOCIAL AND REHABILITATION SERVICES
CHILDREN AND YOUTH
ADVISORY COMMITTEE**

NOTICE OF MEETING

Notice is hereby given to all interested parties that the statutorily created Children and Youth Advisory Committee will hold its regular meeting on Monday, April 8, 1985, at 1:30 p.m., in the Judicial Administra-

tor's Conference Room, Judicial Center, 301 W. 10th St., Topeka, KS.

ROBERT C. BARNUM
Chairman

Doc. No. 003027

State of Kansas

**SOCIAL AND REHABILITATION SERVICES
TASK FORCE ON PERMANENCY PLANNING**

NOTICE OF MEETING

The next meeting of the Kansas Task Force on Permanency Planning will be on Friday, April 5, 1985, at 10 a.m., in the Judicial Administrator's Conference Room, Judicial Center, 301 W. 10th St., Topeka, KS.

ROBERT C. BARNUM
Chairman

Doc. No. 003028

State of Kansas

**NORTHWEST KANSAS GROUNDWATER
MANAGEMENT DISTRICT No. 4**

NOTICE OF MEETING

The April board meeting of the Northwest Kansas Groundwater Management District No. 4 is scheduled for April 4, 1985 beginning at 10 a.m. in the district office, 1175 S. Range, Colby, KS. General administrative matters and other business will be discussed.

The Board will also be holding, on this same day, a public hearing to consider the 1986 proposed operating budget. The hearing begins at 1:30 p.m., C.S.T. also in the district office.

WAYNE A. BOSSERT
Manager

Doc. No. 003034

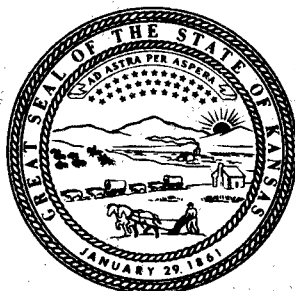
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PUBLISHED BY
JACK H. BRIER
Secretary of State
State Capitol
Topeka, KS 66612



PHONE: 913/296-3489

State of Kansas

REAL ESTATE COMMISSION**NOTICE OF PUBLIC HEARING**

A public hearing will be held on April 15, 1985 at 1 p.m. in Room 202, Federal Building, 444 S.E. Quincy, Topeka, KS, to consider the adoption of a proposed temporary and permanent rule and regulation of the Kansas Real Estate Commission.

The following is a brief summary of the proposed regulation: amendment of K.A.R. 86-1-5 to increase original and renewal fees for salespersons from \$15 to \$25 and for brokers from \$25 to \$40 (annual rates).

All interested parties may submit written comments at any time prior to the hearing by addressing them to the Director, Kansas Real Estate Commission, 217 E. 4th, Topeka, KS 66603. All interested parties will be given a reasonable opportunity at the hearing to present their views, orally, in regard to adoption of the proposed regulation.

Following the hearing on April 15, 1985, all written and oral comments submitted by interested parties will be considered by the Kansas Real Estate Commission.

Copies of the regulation and fiscal impact statement may be obtained by writing: Kansas Real Estate Commission, 217 E. 4th, Topeka, KS 66603.

E. W. YOCKERS
Director

Doc. No. 003042

State of Kansas

PARK AND RESOURCES AUTHORITY**NOTICE TO BIDDERS**

Sealed bids for a one-year lease agreement for the mowing, baling, and removal of hay from tracts within Perry and Lovewell State Parks will be received by the Kansas Park and Resources authority, 503 Kansas Ave, P. O. Box 977, Topeka, KS 66601, until 2 p.m., April 10, 1985, and then will be publicly opened and read aloud.

Bid forms and other information may be obtained from managers of the above state parks. For referral assistance, contact the Kansas Park and Resources Authority at the above address or by telephone at (913) 296-2281.

LYNN BURRIS, JR.
Director

Doc. No. 003045

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES****NOTICE OF COMMENCEMENT
OF NEGOTIATIONS
FOR TECHNICAL SERVICES**

Notice is hereby given of the commencement of negotiations for contracts for air and water balancing

of the mechanical systems for the following project and an infra-red scan for the same project:

Construction of a Magnetic Resonance Imaging System, University of Kansas Medical Center, Kansas City, Kansas

Interested individuals or firms in the balancing field must be certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. Said individuals or firms must be engaged in balancing work on a full-time basis. Balance agencies which are of the same parent company as the designers or contractors of a particular project will not be considered for that project. Submit qualifications with letter of interest.

Interested individuals or firms in the infra-red scan field must be an independent testing company using trained personnel who work full-time on infra-red testing projects. Personnel shall be familiar with the operation of the infra-red camera and capable of analyzing the results. The infra-red survey shall be done with a Model No. 750 infra-red camera as manufactured by AGA Corporation of Secaucus, N.J., or equal. Submit qualifications with letter of interest.

Any additional information, questions or expressions of interest should be directed to Myron Reed, Division of Architectural Services, 625 Polk, Topeka, KS 66603, (913) 233-9367, prior to April 12, 1985.

JOHN B. HIPPI, AIA
Director

Division of Architectural Services

Doc. No. 003021

(Published in the KANSAS REGISTER, March 28, 1985.)

State of Kansas

DEPARTMENT OF TRANSPORTATION**NOTICE TO CONTRACTORS**

It is the intent that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the K.D.O.T. District One Conference Room, 121 W. 21st, Topeka, KS, until 10:00 a.m. C.D.T., May 2, 1985 and then publicly opened:

DISTRICT ONE—Northeast

Johnson—435-46 K-0456-06—I-435, ramps east-north and west-south and bridges on I-35, grading and surfacing. (Federal Funds)

A pre-bid conference for the above referenced Project 435-46 K-0456-06, Johnson County, is scheduled for Thursday, April 18, 1985, at 1:15 p.m. at the K.D.O.T. District One Conference Room, 121 W. 21st, Topeka. The project includes the ramps east-north and west-south at the interchange of I-435 & I-35 in the Cities of Lenexa and Overland Park.

Contractors wishing to bid on the project are required to attend this pre-bid conference in accordance with the provisions of 80P-207-R1 dated January 31, 1985. The project is tentatively scheduled to be let on May 2, 1985.

Proposals will be issued upon request to all pros-
(continued)

pective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks or at the Kansas Department of Transportation district offices responsible for the work.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 002997

(Published in the KANSAS REGISTER, March 28, 1985.)

State of Kansas

DEPARTMENT OF TRANSPORTATION

SPECIAL NOTICE TO CONTRACTORS

A pre-bid conference for Project 35-46 K 1442-03, Johnson County, is scheduled for Thursday, April 4, 1985, at 10:00 a.m., at the K.D.O.T. District One Conference Room, 121 W. 21st St., Topeka. The project begins at the interchange of I-35 and 75th Street in the Cities of Overland Park and Merriam, 0.447 mile, grading, surfacing and six bridges. Contractors wishing to bid on the project are *required* to attend this pre-bid conference in accordance with the provisions of 80P-207 dated December 19, 1984. The project is tentatively scheduled to be let for bid on April 18, 1985.

A pre-bid conference for Project 70-21 K 2588-01, Dickinson County, is scheduled for Thursday, April 4, 1985, at 1:30 p.m., at the K.D.O.T. District One Conference Room, 121 W. 21st St., Topeka. The project begins at the junction of I-70 and K-15, then east to 2.3 miles east of K-43, 8.1 miles, bituminous recycling. Contractors wishing to bid on the project are *required* to attend this pre-bid conference in accordance with the provisions of 80P-207 dated December 19, 1984. The project is tentatively scheduled to be let for bid on April 18, 1985.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 002943

(Published in the KANSAS REGISTER, March 28, 1985.)

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, KS, until 10:00 a.m., April 18, 1985 and then publicly opened:

DISTRICT ONE—Northeast

Doniphan—22 C-1487-01, County road, 2.5 miles west of Highland at US-36; then north, 4.0 miles, surfacing. (Federal Funds)

Jackson—75-43 K-2019-01, US-75, Spring Creek Bridge No. 6 and Mud Creek Bridge No. 7, bridge replacement and bridge rehabilitation. (Federal Funds)

Johnson—35-46 K-1442-03—I-35 and 75th Street Interchange (mainline), grading, bridge and surfacing. (Federal Funds)

Johnson—169-46 K-1360-02—US-169, Miami-Johnson County line north, 2.9 miles, surfacing. (Federal Funds)

Johnson—56-46 K-2121-01—US-56, Roe Avenue to Kansas-Missouri state line, 2.0 miles, recycle. (State Funds)

Johnson—56-46 K-2417-01—US-56, junction I-35, east to Roe Avenue, 3.2 miles, recycle. (State Funds)

Johnson—56-46 K-2683-01—US-56, junction of US-56 and I-35 east to Kansas-Missouri state line, 5.0 miles, pavement marking. (Federal Funds)

Pottawatomie—75 C-1825-01—County road, 3.4 miles north of Emmett at junction K-63, then northeast, 6.7 miles, grading and culvert. (Federal Funds)

Shawnee—75-89 K-2684-01—junction of US-75 and Northwest 46th Street, north of Topeka, intersection improvement. (Federal Funds)

Wyandotte—105 U-0849-01—Kansas City—55th Street at Brenner Creek Tributary, 0.2 mile, bridge replacement. (Federal Funds)

DISTRICT TWO—Northcentral

Cloud—15 U-0893-01—Republican Street, from Campus Street to 11th Street in Concordia, 0.9 mile, grading and surfacing. (Federal Funds)

Dickinson—70-21 K-2588-01—junction of I-70 and K-15, east to 2.3 miles east of K-43, 8.1 miles, concrete pavement. (Federal Funds)

Dickinson—4-21 M-1337-01—culverts replaced with bridges, 0.9 mile, 2.7 miles and 3.1 miles east of the junction of K-4 and K-43. (State Funds)

McPherson—59 U-0850-01—Avenue "A" at Dry Turkey Creek in McPherson, 0.2 mile, bridge replacement. (Federal Funds)

Saline—85 U-0832-01—Iron Avenue at Smoky Hill River in Salina, bridge replacement. (Federal Funds)

Saline—85 C-1938-01—Saline-Dickinson County line then west on county highway FAS 190 for 1.6 miles, then from intersection of FAS 190 and 595 south 3.0 miles, 13.2 miles, surfacing. (Federal Funds)

DISTRICT THREE—Northwest

Russell—84 C-1686-01—County road south of Lucas, bridge replacement. (Federal Funds)

DISTRICT FOUR—Southeast

Bourbon—69-6 K-2674-01—US-69, Bridge No. 21 over Burlington Northern Railroad, 8.6 miles, northwest of junction US-54, bridge painting. (State Funds)

Crawford—19 C-1143-01—County road, 2.0 miles

east of Pittsburg at K-126, then south, 4.7 miles, surfacing. (Federal Funds)

Neosho—169-67 K-2675-01—US-169, Bridge No. 12 and 19, 4.8 miles south and 3.5 miles north, south junction K-39, bridge painting. (State Funds)

Miami—169-61 K-0590-02—US-169, Miami-Johnson County line southeast 1.7 miles, 1.7 miles, surfacing. (Federal Funds)

Woodson—75-104 X-0938-02—crossing of Missouri Pacific Railroad and US-75 in Yates Center, grading and surfacing. (Federal Funds)

DISTRICT SIX—Southwest

Pratt—76 C-2079-01—County road, 4.0 miles north of Coats, then north, 4.8 miles, surfacing. (Federal Funds)

Sedgwick—87 U-0986-01—US-81 and 71st Street in Haysville, signing. (Federal Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks or at the Kansas Department of Transportation district offices responsible for the work.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 002998

State of Kansas

DEPARTMENT OF HUMAN RESOURCES

NOTICE OF JTPA MEETING

The Private Industry Council for Service Delivery Area II of the Job Training Partnership Act will meet at 9:30 a.m., Thursday, April 4, 1985, at the YWCA, 225 W. 12th, Topeka, KS.

CHUCK HERNANDEZ
SDA II PIC Manager

Doc. No. 003029

State of Kansas

DEPARTMENT OF HUMAN RESOURCES

NOTICE OF GRANT APPLICATIONS IN REVIEW

Below are listed applications which have been submitted to the Kansas Review Process. For those requiring review, comments should be sent to the Kansas Single Point of Contact, Judy Krueger, Kansas Department of Human Resources, Office of the Secretary, 401 Topeka Ave., Topeka, KS 66603. The due date for comments is indicated.

KS850315-001-84132KS—Application to the U.S. Department of Education for \$180,000 to continue a

rural Center for Independent Living providing services for disabled individuals to live as independently as possible within one's home and community. Contact Robin O'Dell, Kansas Social and Rehabilitation Services, 2700 W. 6th, Biddle Bldg., 2nd floor, Topeka, KS 66606, 913/296-3911. Comments due by April 9, 1985.

KS850315-002-84132SN—Application to the U.S. Department of Education for \$157,702 to continue a Center for Independent Living providing services to disabled persons needed to live independently. Contact Robin O'Dell listed above. Comments due by April 9, 1985.

KS850315-003-84132MO—Application to the U.S. Department of Education for \$198,000 to continue an information and referral service and program which assists physically, multiply and developmentally disabled adults to live independently in the community. Contact Margaret Shreve, Executive Director, The Whole Person, Inc., 6301 Rockhill Rd., Suite 305E, Kansas City, MO 64131, 816/361-0304. Comments due by April 9, 1985.

KS850315-006-13118KS—Application to the Department of Health and Human Services for \$68,679 for a one-time 90-day start-up funds to establish alternate site testing for antibodies to a virus associated with Acquired Immune Deficiency Syndrome. Contact Joseph Hollowell, Jr., M.D., Kansas Department of Health and Environment, Forbes Field, Bldg. 740, Topeka, KS 66620, 913/862-9360, Ext. 527. No review required.

KS850318-002-14401WY—Application to the Department of Housing and Urban Development for \$68,666 to undertake a series of activities that would expand awareness of fair housing rights and resources within the community, provide broader protection to uncovered individuals, and educate the real estate management and broker community about their responsibilities under the law. Contact Beverly McKinney, City of Kansas City, KS, Human Resources Department, 701 N. 7th St., Kansas City, KS 66101, 913/573-5460. Comments due by April 27, 1985.

KS850328-003-13631EL—Application to the Department of Health and Human Services for \$199,272. The proposal is to apply a specific model of residential services to an especially hard-to-serve group of developmentally disabled people to demonstrate that deinstitutionalization is a viable option to them. Contact James Blume, Developmental Services of Northwest Kansas, Box 1016, Hays, KS 67601, 913/625-5678. Comments due by April 27, 1985.

KS850318-004-84128DG—Application to the U.S. Department of Education for \$126,820. The purpose of this project is to provide microcomputer training to severely disabled individuals which will increase the employment potential, and improve personal communication skills and access to the community. Contact Mona McCoy, Independence, Inc., 1910 Haskell, Lawrence, KS 66046, 913/841-0333. Comments due by April 12, 1985.

KS850318-005-84132DG—Application to the U.S. Department of Education for \$150,000 to continue an

(continued)

independent living center for persons with severe disabilities. Contact Mona McCoy listed above. Comments due by April 12, 1985.

KS850319-001-14401JO—Application to the Department of Housing and Urban Development for \$74,977 to prepare a two-volume text which will serve as a central source of information about economic and legal factors affecting housing opportunities for minorities in the city of Olathe and in the Kansas City Missouri-Kansas metropolitan area. Contact Joyce Keys, City of Olathe, Human Resources Dept., 100 W. Santa Fe, Box 768, Olathe, KS 66061, 913/782-2600, Ext. 320. Comments due by April 28, 1985.

KS850319-002-11550FI—Application to the Department of Commerce for \$21,579 to construct FM translators in two Kansas communities, St. Francis and Sharon Springs, in order to provide these communities with their first public radio service. Contact Quentin Hope, Kanza Society Incorporated, One Broadcast Plaza, Box 57, Pierceville, KS 67868, 316/335-5120. Comments due by April 28, 1985.

The following applications have been made to the Department of Health and Human Services for expansion of existing or establishment of new Head Start Programs:

KS850315-004-13600FO—\$34,300—Dodge City Head Start. Contact Bev Sayre, Unified School District 443, 1000 Second, Box 460, Dodge City, KS 67801, 316/227-7423. Comments due by April 9, 1985.

KS850315-005-13600FO—\$2,816—Dodge City Head Start Carry Over Funds. Contact Bev Sayre listed above. No review required.

KS850318-001-13600GE—\$108,979—Junction City Head Start. Contact Elizabeth C. Kline, Geary County Unified Schools #475, Box 370, 8th & Eisenhower Dr., Junction City, KS 66441, 913/238-6184. Comments due by April 12, 1985.

The following grants have been awarded:

The Lewis-Young Park Acquisition and Development Project was granted an extension in the period covered by the agreement from January 31, 1985 to June 30, 1986 by the National Park Service.

LARRY E. WOLGAST, Ed.D.
Secretary of Human Resources

Doc. No. 003030

State of Kansas

**KANSAS BOARD OF REGENTS
UNIVERSITY OF
KANSAS MEDICAL CENTER**

**NOTICE OF HEARING
ON TRAFFIC REGULATIONS**

Notice is hereby given to all interested parties that on April 23, 1985, at 3:00 p.m. C.D.T., at the University of Kansas Medical Center, Battenfield Auditorium, Olathe and Rainbow Blvd., Kansas City, KS, a public hearing will be held concerning the adoption of the Board of Regents of regulations governing traffic and parking on the roads, streets, driveways, and

parking facilities at the University of Kansas Medical Center. The following is a summary of the substance of the rules and proposed changes:

1. **Parking, general regulations.** The current regulations specify restrictions on vehicles operated on campus and define who is considered a student. The proposed change adds the locations, phone number and hours of operation of the Parking Service Office, and deletes the definition of a student.
2. **Same, student, faculty, staff and employee parking.** The current regulations establish the types of parking permits available, how permits are used and replacement permits. The proposed amendments would eliminate the evening and weekend permit.
3. **Same, visitors.** The current regulations specify certain conditions under which visitors may legally park on The University of Kansas Medical Center campus. No amendments are proposed.
4. **Same, Special Restricted Parking Areas.** The current regulations specify certain restricted parking areas for the handicapped and specific types of patients and outpatients. No amendments are proposed.
5. **Same, access to lots and zones.** The current regulations specify the times and locations for parking restrictions and specifies which lots each permit entitles a person to park. The proposed amendment would allow parking in surface lots between 6 p.m. and 7 a.m., Monday through Friday, weekends and academic holidays.
6. **Same violations of regulations.** The current regulations specify the penalties for misuse of parking area. The proposed amendments could eliminate the violation of parking in guest area, illegally parking on the street, overparking and storing of vehicles.
7. **Payment of fees for violations.** The current regulations specify where fines are to be paid, late payment penalty and conditions under which a vehicle may be removed from campus. No amendments are proposed.
8. **Appeal of violations notices.** The current regulations establish the procedure for appeals from a charge of misuse of parking area. The proposed amendment would increase the length of time allowed for appeal.
9. **Permit Fees.** The current regulations establish permit rates and refund procedures. The proposed amendments would increase permit rates by ten percent and change the refund policy.
10. **Statutory authorization.** The current regulations specify the legal authority for control of parking at Board of Regents institutions. No amendments are proposed.

Interested persons will be given a reasonable opportunity at the hearing to present their views concerning the adoption of the proposed amendments to the existing regulations. Written comments may also be submitted but must be received prior to the hear-

ing. Written comments or a request for a copy of the proposed regulations and a copy of the financial impact statement of such changes should be submitted to A. J. Yarmat, Ph.D. Associate Vice Chancellor Academic Affairs, Room A-201, University of Kansas Medical Center, 39th and Rainbow Blvd., Kansas City, KS 66103.

WILLIAM R. KAUFFMAN
General Counsel
Board of Regents

Doc. No. 003023

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASES**

NOTICE TO BIDDERS

Sealed bids for items hereinafter listed will be received by the Director of Purchases, State Office Bldg., Topeka, KS, until 2:00 p.m., CST or DST, whichever is in effect on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information:

MONDAY, APRIL 8, 1985

#26493

Statewide—AUDIBLE RANGE MAGNETIC TAPE

#26500

Department of Administration, Topeka—DISK STORAGE EQUIPMENT IBM 3380 COMPATIBLE, Statewide Optional

#26501

Department of Human Resources, Topeka—LEASE/PURCHASE OF DISPLAY TERMINALS

#61099

Winfield State Hospital and Training Center, Winfield—LOUNGE FURNITURE

#61100

Kansas State University, Manhattan—PROCESSOR CONTROL PANEL AND SOFTWARE FOR ENERGY MANAGEMENT SYSTEM

#61108

Kansas Technical Institute, Salina—USED PLANE AND ENGINE

#61117

Department of Social and Rehabilitation Services, Topeka—SNAP AND SLIDE FASTENERS

#61124

Kansas Fish and Game Commission, Pratt—REBUILD GEAR TEETH ON CRANE, Bennington

TUESDAY, APRIL 9, 1985

#61101

Youth Center at Beloit, Beloit—FURNISH AND INSTALL SUN ENCLOSURE OVER SWIMMING POOL

#61118

Kansas Department of Transportation, Salina—GALVANIZED STEEL SIGN POSTS, Mankato

#61119

University of Kansas, Lawrence—FOUR WHEEL DRIVE VEHICLE

#61125

Larned State Hospital, Larned and Kansas State University, Manhattan—12 PASSENGER VAN

#61126

University of Kansas Medical Center, Kansas City—PAGEWRITER CARDIOGRAPH

#61129

University of Kansas, Lawrence—AEROMAGNETIC SYSTEM DATA INTERFACE

#61132

Kansas State University, Manhattan—HELIUM MASS SPECTROMETER

#61137

Department of Transportation, Topeka—INSTALLATION OF NEW AUTOMOTIVE LIFT

#61143

Department of Social and Rehabilitation Services, Topeka—BLIND MADE PRODUCTS

#61147

University of Kansas, Lawrence—REFRIGERATORS AND DISHWASHERS

#61152

University of Kansas, Lawrence—MAILING EQUIPMENT

#61158

University of Kansas, Lawrence—PRINTING AND BINDING OF: "THE TIME OF TROUBLES" AND "SHAKESPEARE'S ROMANCES"

#61160

Kansas State University, Manhattan—PUMPS

WEDNESDAY, APRIL 10, 1985

#A-4990

Kansas Neurological Institute, Salina—PROVIDE MODERNIZATION OF BOILER CONTROLS AND REPAIR FORCED DRAFT UNIT, Central Power Plant Facility

#A-5133(a)

Kansas State Board of Agriculture, Topeka—PROVIDE COOLING TOWER REPLACEMENT

#A-5217

Adjutant General's Department, Topeka—PARTIAL REROOFING OF ARMORY BUILDING, Cherryvale

#26498

Statewide—AUTOMOTIVE SUPPLIES

#61130

Kansas State University, Manhattan—SURFACE AREA METER

#61134

Kansas State University, Manhattan—ANIMAL CAGES

#61139

Kansas Highway Patrol, Topeka—AIRCRAFT FOR LEASE

#61145

Kansas State University, Manhattan—FURNISH AND FABRICATE STEEL MEZZANINE

#61148

Department of Transportation, Hutchinson—MOWING HIGHWAY RIGHT-OF-WAY, Sedgwick County

#61153

Wichita State University, Wichita—FLOOR MACHINES

#61155

University of Kansas, Lawrence—CARPET, PAD AND INSTALLATION

#61161

Department of Social and Rehabilitation Services, Various Locations—CONTINUOUS FORMS-310-T AND WARRANT REGISTER

(continued)

#61162

Wichita State University, Wichita—FLOOR MACHINES AND CLEANING EQUIPMENT

#61163

Department of Social and Rehabilitation Services, Topeka—PALLET RACKS

THURSDAY, APRIL 11, 1985

#26503

Department of Transportation, Topeka—LUBRICANTS

#61154

Fort Hays State University, Hays—FERTILIZER

#61156

University of Kansas Medical Center, Kansas City—PIPE AND PIPE FITTINGS

#61157

Kansas Technical Institute, Salina—SURVEYING INSTRUMENT

#61159

Kansas Technical Institute, Salina—TESTING APPARATUS

FRIDAY, APRIL 12, 1985

#26504

University of Kansas Medical Center, Kansas City—LAUNDRY SUPPLIES

TUESDAY, APRIL 16, 1985

#26502

Kansas Technical Institute, Salina—FOOD SERVICE

THURSDAY, APRIL 18, 1985

#26507

Department of Social and Rehabilitation Services, Topeka—TECHNICAL AND PROFESSIONAL SERVICES ADULT CARE HOME REIMBURSEMENT RATES AND LIMITATIONS

MONDAY, APRIL 29, 1985

#61149

Youth Center at Beloit, Beloit—TELECOMMUNICATION SYSTEM

WEDNESDAY, MAY 8, 1985

#61150

Kansas Technical Institute, Salina—TELECOMMUNICATIONS SYSTEM

NICHOLAS B. ROACH
Director of Purchases

Doc. No. 003025

State of Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT

PUBLIC NOTICE

A Certificate of Need Application from Providence-St. Margaret Health Center, Kansas City, KS, for the replacement of a CT Scanner, with a cost of \$900,000 was filed on February 25, 1985, for initiation of the 90-day review. Any directly affected person requesting a public hearing should contact the Project Reviewer, Office of Health and Environmental Planning, Building 321, Forbes Field, Topeka, KS 66620. The

request for hearing should be made in writing by April 15, 1985.

BARBARA J. SABOL
Secretary of Health and Environment

Doc. No. 003031

State of Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT

NOTICE OF DRAFT PROPOSED SURFACE WATER QUALITY STANDARDS AND PUBLIC MEETINGS

The Water Quality Assessment Section of the Bureau of Water Protection, Kansas Department of Health and Environment, will present draft Kansas Surface Water Quality Standards at six public meetings held at the following locations in April: Hays, Dodge City, Salina, Wichita, Chanute, Lawrence (see dates below). KDHE, pursuant to Section 303 of the Clean Water Act and 40 CFR, Section 131.20, is in the process of reviewing and revising the current Kansas Surface Water Quality Standards (KAR 28-16-28). Water quality standards include: 1) the designation of particular uses of surface waters in Kansas, and 2) the adoption of water quality criteria to protect these uses.

The Proposed Standards are now in draft form and will be presented at six public meetings held in April. The proposed standards, in addition to other information on the current water quality standards, the review process, and other pertinent issues may be reviewed by the public at the KDHE district offices and central Topeka office (addresses attached). Copies of the proposed standards may be obtained by contacting Anita Barker (913) 862-9360 ext. 256; KDHE Forbes Field, Topeka, KS 66620. Submit comments and suggestions to Don Snethen at the same address. For more information, contact Don Snethen (913) 862-9360 ext. 255 or Joseph Arruda ext. 261.

Date	City	Time	Location
April 10, 1985	Hays	7 p.m.	Auditorium Ft. Hays Experiment Station
April 11, 1985	Dodge City	7 p.m.	4-H Building West Park St.
April 16, 1985	Lawrence	7 p.m.	South Park Recreational Center 1141 Massachusetts Street
April 18, 1985	Salina	7 p.m.	Lecture Rm 103 Kansas Technical Insti- tute
April 24, 1985	Chanute	7 p.m.	Lecture Room, Stoltz Hall Neosho County Com- munity College
April 25, 1985	Wichita	7 p.m.	City Commission Room City Hall

Organization	Telephone No.	Name and Address
<i>District Offices</i>		
Northwest District	913-625-5664	Gerald (Gerry) Grant 1014 Cody Hays, KS 67601

North Central District	913-827-9639	Dean Strowig 2501 Market Place Salina, KS 67401
Northeast District	913-842-4600	J. Howard Duncan 808 W. 24th St. Lawrence, KS 66044
Southwest District	316-225-0596	Bill Quillen 302 W. McArtor Rd. Dodge City, KS 67801
South Central District	316-265-3181	Ray Kenny 202 Century Plaza 111 W. Douglas Wichita, KS 67202
Southeast District	316-431-2390	Rex Heape 1 West Ash Chanute, KS 66720

Part VII. Administration of Surface Water Quality Standards

PART I. SCOPE OF SURFACE WATER QUALITY STANDARDS

These Standards include the designated uses of surface waters and the water quality criteria necessary to protect those uses. They are applicable to all surface waters, both interstate and intrastate, including all tributary watercourses. When several uses and their criteria apply to individual surface water segments, the most stringent criteria shall be applied. These standards shall be attained, wherever practicable, after a balanced consideration of social, economic, ecological, and technological factors based on administrative procedures outlined in Part VII.

PART II. DEFINITIONS

For use in these regulations, the following definitions shall be applicable, unless the context obviously dictates otherwise:

1. *Acute Toxicity Level*: the concentration of a substance that kills fifty percent of a test species in a short term (less than or equal to 96 hours) aquatic toxicity test.
2. *Alluvial Aquifer*: a geologic formation associated with a stream composed of material deposited by the stream in which water is present.
3. *Artificial Sources*: sources of pollution that result from, and are accelerated to problem magnitude by human activities which can be abated by construction of control structures, modification of operating practices, and/or complete restraint of activities.
4. *Base Flow*: flowing water in a stream other than contributed by surface runoff.
5. *Bioaccumulation*: the accumulation of toxic substances in plant or animal tissue through either bioconcentration or biomagnification.
6. *Bioassessment*: the use of biological methods of assessing water quality including, but not limited to, field investigations of aquatic organisms and laboratory or field aquatic toxicity tests.
7. *Bioconcentration*: the concentration and incorporation of toxic chemicals or materials into body tissues from ambient sources.
8. *Biomagnification*: the concentration of toxic materials through the food chain (increasing exposure to toxic materials through successive eating and being eaten and the subsequent accumulation by high order consumers and predators).
9. *Biota*: indigenous species of aquatic or semi-aquatic life or wildlife.
10. *Carcinogenic*: having the property of inducing the production of cancerous cells in organisms.
11. *Clean Water Act*: the Federal Water Pollution Control Act, as amended.
12. *Department*: the Kansas Department of Health and Environment.

(continued)

OUTLINE OF PROPOSED SURFACE WATER QUALITY STANDARDS

- Part I. Scope of Surface Water Quality Standards
- Part II. Definitions
- Part III. General Considerations
 - A. Antidegradation
 - B. Mixing Zones
 - C. Special Conditions
 1. low flow
 2. high flow
 3. natural pollution
 - D. Effluent-Sustained Streams
 - E. Treatment Requirements
 - F. Analytical Testing
- Part IV. Surface Water Use Designation and Classification
 - A. Designated Uses
 1. Recreation
 2. Aquatic Life
 3. Domestic Water Supply
 4. Industrial Water Supply
 5. Agricultural Water Supply
 6. Groundwater Recharge
 - B. Surface Water Classification
 - C. Assignment of Uses to Surface Waters
- Part V. Surface Water Quality Criteria for Water Protection
 - A. Criteria Development Guidance
 - B. Criteria for All Surface Waters
 - C. Criteria for Specific Designated Uses
 1. Recreation—All Subcategories
 2. Recreation—Contact
 3. Recreation—Noncontact
 4. Recreation—Consumptive
 5. Aquatic Life
 6. Domestic Water Supply
 7. Industrial Water Supply
 8. Agricultural Water Supply—Irrigation
 9. Agricultural Water Supply—Live-stock
 10. Groundwater Recharge.
- Part VI. Inventory of Surface Waters

13. *Detection Limits*: the lowest concentration of a substance that can be determined by a given analytical methodology.
14. *Discharge*: the release of effluent, either directly or indirectly, into surface waters.
15. *Dissolved Oxygen (DO)*: the oxygen dissolved in water.
16. *Ecological Integrity*: the normal or expected structure and function of the interacting system of a biological community and its physical-chemical environment.
17. *Effluent*: the sewage discharged from an artificial source.
18. *Epilimnion*: that region of a body of water that extends from the surface to the thermocline and does not have a permanent temperature stratification. The thermocline is that layer in a body of water where the temperature difference is greatest per unit of depth. It is the layer in which the drop in temperature equals or exceeds 1°C per meter.
19. *FDA Action Levels*: Federal Food and Drug Administration (FDA) action levels for poisonous or deleterious substances in human food and animal feed are the maximum allowable concentrations in edible portions of fish or other aquatic life cited in "Action Levels for Poisonous or Deleterious Substances in Human Food and Animal Feed" (1982).
20. *Fecal Coliform Bacteria*: facultative anaerobic, gram negative, non-spore forming, rod shaped bacteria which ferment lactose, contained in specific media designated for the purpose, with acid and/or gas production, within a 24-hour plus or minus 2-hour incubation period at 44.5°C plus or minus 0.2°C.
21. *Flow*: the volume of water moving past a given point per unit of time.
22. *Groundwater*: water located under the surface of the land and is or can be the source of supply for wells, springs, seeps, or be held in aquifers or the soil profile.
23. *Interstate Waters*: all waters of the state which cross or form a part of the border between Kansas and one of the adjoining states.
24. *Intrastate Waters*: waters of the state that do not flow or extend across a state line or form a boundary between Kansas and an adjacent state.
25. *Mixing Zone*: that portion of a stream where an effluent is incompletely mixed with the receiving surface water.
26. *mg/l*: the abbreviation for milligrams per liter, equivalent to ppm (parts per million).
27. *Mutagenic*: having the property of, directly or indirectly, causing a mutation.
28. *Nonpoint Source*: sources of pollution including, but not limited to, agriculture, mining, construction activity, saltwater intrusion, deposition of residual waste and disposal of pollutants on land or in subsurface excavations.
29. *pH*: the logarithm of the reciprocal of the hydrogen ion concentration. pH is measured on a scale between 0 and 14 with values less than 7 being more acidic and values greater than 7 being more alkaline.
30. *Potable Water*: water that is suitable for drinking and cooking purposes from both health and aesthetic considerations.
31. *Surface Runoff*: the water that flows over land into surface waters.
32. *Surface Water Segment*: a delineated portion of a water body, stream or river.
33. *Surface Waters*: all streams, rivers, lakes, wetlands, springs, and alluvial aquifers, except as exempted in K.S.A. 65-171d.
34. *Teratogenic*: having the property of causing abnormalities originating from impairment of an event that is typical in embryonic or fetal development.
35. *Toxic Substance*: a substance that produces deleterious effects in humans, animals, or plants.
36. *Turbidity*: a measure of the cloudiness of water and is expressed in standard units of turbidity based on the Nephelometric Method (NTU).
37. *mg/l*: the abbreviation for micrograms per liter, equivalent to ppb (Parts per billion).
38. *Un-ionized Ammonia*: the dissolved, un-ionized, toxic portion of the total ammonia. The percentage of the total ammonia that exists in the un-ionized form increases with pH and temperature.
39. *Water Quality Limited Waters*: any surface water in which the application of required technology-based practices does not result in achievement of water quality standards.
40. *Zone of Passage*: the area bordering a mixing zone which allows for unobstructed upstream and downstream movement of aquatic organisms.

PART III. GENERAL CONSIDERATIONS

A. Antidegradation

1. Levels of water quality necessary to protect existing and designated uses shall be maintained in all waters of the State.
2. If existing water quality is better than applicable water quality criteria as established in these Standards, water quality shall not be lowered unless it has been determined that the change is justifiable as a result of important social and economic development.
 - i. Such reduction of water quality shall be determined in accordance with procedures in Part VII.
 - ii. In considering such limited degradation, the State shall require that new or expanded point sources of pollution use the best available treatment technology as defined in Part III, Section E and require, as appropriate, that best management practices as defined in Part III, Section E be used for nonpoint source pollution control.
3. Exceptional natural resource areas are of recreational and ecological importance. Within such

areas, when defined as Outstanding State or National resource waters of unique significance, existing water quality shall not be lowered by artificial sources. In Kansas, such outstanding resource waters include all surface waters (Fig. 1) contained in the:

- (a) Cimarron National Grassland (Morton County)
 - (b) Flint Hills National Wildlife Refuge (Coffey and Lyons Counties)
 - (c) Quivera National Wildlife Refuge (Stafford County)
 - (d) Kirwin National Wildlife Refuge (Phillips County)
 - (e) Cheyenne Bottoms Wildlife Area (Barton County)
4. Further, no degradation of water quality due to artificial sources shall be allowed in any surface water that would result in the elimination of any threatened or endangered species of aquatic life or wildlife to in a critical habitat as defined in the Endangered Species Act of 1973 (PL 93-205) as amended, or in K.S.A. 32-501 through 510 and K.A.R. 23-17-1 through 2.
 5. Modifications to the list of Outstanding Natural Resource Waters may be made as described in Part VII, Section E.
 6. Temporary sources of pollution, such as limited construction activities, that produce only ephemeral water quality degradation not harmful to uses, as determined by the Department, may be allowed. However, best management practices (Part III, Section E), or other control measures, on a site-specific basis, shall be required, as appropriate.

B. Mixing Zones

1. The water quality criteria listed herein shall apply beyond the mixing zone for each individual discharge, except that concentrations within the mixing zone area shall be maintained below acute toxicity levels for any parameter or combination of parameters. The total area and/or volume of a receiving stream assigned to mixing zones shall be limited to that which will: 1) not interfere with biological communities or populations of important species to a degree which is damaging to the ecosystem; and 2) not diminish other beneficial uses disproportionately.
2. Zones of passage shall be provided in streams, reservoirs, or lakes wherever mixing zones are allowed, and such zones shall be continuous water routes of the volume, area, and quality necessary to allow passage of free-swimming and drifting organisms with no significant effects on their populations. Because of varying local physical and chemical conditions and biological phenomena, no single value can be given on the percentage of the receiving water area and/or volume necessary to allow a sufficient zone of passage. Ordinarily, in streams where the dilution ratio is greater than 3:1, mixing zones shall be limited to no more than 1/4 of the cross-sectional area and/or volume of flow of a

stream or reservoir, leaving at least 3/4 free as a zone of passage.

3. In some cases, especially in small streams with dilutions of less than 3:1 (flow: discharge), mixing zones may not be a practical reality. The Department may require more stringent treatment technology in those cases to protect the designated uses of the surface water segment and to otherwise meet the requirements of these Standards.

C. Special Conditions

These special conditions do not remove the obligation to design, build, or use the required or recommended pollution control structures or methods to control point and nonpoint sources of pollution as defined in Part III, Section E.

1. Low Flow

Classified waters are excluded from application of Standards when receiving stream flow is less than the greater of the 7-day 10-year low flow or 1.0 cfs. In the case of a stream regulated by a surface water impoundment, the low flow exclusion shall be the greater of the minimum desirable stream flow established pursuant to K.S.A. 82a-928(a), the 7 day 10 year low flow or 1.0 cfs, as appropriate after a balanced consideration of social, economic, ecological, and technological factors.

2. High Flow

Classified waters are excluded from application of the Standards when stream flow exceeds 50% of estimated 2-year flood flow as determined in Technical Report No. 11, "Kansas Stream Flow Characteristics, Magnitude and Frequency of Floods in Kansas, Unregulated Streams" (Kansas Water Resources Board, 1975).

3. Natural Pollution

The designated uses and criteria in Parts IV and V do not apply to surface waters where water quality is affected by natural sources of pollution and the criteria for protection of designated uses are exceeded. However:

- i. If such water quality levels do, in fact, harm existing uses and no control remedies exist, the use may be removed.
- ii. If the water quality levels, although higher than criteria presented in Part V, do not effect attainment of the existing use, less stringent site-specific criteria may be applied.

Users of such waters with natural pollution who subsequently discharge it to the same waters, will not be required to treat water to pollutant concentrations below natural background. However, such sources shall still use such technology as provided in Part III, Section E.

D. Effluent-Sustained Streams

Effluent-Sustained streams are those streams in which continuous flow is created mainly through the discharge of treated effluent and both of the following are true:

- (a) Mean summer base flow is less than 0.1 cfs according to Technical Report No. 6B (Kansas Water Resources Board, October, 1966).

(continued)

(b) Neither flow nor pooling, when present, represent important sources of refuges for aquatic life necessary for maintenance of downstream aquatic life uses.

Any discharge to an effluent-sustained stream shall:

- (a) meet the treatment requirements of Part II, Section E,
- (b) not result in public health hazards or nuisance conditions (Part V, Section B), and
- (c) not result in violations of criteria in Part V, Sections B and C, in the next downstream classified surface water.

E. Treatment Requirements

1. In all cases, the Department shall require, as appropriate, treatment of sewage discharge and use of best management practices for control of non-point pollution. When treatment of sewage discharges and best management practices are insufficient to provide water quality for protection of the designated uses in a surface water segment, the segment shall be classified as Water Quality Limited. Procedures for classifying such waters are in Part VII, Section F.
2. The feasibility of treatment to meet surface water quality goals must be determined by the balanced consideration of social, economic, ecological and technical factors. The Department may require the application of higher treatment technology on any wastewater discharge above that which is necessary to meet the applicable water quality criteria in the receiving water, where the Department determines that such treatment is necessary to protect the public health or existing instream water uses or otherwise achieve the purpose of these regulations.

F. Analytical Testing

All methods of sample collection, preservation, and analysis used in applying any of the rules and regulations of these Standards shall be in accord with those prescribed in the "Standard Operating Procedures" of the Department.

PART IV. SURFACE WATER USE DESIGNATION AND CLASSIFICATION

A. Designated Uses

These uses are defined herein, subject to the provisions of Part III.

1. Recreation—

- (a) Contact Recreation: recreation where the body may come into direct contact with water to the point that ingestion is possible. This use includes swimming, skin diving and water skiing. This subcategory of use shall be in effect from May 1 to October 31.
- (b) Noncontact Recreation: recreation uses where ingestion of water is not probable. This includes wading, boating, fishing and hunting.
- (c) Consumptive Recreation: recreation resulting in the human consumption of species of aquatic life and semi-aquatic or terrestrial wildlife that

depend on the surface water or its organisms for survival and well-being.

2. Aquatic Life—

The protection of the ecological integrity of native aquatic communities, including the protection and propagation of indigenous species of aquatic life and indigenous or migratory semi-aquatic life or wildlife that depend on the surface waters or its biota for survival and well-being.

- (a) Special Aquatic Life: surface waters containing unique combinations of habitat types and biota not found commonly in the State or that contain representative populations of threatened or endangered species.
- (b) Expected Aquatic Life: surface waters containing habitat types and biota commonly found or expected, in the area.
- (c) Restricted Aquatic Life: surface waters containing biota limited in abundance or diversity by the physical quality of the habitat compared to more suitable habitats in adjacent waters. Such waters are limited by lack of habitat due to natural deficiencies or artificial modifications (cleaning channelization, loss of riparian vegetation).

3. Domestic Water Supply—

The use of surface water after appropriate treatment, by public or private water supplies, to produce potable water.

4. Industrial Water Supply—

The use of surface water for non-consumptive purposes by industry, including withdrawals for cooling or process water.

5. Agricultural Water Supply—

The use of surface water for agricultural purposes.

- (a) irrigation: withdrawal of surface water for application onto land.
- (b) livestock watering: consumption of water by livestock.

6. Groundwater Recharge—

The use of treated or untreated sewage for groundwater aquifer recharge, including accidental or incidental recharge as a means of disposal of sewage.

B. Surface Water Classification

Surface waters are classified as follows:

- i. lakes: all impoundments (lakes or reservoirs) owned by federal, state, county or municipal authorities and all privately owned impoundments where facilities for public recreation are provided and maintained, including impoundments created by artificial dams or quarries and natural waterbodies formed in depressions of internal drainages regardless of ownership unless exempted by K.S.A. 65-171d.
- ii. wetlands: areas of shallow standing water existing for most of the growing season of most years and is capable of supporting emergent aquatic vegetation and is managed for wildlife or contains recreation areas for the public, including wetlands listed in Part VI. Artificial wetlands used as a means of sewage treatment are excluded.

- iii. streams: streams with mean summer base flow of greater than 0.1 cfs according to Technical Report No. 6B, "Kansas Streamflow Characteristics, Base Flow Distribution" (Kansas Water Resources Board, 1966), including (1) springs that discharge into streams and (2) alluvial aquifers. For flows less than 0.1 cfs, the stream is classified if it is listed in Part VI or if its pools of aquatic life are important refuges for downstream segments or for recolonization of the dried segment. Stream channels or ditches defined as effluent-sustained streams are not considered as classified surface waters for destination of uses.

C. Assignment of Uses to Surface Water

All uses defined in Section A of this Part are designated to all classified waters as defined in Section B except as indicated here:

- (a) Contact recreation in streams and lakes is protected where the use currently exists.
- (b) Wetlands are protected for noncontact recreation, consumptive recreation, and aquatic life uses.
- (c) Streams protected for Special Aquatic Life use are listed in Part VI, Section B.
- (d) Streams protected for Restricted Aquatic Life use shall be determined, on a case-by-case basis.

PART V. WATER QUALITY CRITERIA FOR WATER PROTECTION

A. Criteria Development Guidance

The development of surface water quality criteria for substances not listed in these standards shall be guided by water quality criteria published by the Environmental Protection Agency, including the primary and secondary drinking water regulations found at 40 CFR 141 promulgated pursuant to PL 93-523 (the Safe Drinking Water Act) and the ambient water quality criteria promulgated pursuant to Section 304a of PL 92-500 (the Clean Water Act). Such guidance may include the use of site-specific aquatic toxicity testing or other related data.

B. Criteria for All Surface Waters

1. All surface waters shall be free, at all times, from the effect of substances from artificial sources settled on the bottom, floating at the surface, and dissolved or suspended in the water that produce any public health hazards or nuisance conditions, or impairment of uses (if a classified surface water).
2. Solids—There shall be no artificial deposits of solids in waters of the state, either organic or inorganic, which will be detrimental to the designated use. All waters shall be free of floating debris, scum, and other floating materials attributable to municipal, industrial, or other waste disposal practices in amounts sufficient to be unsightly or detrimental to the designated use.
3. Oil and Grease—All waters shall be essen-

tially free of visible oil and grease. Dissolved or emulsified grease concentrations shall be kept below levels which will interfere with use as designated in these standards.

4. Taste and Odor Producing Substances—Taste and odor producing substances from artificial sources shall be limited to concentrations in the receiving water that will not interfere with the production of potable water by reasonable water treatment processes, or impart unpalatable flavor to fish, or result in noticeable offensive odors in the vicinity of the water, or otherwise interfere with the designated use of the water.
5. Color—Artificial sources of color producing substances shall be limited to concentrations which will not be detrimental to the designated use of the receiving water.
6. pH—Artificial sources shall not cause the pH of surface waters to be below 6.5 nor above 8.5.
7. Temperature—Artificial sources shall not elevate the temperature of the receiving water above 90°F. Heat of artificial origin shall not be added to a stream in excess of the amount that will raise the temperature of the water more than 5°F above natural conditions. The epilimnion of lakes shall not be raised more than 3°F above that temperature which existed before the addition of heat of artificial origin. The normal daily and seasonal temperature variations before the addition of heat due to other than natural causes shall be maintained.

Occasional natural thermal conditions may exceed the maximum allowable temperature requirements. Deviations from temperature requirements as a result of waste discharge shall not be allowed without written permission of the Department.

8. Turbidity—There shall be no turbidity increase in waters of the state, of other than natural origin, that will cause substantial visible contrast with the natural appearance of the water or be detrimental to the designated use.
9. Nutrients—Artificial sources of nutrients shall not be detrimental to the designated uses.
10. Toxic Substances—Concentrations of substances causing toxic effects from artificial sources, alone or in combination with other artificial or natural substances, shall be limited to concentrations in the receiving water that will not be harmful to human, animal, or plant life, or otherwise interfere with the designated uses.

C. Criteria for Specific Designated Uses

1. Recreation—all subcategories
nutrients—The discharge of concentrations or loadings of plant nutrients into surface waters from artificial sources shall be controlled to prevent water quality degradation including,

(continued)

Table 1. Numeric criteria for contact and non-contact recreation, aquatic life, domestic water supply, and irrigation and livestock agricultural uses. Dashes mean criteria are not available or applicable.

Constituent	(Units)	Recreation		Aquatic Life	Domestic Water Supply	Agricultural	
		Contact	Noncontact			Irrigation	Livestock
<i>Bacteriological</i>							
Maximum Fecal Coliform	Text	400(C)	2000	—	—	—	—
Average Fecal Coliform	Text	200(C)	—	—	—	—	—
<i>General Chemical/Physical</i>							
<i>Ammonia</i>							
(un-ionized, as N)	mg/l	—	—	0.07	—	—	—
boron	mg/l	—	—	—	—	0.75(C)	5(B)
chloride	mg/l	—	—	—	250.0(A2)	—	—
cyanide, free	mg/l	—	—	0.004(E)	—	—	—
dissolved oxygen	mg/l	—	—	Text	—	—	—
fluoride	mg/l	—	—	—	1.8(A1)	1(B)	2(B)
nitrate (as N)	mg/l	—	—	—	10.0(A1)	—	100(B)
sulfate	mg/l	—	—	—	250.0(A2)	—	—
total dissolved solids	mg/l	—	—	500	—	—	—
total residual chlorine	mg/l	—	—	Text	—	—	—
<i>Metals</i>							
arsenic	mg/l	—	—	0.07(E)	—	0.1(C)	0.2(B)
barium	mg/l	—	—	—	—	—	—
cadmium	mg/l	—	—	Table 2	—	0.05(B)	0.01(B)
chromium(VI)	mg/l	—	—	0.007(E)	—	0.1(B)	1.0(B)
copper	mg/l	—	—	Table 2	—	0.2(B)	0.5(B)
lead	mg/l	—	—	Table 2	—	5.0(B)	0.1(B)
mercury	mg/l	—	—	0.0002(E)	—	—	—
nickel	mg/l	—	—	Table 2	—	—	—
selenium	mg/l	—	—	0.035(D)	—	0.2(B)	—
silver	mg/l	—	—	0.0012(D)	—	0.2(B)	0.05(B)
zinc	mg/l	—	—	0.047(D)	—	2.0(B)	25.0(B)
<i>Pesticides and PC3s</i>							
Aldrin	µg/l	—	—	0.003(D1)	—	—	—
Chlordane	µg/l	—	—	0.002(D)	—	—	—
DDT	µg/l	—	—	0.001(D)	—	—	—
Dieldrin	µg/l	—	—	1.9(D)	—	—	—
endosulfan	µg/l	—	—	0.056(D)	—	—	—
endrin	µg/l	—	—	0.0023(D)	—	—	—
Heptachlor	µg/l	—	—	0.0068(D)	—	—	—
lindane	µg/l	—	—	0.08(D)	—	—	—
methoxychlor	µg/l	—	—	0.03(D)	—	—	—
parathion	µg/l	—	—	0.04(D)	—	—	—
PCBs	µg/l	—	—	0.014(D)	—	—	—
toxaphene	µg/l	—	—	0.013(D)	—	—	—
2,4-D	µg/l	—	—	—	—	—	—
2,4,5-TP	µg/l	—	—	—	—	—	—
<i>Radiological</i>							
Gross Alpha particles including radium-226, but not radon or uranium	pCi/l	—	—	—	150(A)	—	—
combined radium 226 and 228	pCi/l	—	—	—	5(A)	—	—
Strontium 90	pCi/l	—	—	—	8(A)	—	—
Tritium	pCi/l	—	—	—	20000(A)	—	—
Gross Beta radioactivity	pCi/l	—	—	—	50(A)	—	—

(A1) National Interim Primary Drinking Water Regulations (U.S.E.P.A., 1976)

(A2) National Secondary Drinking Water Regulations (U.S.E.P.A., 1979)

(B) Water Quality Criteria (U.S.E.P.A., 1974; "Blue Book")

(C) Quality Criteria for Water (U.S.E.P.A., 1976; "Red Book")

(D) EPA Ambient Water Quality Criteria (FRL 1623-3, 28 Nov. 80).

(D1) Same as B, but value based on acute limits multiplied by a safety factor of 0.001.

(E) EPA Ambient Water Quality Criteria, Revised (FRL 1514-2, 7 Feb. 84).

NOTE: Some of these criteria may be below analytical detection limits. In those cases, compliance with the criteria may be determined by measurements of artificial sources and extrapolation after considering the effects of stream flow.

but not limited to: objectionable algal densities or algal by-products, and nuisance growths of submersed, floating, or emergent aquatic vegetation.

2. Recreation—Contact
bacteria—The fecal coliform content due to artificial sources shall not exceed a geometric mean of 200 per 100 ml sample, based on not less than five samples taken during separate 24-hour periods over not more than a 30-day period; nor shall more than 10 percent of total samples during any 30-day period exceed 400 per 100 ml sample.
3. Recreation—Noncontact
bacteria—The fecal coliform content due to artificial sources shall not exceed 2,000 per 100 ml sample.
4. Recreation—Consumptive
Substances that can bioaccumulate (through bioconcentration or biomagnification) to toxic levels in aquatic life, semiaquatic life or wildlife consumed by humans shall be limited in surface waters to concentrations that will result in no harm to humans upon consumption. FDA action levels for toxic substances in fish flesh shall be used as guidelines to determine protection of this use.

5. Aquatic Life

These criteria are designed for the protection of the special, expected, and restricted aquatic life uses. Current knowledge suggests all sub-categories will be protected by these criteria. However, the Department may establish more stringent or less stringent criteria in Special and Restricted Aquatic Life use segments (respectively) on a site-specific basis.

- (a) dissolved oxygen
The concentration of dissolved oxygen shall not be lowered to below 5.0 mg/l due to the influence of artificial sources.
- (b) un-ionized ammonia
Artificial sources shall not cause the un-ionized ammonia concentrations of surface waters to exceed 0.07 mg/l as NH₃-N.
- (c) total residual chlorine
There shall be no detectable concentrations of total residual chlorine in surface waters.
- (d) suspended solids
Concentrations of suspended solids in surface waters due to artificial sources shall not interfere with the behavior, reproduction, physical habitat, or other factors related to the survival and propagation of aquatic life, semi-aquatic life and wildlife.
- (e) nutrients
The discharge of concentrations or loadings of plant nutrients into surface waters from artificial sources shall be controlled to prevent water quality degradation that accelerates the natural succession or replacement of biota, or which produces undesirable quantities or kinds of aquatic life.

(f) toxic substances

1. The waters of the State shall not be toxic to aquatic life uses as a result of toxic effects of substances from artificial sources, alone or in combination with other artificial or natural substances.
2. Toxic effects can result from, but are not limited to bioaccumulation, through bioconcentration or biomagnification. Criteria for the protection of predators in terms of toxic levels in fish, published in "Water Quality Criteria" (National Academy of Sciences, National Academy of Engineering, 1974) shall be used as guidelines in assessing toxicity due to bioaccumulation.
3. The concentrations of various substances are limited to the concentrations found in Tables 1 and 2.
4. It is recognized that effluents are complex and that interactions among chemicals in the effluent and of effluents with the receiving waters also are complex. Therefore, criteria for single compounds may not be adequate for the protection of aquatic life. Also, the available data for single compounds may be insufficient to derive defensible criteria for protection of aquatic life uses. The Department will use the best available scientific information and methods to determine safe concentrations, including bioassessment.

Table 2. Numeric Criteria for Aquatic Life use that vary with hardness. Values modified from EPA Ambient Water Quality Criteria, revised FRL 1514-2, 7 Feb. 84).

Constituent (dissolved, mg/l)	Hardness Range (mg/l CaCO ₃)			
	150	150-250	251-400	500
cadmium	0.002	0.007	0.013	0.027
copper	0.006	0.016	0.025	0.038
lead	0.001	0.004	0.009	0.016
nickel	0.056	0.130	0.192	0.324

NOTE: Some of these criteria may be below analytical detection limits. In those cases, compliance with the criteria may be determined by measurements of artificial sources and extrapolation after considering the effects of stream flow.

6. Domestic Water Supply

- (a) The concentrations of some pollutants are limited as shown in Table 1. For pollutants not listed in Table 1, surface water quality shall be such as not to cause exceedences of drinking water standards for finished drinking water in K.A.R. 28-15-13.
- (b) Concentrations of substances causing toxic effects on humans from artificial sources, alone or in combination with other artificial or natural substances shall be limited to non-harmful concentrations.
- (c) Substances known to be carcinogenic, mutagenic, or teratogenic in humans shall be lim-

(continued)

ited to concentrations determined to be safe in surface waters.

- (d) Concentrations for carcinogenic substances shall be limited, at a minimum, to not exceed the 0.000001 risk level (10⁻⁶).
7. Industrial Water Supply
Water quality criteria for industrial water supplies shall be determined on a case-by-case basis.
8. Agricultural Water Supply—Irrigation
Water quality criteria for irrigation are as indicated in Table 1.
9. Agricultural Water Supply—Livestock Watering
Water quality criteria for livestock watering shall be determined considering best available information on livestock requirements and the use of domestic water supply and livestock criteria, as in Table 1.
10. Groundwater Recharge
Water quality criteria for groundwater recharge shall meet or exceed the criteria for Domestic Water Supply. In the event that background concentrations of substances inherent to the recharged aquifer may be present and result from natural sources, the quality, at a minimum, shall be such that further degradation does not occur.

PART VI. WATERBODY INVENTORY

A. A List of Classified Surface Waters:

1. Streams (Major basins are shown in Fig. 2)

Neosho River Basin

Neosho River
Cottonwood River
So. Fk. Cottonwood River
Diamond Creek
Cedar Creek
Spring River
Shoal Creek

Verdigris River Basin

Verdigris River
Fall River
Elk River
Big Hill Creek
Caney River
Caney Creek

Little Arkansas River Basin

Little Arkansas River
Chisholm Creek
All primary tributaries

Lower Arkansas River Basin

Arkansas River below Walnut Creek
Ninnescah River
North Fork Ninnescah River
South Fork Ninnescah River
Spring Creek
All primary tributaries

Rattlesnake Creek
Cow Creek
Chikaskia River
Medicine Lodge River
Salt Fork Arkansas River
Grouse Creek
Cowskin Creek

All primary tributaries
All Primary Tributaries to Arkansas River and Valley Floodway within Sedgwick County

Upper Arkansas River Basin

Arkansas River above Walnut Creek
Pawnee River
Walnut Creek

Walnut River Basin

Walnut River
Whitewater River
Four Mile Creek
All primary tributaries

Cimarron River Basin

Cimarron River
North Fork Cimarron River
Cavalry Creek
Crooked Creek

Smoky Hill River Basin

Smoky Hill River
Big Creek
Chapman Creek
Lyon Creek
Ladder Creek

Upper Republican River Basin

South Fork Republican River
Arikaree River
Beaver Creek
Sappa Creek
Prairie Dog Creek

Solomon River Basin

Solomon River
North Fork Solomon River
South Fork Solomon River

Lower Republican River Basin

Republican River

Big Blue River Basin

Big Blue River
Little Blue River
Black Vermillion River

Missouri River Basin

Missouri River
Conner Creek
Marshall Creek
Nearman Creek
Eddy Creek
Jersey Creek

Island Creek
 Honey Creek
 Big Blue River (Johnson Co.)
 Indian Creek
 Tomahawk Creek
 Dyke's Branch
 James Branch
 Wolf Creek
 Coffee Creek
 Camp Branch
 Negro Creek
 Brush Creek
 Wolf River (Doniphan County)
 South Fork Nemaha River
Marais des Cygnes River Basin
 Marais des Cygnes River
 Big Bull Creek
 Martin Creek
 Ten Mile Creek
 Little Bull Creek
 Sweet Water Creek
 Spring Creek
 Dragoon Creek
 Hundred and Ten Mile Creek
 Massey Creek
 Marmaton River
 Little Osage River
Saline River Basin
 Saline River
Kansas River Basin
 Kansas River
 Mill Creek (Wyandotte County)
 Muncie Creek
 Brenner Heights Creek
 Little Turkey Creek
 Mission Creek
 West Mission Creek
 Matto Creek
 Mill Creek (Wyandotte County)
 Betts Creek
 East Mission Creek
 Wolf Creek (Wyandotte County)
 Kaw Creek
 Turkey Creek
 Cedar Creek
 Camp Creek
 Little Cedar Creek
 Mill Creek (Johnson County)
 Little Mill Creek
 Clear Creek
 Kill Creek
 Hanson Creek
 Captain Creek
 Tooley Creek
 Stranger Creek
 Delaware River
 Wakarusa River
 Soldier Creek
 Tecumseh Creek
 Stinson Creek
 Shunganunga Creek
 Indian Creek (Shawnee County)

Halfday Creek
 Mill Creek (Wabaunsee County)
 E. Branch Mill Creek (Wabaunsee County)
 Buck Creek (Jefferson County)
 Illinois Creek (Wabaunsee County)
 Deep Creek (Riley County)
 Wildcat Creek (Riley County)
 Vermillion Creek

2. Lakes—as defined in Part IV, Section B.

3. Wetlands

1. Quivera National Waterfowl Refuge
2. Cheyenne Bottoms Wildlife Area
3. Jamestown Wildlife Area
4. Marais des Cygnes Wildlife Area
5. Neosho Wildlife Area
6. Texas Lakes Wildlife Area

B. Variations to the Classification of Waters Listed in Section A.

1. All surface waters contained in the following areas are classified as outstanding national resource waters (see Fig. 2):

Cimarron River Basin—Cimarron National Grassland (Morton County)

Neosho River Basin—Flint Hills National Wildlife Refuge (Coffey and Lyons counties)

Lower Arkansas River Basin—Quivera National Wildlife Refuge (Stafford County)

Solomon River Basin—Kirwin National Wildlife Refuge (Phillips County)

Little Arkansas River Basin—Cheyenne Bottoms Wildlife Area (Barton County)

2. The following surface water segments are given the Special Aquatic Life use (see Fig. 2):

Lower Arkansas R. Basin

Grouse Cr. (Cowley Co.)

S. Fk. Ninnescah R. (Pratt Co.)

Rattlesnake Cr. (Stafford Co.)

Chikaskia R. (Sumner Co.)

Medicine Lodge R. (Kiowa and Barber Co.)

Cimarron R. Basin

Cavalry Cr. (Comanche Co.)

Smoky Hill R. Basin

Lyon Cr. (Dickinson/Geary Co.)

Ladder Cr. (Wichita/Scott/Logan Co.)

Kansas R. Basin

Buck Cr. (Jefferson Co.)

Mill Cr. (Morris/Wabaunsee/Pott. Co.)

Illinois Cr. (Wabaunsee Co.)

E. Br. Mill Cr. (Wabaunsee Co.)

Deep Cr. (Riley Co.)

Wildcat Cr. (Riley Co.)

Marais des Cygnes R. Basin

Marais des Cygnes R. (Miami/Linn Co.)

Little Osage R. (Allen/Bourbon Co.)

Neosho R. Basin

Neosho R. (all Co. below Council Grove Res.)

Cottonwood R. (Chase/Lyon Co.)

(continued)

S. Fk. Cottonwood R. (Chase Co.)
 Diamond Cr. (Morris/Chase Co.)
 Cedar Cr. (Chase Co.)
 Spring R. (Cherokee Co.)
 Shoal Cr. (Cherokee Co.)

Verdigris R. Basin

Verdigris R. (Mont./Wilson Co.)
 Fall R. (Greenw./Elk/Wilson Co.)
 Caney R. (Chautauqua/Elk Co.)

Walnut R. Basin

Walnut R. (Cowley Co.)

Upper Republican R. Basin

South Fk. Republican R. (Cheyenne Co.)

**PART VII. ADMINISTRATION OF SURFACE
 WATER QUALITY STANDARDS**

A. Review and Revision

The Department shall from time to time, but at least once every three years, hold public hearings for the purpose of reviewing and, as appropriate, modify the surface water quality standards.

B. Application of Modified Water Quality Standards

Any holder of a permit under K.S.A. 165 for discharge of wastewater shall not be subject to the provisions of these water quality standards until renewal of the discharge permit except as the discharger fails to meet permit limitations or the Department has reason to believe that continuation of the discharge will result in significant public health hazards or irreversible water use impairments.

C. Water Quality Certification

1. Water Quality Impacting Action:

No water quality impacting action shall take place unless the Department has issued a Water Quality certification.

i. A Water Quality Impacting action is:

- (a) Any discharge of wastewater pursuant to KSA-165.
- (b) Any application for a Federal license or permit subject to the provisions of Section 401 of the Clean Water Act.
- (c) Any action in which any person requests the Department provide a water quality certification.

ii. A Water Quality Certification is The Department's written statement finding the proposed action will comply with the terms and conditions of the Kansas Surface Water Quality Standards.

2. Water Quality Certification Procedure:

Upon receipt of a request for water quality certification, the Department shall review the terms and conditions of the proposed action and prepare a Water Quality Certification.

i. Such Water Quality Certification shall state that either:

- (a) The proposed action is certified to comply with all terms and provisions of the Kansas Surface Water Quality Standards, or

(b) The proposed action is expected to result in degradation of existing Surface Water Quality. The Department has determined such degradation to be socially and economically justified. Such degradation will not preclude attainment of current water uses.

ii. In the event a proposed action is expected to result in water quality degradation, the Department shall advise the person proposing the action of the finding of water quality degradation. The person shall be advised that abandonment of the action, additional water pollution control, or a variance from the antidegradation policy may be considered. In the event a variance from the antidegradation policy is selected, the actual degradation cannot take place until the variance is granted.

iii. Upon receipt of the Department's finding of expected water quality degradation, the person proposing the action shall (a) notify the Department, within 30 days, that the action will be abandoned, or (b) will propose additional water pollution control measures and request water quality certification of such measures, or (c) request a variance from the antidegradation policy.

iv. Any request for a variance shall include an assessment of economic and social impacts of (a) abandonment of the proposed action and (b) utilization of additional water pollution control treatment measures and (c) additional information the Department deems necessary to adequately consider the variance request.

v. Upon receipt of a request for a variance, the Department shall expeditiously issue a finding on the variance request. Such a finding shall consider the social and economic impact assessment provided with the request and any comments resulting from the public notice.

3. Intergovernmental Coordination and Public Participation:

i. Upon receipt of a request for a variance, the Department shall issue a public notice stating a request for a variance has been received and any person wishing to comment on the request may do so within 30 days. A public hearing will be held if the Department determines there is significant public interest and need for a hearing.

ii. All records (subject to the provisions of the Kansas Open Records Act) shall be available for public inspection during regular business hours.

D. Enforcement

Upon finding a violation of these standards, the Department shall conduct an investigation to determine the cause of the violation. If the Department finds the violation to be caused by an artificial source, the Department shall require the

source of the violation initiate appropriate remedial actions to correct the violation. Nothing in this section shall abridge the right of the Department to proceed with enforcement actions as provided in other Kansas Statutes and/or Regulations.

E. Modifications to the List of Outstanding Natural Resource Waters

1. At any time, any person may submit a request to add to or delete from the list of Outstanding Natural Resource Waters. Such a request shall include: a legal description of the surface water; reasons for requesting designation; and an estimate of the social and economic impacts of such a designation.
2. Upon receipt of a request for modifying the list of outstanding natural resource waters, the Department shall issue a public notice to gather public comments. A public hearing will be held

if the Department determines there is significant public interest and need for a hearing.

3. The Department shall make a determination on the request within 180 days of receipt of the request.

F. Procedure to Classify Water Quality Limited Stream Segments.

Upon finding (Part III, Section E) that a surface water segment should be classified water quality limited, the Department shall issue a public notice of such finding and a statement of intent to classify such waterbody as water quality limited. Prior to this final classification, within 30 days from the publication of the public notice, any person may petition for a public hearing with respect to the classification. If the Department determines there is significant public interest, a public hearing shall be held in the geographical area of the proposed water quality limited segment.

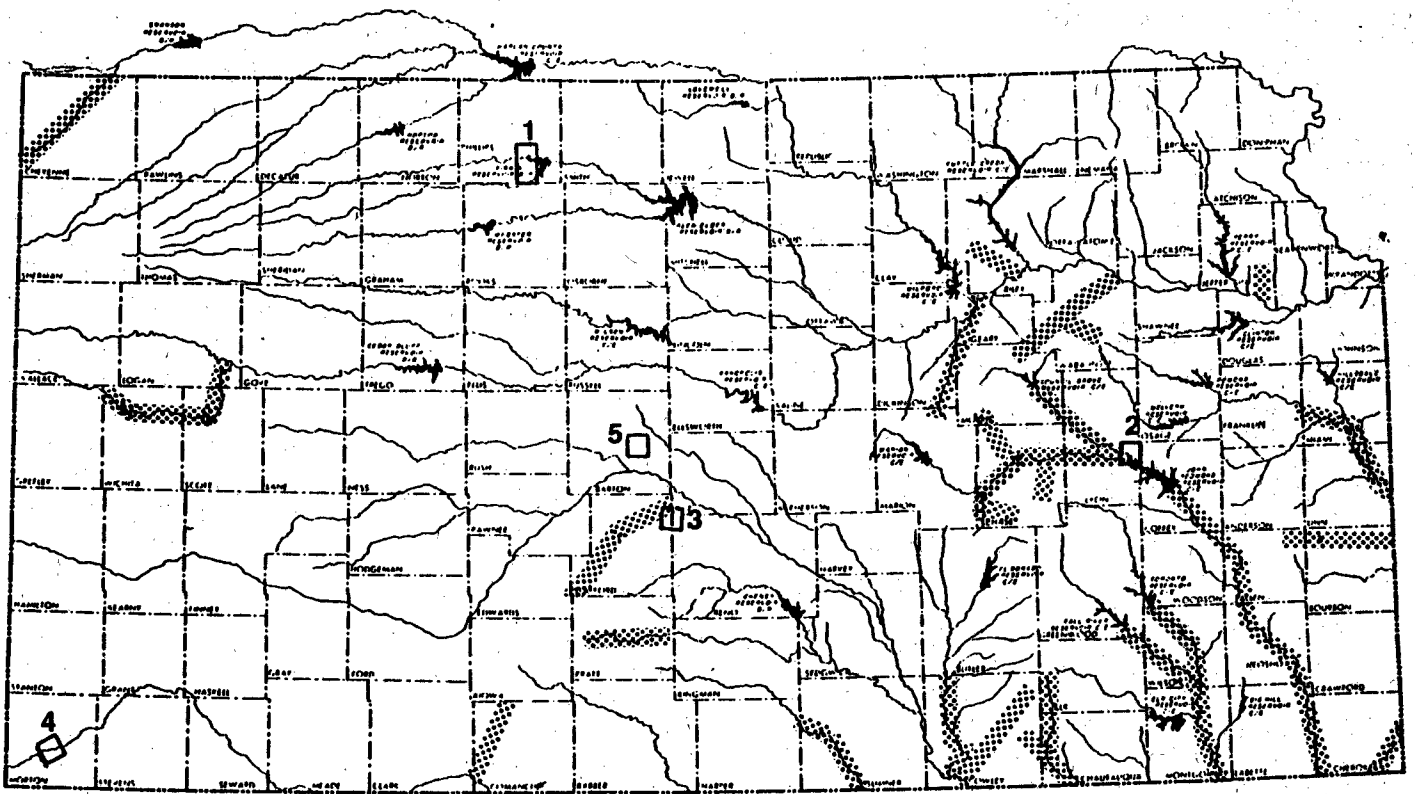


Figure 1. Proposed Outstanding Natural Resource Areas (squares numbered as below) and Special Aquatic Life Use Segments (dotted areas).

<i>Map Number</i>	<i>Name</i>
1	Kirwin National Wildlife Refuge
2	Flint Hills National Wildlife Refuge
3	Quivera National Wildlife Refuge
4	Cimarron National Grassland
5	Cheyenne Bottoms Wildlife Area

(continued)

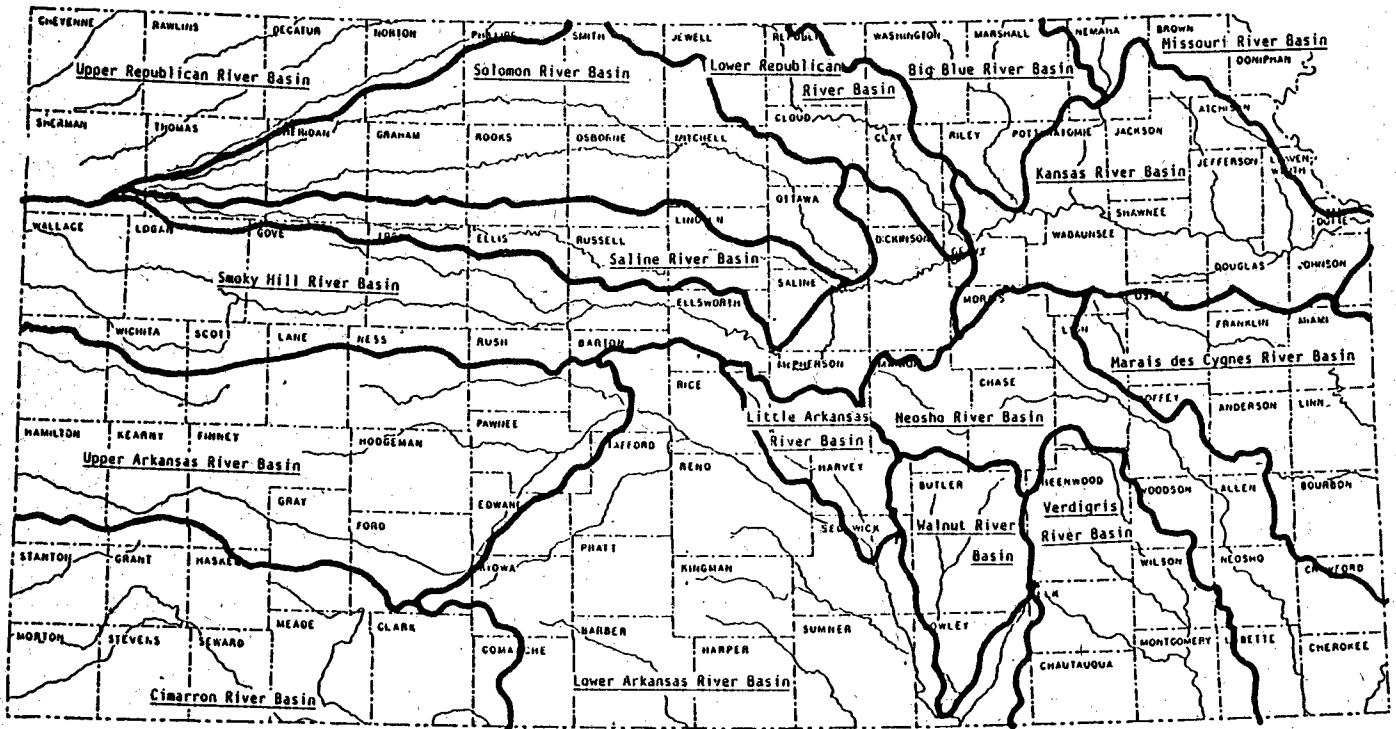


Figure 2. Major Basins in Kansas

CHARLES V. HAMM
Attorney

Doc. No. 003036

State of Kansas
FISH AND GAME COMMISSION
NOTICE OF HEARING
ON PROPOSED TEMPORARY
ADMINISTRATIVE REGULATIONS

A public hearing will be held on Thursday, April 25, 1985, at 1:30 p.m., at the Holiday Inn in Hutchinson, to consider the adoption of proposed rules and regulations of the Fish and Game Commission. The Holiday Inn Holiday Inn is located at 1400 N. Lorraine.

All interested parties may submit written comments at any time prior to the hearing by addressing them to the Director of the Kansas Fish and Game Commission, Rt. 2, Box 54A, Pratt, KS 67124. Copies of the regulations can be received by contacting the Director's office. Following the hearing, all written and oral comments submitted by interested individuals will be considered by the Commission as the basis for making any changes to the proposed regulations.

Regulation 23-1-8 is a temporary regulation that establishes the 1985 fall turkey season, bag limits and authorizes number of permits to be issued.

Regulation 23-2-5 is a temporary regulation that establishes the 1985 firearms and archery deer seasons, bag limits and authorizes number of permits to be issued.

Regulation 23-2-12 is a temporary regulation that establishes the 1985 firearms and archery antelope seasons, bag limits and authorizes number of permits to be issued.

Regulation 23-6-1 is a temporary regulation that establishes the 1985-86 furbearer taking seasons, possession periods, tagging requirements and running seasons.

A business meeting of the Fish and Game Commission is also scheduled for April 25, 1985 at the same location, following the public hearing, to discuss general business matters. The meeting will be carried over to Friday morning, April 26, in order to complete the Commission's business meeting.

JOHN OSTMEYER
Chairman

Doc. No. 003037

State of Kansas
CONSUMER CREDIT COMMISSIONER

**NOTICE OF HEARING
 ON PROPOSED TEMPORARY
 ADMINISTRATIVE REGULATIONS**

You are hereby notified that the office of the Consumer Credit Commissioner will hold a public hearing at 10 a.m. on April 23, 1985, at 217 S.E. Fourth St., 4th Floor, Topeka, KS on temporary regulation 75-6-26. All interested parties may present oral or written comments at the hearing. The proposed change in this regulation would have no fiscal impact.

The regulation to be adopted is as follows:

75-6-26. Federal Truth-in-lending act requirements. Any creditor who, in the ordinary course of business, regularly extends or offers to extend consumer credit shall disclose to the consumer the information required by title I of the consumer protection act (public law 90-321; 82 stat. 146), as amended, and any regulations issued pursuant to this act as of March 15, 1985. (Authorized by and implementing K.S.A. 16a-6-117; effective, E-82-16, Aug. 12, 1981; amended T-83-2, Jan. 7, 1982; amended T-83-6, April 14, 1982; amended T-84-10, May 25, 1983; amended, T-85-15, May 3, 1984; amended T-_____, _____.)

MEL BATTIN

Assistant Consumer Credit Commissioner

Doc. No. 003022

State of Kansas
**DEPARTMENT OF ADMINISTRATION
 DIVISION OF ARCHITECTURAL SERVICES**

**NOTICE OF COMMENCEMENT OF
 NEGOTIATIONS FOR
 TECHNICAL SERVICES**

Notice is hereby given of the commencement of negotiations for contracts for an infra-red scan for the following projects:

- Construct Administration Building, Osawatomie State Hospital, Osawatomie, KS;
- Replace HVAC Systems, Administration Building and Two Cottages, Youth Center at Beloit, Beloit, KS;
- Addition to Applegate Energy Center, University of Kansas Medical Center, Kansas City, KS.

Interested individuals or firms in the infra-red scan field must be an independent testing company using trained personnel who work full-time on infra-red testing projects. Personnel shall be familiar with the operation of the infra-red camera and capable of analyzing the results. The infra-red survey shall be done with a Model No. 750 infra-red camera as manufactured by AGA Corporation of Secaucus, N.J., or equal. Submit qualifications with letter of interest.

Questions regarding the scope of the projects, or expressions of interest, should be directed to Myron Reed, Division of Architectural Services, 625 Polk,

Topeka, KS 66603, (913) 233-9367, prior to April 12, 1985.

JOHN B. HIPPI, AIA
 Director
 Division of Architectural Services

Doc. No. 003039

State of Kansas
ATTORNEY GENERAL

Opinion No. 85-29

**State Departments; Public Officers, Employees—
 Kansas Tort Claims Act—Indemnification of Em-
 ployee Acting Within Scope of Employment.**

**State Departments; Public Officers, Employees—
 Kansas Tort Claims Act—Inapplicable to Claims
 Against Health Care Providers.**

**Insurance—Health Care Provider Insurance—
 “Health Care Provider” Defined. Senator Bill Morris,
 Twenty-Seventh District, Wichita, March 20, 1985.**

The Kansas Tort Claims Act is applicable to claims arising from the rendering of professional health care services by a school nurse or other school district employee while acting within the scope of his or her employment, so long as the nurse or other person is not a “health care provider” within the definition of that term prescribed in K.S.A. 1984 Supp. 40-3401(f). Only nurses who are certified as nurse anesthetists are included in that definition. Thus, claims arising against school nurses who are not certified nurse anesthetists are subject to the Kansas Tort Claims Act.

Additionally, in those instances where the tort claims act is applicable, the provisions of the act make it clear that an employee who properly acts within the scope of his or her employment and does not act with actual fraud or malice is not personally liable for damages caused by the employee’s negligent act or omission. The damages will be paid by the governmental employer. Cited herein: K.S.A. 1984 Supp. 40-3401, K.S.A. 75-6105, 75-6109, 75-6115. RJB

ROBERT T. STEPHAN
 Attorney General

Doc. No. 003033

(Published in the KANSAS REGISTER, March 28, 1985.)

**NOTICE OF REDEMPTION
 JOHNSON COUNTY, KANSAS
 SINGLE FAMILY MORTGAGE REVENUE BONDS
 1980 SERIES A**

Notice is hereby given that, pursuant to Section 3.01 of the Trust Indenture dated May 1, 1980, \$2,825,000 principal amount of the Bonds are called for redemption May 1, 1985, at the redemption price of 100% of the principal amount being redeemed plus accrued interest thereon to the redemption date.

The serial numbers of the bearer bonds to be redeemed are as follows:

Due May 1, 1986: 495, 556, 599, 602
 Due May 1, 1987: 636, 671, 690, 696, 763
 Due May 1, 1988: 859, 903, 909, 917, 921

(continued)

Due May 1, 1989: 999, 1051, 1062, 1108, 1147, 1152
 Due May 1, 1990: 1218, 1223, 1240, 1249, 1265, 1280
 Due May 1, 1991: 1432, 1433, 1495, 1530, 1585, 1587, 1593
 Due May 1, 1992: 1628, 1632, 1633, 1659, 1745, 1770, 1853, 1863
 Due May 1, 1993: 1911, 1938, 1943, 1952, 2122, 2158, 2159, 2175, 2203
 Due May 1, 1994: 2244, 2255, 2331, 2352, 2411, 2415, 2424, 2465, 2485, 2500
 Due May 1, 1995: 2613, 2622, 2635, 2647, 2694, 2706, 2732, 2874, 2886, 2920, 2933
 Due May 1, 1996: 2985, 3045, 3105, 3142, 3166, 3168, 3228, 3229, 3275, 3276, 3304, 3351

Due May 1, 1999

3490	3790	4004	4275	4467	4707
3538	3809	4132	4293	4512	4719
3541	3816	4158	4324	4557	4727
3562	3852	4198	4334	4618	4732
3602	3867	4205	4378	4619	4741
3673	3972	4217	4389	4689	4809
3769	3996	4228	4431	4701	4912
					4914
					4985

Due May 1, 2011

5033	7691	10286	12789	15153	17793
5049	7799	10309	12798	15164	17812
5096	7859	10343	12806	15236	17869
5107	7942	10353	12853	15284	17964
5114	7947	10363	12878	15417	17982
5121	7957	10376	12901	15439	18072
5139	7958	10379	12935	15476	18078
5174	7999	10380	12981	15500	18083
5180	8043	10391	13049	15503	18084
5181	8107	10465	13114	15540	18095
5207	8112	10473	13119	15605	18152
5208	8113	10505	13200	15693	18165
5289	8125	10508	13244	15776	18182
5353	8234	10522	13253	15786	18236
5421	8251	10561	13260	15787	18258
5430	8327	10575	13286	15880	18296
5448	8349	10597	13294	15957	18343
5467	8382	10619	13317	15984	18389
5505	8413	10642	13325	15988	18423
5543	8419	10663	13340	16001	18432
5567	8483	10666	13348	16003	18474
5572	8501	10671	13361	16065	18503
5718	8526	10694	13383	16096	18554
5737	8579	10696	13413	16102	18625
5744	8596	10764	13417	16130	18648
5766	8664	10765	13431	16142	18658
5817	8751	10810	13461	16178	18663
5887	8768	10845	13508	16180	18679
5910	8780	10904	13561	16185	18722
5950	8825	10920	13614	16277	18725
5951	8829	10925	13646	16286	18813
5994	8835	10942	13670	16319	18989
6004	8915	11030	13738	16367	19072
6017	8941	11214	13740	16476	19123
6065	8947	11298	13777	16496	19137
6204	8951	11312	13802	16629	19155
6205	9050	11392	13844	16637	19171
6287	9105	11413	13872	16652	19186
6292	9206	11491	13933	16655	19273
6326	9210	11502	14018	16656	19274
6354	9217	11541	14068	16660	19283
6359	9224	11547	14174	16696	19289
6371	9228	11565	14190	16729	19329
6441	9242	11582	14243	16745	19331
6486	9294	11603	14321	16754	19355
6498	9347	11664	14393	16843	19384
6565	9407	11695	14410	16879	19390
6588	9545	11792	14476	16916	19396
6635	9587	11949	14486	16954	19407

6686	9593	11960	14505	17027	19418
6888	9623	12016	14563	17042	19420
6947	9658	12017	14573	17106	19490
7000	9735	12031	14607	17184	19611
7001	9786	12080	14624	17202	19621
7033	9808	12081	14632	17256	19634
7039	9830	12091	14676	17345	19638
7111	9835	12099	14687	17434	19651
7127	9849	12147	14741	17488	19706
7229	9857	12162	14756	17509	19726
7239	9890	12210	14770	17512	19750
7294	9906	12273	14780	17514	19756
7382	9923	12311	14884	17521	19768
7415	9983	12344	14893	17541	19831
7444	9990	12357	14899	17602	19859
7465	10002	12435	14956	17606	19886
7520	10011	12441	14967	17631	19890
7540	10021	12450	14968	17635	19899
7569	10125	12726	15034	17647	19931
7570	10197	12736	15064	17741	19936
7610	10225	12764	15095	17785	20024
7683	10243	12774	15147	17788	20034
					20153
					20174

The serial numbers of the registered bonds to be partially or fully redeemed in the amount of \$5,000 each are:

- Due May 1, 1999: R-27
- Due May 1, 1999: R-103
- Due May 1, 1999: R-152
- Due May 1, 2011: R-38
- Due May 1, 2011: R-164

The serial number of the registered bond to be partially redeemed in the amount of \$10,000 is:

- Due May 1, 2011: R-139

The serial number of the registered bond to be partially redeemed in the amount of \$15,000 is:

- Due May 1, 2011: R-148

Payment of the redemption price of the bearer bonds and the registered bonds to be redeemed will be made at Security National Bank of Kansas City, One Security Plaza, Kansas City, Kansas 66117.

Notice is hereby given that on and after May 1, 1985, interest on the bonds hereby called for redemption shall cease to accrue.

SECURITY NATIONAL BANK OF KANSAS CITY
Kansas City, Kansas, Trustee

Doc. No. 003032

(Published in the KANSAS REGISTER, March 28, 1985.)

NOTICE OF BOND SALE
CITY OF PITTSBURG, KANSAS
\$610,000 GENERAL OBLIGATION BONDS
SERIES A-1985

The City of Pittsburg, Kansas, will receive sealed bids at the OFFICE OF THE CITY CLERK, CITY HALL, FOURTH AND PINE STREETS, PITTSBURG, KANSAS, until five o'clock P.M., C.S.T., on **APRIL 2, 1985**

for the purchase of Six Hundred Ten Thousand Dollars (\$610,000) par value General Obligation Bonds (the "Bonds") of the City, at which place such bids will be publicly opened at seven o'clock P.M., C.S.T. No oral or auction bids will be considered.

The Series A-1985 Bonds initially issued will be dated as of April 1, 1985, and shall mature on September 1 in each of the years and in the amounts set

forth below. Such Bonds shall consist of fully registered certificated bonds, each in the denomination of \$5,000 or integral multiples thereof not exceeding the principal amount of bonds maturing in each year. Interest will be payable semiannually, commencing March 1, 1986, and each September 1 and March 1 thereafter. The principal of, and premium, if any, on the Bonds shall be payable in lawful money of the United States of America, at the principal office of the Treasurer of the State of Kansas, (the Paying Agent and Bond Registrar) to the registered owners thereof upon presentation of the Bonds for payment and cancellation. Interest on the Bonds shall be payable in lawful money of the United States of America, by check or draft of the Paying Agent to the registered owners appearing on the books maintained by the Bond Registrar as of the preceding February 15 and August 15 (the Record Dates). The fees of the Bond Registrar for registration and transfer of the Bonds shall be paid by the City.

The Bonds will mature serially in accordance with the following schedule:

<i>Principal Amount</i>	<i>Maturity Date</i>
\$40,000	September 1, 1986
45,000	September 1, 1987
45,000	September 1, 1988
50,000	September 1, 1989
55,000	September 1, 1990
60,000	September 1, 1991
70,000	September 1, 1992
75,000	September 1, 1993
80,000	September 1, 1994
90,000	September 1, 1995

At the option of the City, the Bonds maturing on September 1, 1994, and thereafter will be subject to redemption and payment prior to maturity at the option of the City on September 1, 1993, and thereafter in whole or in part on any interest payment date in inverse order of maturity (Bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the Paying Agent and Bond Registrar in such equitable manner as it shall designate), at a redemption price equal to one hundred one percent (101%) of the Bonds so called for redemption, plus accrued interest to redemption date.

Whenever the City is to select the Bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all of the Bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate Bond of the denomination of \$5,000.

If the City shall elect to call any bond for redemption and payment prior to the maturity thereof, the City shall give written notice of its intention to redeem and pay said bonds on a specified date, the same being described by number and maturity, said notice to be mailed by United States registered or certified mail addressed to the registered owners of said Bonds, to the Paying Agent and Bond Registrar, and to the manager or managers of the underwriting account

making the successful bid, each of said notices to be mailed at least 30 days prior to the redemption date. If any bond be called for redemption and payment as aforesaid, all interest on such Bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

Proposals will be received on the Bonds bearing such rate or rates of interest, not exceeding eight (8) different interest rates, as may be specified by the bidder. The repetition of a rate will not constitute one of said maximum number of rates. The same rate shall apply to all Bonds of the same maturity. Each interest rate specified shall be in an even multiple of one-eighth (1/8th) or one-twentieth (1/20th) of one percent (1%). The difference between the highest and lowest interest rates specified in any bid shall not exceed two percent (2%). No interest rate shall exceed the maximum interest rate allowed by Kansas law, said rate being two percent (2%) above the Bond Buyer's 20 Bond Index, published in the Weekly Bond Buyer on Monday, April 1, 1985, and no bid of less than par and accrued interest will be considered. Bids for less than the entire issue of bonds will not be considered.

Bids shall be submitted on the OFFICIAL BID FORM furnished by the City, and shall be addressed to the City at CITY HALL, FOURTH AND PINE STREETS, PITTSBURG, KANSAS 66762, and shall be plainly marked BOND BID. All bids must state the total interest cost of the bid, the premium, if any, the net interest cost of the bid, and the average annual interest rate, all certified by the bidder to be correct; and the City will be entitled to rely on the certificate of correctness of the bidder. Each bid must be accompanied by a certified or cashier's check equal to two percent (2%) of the total amount of the bid, and shall be payable to City of Pittsburg, Kansas. In the event a bidder whose bid is accepted shall fail to carry out his Contract of Purchase, said deposit shall be retained by the City as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

The Bonds, duly printed, executed and registered, will be furnished and paid for by the City; and the Bonds will be sold subject to the unqualified approving opinion of NICHOLS AND WOLFE CHARTERED, Bond Counsel of Topeka, Kansas, whose opinion will be paid for by the City.

The number, denomination of bonds and names of the initial registered owners shall be submitted in writing by the successful bidder to the Bond Registrar not later than April 12, 1985.

The purchaser will be furnished with a complete Transcript of Proceedings evidencing authorization and issuance of the Bonds; and the usual closing proofs, which will include a Certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity. Payment for the Bonds shall be made in immediately available funds. Delivery of the Bonds will be made to the successful bidder on or before April 30, 1985 at any bank in the STATE OF KANSAS or KANSAS CITY, MISSOURI, at the expense of the City. Delivery elsewhere will be made at the expense of the purchaser.

(continued)

The Bonds will constitute General Obligations of the City and will be payable as to both principal and interest in part from special assessments levied against benefited property and, if not so paid, from ad valorem taxes which may be levied, without limitation as to rate or amount upon all of the taxable, tangible property, real and personal, within the territorial limits of the City, the balance being payable from ad valorem taxes which may be levied, without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The Bonds are being issued for the purpose of making certain internal improvements in the City.

The sealed bids for the Bonds shall be opened publicly and only at the time and place specified in this Notice. The City reserves the right to reject any and/or all of the bids, and to waive any irregularities. Unless all bids are rejected, the Bonds will be awarded to the bidder whose proposal results in the lowest net interest cost to the City; and the net interest cost will be determined by deducting any amount of any premium paid from the aggregate amount of interest upon all of the Bonds from their date until their respective maturities.

Assessed valuation figures of the City of Pittsburg, Kansas, for the year 1985, are as follows:

Equalized assessed valuation of taxable, tangible property	\$36,307,085
Assessed tangible valuation of motor vehicles	6,976,076
Equalized tangible valuation for computation of bonded indebtedness limitations	\$43,283,161

CUSIP identification numbers will be printed on the Bonds. All expenses incurred in connection with the printing of CUSIP numbers on the Bonds and the expenses of the CUSIP Service Bureau for the assignment of said numbers shall be paid for by the City.

The total general obligation bonded indebtedness of the City of Pittsburg, Kansas, at the date hereof, including this proposed issue of Bonds in the amount of \$610,000 is in the amount of \$5,852,500. The City of Pittsburg, Kansas has Temporary Notes outstanding in the total amount of \$279,500 which will be redeemed and paid from the proceeds of this proposed issue of Bonds and from other funds available to the City.

Additional copies of this Notice of Bond Sale or further information may be received from George K. Baum & Company, 1004 Baltimore Avenue, Kansas City, Missouri 64105, the City's financial advisor.

DATED March 18, 1985.

CITY OF PITTSBURG, KANSAS
By KAREN K. GARMAN, CITY CLERK

Doc. No. 003043

(Published in the KANSAS REGISTER, on March 28, 1985.)

NOTICE OF BOND SALE

\$1,950,000.00

**GENERAL OBLIGATION BONDS
OF**

**UNIFIED SCHOOL DISTRICT NO. 465,
COWLEY COUNTY, KANSAS (WINFIELD)**

UNIFIED SCHOOL DISTRICT NO. 465, COWLEY COUNTY, KANSAS (WINFIELD) will receive

sealed bids at the OFFICE OF THE BOARD OF EDUCATION, 920 MILLINGTON, WINFIELD, KANSAS 67156, until 7:30 o'clock P.M., C.S.T., on TUESDAY, APRIL 9, 1985

for \$1,950,000.00 par value GENERAL OBLIGATION BONDS of the District, at which time and place such bids will be publicly opened. No oral or auction bids will be considered.

The Series A, 1985 Bonds will be dated as of May 1, 1985 and shall mature on December 1 in each of the years and in the amounts set forth below. Such Bonds shall consist of fully registered certificated bonds, each in the denomination of \$5,000.00 or integral multiples thereof not exceeding the principal amount of bonds maturing in each year. Interest will be payable semiannually, commencing June 1, 1986, and each December 1 and June 1 thereafter. The principal of, and premium, if any, on the Bonds shall be payable in lawful money of the United States of America, at the principal office of the Treasurer of the State of Kansas (the Paying Agent and Bond Registrar) to the registered owners thereof upon presentation of the Bonds for payment and cancellation. Interest on the Bonds shall be payable in lawful money of the United States of America, by check or draft of the Paying Agent to the registered owners appearing on the books maintained by the Bond Registrar as of the 15th day of the month next preceding the Interest Payment Dates (the "Record Dates"). The fees of the Bond Registrar for registration and transfer of the Bonds shall be paid by the District.

The Bonds will mature serially in accordance with the following schedule:

<i>Principal Amount</i>	<i>Maturity Date</i>
\$ 50,000.00	December 1, 1986
100,000.00	December 1, 1987
100,000.00	December 1, 1988
100,000.00	December 1, 1989
100,000.00	December 1, 1990
100,000.00	December 1, 1991
100,000.00	December 1, 1992
100,000.00	December 1, 1993
100,000.00	December 1, 1994
100,000.00	December 1, 1995
100,000.00	December 1, 1996
100,000.00	December 1, 1997
100,000.00	December 1, 1998
100,000.00	December 1, 1999
100,000.00	December 1, 2000
100,000.00	December 1, 2001
100,000.00	December 1, 2002
100,000.00	December 1, 2003
100,000.00	December 1, 2004
100,000.00	December 1, 2005

Redemption

Bonds maturing December 1, 1996, and thereafter, are subject to call for redemption and payment prior to their respective maturities at the option of the District on and/or after December 1, 1995, in whole at any time or in part in inverse order of maturity, and by lot within maturities, on any interest payment date, at the redemption price set forth below, plus accrued interest to the redemption date:

<i>Redemption Period (Dates Inclusive)</i>	<i>Redemption Price</i>
12-1-1995 to 6-1-1997	101.00%
12-1-1997 to 6-1-1999	100.50%
12-1-99 AND THEREAFTER	100.00%

Notice of any call for redemption will be mailed to the registered owners of such bonds to be redeemed at the address shown on the registration books maintained by the Bond Registrar not less than 30 days prior to the date fixed for such redemption and payment. Interest on the Bonds so called for redemption and payment will cease to accrue after the redemption date, provided notice has been given and funds are then available to pay the full redemption price thereof.

Interest Rate

Proposals will be received on the Bonds bearing such rate or rates of interest, as may be specified by the bidder. The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be in an even multiple of one-eighth (1/8th) or one-twentieth (1/20th) of one percent (1%). The difference between the highest and lowest interest rates specified in any bid shall not exceed three percent (3%). No interest rate shall exceed the maximum interest rate allowed by Kansas Law; said rate being the 20 bond index of tax exempt municipal bonds published by the Weekly Bond Buyer in New York, New York on the Monday next preceding the day on which the Bonds are sold (April 8, 1985), plus 2%, and no bid of less than par and accrued interest will be considered. Bids for less than the entire issue of bonds will not be considered.

Bid Form and Good Faith Deposit

Bids shall be submitted on the OFFICIAL BID FORM furnished by the District, and shall be addressed to the DISTRICT AT THE OFFICE OF THE BOARD OF EDUCATION, 920 MILLINGTON, WINFIELD, KANSAS 67156, ATTENTION: SHERYLE A. OHM, CLERK, and shall be plainly marked BOND BID. All bids must state the total interest cost of the bid, the premium, if any, the net interest cost of the bid, and the average annual interest rate, all certified by the bidder to be correct; and the District will be entitled to rely on the certificate of correctness of the bidder. Each bid must be accompanied by a certified or cashier's check equal to two percent (2%) of the total amount of the bid, and shall be payable to UNIFIED SCHOOL DISTRICT NO. 465, COWLEY COUNTY, KANSAS (WINFIELD). In the event a bidder whose bid is accepted shall fail to carry out his Contract of Purchase, said deposit shall be retained by the District as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

Award of Bids

The sealed bids for the Bonds shall be opened publicly and only at the time and place specified in this Notice; and the Bonds will be sold to the best bidder. The District reserves the right to reject any and/or all of the bids, and to waive any irregularities. Unless all bids are rejected, the Bonds will be awarded to the bidder whose proposal results in the lowest net interest cost to the District; and the net

interest cost will be determined by deducting the amount of any premium paid from the aggregate amount of interest upon all of the Bonds from their date until their respective maturities.

Delivery of the Bonds

The Bonds, duly printed, executed and registered, will be furnished and paid for by the District; and the Bonds will be sold subject to the unqualified approving opinion of GAAR & BELL, Bond Counsel, of Wichita, Kansas. THE NUMBER, DENOMINATION OF BONDS, AND NAMES OF THE INITIAL REGISTERED OWNERS TO BE INITIALLY PRINTED ON THE BONDS SHALL BE SUBMITTED IN WRITING BY THE SUCCESSFUL BIDDER TO THE BOND REGISTRAR NOT LATER THAN APRIL 23, 1985. The purchaser will be furnished with a complete Transcript of Proceedings evidencing the authorization and issuance of the Bonds; and the usual closing proofs, which will include a Certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity. Payment for the Bonds shall be made in immediately available funds. Delivery of the Bonds will be made to the successful bidder on or before MAY 24, 1985, at any bank in the STATE OF KANSAS or KANSAS CITY, MISSOURI, at the expense of the District. Delivery elsewhere will be made at the expense of the purchaser.

Legal Opinion

Bids shall be conditioned upon the unqualified approving opinion of Gaar & Bell, Bond Counsel, Wichita, Kansas, a copy of which opinion will be printed on the reverse side of each bond and a manually signed original will be furnished without expense to the purchaser of the Bonds at the delivery thereof. The cost of this legal opinion and the expense of printing the Bonds and legal opinion will be paid by the District. Said legal opinion will state in part substantially that the Bonds will constitute general obligations of the District, payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable, tangible property within the territorial limits of the District; and that, under existing law, the interest on said bonds is exempt from present Federal income taxation and the Bonds are exempt from intangible personal property taxes levied by Kansas cities, counties and townships.

Purpose of Issue

The Bonds are being issued for the purpose of paying the costs of improving the sites at Lowell Elementary School, Country View Elementary School, Whittier Elementary School, and the shop building at the 7th and 8th Grade Center, by the construction, equipping, furnishing, repairing, remodeling and making additions to existing buildings on said sites, to be used for school district purposes, under the authority of K.S.A. 72-6761.

CUSIP Identification Numbers

CUSIP identification numbers will be printed on said bonds. All expenses in relation to printing of CUSIP numbers on said bonds and the expenses of CUSIP Service bureau for the assignment of said numbers shall be the responsibility of and shall be paid for by the District.

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Assessed Valuation

Assessed valuation figures for the District for the year 1984, are as follows:

Equalized Assessed Valuation of Taxable, Tangible Property	\$57,101,259
Tangible Valuation of Motor Vehicles	\$ 2,887,920
Tangible Valuation of Motor Vehicle Dealers' Inventory	\$ 354,250
Equalized Assessed Tangible Valuation for Computation of Bonded Debt Limitations	\$60,343,429

Bonded Indebtedness

The total bonded indebtedness of the District, at the date hereof, including this proposed issue of bonds, is in the amount of \$3,550,000.00.

Official Statement

Additional copies of this Notice of Bond Sale, or copies of the District's Official Statement relating to the Bonds, or further information may be received from the office of the Board of Education, 920 Millington, Winfield, KS 67156 or Stern Brothers & Co., Suite 810, One Main Place, Wichita, KS 67202 (316/265-8622), financial advisor to the School District.

DATED March 11, 1985.

UNIFIED SCHOOL DISTRICT NO. 465,
COWLEY COUNTY, KANSAS (WINFIELD)
By SHERYLE A. OHM, CLERK

Doc. No. 003041

State of Kansas**LEGISLATURE**

The following lists the numbers and titles of bills and resolutions recently introduced in the Legislature.

Copies of bills and resolutions are available free of charge from the Legislative Document Room, State Capitol, Topeka, KS 66612, (913) 296-7394. There is a limit of 25 copies of any one item.

Bills Introduced March 14-20:

SB 353, by Committee on Ways and Means: An act relating to minority and women small businesses; authorizing a set-aside program for certain state agency purchases and contracts for letting to minority and women businesses under certain conditions; imposing duties upon the departments of administration, transportation and economic development.

SB 354, by Committee on Ways and Means: An act concerning LP-gas tax; amending the liquefied petroleum motor fuel tax law; exemptions; definitions; amending K.S.A. 79-3490 and repealing the existing section.

SB 355, by Committee on Ways and Means: An act concerning the registration of lobbyists; relating to fees; amending K.S.A. 1984 Supp. 46-265 and repealing the existing section.

SB 356, by Committee on Ways and Means: An act concerning the Kansas public employees retirement system; relating to certain elected state officers.

SB 357, by Committee on Ways and Means: An act concerning health care provider insurance; relating to certain plans; amending K.S.A. 1984 Supp. 40-3401 and 40-3402 and repealing the existing sections.

SB 358, by Committee on Federal and State Affairs: An act defining and classifying the crime of unlawful interference with an ambulance attendant.

SB 359, by Committee on Federal and State Affairs: An act concerning emergency medical services; concerning individuals representing themselves to be ambulance attendants; amending K.S.A. 65-4327 and K.S.A. 1984 Supp. 65-4317 and repealing the existing sections.

SB 360, by Committee on Ways and Means: An act relating to the health care provider insurance availability act; providing for administration thereof by the attorney general; amending K.S.A. 40-3407, 40-3410, 40-3416, 40-3417 and 40-3419 and K.S.A. 1984 Supp. 40-3401, 40-3402, 40-3403, 40-3404, 40-3409, 40-3411, 40-3413, 40-3414 and 40-3415 and repealing the existing sections.

SB 361, by Committee on Ways and Means: An act concerning the Kansas animal health department; abolishing certain fee funds and creating the animal disease control fee fund; amending K.S.A. 47-1011, 47-1218, 47-1307, 47-1503 and 47-1702 and K.S.A. 1984 Supp. 47-672 and 47-1805 and repealing the existing sections.

SB 362, by Committee on Ways and Means: An act relating to persons engaged in a postgraduate training program approved by the state board of healing arts and operated by the university of Kansas medical center; providing certain exemptions from liability for such persons under the Kansas tort claims act; amending K.S.A. 75-6104 and K.S.A. 1984 Supp. 40-3401 and repealing the existing sections.

SB 363, by Committee on Ways and Means: An act concerning public employer-employee relations; relating to costs for mediation and fact-finding services; amending K.S.A. 75-4332 and repealing the existing section.

HB 2566, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal years ending June 30, 1986, and June 30, 1987, to initiate and complete certain capital improvement projects for the department of administration, department of

corrections, state industrial reformatory and Osawatomie state hospital; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing disbursements and acts incidental to the foregoing.

HB 2567, by Committee on Ways and Means: An act concerning salaries of district magistrate judges; amending K.S.A. 75-3120k and repealing the existing section.

HB 2568, by Committee on Ways and Means: An act concerning issuance of refunding revenue bonds; amending K.S.A. 76-6a18 and repealing the existing section.

HB 2569, by Committee on Federal and State Affairs: An act concerning drivers' licenses; relating to denial, cancellation, suspension and revocation procedures; concerning issuance of new or duplicate licenses; amending K.S.A. 8-259 and repealing the existing section.

HB 2570, by Committee on Federal and State Affairs: An act concerning records of the division of vehicles; concerning disclosure thereof; amending K.S.A. 1984 Supp. 74-2012 and repealing the existing section.

HB 2571, by Committee on Federal and State Affairs: An act concerning alcoholic liquor; relating to retail licenses; amending K.S.A. 41-308 and 41-315 and K.S.A. 1984 Supp. 41-310 and repealing the existing sections.

HB 2572, by Committee on Ways and Means: An act concerning special education services for exceptional children; affecting the requirement for provision thereof; amending K.S.A. 72-966, 72-967, 72-970, 72-972 and 72-978 and K.S.A. 1984 Supp. 72-963, and repealing the existing sections.

HB 2573, by Committee on Federal and State Affairs: An act concerning the state board of healing arts; affecting the composition thereof; relating to the appointment of members thereto; amending K.S.A. 65-2813, 65-2814 and 65-2822 and K.S.A. 1984 Supp. 65-2812; and repealing the existing sections.

HB 2574, by Committee on Federal and State Affairs: An act relating to retirement benefits; concerning computation of retirement benefits for judges; contributions; amending K.S.A. 1984 Supp. 20-2603 and 20-2610 and repealing the existing sections.

HB 2575, by Committee on Ways and Means: An act concerning the state park and resources authority; increasing the motor vehicle permit late payment fee; amending K.S.A. 1984 Supp. 74-4509c and repealing the existing section.

SR 1827, by Senators Talkington and Johnston: A resolution commending the representatives of the Peoples Congress of Henan Province for their efforts in promoting a stronger relationship with Kansas.

SR 1928, by Senators Francisco, Allen, Anderson, Arasmith, Bogina, Burke, Daniels, Doyen, Ehrlich, Feleciano, Frey, Gaines, Gannon, Gordon, Harder, Hayden, Hoferer, Johnston, Karr, D. Kerr, F. Kerr, Langworthy, Martin, Montgomery, Morris, Mulich, Norvell, Parrish, Reilly, Salisbury, Steineger, Strick, Talkington, Thiesen, Vidricksen, Walker, Warren, Werts, Winter and Yost: A resolution concerning proposed Internal Revenue Service regulations relating to the personal taxation of nonbusiness travel on business aircraft.

SR 1929, by Senator Norvell: A resolution congratulating and commending the Fort Hays State University men's basketball team and its coach, Bill Morse, on winning the 1985 NAIA National Basketball Championship.

SR 1930, by Senator Montgomery: A resolution commending and congratulating E. A. Mosher for his 25 years of service as Executive Director of the League of Kansas Municipalities.

SR 1931, by the Committee on Agriculture: A resolution proclaiming March 20, 1985, as "Agriculture Day."

SCR 1620, by Senator Yost: A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property.

SCR 1621, by Committee on Financial Institutions and Insurance: A concurrent resolution requesting the insurance department to study the cost of requiring coverage for the installation and use of an insulin infusion pump or other equipment or supplies in the treatment of diabetes and coverage of diabetic self-management education programs.

SCR 1622, by Senators Winter, Hoferer, Parrish and Salisbury: A concurrent resolution amending the joint rules for the senate and house of representatives for the 1985-1986 biennium.

HR 6065, by Representative Barr: A resolution congratulating and commending the Washburn Rural High School boys' basketball team and its coach, Don Williams, on winning the 1985 Class 5A State Basketball Championship in Kansas.

HR 6066, by Representative Adam: A resolution congratulating and commending the Atchison High School boys' basketball team and its coach, Chic Downing, on winning the 1985 Class 4A State Basketball Championship in Kansas.

HR 6067, by Representative Dyck: A resolution congratulating and commending Heston High School for winning the sportsmanship trophies in the 1985 boys' and girls' Class 3A State Basketball Championships.

HR 6068, by Representative Dyck: A resolution congratulating and commending the Hesston High School boys' basketball team and its coach, Bruce Kruse, on winning the 1985 Class 3A State Basketball Championship in Kansas.

HR 6069, by Representatives Hayden and Barkis: A resolution commending the representatives of the Peoples Congress of Henan Province for their efforts in promoting a stronger relationship with Kansas.

HR 6070, by Representative Long: A resolution congratulating Norwich on its centennial anniversary.

HR 6071, by Committee on Federal and State Affairs: A resolution directing the Department of Revenue to include in drivers' license tests a question concerning the consequences of operating a motor vehicle while under the influence of alcohol or drugs.

HR 6072, by Representative Williams: A resolution congratulating and commending Wanda Westmoreland on being named 1985 Kansas Mother of the Year.

HR 6073, by Representative Reardon: A resolution congratulating and commending the Wyandotte High School boys' basketball team and its coach, Randy Springs, on winning the 1985 Class 6A State Basketball Championship in Kansas.

HR 6074, by Representative Shriver: A resolution commending Jeff Hovey for his outstanding work as National Postsecondary President of Vocational Industrial Clubs of America.

HR 6075, by Committee on Agriculture and Small Business: A resolution proclaiming March 20, 1985, as "Agriculture Day."

HR 6076, by Representative Sand: A resolution commending and congratulating E. A. Mosher for his 25 years of service as Executive Director of the League of Kansas Municipalities.

HR 6077, by Representatives R. D. Miller, Hayden, Littlejohn, Moomaw and Schmidt: A resolution congratulating and commending the Fort Hays State University men's basketball team and its coach Bill Morse, on winning the 1985 NAIA National Basketball Championship.

HR 6078, by Representative Wunsch: A resolution congratulating and commending the Pretty Prairie High School boys' basketball team for their outstanding achievements during the regular season and in the 1985 state tournament.

HR 6079, by Representative Wagnon: A resolution condemning the persecution of the Baha'is in Iran.

HR 6080, by Representative Runnels: A resolution memorializing Congress to create a Federal Commission on Youth Suicide Prevention.

HR 6081, by Representatives O'Neal, Harder and Whiteman: A resolution congratulating and commending the Hutchinson High School girls' basketball team and its coach, Richard Woodson, on winning the 1985 Class 6A State Basketball Championship in Kansas.

HR 6082, by Representative Guldner: A resolution congratulating and commending the Leoti-Wichita County High School boys' basketball team and its coach, Carlos Guzman, for an outstanding season.

HR 6083, by Representative Wisdom: A resolution requesting the President and Congress to take action to strengthen the law and standards relating to noise emissions arising out of railroad operations.

HR 5018, by Committee on Assessment and Taxation: A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property.

Doc. No. 003044

(Published in the KANSAS REGISTER, March 28, 1985.)

SENATE BILL No. 105

AN ACT amending the real estate brokers' and salespersons' license act; concerning fees for licensure; amending K.S.A. 58-3063 and repealing the existing section.

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

Section 1. K.S.A. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) For an original salesperson's license, a fee based on an annual amount not exceeding ~~fifteen dollars (\$15)~~ \$30.

(3) For an original broker's or associate broker's license, a fee based on an annual amount not exceeding ~~twenty-five dollars (\$25)~~ \$50.

(4) For annual renewal of a salesperson's license, a fee based on an annual amount not exceeding ~~fifteen dollars (\$15)~~ \$30.

(5) For annual renewal of a broker's or associate broker's license, a fee based on an annual amount not exceeding ~~twenty-five dollars (\$25)~~ \$50.

(6) For reinstatement of a license which has been deactivated or which has been canceled pursuant to subsection (d) of K.S.A. 58-3047, and amendments thereto, or by reason of termination of a salesperson or associate broker, an amount not exceeding ~~fifteen dollars (\$15)~~ \$15.

(7) For reinstatement of all licenses canceled pursuant to subsection (e) of K.S.A. 58-3047, and amendments thereto, an amount not exceeding ~~fifteen dollars (\$15)~~ \$15 for each license canceled or an amount not exceeding ~~one hundred dollars (\$100)~~ \$100 for all licenses canceled, whichever is less.

(b) Subject to the limitations of this section, the commission shall fix the fees provided for by this section in the amounts necessary to administer and enforce this act.

(c) The fees provided for by this section shall be applicable regardless of the type of license.

Sec. 2. K.S.A. 58-3063 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 19, 1985.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE March 13, 1985.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED March 20, 1985.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of March, 1985.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER, March 28, 1985.)

HOUSE BILL No. 2184

AN ACT relating to elections; concerning the contest of elections; amending K.S.A. 25-1436 and 25-1448 and repealing the existing sections.

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

Section 1. K.S.A. 25-1436 is hereby amended to read as follows: 25-1436. Any contest of election to which K.S.A. 25-1435, and amendments thereto, applies shall be brought on any one or more of the following grounds:

(a) The person to whom a certificate of election was issued was ineligible to hold such office at the time of the election;

(b) some voters were deprived of the right of voting for a candidate or on a question submitted, when such voters had the right under the election laws of this state to vote thereon, and such deprival could change the result of the election;

(c) illegal votes were received or legal votes were rejected which would could change the result of the election;

(d) error or fraud occurred in computing the results of the election which would could change the result of the election;

(e) the person to whom the certificate of election was issued offered or gave, or caused to be offered or given, a bribe to any person charged by law with any election duty, for the purpose of procuring such person's election; or

(f) any other cause which shows that another was the person to whom the certificate of election for such office should have been issued.

Sec. 2. K.S.A. 25-1448 is hereby amended to read as follows: 25-1448. Upon final determination of a contest of an election to an office by the court, after the time for appeal thereof specified in K.S.A. 25-1450, and amendments thereto, has expired, or in case of an appeal, upon the final judicial determination of the contest, if the contestant succeeds in the contest, the court may invalidate and revoke any election certificate which has been issued to the contestee, and the secretary of state or county election officer authorized to issue the certificate of election shall issue the certificate to the person the court finds is entitled thereto; except that in cases where the court has found that the contestant prevails in the contest on the grounds provided for in subsection (a), (b) or (e), (c) or (e) of K.S.A. 25-1436, and amendments thereto, then the court may order another election for such office to be held within ~~thirty (30)~~ 45 days after the date of such order or may make such other orders as the court deems appropriate. This section shall not apply to any contest of the office of state senator or member of the house of representatives.

Sec. 3. K.S.A. 25-1436 and 25-1448 are hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 1, 1985.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE March 13, 1985.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED March 20, 1985.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of March, 1985.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER, March 28, 1985.)

HOUSE BILL No. 2146

AN ACT concerning fish and game; relating to hunting licenses; amending K.S.A. 32-402 and K.S.A. 1984 Supp. 32-401 and 32-405 and repealing the existing sections.

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

Section 1. K.S.A. 1984 Supp. 32-401 is hereby amended to read as follows: 32-401. It shall be unlawful for any person born on or after July 1, 1957, to procure a hunting license or to hunt in this state on land other than such person's own land, unless the person has been issued a certificate of competency and safety in the handling of firearms. Persons not required by law to obtain a hunting license shall be in possession of such certificate while hunting unless such person is 18 years of age or older. Persons not required by law to obtain a hunting license shall be in possession of such certificate while hunting. Persons required by law to obtain a hunting license shall be in possession of such certificate while hunting unless such person is 27 years of age or older. Any person who violates any provision of this section shall be punished as provided in K.S.A. 32-136, and amendments thereto.

Sec. 2. K.S.A. 1984 Supp. 32-405 is hereby amended to read as follows: 32-405. The Kansas fish and game commission shall issue a certificate of competency and safety in the handling of firearms to any resident of this state submitting evidence of successful completion of a course of instruction in safety and competency in the handling of firearms approved by the Kansas fish and game commission prior to July 1, 1973, and other information the commission may request on application forms approved by the commission. The commission, upon request and payment of a fee established by rule and regulation, may issue a laminated certificate.

Sec. 3. K.S.A. 32-402 is hereby amended to read as follows: 32-402. (a) The forestry, fish and game commission shall prescribe a course of instruction, not less than a total of four hours, in competency and safety in the handling of firearms, conservation and hunting ethics.

(b) The forestry, fish and game commission shall designate those persons who shall issue a certificate of competency and safety to each person who successfully completes such course of instruction, and said designation and certificate shall be valid until revoked by such commission. The commission, upon request and payment of a fee established by rule and regulation, may issue a duplicate certificate.

Sec. 4. K.S.A. 32-402 and K.S.A. 1984 Supp. 32-401 and 32-405 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 20, 1985.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE March 13, 1985.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED March 21, 1985.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of March, 1985.

JACK H. BRIER
Secretary of State.
(SEAL)

Editors note: House Bill No. 2529 was published in the Kansas Register on March 21, 1985. The certification appearing beneath the body of the bill was in error. House Bill No. 2529 is re-published below merely to show the proper certification.

(Published in the KANSAS REGISTER, March 28, 1985.)

HOUSE BILL No. 2529

AN ACT making and concerning appropriations for the fiscal year ending June 30, 1985, for the state park and resources authority and the state board of agriculture; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

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

Section 1. For the fiscal year ending June 30, 1985, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

Sec. 2.

STATE PARK AND RESOURCES AUTHORITY

(a) There is appropriated for the above agency from the state general fund the following:

Irrigation well—Lake Meade state park—FY 1985 capital improvements \$19,000

(b) In addition to the capital improvement projects for which expenditures may be made for fiscal year 1985 from the land and water conservation fund—state, as prescribed by section 4(b) of chapter 6 or section 22(b) of chapter 23 of the 1984 Session Laws of Kansas, the state park and resources authority is hereby authorized to make expenditures for fiscal year 1985 from such fund for the following capital improvement project, subject to the expenditure limitation prescribed therefor:

Irrigation well—Lake Meade state park—FY 1985 capital improvements \$19,000

Sec. 3.

STATE BOARD OF AGRICULTURE

(a) There is appropriated for the above agency from the state general fund the following:

Emergency farm credit relief act \$126,671

Sec. 4. Effective date. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 5, 1985.

HOUSE concurred in SENATE amendments March 12, 1985.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 7, 1985.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED March 18, 1985.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 11th day of March, 1985.

JACK H. BRIER
Secretary of State.
(SEAL)

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION

SUPREME COURT DOCKET

(Note: Dates and times of arguments are subject to change.)

Monday, April 1, 1985

Case Caption	Attorneys	Originating County
9:30 a.m.		
57,074 State of Kansas, appellant, v. Kenneth J. Burrell, appellee.	Robert T. Stephan, Atty. Gen.; Geary N. Gorup, Asst. Dist. Atty.	Sedgwick
57,341 State of Kansas, appellant, v. Robert D. Corby, appellee.	Vern Miller. Robert T. Stephan, Atty. Gen.; Geary N. Gorup, Asst. Dist. Atty.	Sedgwick
57,142 State of Kansas, appellant, v. Kevin E. Leslie, appellee.	Thomas E. Malone. Robert T. Stephan, Atty. Gen.; Geary N. Gorup, Asst. Dist. Atty.	Sedgwick
57,233 Lowell L. Anderson and Aileen R. Anderson and Avanti Petroleum, Inc., appellees, v. Beech Aircraft Corporation, appellant.	Peter John Orsi. Cecil E. Merkel; William L. Fry. Eric S. Strickerl; Timothy E. McKee.	Sedgwick
1:30 p.m.		
57,324 State of Kansas, appellant, v. Maxwell E. Etappe, appellee.	Robert T. Stephan, Atty. Gen.; Geary N. Gorup, Asst. Dist. Atty.	Sedgwick
56,934 State of Kansas, appellant, v. Anthony Ray Martin, appellee.	John Clark. Robert T. Stephan, Atty. Gen.; Geary N. Gorup, Asst. Dist. Atty.	Sedgwick
57,309 James Bagby, Jerry Wayne Smith, <i>et al.</i> , appellees, v. Gary Rayle, <i>et al.</i> , appellant.	Charles A. O'Hara. Arthur Murley, <i>pro se.</i> , Jerry Wayne Smith, <i>pro se.</i> , James Bagby, <i>pro se.</i> , Wiley Miles, <i>pro se.</i> , Richard McClain, <i>pro se.</i> , James Mitchell, <i>pro se.</i>	Leavenworth
57,437 Terry Hopkins, <i>et al.</i> , appellants, v. Kansas Highway Patrol, <i>et al.</i> , appellees.	Charles E. Simmons Steven M. Dickson; Judy A. Pope. J. Stan Sexton; George F. Farrell, Jr.; James P. Mize; Dan Biles.	Saline

Tuesday, April 2, 1985

9:30 a.m.

57,517 State of Kansas, appellee, v. Victor O. Hemphill, appellant.	Robert T. Stephan, Atty. Gen.; Wes Griffin, Asst. Dist. Atty. Jeffrey A. Dehon.	Wyandotte
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(continued)

- 56,806 State of Kansas, appellee, Robert T. Stephan, Atty. Gen.; Wyandotte
Dexter Burdette, Asst. Dist. Atty.
- v.
Robert David Ruth, appellant. Robert E. Jenkins.
- 56,820 State of Kansas, appellee, Robert T. Stephan, Atty. Gen.; Wyandotte
Jerome A. Gorman, Asst. Dist. Atty.
- v.
Cedric W. Tripp, appellant. Thomas E. Foster.
- 56,919 State of Kansas, appellee, Robert T. Stephan, Atty. Gen.; Wyandotte
Michael Grosko, Asst. Dist. Atty.
- v.
Javier Gonzalez, appellant. Timothy Alvarez.
- 1:30 p.m.
- 57,189 State of Kansas, appellee, Robert T. Stephan, Atty. Gen.; Wyandotte
Jerome A. Gorman, Asst. Dist. Atty.
- v.
Ralph Hudson, appellant. Jan A. Way.
- 57,194 James Gerald Chism, G. Edmond Hayes; Wyandotte
Hartzell, White.
- v.
The University of Kansas College of Health Sciences and Hospital and Board of Regents of State of Kansas, *et al.*, appellees. John McFadden; Mary Beth Blake.
- 57,458 State of Kansas, appellee, Robert T. Stephan; Wyandotte
Nick Tomasic, Dist. Atty.
- v.
Nathaniel Johns, a/k/a Nathaniel Jones, a/k/a James Nance, appellant. Howard Washburn.
- 56,640 State of Kansas, appellee, Robert T. Stephan, Atty. Gen.; Johnson
Dennis Moore, Dist. Atty.
- v.
Robert Lile, appellant. William F. Dunn.

Wednesday, April 3, 1985

9:30 a.m.

- 57,130 State of Kansas, appellant, Robert T. Stephan, Atty. Gen.; Atchison
Gunnar A. Sundby, Co. Atty.
- v.
Rick Lanter, appellee. Richard P. Senecal.
- 57,335 State of Kansas, appellant, Robert T. Stephan, Atty. Gen.; Pratt
Philip D. Lunt, Co. Atty.
- v.
Jon Newton Lash, appellee. Jon Newton Lash, *pro se*.
- 56,163 Myron L. Van Gundy, appellant, Steven L. Davis. Lyon
ON PETITION FOR REVIEW
- v.
Lyon County Zoning Board and Lyon County Zoning Board of Appeals, appellee. Philip E. Winter.
- 56,195 Scott P. Thurner and Riviera Drilling and Exploration Company, appellants. Robert Pennington; Bourbon
Jack C. Marvin.
ON PETITION FOR REVIEW
- v.
Dale L. Kaufman and Mary H. Kaufman, appellees. O. J. Connell.

1:30 p.m.

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| 57,245 | State of Kansas, appellant,
v.
John Engle, appellee. | Robert T. Stephan, Atty. Gen.;
Jim Flory, District Atty. | Douglas |
| 56,450 | Eugene Cleveland, appellee,
v.
David Wong, M.D., appellant. | Ed Collister.
Edward J. Hund;
David Hall. | Sedgwick |
| 56,984 | Rocky A. Wentling, Individually and as
Parent and Natural Guardian of Rocky
Wentling and Shane Wentling, both
minors, appellee,
v.
Medical Anesthesia Services, P.A.,
appellant. | Alvin D. Herrington.
Bradley Post.

Larry Shoaf. | Sedgwick |

Thursday, April 4, 1985

9:30 a.m.

- | | | | |
|--------|---|---|------------|
| 57,060 | State of Kansas, appellee,
v.
Melvin Eugene Allison, appellant. | Robert T. Stephan, Atty. Gen.;
Ed Randells, Asst. Co. Atty. | Montgomery |
| 56,770 | State of Kansas, appellee,
v.
J. T. Garner, a/k/a/ J. Ted Garner,
appellant. | Philip J. Bernhart.
Robert T. Stephan, Atty. Gen.;
John Eyer, Co. Atty. | Washington |
| 57,129 | State of Kansas, appellee,
v.
Brenda Lemon, appellant. | Robert T. Stephan, Atty. Gen.;
Steven L. Opat, Co. Atty. | Geary |
| 57,318 | Centro Management, Inc., appellee,
v.
Kansas Department of Human Resources,
Division of Employment, appellant. | Jeffrey F. Spears.
Mark Edwards.

H. Dean Cotton;
Karl V. Cozad. | Geary |

1:30 p.m.

- | | | | |
|--------|---|---|---------|
| 57,149 | Teepak Incorporated, appellee,
v.
George R. Learned, appellant. | Bryan E. Nelson;
Ronald W. Nelson.

Thomas E. Wright;
Zackery E. Reynolds. | Douglas |
| 57,206 | Ethel Nurge, appellant,
v.
State of Kansas, University of Kansas
Medical Center, <i>et al.</i> , appellees. | Brandon L. Myers.

Rose Marino. | Douglas |
| 57,425 | Kansas Power and Light Company,
appellee,
v.
The State Corporation Commission of the
State of Kansas, <i>et al.</i> , appellants. | John K. Rosenberg;
Steven Carr;
Wayne W. Ryan.

Brian J. Moline;
Jeff Kennedy. | Shawnee |

(continued)

Friday, April 5, 1985

9:30 p.m.

57,394	State of Kansas, appellant, v. Leroy C. Haug, appellee.	Robert T. Stephan, Atty. Gen.; C. William Ossmann, Asst. Dist. Atty. James S. Willard	Shawnee
57,131	State of Kansas, appellee, v. Robin C. Sanford, appellant.	Robert T. Stephan, Atty. Gen.; Gene M. Olander, Dist. Atty.	Shawnee
57,279	Bingo Catering and Supplies, Inc., <i>et al.</i> , appellees, v. Harley Duncan, Secretary of Revenue of the State of Kansas, appellant.	Jeffrey F. Spears John Ivan. William L. Edds; D. Philip Wilkes.	Shawnee

LEWIS C. CARTER
Clerk of the Appellate Courts

Doc. No. 003017

State of Kansas

LAW ENFORCEMENT TRAINING COMMISSION

PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

Article 1.—PEACE OFFICERS STANDARDS AND TRAINING

106-1-3. Investigation and hearings on charges.

(a) Upon the verified, written complaint of any person setting forth facts which, if proven, would constitute grounds for denial, suspension or revocation of certification, as herein set forth, the commission shall investigate the actions of any officer holding or claiming to hold a certification. The commission may also initiate such an action upon its own motion. The commission shall, before denying, suspending or revoking any certification, give written notice of any charges made to the applicant or holder of such certification at least 20 days prior to the date set for hearing. The commission shall afford such a person an opportunity to be heard in person or by counsel in reference to the charges. The written notice may be served by personal delivery to the accused person, or by mailing the notice by registered or certified mail.

(b) At the time and place fixed in the notice designated by the commission, the hearing board shall hear the charges and shall afford both the accused person and the complainant ample opportunity to present any statements, testimony, evidence and arguments that may be pertinent to the charges or to any defense thereto. One member of the hearing board shall be designated as chairperson. The chairperson may continue the hearing from time to time. (Authorized by

and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; amended May 1, 1985.)

106-1-7. Voluntary revocation, suspension or denial and waiver of hearing. Any certified law enforcement officer who is the subject of an investigation or pending action involving possible revocation, suspension or denial of certification may consent, in writing, to voluntary revocation, suspension or denial and waiver of hearing. (Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; amended May 1, 1985.)

106-1-8. Reinstatement of certification. Any person whose certification has been revoked, suspended or denied may be reinstated only upon written application and by the majority consent of the commission. (Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; amended May 1, 1985.)

LAW ENFORCEMENT TRAINING COMMISSION

Doc. No. 002959

State of Kansas

BOARD OF TAX APPEALS

PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

Article 3.—ECONOMIC DEVELOPMENT REVENUE BONDS

94-3-2. Filing, fees and form. All applications and notices required to be filed pursuant to the act shall be governed by the following:

(a) Filing procedures.

(1) The informational statement, together with the fees required in K.A.R. 94-3-2(b)(1), shall be deemed filed and the requisite seven-day filing period shall commence upon the date they are received in the office of the board. All communications, documents, information and inquiries shall be addressed or delivered to: Office of the Secretary, Board of Tax Appeals, Room 1030-S, State Office Building, Topeka, Kansas 66612-1582; telephone: Area code 913/296-2388.

(2) One informational statement shall be filed for each proposed issuance.

(3) If the informational statement is not complete as originally filed, the chairperson will, within 10 days following the receipt of the incomplete filing, issue a letter specifically setting forth the deficiency which must be remedied to complete the filing. Upon receipt of the required information, the requisite seven-day filing period shall commence.

(4) If the chairperson finds, following a review of the informational statement, that all information and documents required to be filed are complete and, based upon the proposed date of issuance of the bonds, that the statement has been filed in a timely manner, the chairperson will render to the appropriate government officials and bond counsel an order or a letter indicating that finding.

(5) The following disclaimer shall appear in bold face type upon the second page of each preliminary offering document:

THE CHAIRPERSON HAS NOT REVIEWED ANY INFORMATION OR DOCUMENT FILED PURSUANT TO THIS INFORMATIONAL FILING FOR THE ADEQUACY OR ACCURACY OF THE DISCLOSURE THEREIN. THIS INFORMATIONAL FILING DOES NOT CONSTITUTE A RECOMMENDATION OR AN ENDORSEMENT BY THE CHAIRPERSON.

(6) The chairperson may publish for distribution to interested persons a monthly list of all informational filings received during the preceding month.

(b) Fees.

(1) Each informational statement shall be accompanied by a filing fee of \$125.00. All fees shall accompany the application and shall be payable by check or money order to the board of tax appeals. Cash remittance shall not be acceptable. If the chairperson receives notice of refusal of payment of the check or money order presented in payment of these fees, the application shall be deemed to be incomplete and not timely filed as required by the act.

(2) Copies of documents filed and recorded in the

office of the board shall be available upon request. Postage and copy fees shall be payable in advance, and in conformity with K.S.A. 45-204, as amended.

(c) Forms. The informational statement shall be on forms prescribed or approved by the chairperson. (Authorized by K.S.A. 1983 Supp. 12-1744b; implementing K.S.A. 1984 Supp. 12-1744a; effective May 1, 1983; amended, T-85-38; Dec. 19, 1984; amended May 1, 1985.)

FRED L. WEAVER
Chairman

Doc. No. 002963

State of Kansas

BOARD OF VETERINARY MEDICAL EXAMINERS

PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

Article 5.—FEES

70-5-1. Amount of fees.

(a) Veterinary license examination application 150.00;

(b) Veterinary license examination application for applicants with acceptable scores on the national board examination and the clinical

competency test \$100.00

(Authorized by K.S.A. 47-821; implementing K.S.A. 1984 Supp. 47-822 and 47-824; effective May 1, 1985.)

BOARD OF VETERINARY MEDICAL EXAMINERS

Doc. No. 002927

State of Kansas

BOARD OF NURSING

PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

Article 3.—REQUIREMENTS FOR LICENSURE AND STANDARDS OF PRACTICE

60-3-109a. Standards of practice. (a) Each registered professional nurse shall be familiar with the Kansas nurse practice act, the standards of practice of the profession and the code of ethics for professional nurses.

(b) Each licensed practical nurse shall be familiar with the Kansas nurse practice act, the standards of practice and the code of ethics for practical nurses. (Authorized by K.S.A. 65-1113; implementing K.S.A. 74-1106; effective May 1, 1985.)

Article 8.—FEES

60-3-101. Schedule of fees.

(a) Mental Health technician programs.

(1) Annual renewal of program approval \$100.00

(2) Survey of a new program \$200.00

(continued)

(b) Mental health technicians.	
(1) Licensure by endorsement	\$35.00
(2) Verification of current Kansas license to other states	10.00
(3) Examination	35.00
(4) Repeat of the examination	35.00
(5) Biennial renewal of license	25.00
(6) Reinstatement of lapsed license	25.00
(7) Certified copy of Kansas license	10.00

(Authorized by K.S.A. 74-1106; implementing K.S.A. 65-4208; effective May 1, 1980; amended, May 1, 1983; amended, T-85-49, Dec. 19, 1984; amended May 1, 1985.)

Article 11.—ADVANCED REGISTERED NURSE PRACTITIONERS

60-11-103. Qualifications of advanced registered nurse practitioners. To be eligible for certification as an advanced registered nurse practitioner in one of the following categories, the applicant shall hold a current Kansas license as a registered professional nurse. (a) To be certified as an advanced registered nurse practitioner in the category of nurse clinician or nurse practitioner, each applicant shall:

(1) Have graduated from a formal, post-basic nursing education program that has been approved by the state board of nursing, and that prepares the nurse to function in an expanded role. The board shall review evaluations of the applicant's performance in the program; or

(2) have a current certification which requires, as a prerequisite, a post-basic nursing education program approved by the state board of nursing.

(b) To be certified as an advanced registered nurse practitioner in the category of registered nurse anesthetist, each applicant shall:

(1) Have graduated from a formal, post-basic nursing education program that has been approved by the state board of nursing, and that prepares the nurse to function in an expanded role. The board shall review evaluations of the applicant's performance in the program; or

(2) have a current certification which requires, as a prerequisite, a post-basic nursing education program approved by the state board of nursing.

(c) To be certified as an advanced registered nurse practitioner in the category of nurse-midwife, each applicant shall:

(1) Have graduated from a formal, post-basic nursing education program that has been approved by the state board of nursing, and that prepares the nurse to function in an expanded role. The board shall review evaluations of the applicant's performance in the program; or

(2) have a current certification which requires, as a prerequisite, a post-basic nursing education program approved by the state board of nursing.

(d) To be certified as an advanced registered nurse practitioner in the category of clinical nurse specialist, each applicant shall:

(1) Have graduated from a formal, post-basic nursing education program that has been approved by the

state board of nursing, and that prepares the nurse to function in an expanded role; and

(2) hold a master's degree in a nursing clinical area which prepares the nurse to function in the expanded role. (Authorized by and implementing K.S.A. 1983 Supp. 65-1113, 65-1130; effective May 1, 1984; amended T-85-16, June 5, 1984; amended May 1, 1985.)

60-11-104. Functions of the advanced registered nurse practitioner, nurse clinician or nurse practitioner. Advanced registered nurse practitioners function in the expanded role of nurse clinician or nurse practitioner, at a specialized level, through the application of advance knowledge and skills. Each nurse clinician or nurse practitioner shall be authorized to: (a) Perform all functions defined for basic nursing practice;

(b) evaluate the physical and psychosocial health status of the client through a comprehensive health history and physical examination, using skills of observation, inspection, palpation, percussion and auscultation, and using diagnostic instruments or laboratory procedures that are basic to the screening of physical signs and symptoms;

(c) assess normal and abnormal findings from the history, physical examination and laboratory reports;

(d) plan, implement and evaluate care;

(e) consult with the client and members of the health care team to provide for acute and ongoing health care or referral of the client;

(f) manage the medical plan of care prescribed for the client, based on protocols or guidelines adopted jointly by the nurse practitioner and the attending physician;

(g) initiate and maintain accurate records, appropriate legal documents and other health and nursing care reports;

(h) develop individualized teaching plans with the client based on overt and covert health needs;

(i) counsel individuals, families and groups about health and illness and promote health maintenance;

(j) recognize, develop and implement professional and community educational programs related to health care;

(k) participate in periodic and joint evaluation of services rendered, including, but not limited to, chart reviews, patient evaluations and outcome of case statistics; and

(l) participate, when appropriate, in the joint review and revision of adopted protocols or guidelines when the advanced registered nurse practitioner is involved in the medical plan of care. (Authorized by and implementing K.S.A. 1983 Supp. 65-1113, 65-1130; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985.)

60-11-105. Functions of the advanced registered nurse practitioner; nurse-midwife. An advanced registered nurse practitioner functioning in the expanded role of nurse-midwife shall perform in an interdependent role as a member of a physician-directed health care team, within the framework of mutually adopted protocols or guidelines. Each nurse-midwife shall be

authorized to: (a) Be responsible for the management and complete health care of the normal expanding family throughout pregnancy, labor, delivery and post-delivery care;

(b) participate in individual and group counseling and teaching throughout the childbearing cycle;

(c) participate in well-woman gynecological procedures;

(d) participate in periodic and joint evaluation of services rendered, including chart reviews, case reviews, patient evaluations and outcome of case statistics; and

(e) participate in the joint review and revision of adopted protocols or guidelines. (Authorized by and implementing K.S.A. 1983 Supp. 65-1113, 65-1130; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985.)

60-11-106. Functions of the advanced registered nurse practitioner; nurse anesthetist. An advanced registered nurse practitioner functioning in the expanded role of registered nurse anesthetist shall perform in an interdependent role as a member of a physician or dentist-directed health care team. Each registered nurse anesthetist shall be authorized to:

(a) Conduct a pre- and post-anesthesia visit and assessment with appropriate documentation;

(b) develop an anesthesia care plan with the physician or dentist which includes medications and anesthetic agents;

(c) induce and maintain anesthesia at the required levels;

(d) support life functions during the perioperative period;

(e) recognize and take appropriate action for untoward patient responses during anesthesia;

(f) provide professional observation and management of the patient's emergence from anesthesia;

(g) participate in the life support of the patient;

(h) participate in periodic and joint evaluation of services rendered, including, but not limited to, chart reviews, case reviews, patient evaluations and outcome of case statistics; and

(i) participate in the joint review and revision of adopted protocols or guidelines. (Authorized by and implementing K.S.A. 1983 Supp. 65-1113, 65-1130; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985.)

60-11-107. Functions of the advanced registered nurse practitioner; clinical nurse specialist. The primary responsibility of the advanced registered nurse practitioner performing in the expanded role of clinical nurse specialist shall be patient care delivery to a select population in a specialty area. Each clinical nurse specialist shall be authorized to: (a) Provide direct nursing care utilizing a broad base of advanced scientific knowledge, nursing theory and skills in assessing, planning, implementing and evaluating those aspects of health and nursing care of individuals who require this specialized competence;

(b) provide indirect nursing care. Each clinical nurse specialist shall plan, guide, evaluate and direct

the nursing care given by other personnel associated with the nursing functions;

(c) conduct nursing research. Each clinical nurse specialist shall create and test methods of nursing intervention and health care in the area of specialization;

(d) teach and counsel individuals or groups. Each clinical nurse specialist shall utilize theories and skills of communication and teaching learning process to increase the knowledge or functioning of individuals and groups, nursing personnel, students and other members of the health care team;

(e) serve as a consultant, and as a resource, utilizing advanced health knowledge and skills, to those who are directly and indirectly involved in patient care; and

(f) participate in periodic evaluation of services rendered, including, but not limited to, chart reviews, case reviews, patient evaluations, and outcome of case statistics. (Authorized by and implementing K.S.A. 1983 Supp. 65-1113, 65-1130; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985.)

60-11-108. Requirements for advanced registered nurse practitioner programs of study. (a) Each program which prepares registered nurses for advanced nursing practice that is located or offered within Kansas shall be approved by the state board of nursing.

(b) The educational program shall be minimum of nine months or one academic year of full-time study or its equivalent, as defined by the sponsoring academic institution. The program shall contain both didactic and clinical components. The clinical component shall include a preceptorship meeting a minimum of eight hours a week for one academic year, or its substantial equivalent of practice.

(c) The philosophy, purpose and objectives of the program shall be clearly defined and available in written form.

(d) The objectives reflecting the philosophy shall be stated in behavioral terms and shall describe the competencies of the graduate.

(e) The faculty shall include a majority of advanced registered nurse practitioners who are currently certified by the board in Kansas.

(f) Each faculty member shall have earned a graduate degree.

(g) The content, methods of instruction and learning experience shall be consistent with the philosophy and objectives of the program.

(h) Course syllabi shall be available in writing.

(i) The program shall include content relating to role realignment, ethical and legal implications of advanced nursing practice, and the health care delivery system.

(j) The program shall provide clinical instruction in the performance of diagnostic procedures that are essential to practice in the area of specialization.

(k) Admission criteria shall be clearly stated, available in written form, and shall include the requirement of a current license to practice in Kansas as a registered professional nurse.

(continued)

(l) Policies for withdrawal, dismissal and readmission shall be available in written form.

(m) The student shall receive official evidence that indicates successful completion of the program of study.

(n) A written plan for continuing program evaluation shall be developed, adopted and implemented by the faculty. (Authorized by and implementing K.S.A. 1983 Supp. 65-1119, 65-1133; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985.)

Article 12.—CONTINUING EDUCATION FOR MENTAL HEALTH TECHNICIANS

60-12-101. Definitions. (a) "Continuing education in mental health technology" means an organized, systematic and evaluative educational experience beyond the basic preparation. These experiences shall be designed to promote the enrichment of knowledge, improvement of skills, and the development of attitudes for the enhancement of the practice of mental health technology, with the goal of improving health care to the public. Continuing education may include inservice education, but shall not include orientation and on-the-job training.

(b) "Course of study" means a systematic learning experience designed for the acquisition of knowledge, skills, and information related to the practice of mental health technology. A course of study may or may not carry college credit.

(c) "Independent study" means continuing education offerings designed for an individual and monitored by an approved provider.

(d) "Inservice education" means formal instruction designed by an approved provider and which is usually offered in the employment setting.

(e) "On-the-job training" means informal instruction given by an employer to improve the performance of an employee in a given task.

(f) "Orientation" means formal or informal instruction designed to acquaint newly-assigned employees with the philosophy of the institution and the duties and responsibilities of the position.

(g) "Provider" means a person, organization or institution approved by the board to supply continuing education offerings.

(h) "Refresher course" means a course of study which provides a review of basic preparation for individuals who have not been actively engaged in practice for a period of time, and which introduces them to developments in the practice of mental health technology that have occurred during recent years.

(i) "Short-term learning activity" means a conference, institute, lecture, seminar, or workshop or other program offered by an approved provider.

(j) "Hour" means at least 50 minutes of participation in a learning experience organized by an approved provider. (Authorized by K.S.A. 74-1106, implementing K.S.A. 65-4207; effective, T-85-49, Dec. 19, 1984; effective May 1, 1985.)

60-12-102. Requirements. (a) Each licensee shall submit a renewal application, the renewal fee re-

quired under K.A.R. 60-8-101, and documentation of continuing education credit required in this regulation no later than December 1, 1986 and each even-numbered year thereafter.

(b) On and after December 1, 1986, each licensee renewing a license shall submit satisfactory proof that the licensee has completed a minimum of 20 hours of approved continuing education in the two year period immediately preceding the renewal.

(c) Individuals who are licensed by examination in odd-numbered years shall not be required to complete the continuing education requirements prior to the first renewal of their license. However, such licensees shall be required to meet the continuing education requirements for each succeeding renewal period.

(d) Each licensee shall submit documentation to the board of successful completion of the required number of approved continuing education hours. Such documentation may include certificates, transcripts, or similar documents. This proof shall be submitted in the envelope with the application for license renewal.

(e) Continuing education credits shall be recorded in hourly segments.

(f) Continuing education requirements for individuals residing in foreign countries shall be determined on an individual basis. (Authorized by K.S.A. 74-1106, implementing K.S.A. 65-4205; effective, T-85-49, Dec. 19, 1984; effective May 1, 1985.)

60-12-103. Continuing education offerings. (a) "Continuing education offerings" shall include courses of study, inservice education, independent study, and short-term learning activities. These offerings may be in areas other than those directly related to the practice of mental health technology, if in the opinion of the board, such offerings bear a reasonable relationship to developments in mental health technology.

(b) The board shall recognize offerings of approved providers. Programs not offered by an approved provider shall be approved in advance on an individual basis.

(c) No more than 20 percent of the required continuing education hours shall be accumulated from independent study.

(d) Approval shall not be granted for identical offerings completed within a renewal period. (Authorized by K.S.A. 74-1106, implementing K.S.A. 65-4207; effective, T-85-49, Dec. 19, 1984; effective May 1, 1985.)

60-12-104. Approval of continuing education offerings. (a) Each applicant for approved provider status shall apply on forms supplied by the board.

(b) The board's approval of each provider shall be effective for a two-year period. Each provider shall reapply for provider approval biennially.

(c) Application for provider approval shall be made at least three months before the anticipated date of the first offering.

(d) Each offering shall be no less than two hours in length and shall be taught by approved course instructors.

(e) Each continuing education course instructor

shall be knowledgeable, current, and skillful in the subject matter of the offering and in educational methods.

(f) Each program provider shall award certificates of achievement to each participant in an offering.

(g) Each program provider shall submit to the board a roster of individuals who have satisfactorily completed each offering, within 30 days after completion.

(h) Each program provider shall maintain a record of all offerings and attendance for a two-year period.

(i) If quality programs are not maintained to the board's satisfaction, or if there is a material misrepresentation of any fact within the information required to be submitted to the board by a provider, the board shall withdraw approval from that provider. (Authorized by K.S.A. 74-1106, implementing K.S.A. 65-4207; effective, T-85-49, Dec. 19, 1984; effective May 1, 1985.)

DR. LOIS RICH SCIBETTA
Executive Administrator

Doc. No. 002932

State of Kansas

INSURANCE DEPARTMENT

PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

Article 1.—GENERAL

40-1-20. Same; subrogation clause prohibited for certain coverages. No insurance company shall issue contracts of insurance in Kansas containing a "subrogation" clause applicable to coverages providing for reimbursement of medical, surgical, hospital or funeral expenses. (Authorized by K.S.A. 40-103; implementing K.S.A. 40-216, 40-1110, 40-2201, 40-2203(A), 40-2204, 40-2208, 60-217(a); effective Jan. 1, 1966; amended Jan. 1, 1967; amended May 1, 1985.)

Article 2.—LIFE INSURANCE

40-2-16. Life insurance and annuities; mortality tables; sexual distinctions; permits and prohibitions.

(a) For any policy of insurance on the life of either a male or female insured delivered or issued for delivery in this state before January 1, 1989 and after the operative date for that policy form under K.S.A. 1983 Supp. 40-428(d-3), the Blended 1980 CSO and CET Mortality Tables A through G, adopted December 1983 by the National Association of Insurance Commissioners, may be substituted for the 1980 CSO or CET table, with or without ten year select mortality factors.

(b) It shall not be a violation of K.S.A. 1983 Supp. 40-2404(7) for an insurer to issue the same type of life insurance policy on both a sex distinct and sex neutral basis. (Authorized by K.S.A. 40-103; implementing K.S.A. 1983 Supp. 40-428(d-3); effective, T-85-11, April 11, 1984; effective May 1, 1985.)

Article 4.—ACCIDENT AND HEALTH INSURANCE

40-4-29. Same; major medical expense coverage. "Major medical expense coverage" is an accident and sickness insurance policy which provides hospital, medical and surgical expense coverage, to an aggregate maximum of not less than \$25,000, which is not subject to a co-payment by the covered person of more than 25 percent of covered charges and with the deductible, stated on a per person, per family, per illness, per benefit period, or per year basis, or a combination of these bases, not to exceed five percent of the aggregate maximum limit under the policy. If the policy is written to complement underlying hospital and medical insurance, the deductible may be increased by the amount of the benefits provided by the underlying insurance. For each covered person, major medical expense coverage shall provide coverage for at least:

(a) Daily hospital room and board expenses of not less than \$100 daily, prior to application of the co-payment percentage and for a period of not less than 31 days during any one period of confinement;

(b) Miscellaneous hospital services, prior to application of the co-payment percentage, of an aggregate maximum of not less than \$2,500 or 15 times the daily room and board rate, if specified in dollar amounts;

(c) Surgical services, prior to application of co-payment percentage, of not less than \$1,200 for the most severe operation, with the amounts provided for other operations reasonably related to the maximum amount;

(d) Anesthesia services, prior to application of the co-payment percentage, of not less than 15 percent of the covered surgical fees or, alternatively, if the surgical schedule is based on relative values, not less than the amount provided therein for anesthesia services at the same unit value as used for the surgical schedule;

(e) In-hospital medical services, prior to application of the co-payment percentage, as defined in part (c) of K.A.R. 40-4-27;

(f) Out-of-hospital care, prior to application of the co-payment percentage, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, and for diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician; and

(g) Not fewer than three of the following additional benefits, prior to application of the co-payment percentage, for an aggregate maximum of the covered charges of not less than \$2,000:

(1) In-hospital private duty graduate registered nurse services;

(2) convalescent nursing home care;

(3) diagnosis and treatment by a radiologist or physiotherapist;

(4) rental of special medical equipment, as defined by the insurer in the policy;

(5) artificial limbs or eyes, casts, splints, trusses or braces;

(continued)

(6) treatment for functional nervous disorders, and mental and emotional disorders; and

(7) out-of-hospital prescription drugs and medications. (Authorized by and implementing K.S.A. 40-2218; effective Feb. 15, 1977; amended May 1, 1984; amended May 1, 1985.)

40-4-34. Accident and health insurance; coordination of benefits; guidelines. Sections 4 and 5 of the national association of insurance commissioners' coordination of benefits guidelines, June, 1984 edition, are hereby adopted by reference subject to the following exceptions: (a) Guideline 2 of section 4 is hereby amended to read as follows: The definition of "Plan" may include both group and individual automobile "no-fault" contracts but, as to the traditional automobile "fault" contracts, only the medical benefits written on a group or group-type basis may be included. If the definition of "Plan" includes automobile "no-fault" contracts, the term "Plan" shall be construed and so worded to include only a plan providing benefits for or by reason of hospital care or treatment, medical, dental or other health services when those benefits are provided as a result of injuries arising out of a motor vehicle accident. The term "Plan" shall include the benefits payable under any medical expense payment provision of any automobile insurance policy including benefits mandated by law.

(b) Guideline 4 of section 4 is hereby amended to read as follows: School accident type coverages, written on either a blanket, group or franchise basis shall not be taken into consideration in coordination of benefits. In this context, school accident type coverages are defined to mean coverage of grammar school and high school students for accidents only, including athletic injuries, either on a 24 hour basis or "to and from school."

(c) Guideline 13 of section 5 is not adopted. (Authorized by K.S.A. 40-103, 40-2404a; implementing K.S.A. 1983 Supp. 40-2404; effective May 1, 1981; amended May 1, 1982; amended May 1, 1984; amended May 1, 1985.)

40-4-36. Accident and sickness insurance; conversion policies; reasonable notice of required contributions and right to convert. (a) The reasonable notice of required contribution provided for by K.S.A. 40-1905, 40-19c06 and 40-2209, as amended by L. 1984, Ch. 172, Secs. 2, 3 and 4, shall be deemed to have been fulfilled if a form is transmitted to the insured person that:

(1) Describes the right to continue coverage under the group policy; and

(2) sets forth the premium or subscriber's charge and mode of payment necessary to exercise this right.

The form shall be directly delivered, or transmitted to the last known address of the insured person.

(b) The reasonable notice of the right to convert required by K.S.A. 40-1905, 40-19c06 and 40-2209, as amended by L. 1984, Ch. 172, Secs. 2, 3 and 4, shall be deemed to have been fulfilled if, during the six month continuation period, a form is transmitted to the person eligible for conversion that:

(1) Describes the conversion options;

(2) describes the premiums or subscriber's charges for each option; and

(3) provides instructions regarding the action required to effect conversion.

(c) Insurers may include provisions in their group policies, subscription agreements and certificates of coverage that are necessary to identify or obtain identification of persons and events that would activate the continuation and conversion rights created by K.S.A. 40-1905, 40-19c06 and 40-2209, as amended by L. 1984, Ch. 172, Secs. 2, 3 and 4. (Authorized by and implementing K.S.A. 1984 Supp. 40-1905, 40-19c06 and 40-2209; effective May 1, 1985.)

Article 7.—AGENTS

40-7-13. Agents; scope, subclassification; type and conduct of examinations; reexamination. (a) The examination for agent's license shall test the applicant's knowledge of the following areas:

(1) Part I—the laws of Kansas, including:

(A) pertinent provisions of the statutes of Kansas; and

(B) rules and regulations of the insurance department;

(2) Part II—general insurance, including:

(A) duties and responsibilities of a licensed agent; and

(B) basic insurance knowledge;

(3) Part III—the specific classes or subclasses of insurance for which application is made.

(b) For examination purposes the subclassifications of each class of insurance shall be as follows:

Class	Subclass
(1) Life insurance, including health and accident coverage	(A) life insurance (B) accident, health and hospitalization insurance
(2) Fire and allied lines	(A) general fire lines, including "homeowners" and "farmowners" policies (B) automobile physical damage coverage (C) any other subclass designated by the commissioner of insurance
(3) Casualty and allied lines	(A) accident, health and hospitalization lines (B) automobile insurance (both liability and physical damage) (C) general casualty lines (D) fidelity, forgery and surety bonds (E) title insurance (F) any other subclass designated by the commissioner of insurance

(4) Any agent required to be examined who will write multi-peril policies shall be qualified by examination for each subclass included under the policy.

(c) Persons failing to score at least 70 percent on any part of any examination shall have failed that part of the examination and shall not be qualified for a license. Notification of the result of each examination shall be provided only to the applicant.

(d) Examinations shall be conducted as follows:

(1) Each applicant shall be given an advance notice

which establishes the time and place of the examination. An applicant shall not appear for an examination before being notified of eligibility to do so by the department.

(2) The applicant's licensing material shall remain effective until 60 days from the date of notification of eligibility or from the applicant's last appearance for examination, whichever is later.

(3) Each applicant shall be scheduled for reexamination on sections previously failed at the next scheduled examination date. The next scheduled examination shall be no less than 14 days from the date of previous examination. (Authorized by K.S.A. 40-103, 40-241; implementing K.S.A. 40-241; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1969; amended Jan. 1, 1970; amended, E-70-28, July 1, 1970; amended Jan. 1, 1971; amended, E-71-24, July 1, 1971; amended Jan. 1, 1972; amended Jan. 1, 1973; amended Jan. 1, 1974; amended, E-78-24, Sep. 7, 1977; amended May 1, 1978; amended May 1, 1979; amended May 1, 1981; amended May 1, 1982; amended May 1, 1985.)

Article 10.—FIREMEN'S RELIEF

40-10-1. Firemen's relief fund tax; fire marshal tax; companies subject to; amount of premiums taxed.

(a) Each insurance company authorized to transact business in the state of Kansas that issue policies which cover the hazard of fire, is subject to the firemen's relief fund tax and the fire marshal tax. Unless a verifiable, separate charge is made for fire coverage, the following portions of the respective policy premiums shall be allocated as fire premium:

(1) 25 percent of all premium collected on homeowners multiple-peril policies;

(2) 55 percent of all premium collected on the property coverage section of commercial multiple-peril policies;

(3) 20 percent of all premium collected on aircraft policies;

(4) eight percent of all premium collected on automobile physical damage coverage;

(5) 15 percent of all premium collected on marine policies;

(6) 35 percent of all premium collected on farm-owners multiple-peril policies; and

(7) 33½ percent of all premium on all other single premium policies that provide coverage for damage caused by fire and perils other than fire.

(b) The words "fire insurance company" as used in K.S.A. 75-1508, and any amendments thereto, are construed to mean every company issuing policies which include coverage for property against the hazard of fire. (Authorized by K.S.A. 40-103, 40-937; implementing K.S.A. 1983 Supp. 75-1508, K.S.A. 1984 Supp. 40-1703; effective Jan. 1, 1966; amended May 1, 1981; amended May 1, 1985.)

40-10-2. Firefighter's relief association; requirements for participation; procedure. (a) Members of a fire department who desire to participate in the distribution of firefighter's relief funds shall:

(1) apply for a charter and incorporate as a not-for-profit corporation;

(2) file with the commissioner of insurance a certified copy of the articles of incorporation of the firefighter's relief association; and

(3) file with the commissioner of insurance evidence of establishment of a fire district within a township or county in accordance with applicable Kansas statutes. This requirement shall not apply to fire departments under the exclusive control of the governing body of an incorporated city.

(b) When the members of a city, township, county, or fire district fire department notify the commissioner of insurance of their desire to participate in the firefighter's relief fund tax and have otherwise qualified for participation, the proper officials shall complete a declaration form, provided by the commissioner, which declares their right to participate in the firefighter's relief fund. The completed form shall be returned to the commissioner.

This declaration form shall be executed by the chief executive officer of the city, township, county, or fire district. The clerk of the city, township or county, or the equivalent official of the fire district shall attest to the execution of the form.

(c) A declaration form shall be filed annually with the commissioner of insurance.

(d) Qualified firefighter's relief associations shall annually submit, on forms provided by the commissioner, a certification by the county clerk of the population and assessed tangible property valuation of the geographic area provided fire protection services by the fire department of the association.

(1) The population figure provided on this form shall be computed using the most recent population figures available from the United States bureau of the census as certified to the secretary of state by the division of the budget on July 1 of each year.

(2) The assessed tangible property valuation figure provided on this form shall be computed using the tangible assessed valuation as shown on the latest November 1 assessment roll prepared and maintained by the county clerk.

(e) Each firefighter's relief association shall adopt bylaws to cover all activities of the association and shall set forth the procedures for disbursing all funds for the payment of benefits provided by the association. A copy of the bylaws and the procedures shall be filed with the commissioner. (Authorized by K.S.A. 40-103, K.S.A. 40-1707, as amended by L. 1984, Ch. 165, Sec. 8; implementing K.S.A. 1984 Supp. 40-1702, 40-1703, 40-1704, 40-1705, 40-1706, 40-1707, 17-7502, 17-7506; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1981; amended May 1, 1985.)

40-10-5. Firefighter's relief associations; purchase of insurance; on duty coverage. (a) Except as provided in K.S.A. 40-1707(b), 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and any amendments thereto, any insurance for coverage while on duty which is paid for in whole or in part by a firefighter's relief association from funds paid to it by the commissioner of insurance shall meet the following conditions.

(continued)

(1) Each policy shall be purchased, owned and held by the firefighter's relief association.

(2) Each policy shall name the firefighter's relief association as beneficiary of the policy and shall not contain a provision which would permit the beneficiary to be other than a firefighter's relief association.

(3) The insurance policy shall provide that all indemnities, of whatever nature, shall be paid to the firefighter's relief association.

(4) Except as provided by subsection (b) such a policy shall be limited to cover only accidental injuries or diseases contracted by reason of duties as a member of the fire department as set forth in K.S.A. 40-1707 or death resulting therefrom.

(b) Any volunteer fire department may establish annuities in accordance with K.S.A. 40-1707(c)(1), and any amendments thereto. Prior to the purchase of any annuity contract by a firefighter's relief association for and on behalf of the volunteer firefighters, the purchase of the annuity contract shall be approved by the attorney of the governing body.

(c) K.S.A. 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and any amendments thereto, shall be applicable only to group term, group permanent or individual permanent life insurance contracts. (Authorized by K.S.A. 40-103; implementing K.S.A. 1984 Supp. 40-1707; effective Jan. 1, 1966; amended Jan. 1, 1968; amended May 1, 1975; amended May 1, 1979; amended May 1, 1985.)

40-10-6. Firefighter's relief associations; purchase of insurance; 24 hour coverage. (a) Except as provided in K.S.A. 40-1707(b), 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and any amendments thereto, any insurance for 24 hour coverage which is paid in part by a firefighter's relief association from funds paid to it by the commissioner of insurance shall meet the following conditions:

(1) Each policy shall be purchased, owned and held by the firefighter's relief association.

(2) Except as provided in subsection (b)(4), each policy shall name the firefighter's relief association as the beneficiary of the policy and shall not contain a provision which would permit the beneficiary to be other than a firefighter's relief association.

(3) Except as provided in subsection (b)(4), the insurance policy shall provide that all indemnities, of whatever nature, shall be paid to the firefighter's relief association.

(b) Where individual members of a firefighter's relief association desire to have their dependents insured under a group or franchise accident and health policy issued to the association:

(1) Dependent's coverage shall be evidenced by endorsements attached to the policy.

(2) The association shall have authorized the addition of coverage for dependents to its policy.

(3) The entire cost of coverage for dependents shall be paid by the individual firefighter. Firefighter's relief tax funds cannot be used to pay for this coverage.

(3) The endorsement shall provide that benefits under the endorsement for dependents shall be paid directly to the firefighter who has paid for them or to another beneficiary of the firefighter's choice and not to the association.

(c) When a firefighter's relief association purchases 24 hour coverage for its members, each individual member shall pay that portion of the cost (premiums) which is beyond "on duty" coverage. The contribution by the individual members shall not be less than 15 percent of the total premium for this coverage.

(d) K.S.A. 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and any amendments thereto, shall be applicable only to group term, group permanent or individual permanent life insurance contracts. (Authorized by K.S.A. 40-103; implementing K.S.A. 1984 Supp. 40-1707; effective Jan. 1, 1966; amended Jan. 1, 1968; amended May 1, 1975; amended May 1, 1979; amended May 1, 1985.)

Article 15b.—UNIVERSAL LIFE INSURANCE

40-15b-1. Universal life insurance; definitions; qualifications; requirements; reports. The national association of insurance commissioners' universal life insurance model regulation, December, 1983 edition, is hereby adopted by reference, subject to the following exceptions and additions: (a) Section 1, Section 2, and Subsections (8) and (9) of Section 3 are not adopted.

(b) Section 4 is hereby amended by striking "Article II, Section 19 of the NAIC Model Variable Life Insurance Regulation" and substituting "Kansas Administrative Regulation 40-15a-1."

(c) Section 4 is further amended by adding the following paragraph: "Nothing in this regulation shall be construed as superseding any statutory provision or any Kansas administrative regulation except to the extent this regulation or a provision thereof is inconsistent with or contrary to another regulation."

(d) Subsection F of Section 7 is hereby revised to read as follows: "The policy shall provide for written notice to be sent to the policyowner's last known address at least 30 days prior to termination of coverage."

As required by K.S.A. 40-420, a flexible premium policy shall provide for a grace period of at least 30 days after it lapses. Unless otherwise defined in the policy in a way that is more favorable to the insured, lapse shall occur on the date the net cash surrender value first equals zero."

(e) Subsection A of Section 10 is hereby amended by deleting the last sentence of the first paragraph.

(f) Subsection B of paragraph 3, Section 10 is hereby amended by the addition of the following paragraph: "Every foreign insurer shall be subject to the same information requirements as domestic insurers unless the required descriptions are filed on a timely basis with the insurer's state of domicile." (Authorized by K.S.A. 40-436; implementing K.S.A. 40-436 and 40-437; effective May 1, 1985.)

FLETCHER BELL
Commissioner of Insurance

Doc. No. 002935

State of Kansas
SOCIAL AND REHABILITATION SERVICES

**PERMANENT ADMINISTRATIVE
 REGULATIONS**

(Effective May 1, 1985)

Article 2.—GENERAL

30-2-12. Fee for providing copies of agency documents and records to non-agency personnel. Except as set forth in K.A.R. 30-2-12(d), the following fees shall be charged for providing copies of agency documents and records to non-agency personnel: (a) Copying fee: Ten cents per page (single side);

(b) Search fee: Two dollars and fifty cents per quarter-hour or portion thereof. The search fee shall:

(1) Be charged even though no documents or records are located; and

(2) not be charged if the requested documents or records are readily available to the person retrieving them without leaving that person's work area and without searching through various or individual files.

(c) Supervision fee: Two dollars and fifty cents per quarter hour or portion thereof.

(d) Computer programming fee: Eight dollars per quarter hour or portion thereof.

(e) Computer usage fee:

(1) General—\$1,103.00 per hour; and

(2) Medical management information system: as charged by fiscal agent.

(f) Certification fee: One dollar per quarter-hour or portion thereof.

(g) Exceptions. No fee shall be charged if the request for documents or records is:

(1) In the administration of an agency program;

(2) in relationship to a client fair hearing;

(3) for medical diagnosis or treatment;

(4) from a state agency; or

(5) pursuant to an administrative regulation authorizing the release of the document or record without the charging of a fee. (Authorized by K.S.A. 75-5321; implementing K.S.A. 76-12a10, K.S.A. 1984 Supp 45-218; effective, E-80-13, Aug. 8, 1979; effective May 1, 1980; amended May 1, 1983; amended May 1, 1985.)

30-2-14. (Authorized by K.S.A. 75-5321, K.S.A. 1979 Supp. 39-708c; effective, E-80-13, Aug. 8, 1979; effective May 1, 1980; revoked May 1, 1985.)

30-2-16. Permanency planning goals for title IV-E of the federal social security act. (a) The agency's permanency planning goal for the federal fiscal year commencing on October 1, 1984 shall be to have no more than 450 children who have been in foster care placements in excess of 24 consecutive months receive federal funding during the course of the year.

(b) The agency shall take the following steps to achieve the above stated goal. The agency shall:

(1) Make a reasonable effort to make adoption assistance available on behalf of eligible children; and

(2) initiate a case review and develop a plan for each child in the custody of the agency. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; ef-

fective, T-83-26, Sept. 22, 1982; effective May 1, 1983; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985.)

**Article 4.—PUBLIC ASSISTANCE
 PROGRAM**

30-4-40. Agency responsibility to applicants and recipients. (a) The agency, on the request of any applicant or recipient, shall explain the applicant or recipient's rights and responsibilities.

(b) The agency shall inform applicants and recipients of the following requirements placed upon the agency:

(1) Periodic redeterminations. The agency shall be required to make periodic redeterminations of eligibility if the application is approved.

(2) Fraud. The agency shall be required to investigate and refer for legal action any fraudulent application for or receipt of assistance.

(3) Public list. The agency shall be required to prepare and maintain a public list of cash recipients of GA, which shall be limited to name, address, and amount of cash assistance received.

(4) Release of confidential information. Unless otherwise prohibited by law, the agency shall be required to release confidential information when the release is directly related to:

(A) The administration of the SRS program;

(B) an investigation or criminal or civil proceeding being conducted in connection with the administration of the program;

(C) the reporting of a fugitive felon's address to local and state law enforcement officials. Such a report shall be made only when the law enforcement official furnishes the recipient's name and social security number and satisfactorily demonstrates that the individual is a fugitive felon, that the location or apprehension of the fugitive felon is within the law enforcement officer's official duties and that the request is made in the proper exercise of those duties; or

(D) the reporting to the appropriate law enforcement officials the intention of a recipient to commit a crime. Further, the agency shall be required to release confidential information concerning ADC, ADC-FC, and EA applicants and recipients under certain circumstances as specified in 42 U.S.C.A. 602(a)(9).

(5) Employment participation. Upon request, the agency shall be required to certify to an employer that an individual is an ADC recipient in order that the employer may receive an employment incentive tax credit pursuant to the tax reduction act of 1975, as amended. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-41. Assistance planning. (a) Definitions.

(1) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relative relationship.

(2) "Caretaker relative" means the relative who is assigned the primary responsibility for the care and

(continued)

control of the child, either singly or, as in the case of a married couple, jointly. Caretaker relative status shall be extended to the adult relative of a minor parent when assistance is requested for the child of a minor parent.

(3) "Eligible relative" means a caretaker relative who is considered in the plan with the child. A stepparent shall not be considered as an eligible relative unless the stepparent is the only caretaker relative in the home and is financially eligible.

(4) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the plan.

(5) "Essential person" means an individual in the home who:

(A) Does not otherwise qualify for ADC;

(B) is a stepparent spouse who meets the job search requirement or WIN requirement, or who is exempted from the requirements; or

(C) is in the degree of relationship for ADC purposes and whose presence is required for the care and supervision of a child under six years of age or for care and supervision of a person who has a medically determined condition which does not permit self-care, if care is not available from another person in the home.

(6) "Nonessential person" means an individual who does not meet the ADC criteria of being an eligible relative or an essential person. An individual shall not be included as a nonessential person if eligible for ADC.

(b) Persons in the family group shall be included or excluded from the assistance plan at the applicant's or recipient's request, except as provided in K.A.R. 3-4-74 for ADC purposes and K.A.R. 30-4-90(d) for GA purposes. The assistance plan shall consist of those members of the family group for whom assistance is requested and eligibility is determined. Any individual excluded from the assistance plan shall not be eligible in a separate assistance plan. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-53. Financial eligibility. Each applicant or recipient shall be financially eligible. Financial eligibility shall be determined on a calendar month basis. Each applicant or recipient shall be determined to be financially eligible if the client: (a) Owns property within the allowable limits;

(b) has income that does not exceed 185% of the public assistance standards. For ADC, APW and GA families in non-shared living arrangements, the standards set forth in K.A.R. 30-4-101 and 30-4-102 shall be used to determine the 185% level. For ADC and APW families in shared living arrangements, the standards set forth in K.A.R. 30-4-100(a)(2) shall be used to determine the 185% level. For GA families in shared living arrangements, the 185% level shall be determined using the pro rata share of the budgetary requirements set forth in K.A.R. 30-4-100(b)(3); and

(c) has a budgetary deficit after subtracting total applicable income from the public assistance standards. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-56. Assignment or transfer of property. (a) Definition. "Assignment or transfer of property" means any act, contract, lease, or share whereby the use, control, or ownership of property of an applicant or recipient passes to another person or corporation.

(b) Eligibility requirement.

(1) Any applicant, and the members of the assistance family group for whom the applicant is legally responsible, shall be ineligible for assistance if the applicant has assigned or transferred any property without adequate consideration or for the purpose of rendering the applicant eligible for assistance:

(A) Within a two year period immediately preceding the filing of the application for assistance, if the value of the property is \$12,000.00 or less; and

(B) within a five year period immediately preceding the filing of the application for assistance if the value of the property is in excess of \$12,000.00.

(2) Any applicant, recipient, or caretaker relative, and the members of the assistance family group for whom the applicant, recipient, or caretaker relative is legally responsible, shall be ineligible for assistance if that person, without the approval of the agency, assigns or transfers any real or personal property with an equity value exceeding \$500.00 without adequate consideration after making application or while receiving assistance. Multiple transfers that occur within a calendar month shall be treated as a single transfer.

(c) Procedures. The procedures set forth below shall be used in determining an applicant's or recipient's eligibility for assistance under the above provisions:

(1) The agency shall assemble the record in chronological order for each transfer of property.

(2) The agency, after securing the information listed above, shall examine the reason for the transfer. In examining the reason for the transfer, the agency shall determine first if adequate consideration was received. If adequate consideration was received, the applicant or recipient shall be considered to meet the transfer of property eligibility factor, as it shall be assumed that if the person received adequate consideration the intent of the transfer was not for the purpose of establishing assistance eligibility. If the agency determines that adequate consideration was not received, it shall be presumed that the transfer was for the purpose of establishing eligibility unless the person furnishes convincing evidence that the transfer was exclusively for some other purpose.

(3) The decision of the agency with respect to convincing evidence shall be governed by the following criteria:

(A) Any transfer of property shall be considered in

the light of the circumstances existing at the time the transfer was made.

(B) The weight given to an applicant's statement that the transfer was not connected with that person's application for assistance shall be in proportion to the length of the interval between the transfer and the application.

(C) The difference in the equity transferred and the consideration received shall be such that it would be evident to the ordinary individual that full value had not been received.

(D) An applicant or recipient shall not be penalized for name removal from title if the applicant or recipient can substantiate that the name had been placed on the title by the owner solely for the sake of convenience and that the applicant or recipient would not otherwise have any interest in the property. Factors to be considered and documented shall include the source and use of the property. This provision shall not be applicable to jointly owned resources between legally responsible persons.

(d) Prior approval. An applicant or recipient shall not be ineligible for assistance if the agency granted prior approval to the transfer of the property in question. The application for transfer shall be made with the agency. The agency shall grant approval if the proposed transfer of property is for adequate consideration and is a bona fide transaction.

(e) Period of ineligibility.

(1) If the agency determines that any applicant or recipient has transferred real or personal property without the approval of the agency and without adequate consideration, or for the purpose of establishing assistance eligibility, the agency shall determine the period of ineligibility. The equity of the property transferred in excess of \$500.00, less paid or incurred medical expenses for services rendered from the date of the property transfer to the month of application, shall be divided by the monthly deficit to determine the number of months of ineligibility.

(2) The period of ineligibility due to the transfer of property shall not in any event exceed two years from the month of the transfer of the property in question when the uncompensated value of the disposed resource is \$12,000.00 or less, or five years when the uncompensated value of the resource exceeds \$12,000.00. The period of ineligibility shall not be increased; in the event of additional expenses, decreased income, or emergency expense, the period shall be shortened accordingly. The period of ineligibility shall be subject to re-evaluation on the basis of additional evidence or other justification for authorization of assistance.

(3) If there is evidence that a transfer was either made for the purpose of making the individual eligible for assistance or without adequate consideration and later the property is reconveyed to the individual, or if there is an adjustment in the transfer through which the individual receives adequate consideration, the loss of the resource no longer exists. The individual shall, if otherwise qualified, be eligible to receive assistance. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; ef-

fective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-4-57. Job search requirements. (a) Each recipient, unless exempted, shall be required to participate, if assigned, in an agency-approved job club or related activity. Any recipient may volunteer to participate in an agency-approved job club or related activity. If a recipient is not assigned to an agency-approved job club or related activity and does not qualify for an exemption under subsection (b), the recipient shall be required to furnish verifications of five attempts to obtain employment each month. A recipient shall not be required to spend more than 320 hours per year in job search activities.

(b) Exemptions. The persons listed below shall be exempt from the job search requirement:

(1) Persons registered for the work incentive program;

(2) for ADC and ADC-FC, any child who is under age 16 or attending school full time; or for GA, any child under age 16, or any child between the ages of 16 and 18 who is attending school full-time. The definition of full-time is the same as for ADC eligibility;

(3) any person who is ill or injured. The illness or injury shall be of a nature which temporarily prevents entry into employment and shall be established by medical information from an official source;

(4) any person who is incapacitated. There shall be a medically determined physical or mental impairment which by itself, or in conjunction with age, prevents employment and which is expected to continue at least 30 days. A person shall meet one of the following criteria to be considered physically or mentally incapacitated under this provision:

(A) The incapacity shall be established by eligibility for OASDI or SSI benefits based on disability.

(B) The incapacity shall be established by a written or oral statement of a psychologist, optometrist or a person licensed by the board of healing arts, within the scope of that person's professional competence, or by a written, team-diagnostic evaluation from an agency, including the veteran's administration, vocational rehabilitation, or a mental health clinic. When an individual claims exempt status due to incapacity, but medical verification is needed to establish this, the individual shall be regarded as temporarily exempt for a period not to exceed 30 days while the individual's status is being verified. If verification is not provided because of a legitimate delay in obtaining an examination by or a consultation with a medical practitioner, the temporary exemption period shall be extended for a period not to exceed 15 days;

(5) any person who is age 65 or over;

(6) any person who is too remote from potential employers. The criterion of remoteness is met when potential employers are located two miles or more from the person's home and when transportation is not available. If the person has transportation available, round trip travel time of more than two hours (exclu-

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sive of time required to transport a child to and from a child care facility) qualifies as top remote;

(7) any person whose presence is required at home because of a verified, medically determined condition of another member of the home whose condition does not permit self-care, and when the care is not available from another person in the home;

(8) any woman who is at least six months pregnant;

(9) any parent or other relative personally providing care for a child under six years of age with only brief and infrequent absences from the child, except when the absence is for the purpose of employment or an agency-approved, work-related activity;

(10) for ADC, any parent or other caretaker of a child who is deprived for a reason other than the unemployment of a parent when another adult relative in the plan is actively seeking employment;

(11) for ADC-UP, any parent if the other parent is the principal wage earner and is actively seeking employment;

(12) any person who is employed full-time or any person who has a physical or mental impairment and who is working to that person's capacity. Full-time is determined as at least 30 hours per week, with gross earnings, or adjusted gross earnings for the self-employed, that are equal to or in excess of \$100.00 per week;

(13) any person who is attending high school full-time;

(14) any person who is residing in a licensed or certified alcohol and drug abuse facility;

(15) any person participating in vocational rehabilitation program training; and

(16) any person for whom searching for employment is inconsistent with home responsibilities. When a person who has responsibility for care and supervision of children states that the person cannot meet the requirement because of home responsibilities, the agency shall consider the effect of searching for employment on necessary care and supervision of the children. This exemption shall not apply if it is established that adequate and satisfactory plans can be developed for providing care and supervision of the children during periods of absence from the home.

(c) Job search reimbursement. Any person who is assigned to and who participates in an agency-approved job club or related activity on either a mandatory or voluntary basis and any person who is required to furnish five verifications of attempts to obtain employment shall be reimbursed for job-seeking transportation expenses pursuant to K.A.R. 30-4-120(a)(2).

(d) Penalty. A first-time failure of a nonexempt ADC or ADC-FC person to meet the job search requirements, without good cause, shall render the individual ineligible for assistance for three months and a subsequent failure shall result in ineligibility for six months. A first time failure of a nonexempt GA person, or a principal wage earner in ADC-UP, to meet the job search requirements without good cause shall render the individual, and all persons for whom that individual is legally responsible, ineligible for three months and a subsequent failure shall result in ineligibility for six months. If the person becomes exempt during the

penalty period, the penalty shall not be delayed or waived. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-19, Oct. 29, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended May 1, 1985.)

30-4-58. Potential employment. (a) Each applicant or recipient shall obtain or maintain employment opportunities. Any applicant or recipient shall be ineligible if that individual has:

(1) Without good cause, refused a bona fide referral for, or offer of, employment;

(2) without good cause, terminated employment; or

(3) been terminated from employment for good cause. This provision shall be extended to the month immediately preceding the month of application.

(b) Good cause. For certified WIN participants, the department of human resources shall determine whether refusal or termination was without good cause. In all other situations, the applicant or recipient shall be deemed to have good cause for refusal or termination of employment if the individual has presented verification that one of the criteria listed below has been met:

(1) There was no bona fide referral for, or offer of, employment;

(2) the person was not physically able to perform the work;

(3) the person was incapable of performing the work;

(4) the work was so dangerous or hazardous according to OSHA standards as to make the refusal or termination a reasonable one;

(5) the payment offered was less than the applicable minimum wage; or

(6) work expenses related to the job were in excess of gross income.

(c) Exemptions. Persons who are exempted from the job search requirement and the WIN registration requirement shall be exempt from this regulation.

(d) Penalty. For certified WIN participants, the penalty for refusal or termination shall be determined by the department of human resources. If the applicant or recipient is the principal wage earner in an ADC unemployed parent case or a GA adult, the individual, and all persons for whom the individual is legally responsible, shall be ineligible for assistance. In all other situations, the penalty of ineligibility shall apply only to the individual.

(e) Penalty period. A first-time penalty shall result in ineligibility for three months and a subsequent penalty shall result in ineligibility for six months. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709, K.S.A. 39-719b; effective May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-4-62. Community work experience program requirements. Each adult recipient, unless exempt, shall be required to participate in a community work expe-

rience program (CWEP). The purpose of the CWEP program is to provide work experience for the recipients to enhance their ability to obtain employment. Any exempt recipient may volunteer for participation in a CWEP project. The secretary shall designate the geographic areas in the state and the public assistance programs in which the CWEP requirements are to be enforced. (a) Exemptions. The persons listed below shall be exempt from the requirements of this provision:

(1) Any person who is ill or injured pursuant to K.A.R. 30-4-75(b)(2);

(2) any person who is incapacitated pursuant to K.A.R. 30-4-75(b)(3);

(3) any person who is age 65 or over;

(4) any person who is too remote. The criterion of remoteness is met when the CWEP project is located two miles or more from the person's home and transportation is not available. If the person has transportation available, round trip travel time of more than two hours (exclusive of time required to transport a child to and from a child care facility) shall qualify as too remote;

(5) any person whose presence is required at home because of a verified, medically determined condition of another member of the household whose condition does not permit self care, and when care is not available from another person in the home. The duration of the exemption shall coincide with the need for care of the other family member;

(6) any parent or other relative personally providing care for a child under the age of six with only brief and infrequent absences from the child, except when the absence is for the purpose of employment;

(7) any woman who is at least six months pregnant;

(8) any parent or other caretaker of any child who is deprived for a reason other than the unemployment of a parent when another adult relative in the plan is participating in CWEP;

(9) any spouse when another adult relative in the plan is participating in CWEP;

(10) for ADC-UP, a parent, if the other parent is the principal wage earner and is participating in CWEP;

(11) for ADC and ADC-UP, any person who is employed 80 hours or more per month and who is earning the federal minimum wage or more, and for GA, any person who is employed full time;

(12) any person who has a physical or mental impairment and who is working to that person's capacity;

(13) any person who is residing in a licensed or certified alcohol and drug abuse facility;

(14) any person who is attending high school full-time;

(15) any person who is participating in vocational rehabilitation program training;

(16) any person who is required to participate, but for whom an appropriate project is not available;

(17) any person who is required to participate, but whose assignment would be less than two days;

(18) any person who is actively participating in a job club or related activity approved by the agency; and

(19) any person for whom participation is inconsistent with home responsibilities. When a person who

has responsibility for care and supervision of children states that the person cannot complete the assignment because of home responsibilities, the agency shall consider the effect of possible assignment on necessary care and supervision of the children. This exemption shall not apply if it is established that adequate and satisfactory plans can be developed for providing care and supervision of the children during periods of absence from the home.

(b) CWEP project requirements. CWEP projects shall not subsidize private enterprise and shall only be developed with public-funded organizations and with private not-for-profit corporations providing assistance to needy persons. Each project shall meet certain requirements which shall be covered in a written agreement between the area manager and the CWEP project and approved by the secretary. The agreement shall provide that the project:

(1) Serves a useful public purpose;

(2) does not result in the displacement of persons currently employed or in the filling of established, unfilled position vacancies;

(3) is not in any way related to political, electoral, or partisan activities;

(4) is not in violation of applicable health and safety standards. The project shall provide reasonable work conditions; and

(5) does not interfere with or will not be in response to a bona fide labor dispute. The project shall not violate any existing labor agreements.

(c) Participant protection. The agency shall provide medical and subsistence assistance for all project participants who are injured on a project, or if they become ill or incapacitated as the result of participation. The participant shall be referred to vocational rehabilitation and shall continue to receive financial and medical assistance as needed.

(d) Participant information. Each person assigned to a project shall be informed in writing at the time of assignment of the number of hours to be worked, when the assignment will begin, where the work project is located, when the person will be expected to complete the assignment, of the necessity to cooperate with the agency and the project, of the consequences if the person does not complete the assignment, and of the person's right to have time to seek other employment.

(e) Work required to be performed. The work shall be within the ability of the person to perform and shall take into consideration, to the extent possible, the prior training, proficiency, experience and skills of each participant. Project participation shall not be construed as work performed for compensation.

(f) Hours to be worked. The number of hours to be worked shall be determined by dividing the amount of assistance paid, excluding special allowances, by the federal minimum wage. A recipient shall not be required to work longer in any month than is necessary to work out assistance received in that month. A participant shall be assured the equivalent of one working day each week to seek employment.

(g) Participant reimbursement. Participants shall be

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reimbursed for work-related transportation expenses pursuant to K.A.R. 30-4-120(b).

(h) Failure to participate. Any nonexempt recipient who fails to complete a work assignment without good cause or who is terminated from a project with good cause shall be ineligible. The period of ineligibility for a first time failure to complete the assignment shall be three months and a subsequent failure shall result in ineligibility for six months. In ADC, the penalty shall apply to the assigned individual. For GA, and for the principal wage earner in ADC-UP, the penalty shall apply to the assigned individual and all persons for whom the individual is legally responsible. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-4-74. Persons whose needs shall be considered with the needs of the ADC child. The needs of the parents and all siblings who meet the criteria contained in K.A.R. 30-4-72 and K.A.R. 30-4-73, excluding step-siblings and SSI recipients, shall be included in determining the needs of the ADC child if the parents or siblings are living with the ADC child. If appropriate, the needs of a caretaker relative other than a parent and an essential person shall be considered with the needs of the ADC child. A needy and otherwise eligible caretaker relative shall not be excluded from the assistance plan if the eligible caretaker relative is temporarily absent from the home due to employment, illness or incapacity, providing the individual continues to maintain care and control of the child. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-78. Eligibility factors specific to the APW program. To be eligible for APW, an applicant or recipient shall meet the applicable general eligibility requirements of K.A.R. 30-4-50, and the specific eligibility requirements set forth below. (a) Pregnant. A woman shall be pregnant.

(b) Apparent ADC eligibility. There shall be apparent eligibility for ADC in the month in which the child is expected to be born. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1983; amended May 1, 1985.)

30-4-85a. Eligibility factors specific to the EA program. Each applicant or recipient shall meet the following eligibility requirements to be eligible for EA. (a) General eligibility requirements. Each applicant or recipient shall meet the general eligibility requirements set forth in K.A.R. 30-4-52, 30-4-54 and 30-4-55(a).

(b) Living in the state. Each applicant or recipient shall be physically living in the state.

(c) Emergency situation. A bona fide emergency situation shall exist. Emergency situations shall be limited to disasters, including fires, floods, and tornadoes, or evictions or potential evictions. An appli-

cation shall be made within 30 days of the disaster, eviction or potential eviction.

(d) Financial eligibility. The household of each applicant or recipient shall not have applicable income in the calendar month of application in excess of 200% of the budgetary requirements as established for ADC.

(e) Household eligibility. A household shall consist of all persons living together as an economic unit and shall include at least one child who is:

(1) Under the age of 18, or under the age of 19 and a full-time student in a secondary school or the equivalent level of vocational or technical training if the child may reasonably be expected to complete the program before attaining age 19;

(2) living, or who was living within six months before the month in which assistance is requested, in that household. That household shall be maintained by any of the relatives set forth in K.A.R. 30-4-72(c) as the child's home;

(3) without resources immediately accessible to meet the emergency situation. The assistance shall be necessary to avoid destitution of the child or to provide living arrangements for the child;

(4) not in destitution or need because the child or the caretaker relative refused, without good cause, to accept potential employment or training for employment; and

(5) not in destitution or need because the child or the caretaker relative is unemployed because of a strike.

(f) Nonsubstitution. The EA program shall not be used as a substitute for normal assistance grants of an ongoing program and shall not be used in lieu of existing programs for which the individual is eligible. Current assistance recipients may receive EA, if they meet the qualifications and requirements for EA.

(g) Authorization period. Authorization for EA shall be limited to one period of 30 consecutive days, following the date of approval, in any 12 consecutive months. All payments shall be made within the authorization period.

(h) Assistance provided. The assistance provided may include needs covering a two-month period which may be incurred prior or subsequent to the authorization period. The need shall be directly related to the immediate emergency and shall be met in order to resolve the emergency. The assistance provided shall be given promptly and pursuant to K.A.R. 30-4-122a. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective, T-84-9, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-4-90. Eligibility factors specific to the GA-unrestricted (GAU) program. (a) Each applicant or recipient and all persons for whom the applicant or recipient is legally responsible shall meet the applicable general eligibility requirements of K.A.R. 30-4-50, and the specific eligibility requirements set forth below, to be eligible for GAU.

(1) Not eligible for a federal program. Each applicant or recipient who is eligible for a federal program or who has been rendered ineligible for a federal

program due to a voluntary action on the part of the applicant or recipient, and the members of the assistance family group for whom the applicant or recipient is legally responsible, shall be ineligible for GAU.

(2) Vocational rehabilitation program services. Each applicant or recipient and the members of the assistance family for whom the applicant or recipient is legally responsible shall be ineligible for GAU if the applicant or recipient:

(A) Refuses to accept a referral to the vocational rehabilitation program;

(B) is eligible for vocational rehabilitation program services and has refused services; or

(C) has been rendered ineligible for vocational rehabilitation program services due to a voluntary action on the part of the applicant or recipient.

(3) Vocational rehabilitation program benefits. Any applicant or recipient who is eligible for vocational rehabilitation program benefits related to maintenance or who has been rendered ineligible for benefits due to a voluntary action on the part of the applicant or recipient, and the members of the assistance family for whom the applicant or recipient is legally responsible, shall be ineligible for GAU.

(4) Vulnerability. Each applicant or recipient and all persons for whom the applicant or recipient is legally responsible shall be within at least one of the following categories to be eligible for GAU:

(A) Parents and their minor children who are in the same assistance plan provided the parents are not voluntarily unavailable for employment. A person shall not be considered voluntarily unavailable for employment if the person is attending high school full-time or is participating in an agency-approved work related activity. Assistance under this provision shall also be granted to non-ADC children who are living with a guardian or a personal representative who is not within the degree of relationship for ADC;

(B) a person who has been determined to be physically incapacitated as set forth in K.A.R. 30-4-57(b)(4);

(C) a person who has been medically or psychologically determined to be mentally retarded;

(D) a person who has been medically or psychologically determined to be mentally ill to the extent that the condition constitutes a substantial handicap to gainful employment and who is actively participating in a treatment program;

(E) a person whose presence is required at home because of a verified, medically determined condition of another member of the home whose condition does not permit self-care, and when the care is not available from another person in the home;

(F) a person who is participating in vocational rehabilitation program training;

(G) a person who is residing in an alcohol and drug abuse facility;

(H) a person who is age 51 or older; or

(I) a woman who is pregnant and not eligible for APW. If married, her husband shall also be included in the same assistance plan if they are living together.

(b) A presumptive eligibility determination shall be made for persons who are being released from a Medicaid approved psychiatric hospital in accordance with

an approved discharge plan. Minimally, the presumptive determination shall be based on available information concerning the person's income and resources. The general eligibility requirements of K.A.R. 30-4-50 may be waived until a formal eligibility determination is completed. Assistance provided shall equal 100% of the applicable GAU budgetary standards and the provision of subsection (a)(1) of K.A.R. 30-4-140 shall be waived. Assistance under this provision shall not exceed the month of discharge and the two following months unless the assistance is extended for good cause by the department. The department may extend assistance under this provision beyond such three-month limitation for good cause.

(c) Authorization for reimbursement from SSA. Each applicant or recipient who refuses to authorize the department to file for and claim reimbursement from the social security administration for the amount of GAU provided the individual pending a determination of eligibility for the supplemental security income program shall be ineligible for GAU. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended May 1, 1984; amended T-85-34, Dec. 19, 1984; amended May 1, 1985.)

30-4-91. Eligibility factors specific to the transitional GA (TGA) program. Each applicant or recipient shall meet the applicable general eligibility requirements set forth in K.A.R. 30-4-51, 30-4-52, 30-4-53, 30-4-54, 30-4-55, 30-4-56, 30-4-57, 30-4-58, 30-4-59, 30-4-60, and 30-4-61, and the specific eligibility requirements set forth below to be eligible for TGA. (a) Not eligible for a federal program or GAU. Each applicant or recipient who is eligible for a federal program or GAU or who has been rendered ineligible for a federal program or GAU due to a voluntary action on the part of the applicant or recipient, and the members of the assistance family group for whom the applicant or recipient is legally responsible, shall be ineligible for TGA.

(b) Available for employment. Each applicant or recipient who is voluntarily unavailable for employment, and the members of the assistance family group for whom the applicant or recipient is legally responsible, shall be ineligible for TGA. This provision shall not be applicable to persons who are attending high school on a full-time basis or who are participating in an agency-approved, work-related activity. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-8, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-4-96. Eligibility factors specific to the burial assistance (BA) program. (a) Definitions.

(1) "Funeral expenses" means all costs associated with the preparation of the body, purchase of a minimum casket, transportation within the trade area, and a service.

(2) "Cemetery expenses" means all costs connected

(continued)

with the interment of the body in a cemetery, including the opening and closing of the grave, purchase of a cemetery lot, and a grave marker, if required. Whenever a cemetery lot has been purchased or acquired for a person, either before or after the death, and the cemetery lot was purchased or acquired with public funds, the cemetery expense shall not include the portion of the expense allocated to a cemetery lot. Expenses for cremation may be substituted in lieu of the cemetery expenses.

(3) "Outside container expense" means the cost associated with the purchase of an outside container in which the casket is placed. This expense shall only be allowed when the cemetery requires an outside container.

(b) Application. For a non-recipient of assistance, an application, pursuant to this section, shall be signed by any person who has knowledge of the deceased person's resources or by the area manager and shall be filed within six months from the date of death. A separate application shall not be required for a recipient of assistance.

(c) Treatment of resources.

(1) When a decedent was not living with a legal dependent or legally responsible person at the time of death, the total estate of the decedent shall be considered as available. This provision shall not be applicable in situations where there were separate living arrangements because of the need for institutional care. The estate shall not be allowed any exemptions.

(2) When a decedent was living with a legal dependent or legally responsible person at the time of death, or in situations where there were separate living arrangements because of the need for institutional care, the eligibility of the decedent's assistance family group for assistance, based upon need and property limitations, shall be determined for the calendar month in which the decedent died. Assistance shall be based upon 100% of need without pro rata. Only the income (less the amount obligated for the cost of institutional care) and property (excluding a home) of the decedent and any person who was legally responsible for the decedent shall be considered. Income in excess of budgetary requirements and property in excess of allowable limitations shall be considered as available in determining eligibility and payment.

(3) Cash contributions or partial payment of funeral and cemetery expenses by relatives or friends shall be considered as available.

(4) Death benefits from SSA, VA, railroad retirement, or other burial insurance policy shall be considered as available.

(d) Assistance provided. The amount of assistance provided shall be determined by subtracting available resources from the cost of the funeral expenses and the cemetery expenses. The cost of the funeral and cemetery expenses shall not exceed the maximum allowances set forth in K.A.R. 30-4-121. The agency shall not participate in either the funeral expenses or the cemetery expenses if the costs exceed the applicable maximum allowances. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-

708c, 39-709; effective May 1, 1984; amended May 1, 1985.)

30-4-101. Standards for persons in own or other family home. A monetary standard addresses the costs of day to day expenses and certain special expenditures. (a) Basic standard. The basic standards are set forth below.

PERSONS IN PLAN			
1	2	3	4
\$113.00	\$179.00	\$238.00	\$287.00

For each additional person, add \$43.00.

(b) Shelter standard. A standard has been established for shelter based on location in the state. The county shelter standards are set forth below.

Standard.	Group I	Group II	
	\$76.00	\$86.00	
	Allen	Anderson	Logan
	Barber	Atchison	Lyon
	Bourbon	Barton	Marshall
	Chase	Brown	McPherson
	Chautauqua	Cheyenne	Miami
	Cherokee	Clark	Mitchell
	Comanche	Clay	Morris
	Cowley	Cloud	Nemaha
	Crawford	Coffey	Ness
	Edwards	Decatur	Norton
	Elk	Dickinson	Osborne
	Finney	Doniphan	Ottawa
	Greenwood	Ellis	Phillips
	Harper	Ellsworth	Pottawatomie
	Labette	Ford	Rawlins
	Marion	Geary	Republic
	Meade	Gove	Rice
	Montgomery	Graham	Rooks
	Neosho	Grant	Rush
	Pratt	Greeley	Russell
	Reno	Hamilton	Saline
	Stafford	Haskell	Scott
	Stanton	Hodgeman	Sheridan
	Sumner	Jackson	Smith
	Wilson	Jewell	Stevens
	Woodson	Kearny	Thomas
		Kingman	Trego
		Lane	Wabaunsee
		Lincoln	Wallace
		Linn	Washington
			Wichita
	Group III	Group IV	Group V
Standard.	\$97.00	\$109.00	\$135.00
	Franklin	Butler	Harvey
	Gray	Douglas	Johnson
	Kiowa	Jefferson	
	Morton	Leavenworth	
	Pawnee	Osage	
	Seward	Riley	
	Sherman	Sedgwick	
		Shawnee	
		Wyandotte	

(Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-85-19, July 1, 1984; amended May 1, 1985.)

30-4-102. Standards for persons in room, board, specialized living or care. The standards below shall

be used for all persons in the assistance plan who are living in board and room situations, renting a room and eating out, or residing in a specialized living arrangement or in a foster family home. (a) The cost of care for any child placed in a care facility other than a foster family home shall be as established by the secretary.

(b) The board and room standard shall be used only if the applicant or recipient is living in a commercial facility.

(c) The room only standard shall be used only if the applicant or recipient is living in a facility offering rooms to the public.

(d) The specialized living standard shall be used only if the applicant or recipient is eligible for GAU and residing in a living arrangement in which there is an element of care or supervision and a current, approved provider agreement with the secretary.

(e) The foster care standard shall be used in ADC and GAU only if an approved service plan is on file which documents that the child is temporarily absent from the home because of illness of another member of the household or incarceration of the caretaker.

(f) The residential standard shall be used only if an approved service plan is on file which documents that the child is temporarily absent from the home because of basic education or training, if the training results in gainful employment.

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value as determined above is not satisfactory to the applicant or recipient or the agency, an estimate or appraisal of its value shall be obtained from a disinterested real estate broker. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(2) Personal property. The market value of personal property shall be initially determined by a reputable trade publication. If a publication is not available, or if there is a difference of opinion regarding the value of the property between the applicant or recipient or the agency, an estimate from a reputable dealer shall be used.

(c) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available.

(d) The resource value of property shall be that of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly-owned real property and the full value of jointly-owned personal property shall be considered available to the applicant or recipient.

(e) Resources of all persons in the assistance plan shall be considered.

(f) The combined resources of husband and wife, if they are living together, shall be considered in determining eligibility of either or both for assistance, unless otherwise prohibited by law. A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of one of the couple for education or training, working, securing medical treatment, or visiting shall not be considered to interrupt the couple's living together.

(g) The resources of an ineligible parent, the income of a stepparent, or the income of a parent of a minor parent shall be considered in determining the eligibility of a minor child for assistance if the individual and child are living together.

(h) When any individual in the household, other than a stepparent or a parent of a minor parent, who does not have the legal responsibility to support a person in the plan voluntarily and regularly contributes cash to the recipient toward household expenses (including maintenance costs) only that amount over the appropriate assistance standard for one person shall be counted as income in the assistance plan.

(i) Despite subsections (f), (g), and (h) above, the resources of an SSI beneficiary shall not be considered in the determination of eligibility for assistance of any other person, except for burial assistance.

(j) The resources of an alien sponsor shall be considered in determining eligibility for the alien as prescribed by the secretary of health and human services pursuant to 45 CFR 233.51, effective September 21, 1981, which is adopted by reference. "Sponsor" shall include a public or private agency or organization.

(k) A conversion of real or personal property from

(continued)

Standards

	¹ Child(ren) Foster Care	² Board and Room or Specialized Living	³ Room Only
Care or Rent	\$ *	**	***
Meals	xxxxxx	xxxxxx)
Clothing	xxxxxx))
Personal Needs	xxxxxx)\$26.00)\$128.00
Miscellaneous	xxxxxx))
		Monthly Rate	Daily Rate
* Infant through 4 years		\$160.00	\$5.25
5 through 11 years		\$216.00	\$7.10
12 years and older		\$274.00	\$9.00

** As incurred, not to exceed \$180.00.

*** As incurred, not to exceed the maximum shelter standard for county of residence.

(Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended, T-84-8, March 29, 1983; amended, T-84-9, May 1, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-19, July 1, 1984; amended May 1, 1985.)

30-4-106. General rules for consideration of resources, including real property, personal property, and income. (a) Ownership for assistance purposes shall be determined by legal title. In the absence of a legal title, ownership shall be determined by possession.

(b) Resources shall be real and of a nature that the value can be defined and measured. Value of resources shall be established by the objective measurements set forth in paragraphs (1) and (2) below.

one form to another shall not be considered as income to the applicant or recipient except for the proceeds from a contract for the sale of property.

(l) Income shall not be considered both as income and as property in the same month. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-107. Property exemption. Each assistance family may own otherwise nonexempt real or personal property with an aggregate resource value not in excess of \$1,000.00. Ownership of property with a resource value in excess of these amounts shall render the assistance family group ineligible for assistance. However, if there is ineligibility due to excess real property, assistance shall be provided for a period of up to nine months if the applicant or recipient is making a bona fide and documented effort to dispose of the property. Any assistance paid under this provision shall be conditioned upon the disposal of the property and any payments made shall be considered overpayments to the extent that they would not have been made had the disposal occurred at the beginning of the period for which payments were made. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-33, Dec. 19, 1984; amended May 1, 1985.)

30-4-109. Personal property. (a) Definitions.

(1) "Personal property" means all property, excluding real property.

(2) "Cash assets" means money, investments, cash surrender or loan values of life insurance policies, trust funds, and similar items on which a determinate amount of money can be realized.

(3) "Other personal property" means personal effects, household equipment and furnishings, home produce, livestock, equipment, vehicles, inventory, and similar items on which a determinate amount of money can be realized.

(b) Treatment of personal property. Personal property, unless exempted, shall be considered a resource.

(c) Exempted personal property. The resource value of the following classifications of personal property shall be exempt:

(1) Personal effects;

(2) household equipment and furnishings in use or only temporarily not in use;

(3) tools in use and necessary for the maintenance of house or garden;

(4) income-producing property, including tools, equipment, machinery and livestock, if the annual adjusted gross income from their use is at least 40% of their gross market value. Adjusted gross income shall be determined by deducting, from the gross income, the expenses of cost of maintenance and cost of purchase;

(5) stock and inventory of self-employed persons

that are reasonable and necessary in the production of goods or services;

(6) items for home consumption. The items shall consist of produce from a small garden consumed from day to day and any excess which may be canned or stored, and a small flock of fowl or livestock used to meet the food requirements of the family;

(7) one vehicle for each assistance family with a value in an amount not to exceed \$1,500.00;

(8) cash assets which are traceable to income exempted as income and as a cash asset;

(9) proceeds from the sale of a home if the proceeds are conserved for the purchase of a new home and the funds so conserved are expended or committed to be expended in the month received or in the following month; and

(10) burial plots and funeral agreements as established by the secretary of health and human services and as approved by the secretary of social and rehabilitation services.

(Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-110. Income. (a) Definitions.

(1) "Earned income" means income that is currently earned through the receipt of wages, salary, or profit, from activities the individual engages in as an employer or as an employee with responsibilities that necessitate continuing activity on the individual's part. Earned income shall include the amount of the earned income tax credit (EITC) that is received by an individual.

(2) "Unearned income" means all income not earned.

(3) "Lump sum" means a non-recurring payment.

(b) Any client shall be ineligible when the total income without disregards exceeds 185% of the standards for budgetary requirements for the number of persons in the plan, except for:

(1) Income-producing costs of the self-employed listed in K.A.R. 30-4-111(d);

(2) the disregards for stepparents and the parent of a minor parent, as listed in K.A.R. 30-4-111(f);

(3) the income of a child received from a youth program funded by the job training partnership act of 1982, as specified in K.A.R. 30-4-113(l);

(4) the earned income of a child who is a full time student for a period not to exceed six months; and

(5) the first \$50.00 of child support or child support in combination with spousal support received in a month. For purposes of this section, total income shall be regarded as the sum of all earned income, or adjusted gross income of the self-employed, with no exemptions, all nonexempt, unearned income and nonexempt, current support payments received and reported by the child support enforcement office.

(c) Treatment of income.

(1) A prospective (estimated income), retrospective (actual income received), or income average budget-

ary method shall be used to determine eligibility and the amount of payment for persons with income.

(2) Prospective budgeting shall be used to determine initial eligibility and the amount of payment for the first two consecutive months. The estimate shall reflect the income received and the income expected to be received in each calendar month. Prospective budgeting shall also be used until the time retrospective or income average budgeting is instituted and to determine ongoing eligibility beginning with the third consecutive month.

(3) For eligible persons, as determined by prospective budgeting methods, retrospective budgeting shall be used to determine the amount of payment and ongoing eligibility beginning with the third consecutive month. Retrospective budgeting utilizes actual income received in a second prior month, reported in the first prior month, to determine eligibility and the amount of assistance for the payment month. Income shall be of a continuous nature in order to be considered in determining the amount of payment and eligibility for the first and second retrospective month. When income is received on a twice a month or monthly basis, the income shall be viewed as being received by the client on the day that the payment is ordinarily scheduled.

(4) When there is prospective eligibility and there is no budgetary deficit resulting from retrospective budgeting, payment shall be suspended. If there is eligibility for the month following the month of suspension, retrospective budgeting shall be reinstated.

(5) When there is prospective ineligibility and the agency has reason to believe that the period of ineligibility will be only for one month, assistance shall continue using retrospective budgeting.

(6) When assistance is reinstated for the month following termination or suspension, retrospective budgeting shall be reinstated.

(7) Intermittent income or income from self employment shall be considered and averaged. Intermittent income shall be divided by the proper number of months to establish the monthly amount. For self-employed persons with monthly income, the income average shall be based on at least two representative months' income.

(8) Lump sum income shall be counted as income in the month received or in the month in which it is expected to be received. When the lump sum payment added to all other applicable income received, or expected to be received, results in no budgetary deficit, a period of ineligibility shall be calculated by the following method: the total of the lump sum payment and all other income received, or expected to be received, in that month divided by the budgetary requirement for the number of persons in the assistance plan and any person whose income is being considered shall equal the whole number of ineligible months. Any remaining amount shall be considered in the first month following the period of ineligibility. The period of ineligibility shall be recalculated with respect to the remaining months of the established period of ineligibility if the applicant or recipient incurs, becomes responsible for, and pays allowable

medical expenses which, if subtracted from the lump sum payment, would result in a shorter period of ineligibility. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-111. Applicable income. (a) Applicable income shall be the amount of earned and unearned income to be subtracted from budgetary requirements in determining the budgetary deficit.

(b) Applicable earned income for persons included in the assistance plan shall equal: gross earned income or the adjusted gross earned income from self-employment, less the following items:

(1) Seventy-five dollars for each employed person;

(2) reasonable and not excessive expenses for child care or expenses for the care of an incapacitated person. The amount of dependent care to be deducted shall not exceed \$160.00 per person for full time employment or \$110.00 for part time employment. The dependent shall be included in the assistance plan before the deduction is allowed.

(c) Gross earned income or the adjusted gross income from self-employment shall not be reduced when the recipient:

(1) has failed to file the monthly status report form without good cause;

(2) has terminated employment or has reduced earnings without good cause within a period of not less than 30 days preceding the payment month; or

(3) has refused without good cause to accept a bona fide offer of employment within the 30 day period preceding the payment month.

(d) For self-employed persons, adjusted gross earned income equals gross earned income less cost of the production of the income. Income-producing costs include only those expenses directly related to the actual production of income. The following guidelines shall be used by the agency in calculating the cost of the production of the income:

(1) The intent of the public assistance program shall not be to pay debts, set up an individual in business, subsidize a nonprofit activity, or to treat income on the basis of IRS policies.

(2) Any losses suffered from self-employment shall not be deducted from other income nor may a net loss of a business be considered as an income-producing cost.

(3) If a business is being conducted from a non-home location, business space and utilities shall be considered as income-producing costs.

(4) If a business is being conducted from a person's own home, shelter and utility costs shall not be considered as income-producing costs unless they are clearly distinguishable from the home operation.

(5) Any payments that increase the equity in equipment, vehicles, or other property shall not be considered as an income-producing cost.

(6) If equipment, vehicles, or other property is

(continued)

being purchased on an installment plan, the actual interest paid may be considered as an income-producing cost.

(7) Depreciation on equipment, vehicles, or other property shall not be considered as an income-producing cost.

(8) Insurance payments on equipment, vehicles, or other property shall not be considered as an income-producing cost unless the insurance coverage is mandated by law or creditor. Only that portion of the insurance payment which is directly related to the business shall be allowed.

(9) Inventories and supplies that are reasonable and required for the business shall be considered as income-producing costs.

(10) Wages and other mandated costs related to wages paid by the applicant or recipient shall be considered as income-producing costs.

(e) In ADC, ADC-FC, APW (beginning with the sixth month of pregnancy), GA-FC and for children receiving GA, the applicable earned income shall be further reduced by the ADC earned income disregards by subtracting \$30.00 and $\frac{1}{3}$ of the remainder, for:

(1) Applicants who had received assistance in one of the four preceding months and who had not had the disregards applied to their income for the periods of time specified in paragraph (2) of this subsection; and

(2) recipients. The disregards shall continue for a period of time not to exceed four consecutive months for the $\frac{1}{3}$ disregard and 12 consecutive months for the \$30.00 disregard. The earned income disregard shall not be reinstated for a recipient until the expiration of 12 consecutive months during which the individual did not receive cash assistance. If the client would have been eligible to receive the earned income disregard in any month, but did not receive it due to the client's failure to comply with an eligibility or procedural requirement, the month shall be counted in determining the four and 12 consecutive month periods.

(f) Applicable earned and unearned income of a stepparent or the parent of a minor parent not included in the assistance plan. In determining eligibility and the amount of payment, the applicable income to be counted shall equal: gross income or the adjusted gross income of the self-employed less the following items:

(1) Seventy-five dollars of earned income if employed full time;

(2) fifty dollars if employed part time;

(3) the standards for budgetary requirements of the stepparent or the parent of a minor parent and dependents in the same household who are claimed by the stepparent for internal revenue service purposes and who are not in the assistance plan;

(4) amounts paid by the stepparent or the parent of a minor parent to persons not living in the same household and claimed as dependents for internal revenue service purposes; and

(5) alimony or child support payments to individuals not living in the household which are made by the stepparent or the parent of a minor parent.

(g) For a legally responsible person in the home

who is not included in the assistance plan, all nonexempt, unearned income and gross earnings or adjusted gross earnings of the self-employed, shall be considered without the application of any income disregards, unless otherwise prohibited by law.

(h) Attribution of a sponsor's income to the alien. The income of an alien's sponsor shall be considered in determining eligibility and the amount of payment for the alien as prescribed by the secretary of health and human services and as approved by the secretary of social and rehabilitation services.

(i) Applicable, unearned income of persons included in the assistance plan. All net, unearned income shall be applicable unless exempted. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-113. Income exempt as applicable income.

The following income shall be exempt as applicable income in the determination of the budgetary deficit:

(a) Earned income of a recipient child if the child is under the age of 18 years and a full time student or if the child is a part time student and is not a full time employee;

(b) earned income of a recipient child who is 18 years of age and a full time student;

(c) irregular, occasional or unpredictable gifts;

(d) work incentive payments in WIN;

(e) income in kind;

(f) foster care standard payments;

(g) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, any cash paid toward the shared shelter obligation by one family to the second family in the shared arrangement shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(h) tax refunds and rebates other than the earned income tax credit;

(i) interest credited to a checking or savings account;

(j) incentive payments received by renal dialysis patients;

(k) home energy assistance furnished by a federal or state regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private, non-profit organization, by a supplier of home heating oil or gas, or by a municipal utility company which provides home energy, if the assistance provided is based on need;

(l) income of a child received from a youth program funded by the job training partnership act of 1982, except that earned income received under the program shall only be exempt for a period of six months;

(m) housing assistance from federal housing programs;

(n) assistance payments in the month received;

(o) the first \$50.00 of child support or child support

in combination with spousal support received in a month; and

(p) support payments received and forwarded to the agency following the effective date of the assignment of support rights to the agency. However, reported current support which is in excess of the amount exempted in paragraph (o) of this section and which, if treated as nonexempt income, would result in ineligibility, or a support refund disbursed by the agency to the recipient, shall not be exempt income. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-120. Special allowances and requirements for applicants and recipients of ADC, ADC-FC, APW, GAU and GA-FC. (a) Special allowances. The following special allowances shall be issued to otherwise eligible recipients under the conditions as specified.

(1) Community work experience program. An allowance standard for work-related transportation expenses shall be issued in an amount of \$20.00 for assignments of less than 10 days and \$30.00 for assignments of 10 days or more in which the recipient is scheduled to work. When excess work transportation expenses are documented by any recipient, the \$20.00 standard shall be increased to cover actual costs up to, but not in excess of, \$30.00.

(2) Job search. An allowance standard for job-seeking transportation expenses shall be issued in the amount of \$15.00 to each recipient who is assigned to, and who participates in, an agency-approved job club or related activity and to each recipient who is required to furnish five verifications of attempts to obtain employment. When excess job-seeking transportation expenses are documented by any recipient, the \$15.00 standard shall be increased to cover actual costs, which shall not exceed \$25.00.

(3) Home repair. A one-time only allowance for the costs of repairing a recipient-owned home in an amount not to exceed \$500.00 shall be issued if:

(A) Continued occupancy is unwarranted;

(B) unless repairs are made, the recipient would need to move to rental quarters, and if the rental cost of quarters for the recipient would exceed, over a period of two years, the sum of repair costs needed to make the home habitable and the costs attributable to continued occupancy of the home;

(C) alternative avenues for funding the repairs have been explored with the recipient; and

(D) a previous allowance has not been issued under this paragraph to repair the same home.

(b) Special requirements. The following special requirements shall be added to the basic and shelter standards set forth in K.A.R. 30-4-100 to compute the budgetary requirements for applicants and recipients under the conditions as specified.

(1) Moving expense. The cost of moving to a new location to take employment, in an amount not to exceed \$100.00, shall be allowed if other funds are not

available to meet the costs and the recipient has employment which meets at least 75% of the family's basic and shelter standards. Moving costs shall include transportation costs of moving household goods for the individual and family to the job location.

(2) Temporary out-of-home care for children. The cost of temporary out-of-home care may be allowed if:

(A) The child is temporarily absent from the home due to the illness of another member of the household, or the incarceration of the caretaker relative;

(B) the temporary absence is only for a portion of a calendar month; and

(C) there is an approved service plan. The amount to be allowed shall be the foster care standard.

(3) Clothing for persons entering care facilities (not applicable to ADC-FC or GA-FC foster family care). The cost of an initial clothing supply, in an amount not to exceed \$150.00, shall be allowed if the applicant or recipient is being placed in a care facility on a permanent basis and the person requires an initial clothing supply.

(4) Travel and subsistence to and from child care facilities. If there is an approved service plan, the costs of travel and subsistence shall be allowed for the applicant or recipient and the person providing the transportation for a preplacement visit, admission or home visit, or for the relatives who are required to visit a child. The transportation shall not be related to discharge from a state institution.

(5) Home visits from a child care facility. The costs of a visit to a relative's home or foster family home on a planned trial basis shall be allowed based on an approved service plan. The amount and the length of the visit allowed shall be established in the social service plan.

(6) Special requirements related to ADC-FC and GA-FC. Certain special requirements for various costs for children in ADC-FC and GA-FC shall be allowed based on an approved service plan.

(7) Conservator or personal representative expense. The fee of the legally appointed conservator for conservatorship or the personal representative fee for service shall be allowed if:

(A) The conservator or personal representative charges for those services; and

(B) the conservator or personal representative is not the spouse, parent, or child of the incapacitated person. The amount allowed by the court, or the charge made by the conservator or personal representative, to a maximum of 5% of the person's cash payment or \$8.00, whichever is greater, shall be allowed. (Authorized by 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended May 1, 1985.)

30-4-122a. Special allowances for EA. Subject to available funding for EA program purposes, recipients of EA shall be issued the following allowances as necessary and only if otherwise not available from

(continued)

other sources. (a) Emergency shelter. Emergency shelter allowances shall include rent to obtain housing or prevent eviction on an as-paid basis, up to the maximum shelter standard used in the state, for a period not to exceed two months.

(b) Emergency utilities. Emergency utility allowances shall include an amount necessary to turn on utilities (excluding telephone).

(c) Emergency house repairs. Allowances for repairs needed to resolve the emergency shall be authorized up to the maximum amount of \$1,000.00 for a client-owned home.

(d) Household effects. Allowances for necessary household furniture, appliances and supplies shall include an amount for repair or purchase of used furniture, appliances and other household supplies up to the maximum amount of \$500.00.

(e) Emergency clothing. An allowance for only an initial clothing supply shall be allowed on an as needed basis, to the maximum amount of \$150.00 per person. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective, T-84-9, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-4-130. Types of payments. Public assistance payments shall be issued in accordance with the provisions set forth below. (a) Money payment. Payment shall be in cash, or by check or warrant immediately redeemable at par, and shall be made with no restriction on the use of the funds. All payments shall be money payments, except:

(1) Payments pursuant to the ADC-FC and GA-FC programs;

(2) special allowances;

(3) protective payments; and

(4) subsistence allowances for GA clients residing in specialized living arrangements in which there is a current approved provider agreement with the secretary.

(b) Who may receive money payments. The following persons shall be eligible to receive money payments: caretaker relative, recipient, conservator, personal representative, or substitute payee. A minor shall not receive a money payment unless emancipated.

(c) Protective payments in the ADC and GA programs. If any caretaker relative persistently mismanages the money payment to the detriment of any child for whom assistance is claimed and if an approved service plan is on file, a protective payment, in lieu of a money payment to the caretaker relative, shall be issued to a substitute payee. Protective payments shall also be made when the caretaker relative has been removed from the assistance plan pursuant to K.A.R. 30-4-55(d), 30-4-55(e), 30-4-57(c), 30-4-62(h) and 30-4-75(d). If a substitute payee is unavailable, a protective vendor payment shall be issued. If the caretaker relative has been removed and all reasonable efforts to identify a suitable protective payee have failed protective payments shall not be required.

(d) Substitute payee.

(1) Appointment and dismissal. The agency shall

have the responsibility for appointing and assisting each substitute payee, for terminating the payee's services when no longer needed, and for removal of any payee who is not giving satisfactory service. Such a payee shall be removed only after a careful evaluation of the payee's performance has been made.

(2) (A) Who may be substitute payee. Individuals selected to serve in this capacity may be a relative, a friend, a neighbor, or a member of a religious or community organization. The following persons shall not serve as a substitute payee: The area director, worker supervisor, the worker determining financial eligibility, special investigative or resource staff, staff handling fiscal process for the client, or the landlord, grocers or vendors of goods or services dealing directly with the client.

(B) Exception. Payment may be made to a foster parent on behalf of a minor living in a foster care home with the minor's child in order to provide ADC for the child. Such a foster care home shall be licensed or approved as meeting licensing standards. This provision shall not be used in any other kind of public assistance case and may continue until the minor is released from custody of SRS or becomes emancipated.

(3) Criteria for selection. Each substitute payee shall demonstrate:

(A) An interest and concern for the welfare of the family;

(B) the ability to help the family with ordinary budgeting, experience in purchasing food, clothing and household equipment within a limited income, and knowledge of effective household practices;

(C) the ability to establish and maintain a positive relationship;

(D) that the substitute payee either lives near the caretaker relative or has transportation so that close contacts with the caretaker relative and child are maintained;

(E) that the substitute payee is a responsible and dependable person.

(4) Payee-recipient relationship. Each payee shall have authority to make decisions about the expenditures of the assistance payment. The payee may spend the money for the family or may supervise the recipient's use of it, or the payee may give a portion of the funds to the recipient to spend for certain expenses and may pay for other requirements for the recipient.

(5) Payee-agency relationship. Each payee shall have responsibility for assuring the agency that the money is spent for the children's benefit. The payee's responsibility to the agency shall be set forth in writing with a copy for the payee and one for the agency. This written agreement shall cover the plans for accounting, use of the assistance funds, and reporting on the general progress made. The agreement shall be supplemented by discussions of the payee's responsibility, the purpose of the plan, the nature and frequency of reports, the rights of the recipient, and the confidential nature of the relationship.

(6) Periodic review of cases. All money payment mismanagement cases shall be reviewed quarterly to determine whether to:

(A) Restore the recipient to regular money payment status;

(B) continue the recipient on protective payment status; or

(C) develop another plan for the care of the child or children if necessary, including placement with another relative, seeking appointment of a guardian, or placement in a foster home.

(7) Discontinuance of protective payments. Protective payments, except money payment mismanagement cases, shall be discontinued only when the caretaker relative or recipient has complied with the appropriate program requirements which established the basis for the protective payment. Money payment mismanagement cases shall be discontinued when the caretaker relative has demonstrated an ability to manage the money payment or after a period of one year has lapsed, whichever comes first. However, payment may continue for such additional time as is reasonably necessary to complete a substitute plan for the care of the child. In no event shall the payment continue for more than a total of 15 months.

(e) Special personal representative. The agency shall file a petition for the appointment of a personal representative only if the need for an appointment is clearly established, and the agency has counseled with the applicant or recipient concerning the money management problems. The agency shall file confidential reports with the appropriate court as requested.

(1) Appointment of personal representative. The agency shall recommend, to the court, a person who is not an employee of the agency, who would not benefit directly from the assistance payment, and who meets the criteria set forth in paragraph (d)(2)(A) for selection of a substitute payee.

(2) Dismissal of personal representative. The agency shall recommend to the court that a personal representative be dismissed if the client demonstrates that he or she no longer requires a personal representative, or if the personal representative is failing to execute the responsibilities set forth in this section, in which instance the agency shall recommend a substitute personal representative.

(3) Responsibility of personal representative. Each personal representative shall be responsible to the court, the agency and the recipient. An annual accounting shall be made by each personal representative to both the court and the agency. The agency or the court may require a more frequent accounting in the form and at the times prescribed by the agency or the court. Each personal representative shall maintain a confidential relationship with the applicant or recipient and shall consult with the applicant or recipient concerning the applicant's or recipient's requirements, resources, and the use of the money payment.

(4) Periodic review. The agency shall review semi-annually the necessity of continuing the appointment of a personal representative. The agency shall consider whether the recipient's ability to manage personal affairs has improved or if other changes in the recipient's circumstances or living arrangements make

it possible for the recipient to manage without the help of a personal representative.

(5) Delivery of warrants. All money payments issued shall be delivered by mail to the address of the payee unless the payee requests otherwise. If the payee requests a different mode of delivery, the agency shall consider the appropriateness of the request. In appropriate instances, including emergencies or repeated thefts from the mailbox, the agency shall deliver the warrant in person to the payee. No materials shall be included in the envelope containing the warrant except those directly related to the administration of SRS programs. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 59-2801 *et seq.*, K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended May 1, 1983; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-4-140. Payments. (a) Payment amounts. Payments shall equal the budgetary deficit, which shall be rounded down to the nearest dollar, except as set forth below:

(1) Payments for the month of application shall equal the budgetary deficit which shall be prorated beginning with the date of application through the end of the month. This amount shall be rounded down to the nearest dollar. A standard 30 day month shall be used.

(2) Payment shall not be made if the amount of the budgetary deficit is less than \$10.00. When a payment is not made under this provision, recipient status shall continue.

(b) Underpayments. Underpayments shall be promptly corrected.

(c) Overpayments. Overpayments shall be promptly corrected. Overpayments may be recovered by voluntary repayment, administrative recoupment, or legal action. The assistance payment shall not be reduced below an amount which, when added to liquid resources, total earned income with no disregard or exemptions and nonexempt unearned income, is less than 90% in ADC or 80% in GA of the budgetary requirement for the number of persons in the assistance plan. The agency shall not initiate recovery procedures pending the disposition of a welfare fraud referral to the fraud and recovery section.

(d) Discontinuance of assistance payments. Assistance payments shall be discontinued when the recipient no longer meets one or more of the appropriate factors of eligibility. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 39-719b, K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended, T-83-38, Nov. 23, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

**Article 5.—PROVIDER PARTICIPATION,
SCOPE OF SERVICES, AND
REIMBURSEMENTS FOR THE MEDICAID
(MEDICAL ASSISTANCE) PROGRAM**

30-5-58. Definitions. (a) "Accrual basis account-
(continued)

ing" means reporting revenue in the period when it is earned, regardless of when it is collected, and reporting expenses in the period in which they are incurred, regardless of when they are paid.

(b) "Activities of daily living" means basic activities necessary for daily self care.

(c) "Arms length transaction" means a transaction between unrelated parties.

(d) "Case conference" means a scheduled face-to-face meeting involving two or more persons to discuss problems associated with the treatment of the facility's patient or patients. Persons involved in the case conference may include treatment staff, collaterals or other agency representatives of the client or clients.

(e) "Capitation reimbursement" means a reimbursement methodology establishing payment rates, per program recipient or eligible, for a designated group of services.

(f) "Common control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(g) "Common ownership" means that an individual or individuals possess significant ownership or equity in the provider and the facility or organization serving the provider.

(h) "Comparable outpatient service" means a service that is provided in a hospital that is comparable to a service provided in a physician's office or ambulatory surgical center.

(i) "Concurrent care" means services rendered simultaneously by two or more eligible providers.

(j) "Consultation" means an evaluation which requires another examination by a provider of the same profession, a study of records, and a discussion of the case with the physician primarily responsible for the patient's care.

(k) "Contract loss" means the excess of contract cost over contract income.

(l) "Cost finding" means the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(m) "Covered service" means a medical service for which reimbursement will be made by the medic-aid/medikan program. The agency may limit coverage on the basis of prior authorization.

(n) "Durable medical equipment (DME)" means equipment which will:

- (1) Withstand repeated use;
- (2) not generally be useful to a person in the absence of an illness or injury;
- (3) be primarily and customarily used to serve a medical purpose;
- (4) be appropriate for use in the home; and
- (5) be rented or purchased as determined by designees of the secretary.

(o) "Emergency admission" means an admission in which the patient came through the emergency room with a diagnosis requiring immediate admission.

(p) "Free-standing inpatient psychiatric facility" means an inpatient psychiatric facility licensed to provide services only to the mentally ill.

(q) "Historical cost" means actual allowable costs incurred for a specified period of time.

(r) "Home health aide service" means the direct care given by a person with minimum training, and who is under the supervision of a registered nurse employed by a home health agency, to recipients who are unable to care for themselves or who need assistance in accomplishing the activities of daily living.

(s) "Independent laboratory" means a laboratory that performs laboratory tests that are ordered by a physician, and that is in a location other than the physician's office or a hospital.

(t) "Interest expense" means the cost incurred for the use of borrowed funds on a loan made for a purpose related to patient care.

(u) "Lock-in" means the restriction of a recipient's access to medical services through limiting the use of the medical identification card to designated medical providers.

(v) "Managerial capacity" means an individual, including a general manager, business manager, administrator, or director, who exercises operational or managerial control over the provider, or who directly or indirectly conducts the day to day operations of the provider.

(w) "Medical necessity" means a medical decision regarding the need for an item or service. Medical staff designated by the secretary have final authority for the determination of medical necessity.

(x) "Medical necessity in psychiatric situations" means that there is medical documentation which indicates that the person could be harmful to himself or herself or others if not under psychiatric treatment.

(y) "Medical supplies" means supplies not generally useful to a person in the absence of illness or injury which are prescribed by a physician and used in the home and certain institutional settings.

(z) "Necessary interest" means interest expense incurred on a loan made to satisfy a financial need of the facility. Loans which result in excess funds or investments shall not be considered necessary.

(aa) "Net cost" means the cost of approved educational activities less any reimbursements from grants, tuition, and specific donations.

(bb) "Non-covered services" mean services for which medicaid/medikan will not provide reimbursement, including services that have been denied due to the lack of medical necessity.

(cc) "Obstetrical admission" means the patient is admitted for delivery or for a medical condition related to pregnancy.

(dd) "Occupational therapy" means the provision of treatment by an occupational therapist registered with the American occupational therapy association. The treatment shall be:

- (1) Rehabilitative and restorative in nature;
- (2) provided following physical debilitation due to acute physical trauma or physical illness; and
- (3) prescribed by the attending physician.

(ee) "Orthotics and prosthetics" mean devices which are:

- (1) Reasonable and necessary for treatment of an illness or injury;

(2) prescribed by a physician;
 (3) necessary to replace or improve functioning of a body part; and

(4) provided by a trained orthotist or prosthetist.

(ff) "Out-of-state provider" means any provider that is physically located more than 50 miles beyond the border of Kansas, except those providing services to children who are wards of the secretary. Adult care homes, community mental health centers, and alcohol and drug program providers shall be considered out-of-state providers if they are physically located beyond the border of Kansas.

(gg) "Outpatient treatment" means services provided by the outpatient department of a hospital, a facility that is not under the administration of the hospital, or a physician's office.

(hh) "Physical therapy" means treatment which:

(1) Is provided by a physical therapist registered in the jurisdiction where the service is provided or by the Kansas board of healing arts;

(2) is rehabilitative and restorative in nature;

(3) is provided following physical debilitation due to acute physical trauma or physical illness; and

(4) is prescribed by the attending physician.

(ii) "Physician extender" means a person licensed as a physician's assistant or advanced registered nurse practitioner in the jurisdiction where the service is provided and who is working under supervision as required by law or administrative regulation.

(jj) "Plan of care" means a document which states the need for care, the estimated length of program, the prescribed treatment, modalities, and methodology to be used, and the expected results.

(kk) "Primary care network" means a service delivery control system in which a physician, group practice, or clinic acts as a primary care provider and is responsible for initiating or approving specified medical services for participating recipients.

(ll) "Primary diagnosis" means the most significant diagnosis related to the services rendered.

(mm) "Prior authorization" means the approval of a request to provide a specific service before the provision of the service.

(nn) "Program" means the Kansas medicaid/medikan program.

(oo) "Proper interest" means interest incurred at a rate not in excess of what a prudent borrower would have had to pay under market conditions existing at the time the loan was made.

(pp) "Prospective, reasonable cost-related reimbursement" means present and future reimbursement, based on analysis and consideration of the historical cost that is related to patient care, in the operation of facilities and programs.

(qq) "Psychiatric day treatment program" means an ambulatory program that provides supportive and maintenance level therapeutic activities designed primarily for chronic mentally ill individuals for whom the prognosis for obtaining autonomous and independent levels of functioning is unrealistic.

(rr) "Psychiatric partial hospitalization program" means an ambulatory program that includes the major diagnostic, medical, psychiatric, psychosocial, and

prevocational/educational treatment modalities typically found in a comprehensive psychiatric hospital program. Level of service ranges from intensive to a combination of intensive, supportive and maintenance level therapeutic activities.

(ss) "Related parties" means that one party of a transaction has the ability to significantly influence another party in the transaction to the extent that their own separate interests may not be fully pursued. Related parties include, but are not limited to, those related by family, by business or financial association, or by common ownership or control.

(tt) "Related to the community mental health center" means that the agency or facility furnishing services to the community mental health center is directly associated or affiliated with the community mental health center by formal agreement, or that it governs the community mental health center, or is governed by the community mental health center.

(uu) "Speech therapy" means treatment provided by a speech pathologist who has a certificate of clinical competence from the American speech and hearing association. The treatment shall be rehabilitative and restorative in nature, shall be provided following physical debilitation due to acute physical trauma or physical illness, and shall be prescribed by the attending physician.

(vv) "Swing bed" means a hospital bed that can be used interchangeably as either hospital, skilled nursing facility, or intermediate care facility beds, with reimbursement based on the specific type of care provided.

(ww) "Urgent" means situations which require immediate admission, but not through the emergency room. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-5-59. Provider participation in the medicaid/medikan program. (a) As a prerequisite for participation in the program, each provider shall:

(1) Submit an application for participation in the program on forms prescribed by the secretary;

(2) update information provided on the application as necessary;

(3) enter into a provider agreement with the state department of social and rehabilitation services;

(4) upon request, furnish within 30 days full and complete information as to the ownership of a subcontractor with whom the provider has had:

(A) During the previous 12 months, business transactions in an aggregate amount in excess of \$25,000; and

(B) any significant business transaction between the provider and any wholly-owned supplier or between the provider and the subcontractor which occurred during the five-year period ending on the date of the request for information. The provisions of this subsection shall not be applicable to individual providers or groups of practitioners;

(5) upon request, submit within 30 days a provider disclosure statement on forms prescribed by the sec-

(continued)

retary and update the information provided on the statement as necessary;

(6) upon request, complete a check list documenting the accessibility of the provider's place of business to handicapped recipients;

(7) maintain such records as are necessary to disclose fully the extent of the services provided to program recipients and to furnish information regarding any payments claimed for providing such services that the state department of social and rehabilitation services, its designee, or the department of health and human services may request;

(8) not charge patients accepted as program recipients for services covered by the program with the exception of authorized spenddown and co-pay requirements;

(9) not charge eligible individuals for services denied for reimbursement because the provider has failed to meet a program requirement;

(10) accept as payment in full, subject to audit, the amount paid by the agency for covered services;

(11) not assign program claims or grant a power of attorney over or otherwise transfer right to payment for such program claims except as set forth in 42 USCA 1396a (32); and

(12) if applicable, be licensed or certified in the jurisdiction where the service was rendered.

(b) The division of medical programs may refuse to allow a provider to participate in the program for any of the reasons set forth in K.A.R. 30-5-60.

(c) If the division of medical programs denies a provider's request to participate in the program, the division of medical programs shall issue a written order of denial setting forth the basic underlying facts supporting the order. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1985.)

30-5-65. Denial of medical claims. Any medical claim which has been denied for payment shall be resubmitted within 12 months of the date of service or no payment shall be made. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1985.)

30-5-70. Recipient eligibility for the payment of specific medical expenses. (a) Program recipients shall be eligible for the payment of specific medical expenses as follows:

(1) Payment of medicare (title XVIII) premiums and deductibles and co-insurance amounts for services covered in the medicaid/medikan program. Recipients who are ineligible for program coverage because they have a spenddown shall also be eligible for the payment of the medicare (title XVIII) premium expense. For cash recipients (including SSI) age 65 or older, payment of the medicare (title XVIII) premium shall begin with the month of approval for medicaid/medikan, excluding any months of prior eligibility. For recipients under age 65 who are eligible for medicare after receiving retirement and survivor's disability insurance for 24 consecutive months, payment of the medicare (title XVIII) premium shall begin with the

25th month. For all other recipients, payment of the medicare (title XVIII) premium shall begin with the second month following the month of approval for medicaid/medikan, excluding any months of prior eligibility;

(2) payment of premiums of health maintenance organizations which are approved by the division of medical programs; and

(3) payment of other allowable medical expenses incurred in the current eligibility base period in excess of any co-pay or spenddown requirements.

(b) The scope of services to be provided recipients and the payment for those services shall be as set forth in articles 5 and 10 of this chapter, subject to the following limitations.

(1) Payment for a particular medical expense shall be denied if it is determined that:

(A) The recipient failed to utilize medical care available through other community resources, including public institutions, veterans administration benefits, and those laboratory services that are available at no charge through the state department of health and environment;

(B) a third party liability for the medical expense has been established and is available;

(C) the recipient fails to make a good faith effort to establish a third party liability for the medical expense or fails to cooperate with the agency in establishing the liability. Payment of a medical expense may be delayed pending the outcome of a determination concerning third party liability;

(D) the expense is not covered or is only partially covered by an insurance policy because of a program limitation or exclusion;

(E) the recipient failed to notify the provider of services of the recipient's eligibility for the program;

(F) prior authorization was required and not requested. The recipient shall not be charged for such expenses;

(G) the service is cosmetic, pioneering, experimental, or a result of complications related to such procedures; or

(H) the service was provided by a provider not designated as a lock-in provider for any recipient who is locked into designated providers due to abuse or participation in a primary care network or for any recipient who is an adult recipient in the medikan program. This limitation shall not apply to emergency services or services not provided by the primary care network.

(2) Payment liability for out-of-state services shall be limited to:

(A) Payment on behalf of recipients living near a state border, where medical services are normally provided by medical vendors that are located in the bordering state and within 50 miles of the state border;

(B) emergency services rendered outside the state;

(C) nonemergency services for which prior approval by the division of medical programs has been given. Authorization from the division of medical programs shall be obtained before making arrangements for the individual to obtain the out-of-state services;

(D) services provided by independent laboratories;
 (E) services provided in the state by out-of-state durable medical equipment and medical supply providers, if there is a provider service representative located in the state; and

(F) services provided to foster care recipients.

(3) Payment liability for services rendered to a person who is mandated to receive inpatient treatment for tuberculosis and who is not otherwise eligible for participation in the program shall be limited to services related to the treatment.

(4) All claims for payment shall be submitted within six months of the date of service. Submission of a claim to a potential third party resource within the six month period shall meet this requirement. If a provider receives notification from a potential third party resource that the resource will not pay or will only partially pay the claim, the provider shall submit the claim to the agency not later than six months from the original date of service or 30 days from receipt of the negative notification, whichever comes later, provided the negative notification is received within 12 months of the date of service in accordance with K.A.R. 30-5-65.

(5) Each provider of services shall be a provider participating in the program.

(6) The scope of services for adult non-medicaid (non-title XIX) program recipients shall be further limited as set forth in K.A.R. 30-5-150 through 30-5-172.

(7) The scope of services for adult medicaid (title XIX) program recipients shall be further limited as set forth in K.A.R. 30-5-156, 30-5-160, and 30-5-161. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; K.S.A. 1983 Supp. 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; modified, L. 1982, ch. 469, May 1, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended May 1, 1984; amended May 1, 1985.)

30-5-81. Scope of hospital services. (a) Each hospital shall be medicare certified.

(b) Outpatient services shall be covered with the following limitations:

(1) Services shall be ordered by an attending physician who is not serving as an emergency room physician, except for those services related to emergency situations.

(2) Prosthetic devices shall replace all or part of an internal body organ, including the replacement of these devices.

(3) Rehabilitative therapies shall be restorative in nature, shall be provided following physical debilitation due to acute physical trauma or physical illness and shall be prescribed by the attending physician.

(4) Services provided in the emergency department shall be emergency services.

(5) Elective surgery shall not be covered, except for sterilization operations or for participants in the EPSDT program.

(6) Ambulance services shall not be covered.

(c) Inpatient services shall be covered with the following limitations:

(1) Services shall be ordered by a physician.

(2) Transplant surgery shall be limited to corneal, kidney and bone marrow transplants and services related to such transplants.

(3) Procurement of the organ related to transplant surgery shall not be covered.

(4) A physician hospital admittance profile, taking into consideration physician specialty and application, shall be kept on all physicians. The agency shall require prior authorization for hospital admission by any physician who, in the judgment of medical consultants, continues to admit patients to the hospital unnecessarily.

(5) Inpatient services shall be limited to those provided on days of stay that are determined to be medically necessary.

(6) Reimbursement shall not be made for services provided on days of discharge.

(7) Long term care services in swing beds shall be provided pursuant to 42 CFR 405 subpart K and 442 subpart F, effective July 20, 1982, which are adopted by reference.

(8) Therapeutic and diagnostic surgical services, and related services that can be performed on an outpatient basis shall not be reimbursed on an inpatient basis unless medical necessity is documented.

(9) Reimbursement shall not be made for elective inpatient admissions from 12:00 a.m. (midnight) Thursday through 11:59 p.m. Saturday. Urgent, emergency, and obstetrical admissions during this period shall be reimbursable. Any procedure which can be completed within a 24 hour period shall be excluded from the non-admissions policy of Thursday midnight through 11:59 p.m. Saturday.

(10) Inpatient services shall be subject to a utilization review to determine medical necessity at the time of admission and on a continued stay basis. Utilization review of all inpatient services shall be conducted by the hospital unless exempted by the division of medical programs. Utilization reviews conducted by a hospital or qualified contractor may be subject to further review by the division of medical programs.

(11) Certain non-Kansas hospitals may be required to submit documentation of medical necessity if the stay exceeds the 75th percentile of number of days of stay, as indicated in the 1981 edition of the "professional activity study hospitals" (PAS), north central region edition. The percentile of number of days of stay shall be based on the primary diagnosis and, as appropriate, on any secondary or multiple diagnosis.

(12) Psychiatric services in an acute general hospital shall be limited to a specific number of days per admission, as specified by the division of medical programs, unless an extended length of stay has been authorized by the division of medical programs prior to the last day of the specified limit.

(13) Psychotherapy, directed by a psychiatrist or approved hospital staff under the direction of a psychiatrist, shall be provided to each psychiatric patient on a daily basis.

(14) Acute detoxification services shall not exceed eight days.

(continued)

(15) Substance abuse treatment services shall not exceed 30 days.

(16) Inpatient acute care related to substance abuse treatment services shall be limited to those patients who are in need of acute detoxification or a drug and alcohol treatment program approved by the division of medical programs.

(17) Elective surgery shall not be covered, except for sterilization operations or for participants in the EPSDT program.

(18) Therapeutic home visits shall not be covered unless the absence occurs during the last three days of the stay, the absence extends overnight, and the patient returns to the hospital for at least eight hours prior to discharge. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; modified, L. 1982, ch. 469, May 1, 1982; amended May 1, 1983; amended, T-84-7, March 29, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985.)

30-5-81b. The basis of reimbursement for hospital services. (a) General hospitals; inpatient services.

For covered services rendered to program recipients, each general hospital shall be reimbursed on the basis of a prospective per diem rate pursuant to the provisions of K.A.R. 30-5-81q through 30-5-81s.

(b) General hospitals; outpatient services. Except for laboratory services, each general hospital shall be reimbursed the lesser of reasonable costs or customary charges for covered services rendered to program recipients. For laboratory services, each general hospital shall be reimbursed its customary charges not to exceed the range maximum set forth in K.A.R. 30-5-85a plus 2%.

(c) General hospitals; long term care in swing bed hospitals. For covered services rendered to program recipients, each general hospital shall be reimbursed pursuant to 42 CFR 447.251 through 447.265, 447.271, 447.272, and 447.280, effective July 20, 1982, which are adopted by reference.

(d) Special hospitals. Each special hospital shall be reimbursed the lesser of reasonable costs or customary charges for covered services rendered to program recipients.

(e) New hospitals. A newly constructed hospital which was not in operation for a full year for the hospital's fiscal year ending in 1981, or an existing hospital which served less than five Kansas medicaid recipients during the hospital's fiscal year ending in 1981 shall be considered a new hospital. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-6, May 1, 1981; modified, L. 1982, ch. 469, May 1, 1982; amended May 1, 1983; amended, T-84-7, March 29, 1983; amended May 1, 1984; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985.)

30-5-81d. Hospital prospective payment system review committee. (a) A hospital prospective payment system review committee shall be appointed to review per diem rate modification requests initiated by hospitals or the agency.

(b) The committee shall recommend to the agency approval, modification or disapproval, as appropriate, of each request for per diem rate modification.

(c) The committee shall consist of six members with the following qualifications:

(1) Each member shall be a Kansas resident.

(2) Three members shall be employees of the agency.

(3) Three members shall be persons who are Kansas hospital employees, members of the governing board of a Kansas hospital, or owners of a Kansas hospital.

(d) The secretary shall appoint:

(1) The agency representatives; and

(2) the hospital representatives.

(e) The members of the committee shall serve two year terms. Each member shall be eligible for appointment to not more than three consecutive terms.

(f) The members of the committee shall serve at the pleasure of the secretary, except that any member who does not continue to meet the criteria for appointment shall be automatically disqualified from further participation on the committee.

(g) Vacancies shall be filled within 60 days of their occurrence.

(h) Each member of the committee attending a committee meeting may be paid a subsistence allowance and mileage, if authorized by state law and regulation.

(i) The committee shall elect one of its members to serve as chair. The chair shall convene the committee, as necessary, and shall preside at all committee meetings.

(j) The committee shall elect one of its other members to serve as vice-chair. The vice-chair shall assume the duties of the chair in the chair's absence.

(k) Decisions of the committee shall be by majority vote of the committee.

(l) An alternate shall be appointed for each member of the committee. The appointment and tenure for alternates shall be the same as for members. Each alternate shall meet the same qualifications, shall be selected in the same manner, and shall serve the same term as the member for whom the person is serving as an alternate. Any alternate may participate in committee deliberations but may cast a vote only if the member for whom the person is serving as an alternate is absent. If an alternate is unavailable, one of the remaining alternates, of the same affiliation as the primary alternate, may represent the absent member. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-6, May 1, 1981; amended May 1, 1982; amended, T-84-7, March 29, 1983; amended May 1, 1984; amended May 1, 1985.)

30-5-81q. Per diem rate calculations. (a) On or before June 1 of each calendar year a per diem rate shall be established for each hospital, to be effective for the upcoming state fiscal year. On or before May 1 of each calendar year, the agency shall provide each hospital with its estimated per diem rate.

(b) Participating hospitals.

(1) The per diem rate for state fiscal year 1984 shall be calculated by:

(A) Multiplying the lesser of a hospital's aggregate inpatient medicaid/medikan program costs, or charges for its adjusted fiscal year ending in 1981, by an inflation factor of 1.1449; and

(B) dividing the product by the hospital's medicaid/medikan program days in its fiscal year ending in 1981. The quotient shall be the hospital's per diem rate for state fiscal year 1984, subject to final audit of its fiscal year 1981 operations and the provisions of K.A.R. 30-5-81r and 30-5-81s.

(2) Per diem rates for subsequent state fiscal years shall be calculated by multiplying a hospital's most recent per diem rate times an inflation factor established by the secretary. The product shall be the hospital's per diem rate for the state fiscal year in question, subject to the provisions of K.A.R. 30-5-81r and 30-5-81s.

(c) Per diem rates for non-participating hospitals. Subject to the provisions of section (c) of K.A.R. 30-5-81r, the per diem rate for non-participating hospitals shall be the mean per diem rate of those participating Kansas hospitals which fall below the mean per diem rate of all participating Kansas hospitals, as calculated in K.A.R. 30-5-81r(b).

(d) Per diem rate for new hospitals. Rates shall be determined for a new hospital based on the current rates of similar hospitals within the state of Kansas. Similarity shall be determined by considering the hospital bed size, geographic location and type of service offered. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-9, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-5-81r. Per diem rate limitations. (a) Subject to the provisions of K.A.R. 30-5-81s, participating hospitals with a per diem rate (excluding teaching costs for approved intern, resident and nursing programs) in excess of the mean as set forth in subsection (b) shall be limited to a maximum number of medicaid/medikan program days per state fiscal year, as set by the secretary. Days incurred up to and including the maximum shall be paid at the per diem rate established pursuant to K.A.R. 30-5-81q. Days incurred above the maximum shall be reimbursed at the rate of the mean of the per diem rates (excluding teaching costs for approved intern, resident and nursing programs) below the mean as set forth in subsection (b), plus any per diem teaching costs.

(b) The agency shall annually rank the per diem rates (excluding teaching costs for approved intern, resident and nursing programs) for participating Kansas hospitals and calculate a mean per diem rate.

(c) Payment to non-participating hospitals shall not exceed actual charges. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-9, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-5-81s. Modification of per diem rates and day maximums for medicaid/medikan program. (a) Any hospital participating in the prospective payment system may request, in writing, that the agency modify the day limitation for the medicaid/medikan program.

(1) The agency, using data from the agency management area in which the hospital resides (or to which an out-of-state hospital is assigned), shall compare the average monthly medicaid/medikan program eligibles for the 12-month period immediately preceding the request with the average monthly program eligibles for the hospital's fiscal year ending in 1981.

(2) If the current average is greater than the 1981 average, then the ratio of the current average to the 1981 average shall be multiplied by the current day limitation to calculate a revised day limitation.

(3) If the current average is equal to or less than the 1981 average, then no adjustment shall be made.

(b) The agency may request the hospital prospective payment review committee to reduce the per diem rate of any hospital participating in the prospective payment system if its per diem rate exceeds its current medicaid/medikan program per diem cost by at least 10%.

(c) Any hospital participating in the prospective payment system may also request the review committee to modify its per diem rate if its current medicaid/medikan program patient per diem cost exceeds its per diem rate by at least 10%.

(d) Any per diem rate modification request shall be in writing, shall set forth sufficient information and documentation to support the request, and shall be filed within 60 days of being established unless there are unusual circumstances, or within 60 days of the occurrence underlying the request, whichever comes later.

(e) The review committee shall submit its recommendations to the commissioner of income maintenance and medical services within 30 days after its receipt of the request.

(f) The commissioner shall have five working days from the receipt of the review committee's recommendations to accept, modify or reject them. The recommendations of the review committee shall become final if the commissioner fails to act within the above-mentioned time period.

(g) The commissioner shall notify the agency or hospital, as appropriate, of the disposition of its modification request within five working days of the final decision. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-9, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-5-81t. Cost limitations on change of ownership.

(a) For any asset in existence on July 18, 1984 which is subsequently sold, the valuation of such asset for reimbursement purposes shall be the lesser of the allowable acquisition cost of such asset to the owner of record on July 18, 1984 or the acquisition cost of such asset to the new owner.

(b) For any asset not in existence on July 18, 1984, the valuation of such asset for reimbursement purposes shall be the lesser of the acquisition cost of such asset to the first owner of record or the acquisition cost of such asset to the new owner.

(c) Costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984 shall not be allowable. (Authorized

(continued)

by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-85-34, Dec. 19, 1984; effective May 1, 1985.)

30-5-83. Scope of services for ambulatory surgical centers. Coverage shall be limited to non-elective surgical services, except for sterilization operations or for participants in the EPSDT program. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended May 1, 1985.)

30-5-86. Scope of services by community mental health centers. (a) Community mental health center services shall be available to program recipients in:

(1) Outpatient treatment programs provided at the clinic, a satellite facility, or on-site locations approved by the division of medical programs, provided the on-site services are of a kind that would be covered if furnished at the clinic site;

(2) approved inpatient treatment programs;

(3) partial hospitalization units approved by the division of medical programs pursuant to K.A.R. 30-5-110; and

(4) outpatient alcohol and drug abuse programs licensed and certified by alcohol and drug abuse services and approved by the division of medical programs.

(b) (1) During a calendar quarter, outpatient psychotherapy shall not exceed a total number of units specified by the secretary. One hour of individual therapy shall equal 20 units and one hour of group therapy shall equal four units.

(2) Psychological testing and evaluation shall be prior authorized and shall not exceed six hours in any two consecutive calendar years. However, the first three hours of testing associated with admission to a community mental health center treatment program, intermediate care facility for the mentally retarded, hospital, or a residential treatment facility for children shall not require prior authorization. Admission evaluations shall not exceed five hours per calendar year and may include a physical examination.

(3) Inpatient psychotherapy shall be available pursuant to K.A.R. 30-5-81. Case conferences may be considered as individual therapy if the definition in K.A.R. 30-5-58 is met. Group therapy shall not be reimbursable when rendered on the same day as partial hospitalization.

(c) Services shall be provided by a psychiatrist, a psychologist with a doctoral or a masters degree in clinical psychology, masters degree social worker, masters degree psychiatric nurse, or individuals certified by the Kansas association of community mental health center director's professional standards committee and approved by the agency, unless the approval would be contrary to law or regulation. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; modified, 1983 HCR 5015, May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-5-86a. Reimbursement for community mental

health centers. (a) General provisions for reimbursement. A base rate shall be determined on the basis of a prospective reasonable cost related system subject to the principles set forth in K.A.R. 30-10-1a, 30-10-15a, 30-10-15b, 30-10-17 and 30-10-18.

(b) Grants, gifts, or endowment income deductions. Grants, gifts, or endowment income designated by a donor for paying specific operating costs shall be deducted from the particular operating costs or group costs. Research costs over and above usual patient care shall not be includable as allowable cost. Educational expenses shall be allowable less reimbursement from grants, tuition, and donations for educational purposes. Refunds and overpayments for past expenses shall be deductions from total expenses.

(c) Provider records available for inspection and audit. All records of the provider used in support of costs, charges and payments for services and supplies shall be subject to inspection and audit by the agency, the United States department of health and human services, and the United States general accounting office. Standardized definitions, accounting, statistics, and reporting practices which are widely accepted in community mental health centers and related fields shall be followed.

(d) Provider rates for existing facilities. For existing facilities, the agency shall review the cost information supplied annually by the provider and retained for cost auditing to determine per hour rates. These rates shall be based on the patient-related costs submitted by the provider for their fiscal year ending on or before December 31, 1981, adjusted by an inflation factor determined by the secretary. The rates shall be limited to the lesser of the computed rate, the highest fee charged to and paid by private patient resources within the catchment area, or the range maximums established by the secretary. The providers shall be reimbursed for recipients living outside the catchment area at the same rate as recipients located within their catchment area.

(e) Base rates for new providers. Rates for the first 18 months of a new community mental health center shall be computed from projected costs. The first projection, based on 12-month projected cost data, shall apply to the first six months of operation. The second projection, based on 12-month projected cost data, shall be filed within 60 days after the end of the sixth month. The effective date of the second rate projection shall be the first day of the second month following the receipt of a complete cost report from the provider. The projected rate shall remain in effect until a rate can be established from a cost report based on historical cost data for the last 12 months of the projection period.

(f) Each new provider shall file a cost report based on historical cost data for the 12-month period ending on the last day of the 18th month following certification of the community mental health center. Retroactive adjustment of the payments made during the projection period shall be made at the end of the 18-month period after audit of the historical cost data. Settlement of an overpayment or underpayment shall be at the rate computed from the historical cost data

reported in accordance with this paragraph, or at the highest fee charged to and paid by private patient resources within the catchment area, or at the range maximums established by the secretary, whichever is less.

(g) Rates for new providers, subsequent to the projection period, shall be based on the historical cost data reported in accordance with subsection (f), adjusted by an inflation factor determined by the secretary, to compute a rate comparable to the rates computed in subsection (d) for existing programs. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1985.)

30-5-87. Scope of early and periodic screening, diagnosis, and treatment (EPSDT). (a) The EPSDT screening program shall be available at designated intervals for all program recipients under 21 years of age. The EPSDT medical screening shall include, but shall not be limited to, the following procedures, as approved by the division of medical programs:

- (1) Comprehensive health and developmental history;
- (2) comprehensive, unclothed physical examination;
- (3) developmental assessment;
- (4) assessment of nutritional status;
- (5) appropriate vision testing;
- (6) appropriate hearing testing;
- (7) appropriate laboratory tests; and
- (8) dental screening services for all individuals three years of age and older. Dental screening services shall be furnished by direct referral.

(b) Referral shall be made for health care, treatment, and other measures necessary to correct defects and chronic conditions discovered during screening, including:

- (1) Diagnosis and treatment for defects in vision and hearing, including eyeglasses and hearing aids;
- (2) dental care needed for relief of pain and infections, restoration of teeth and maintenance of dental health; and
- (3) appropriate immunizations.

(c) EPSDT screening services may be provided by licensed physicians, registered nurses certified to do comprehensive health assessments, or by a facility under the supervision of a licensed physician or registered nurse. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1984; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985.)

30-5-88. Scope of physician services. Except as set forth below, the program shall cover medically necessary services (recognized under Kansas law) provided to program recipients by physicians who are licensed to practice medicine and surgery in the jurisdiction in which the service is provided. The following services shall be excluded from coverage under the program, except as noted: (a) Visits. The following types of visits shall be excluded:

- (1) Office visits when the only service provided is an

injection or some other service for which a charge is not usually made;

(2) non-psychiatric office visits which exceed 12 per calendar year, except as set forth in paragraph (3) below;

(3) for EPSDT participants, non-psychiatric office visits which exceed six per calendar quarter;

(4) psychiatric office visits which exceed an average of 24 hours of individual therapy or 24 hours of group therapy or any combination of these per calendar year, unless the recipient is a participant in the EPSDT program and:

(A) psychiatric services do not exceed three hours per month; or

(B) are being rendered pursuant to a plan approved by the agency. Prior authorization for the plan shall be required. The plan shall not exceed a two-year period and shall be subject to a reimbursement limit established by the secretary. Quarterly progress reports shall be submitted to the division of medical programs;

(5) Inpatient hospital visits in excess of those allowable days for which the hospital is paid or would be paid if there were no spenddown requirements; and

(6) nursing home visits in excess of one per month unless medical necessity is documented.

(b) Consultations. Consultations shall be excluded as follows:

- (1) Consultations which are absent a written report;
- (2) inpatient hospital consultations in excess of one per condition per 10 day period unless written documentation confirming medical necessity is attached to the claim; and
- (3) other consultations in excess of one per condition per 60 day period unless written documentation confirming medical necessity is attached to the claim.

(c) Surgical procedures. Surgical procedures shall be excluded as follows:

- (1) Procedures that are experimental, pioneering, cosmetic, or designated as non-covered;
- (2) transplants, other than corneal, kidney and bone marrow transplants, and related services;
- (3) procurement of an organ related to transplant surgery;
- (4) services of a surgical assistant when surgery is determined not to require an assistant;
- (5) in-patient procedures which are limited to outpatient coverage unless medical necessity is documented; and
- (6) elective surgery, except for sterilization operations or for participants in the EPSDT program.

(d) Miscellaneous procedures. Miscellaneous procedures shall be excluded as follows:

- (1) Diagnostic radiological and laboratory services unless the services are medically necessary to diagnose or treat injury, illness or disease;
- (2) physical therapy unless:
 - (A) Performed by a physician or registered physical therapist under the direction of a physician; and
 - (B) prescribed by the attending physician.
- (3) Medical services of medical technicians unless the technicians are under the direct supervision of a physician; and

(continued)

(4) inpatient services which were provided on days of hospital stay which are determined to not be medically necessary.

(e) Family planning services and materials.

(1) Family planning services and materials shall be excluded unless:

(A) The services are provided by a physician, family planning clinic, or county health department;

(B) written informed consent is obtained as necessary; and

(C) the scope of services provided are in compliance with applicable federal and state statutes and regulations.

(2) Reverse sterilizations shall be excluded.

(f) Concurrent care. Concurrent care shall be excluded unless the patient:

(1) Has two or more diagnoses involving two or more systems; and

(2) the special skills of two or more physicians are essential in rendering quality medical care. The occasional participation of two or more physicians in the performance of one procedure shall be recognized. Each physician involved shall submit that physician's usual charge only for that portion of the procedure for which the physician is actually responsible.

(g) Psychological services for an individual entitled to receive these services as a part of care or treatment from a facility already being reimbursed by the program or by a third party payor shall be excluded.

(h) Services provided by physician extenders shall be excluded, except as listed below:

(1) Nursing home visits;

(2) recertifications;

(3) routine, annual medical history and physical;

(4) subsequent day hospital visits;

(5) routine, standard home visit; and

(6) standard office visit. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended May 1, 1985.)

30-5-91. Definitions for pharmacy services. The following definitions are applicable to K.A.R. 30-5-92 through 30-5-97. (a) "Acquisition cost" means the allowable reimbursement price determined by the agency for each covered drug, supply or device in accordance with federal regulations. The acquisition cost shall include an agency-determined maximum allowable cost reimbursement limitation for selected multiple source drugs.

(b) "Cost-related reimbursement" means reimbursement based on analysis and consideration of the historical operating costs required to provide specified services.

(c) "Drug, supply or device" means:

(1) articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them;

(2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man;

(3) articles intended to affect the structure or any function of the body of man; and

(4) articles intended for use as a component of any articles specified in clause (1), (2) or (3) of this paragraph.

(d) "Formulary" means a listing of drugs, supplies or devices.

(e) "Owner" means a sole proprietor, member of a partnership or a corporate stockholder with 5% or more interest in the corporation. The term "owner" shall not include minor stockholders in publicly-held corporations.

(f) "Complete ownership change" means:

(1) A change that involves an arms length transaction between unrelated parties; and

(2) (A) The dissolution or creation of a partnership when no member of the dissolved partnership or the new partnership retains ownership interest from the previous ownership affiliation;

(B) a transfer of title and property to another party if the transfer is an arms length transaction, and if the property is owned by a sole proprietor;

(C) the change or creation of a new lessee, acting as a provider of pharmacy services; or

(D) the consolidation of two or more corporations that creates a new corporate entity. However, the transfer of participating provider corporate stock shall not in itself constitute a complete change of ownership. Similarly, a merger of one or more corporations with a participating provider corporation surviving shall not constitute a complete change of ownership.

(g) "Over-the-counter" means any item available for purchase without a prescription order.

(h) "Pharmacy" means the premises, laboratory, area or other place:

(1) where drugs are offered for sale, the profession of pharmacy is practiced and prescriptions are compounded and dispensed;

(2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries," or any combinations of these words or words of similar import; or

(3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. The term "premises" as used in this subsection refers only to the portion of any building or structure leased, used, or controlled by the registrant in the conduct of the business registered by the board at the address for which the registration was issued.

(i) "Pharmacist" means any person duly licensed or registered to practice pharmacy by the state board of pharmacy or by the regulatory authority of the state in which the person is engaged in the practice of pharmacy.

(j) "Practitioner" means any person licensed to practice medicine and surgery, dentistry or podiatry, or any other person licensed, registered or otherwise authorized by law to administer, prescribe and use prescription-only drugs in the course of professional practice.

(k) "Prescribed" means the issuance of a prescription order by a practitioner.

(l) "Prescription" means, according to the context,

either a prescription order or a prescription medication.

(m) "Prescription medication" means any drug, supply or device, including label and container according to context, which is dispensed pursuant to a prescription order.

(n) "Prescription-only" means an item available for purchase only with a prescription order.

(o) "Professional fee" means the reimbursement rate assigned to each individual pharmacy provider for determination of reimbursement for provision of pharmacy services. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1985.)

30-5-92. Scope of pharmacy services. (a) The scope of medical services provided to program recipients shall include pharmacy services. The recipient shall be entitled to prescription-only and over-the-counter drugs, supplies and devices which have been accepted for inclusion on any formulary listing which is adopted and distributed by the agency to eligible providers of service. Covered drugs, supplies and devices shall be prescribed by the recipient's attending practitioner and dispensed in a pharmacy by a pharmacist.

(b) Providers of pharmacy services shall comply with the provisions of K.A.R. 30-5-59 and shall be assigned a pharmacy services provider number and professional fee for computation of reimbursement.

(c) Certain ineffective or possibly effective drugs, supplies and devices may be denied reimbursement under the program after prior notification of providers. Selected items shall be considered for coverage only in cases where documentation of exceptional hardship or medical need has been justified and prior authorization granted.

(d) Pharmacy services provided for parental administration of total nutritional replacements and intravenous medication in the recipient's home shall require participation of nursing services from a local home health agency. In areas not served by a home health agency, the services of a local health department or advanced registered nurse practitioner shall be required. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1985.)

30-5-93. (Authorized by and implementing K.S.A. 1980 Supp. 39-708c; effective May 1, 1981; revoked May 1, 1985.)

30-5-94. Reimbursement for pharmacy services.

(a) Pharmacy providers shall be reimbursed for covered pharmacy services on the basis of product acquisition cost plus a professional fee. The submitted charge and payment for covered over-the-counter pharmacy services shall not exceed the lesser of the product acquisition cost plus the professional fee or the usual and customary over-the-counter charge of the pharmacy provider.

(b) The professional fee assigned to pharmacy providers shall be based upon each individual pharmacy's historical operating costs, as determined by

analysis of data submitted on an annual cost report. The professional fee shall be limited to the lesser of:

(1) The 85th percentile of allocated costs per prescription for all pharmacies filing a cost report, plus a reasonable profit;

(2) usual and customary fee charges of each individual pharmacy, as determined by a prescription survey addendum to the pharmacy cost report; or

(3) a factor of 1.075 multiplied by the lowest professional fee accepted by each individual pharmacy provider through participation in any pharmacy services program:

(A) In which partial or total reimbursement is made by a party other than the consumer; and

(B) in which total reimbursement from participation in any such program comprises 5% or more of the total prescription sales, not including sales for medical equipment and supplies, for the pharmacy during their most recently completed fiscal year.

(c) The agency may elect to further limit the professional fee assignment of individual pharmacy providers through utilization of a multiple regression analysis based on cost study data from all pharmacy cost reports. Individual pharmacy providers with data which exceeds selected regression analysis norms by a factor greater than a standard deviation of 1.0 shall have allocated cost data relative to the selected norm limited to a value at a standard deviation of 1.0 above the norm.

(d) Completed cost reports, pursuant to the provisions of subsection (b), shall be due on May 1 of each year. The effective date for change of professional fees shall be August 1 of each year. Cost reports submitted after May 1 shall be processed and fees assigned within eight weeks from the date received or by August 1, whichever is later. If August 1 occurs within the eight week period, the pharmacy submitting the cost report shall be assigned a professional fee for the eight week period that is not greater than the lowest professional fee determined for any Kansas pharmacy. No delinquent cost reports shall be accepted after August 15.

(e) Out-of-state pharmacy providers, new Kansas pharmacies, and Kansas pharmacies that were in business for less than six months in the cost reporting period shall not be required to file a cost report and shall be assigned a professional fee determined from mean and average cost data for all pharmacies that file a cost report. If the annual volume of payments to an out-of-state pharmacy provider reaches a substantial level, the filing of a cost report shall be required.

(f) Pharmacy providers involved in an ownership change shall re-apply to the agency to participate in the medicaid/medikan program pursuant to K.A.R. 30-5-59. Pharmacy providers involved in a complete change of ownership shall be assigned an initial professional fee based on cost data from the previous owner's cost report and on weighted mean labor costs per prescription for all pharmacy providers that file a cost report. Pharmacy providers involved in a partial change of ownership shall be assigned the professional fee of the previous pharmacy provider.

(continued)

(g) In areas where pharmacy services are not available, each physician dispensing prescriptions to program recipients shall be eligible to receive reimbursement for provision of those services after a pharmacy provider number has been issued by the agency pursuant to K.A.R. 30-5-59.

(1) Physicians assigned a pharmacy provider number shall be reimbursed on the basis of product acquisition cost plus a professional fee of \$1.00 per prescription.

(2) Payment shall not apply to injectible drugs not intended for self administration by the patient except as included in the charge for the professional services of the physician.

(h) Reimbursement shall be made to the pharmacy provider only when the covered service has been prescribed by the recipient's attending practitioner. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-5-101. Scope of chiropractic services. (a) General provisions of program coverage. Chiropractic services provided by chiropractors who are licensed to practice in the jurisdiction in which the services are provided shall be available to program recipients.

(b) Program limitations and exclusions.

(1) The recipient shall be limited to one practitioner's care for a given diagnosis.

(2) Spinal manipulations shall be limited to neuromuscular skeletal conditions.

(3) A progress report shall be submitted after the first 60 days following the date of the first visit, and every 60 days thereafter. This report shall contain the history of the present illness, the diagnosis, type or mode of treatment, the treatment program, and the prognosis.

(4) Office visits for diagnosis and treatment in excess of 12 per calendar year shall not be covered, except as set forth in paragraph (5) below.

(5) For participants of the EPSDT program, office visits for diagnosis and treatment in excess of six per calendar quarter shall not be covered. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended May 1, 1985.)

30-5-103. Scope of podiatrists services. (a) General provisions of coverage. The services of podiatrists shall be available to program recipients. Services shall include:

(1) Diagnosis; and

(2) manual, medical, surgical or pharmaceutical treatment and for those parts of the body below the ankle. Diagnosis and treatment of tendons and muscles of the lower leg as they relate to conditions of the foot shall also be covered.

(b) Limitations.

(1) Routine foot care shall be excluded from coverage.

(2) Surgery shall be limited to that performed on an outpatient basis. (Authorized by and implementing

K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1985.)

30-5-108. Scope of services for durable medical equipment, medical supplies, orthotics, and prosthetics. (a) Selected durable medical equipment (DME) shall be available to program recipients with the following limitations:

(1) The DME shall be the most economical to meet the recipient's need.

(2) The least expensive and most appropriate method of delivery shall be used. If delivery is over 100 miles round trip, prior authorization shall be required.

(3) Used equipment with a warranty guarantee specified by the division of medical programs shall be used when available.

(4) Certain DME designated by the division of medical programs shall be the property of the agency.

(5) Educational, environmental control and convenience items shall not be covered.

(6) Durable medical equipment provided as a home health service shall be rented.

(7) The DME shall only be covered for the following recipients:

(A) Participants in the EPSDT program;

(B) recipients who require the DME for life support;

(C) recipients who require the DME for employment;

(D) recipients who would require higher cost care if the DME was not provided; or

(E) recipients who are residing in adult care homes.

(8) DME services provided for parenteral administration of total nutritional replacements and intravenous medication in the recipient's home shall require participation of nursing services from a local home health agency. In areas not served by a home health agency, the services of a local health department or advanced registered nurse practitioner shall be required.

(b) Selected medical supplies shall be available to program recipients for use in the recipient's home.

(c) Selected DME and medical supplies shall be considered for coverage only in cases where exceptional hardship or medical need has been justified by medical necessity documentation or granting of prior authorization.

(d) Orthotics and prosthetics shall be available to program recipients from trained orthotic and prosthetic dealers. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended May 1, 1983; amended, T-84-26, Oct. 19, 1983; amended May 1, 1984; amended May 1, 1985.)

30-5-151. Scope of hospital services for adult medical program recipients. (a) Outpatient coverage shall be limited to the following services:

(1) Emergency care;

(2) non-elective surgery, except for sterilization operations;

(3) laboratory and diagnostic radiology services;

(4) diagnostic computerized axial tomography scans and ultrasonic studies;

(5) chemo- and radiation therapy;
 (6) renal dialysis for recipients who cannot utilize home dialysis;

(7) psychiatric partial hospitalization pursuant to K.A.R. 30-5-169; and

(8) prior authorized rehabilitative therapies if there are no home health agency services available.

(b) Inpatient coverage shall be limited to the following services:

(1) Non-elective surgery and sterilization operations that cannot be done on an outpatient basis;

(2) corneal, kidney and bone marrow transplants, including related services. Services related to the procurement of the organ shall not be covered;

(3) acute medical care which cannot be provided on an outpatient basis;

(4) complicated deliveries and 48 hours for uncomplicated, normal delivery;

(5) eight days for acute detoxification;

(6) medically necessary substance abuse treatment services, as approved by the division of medical programs;

(7) fourteen days for psychiatric care per acute psychotic episode unless prior authorization has been granted for additional days;

(8) rehabilitative therapies which are restorative in nature, provided following physical debilitation due to acute physical trauma or physical illness, and prescribed by the attending physician; and

(9) therapeutic home visits if the absence occurs during the last three days of the stay, the absence extends overnight, and the patient returns to the hospital for at least eight hours prior to discharge. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-8, March 29, 1983; amended, T-84-11, July 1, 1983; effective May 1, 1984; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985.)

30-5-156. Scope of physician services for adult medikan program recipients. Coverage shall be limited to:

(a) Non-elective surgery, excluding elective sterilization;

(b) corneal, kidney and bone marrow transplants, including related services. However, services related to procurement of the organ shall not be covered;

(c) inpatient hospital services which cannot be provided on an outpatient basis;

(d) outpatient hospital services;

(e) twelve office visits per calendar year;

(f) one adult care home visit per calendar month;

(g) twenty-four hours of psychotherapy per calendar year;

(h) laboratory and diagnostic radiology services; and

(i) chemo- and radiation therapy. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-8, March 29, 1983; amended, T-84-11, July 1, 1983; effective May 1, 1984; amended May 1, 1985.)

30-5-160. Scope of chiropractic services for adult medikan program recipients. Coverage shall be limited to 12 office visits per calendar year. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; ef-

fective, T-84-8, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-5-161. Scope of podiatrist services for adult medikan program recipients. Coverage shall be limited to: (a) Surgery which is non-elective and performed on an outpatient basis; and

(b) 12 office visits per calendar year. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-8, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

30-5-163. Scope of services for the hearing impaired under the adult medikan program. Services for the hearing impaired shall not be covered for adult medikan program recipients. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, T-84-8, March 29, 1983; effective May 1, 1984; amended May 1, 1985.)

Article 6.—MEDICAL ASSISTANCE PROGRAM—CLIENTS' ELIGIBILITY FOR PARTICIPATION

30-6-41. Assistance planning. (a) Definitions.

(1) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relative relationship.

(2) "Caretaker relative" means the relative who is assigned the primary responsibility for the care and control of the child.

(3) "Eligible relative" means a caretaker relative who is considered in the plan with the child. A stepparent shall not be considered as an eligible relative unless the stepparent is the only caretaker relative in the home and is financially eligible.

(4) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the plan.

(b) In independent living arrangements, persons in the family group shall be included or excluded from the assistance plan at the applicant's or recipient's request, except as provided in K.A.R. 30-6-74 for ADC purposes. The assistance plan shall consist of those members of the family group for whom assistance is requested and eligibility is determined. Eligibility for medical assistance shall not be denied for the reason that an application for medical assistance is made on behalf of a deceased person. Any individual excluded from the medical assistance plan shall not be eligible in a separate medical assistance plan, except that SSI recipients shall have a separate medical assistance plan.

(c) In institutional living arrangements each person shall have a separate assistance plan with the following exceptions:

(1) When the person's protected income level is being computed as if the person were maintaining independent living arrangements;

(2) when the person's income and resources are considered available to both members of a couple as set forth in K.A.R. 30-6-106(f); or

(continued)

(3) when a couple is residing in the same long term care home and only one spouse has income.

(d) Any person who is ineligible for medical assistance because of a penalty provision shall be excluded from that person's family group medical assistance plan. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-6-56. Assignment or transfer of property. (a) Definition. "Assignment or transfer of property" means any act, contract, lease, or share whereby the use, control, or ownership of property of an applicant or recipient passes to another person or corporation.

(b) Eligibility requirement.

(1) Any applicant, and the members of the assistance family group for whom the applicant is legally responsible, shall be ineligible for medical assistance if the applicant has assigned or transferred any property without adequate consideration or for the purpose of rendering the applicant eligible for assistance:

(A) Within a two year period immediately preceding the filing of the application for medical assistance, if the value of the property is \$12,000.00 or less; and

(B) within a five year period immediately preceding the filing of the application for medical assistance, if the value of the property is in excess of \$12,000.00.

(2) Any applicant, recipient, or caretaker relative, and the members of the assistance family group for whom the applicant, recipient, or caretaker relative is legally responsible, shall be ineligible for medical assistance if that person, without the approval of the agency, assigns or transfers any real or personal property with an equity value exceeding \$500.00 without adequate consideration after making application or while receiving medical assistance. Multiple transfers that occur within a calendar month shall be treated as a single transfer.

(c) Procedures. The procedures set forth below shall be used in determining an applicant's or recipient's eligibility for medical assistance under the above provisions.

(1) The agency shall assemble the record in chronological order for each transfer of property.

(2) The agency, after securing the information listed above, shall examine the reason for the transfer. In examining the reason for the transfer, the agency shall determine first if adequate consideration was received. If adequate consideration was received, the individual shall be considered to have met the transfer of property eligibility factor, as it shall be assumed that if the individual received adequate consideration the intent of the transfer was not for the purpose of establishing assistance eligibility. If the agency determines that adequate consideration was not received, it shall be presumed that the transfer was for the purpose of establishing eligibility unless the person furnishes convincing evidence that the transfer was exclusively for some other purpose.

(3) The decision of the agency with respect to convincing evidence shall be governed by the following criteria:

(A) Any transfer of property shall be considered in the light of the circumstances at the time the transfer was made.

(B) The weight given to an applicant's statement that the transfer was not connected with that person's application for medical assistance shall be in proportion to the length of the interval between the transfer and the application.

(C) The difference in the equity transferred and the consideration received shall be such that it would be evident to the ordinary individual that full value had not been received.

(D) An applicant or recipient shall not be penalized for name removal from the title if the applicant or recipient can substantiate that the name had been placed on the title by the other owner solely for the sake of convenience and that the applicant or recipient would not otherwise have interest in the property. Factors to be documented and considered shall include the source and use of the property. This provision shall not be applicable to jointly owned resources between legally responsible persons.

(d) Prior approval. An individual shall not be ineligible for medical assistance if the agency granted prior approval to the transfer of the property in question. Applications for approval shall be made with the agency. The agency shall grant approval if the proposed transfer of property is for adequate consideration and is a bona fide transaction.

(e) Period of ineligibility.

(1) If the agency determines that any individual has transferred real or personal property without the approval of the agency and without adequate consideration, or has transferred real or personal property to make that individual eligible for medical assistance, the agency shall determine the period of ineligibility for the individual. The equity of the property transferred in excess of \$500.00, less paid or incurred medical expenses for services rendered from the date of the property transfer to the beginning of the initial eligibility base period, shall be used in determining the individual's financial eligibility for medical assistance and in determining any additional spenddown amounts for the current eligibility base period.

(2) If any additional spenddown amounts are not met in total during the initial eligibility base period, the unmet portion of the spenddown shall be considered in determining the individual's financial eligibility for medical assistance and in determining any additional spenddown amounts for the subsequent eligibility base period. This process shall be repeated for subsequent eligibility base periods until any additional spenddown amounts have been met in total. The individual shall not be eligible for medical assistance until all additional spenddown amounts are met.

(3) The period of ineligibility due to the transfer of property for the purpose of making an applicant eligible for medical assistance shall not in any event exceed two years from the month of the transfer of the

property in question when the uncompensated value of the disposed resource is \$12,000.00 or less, or five years when the uncompensated value of the resource exceeds \$12,000.00. If there is evidence that a transfer was made for the purpose of making the individual eligible for assistance or without adequate consideration and later the property is reconveyed to the individual, or if there is an adjustment in the transfer through which the individual receives adequate consideration, the loss of the resource no longer exists. The individual shall, if otherwise qualified, be eligible for medical assistance. (Authorized by K.S.A. 1983 Supp. 39-708c; implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-6-57. Job search requirements. (a) Each recipient, unless exempted, shall be required to participate, if assigned, in an agency-approved job club or related activity. Any recipient may volunteer to participate in an agency-approved job club or related activity. If a recipient is not assigned to an agency-approved job club or related activity and does not qualify for an exemption under subsection (b), the recipient shall be required to furnish verifications of five attempts to obtain employment each month. A recipient shall not be required to spend more than 320 hours per year in job search activities.

(b) Exemptions. The persons listed below shall be exempt from the job search requirements:

(1) Any child who is under age 16 or attending school full-time. The definition of full-time is the same as for ADC eligibility;

(2) any person who is ill or injured. The illness or injury shall be of a nature which temporarily prevents entry into employment and shall be established by medical information from an official source;

(3) any person who is incapacitated. There shall be a medically determined physical or mental impairment which by itself, or in conjunction with age, prevents employment, and which is expected to continue at least 30 days. To be considered physically or mentally incapacitated under this provision, a person shall meet one of the following criteria:

(A) The incapacity shall be established by eligibility for OASDI or SSI benefits based on disability.

(B) The incapacity shall be established by a written or oral statement of a psychologist, optometrist or a person licensed by the board of healing arts, within the scope of that person's professional competence, or by a written, team-diagnostic evaluation from an agency, including the veteran's administration, vocational rehabilitation, or a mental health clinic. When an individual claims exempt status due to incapacity, but medical verification is needed to establish this, that individual shall be regarded as temporarily exempt for a period not to exceed 30 days while the person's status is being verified. If verification is not provided because of a legitimate delay in obtaining an examination by or a consultation with a medical practitioner, the temporary exemption period shall be extended for a period not to exceed 15 days;

(4) any person who is age 65 or over;

(5) any person who is too remote from potential employers. The criteria of remoteness shall be met when potential employers are located two miles or more from the person's home and when transportation is not available. If the person has transportation available, round trip travel time of more than two hours (exclusive of time required to transport a child to and from a child care facility) shall be defined as being too remote;

(6) any person whose presence is required at home because of a verified, medically determined condition of another member of the home whose condition does not permit self-care, and when the care is not available from another person in the home;

(7) any woman who is at least six months pregnant;

(8) any parent or other relative personally providing care for a child under six years of age with only brief and infrequent absences from the child, except when the absence is for the purpose of employment or an agency-approved, work-related activity;

(9) any parent or other caretaker of a child who is deprived for a reason other than the unemployment of a parent when another adult relative in the plan is actively seeking employment;

(10) for ADC-UP, any parent if the other parent is the principal wage earner and is actively seeking employment;

(11) any person who is employed full-time or any person who has a physical or mental impairment and who is working to that person's capacity. Full-time is determined as at least 30 hours per week, with gross earnings, or adjusted gross earnings for the self-employed, that are equal to or in excess of \$100.00 per week;

(12) any person who is attending high school full-time;

(13) any person who is participating in vocational rehabilitation program training;

(14) any person for whom searching for employment is inconsistent with home responsibilities. When a person who has responsibility for care and supervision of children states that the person cannot meet the requirement because of home responsibilities, the agency shall consider the effect of searching for employment on necessary care and supervision of the children. This exemption shall not apply if it is established that adequate and satisfactory plans can be developed for providing care and supervision of the children during periods of absence from the home; and

(15) any person who is residing in a licensed or certified alcohol and drug abuse facility.

(c) Penalty. A first-time failure of a nonexempt ADC person to meet the job search requirement, without good cause, shall render the individual ineligible for assistance for three months and a subsequent failure shall result in ineligibility for six months. Failure of the principal wage earner in ADC-UP to meet the job search requirement without good cause shall render the individual, and all persons for whom the person is legally responsible, ineligible for three months and a

(continued)

subsequent failure shall result in ineligibility for six months. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 29, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended May 1, 1985.)

30-6-58. Potential employment. (a) Each applicant or recipient shall obtain and maintain employment opportunities. Any nonexempt applicant or recipient shall be ineligible for medical assistance if that individual has:

(1) Without good cause, refused a bona fide referral for, or offer of, employment;

(2) without good cause, terminated employment; or

(3) been terminated from employment for good cause. This provision shall be extended to the month immediately preceding the month of application, or if applicable, to the month immediately preceding any month in which prior eligibility is being established.

(b) Good cause. An individual shall be deemed to have good cause for refusal or termination of employment if one of the criteria listed below has been met:

(1) There was no bona fide referral for, or offer of, employment;

(2) the person was not physically able to perform the work referred or offered;

(3) the person was incapable of performing the work referred or offered;

(4) the work was so dangerous or hazardous according to OSHA standards as to make the refusal or termination a reasonable one;

(5) the payment offered was less than the applicable minimum wage; or

(6) work expenses related to the job were in excess of gross income.

(c) Exemption. Persons who are exempted from the job search requirement shall be exempt from this regulation.

(d) Penalty. If the applicant or recipient is the principal wage earner in ADC-UP, the individual, and all persons for whom the individual is legally responsible, shall be ineligible for medical assistance. In all other situations, the penalty of ineligibility shall apply only to the individual.

(e) Penalty period. A first-time penalty shall result in ineligibility for three months and a subsequent penalty shall result in ineligibility for six months. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-6-65. Automatic eligibles. To be automatically eligible for medical assistance, each person shall be:

(a) Legally entitled to and receiving SSI benefits and shall meet the general eligibility requirements of residence;

(b) legally entitled to and receiving state (Kansas) supplemental payments related to SSI;

(c) determined by SSA to retain recipient status, although not currently receiving an SSI benefit;

(d) receiving public assistance (excepting emergency assistance) pursuant to article 4 of this chapter;

(e) not receiving public assistance for one of the following reasons:

(1) The person is eligible for less than \$10.00;

(2) the amount of recovery of an overpayment is greater than the budget deficit; or

(3) the person is eligible using prospective budgeting, but ineligible due to retrospective accounting of income;

(f) included in the assistance plan of a family which was receiving ADC, ADC-FC, or APW in at least three of the six months immediately preceding the month in which the family became ineligible for ADC, ADC-FC, or APW and which became ineligible solely because of increased earned income or increased hours of employment. Automatic eligibility for the medical assistance program shall continue for the four months immediately subsequent to the last month in which the family was eligible (legally entitled) to receive ADC, ADC-FC, or APW as long as a family member is employed and the family and the person remains ineligible for ADC, ADC-FC, or APW solely because of increased earned income or increased hours of employment. The receipt of an extra pay check due to an additional pay period within a calendar month shall not constitute an increase in earnings;

(g) included in the assistance plan of a family which was receiving ADC, ADC-FC, or APW in at least three of the six months immediately preceding the month in which the family became ineligible for ADC, ADC-FC, or APW as a result (in whole or in part) of collection or increased collection of support. Automatic eligibility for the medical assistance program shall continue for the four months immediately subsequent to the last month in which the family was eligible (legally entitled) to receive ADC, ADC-FC, or APW as long as the family remains ineligible for ADC, ADC-FC, or APW due to such collection or increased collection of support;

(h) mandated to receive inpatient treatment for tuberculosis;

(i) one who is not a public assistance recipient but is receiving maintenance payments from youth services;

(j) included in the assistance plan of a family which became ineligible for ADC, ADC-FC, or APW solely because of the termination of the earned income disregards as provided in K.A.R. 30-4-111(e). Automatic eligibility for the medical assistance program shall continue for the nine months immediately subsequent to the last month in which the family was eligible (legally entitled) to receive ADC, ADC-FC, or APW; or

(k) a non-ADC eligible child born on or after October 1, 1983 who is under five years of age and who meets the ADC income and resource requirements pursuant to article 4 of this chapter. (Authorized by

and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985.)

30-6-74. Persons whose needs are to be considered with the needs of the ADC child. The needs of the parents and all siblings who meet the criteria contained in K.A.R. 30-6-72 and 30-6-73, excluding step-siblings and SSI recipients, shall be included in determining the needs of the ADC child if the parents or siblings are living with the ADC child. An otherwise eligible caretaker relative other than a parent who is living with an eligible child shall not be excluded from participation in the medical assistance program on the basis that the individual is not incapacitated, or solely because the individual has a spouse. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-6-79. Children under age five determined eligible. Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50 and the specific eligibility requirements set forth below to be eligible for medical assistance related to children under age five. (a) A child shall be born on or after October 1, 1983 and shall be under five years of age.

(b) A child shall not be eligible for any other medical assistance program with federal financial participation (FFP). (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective, T-85-36, Oct. 15, 1984; effective May 1, 1985.)

30-6-103. Determined eligibles; protected income levels. (a) Independent living.

(1) The protected income level for persons in independent living arrangements shall be based on the total number of persons in the assistance plan and the legally responsible persons in the family group who are not included in the plan.

(2) The protected income levels for independent living shall also be used when any applicant or recipient:

(A) enters a medicaid-approved facility;

(B) is absent from the home for medical care for a period not to exceed three months to allow for maintaining their independent living arrangements; or

(C) is in the home- and community-based services program.

(3) The following table shall be used to determine the protected income level for persons in independent living.

PERSONS IN INDEPENDENT LIVING
(Per Month)

1	2	3	4
\$325.00	\$425.00	\$435.00	\$445.00

The protected income level for additional persons shall be the sum of the basic standard for a like public

assistance family plus the maximum state shelter standard, except that the protected income level shall not be less than \$445.00.

(4) For any child in foster family care, the protected income level shall equal the foster family care rate pursuant to K.A.R. 30-4-102.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be \$25.00 except as noted in paragraph (2) of subsection (a).

(c) Specialized living arrangements. The protected income level for persons residing in approved, specialized living arrangements (including adult family homes, home- and community-based congregate care facilities, and child care facilities) shall be as established by the secretary. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-36, Dec. 21, 1983; amended May 1, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985.)

30-6-106. General rules for consideration of resources, including real property, personal property, and income. (a) Ownership for assistance purposes shall be determined by legal title. In the absence of legal title, ownership shall be determined by possession.

(b) Resources, to be real, shall be of a nature that the value can be defined and measured. Value of resources shall be established by the objective measurements set forth in paragraphs (1) and (2) below.

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value as determined above is not satisfactory to the applicant or recipient or the agency, an estimate or appraisal of its value shall be obtained from a disinterested real estate broker. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(2) Personal property. The market value of personal property shall be initially determined by a reputable trade publication. If a publication is not available, or if there is a difference of opinion regarding the value of the property between the agency and the individual, an estimate from a reputable dealer shall be used.

(c) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available.

(d) The resource value of property shall be that of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly-owned real property and the full value of jointly-owned personal property shall be considered available to the applicant or recipient.

(e) Resources of all persons in the assistance plan shall be considered.

(f) The combined resources of husband and wife, if

(continued)

they are living together, shall be considered in determining eligibility of either or both for the medical assistance program, unless otherwise prohibited by law. A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of either the husband or the wife for education or training, working, securing medical treatment or visiting shall not be considered to interrupt the couple's living together. A husband and wife shall not be considered as living together when they are physically separated and not maintaining a common life, or when one or both enter into a care situation, whether or not the facility is medicaid approved. Despite the above provision, if both spouses are eligible and are applicants or recipients and one or both enter a care situation, their resources shall be considered to be available to each other for the first six months following the month of entry into the care situation.

(g) The resources of an ineligible parent, the income of a stepparent, or the income of a parent of a minor parent shall be considered in determining the eligibility of a minor child for the medical assistance program if the individual and child are living together.

(h) When any individual in the household, other than a stepparent or a parent of a minor parent, who does not have the responsibility to support a person in the plan voluntarily and regularly contributes cash to the recipient toward household expenses (including maintenance costs) only that amount over that person's pro rata share of the protected income level for the household shall be counted as income in the assistance plan.

(i) Despite subsections (f), (g), and (h) above, the resources of an SSI beneficiary shall not be considered in the determination of eligibility for medical assistance of any other person.

(j) The resources of an alien sponsor shall be considered in determining eligibility for the alien as prescribed by the secretary of health and human services and as approved by the secretary of social and rehabilitation services. "Sponsor" shall include a public or private agency or organization.

(k) The conversion of real and personal property from one form to another shall not be considered as income to the applicant or recipient except for the proceeds from a contract for the sale of property.

(l) Income shall not be considered both as income and as property in the same month. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-6-107. Property exemption. Each assistance family group may own otherwise nonexempt real or personal property with an aggregate resource value not in excess of \$1,600.00 for one person and \$2,400.00 for two or more persons. (a) For non-SSI, ownership of property with a resource value in excess of the amounts above shall render the assistance family group ineligible for medical assistance. However, if

there is ineligibility due to excess real property, assistance shall be provided for a period of up to nine months if the applicant or recipient is making a bona fide and documented effort to dispose of the property.

(b) For SSI, ownership of property with a resource value in excess of the amounts above shall render the assistance family group ineligible for medical assistance unless the applicant or recipient is making a bona fide and documented effort to dispose of the excess property at a reasonable market value. Assistance under this provision shall not exceed nine months. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-33, Dec. 19, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985.)

30-6-108. Real property. (a) Definitions.

(1) "Home" means the house or shelter in which the applicant or recipient is living or from which the applicant or recipient is temporarily absent, the tract of land upon which the house and other improvements essential to the use or enjoyment of the home are located, and contiguous real property. Tracts of land are contiguous if lying side by side, except for streets, alleys, or other easements. Pieces of property that touch only at the corners shall not be considered to be contiguous. For non-SSI, the total acreage comprising a home shall not exceed 40 acres.

(2) For non-SSI, "other real property" means:

(A) real property other than a home;

(B) a home from which an applicant or recipient has been temporarily absent for at least 12 months; or

(C) a home to which an applicant or recipient will be unable to return.

(3) For SSI, "other real property" means:

(A) Real property other than a home;

(B) a home from which an applicant or recipient has been temporarily absent for at least 12 months; or

(C) a home to which an applicant or recipient will be unable to return.

For persons entering institutional living situations, the home shall become other real property after three months unless the absence is determined to be temporary or a spouse, dependent child, or another dependent relative who is aged, blind, or disabled, as provided in K.A.R. 30-6-85, remains in the home. Any absence exceeding six months shall not be considered temporary.

(b) Treatment of real property. The equity value of nonexempt real property shall be considered as a resource.

(c) Exempted real property. The equity value of the following classifications of real property shall be exempt:

(1) The home;

(2) any contract from the sale of property if the proceeds from the contract are considered as income; and

(3) for SSI, income-producing real property, if:

(A) The equity, combined with equity in any in-

come-producing, non-cash asset personal property exempted under K.A.R. 30-6-109, does not exceed \$6,000.00; and

(B) there is a net annual return of at least 6%. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 29, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-6-109. Personal property. (a) Definitions.

(1) "Personal property" means all property, excluding real property.

(2) "Cash assets" mean money, investments, cash surrender or loan values of life insurance policies, trust funds, and similar items on which a determinate amount of money can be realized.

(3) "Other personal property" means personal effects, household equipment and furnishings, home produce, livestock, equipment, vehicles, inventory, and similar items on which a determinate amount of money can be realized.

(b) Treatment of personal property. Personal property, unless exempted, shall be considered a resource.

(c) Exempted personal property. The resource value of the following classifications of personal property shall be exempt:

(1) Personal effects;

(2) household equipment and furnishings in use or only temporarily not in use;

(3) tools in use and necessary for the maintenance of house or garden;

(4) stock and inventory of self-employed persons that are reasonable and necessary in the production of goods and services;

(5) items for home consumption. These items shall consist of produce from a small garden consumed from day to day and any excess which may be canned or stored, and a small flock of fowl or livestock which are used to meet the food requirements of the family;

(6) cash assets which are traceable to income exempted as income and as a cash asset;

(7) for non-SSI, proceeds from the sale of a home if the proceeds are conserved for the purchase of a new home and the funds so conserved are expended or committed to be expended in the month received or in the following month;

(8) for non-SSI, income-producing property, including tools, equipment, machinery and livestock, if the annual adjusted gross income from its use is at least 40% of its gross market value. Adjusted gross income shall be determined by deducting, from the gross income, the expenses of cost of maintenance and cost of purchase;

(9) for non-SSI, one vehicle for each assistance family with a value in an amount not to exceed \$1,500.00;

(10) for non-SSI, burial plots and funeral agreements as established by the secretary of health and human services and as approved by the secretary of social and rehabilitation services;

(11) for SSI, insurance not exceeding \$1,500.00 face value, owned by any applicant or recipient family

member. Face value shall not include and shall not be increased by accumulated dividends, but shall be decreased by an outstanding policy loan. If the total face value of insurance policies owned by any one individual exceeds \$1,500.00, the total cash surrender value of those policies shall be a nonexempt resource;

(12) for SSI, one vehicle for each assistance family: Additional vehicles shall be exempt if shown to be essential for employment, for self-support, for medical treatment of a specific medical problem, or if specially equipped for use by a handicapped person;

(13) for SSI, any personal property of a blind or disabled person which is covered by an approved plan of self-support;

(14) for SSI, the equity value of income-producing personal property, other than cash assets, if:

(A) The equity value of income-producing personal property plus the equity value of income-producing real property does not exceed \$6,000; and

(B) a net annual return of at least 6% of the total equity is produced;

(15) for SSI, burial plots as established by the secretary of health and human services for the SSI program;

(16) for SSI, any burial contract as established by the secretary of health and human services for the SSI program and as approved by the secretary of social and rehabilitation services;

(17) for SSI, proceeds from the sale of a home if the proceeds are conserved for the purchase of a new home and the funds so conserved are expended or committed to be expended within six months of the sale; and

(18) for SSI, a retroactive social security payment for the six months following the month of receipt. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended, T-85-84, Dec. 19, 1984; amended May 1, 1985.)

30-6-110. Income. (a) Definitions.

(1) "Earned income" means income that is currently earned by any applicant or recipient, through the receipt of wages, salary, or profit, from activities the individual engages in as an employer or as an employee with responsibilities that necessitates continuing activity on the individual's part. Earned income shall include the amount of the earned income tax credit (EITC) that is received by an individual under section 3507(a) of the internal revenue code of 1954.

(2) "Unearned income" means all income not earned.

(b) Treatment of income. Income, except as specified below, shall be classified as income in the eligibility base period in which it is received; thereafter, it shall be classified as a cash asset.

(1) Prior eligibility. Income received in the three prior months shall be considered in the determination

(continued)

of prior eligibility except that self-employment income shall be averaged.

(2) Current eligibility. Income shall be considered prospectively to determine eligibility beginning with the month of application. All income received or reasonably expected to be received shall be considered in determining the countable income for the eligibility base period. Income from self-employment shall be considered and averaged. Intermittent income and lump sum payments shall be considered as income in the eligibility base period in which received or in the following base period when timely notice requirements necessitate such a delay. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-6-111. Applicable income. Applicable income means the amount of earned and unearned income which is compared with the appropriate protected income level to establish financial eligibility. (a) Non-SSI. Applicable earned income shall be determined as follows:

(1) Applicable earned income for persons included in the assistance plan shall equal gross earned income, or the adjusted gross earned income from self-employment, less the following items:

(A) Seventy-five dollars for each employed person;

(B) reasonable and not excessive expenses for child care or expenses for the care of an incapacitated person. The amount of dependent care to be deducted shall not exceed \$160.00 per person for full time employment or \$110.00 for part time employment. The dependent shall be included in the assistance plan before the deduction is allowed.

(2) Gross earned income, or the adjusted gross income from self-employment, shall not be reduced when the recipient:

(A) Has terminated employment or reduced earnings without good cause within 30 days preceding the month of eligibility; or

(B) has refused without good cause to accept a bona fide offer of employment within the 30 day period preceding the month of eligibility.

(3) For self-employed persons, adjusted gross earned income shall equal gross earned income less cost of the production of the income. Income-producing costs shall include only those expenses directly related to the actual production of income. These costs shall be verified. The following guidelines shall be used by the agency in calculating the cost of the production of the income:

(A) The intent of the medical assistance program is not to subsidize the payment of debts, the setting up of an individual in business, or a nonprofit activity, or to treat income on the basis of IRS policies.

(B) Any losses suffered from self-employment shall not be deducted from other income nor shall the net loss of a business be considered as an income-producing cost.

(C) If a business is being conducted from a non-

home location, business space and utilities may be considered as income-producing costs.

(D) If a business is being conducted from a person's own home, shelter and utility costs shall not be considered as income-producing costs unless it is verified that they are clearly distinguishable from the home operation.

(E) Any payments that increase the equity in equipment, vehicles, or other property shall not be considered as an income-producing cost.

(F) If equipment, vehicles, or other property is being purchased on an installment plan, the actual interest paid may be considered as an income-producing cost.

(G) Depreciation on equipment, vehicles, or other property shall not be considered as an income-producing cost.

(H) Insurance payments on equipment, vehicles, or other property shall not be considered as an income-producing cost unless it is verified that the insurance coverage is mandated by law or creditor. Only that portion of the insurance payment which is directly related to the business shall be allowed.

(I) Inventories and supplies that are reasonable and required for the business may be considered as income-producing costs.

(J) Wages and other mandated costs related to wages paid by the applicant or recipient may be considered as income-producing costs.

(4) Applicable earned and unearned income of a stepparent or the parent of a minor parent not included in the assistance plan. In determining eligibility and the amount of payment, the applicable income to be counted shall equal gross income less the following items:

(A) Seventy-five dollars, if employed full time;

(B) fifty dollars, if employed part time;

(C) the protected income level for the stepparent or the parent of a minor parent and dependents in the same household who are claimed by the stepparent or the parent of a minor parent for internal revenue service purposes and who are not in the assistance plan;

(D) amounts paid by the stepparent or the parent of a minor parent to persons not living in the same household and claimed as dependents for internal revenue service purposes; and

(E) alimony or child support payments to individuals not living in the household which are made by the stepparent or the parent of a minor parent.

(5) For a legally responsible person in the home who is not included in the assistance plan, all nonexempt unearned income and gross earnings, or adjusted gross earnings of the self-employed, shall be considered without the application of any income disregards, unless otherwise prohibited by law.

(6) Attribution of a sponsor's income to the alien. The income of an alien's sponsor shall be considered in determining eligibility and the amount of payment for the alien as prescribed by the secretary of health and human services.

(b) SSI. Applicable earned income shall be determined as follows:

(1) Wages. The applicable earned income shall be gross income less income disregards, if applicable.

(2) Self-employment. The applicable earned income shall be the adjusted gross income less income disregards, if applicable. The principles set forth in paragraph (a)(2) of this subsection in regard to adjusted gross income shall be applicable to calculations made pursuant to this paragraph.

(c) SSI income disregards.

(1) The following disregards shall apply to persons in independent living:

(A) The first \$20.00 of any nonexempt, unearned income; and

(B) an applicable earned income disregard calculated as follows: gross earned income minus [(any portion of the unearned income disregard that exceeds monthly earned income) plus (\$65.00 of monthly earned income) plus (½ times the remainder of the monthly earned income)] equals applicable earned income disregard.

(2) The following disregards shall apply to persons in long term care or in the home and community based service program and who are employed:

(A) Seventy-five dollars, if employed full time; and

(B) fifty dollars, if employed part time.

(d) Applicable unearned income of persons included in the assistance plan. All net, unearned income shall be applicable unless exempted. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

30-6-113. Income exempt as applicable income.

The following income shall be exempt as applicable income in the determination of eligibility: (a) Income in kind;

(b) foster care standard payments;

(c) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, any cash paid toward the shared shelter obligation by one family to the second family in the shared arrangement shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(d) assistance payments in the month received;

(e) home energy assistance furnished by a federal or state regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private, non-profit organization, by a supplier of home heating oil or gas, or by a municipal utility company which provides home energy, if the assistance provided is based on need;

(f) income of a child received from a youth program funded by the job training partnership act of 1982, except that earned income received under the program shall only be exempt for a period of six months;

(g) incentive payments received by renal dialysis patients;

(h) interest credited to a checking and saving accounts;

(i) irregular, occasional, or unpredictable gifts;

(j) for non-SSI, earned income of a recipient child if the child is under the age of 18 years and a full time student or if the child is a part time student and is not a full time employee;

(k) for non-SSI, earned income of a recipient child who is 18 years of age and a full time student;

(l) for non-SSI, work incentive payments in WIN;

(m) for non-SSI, tax refunds and rebates other than the earned income tax credits;

(n) for non-SSI, support payments covered by an assignment of support rights related to ADC and ADC-FC and forwarded to the agency. However, a support refund, disbursed by the agency to the client, shall not be exempt;

(o) for non-SSI, housing assistance from federal housing programs;

(p) for non-SSI, the first \$50.00 of child support or child support in combination with spousal support received in a month;

(q) for SSI, refund of taxes paid on real property or on food purchases;

(r) for SSI, ⅓ of child support payments received by an eligible child from an absent parent;

(s) for SSI, earnings of an unmarried child who is a student under 22 years of age up to \$400.00 a month. This exemption shall not exceed \$1,620.00 a year;

(t) for SSI, work expenses of a blind recipient;

(u) for SSI, impairment-related work expenses of a disabled recipient;

(v) for SSI, incentive allowances and reimbursements for individuals in training to provide support services under the jobs training partnership act (JTPA) program administered by state and local subdivisions;

(w) for SSI, the difference between the social security benefit entitlement in August, 1972, and the entitlement in September, 1972, for persons who were receiving cash assistance through the programs of AABD or ADC in September, 1972 and who were entitled to a social security benefit in September, 1972. This exemption shall apply only if the exemption establishes eligibility without a spenddown;

(x) for SSI, the amount of all social security cost of living adjustments for a person who was concurrently receiving SSI and social security after April 1977 and who would be eligible for SSI if the cost of living adjustments received since that person was last eligible for SSI were not considered as income;

(y) for SSI, income allocated and expended by an adult in an institutional living arrangement for the support of the adult's spouse or minor children. The income allocation shall not exceed the amount necessary to bring their income up to the protected income level appropriate to their living arrangement; and

(z) for SSI, SSI payments to which the person is not legally entitled that are subject to SSI recovery. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985.)

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30-6-140. Payment amounts. (a) Underpayments. Underpayments shall be promptly corrected subject to the limitation that the provider shall bill the agency for the expense within the mandatory six-month limitation period. When eligibility was incorrectly denied, and if it is documented that the provider will not return payment to the individual, the individual shall be reimbursed for the verified amounts paid to the provider, up to the proper rate for the service.

(b) Overpayments. Overpayments may be recovered by voluntary repayment, administrative recoupment, or legal action.

(1) The administrative recovery process may be utilized in all cases in which an overpayment has occurred, including automatic eligibles. The overpayment shall be deemed to be a spenddown requirement. The overpayment shall be considered in determining the person's spenddown requirement for the current eligibility base period. If the spenddown requirement is not met in total during the initial eligibility base period, the unmet portion of the spenddown shall be considered as a spenddown requirement for the subsequent eligibility base period. This process shall be repeated for subsequent eligibility base periods until the spenddown requirement has been met in total. The person shall not be eligible for assistance until the spenddown requirements are met.

(2) The agency shall not initiate administrative recoupment procedures pending the disposition of a welfare fraud referral to the welfare fraud unit.

(c) Welfare fraud penalty. Any person convicted of medical assistance program fraud, pursuant to section 1909 of the federal social security act, shall be ineligible to participate in the medical assistance program for a period of one year from the date of the conviction.

(d) Discontinuance of assistance. Any recipient's participation in the medical assistance program shall be discontinued when the recipient no longer meets one or more of the appropriate factors of eligibility. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c, 39-709; effective May 1, 1981; amended May 1, 1984; amended May 1, 1985.)

Article 10.—ADULT CARE HOME PROGRAM OF THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

30-10-1a. Adult care home program definitions. (a) "Inadequate care" means any act or failure to take action which potentially may be physically or emotionally harmful to a recipient.

(b) "Independent professional review and medical review of intermediate care and skilled nursing facilities" means a yearly, resident-oriented review of only medicaid/medikan recipients, conducted by a team from the agency consisting of a nurse, a social worker, and if necessary, a medical doctor, to determine whether those residents' needs are being met.

(c) "Intermediate care facility (ICF)" means a facility which has met state licensure standards and which provides health-related care and services, prescribed by a physician, to residents who require eight-hours a

day, seven days a week, licensed nursing supervision for ongoing observation, treatment, or care for long term illness, disease, or injury.

(d) "Intermediate care facility for the mentally retarded" means a facility which has met state licensure standards and which provides health-related care and services, prescribed by a physician, in conjunction with active treatment programming for persons who are mentally retarded and who have related conditions.

(e) "Intermediate care facility for mental health" means a facility which has met state licensure standards and which provides health-related care and services, prescribed by a physician, in conjunction with active treatment programming for recipients with a diagnosis of mental illness or behavior disorders.

(f) "Mental retardation" means subaverage general intellectual functioning which originates in the developmental period and which is associated with impairment in adaptive behavior.

(g) "Plan of care" means a document which states the need for care, estimated length of the program, the methodology to be used, and expected results.

(h) "Skilled nursing facility (SNF)" means a facility which has met state licensure standards and which provides 24-hours a day, seven days a week, licensed nursing supervision for continuous observation, assessment, and intervention for:

(1) A potentially life-threatening illness, disease, injury, or post operative care; and

(2) conditions which require services that are prescribed by a physician and that can be safely and effectively performed only by or under the direct supervision of a registered professional nurse.

(i) "Utilization review" means an every six-month review of documentation to determine if each recipient has a medical need which necessitates continued stay, if the current adult care home is the most appropriate to meet those needs, and if there is documentation (a plan of care) to support the determination.

(j) "Annual psychological evaluations or re-evaluations in intermediate care facilities for the mentally retarded" means a review of the previous pertinent psychological material to determine if it is consistent with the recipient's present status. The annual evaluation shall be completed within a month of the independent program plan or program planning conference.

(k) "Routine services and supplies" mean services and supplies provided in an adult care home except:

(1) Those services or supplies specifically defined as ancillary services in subsection (l);

(2) those services or supplies which are authorized by the agency on an individual basis for an exceptional need prior to provision of the services or supplies; or

(3) those services or supplies that the resident has to provide.

(l) "Ancillary services and other medically necessary services" means those special services or supplies for which charges are made in addition to routine services. These include:

(1) Reasonable transportation expenses necessary

to secure routine and non-emergency medical services. Prior authorization by the appropriate local agency office shall be required for non-emergency services. Emergency medical service shall not require prior authorization. However, adequate documentation of the emergency shall be required when requesting payment; and

(2) oxygen. The purchase of oxygen gas shall be reimbursed to the oxygen supplier through the social and rehabilitation services' fiscal agent or directly to the adult care home if an oxygen supplier is unavailable.

(m) "Reasonable and adequate reimbursement" means all necessary and proper costs, arising from arms length transactions, incurred in rendering the care and services in accordance with general accounting rules. Such costs are subject to limitations pursuant to K.A.R. 30-10-23a, 30-10-23b and 30-10-23c.

(n) "Costs related to patient care" means all necessary and proper costs, arising from arms length transactions in accordance with general accounting rules, which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Specific items of expense shall be limited pursuant to K.A.R. 30-10-23a, 30-10-23b, 30-10-23c, 30-10-24, 30-10-25a, 30-10-25b, 30-10-26, 30-10-27 and 30-10-28.

(o) "Costs not related to patient care" means costs which are not appropriate or necessary and proper in developing and maintaining the adult care home operation and activities. Such costs are not allowable in computing reimbursable costs.

(p) "Related parties" means a relationship between two or more parties in which one party has the ability to influence another party of the transaction to the extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests. Related parties includes parties related by family, business or financial association, and by common ownership or control. Transactions between related parties shall not be considered to have arisen through arms length negotiations.

(q) "Related to the adult care home" means that the facility, to a significant extent, is associated or affiliated with, has control of, or is controlled by, the organization furnishing the services, facilities, or supplies.

(r) "Common ownership" means that an individual or individuals possess 5% or more ownership or equity in the adult care home and the facility or organization serving the facility.

(s) "Control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(t) "Approved educational activities" means formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of patient care in an institution. These activities shall be licensed when required by state law.

(u) "Net cost of educational activities" means the cost of approved educational activities less any reimbursement from grants, tuition, and specific donations.

(v) "Cost finding" means the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(w) "Accrual basis of accounting" means that revenue of the facility is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(x) "Adequate cost and other accounting information" means that the data, including source documentation, is accurate, current and in sufficient detail to accomplish the purposes for which it is intended. Source documentation, including petty cash pay out memoranda and original invoices, shall be valid only if it originated at the time and near the place of the transaction. In order to provide the required cost data, financial and statistical records shall be maintained in a manner that is consistent from one period to another. This requirement shall not preclude a desirable change in accounting procedures when there is a compelling reason to effect a change of procedures.

(y) "Organization costs" means those costs directly incident to the creation of the corporation or other form of business. These costs are intangible assets in that they represent expenditures for rights and privileges which have value to the enterprise. The services inherent in organization costs extend over more than one accounting period and should be amortized over a period of 60 months from the date of incorporation.

(z) A "patient day" means that period of service rendered to a patient or resident between the census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any medicaid/medikan or non-medicaid/medikan resident who was not in the home. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-10-2. Standards for participation; skilled nursing facility. As a prerequisite for participation in the medicaid/medikan program as a provider of skilled nursing services, each adult care home shall: (a) Provide skilled nursing services;

(b) meet the requirements of 42 CFR 442, subpart D, effective October 1, 1981, which is adopted by reference, and 42 CFR 405, subpart K, effective October 1, 1981, which is adopted by reference;

(c) be certified for participation in the program by the Kansas department of health and environment or the federal department of health and human services pursuant to 42 CFR 442, subpart C, effective October 1, 1981, which is adopted by reference; and

(d) not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, E-74-43, Aug. 16, 1974; amended, E-74-63, Dec. 4, 1974; effective May 1, 1975; amended, E-76-34, July 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980;

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amended May 1, 1982; amended May 1, 1983; amended May 1, 1985.)

30-10-3. Standards for participation; intermediate care facility and intermediate care facility for mental health. As a prerequisite for participation in the medicaid/medikan program as a provider of intermediate care facility services or intermediate facility for mental health services, each adult care home shall: (a) Meet the requirements of 42 CFR 442, subparts E and F, effective October 1, 1981, which is adopted by reference, and 42 CFR 441, subpart C, effective October 1, 1981, which is adopted by reference;

(b) be certified for participation in the program by the Kansas department of health and environment pursuant to 42 CFR 442, subpart C, effective October 1, 1981, which is adopted by reference; and

(c) not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, E-74-43, Aug. 16, 1974; effective May 1, 1975; amended, E-76-34, July 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

30-10-4. Standards for participation; intermediate care facility for the mentally retarded or persons with related conditions. As a prerequisite for participation in the medicaid/medikan program as a provider of intermediate care facility services for the mentally retarded or persons with related conditions, each adult care home shall: (a) Meet the requirements of 42 CFR 442, subparts E and G, effective October 1, 1981, which is adopted by reference, and 42 CFR 435, subpart K, effective October 1, 1981, which is adopted by reference;

(b) be certified for participation in the program by the Kansas department of health and environment; and

(c) not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, E-74-43, Aug. 16, 1974; effective May 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1985.)

30-10-7. Certification and recertification by physicians. (a) Certification. At the time of admission to an adult care home or at the time any adult care home resident applies for medical assistance under the medicaid/medikan program, a physician shall certify that the services are required to be given on an inpatient basis. Services shall be furnished under a plan established by the physician before authorization of payment. Before reimbursement is approved, a screening team designated by medical programs shall review the physician's certification and shall certify that services in an adult care home are the most

appropriate services available for the individual. The certification of need shall become part of the individual's medical record. The date of certification shall be the date the case is approved for payment and the certification is signed.

(b) Recertification.

(1) Each adult care home shall be responsible for obtaining a physician's or physician extender's recertification as follows:

(A) For each recipient in skilled nursing facilities:

(i) On the 30th, 60th, and 90th days following admission; and

(ii) every 60 days thereafter;

(B) for each recipient in intermediate care facilities or intermediate care facilities for mental health:

(i) On the 60th day, 180th day, 12th month, 18th month, 24th month following admission; and

(ii) every 12 months thereafter; and

(C) for intermediate care facilities for the mentally retarded, at least once every year.

(2) The recertification shall be included in the recipient's medical record. Recertification statements may be entered on or included with forms, notes, or other records a physician or physician extender normally signs in caring for a recipient. The statement shall be authenticated by the actual date and signature of the physician or physician extender.

(c) If the appropriate professional refuses to certify or recertify because, in the professional's opinion, the recipient does not require skilled nursing care or intermediate care services on a continuing basis, the services shall not be covered. The reason for the refusal to certify or recertify shall be documented in the recipient's records. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, E-74-59, Oct. 24, 1974; effective May 1, 1975; amended May 1, 1976; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-28, Nov. 14, 1984; amended May 1, 1985.)

30-10-12. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, E-74-43, Aug. 16, 1974; effective, E-74-44, Aug. 28, 1974; effective May 1, 1975; amended, E-76-34, July 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-79-20, Aug. 17, 1978; amended May 1, 1979; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended, E-81-25, Aug. 27, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; revoked May 1, 1985.)

30-10-13. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective, E-74-44, Aug. 28, 1974; effective May 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-79-20, Aug. 17, 1978; amended May 1, 1979; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1,

1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended May 1, 1984; amended, T-85-34; Dec. 19, 1984; revoked May 1, 1985.)

30-10-14. Prospective reimbursement. Providers participating in the medicaid/medikan program shall be reimbursed for long term care services through rates that are reasonable and adequate to meet the patient-related costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-15a. Reimbursement. Payment for services. (a) Providers with a current signed provider agreement shall be paid a per diem rate for services furnished to eligible beneficiaries. Payment shall be for the type of medical or health care required by the beneficiary as determined by:

- (1) The attending physician's certification upon admission;
- (2) the utilization review committee, as provided for in K.A.R. 30-10-9; or
- (3) independent professional review teams, as provided for in K.A.R. 30-10-8.

However, payment for services shall not exceed the type of care the provider is certified to provide under the medicaid/medikan program. The agency shall have the right to verify the type of care required by the beneficiary prior to and after payment. No payment shall be made for care or services determined to be the result of unnecessary utilization.

(b) Payment for routine services and supplies, pursuant to K.A.R. 30-10-1a, shall be included in the per diem reimbursement and such services and supplies shall not be otherwise billed or reimbursed.

(c) Payment for ancillary services, as defined in K.A.R. 30-10-1a, shall be billed separately when the services or supplies are required.

(d) Payment for a work activity program in an ICF-MR facility shall be included in the per diem reimbursement.

(e) Payment shall be limited to providers who accept, as payment in full, the amount paid in accordance with the fee structure established by the medicaid/medikan program. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-15b. Financial data. (a) General. The per diem rate or rates for providers participating in the medicaid/medikan program shall be based on an audit or desk review of the costs reported to provide patient care in each facility. The basis for conducting such audits or reviews shall be the financial and statistical report for adult care homes. Providers shall maintain sufficient financial records and statistical data for proper determination of reasonable and adequate rates. Standardized definitions, accounting, statistics, and reporting practices which are widely accepted in the adult care home and related fields shall be fol-

lowed. Changes in these practices and systems shall not be required in order to determine reasonable and adequate rates.

(b) Pursuant to K.A.R. 30-10-17, cost reports shall be required from providers on an annual basis.

(c) Adequate cost data and cost finding. Providers shall provide adequate cost data on the cost report. This cost data shall be in accordance with general accounting rules, shall be based on the accrual basis of accounting and may include a current use value of the provider's fixed assets used in patient care.

(d) Recordkeeping requirements.

(1) Each provider shall furnish any information to the agency that may be necessary:

(A) To assure proper payment by the program pursuant to paragraph (2);

(B) to substantiate claims for program payments; and

(C) to complete determinations of program overpayments.

(2) Each provider shall permit the agency to examine any records and documents that are necessary to ascertain information pertinent to the determination of the proper amount of program payments due. These records shall include matters of the adult care home ownership, organization, and operation, including documentation as to whether transactions occurred between related parties; fiscal, medical, and other recordkeeping systems; federal and state income tax returns and all supporting documents; documentation of asset acquisition, lease, sale or other action; franchise or management arrangements; matters pertaining to costs of operation; amounts of income received; by source and purpose; and a statement of changes in financial position. Other records and documents shall be made available as necessary.

(3) Each provider, when requested, shall furnish the agency with copies of patient service charge schedules and changes thereto as they are put into effect. The agency shall evaluate the charge schedules to determine the extent to which they may be used for determining program payment.

(4) Reduction or suspension of program payments to a provider. If the agency determines that any provider does not maintain or no longer maintains adequate records for the determination of reasonable and adequate per diem rates under the program, payments to that provider may be reduced to the lowest rate or rates in the state or the provider may be suspended from the medicaid/medikan program.

(A) Reduction of payments shall continue until the agency is assured that adequate records are maintained or 60 days from date of notification of the reduction to the lowest rate or rates, whichever comes first.

(B) Suspension of payment. Failure to provide adequate records within the 60 day period following the rate reduction shall result in suspension from the program and recoupment of payments in excess of the lowest rate or rates for the period beginning with the effective date of the first rate computed from the cost report that was subject to audit and ending with the

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date of suspension from the program. Any liability resulting from this action shall be paid in full before the suspension can be lifted for either the old provider or a new provider operating the facility involved. Any unpaid balance shall be recovered from other providers that are related to the suspended provider in a manner that does not jeopardize the care of the recipients in the respective facilities.

(C) Evidence of financial insolvency shall cause any waiting periods under this subsection to be suspended. In such a case, the secretary of the agency may take immediate and appropriate action to protect the care and rights of the residents of any facility involved in this or any other action of non-compliance.

(D) Before suspending payment to the provider, the agency shall send written notice to the provider of its intent to suspend payments. The notice shall explain the basis for the agency's determination with respect to the provider's records and shall identify the provider's recordkeeping deficiencies. In the event of reduction to the lowest rate or rates in the state, settlement of any overpayments shall be handled pursuant to subsection (f) of K.A.R. 30-10-18.

(5) All records of each provider that are used in support of costs, charges and payments for services and supplies shall be subject to inspection and audit by the agency, the United States department of health and human services, and the United States general accounting office. All financial and statistical records to support cost reports shall be retained for five years from the date of filing the cost report with the agency. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-16. Reserved.

30-10-17. Cost reports. (a) Historical cost data.

(1) For cost reporting purposes, each provider shall submit periodic reports which cover a consecutive 12-month period of its operations. The 12-month period shall coincide with the fiscal year used for federal income tax or other financial reporting purposes. The same 12-month period shall be used by all providers related to each other through common ownership, common interests or common control. If the operator of a facility under a management agreement has not signed a provider agreement, the operator shall not be considered a provider for the purpose of this paragraph.

(2) If a provider has more than one facility, and if at least one of those facilities is reimbursed on the basis of projected cost data, the provider shall file an interim cost report for each facility using projected cost data at the end of the provider's designated fiscal year for all other related facilities. The method used to allocate central office costs to those facilities filing projected cost reports shall be consistent with the method used to allocate such costs to those facilities filing historical cost reports.

(b) Amended cost reports. Amended cost reports to revise cost report information which has been previously submitted by a provider may be permitted or required as determined by the agency.

(c) Due dates of cost reports. Cost reports shall be

submitted to the agency no later than the close of business on the last day of the third month following the close of the period covered by the report.

(d) Extension of time for filing. A 30-day extension of the due date of a cost report may, for good cause, be granted by the agency. The request shall be in writing prior to the due date of the cost report.

(e) Penalty for late filing. Except as provided in subsection (d), providers filing cost reports after the due date shall be subject to the following penalties.

(1) If the provider's cost report is received on or before the 10th calendar day after the due date, the provider shall not be subject to further penalty.

(2) If the provider's cost report is received after the 10th calendar day following the due date, the provider's current rate shall be reduced by 10%, effective with the first day of the month following the due date.

(3) Failure to file a cost report by the last day of the month following the due date shall cause the provider's current rate to be reduced to the lowest rate in the state for the level of care in which the provider participates.

(4) The adjusted rate or rates shall be in effect until the effective date of the rate from the new cost report.

(5) Failure to submit cost information within one year after the end of the provider's fiscal year shall be cause for termination from the medicaid/medikan program.

(f) Projected cost data.

(1) Projected cost reports for providers with only one facility. If a provider is required to submit a projected cost report under subsection (c), (d), or (e)(2) of K.A.R. 30-10-18, that provider's rate or rates shall be based on a proposed budget with costs projected on a line item basis for the provider's most immediate future 12-month period. The projected cost report shall be reviewed for reasonableness and appropriateness by the agency before the rate or rates are established for the projection period, and again upon receipt of the provider's historical cost report for the time period covered by the projected cost report. Those projected cost report items which are determined to be unreasonable or which contain deviations from the historical cost report shall, upon audit, be handled in accordance with subsection (f) of K.A.R. 30-10-18.

(2) The projection period of a provider filing a projected cost report in accordance with paragraph (2) of subsection (e) of K.A.R. 30-10-18 shall be extended to the last day of the 12th month following the date the new construction is certified for use by the appropriate agency. The projected and historical cost reports for this projection period shall be handled in accordance with paragraph (1) of this subsection. If the projection period prior to the certification of the new construction exceeds three months, the provider shall be required to file a historical cost report for this period for the purpose of retroactive settlement in accordance with paragraph (1) of this subsection.

(3) Projected cost reports for providers with more than one facility. Each provider required to file a projected cost report in accordance with this subsection and who operates more than one facility, either

in-state or out-of-state, shall file an interim historical cost report at the end of the provider's fiscal year that ends during the projection period. The method of allocating central office costs to those facilities on projection shall be consistent with the method used to allocate such costs to those facilities in the chain who are filing historical cost reports.

(4) Penalty for late filing of historical cost report for period covered by projected cost report. Failure to file a historical cost report within three months after the end of the time period covered by a projected cost report shall result in an automatic rate adjustment for the projected time period in accordance with subsection (e) of this regulation. Any overpayment or underpayment shall be handled pursuant to subsection (f) of K.A.R. 30-10-18. Nothing in this paragraph shall relieve the provider from the requirement to submit historical cost reports on a timely basis consistent with the provider's fiscal year.

(5) An interim settlement, based on a desk review of the historical cost report for the projection period, shall be made within 60 days of the effective date of the new rate determined from such cost report. The interim settlement shall not exceed 90% of the anticipated overpayment or underpayment. The final settlement shall be based on a field audit of the historical cost report.

(g) Balance sheet requirement. A balance sheet prepared in accordance with cost report instructions shall be required as part of the cost report forms for each provider. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-18. Rates of reimbursement. (a) Rates for existing adult care homes.

(1) The agency shall, at least annually, on the basis of the cost information supplied by the provider and retained for cost auditing, determine per diem rates. The agency shall compare the cost information for each provider with other providers that are similar in size, scope of service and other relevant factors to determine the allowable per diem cost.

(2) Per diem rates shall be limited by percentile maximums.

(3) To establish a per diem rate for each provider, the agency shall add to the allowable per diem cost a factor for historical and estimated inflation and efficiency. After the rate is established for a provider, the agency shall provide a detailed listing of the computation of that rate to the provider. The effective date of the rate for existing facilities shall be in accordance with subsection (a) of K.A.R. 30-10-19.

(b) Comparable service rate limitations.

(1) Skilled and intermediate care. The per diem rate for skilled nursing care or intermediate care shall not exceed the rate or rates charged to patients or residents not under the medicaid/medikan program for the same level of care in the adult care home and for the same types of services.

(2) Intermediate care facilities for the mentally retarded and persons with related conditions: The per diem rate for intermediate care for the mentally retarded and persons with related conditions shall not

exceed the rate or rates charged to patients or residents not under the medicaid/medikan program for the same level of care in the adult care home and for the same types of services.

(3) Intermediate care facilities for mental health. The per diem rate for intermediate care for mental health shall not exceed the rate or rates charged to patients or residents not under the medicaid/medikan program for the same level of care in the adult care home and for the same types of services.

(c) Rates for new construction or bed additions. The per diem rate or rates for newly constructed adult care homes and for adult care homes with bed additions of more than 25% shall be based on a projected cost report filed within 90 days after the opening of the newly constructed facility and submitted in accordance with subsection (f) of K.A.R. 30-10-17. A projected cost report shall be filed including only the costs of the new construction which are normally reported in the property cost center, if the number of beds increases by 10% but less than 25%. Limitations established for existing facilities providing the same level of care shall apply to the new facility. The effective date of the per diem rate for new providers shall be in accordance with subsection (b) of K.A.R. 30-10-19.

(d) Rates for existing facilities which have received certification for a different level of care.

(1) The per diem rate for skilled care providers who were participants in the program as an intermediate care facility shall be computed as follows:

(A) If the remaining portion of the provider's fiscal year is equal to or greater than six months, the provider shall file a projected cost report for the remaining period within 30 days of the date of change in the certification level. This projected cost report shall be used to compute the skilled care rate only for the period from the change in certification level to the effective date of a new rate based on the historical cost report filed for the provider's current fiscal year. The intermediate care rate shall continue to be based on the provider's cost report for the prior fiscal year.

(B) (i) If the remaining portion of the provider's current fiscal year is less than six months, the provider shall file a projected cost report which coincides with the provider's next full fiscal year. This projected cost report shall be used to compute only the skilled care rate.

(ii) The projected skilled care rate shall be in effect from the effective date of the new rate, as determined under subsection (a) of K.A.R. 30-10-19, to the effective date of the rate from the historical cost report filed for the projection period. The interim rate for skilled care for the period from the change in certification level to the effective date of the rate based on the projected cost report shall be equal to the current hospital swing bed rate for skilled care.

(iii) The provider shall also be required to file a historical cost report at the end of the provider's current fiscal year for the purpose of computing an intermediate care rate in accordance with subsection (a) of K.A.R. 30-10-17 and subsection (a) of K.A.R. 30-10-19.

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(2) The per diem rate or rates for intermediate care providers that were participants in the program as a skilled nursing facility shall be determined by using the existing cost report for the facility and applying the limitation applied to the intermediate care facilities.

(3) All per diem rates computed in accordance with this subsection shall be limited by applicable limitations for skilled and intermediate care facilities.

(e) Change of ownership.

(1) When a new owner or provider makes no change in the facility, number of beds or operations, the interim payment rate for the first 12 months of operation shall be based on the historical cost data of the previous owner or provider. The new owner or provider shall file a historical cost report within 90 days after the end of the 12-month period and again within 90 days after the end of the provider's fiscal year established for tax or accounting purposes. The rates determined from these cost reports shall be effective in accordance with subsection (c) of K.A.R. 30-10-19.

(2) The new owner shall file a projected cost report when:

(A) The new owner increases the number of beds by more than 25%;

(B) the new owner increases the number of beds by more than 10%, but less than 25%. The projected cost report shall be restricted to the construction costs normally included in the property cost center;

(C) the new owner makes capital improvements to the facility that are in excess of \$100,000.00 and that benefit patient care, are required for recertification of the facility or that will substantially reduce operating costs; or

(D) the care of the residents may be at risk because the per diem rate of the previous provider will jeopardize the ability of the new provider to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. The provisions of this subparagraph shall not apply when capital improvements, applicable to all providers, are required by new state or federal regulations.

(f) (1) When per diem rates, whether based upon projected or historical cost data, are audited by the agency and are found to contain errors, a direct cash settlement shall be required between the agency and the provider for the amount of money overpaid or underpaid.

(2) Per diem rates for providers may be increased or decreased as a result of a desk review or field audit on the provider's cost reports. Written notice of these per diem rate changes and of the audit findings due to a field audit shall be sent to the provider. Retroactive adjustments of rates paid during any projection period shall apply to the same period of time covered by the projected rates, except that no adjustment shall be made for the period of time that the lowest rate, or other penalty-reduced rate, is in effect.

(g) Out-of-state providers. Rates for out-of-state providers certified to participate in the Kansas medicare/medicaid program shall be the rate or rates reimbursed by the state of location, subject to the rate limitations of the Kansas medicare/medicaid program.

(Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-19. Rates; effective dates. (a) Effective date of per diem rates for existing facilities. The effective date of a new rate that is based on information and data in the adult care home cost report shall be the first day of the second calendar month following the month the report is received by the agency, if the cost report is complete. If a request must be made of the provider for additional information, the cost report shall not be considered complete until the requested information is received.

(b) Effective date of the per diem rate for a new provider. The effective date of the per diem rate for a new provider, as set forth in subsection (c) of K.A.R. 30-10-18, shall be the date of certification by the department of health and environment pursuant to 42 CFR section 442.13, effective October 1, 1981, which is adopted by reference. The interim rate determined from the projected cost report filed by the provider shall be established with the fiscal agent by the first day of the second month after the receipt of a complete and workable cost report. The effective date of the final rate, determined after audit of the historical cost report filed for the projection period, shall be the date of certification by the department of health and environment.

(c) Effective date of the per diem rate for a new provider resulting from a change in ownership.

(1) The effective date of the per diem rate for a new provider, as set forth in paragraph (e)(2) of K.A.R. 30-10-18, shall be the date of certification by the department of health and environment. The effective date of the final rate, determined after audit of the historical cost report filed for the projection period, shall be the date of certification by the department of health and environment.

(2) The effective date of the projected and final rate for a new provider, as set forth in paragraph (e)(2) of K.A.R. 30-10-18, shall be the date the new construction is certified, if applicable. The effective date of the rate for the period prior to the certification of the new beds or construction shall be the date of certification by the department of health and environment. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-20. Payment of claims. (a) Payment to participating providers. Each participating provider shall be paid, at least monthly, a per diem rate for adult care home services, excluding patient liability, rendered to eligible beneficiaries provided that:

(1) The agency is billed on the turn-around document furnished by the contractor serving as the fiscal agent for the medicare/medicaid program;

(2) the turn-around document is verified by the administrator of the facility or a designated key staff member; and

(3) the claim is filed no more than six months after the time the services were rendered pursuant to K.S.A. 39-708a, and any amendments thereto.

(b) Patient's liability. The patient's liability for services shall be the amount determined by the local

agency office in which a medicaid/medikan recipient or the recipient's agent applies for care. The recipient's liability begins on the first day of each month and shall be applied in full prior to any liability incurred by the medicaid/medikan program. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-21. Reserve days. (a) Payment shall be available for days for which it is necessary to reserve a bed in a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, or intermediate care facility for mental health when the resident is absent for:

- (1) Admission to a hospital for acute conditions;
- (2) a temporary absence for therapeutically indicated home visits with relatives and friends; or
- (3) a temporary absence to participate in state-approved therapeutic or rehabilitative programs.

(b) The following conditions shall be met in any instance in which a bed is reserved during a temporary absence in a hospital for acute conditions:

(1) Payment shall be available only for the days during which there is a likelihood that the reserved bed would otherwise be required for occupancy by some other resident.

(2) The local agency office shall have approved the recipient's hospitalization for an acute condition prior to each period of hospitalization.

(3) The periods of hospitalization for acute conditions shall not exceed 10 days per any single hospital stay, or for residents from an intermediate care facility for mental health, 21 days per state mental institution admission.

(4) The recipient shall intend to return to the same facility after hospitalization.

(5) The hospital shall provide a discharge plan for the recipient.

(c) The recipient's plan of care shall provide for the non-hospital related absence.

(1) Payment for non-hospital related reserve days for eligible recipients residing in intermediate care facilities for the mentally retarded or for mental health shall not exceed 21 days per calendar year, including travel. If additional days are required to obtain or retain employment, participate in a job readiness training program or alleviate a severe hardship, the requesting party shall send the request for additional days and supporting documentation to the fiscal agent for approval or disapproval.

(2) Payment for non-hospital related reserve days for all eligible recipients residing in intermediate care facilities or skilled nursing facilities shall not exceed 12 days per calendar year, including travel. If additional days are required to alleviate a severe hardship, the requesting party shall send a request for additional days and supporting documentation to the fiscal agent for approval or disapproval.

(d) These regulations shall not prohibit any recipient from leaving a facility if the recipient so desires.

(e) Payments made for unauthorized reserve days shall be reclaimed by the agency.

(f) Prior to any routine absence by recipients of the

medicaid/medikan program, the provider shall notify the local agency office. In case of emergency admission to a hospital, notification shall be submitted to the local agency office no later than five days following admission.

(g) No payment for reserve days shall be made until written authorization has been given by the local agency office to the provider. A copy of the authorization shall be attached to the turn-around document. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-22. Skilled utilization review services. (a) The agency shall reimburse each provider for the reasonable costs of skilled utilization reviews. Skilled utilization reviews shall be performed by at least a physician and a registered nurse.

(1) Services of the physician or physicians shall be reimbursed at a cost not to exceed rates set by the secretary. The actual travel distance for a round trip between the physician's office and the adult care home may be claimed at the current state mileage rate. Other travel expenses shall not be authorized.

(2) Services of the licensed registered nurse or nurses and other professionals shall be reimbursed at a cost not to exceed rates set by the secretary. The actual travel distance for a round trip between the residence of the nurse or professional and the adult care home may be claimed at the current state mileage rate. Other travel expenses shall not be authorized.

(b) Billing for the services shall be on the billing form for skilled utilization review committee services and shall be submitted to the agency as soon after the review as possible.

(c) Adequate records to substantiate that the submitted cost is reasonable shall be maintained.

(d) When the skilled utilization review committee activities apply to more than the medicaid/medikan program, the agency shall pay only the portion of cost applicable to the medicaid/medikan program.

(e) When skilled utilization review services are performed by a medical society, hospital, or professional standards review organization, or by a group for more than one facility, an approved plan and agreement with the agency shall be in effect before reimbursement can occur. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-23a. Non-reimbursable costs. (a) Costs not related to patient care, as set forth in subsection (o) of K.A.R. 30-10-1a, shall not be allowable in computing reimbursable costs. In addition, the following expenses or costs shall not be allowed:

(1) Fees paid to non-working directors and the salaries of non-working officers;

(2) bad debts;

(3) donations and contributions;

(4) fund-raising expenses;

(5) taxes, including:

(A) Federal income and excess profit taxes, including any interest or penalties paid thereon;

(B) state or local income and excess profits taxes;

(C) taxes from which exemptions are available to the provider;

(continued)

(D) taxes on property which is not used in providing covered services;

(E) taxes levied against any patient or resident and collected and remitted by the provider;

(F) self-employment taxes applicable to individual proprietors, partners, or members of a joint venture; and

(G) interest or penalties paid on federal and state payroll taxes;

(6) insurance premiums on lives of officers and owners;

(7) the imputed value of services rendered by non-paid workers and volunteers;

(8) utilization review; and

(9) costs of social, fraternal, and other organizations which concern themselves with activities unrelated to their members' professional or business activities.

(b) The following contract cost limitations under the work activity program shall not be allowed:

(1) Recipient salaries and FICA match;

(2) all material costs, including sub-contracts;

(3) all costs related to securing contracts; and

(4) 50% of the cost of the following items:

(A) Costs of equipment lease;

(B) maintenance of equipment;

(C) purchase of small tools under \$100.00; and

(D) depreciation of production equipment. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-23b. Costs allowed with limitations. (a) The following expenses or costs shall be allowed with limitations:

(1) Loan acquisition fees and standby fees shall be amortized over the life of the related loan if the loan is related to patient care.

(2) Taxes specified below shall be allowed, but only as amortized costs. These taxes are:

(A) Taxes in connection with financing, re-financing, or refunding operations; and

(B) special assessments on land which represent capital improvements shall be capitalized and depreciated over the estimated useful life of those improvements.

(3) Purchase discounts, allowances and refunds shall be deducted from the cost of the items purchased. Similarly, refunds of prior year expense payments shall be deducted from the related expenses.

(4) Any start-up costs of a provider with a newly constructed facility that are incurred prior to the opening of the facility and that are related to development of the ability to care for patients shall be recognized if they are:

(A) Amortized over a period, as reported for federal tax return purposes, of not less than 60 months;

(B) identified in the cost report as start-up costs. Such costs may include administrative and nursing salaries; heat, gas and electricity; taxes; insurance; mortgage interest; employee training costs and any other allowable costs incident to the operation of the facility. In determining start-up cost, any costs which are properly identifiable as organization expenses or that are capitalizable as construction costs shall be

appropriately classified and excluded from start-up cost; and

(C) consistent with the facility's federal income tax return, and internal and external financial reports.

(5) Organization and other corporate costs, as set forth in subsection (y) of K.A.R. 30-10-1a, of a provider that is newly organized and that has properly capitalized organization costs shall be amortized over a period of not less than 60 months beginning with the date of organization.

(6) Member dues and costs incurred as a result of membership in professional, technical, civic, or business-related organizations shall be allowable. However, similar expenses set forth in paragraph (a)(9) of K.A.R. 30-10-23a shall not be allowable.

(7) (A) Costs applicable to services, facilities, and supplies furnished to the adult care home by organizations (including persons, corporations and all other entities) related to the facility by common ownership or control, or through other relationships pursuant to subsections (p), (q), (r) and (s) of K.A.R. 30-10-1a, shall be included in the allowable cost of the facility at the cost to the related organization. However, if the price in the open market for comparable services, facilities, or supplies is lower than the cost to the supplier, the allowable cost to the adult care home provider shall not exceed the market price.

(B) When a provider chooses to pay an amount in excess of the going price for supplies or services, in absence of clear justification for the premium, the agency shall exclude excess costs in determining allowable cost under the medicaid/medikan program.

(8) The net cost of approved educational activities shall be an allowable cost. The net costs of "orientation" and "on-the-job training" shall not be within the scope of approved educational activities, but shall be recognized as normal operating costs in accordance with principles relating thereto.

(9) Patient-related transportation costs shall include only those reasonable costs directly related to patient care that are substantiated by detailed expense and mileage records kept at the time of the transportation activity. Transportation costs only remotely related to patient care shall not be allowable. Estimates shall not be acceptable.

(10) Lease payments. Lease payments shall be reported in accordance with the financial accounting statements of the financial accounting standards board. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-23c. Revenues. (a) Each ICF-MR provider with a work activity program shall not be required to deduct the income earned from the costs incurred on work contracts. The agency shall not participate in losses from those contracts. Losses are defined as the excess of the costs set forth in subsection (b) of K.A.R. 30-10-23a over income that is applicable to and earned from work activity contracts.

(b) A statement of revenue shall be required as part of the cost report forms.

(1) Revenues shall be reported in accordance with

general accounting rules as recorded in the accounting records of the facility.

(2) The cost of non-covered services provided to patients or residents shall be removed from the related expense. The expense, after adjustment, shall not be a negative figure.

(3) Revenues received for services that are not related to patient care shall be used to offset or reduce the cost incurred to provide those services, if the costs incurred for that activity cannot be determined or are not furnished by the provider. This adjustment shall not result in a negative amount for the line item on the cost report which includes the non-patient related costs.

(4) Expense recoveries credited to expense accounts shall not be reclassified as revenues for the purpose of increasing the costs reported in order to qualify for a higher rate. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-24. Compensation of owners, spouses, and administrators. (a) Non-working owners and related parties. Remunerations paid to non-working owners or other related parties, as defined in subsections (p), (q), (r) and (s) of K.A.R. 30-10-1a, shall not be considered an allowable cost regardless of the name assigned to the transfer, accrual, or the type of provider entity making the payment. Salaries, drawings, consulting fees and other payments shall be considered owner compensation, whether the payment is from a sole proprietorship, partnership, corporation, or non-profit organization, if the transfer is from the provider entity to any owner or other party related to the provider entity or its owners. All such payments shall be separately identified and reported as owner compensation in the non-reimbursable and non-patient related expense section of the cost report.

(b) Services related to patient care.

(1) If owners, spouses, or other related parties with 5% or more ownership interest actually perform a necessary function directly contributing to patient care, a reasonable amount shall be allowed for such patient care activity. The reasonable amount allowed shall be the lesser of:

(A) The reasonable cost that would have been incurred to pay a non-owner employee to perform the patient-related services actually performed by owners or other related parties, limited by a schedule of salaries and wages based on the state civil service salary schedule; or

(B) the amount of cash and other assets actually withdrawn by the owners or other related parties.

(2) The patient-related functions shall be limited to those functions, normally performed by non-owner employees, that are common to the industry and for which cost data is available. The job titles for administrative and supervisory duties performed by an owner or owner's spouse shall be limited to at least one of the work activities included in the schedule of the owner/spouse salary limitations.

(3) The salary limit shall be further modified by the percent of total work time determined in accordance

with subsection (c) of this regulation. In no case shall the limitation exceed the salary limit for an administrator.

(4) The owner or owner's spouse shall be professionally qualified for those functions performed which require licensure or certification.

(5) Cash and other assets actually withdrawn shall include only those amounts or items that were actually paid or transferred during the cost reporting period in which services were rendered and were reported to the internal revenue service.

(6) If liabilities are established, they shall be paid in cash within 75 days after the end of the accounting period.

(7) The agency may also establish a minimum, reasonable amount to be allowed for owner or owner's spouse compensation, notwithstanding the above.

(c) Allocation of owner or owner's spouse total work time for patient-related functions. When any owner or owner's spouse performs a patient-related function on something other than a full-time equivalent work week, then the owner or owner's spouse compensation limit shall be pro-rated. The total work time for all functions performed by the owner or owner's spouse within a facility or within all facilities in which they have an ownership or management interest shall not exceed 100% of that person's total work time. Time spent on other business interests or work activities in which the owner or owner's spouse is involved shall also be included in calculations of total work time, regardless of the relationship to adult care home activities.

(d) Reporting owner or owner's spouse compensation on cost report. Owner or spouse compensation shall be reported on the owner compensation line in the appropriate cost center for the work activity involved. Any compensation paid to employees, including employees at the central office of a chain organization, who have an ownership interest of 5% or more shall be considered to be owner compensation. Those providers with professionally qualified owner/spouse employees performing duties other than those for which they are professionally qualified shall report the cost for such duties in the administrative cost center.

(e) Owner-administrator compensation limitation.

(1) The agency shall determine reasonable limits for owner-administrator compensation based upon the current civil service salary schedule.

(2) This limitation shall be applied to the salaries of each administrator and co-administrator of that facility, and to owner compensation reported in the administrative cost center of the cost report. This limitation shall apply to the salary of the administrator and co-administrator, regardless of whether they have any ownership interest in the business entity.

(3) Any salaries in excess of the owner or owner's spouse limitations determined in accordance with subsections (b) and (c) of this regulation shall be transferred to the owner compensation line in the administrative cost center and shall be subject to the owner-administrator compensation limitation. Any

(continued)

owner-administrator compensation in excess of the limitation shall be included in the administrative costs used to compute the efficiency factor.

(f) Management consultant fee. Consulting services provided by the following professionally qualified people shall be considered owner's compensation subject to the owner-administrator compensation limit and shall be reported on the owner compensation line in the administrative cost center;

(1) Related parties as defined in subsections (p), (q), (r) and (s) of K.A.R. 30-10-1a;

(2) current owners of the provider agreement and operators of the facility;

(3) current owners of the facility in a lessee-lessor relationship;

(4) management consulting firms owned and operated by former business associates of the current owners in this and other states;

(5) owners who sell and enter into management contracts with the new owner to operate the facility; and

(6) accountants, lawyers and other professional people who have common ownership interests in other facilities, in this or other states, with the owners of the facility from which the consulting fee is received.

(g) Costs not related to patient care. No allowance shall be made for costs related to investigation of investment opportunities, travel, entertainment, goodwill, administrative or managerial activities performed by owners or other related parties that are not directly related to patient care. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-25. Real and personal property fee. (a) The agency shall determine a real and personal property fee in lieu of an allowable cost for ownership and/or lease expense. The real and personal property fee shall equal the sum of the property allowance determined under subsection (b) and the property value factor determined under subsection (c). The fee shall be facility-specific and shall not change as a result of change of ownership or lease by providers on or after July 18, 1984. The secretary may apply an inflation factor to the fee on an annual basis.

(b) (1) The property allowance shall include an appropriate component for:

(A) Rent or lease expense;

(B) interest expense on real estate mortgage;

(C) amortization of leasehold improvements; and

(D) depreciation on buildings and equipment, calculated pursuant to subsection (d).

(2) The property allowance shall be subject to a program maximum. The percentile limitations shall be established, based on an array of the costs on file with the agency as of July 18, 1984.

(c) The property value factor shall be computed as follows:

(1) The sum of the components under paragraph (b)(1) shall be determined for each facility, based on costs on file with the agency as of July 18, 1984. These

sums shall be placed in an array and percentile groupings shall be developed from that array.

(2) The average property allowance shall be determined for each percentile grouping under paragraph (1).

(3) The average property allowance for each percentile grouping shall be multiplied by a percentage as established by the secretary on an annual basis.

(d) (1) The depreciation component of the property allowance shall be:

(A) Identifiable and recorded in the provider's accounting records;

(B) based on the historical cost of the asset as established in this regulation; and

(C) prorated over the estimated useful life of the asset using the straight-line method.

(2) (A) Appropriate recording of depreciation shall include identification of the depreciable assets in use, the assets' historical costs, the method of depreciation, the assets' estimated useful life, and the assets' accumulated depreciation.

(B) Gains and losses on the sale of depreciable personal property shall be reflected on the cost report at the time of such sale. Trading of depreciable property shall be recorded in accordance with the income tax method of accounting for the basis of property acquired. Under the income tax method, gains and losses arising from the trading of assets are not recognized in the year of trade but are used to adjust the basis of the newly acquired property.

(3) (A) Gains from the sale of depreciable assets while the provider participates in the medicaid/medikan program, or within one year after the provider terminates participation in the program, shall be used to reduce the allowable costs for each cost reporting period prior to the sale, subject to limitation. The total sale price shall be allocated to the individual assets sold on the basis of an appraisal by a qualified appraiser or on the ratio of the seller's cost basis of each asset to the total cost basis of the assets sold.

(B) The gain on the sale shall be defined as the excess of the sale price over the cost basis of the asset. The cost basis for personal property assets shall be the book value. The cost basis for real property assets sold or disposed of before July 18, 1984, shall be the lesser of the book value adjusted for inflation by a price index selected by the agency or an appraisal by an American institute of real estate appraisers approved by the agency. The cost basis for real property assets sold or disposed of after July 17, 1984 shall be the book value.

(C) The gain on the sale shall be multiplied by the ratio of depreciation charged while participating in the medicaid/medikan program to the total depreciation charged since the date of purchase or acquisition through December 31, 1984. The resulting product shall be used to reduce allowable cost.

(4) For depreciation purposes, the cost basis for a facility acquired after July 17, 1984 shall be the lesser of the acquisition cost to the holder of record on that date or the purchase price of the asset. The cost basis shall not include costs attributable to the negotiation

or final purchase of the facility, including legal fees, accounting fees, travel costs and the cost of feasibility studies. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-26. Interest expense. (a) Necessary and proper interest on both current and capital indebtedness shall be an allowable cost.

(b) Interest expense shall be incurred on indebtedness established with:

(1) Lenders or lending organizations not related to the borrower; or

(2) partners, stockholders, home office organizations, or related parties. The terms and conditions of payment of such loans shall resemble terms and conditions that a prudent borrower would make in arm-length transactions with any recognized lending institution which is in the area and which has the capability of entering into a transaction of the required magnitude. The provider shall demonstrate, to the satisfaction of the agency, that the primary business purpose for the loan is other than increasing the per diem rate and the transaction shall be recognized and reported by all parties for federal income purposes.

(c) When the general fund of an adult care home "borrows" from a donor-restricted fund, this interest expense shall be an allowable cost. In addition, if an adult care home operated by members of a religious order borrows from the order, interest paid to the order shall be an allowable cost.

(d) Interest expense shall be reduced by investment income from restricted or unrestricted idle funds or funded reserve accounts, except when that income is from gifts and grants, whether restricted or unrestricted, which are held in a separate account and not commingled with other funds. Income from the provider's qualified pension fund shall not be used to reduce interest expense.

(e) Interest earned on restricted or unrestricted reserve accounts of industrial revenue bonds or sinking fund accounts shall be offset against interest expense and limited to the interest expense on the related debt.

(f) Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost or the cost basis recognized for program purposes shall not be considered to be reasonably related to patient care. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-27. Central office costs. (a) Allocation of central office costs shall be reasonable, shall conform to general accounting rules and shall be allowable only to the extent that the central office is providing a service normally available in the nursing home facility. Central office costs shall not be recognized or allowed to the extent that they are found to be unreasonably in excess of similar adult care homes in the program. All expenses reported as central office cost shall be limited to the actual patient-related costs of the central office. The burden of furnishing sufficient evidence to establish the allowable level shall be on the provider.

(b) Expense limitations.

(1) Salaries of professionally qualified employees performing duties for which they are professionally qualified shall be allocated to the room and board and health care cost centers as appropriate for the duties performed. Professionally qualified employees include licensed and registered nurses, dietitians, qualified mental retardation professionals, and others as may be designated by the secretary of the agency.

(2) Salaries of chief executives, corporate officers, department heads, and employees with an ownership interest of 5% or more shall be considered owner's compensation and shall be reported as owner's compensation in the administrative cost center. Salaries of the chief executive officers of nonprofit organizations shall also be considered owner's compensation and included in the administrative cost center. Compensation paid to the spouse of any of the above employees shall also be treated as owner compensation and reported as such if the spouse is performing patient-related services as a bona fide employee of the operating business entity. These costs shall be subject to the owner-administrator compensation limitations. The salary of a spouse performing a patient-related service for which such person is professionally qualified shall be included in the appropriate cost center for that service.

(3) Salaries of all other personnel performing patient-related functions shall be considered administrative in nature and shall be reported in the administrative cost center.

(4) All providers operating more than one facility shall complete and submit detailed schedules of all salaries and expenses incurred for each fiscal year. Methods for allocating costs to all facilities in this and other states shall be submitted for prior approval. Changes in these methods shall not be permitted without prior approval. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1985.)

30-10-28. Inpatient days. (a) Calculation of patient days.

(1) Patient day has the meaning set forth in subsection (z) of K.A.R. 30-10-1a.

(2) If both admission and discharge occur on the same day, that day shall be considered to be a day of admission and shall count as one patient day.

(3) If the provider does not make refunds on behalf of a patient or resident for unused days in case of death or discharge, and if the bed is available and actually used by another patient or resident, these unused days shall not be counted as a patient day.

(4) Any bed days paid for by the patient, or any other party on behalf of the patient, before an admission date shall not be counted as a patient day.

(5) The total inpatient days for the cost report period shall be accurate; an estimate of the days of care provided shall not be acceptable.

(6) In order to facilitate accurate and uniform reporting of inpatient days, the accumulated method format set forth in forms prescribed by the secretary shall be used for all recipients. These forms shall be

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submitted to the agency as supportive documentation for the inpatient days shown on the cost report forms and shall be submitted at the time the cost report forms are submitted to the agency. Each provider shall keep these monthly records for each patient or resident, whether a medicaid recipient or a non-recipient. If the provider fails to keep accurate records of inpatient days in accordance with the accumulated method format, that assumed occupancy rate shall be 100%.

(b) (1) Any provider which has been in operation for 12 months or more and which has an occupancy rate of less than 85% for the cost report period shall calculate inpatient days at a minimum occupancy of 85% beginning with the patient days and costs reported for the 13th month.

(2) The only exceptions to the minimum occupancy rate, after a provider has been in operation for more than one year, shall be:

(A) The relocation of mentally retarded or chronically mentally ill residents from a facility providing general intermediate care to a facility providing care for mentally retarded or chronically mentally ill residents; or

(B) the relocation of residents in a mentally retarded or mental health facility to a general intermediate care facility. The agency shall make special provisions for this situation when the applicable provider submits the annual cost report for per diem rate calculation if the relocation or relocations occurred during the period of the cost report and if documentation supporting the below minimum occupancy rate is attached to the cost report. If the agency determines the below minimum occupancy rate is not justified, the cost report occupancy rate shall be calculated at 85% during the period of the report. Subsequent reimbursement rates shall be based on the 85% minimum occupancy rate or the actual occupancy rate, whichever is higher.

(c) The minimum occupancy rate shall be determined by multiplying the total licensed bed days available by 85%. Therefore, in order to participate in the medicaid/medikan program, each adult care home provider shall obtain proper certification for all licensed beds for either skilled nursing, intermediate care, intermediate care for the mentally retarded, or intermediate care for mental health services. (Authorized by and implementing K.S.A. 1983 Supp., 39-708c; effective May 1, 1985.)

Article 12.—SERVICES FOR THE BLIND

30-12-16. Definitions. (a) "Division" means the division of services for the blind, state department of social and rehabilitation services.

(b) "Economic hardship" means a level of necessary obligations and expenditures which make income inadequate to meet costs of needed eye care without endangering the family's capacity to be self-supporting during and following treatment.

(c) "Resident" means a person who is living in the state voluntarily with the intention of making a home here which is not for a temporary purpose.

(d) "Visual impairment" means a physical condi-

tion documented by medical evidence that constitutes a substantial handicap to employment. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1982; amended May 1, 1985.)

30-12-20. Medical care. (a) Subject to the provisions of subsections (b) through (e), medical care to restore eyesight and prevent blindness shall be provided upon request to residents in need of this care.

(b) The division shall only participate in the cost of medical care to the extent that the cost exceeds the sum of the applicant's contribution and available funding from other sources. The applicant's contribution shall be $\frac{1}{3}$ of the applicant's applicable income. Applicable income shall be determined by subtracting the appropriate income disregard from gross income for a six month period. The income disregards shall be as follows:

Single \$3,000.00

Two in the family \$3,500.00

An additional \$500.00 for each dependent

The income of the applicant and legally responsible persons living with the applicant shall be considered in determining gross income. The applicant's contribution may be waived in part or in total if the requirement would result in an undue economic hardship for the applicant and the applicant's family.

(c) Applicants shall cooperate in the establishment of eligibility for medical care.

(d) Necessary travel expenses directly related to examination or treatment shall be included in the cost of medical care, subject to the following limitations:

(1) Travel expenses shall not exceed the rate for official state travel and shall be calculated using the guidelines for state travel.

(2) Travel expenses shall be approved by the division before travel.

(3) Travel expenses for necessary attendant care shall be allowed if the use of an attendant has been approved by the division before travel. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1982; amended May 1, 1985.)

30-12-22. Vocational rehabilitation services. (a) Subject to the provisions of paragraphs (b) through (g), vocational rehabilitation services shall be provided upon request to residents who are visually impaired.

(b) The division shall only participate in the cost of vocational rehabilitation services if the applicant is found suitable for such services and to the extent that the cost exceeds the sum of the applicant's contribution and available funding from other sources. The applicant's contribution shall be determined by the use of forms prescribed by the secretary. The applicant's contribution shall be waived for the following services:

(1) Counseling and guidance;

(2) diagnostic or related services; and

(3) placement and follow-up.

(c) Allowable tuition expenses shall not exceed the rate established by the state board of regents unless the total cost of attending a private training institution in the client's home community is less than the cost of

supporting the client at a state institution away from home.

(d) Attendant care shall not exceed 30 hours per week.

(e) Travel expenses shall not exceed the rate for official state travel, shall be calculated using the guidelines for travel, and shall be approved by the division before travel.

(f) If available funding or staffing is not adequate to provide vocational rehabilitation services to all applicants requesting these services, the division shall use the priority list set forth in subsection (g) in determining which applicants shall receive services.

(g) Recipients of vocational rehabilitation services shall be selected in the order which follows:

(1) The first priority shall be clients accepted for rehabilitation services for whom some, but not all, of the services were initiated.

(2) The second priority shall be rehabilitation services clients accepted for services for whom services were not initiated.

(3) The third priority shall be severely handicapped clients.

(4) The fourth priority shall be public protection officers.

(5) The fifth priority shall be public assistance recipients.

(6) The sixth priority shall be other eligible clients. (Authorized by and implementing K.S.A. 1983 Supp. 39-708c; effective May 1, 1982; amended May 1, 1983; amended May 1, 1985.)

Article 22.—LICENSING OF PSYCHIATRIC HOSPITALS AND COMMUNITY MENTAL HEALTH CENTERS; FUNDING OF COMMUNITY MENTAL HEALTH CENTERS AND FACILITIES FOR THE MENTALLY RETARDED AND FACILITIES FOR HANDICAPPED PERSONS.

30-22-3a. Private psychiatric hospitals; additional organizational standards. Each hospital shall: (a) Have a governing body that has overall responsibility for the operation of the hospital;

(b) have a chief executive officer appointed by its governing body who shall be responsible for the overall administration of the hospital;

(c) have a single, organized professional staff that has the overall responsibility for the quality of all clinical care provided to patients and for the professional practices of its members, as well as for accounting therefor to the governing body. The manner in which the professional staff is organized shall be consistent with the hospital's documented staff organization and bylaws, policies, and the setting in which the services are provided. The professional staff bylaws, rules and regulations shall require, unless otherwise provided by law, that a licensed physician be responsible for diagnosis and all medical care and treatment. The organization of the professional staff, and its bylaws, rules and regulations, shall be approved by the governing body;

(d) prepare a written, annual budget which includes a statement of expected revenues and expenses and an integrated statement of the hospital's progress plan;

(e) have personnel policies which promote its objectives and provide qualified personnel during all hours of operation in numbers which are adequate to support the functions of the hospital and to provide quality care;

(f) provide staff development programs for administrative, professional, and support staff; and

(g) make library services available to meet the professional and technical needs of the facility's staff. (Authorized by and implementing K.S.A. 75-3307b, effective May 1, 1985.)

30-22-3b. Private psychiatric hospitals; additional program standards. Each hospital shall: (a) Formulate and specify its goals and objectives and describe its programs (including volunteer services, if any) in a written plan for professional services. The plan shall be written in such a manner that the hospital's performance can be measured;

(b) have a written statement of goals and objectives for each program and each patient population served;

(c) conduct a utilization review program;

(d) exhibit evidence of a well-defined, organized program designed to enhance patient care through ongoing, objective assessment of important aspects of patient care and correction of identified problems; and

(e) if conducting research with human subjects, have written policies which assure that a rigorous review is conducted with regard to the merits of each research project and the potential effects of the research procedures on the participants. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1985.)

30-22-3c. Private psychiatric hospitals; additional treatment standards. Each hospital shall: (a) Maintain a written record for each patient;

(b) have a written plan designed to assure that the treatment planned and provided for each patient is evaluated and revised according to the needs of the patient;

(c) have written policies and procedures governing the intake process which specify the following:

(1) The information to be obtained for each applicant or referral for admission;

(2) the procedures for accepting referrals from outside agencies and organizations;

(3) the records to be kept regarding each applicant;

(4) the statistical data to be kept on the intake process; and

(5) the procedures to be followed when an applicant or a referral is found to be ineligible for admission;

(d) conduct a complete assessment of each patient, including a clinical consideration of the patient's needs;

(e) develop a written, individualized treatment plan for each patient. The plan shall be based on an assessment of such patient's clinical needs;

(continued)

(f) require special, written justification prior to the implementation of the following treatment procedures:

- (1) The use of restraints;
- (2) the use of seclusion;
- (3) the use of electroconvulsive therapy and other forms of convulsive therapy; and
- (4) the performance of psychosurgery or other surgical procedures for intervention in or alteration of a mental, emotional, or behavioral disorder; and

(g) assess and treat the dental needs of its patients. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1985.)

30-22-3d. Private psychiatric hospitals; additional services. (a) Each hospital shall provide the following services except as noted:

(1) Dietetic services, if a hospital provides 24-hour care, has therapeutic goals related to the nutritional needs of patients, or has patients otherwise requiring such services;

(2) pastoral services, in accordance with the needs of its patients;

(3) pathology and laboratory services, in accordance with the needs of the patients, the size of the facility, the services offered, and the resources available in the community;

(4) pharmaceutical services provided by the hospital or by agreement; and

(5) radiology services provided by the hospital or by agreement.

(b) In addition to the services listed in subsection (a), inpatient, residential and partial-day facilities shall directly provide or make arrangements for the following services:

(1) Activity services to meet the physical, social, cultural, recreational, health maintenance, and rehabilitation needs of patients;

(2) educational services to meet patient needs for special education, patient needs related to learning difficulties resulting from either physical or emotional aspects of their mental illness, and patient needs for pre-vocational or vocational education necessary for re-integration into the community after treatment;

(3) speech-language, and hearing services to provide assessments of speech, language, or hearing when indicated and to provide counseling, treatment, and rehabilitation when needed; and

(4) counseling services concerning specific vocational needs. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1985.)

30-22-4a. Private psychiatric hospitals; additional environmental management standards. (a) Each building in which patients receive treatment or in which patients are housed overnight shall be designed, constructed, and equipped to reasonably protect patients, staff, and visitors from the hazards of fire, explosion, and panic.

(b) Each hospital shall:

(1) Establish a safety committee that includes representatives from all major services;

(2) establish an environment that enhances the

positive self-image of patients and preserves their human dignity;

(3) develop written policies and procedures for maintaining a clean and safe environment;

(4) develop an infection-control program; and

(5) develop written policies and procedures for the handling, maintenance, and use of sterile supplies and equipment if such supplies and equipment are used by the hospital. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1985.)

Article 41.—LICENSING OF NON-MEDICAL COMMUNITY BASED AGENCIES PROVIDING SERVICES TO HANDICAPPED ADULTS

30-41-2. Licensing procedures. (a) Each agency desiring to become licensed to operate one or more programs shall apply for a license on application forms provided by the department.

(b) Following receipt of the application, the department shall initiate the following licensing procedures. The procedures shall be completed within 60 days of the date the complete application is received by the department.

(1) A licensing specialist shall evaluate the agency or facility for compliance with licensing regulations. This licensing specialist shall be responsible for ongoing supervision to insure continued compliance.

(2) Upon completion of the evaluation, a licensure report and recommendation shall be submitted to the central licensing and certification unit.

(3) Approval shall be confirmed by the issuance of a license or disapproval shall be confirmed by letter. The letter shall outline the deficiencies and shall advise the applicant of the right to request an administrative hearing with the department within 30 days of receipt of the letter of disapproval.

(c) Each application for renewal of a license shall be submitted by the licensed agency to the department at least 60 days before expiration of the license. This provision may be waived by the department upon a showing of good cause by the agency. The department shall process all renewal license applications, which are submitted in accordance with this subsection, by the expiration date of the current license.

(d) At the discretion of the department, a provisional license may be issued to any agency that is substantially in compliance with the licensing regulations, if the agency presents evidence that any deficiency is temporary and if efforts to correct the deficiency are agreed to or are in progress. Each provisional license shall automatically become a regular license at the end of a period of 180 days if the licensing unit agrees, in writing, that the previously noted deficiencies have been corrected. If the deficiencies have not been corrected, the provisional license shall automatically lapse at the end of the 180 day period.

(e) In determining whether an agency meets the standards set forth in this article, the department may consider, but need not accept, full accreditation by the commission on accreditation of rehabilitation facili-

ties, the joint commission on accreditation of hospitals, or the accreditation council for mentally retarded and other developmentally disabled persons.

(f) Each residential facility in which eight or more residents are living shall be licensed by the Kansas department of health and environment, bureau of disease prevention and control, food, drug and lodging.

(g) Facilities which use subcontract or production work for training shall be certified by the U. S. department of labor, wage and hour division and shall abide by all applicable regulations.

(h) The department, upon request, may waive any specific licensing standard for good cause if such waiver does not impact upon the health, safety or welfare of an agency's clients. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1979; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1984; amended May 1, 1985.)

30-41-4. Statement of programs offered. (a) When making application, the applicant shall specify in writing the programs the agency offers and the manner in which these are routinely provided.

(1) Agencies shall have a written plan for each program.

(2) Each facility shall provide adequate supplies of materials and equipment that are appropriate for each specific program.

(b) Advertisements and descriptive literature of an applicant agency shall conform to the statement of programs as given on the application.

(c) No general claim as to "state approval" shall be made unless the agency has obtained a license issued by the department. (Authorized by K.S.A. 75-3307b; effective May 1, 1979; amended May 1, 1985.)

30-41-5. Terms of license. (a) Capacity.

(1) Each license shall specify the maximum number of individuals who may be served at any one time in each program.

(2) The number of individuals specified on the license shall be the maximum number authorized to be enrolled in direct services at any one time.

(3) A maximum of 15 persons may reside on the premises of a residential home at any one time.

Any agency which was licensed or certified, and that was engaged in purchase of service with social and rehabilitation services and using title XX funds on May 1, 1979 may continue to provide services to the same number of clients previously authorized on such date if the agency continues to meet all other applicable regulations.

(b) Application.

(1) Any license issued shall be valid only for the agency named on the license. A new application is required for each change of ownership. An agency which changes ownership may continue to provide the same services which it was licensed to provide under its last prior ownership for such a period of time as is required for the agency to pursue all administrative avenues available under these regulations for obtaining licensure under the agency's new ownership.

(2) An application may be withdrawn at any time

upon request by the applicant. If the applicant wishes to reapply, a new application shall be submitted.

(c) Compliance with regulations.

(1) The license granted hereunder shall be prominently displayed by the licensee in the principal facility in which a program is located.

(2) A copy of the most current "regulations for licensing" shall be kept on the premises of each facility at all times. Such copies shall be furnished by the department.

(d) Suspension or revocation of license.

(1) The license of any agency shall be suspended or revoked according to the provisions of this subsection (d) whenever:

(A) the department finds that the agency has failed to comply with these licensing regulations and that there is reason to believe that the agency will be in further noncompliance; or

(B) the department finds that the agency is in continuing non-compliance with these regulations.

(2) Procedures for the suspension or revocation of a license.

(A) Subject to the provisions of subparagraph (B) hereunder, when a licensing specialist or an auditor of the department finds that a licensed agency is not in compliance with the provisions of these regulations, no action may be taken by the department to suspend or revoke the agency's license until the agency's chief operating officer has been informally advised of a finding of noncompliance in person or by telephone, and the informal communication of such a finding has been confirmed to the agency in writing within five working days of the informal advice. The written confirmation of the advice shall:

(i) specify in detail the noted items of noncompliance;

(ii) inform the agency of the action required to correct the non-compliance; and

(iii) inform the agency that failure to provide evidence that the noncompliance has been corrected will result in suspension or revocation of the agency's license;

(iv) inform the agency of the time period within which the item of noncompliance can be corrected without temporary or permanent loss of license. This time period shall not be less than 45 days from the date of written confirmation; and

(v) inform the agency of the name and address of the person within the department to whom evidence must be provided demonstrating that the item of non-compliance has been corrected.

(B) The department shall immediately suspend the license of any agency that has committed or is committing an item or items of noncompliance with these regulations of a nature so serious that such noncompliance will constitute an immediate threat to the health, safety or welfare of the agency's clients. The department shall immediately initiate an action to revoke such a license according to these regulations.

(C) Whenever an agency has failed to satisfy the department that an item of noncompliance has been corrected as provided in subparagraph (A) above, or

(continued)

whenever the department has suspended an agency's license under subparagraph (B) above, action shall be commenced to revoke the agency's license. Prior to revocation of an agency's license, the licensing and certification unit shall send to the agency a written notification of the proposed revocation and the reasons therefor. The notice shall state whether the agency's license has been suspended pending further proceedings. Such notice shall further advise the agency that the agency may appear before the unit at a specified time not less than five nor more than 15 days from the date the notice is mailed to or served upon such agency and that the agency may present any relevant evidence and shall be given an opportunity to be heard on the agency's continuing eligibility to be licensed. The unit shall consider all evidence presented, including that of the agency. If the decision is to revoke the agency's license as herein provided, the unit shall issue a written order of revocation setting forth the effective date of such revocation and the basic underlying facts supporting the order. (Authorized by K.S.A. 75-3307b; effective May 1, 1979; amended May 1, 1980; amended May 1, 1985.)

30-41-6b. Personnel policies. (a) Each agency shall make provisions for appropriate coordination, communication, and collaboration among all personnel. Each agency shall have current, written personnel policies, procedures, and practices which shall be available to staff. The personnel policies and procedures shall be reviewed annually by the staff or the administrative board.

(b) All personnel shall be in good health. Before employment and each two years thereafter, each person who will have routine contact with the individuals being served shall have documentation, by a nurse practitioner, physician assistant, or licensed physician, of freedom from any communicable disease or infected skin lesions. This documentation shall be retained in the staff person's file.

(c) Facility personnel shall be responsible for providing adequate supervision of individuals being served while participating in facility programs.

(d) Relief or substitute staff shall be provided for regular staff.

(e) While services are being provided, a maximum ratio of 12 clients to one direct service staff shall be maintained, based on average daily attendance. During all periods of time in which clients are in the facility, a maximum ratio of 15 clients to one line staff person shall be maintained, based on average daily attendance. However, the maximum ratio for semi-independent living and respite care programs shall be 25 to one and for independent living programs the maximum ratio shall be 50 to one.

(f) The qualifications of all staff members and consultants shall be adequate and appropriate for their respective positions.

(1) Each administrator or director of a single program shall have a bachelor degree and six months of supervisory experience. Six months of supervisory experience may be substituted for each year of required education, if at least half of this experience:

(A) Was in administration of a program involving handicapped individuals;

(B) involved directing professional, technical or supervisory personnel, or

(C) was in business administration, budget development, or program planning.

(2) Each administrator or director of an agency with two or more different programs or with multiple facilities shall have a bachelor degree and two years of administrative experience. One year of administrative experience may be substituted for each year of required education, if at least half of this experience:

(A) Was in administration of a program involving handicapped individuals;

(B) involved directing professional, technical or supervisory personnel; or

(C) was in business administration, budget development, or program planning.

(3) Each program director or coordinator shall have a bachelor degree with six months of experience in planning and directing educational, occupational, social service, or vocational activities. One year of experience may be substituted for each year of required education, if at least half of this experience was in planning and directing educational, occupational, and social service, or vocational activities.

(4) Direct service staff shall have graduated from high school or obtained an equivalent level of education (GED). One year of experience may be substituted for each year of required education if the experience developed or utilized skills which are appropriate to the position.

(5) Program specialists shall meet the requirements of their profession.

(6) Consultants shall meet the professional requirements of their specialized services or programs. When one person functions in more than one of the positions covered by this subsection, that person shall meet the requirements of each position.

(g) Staff, including relief staff, shall have on-going orientation regarding agency and facility policies and the current status of clients.

(h) At least one full-time staff person shall be certified in administration of first aid.

(i) Agency personnel shall not accept permanent guardianship or conservatorship of individuals being served. However, guardianship or conservatorship of blood relatives shall be permitted.

(j) A file shall be maintained for each staff member and shall be available to that person. This file shall include that employee's job description, staff training records, daily attendance records, record of employment and termination, and salary.

(k) The facility shall maintain staff who are responsible for coordinating the service program.

(l) Food services staff shall have knowledge of nutritional needs of persons, shall practice sanitary methods of food handling and storage, and shall be sensitive to the individual and cultural food preferences of clients.

(m) All full-time personnel shall receive a minimum of six clock hours of in-service training per year.

Released time for in-service training and academic training shall be arranged, when necessary. Part-time personnel shall receive training proportionate to hours of employment.

(n) Each staff member who works with clients shall receive, each year, at least 15 clock hours of training in first aid, and in human needs, behavior, growth, and development, and other topics. Released time for in-service or academic training shall be arranged. The agency administrator shall approve or disapprove all the training curriculum.

(o) The agency shall develop, maintain in writing, and make available to staff:

(1) Hiring and promotional procedures. These procedures shall not discriminate by reason of sex, race, age, handicap, creed, marital status, or ethnic or national membership;

(2) a procedure for suspension or dismissal of an employee;

(3) a grievance procedure;

(4) a description of the extent and nature of probationary employment periods, including probationary periods for newly hired, promoted, or transferred staff;

(5) procedures to insure that employees are regularly evaluated by their immediate supervisors. The results shall be documented, reviewed with the staff person, and then included in the personnel file;

(6) a staff development plan;

(7) policies governing each employee's access to that employee's personnel files;

(8) policies regarding holiday, sick leave, vacations, funeral, and other authorized leave;

(9) written responsibilities and privileges of, and limitations on students, volunteers, trainees, and part-time employees; and

(10) a policy regarding activities of staff and board members which may cause conflict of interest. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1982; amended May 1, 1984; amended May 1, 1985.)

30-41-6f. Fiscal policies. (a) Each agency shall maintain an adequate accounting system that meets industry standards, safeguards the agency's funds and assets, and generates financial reports in accordance with generally accepted accounting principles.

(b) Each agency shall have an annual audit, which shall be available for review.

(c) Each agency shall develop, maintain, and make available for review copies of current grants, contracts, and agreements with other agencies and professionals.

(d) The fiscal program and client records and reports shall be maintained for at least three years. If a federal audit is in process or when any audit findings, litigation, or claims involving the records have not been resolved, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three year period, whichever is later.

(e) A letter of tax exemption shall be obtained under the federal revenue services code if the agency is a non-profit organization.

(f) A copy of the annual corporate report sent to the Kansas secretary of state shall be maintained.

(g) The personal account of the owner, operator, or any staff member shall not be kept with agency accounts.

(h) The personal money of each client shall be kept in the client's individual account. The individual account shall be separate from the funds of the agency, owner, operator, staff, or other clients.

(i) A current fee schedule shall be maintained by the agency.

(j) Financial arrangements shall be made before the time the client is admitted. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1984; amended May 1, 1985.)

30-41-6g. Client records. (a) An individual client record or file shall be maintained for each client. The record shall include:

(1) The application for admission;

(2) the financial agreement;

(3) accident reports, as applicable;

(4) notations regarding health status, medications taken, and any special cautions or considerations as documented by a licensed medical practitioner at least every two years;

(5) signed consent for emergency treatment and the names and phone numbers of persons to be contacted if an emergency occurs;

(6) evaluation information. The information shall include medical, dental, psychological, and social findings as appropriate;

(7) a written, individual program plan. The plan shall include:

(A) The name and birth date of the client;

(B) participants in the individual program plan annual conference, by name and title;

(C) a list of the assessment instruments used and interpreted for the conference participants;

(D) annual goals to be accomplished by the client;

(E) recommended services to be provided by the agency or other resource facilities;

(F) objectives to be accomplished by client;

(G) the names and titles of persons responsible for assisting the client in accomplishing objectives;

(H) the date the service is to start toward accomplishing objectives;

(I) the projected date the objective is to be accomplished;

(J) the methods to be used in carrying out the client's objectives;

(K) the materials and equipment needed to conduct training or teaching;

(L) the barriers to be overcome in order to accomplish objectives;

(M) indication of participation by the client, or if necessary, by the client's family or guardian in development of the individual program plan. To indicate such participation, the client or the client's family or guardian shall sign and date the individual program plan;

(N) documentation of the learning or training activ-

(continued)

ities. Documentation shall include the type of services provided, the date, place, and total time the service was provided, and the names of staff persons providing the service;

(O) for each objective, the date and reasons for termination from services; and

(P) semi-annual reports regarding to the client's progress as related to the individual program plan;

(8) a discharge summary. The discharge summary shall include information as to when and why a client left the program, where the client went, who was involved in the decision and notes as to the frequency of follow-up services, recommendations and other relevant information.

(b) A policy shall be developed by the agency which states that all information contained in any client's record shall be held in confidence and shall not be released without written authorization by the client, or the client's parents or guardian. (Authorized by and implementing K.S.A. 75-3307b; effective May 1, 1984; amended May 1, 1985.)

30-41-6h. Client policies. (a) Clients, and as appropriate, parents or guardians shall be provided with an orientation concerning available services and agency policies. Each client shall be treated as a member of the peer group, sharing privileges, duties, and responsibilities according to the client's capacity, and receiving instruction and training according to the client's special abilities or limitations. Services shall be offered in the least restrictive environment for the client.

(b) The agency shall have current, written policies and procedures relating to discipline. Corporal punishment, restraints or punitive measures shall not be used.

(c) The agency shall have current, written policies and procedures regarding protection of clients from neglect and exploitation.

(d) The agency shall have a current, written grievance procedure. Clients shall not be used in campaigns or publicity efforts to raise funds without the understanding of the client, parent or guardian and without appropriate, signed release forms.

(e) Attendance and leave information regarding each client shall be maintained by the agency. The information shall denote the days and any portions of a day the client was in attendance. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-9. Reserved.

30-41-10. Adult day care program content. In order to be licensed, an adult day care program shall provide the following services: (a) Personal social adjustment;

(b) recreation and socialization;

(c) case management, including:

(1) Case finding and preparation;

(2) assessment and evaluation;

(3) individual program plan development;

(4) individual program plan implementation;

(5) individual program plan review and revision;

(6) placement and termination; and

(7) follow-up; and

(d) life skills and community living skills. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-11. Adult life skills training program content. In order to be licensed, an adult life skills training program shall provide the following services: (a) Life skills and community living skills;

(b) personal social adjustment;

(c) work, work habits, and work-related skills; and

(d) case management, including:

(1) Case finding and preparation;

(2) assessment and evaluation;

(3) individual program plan development;

(4) individual program plan implementation;

(5) individual program plan review and revision;

(6) placement and termination; and

(7) follow-up. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-12. Work activity program content. In order to be licensed, a work activity program shall provide the following services: (a) Work, work habits, and work-related skills;

(b) personal social adjustment; and

(c) case management, including:

(1) Case finding and preparation;

(2) assessment and evaluation;

(3) individual program plan development;

(4) individual program plan implementation;

(5) individual program plan review and revision;

(6) placement and termination; and

(7) follow-up. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-13. Work adjustment program content. In order to be licensed, a work adjustment program shall provide the following services: (a) Vocational counseling;

(b) work, work habits, and work-related skills;

(c) case management, including:

(1) Case finding and preparation;

(2) assessment and evaluation;

(3) individual program plan development;

(4) individual program plan implementation;

(5) individual program plan review and revision;

(6) placement and termination; and

(7) follow-up; and

(d) job readiness. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-14. Vocational evaluation program content. In order to be licensed, a vocational evaluation program shall provide the following services: (a) Assessment and evaluation; and

(b) case coordination, including:

(1) Case finding and preparation;

(2) placement and termination; and

(3) information and referral. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-15. Group living program content. In order to be licensed, a group living program shall provide the following services: (a) Life skills and community living skills;

- (b) personal social adjustment; and
- (c) case management, including:
 - (1) Case finding and preparation;
 - (2) assessment and evaluation;
 - (3) individual program plan development;
 - (4) individual program plan implementation;
 - (5) individual program plan review and revision;
 - (6) placement and termination; and
 - (7) follow-up. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-16. Semi-independent living program content. In order to be licensed, a semi-independent program shall provide the following services: (a) Life skills and community living skills;

- (b) personal social adjustment; and
- (c) case management, including:
 - (1) Case finding and preparation;
 - (2) assessment and evaluation;
 - (3) individual program plan development;
 - (4) individual program plan implementation;
 - (5) individual program plan review and revision;
 - (6) placement and termination; and
 - (7) follow-up. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-17. Independent living program content. In order to be licensed, an independent living program shall provide the following services: (a) Information and referral;

- (b) advocacy;
- (c) case management, including:
 - (1) Case finding and preparation;
 - (2) assessment and evaluation;
 - (3) individual program plan development;
 - (4) individual program plan implementation;
 - (5) individual program plan review and revision;
 - (6) placement and termination; and
 - (7) follow-up; and
- (d) social services and counseling. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-18. Respite care program content. In order to be licensed, a respite program shall provide the following services: (a) Case coordination, including:

- (1) Case finding and preparation;
- (2) placement and termination; and
- (3) follow-up;
- (b) relief care; and
- (c) social services and counseling. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

30-41-19. Mandatory provisions of adult residential sleeping facilities. Sleeping facilities shall be provided in the following programs: (a) Group living programs;

(b) semi-independent living programs in those instances when care is provided outside of the client's home; and

(c) respite care programs in those instances when care is provided outside of the client's home. (Authorized by K.S.A. 75-3307b; effective May 1, 1985.)

Article 44.—SUPPORT ENFORCEMENT

30-44-1. Fees for support enforcement and establishment services rendered to persons not receiving aid to families with dependent children. Any person not receiving aid to families with dependent children shall be charged an application fee of \$25.00, plus a recovery of costs fee equal to 4% of amounts of support collected, upon application of such person for services relating to the location of parents, the establishment of paternity, and the establishment and enforcement of support obligations. (Authorized by K.S.A. 1983 Supp. 39-756; effective May 1, 1985.)

ROBERT C. HARDER
Secretary of Social
and Rehabilitation Services

Doc. No. 002870

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