

# Kansas Register

Bill Graves, Secretary of State

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## State of Kansas

## Pooled Money Investment Board

## Notice of Meeting

The Pooled Money Investment Board will meet at 2 p.m. Wednesday, November 16, in the State Treasurer's Office, Conference Room 203, Landon State Office Building, 900 S.W. Jackson, Topeka. All meetings of the board are open to the public. For more information, contact Diane Gates at (913) 296-3372.

Sally Thompson  
Chairman

Doc. No. 015577

## State of Kansas

## Law Enforcement Training Commission

## Notice of Meeting

The Kansas Law Enforcement Training Commission will meet at 10 a.m. Friday, November 18, at the Kansas Law Enforcement Training Center, located 12 miles southeast of Hutchinson south of K-96 at the Hutchinson Air Base Industrial Tract (HABIT), the former Naval Air Station, or one mile west and one mile south of Yoder. The meeting is open to the public.

Robert Senecal  
Executive Director

Doc. No. 015574

## State of Kansas

## Department of Administration

## Public Notice

Under requirements of K.S.A. 65-34,117(b), records of the Division of Accounts and Reports show the unobligated balances are \$1,489,380.48 in the underground petroleum storage tank release trust fund and \$7,321,642.69 in the aboveground petroleum storage tank release trust fund at October 31, 1994.

Gloria M. Timmer  
Secretary of Administration

Doc. No. 015582

## State of Kansas

## State Conservation Commission

## Notice of Meeting

The State Conservation Commission will meet at 3 p.m. Sunday, November 20, at the Airport Hilton Inn, Wichita. A copy of the agenda may be obtained by contacting Donna Meader, 109 S.W. 9th, Suite 500, Topeka 66612, (913) 296-3600. If special accommodations are needed, contact the agency three days in advance of meeting date.

Kenneth F. Kern  
Executive Director

Doc. No. 015564

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(913) 296-2236



**Kansas Register Office:**  
235-N, State Capitol  
(913) 296-3489

State of Kansas

**Department of Wildlife  
and Parks**

**Notice to Bidders**

The concession contract at Scott State Park is currently open for bid. Interested individuals or parties should contact Allen Stoops, Purchasing Agent, Operations Office, Kansas Department of Wildlife and Parks, 512 S.E. 25th Ave., Pratt 67124, for information. Final bids will be due by 5 p.m. Wednesday, November 30.

Ted Ensley  
Secretary of Wildlife  
and Parks

Doc. No. 015570

State of Kansas

**Board of Regents  
Fort Hays State University**

**Notice of Intent to Lease Property**

Public notice is hereby given pursuant to K.S.A. 75-430a(d) that Fort Hays State University has determined that certain portions of the structure located at 2911 Canterbury, in the city of Hays, Ellis County, Kansas, owned by the Fort Hays State University, are available for lease and that said university intends to lease said portions which are more particularly described as follows:

Rooms 103, 115, 116 and 118 of the Sternberg Museum property (formerly known as the Metroplex)

This structure is known as the Sternberg Museum and will be operated on the premises of 2911 Canterbury. Those portions which Fort Hays State University intends to lease must be leased only to a person or persons capable of, and committed to, providing services which will enhance and support the museum in performing its cultural and educational purposes. Parties interested in more specific information should contact Mark Bannister, Office of the President, 600 Park St., Fort Hays State University, Hays 67601.

Competitive bids will be received by Fort Hays State University until 5 p.m. December 2 and will be thereafter considered by the university. Any leases entered into by the university will be awarded to the most suitable bidder. The university reserves the right to reject any and all bids.

Bids should be addressed to the Office of the President, Fort Hays State University, to the attention of Mark Bannister, Assistant to the President. The outside of the envelope containing bids should be plainly marked "Bid on Lease." Only such bids as shall be in substantial conformity with the terms and provisions of the aforesaid resolution will be considered or accepted by the university.

Edward H. Hammond  
President  
Fort Hays State University

Doc. No. 015579

State of Kansas

**Social and Rehabilitation Services**

**Request for Proposals**

The Department of Social and Rehabilitation Services is soliciting grant proposals for a program designed to provide support services to families of children with severe emotional and behavioral problems. Services would include training for parents in negotiating the service systems necessary to provide their child with needed services and the provision of emotional support from the program itself as well as the program's support groups, which will enable parents to cope successfully with their child's emotional/behavioral problems.

Details of the request for proposals are available by contacting David O'Brien, Community Resource Development Unit, SRS Youth and Adult Services, West Hall, 300 S.W. Oakley, Topeka 66606, (913) 296-2017. Responses are due no later than 5 p.m. December 9.

Carolyn Risley Hill  
Commissioner  
Youth and Adult Services

Doc. No. 015576

State of Kansas

**Board of Veterinary Medical Examiners**

**Notice of Hearing on Proposed  
Administrative Regulations**

A public hearing will be conducted at 9:30 a.m. Tuesday, December 13, at the alumni conference room on the fourth floor of VMT, Kansas State University, College of Veterinary Medicine, Manhattan, to consider the adoption of proposed amendments to K.A.R. 70-3-1, general rules for the administration of examinations; 70-3-2, standard to pass; and 70-3-4, notification of results.

This 30-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed amendments. All interested parties may submit written comments prior to the hearing to the executive director, Board of Veterinary Medical Examiners, 10475 Purple Sage Road, Wamego 66547. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing.

These amended regulations are proposed for adoption on a permanent basis. The amendments are not expected to result in an economic impact.

Copies of the full text of the regulations and the economic impact statement can be obtained by contacting the executive director at the address above, (913) 456-8781.

Dirk A. Hanson, D.V.M.  
Executive Director

Doc. No. 015580

## State of Kansas

## Kansas Racing Commission

Notice of Hearing on Proposed  
Administrative Regulations

A public hearing will be conducted at 9:30 a.m. Friday, January 13, in the Kansas Racing Commission's conference room, 3400 Van Buren, Topeka, to consider the adoption of proposed permanent regulations of the Kansas Racing Commission. This 30-day notice constitutes a public comment period for the purpose of receiving written public comments on these proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Damien Baker at the Kansas Racing Commission, 3400 Van Buren, Topeka 66611-2228, (913) 296-5800.

A copy of the full text of the regulations and the economic impact statement may be reviewed or obtained at the commission office. The following is a summary of the proposed amendments:

**K.A.R. 112-4-1. Occupational licenses.** The proposed amendment to this regulation allows for a licensee to apply for a three-year or triennial license. For each subsequent year following the first year a three-year license is issued, the licensee shall complete a validation form and shall be issued current validation stickers to be

properly displayed on the licensee's badge prior to being admitted to a racetrack facility.

There is new language which states that an Association of Racing Commissioners' International (ARCI) computer check will be run on an annual basis on all licensees. This has been the practice of the commission and will continue to be the practice with three-year licensees.

**Economic Impact:** Costs to the agency will be for administrative processing of licenses, validation forms and validation stickers. The agency will incur the cost of running the ARCI computer checks on all licensees. The agency and the licensee will also incur administrative costs for processing finger print cards.

**K.A.R. 112-12-10. Kansas-bred or Kansas-owned races.** This proposed change makes less restrictive requirements for the licensee to hold one Kansas-bred or Kansas-owned horse race each racing day. The licensee is now held to a good faith effort to meet the requirements set out in the regulation. A race that does not meet the requirements set forth will be forfeited.

**Economic Impact:** There is no cost anticipated to the agency or other governmental agencies or units. There is a cost to horse owners for registering a Kansas-bred or Kansas-owned horse into the breed program. A reduced number of races will result in a decrease in purses and the wagering dollar.

Art Nuehedel  
Acting Executive Director

Doc. No. 015592

## State of Kansas

## Legislature

## Interim Committee Schedule

The following committee meetings have been scheduled during the period of November 14 through November 27:

Date	Room	Time	Committee	Agenda
November 14	531-N	9:00 a.m.	Health Care Fund Stabilization Oversight Committee	Report of the Actuary-Wakely and Associates, Inc. on the status of the fund; comments from the Insurance Dept. on the fund; revenue of 1994 legislation affecting the fund.
November 14	Holidome	8:30 a.m.	Legislative Educational Planning Committee	14th: LEPC postsecondary educational conference at the Holidome in Topeka. 15th: Review of final report and other matters.
November 15	514-S	9:00 a.m.		
November 14	Cancelled		Blue Highways The Thin Blue Line (Committee on Crime)	Rescheduled to November 28-29.
November 15				
November 14	519-S	9:00 a.m.	Joint Committee on Economic Development	a.m. - Conferees on microloans, SBDC Program, and venture capital tax credits. p.m. - Committee discussion and recommendations for report and possible legislation.
November 15	Cancelled			



November 15	519-S	10:00 a.m.	Telecommunications Strategic Planning Committee	Consultant to meet with committee to discuss work plan.
November 15	531-N	10:00 a.m.	Joint Committee on Special Claims Against the State	Hearings on claims filed to date.
November 15	313-S	1:30 p.m.		
November 16	531-N	9:00 a.m.	Joint Committee on Computers and Telecommunications	Rescheduled for November 29.
November 16	Cancelled			
November 16	526-S	10:00 a.m.	Special Committee on Judiciary	Conclusions and recommendations. Other to be announced.
November 17	526-S	9:00 a.m.		
November 17	519-S	1:30 p.m.	Legislative Coordinating Council	Legislative matters.
November 17	521-S	10:00 a.m.	Legislative Budget Committee	17th: Staff reports on SGF receipts and revenues estimates, and on school finance estimates; committee attend LCC meeting; committee review of its report and bill drafts on homestead tax refunds; conferees on Health and Environment's wastewater treatment fees; committee instructions to staff on other topics considered during the 1994 interim. 18th: Lottery and Racing Commission finances; State Parole Board operations. Any items not considered on the 17th and committee instructions to staff on other topics considered during the 1994 interim.
November 18	521-S	9:00 a.m.		
November 17	514-S	10:00 a.m.	Joint Committee on Children and Families	Committee discussion and decisions. Local planning councils.
November 18	514-S	9:00 a.m.		
November 18	Cancelled		Kansas Council on Privatization	Cancelled.
November 18	519-S	10:00 a.m.	Workers Compensation Fund Oversight Committee	Agenda not available.
November 21	514-S	10:00 a.m.	Joint Committee on Administrative Rules and Regulations	Agenda not available.
November 22	514-S	9:00 a.m.		
November 21	514-S	10:00 a.m.	Special Committee on Ways and Means	Mental retardation and developmental disabilities issues; committee conclusions and recommendations on topics considered during the 1994 interim.
November 22	514-S	9:00 a.m.		

Emil Lutz  
Director of Legislative  
Administrative Services

## State of Kansas

## Employee Award Board

## Notice of Meeting

The Employee Award Board will meet at 1 p.m. Monday, November 14, in the Division of Personnel Services, Room 951-S, Landon State Office Building, 900 S.W. Jackson, Topeka.

Ben Barrett  
Chairperson

Doc. No. 015567

## State of Kansas

## Kansas Commission on Governmental Standards and Conduct

## Advisory Opinion No. 94-31

Written October 27, 1994, to Roderick L. Bremby, Assistant City Manager, Lawrence.

This opinion is in response to your letter of October 10, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the local conflict of interests laws (K.S.A. 75-4301 *et seq.*).

## Factual Statement

We understand you request this opinion in your capacity as the assistant city manager for the city of Lawrence, Kansas. You advise us that on August 10, 1993, the city of Lawrence contracted with Dr. Mike Geist and Lawrence Memorial Hospital (LMH) to provide occupational health services for city employees. In June 1994, LMH advised the city that there would be a change in its occupational health program because Dr. Geist severed his employment relationship with LMH and began employment with Columbia/HCA. A city task force consisting of 10 members was formed and met on June 30, 1994, to begin discussing the status of the city's occupational health program. Dr. Geist and LMH representatives were scheduled for separate interviews with the task force to discuss occupational health service options. Interviews were conducted in July 1994 to evaluate service options and determine the city's future occupational health services provider. On August 8, 1994, the task force recommended to the city manager that the relationship with Dr. Geist be continued through an agreement with his new employer, Columbia/HCA. Two weeks later the city manager, after meeting with the task force to discuss their recommendation, decided to contract with Dr. Geist through Columbia/HCA for occupational health services. On September 19, 1994, the city began its relationship with Columbia/HCA.

You also state your wife is a physician and worked as an employee for John Gravino, P.A. On August 1, 1994, she and her former partner, John Gravino, became employees of Columbia/HCA. The family practice office which is managed by Columbia/HCA has no direct relationship with the occupational health services provided by Dr. Geist. Dr. Gravino is one of several persons who own an interest in the building which houses both offices. Your wife currently has no ownership interest in the building, but may exercise an option in the future

after obtaining a legal separation of asset declaration. Dr. Geist currently provides services to clients from the same medical office suite because the building from which he intends to offer services is scheduled to be completed in April of 1995.

You advise us that you were not involved directly or indirectly with the decision-making process to change the city's contractual relationship. You did not at any time discuss this matter with any member of the task force, nor with the city manager prior to or after their decision. You have not had any conversation with Dr. Geist nor any LMH officials about the city's decision.

## Question

Was a conflict of interest created when the city contracted with Columbia/HCA and your employment with the city?

## Opinion

K.S.A. 75-4304 and K.S.A. 75-4305 might apply to the situation you describe.

K.S.A. 75-4304 states:

(a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.

(b) No person or business shall enter into any contract where any local government officer or employee, acting in that capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business.

(c) A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.

(d) This section shall not apply to the following: (1) Contracts let after competitive bidding has been advertised for by published notice; and (2) contracts for property or services for which the price or rate is fixed by law.

(e) Any local governmental officer or employee who is convicted of violating this section shall forfeit the office or employment.

K.S.A. 75-4305 states:

(a) Any local governmental officer or employee who has not filed a disclosure of substantial interests shall, before acting upon any matter which will affect any business in which the officer or employee has a substantial interest, file a written report of the nature of the interest with the county election officer of the county in which is located all or the largest geographical part of the officer's or employee's governmental subdivision.

(b) A local governmental officer or employee does not pass or act upon any matter if the officer or employee abstains from any action in regard to the matter.

From a review of these sections, it is clear that the local conflicts law does not prohibit local governmental agencies from contracting with private enterprises in which a local public official holds a substantial interest. Rather, the local public official may not participate in the making of such agreements. Thus, so long as you abstained from any official action regarding the contract between the city and Columbia/HCA, you have complied with the requirements of the local conflicts law.

## Advisory Opinion No. 94-32

Written October 27, 1994, to all interested persons:

Pursuant to K.S.A. 25-4159, the Kansas Commission on Governmental Standards and Conduct takes the opportunity to issue its opinion on the question of contribution limitations for national party committees under the Kansas Campaign Finance Act (K.S.A. 25-4142 *et seq.*).

**Question**

Does the Kansas Campaign Finance Act limit the amount a national party committee may contribute to individual candidates?

**Opinion**

K.S.A. 25-4153 states:

(a) The aggregate amount contributed to a candidate and such candidate's candidate committee and to all party committees and political committees and dedicated to such candidate's campaign, by any political committee or any person except a party committee, the candidate or the candidate's spouse, shall not exceed the following: (1) For the pair of offices of governor and lieutenant governor or for other state officers elected from the state as a whole, \$2,000 for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election; (2) for the office of member of the house of representatives, district attorney, member of the state board of education or a candidate for local office, \$500 for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election; (3) for the office of state senator, \$1,000 for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election.

(b) For the purpose of this section, the face value of a loan at the end of the period of time allocable to the primary or general election is the amount subject to the limitations of this section. A loan in excess of the limits herein provided may be made during the allocable period if such loan is reduced to the permissible level, when combined with all other contributions from the person making such loan, at the end of such allocable period.

(c) For the purposes of this section, all contributions made by unemancipated children under 18 years of age shall be considered to be contributions made by the parent or parents of such children. The total amount of such contribution shall be attributed to a single custodial parent and 50% of such contribution to each of two parents.

(d) The aggregate amount contributed to a state party committee by a person other than a national party committee or a political committee shall not exceed \$15,000 in each calendar year; and the aggregate amount contributed to any other party committee by a person other than a national party committee or political committee shall not exceed \$5,000 in each calendar year.

The aggregate amount contributed by a national party committee to a state party committee shall not exceed \$25,000 in any calendar year, and the aggregate amount contributed to any other party committee by a national party committee shall not exceed \$10,000 in any calendar year.

The aggregate amount contributed to a party committee by a political committee shall not exceed \$5,000 in any calendar year.

(e) Any political funds which have been collected and were not subject to the reporting requirements of this act shall be deemed a person subject to these contribution limitations.

(f) Any political funds which have been collected and were subject to the reporting requirements of the campaign finance act shall not be used in or for the campaign of a candidate for a federal election office.

(g) The amount contributed by each individual party committee of the same political party other than a national party committee to any candidate for office, for any primary election at which two or more candidates are seeking the nomination of such party shall not exceed the following: (1) For the pair of offices of governor and lieutenant governor and for each of the other state officers elected from the state as a whole, \$2,000 for each primary election (or in lieu thereof a caucus or convention of a political party); (2) for the office of member of the house of representatives, district judge, district magistrate judge, district attorney, member of the state board of education or a candidate for local office, \$500 for each primary election (or in lieu thereof a caucus or convention of a political party); (3) for the office of state senator, \$1,000 for each primary election (or in lieu thereof a caucus or convention of a political party).

(h) When a candidate for a specific cycle does not run for office, the contribution limitations of this section shall apply as though the individual had sought office.

(i) No person shall make any contribution or contributions to any candidate or the candidate committee of any candidate in the form of money or currency of the United States which in the aggregate exceeds \$100 for any one primary or general election, and no candidate or candidate committee of any candidate shall accept any contribution or contributions in the form of money or currency of the United States which in the aggregate exceeds \$100 from any one person for any one primary or general election.

By its plain language, subsection (a) creates an exception for party committees, including a national party committee (see K.S.A. 25-4143(g)), by allowing them to make contributions without limitation to individual candidates. This was a part of the original enactment of the Campaign Finance Act. It was clear then that the Legislature set no limitations on a party committee's contributions from its own funds.

A statutory construction problem arose when subsection (e) was added to the statute at a later date. The problem is that national party committee funds are not subject to the reporting requirements of the Campaign Finance Act (See K.S.A. 25-4172(b)). Thus, an argument can be made that national party committees are subject to the individual contribution limitations pursuant to subsection (e) of K.S.A. 25-4153, because subsection (e) by implication repealed the clear exception in subsection (a).

Implied repeals are not favored in the law. Had the Legislature intended to repeal subsection (a) in relationship to national party committees, it could have easily and specifically done so when subsection (e) was added. It did not. It is, therefore, our opinion that national party committees may contribute to individual candidates without limitation.

Richard C. Loux  
Chairman

Doc. No. 015566

State of Kansas

Kansas Advocacy and Protective Services, Inc.

Notice of Meeting

The Kansas Advocacy and Protective Services will conduct a meeting of the Protection and Advocacy for Individuals with Mental Illness Advisory Council at 3 p.m. Wednesday, November 16, at the Washburn University Law School, Room 119, 17th and MacVicar, Topeka. Opportunity is provided for oral or written public comment on the priorities established by and activities of the protection and advocacy system. For more information, call (913) 776-1541.

Joan Strickler
Executive Director

Doc. No. 015569

State of Kansas

State Conservation Commission

Notice to Contractors

Sealed bids for the construction of an approximately 25,600 cubic yard detention dam, Site 216 in Woodson County, will be received by the Cherry-Plum Creeks Watershed Joint District No. 17 at the Soil Conservation Service (SCS) Office, 218 W. Rutledge, Yates Center 66783, until 2 p.m. November 28, and then opened. A copy of the invitation for bids and plans and specifications can be obtained at the Soil Conservation Service Office, (316) 625-3292, or from James Oler, Contracting Officer, Route 4, Box 181, Yates Center, (316) 625-3224.

Kenneth F. Kern
Executive Director

Doc. No. 015589

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1993 Supp. 75-4210, as amended. These rates and their uses are defined in K.S.A. 75-4201(1), 12-1675(b)(c)(d) and 75-4209(a)(1)(B), as amended.

Effective 11-14-94 through 11-20-94

Table with 2 columns: Term and Rate. Rows include 0-90 days (4.74%), 3 months (5.31%), 6 months (5.85%), 9 months (6.22%), 12 months (6.45%), 18 months (6.81%), 24 months (7.05%), 36 months (7.40%), 48 months (7.62%).

Sally Thompson
State Treasurer

Doc. No. 015571

State of Kansas

State Conservation Commission

Notice to Contractors

Sealed bids for the construction of a 39,926 cubic yard detention dam, Site 9-4 in Brown County, will be received by the Wolf River Watershed Joint District No. 66 at 121 Parsons, Box 216, Robinson 66532, until 8 p.m. on December 6, and then opened. A copy of the invitation for bids and plans and specifications can be obtained at the Watershed Office, (913) 544-6686, or from Bartlett & West, 720 Oregon St., Hiawatha 66436, (913) 742-7441.

Kenneth F. Kern
Executive Director

Doc. No. 015590

State of Kansas

Department of Health and Environment

Notice of Proposed Permit Action

The Secretary of Health and Environment is proposing to issue an air emission source construction permit in accordance with K.A.R. 28-19-14 (permits required) to American Insulated Wire Corporation to construct and operate a plant to manufacture non-ferrous wire and cable at Coffeyville.

Written materials, including the permit application and information relating to the application submitted by American Insulated Wire, draft permit, permit summary and analysis by KDHE describing the basis for the proposed permit are available for public inspection during normal business hours through December 12 by contacting Lynn Ranabargar, KDHE Southeast District Office, Chanute, (316) 431-2390. This material also can be reviewed at the KDHE Office, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka. Questions concerning this proposed permit should be directed to Eugene Sallee, KDHE, (913) 296-1575.

K.S.A. 65-3008 provides that any person affected by the issuance of a permit can request a public hearing prior to the permit's issuance. The request must be in writing and addressed to the secretary. If the secretary determines there is sufficient reason in the request, a public hearing will be conducted—the place, date and time of the hearing will be announced in this publication.

A request for a hearing or written comments on the proposed permit must be submitted to the Secretary, Kansas Department of Health and Environment, Landon State Office Building, 900 S.W. Jackson, Topeka 66612, before December 12.

Robert C. Harder
Secretary of Health and Environment

Doc. No. 015585

## State of Kansas

**Department of Health  
and Environment**

**Notice of Meeting**

The Department of Health and Environment will meet at 9 a.m. Tuesday, November 22, at the Kansas Historical Society Auditorium, 120 W. 10th, Topeka. The meeting is open to the public. Telephone hook-ups are provided at the KDHE district offices located in Chanute, Wichita, Dodge City, Hays, Salina and Lawrence; and the Pittsburg Office of Surface Mining. Any individual with a disability may request accommodation in order to participate in the meeting. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Mary Ann Cummings at (913) 296-0461. The agenda for the November meeting includes:

- Secretary's announcements.
- Report from Division of Health.
- Report from Division of Environment.
- Department budget.
- Rules and regulations:

Public hearing and adoption:

- Infant and Toddler Program:  
K.A.R. 28-4-550 through 28-4-572
- Tuberculosis in Medical Facilities:  
K.A.R. 28-1-19

Adoption:

- Financial assurance criteria for municipal solid waste landfills: K.A.R. 28-29-98 (Amended)
- Standards for solid waste transfer stations:  
K.A.R. 28-29-23a (New)

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 015584

## State of Kansas

**Department of Health  
and Environment**

**Notice Concerning Variance Request  
From Hazardous Waste Regulations**

The Kansas Department of Health and Environment is providing public notice that on August 15, 1994, Gordon-Piatt Energy Group Inc. located at Strother Field Industrial Park near Winfield, Kansas, submitted a request for a variance from specific hazardous waste regulations. The request for a variance was submitted in accordance with K.A.R. 28-31-13(a).

The variance is requested from K.A.R. 28-31-4 and 40 CFR 265.176, which require the storage of containers holding ignitable hazardous waste must be located at least 15 meters (50 feet) from the facility's property line.

Gordon-Piatt Energy Group Inc. generates ignitable hazardous waste, which is stored prior to being shipped off-site for reclamation. Gordon-Piatt Energy Group Inc. proposes to store this waste in a hazardous waste storage building with a concrete floor with curbing to con-

tain any potential spills. KDHE has reviewed the variance request and concluded that the variance is justified.

In accordance with K.A.R. 28-31-13(b), public notice was provided that KDHE considered the request for a variance justified and made a tentative decision to grant the variance. A public comment period to receive comments regarding this tentative decision was established between September 29 and October 29, 1994. No public comments were received.

Therefore, in accordance with K.A.R. 28-31-13(b), KDHE announces its decision to approve this request for a variance and not to include any special conditions. The variance shall become effective on November 10, 1994, and shall remain in effect until November 10, 2001.

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 015587

## State of Kansas

**Department of Health  
and Environment**

**Notice Concerning Variance Request  
From Hazardous Waste Regulations**

The Kansas Department of Health and Environment is providing public notice that on September 2, 1994, McConnell Air Force Base, 2800 S. Rock Road, McConnell AFB, Kansas, submitted a request for a renewal of a variance from specific hazardous waste regulations. The request for a variance was submitted in accordance with K.A.R. 28-31-13(a).

The variance is requested from K.A.R. 28-31-6(c), which requires minimum insurance requirements for transporters of hazardous waste. McConnell AFB is part of the U.S. government. It is covered by the Federal Tort Claims Act, which essentially makes the Air Force a self-insurer and establishes a source of reimbursement which satisfies the intent of K.A.R. 28-31-6(c). Therefore, KDHE has concluded that the variance is justified.

In accordance with K.A.R. 28-31-13(b), public notice was provided that KDHE considered the request for a variance justified and made a tentative decision to grant the variance. A public comment period to receive comments regarding this tentative decision was established between September 29 and October 29, 1994. No public comments were received.

Therefore, in accordance with K.A.R. 28-31-13(b), KDHE announces its decision to approve this request for a variance and not to include any special conditions. The variance shall become effective on November 10, 1994, and shall remain in effect until November 10, 2001.

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 015586

## State of Kansas

Department of Health  
and EnvironmentNotice Concerning Kansas  
Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations, and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

## Public Notice No. KS-EG-94-24/28

Tentative permits have been prepared for the re-permitting of five salt-solution mining wells drilled within the state of Kansas for the applicant described below.

Description: The wells listed below are designed for the production of salt by solution mining activities. All wells are located in Reno County, Kansas, and are operated by North American Salt Company, 1800 Carey Blvd., Hutchinson, KS 67501.

Well Number and Permit Number	Well Location
Well Number 117 KS Permit No. KS-03-155-166	NENWNE 20-23-5W 4960' fsl and 1815' fel of SE/4
Well Number 118 KS Permit No. KS-03-155-167	NENWNE 20-23-5W 4960' fsl and 1515' fel of SE/4
Well Number 119 KS Permit No. KS-03-155-168	NWNENE 20-23-5W 4960' fsl and 1215' fel of SE/4
Well Number 120 KS Permit No. KS-03-155-169	NWNENE 20-23-5W 4960' fsl and 915' fel of SE/4
Well Number 121 KS Permit No. KS-03-155-165	NENENE 20-23-5W 4960' fsl and 615' fel of SE/4

## Public Notice No. KS-ND-94-10

Name and Address of Applicant	Waterway	Type of Discharge
Finney County Sewer District No. 2 (Southwind Development) c/o Finney County Commission Director of Public Works 504 St. John Garden City, KS 67846 Finney County, Kansas Kansas Permit No. M-UA14-N003	Non-overflowing	Non-overflowing

Description of Facility: This is a two-cell non-overflowing wastewater treatment lagoon with irrigation, designed for domestic waste only. This is a new facility.

## Public Notice No. KS-94-68/69

Name and Address of Applicant	Waterway	Type of Discharge
City of Lane c/o City Clerk, City Hall Lane, KS 66042	Marais des Cygnes River via Pottawatomie Creek	Secondary wastewater treatment facility

Franklin County, Kansas

Kansas Permit No. M-MC19-0001

Fed. Permit No. KS-0081515

Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Owens-Corning Fiberglass Corporation 300 Sunshine Road Kansas City, KS 66115	Missouri River via Fairfax District cooling water diversion sewer	Non-contact cooling water and stormwater discharge

Wyandotte County, Kansas

Kansas Permit No. I-M025-C004

Fed. Permit No. KS-0002046

Description of Facility: This facility manufactures glass fibers for insulation products. Once-through non-contact cooling water from a binder mix building and reactor building, and uncontaminated stormwater from roof drains during rainfall events is discharged into Missouri River via Fairfax District Storm Sewer. The source of water is on-site wells. This is an existing facility. Proposed effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, or Dorothy Geisler (agricultural permits), Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Topeka 66620. All comments postmarked or received on or before December 9 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-94-68/69, KS-EG-94-24/28, KS-ND-94-10) and the name of applicant as listed when preparing comments.

If no objections are received during the public notice period, the Secretary of Health and Environment will issue the final determinations. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61 (28-46-21 for UIC). Media coordination (newspapers, radio) for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The application, proposed permit, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Kansas Department of Health and Environment offices, Building 283, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 015588



State of Kansas

**Department of Commerce  
and Housing**

**Notice Concerning Kansas Comprehensive  
Housing Affordability Strategy**

The Department of Commerce and Housing will publish a preliminary draft of the Kansas Comprehensive Housing Affordability Strategy (CHAS) for federal fiscal year 1995. The 1995 Kansas CHAS will be available for public review and comment from November 18 to December 19. Copies of the 1995 Kansas CHAS can be examined at county seat public libraries and selected local government offices. A preliminary draft of the Annual Performance Report on the 1994 Kansas CHAS will be available for public review and comment at the above time and places. Also, copies of the preliminary 1995 Kansas CHAS and the preliminary Annual Report on 1994 Kansas CHAS will be available upon request from the Department of Commerce and Housing, Division of Housing, 700 S.W. Harrison, Suite 1300, Topeka 66603-3712, (913) 296-2686 or TTY (913) 296-3487.

Bob Knight  
Secretary of Commerce  
and Housing

Doc. No. 015568

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, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, until 2 p.m. on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information:

**Monday, November 21, 1994**

30762

University of Kansas Medical Center—NIBP and vital signs monitors and supplies

30776

Department of Transportation—Dump truck tarping system

30780

Statewide—Seasonal clothing

**Tuesday, November 22, 1994**

30778

University of Kansas Medical Center—Labels with special adhesive

30783

Kansas Neurological Institute—Floor care products

30784

Statewide—Basic clothing

00300

University of Kansas Medical Center—High speed refrigerated centrifuge

00301

Department of Health and Environment—Global positioning system receiver

**Wednesday, November 23, 1994**

30787

Statewide—Fine paper

00309

Emporia State University—Furnish and install hot water boiler

00314

Hutchinson Correctional Facility—Plumbing materials

00318

Secretary of State—IBM printers

00319

Department of Transportation—Wood snow fence, Norton

00320

University of Kansas—Hospital stretcher/bed

00321

Department of Social and Rehabilitation Services—Laser printer cartridges

00328

El Dorado Correctional Facility—Law enforcement automobile

00329

University of Kansas—Network file servers

00330

University of Kansas—SCSI-2 disk drives

00334

Department of Transportation—Aggregate (Riley and Marshal counties)

00335

Department of Administration, Division of Printing—Commodity offset

00337

University of Kansas Medical Center—Patient monitoring equipment

**Tuesday, November 29, 1994**

A-7175

Topeka State Hospital—Replace #3 boiler

A-7246 Rebid

Department of Transportation—Building modifications for A.D.A. accessibility, Salina

A-7268 Rebid

Department of Transportation—Building modifications for A.D.A. accessibility, Garden City

**Wednesday, November 30, 1994**

30785

Statewide—Perfusion supplies (Class 18)

**Friday, December 2, 1994**

30782

Department of Social and Rehabilitation Services—Design modification construction of mainframe system (KSSIS)

Jack R. Shipman  
Director of Purchases

Doc. No. 015591



(Published in the Kansas Register, November 10, 1994.)

**Summary Notice of Note Sale  
City of Manhattan, Kansas  
\$1,019,000**

**Temporary Notes, Series 1994-15 through 1994-18**

**(General obligation notes payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the notice of note sale dated November 8, 1994, sealed bids will be received by the accounting/treasury officer of the city of Manhattan, Kansas (the issuer), on behalf of the governing body at City Hall, 1101 Poyntz, Manhattan, KS 66502-5460, until 2 p.m. C.S.T. on November 17, 1994, for the purchase of \$1,019,000 principal amount of Temporary Notes, Series 1994-15 through 1994-18. No bid of less than the entire par value of the notes, except a discount of not greater than 1 percent of the par value of the notes, and accrued interest thereon to the date of delivery will be considered.

**Note Details**

The notes will consist of bearer notes in denominations to be specified by the bidder, as specified in the notice of note sale. The notes will be dated December 1, 1994, and will become due September 15, 1995.

The notes will bear interest from the date thereof at rates to be determined when the notes are sold as hereinafter provided, which interest will be payable at maturity or earlier redemption.

**Paying Agent**

A financial institution located within the state of Kansas, to be designated by the successful bidder (which shall not be the issuer).

**Delivery**

The issuer will pay for printing the notes and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before December 15, 1994, at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1994 is \$170,324,364. The total general obligation indebtedness of the issuer as of the date of the notes, including the notes being sold, is \$30,820,800. In addition, the issuer sold on November 1, 1994, \$615,000 principal amount of general obligation bonds, the proceeds of which will be used, together with other available funds, to redeem \$658,000 principal amount of outstanding temporary notes.

**Approval of Notes**

The notes will be sold subject to the legal opinion of Gilmore & Bell, P.C., Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the notes will be furnished and paid for by the issuer and delivered to the successful bidder as and when the notes are delivered.

**Additional Information**

Bidders desiring a copy of the notice of note sale, official bid form and preliminary official statement, or re-

questing additional information regarding the notes, should contact Laura Oakley, accounting/treasury officer, at (913) 537-0056.

Dated November 8, 1994.

City of Manhattan, Kansas

Doc. No. 015583

State of Kansas

**Secretary of State**

**Executive Appointments**

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. The following appointments were filed October 16-November 4:

**State Representative, 34th District**

**David Haley**, 936 Cleveland, Kansas City, KS 66101. Term expires when a successor is elected and qualifies according to law. Succeeds Robert Watson, resigned.

**Commission on Autism**

**Josie Torrez**, Families Together, Inc., 1023 S.W. Gage Blvd., Topeka 66604. Serves at the pleasure of the Governor. New position.

**Export Loan Guarantee Review Committee**

**John C. Prather**, Groendyke Transport, Inc., 804 N. Haverhill Drive, El Dorado 67042. Subject to Senate confirmation. Term expires June 30, 1998. New position.

**Governor's Commission on Housing  
and Homelessness**

**Diane McDiarmid**, 5130 N.W. Pueblo, Topeka 66618. Serves at the pleasure of the Governor. Succeeds Gina McDonald, resigned.

**State Board of Indigents'  
Defense Services**

**David W. Boal**, Boal and Jeserich, 748 Ann Ave., Kansas City, KS 66101. Subject to Senate confirmation. Term expires July 1, 1997. Succeeds Maurice Ryan.

**Information Network of Kansas**

**Susan Duffy**, Acting Secretary of Revenue, Room 216-N, Docking State Office Building, 915 S.W. Harrison, Topeka 66612. Serves at the pleasure of the Governor. Succeeds Nancy Parrish, resigned.

**Kansas Inc.**

**Board of Directors**

**Deryl K. Schuster**, Emergent Business Capital, 121 W. Dewey, Suite 210, Wichita 67202. Subject to Senate confirmation. Term expires June 30, 1998. Succeeds Eric Jager.

**Larry Williams**, Chairman and CEO, The Halstead Bank, 314 Main, Halstead 67056. Subject to Senate confirmation. Term expires June 30, 1997. Succeeds Tom Clevenger.

Bill Graves  
Secretary of State

State of Kansas

University of Kansas Medical Center

Notice to Bidders

Sealed bids for the items listed below will be received by the University of Kansas Medical Center, Purchasing Department, 3901 Rainbow Blvd., Kansas City, KS 66160-7162, until 2 p.m. on the date indicated, and then will be publicly opened. Interested bidders may call Peggy Davis at (913) 588-1115 for additional information.

Monday, November 28, 1994

725165

Syringe infusion pumps

725166

Cell washing system for blood bank

Barbara Lockhart  
Purchasing Director

Doc. No. 015575

(Published in the Kansas Register, November 10, 1994.)

Notice of Redemption  
City of Manchester, Kansas  
Water System Utility Revenue Bonds  
Series A, 1987  
\$28,000 Dated January 1, 1987

Notice is hereby given that all of the above mentioned bonds maturing on and after January 1, 1996, and all unmatured coupons appertaining thereto, have been called for redemption and payment on January 1, 1995, at the office of the Kansas State Treasurer, Topeka, Kansas (the paying agent).

Maturity Date	Principal Amount	Interest Rate
1/1/2001	\$2,000	8.75%
1/1/2002	\$3,000	8.75%

On such redemption date there shall become due and payable, upon presentation and surrender of each such bond and unmatured coupons, the redemption price thereof equal to 103 percent of the principal amount of each bond together with interest accrued to the redemption date, provided funds are on deposit with the fiscal agent. Interest shall cease to accrue on the bonds so called for redemption from and after January 1, 1995.

The method of delivery of the bonds for payment is at the election and risk of the holder, but if sent by mail, insured registered mail, return receipt requested, is recommended.

To avoid a 31 percent backup withholding tax required by federal law effective January 1, 1993, holders must submit a properly completed IRS Form W-9 with their bond, unless such a form has been provided previously.

Dated November 3, 1994.

Kansas State Treasurer  
Fiscal Agent for  
City of Manchester, Kansas

Doc. No. 015572

State of Kansas

Department of Administration

Permanent Administrative  
Regulations

Article 5.—COMPENSATION

**1-5-24. Overtime.** (a) Except as otherwise provided by the statutes or regulations, employees of the state who are eligible to receive overtime compensation under the Fair Labor Standards Act of 1938, as amended, shall be compensated for overtime as provided in that act. State employees in agricultural positions shall also be eligible for overtime compensation. The final determination as to eligibility to receive overtime pursuant to this subsection shall be made by the director for all classified employees and all unclassified employees whose salaries are subject to approval by the governor under K.S.A. 75-2935b and amendments thereto.

(b) (1) The rate at which any eligible employee is to be compensated for overtime worked shall be one and a half times the employee's regular rate of pay; this rate shall not include premium pay for holidays worked or any call-in and call-back compensation paid for hours not actually worked.

(2) All employees eligible for overtime compensation, and who were paid for overtime during the 12 months preceding the receipt of a longevity bonus payment or a quality award bonus payment, shall receive an additional overtime payment to be calculated as follows:

(A) Divide the bonus pay by total hours worked in the preceding 12 months to obtain increase in regular rate; and

(B) Multiply increase in regular rate by the number of overtime hours paid in the preceding 12 months; then, multiply that product by one-half. The result will be the employee's additional overtime pay.

No additional overtime pay shall be due for any overtime hours worked during the preceding 12 months for which compensatory time was given under subsection (f).

(c) Each appointing authority shall be responsible for control of overtime in the agency. Overtime, to the extent possible, shall be authorized in advance by the responsible supervisor.

(d) Eligibility for overtime for a class or position that is not eligible for overtime under subsection (a) may be authorized by the director.

(e) In determining whether an employee in a position or class determined to be eligible for overtime pay has worked any overtime in a given workweek or work period, only time actually worked shall be considered beginning January 18, 1995. The number of hours of paid leave used in an employee's work week or work period which, when added to the number of hours actually worked in that employee's work week or work period, exceeds the applicable overtime standard shall be:

(1) given as equivalent time off pursuant to subsection (g); or

(2) paid at the annualized hourly rate of pay.

(f) (1) In lieu of paying an eligible employee at the time and a half rate for overtime worked, an agency may

(continued)

elect to compensate an employee for overtime worked by granting compensatory time off, at the rate of one and a half hours off for each hour of overtime worked, at some time after the workweek or work period in which the overtime was worked.

(2) (A) An eligible employee shall not accrue more than 120 hours of compensatory time for overtime hours worked except as provided in paragraph (B). Any eligible employee who has accrued 120 hours of compensatory time off shall, for any additional overtime hours of work, be compensated with overtime pay.

(B) Upon written request by an appointing authority, a higher maximum accumulation of compensatory time may be approved by the secretary of administration for a class or a group of eligible employees within that agency, provided that the maximum accumulation shall not exceed 240 hours.

(3) If an eligible employee is paid for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives the payment.

(4) (A) Each eligible employee who has accrued compensatory time off authorized under this subsection shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than:

(i) the average regular rate received by such eligible employee during the last three years of the employee's employment; or

(ii) the final regular rate received by such eligible employee, whichever is higher.

(B) Any longevity or quality award bonus payments received during the last three years of employment shall be included in determining the average regular rate and the final regular rate in paragraph (4)(A).

(5) (A) Each eligible employee who has accrued compensatory time off authorized under this subsection, and who has requested the use of compensatory time, shall be permitted by the appointing authority to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the agency.

(B) Each employee who has accrued compensatory time off under this subsection may be required by the appointing authority to use the compensatory time within a reasonable period after receiving notice of such a requirement. The notice shall state the length of time in which a specified number of hours of compensatory time are to be used.

(g) When an employee who is eligible for overtime works additional time that could result in overtime hours, that employee's agency may give the employee equivalent time off, on an hour for hour basis, in the workweek or work period in which the additional time is worked if:

(1) the agency notifies the employee of the change in the employee's normal work schedule for that workweek or work period at least five calendar days in advance of the day in which the employee's normal work schedule is first changed; or

(2) the agency has established a written policy stating that the employee may be required to take equivalent time off, on an hour for hour basis, in the workweek or work period in which additional time is worked; or

(3) the employee requests or agrees to take equivalent time off during the workweek or work period in which additional time was worked, and the agency determines that this arrangement is not detrimental to the operations of the agency.

In any case, the equivalent time off shall be taken at a time agreeable with the agency during the workweek or work period in which the additional time is worked. (Authorized by K.S.A. 75-3747, as amended by L. 1994, ch. 248, § 29; implementing K.S.A. 75-2938, as amended by L. 1994, ch. 352, § 3, and K.S.A. 75-5541, as amended by L. 1994, ch. 352, § 4; effective May 1, 1979; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-86-17, June 17, 1985; amended, T-86-36, Dec. 11, 1985; amended May 1, 1986; amended, T-87-11, May 1, 1986; amended May 1, 1987; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 27, 1994.)

Gloria M. Timmer  
Secretary of Administration

Doc. No. 015593

## State of Kansas

### Department of Wildlife and Parks

#### Permanent Administrative Regulations

#### Article 8.—DEPARTMENT LANDS AND WATERS

**115-8-3. Non-toxic shot; department lands and waters.** Each individual hunting with a shotgun on department lands or waters posted as a "steel shot only" area or "non-toxic shot only" area shall possess and use only non-toxic shot as approved under K.A.R. 115-18-14. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Sept. 18, 1989; amended Dec. 27, 1994.)

#### Article 18.—SPECIAL PERMITS

**115-18-14. Non-toxic shot; statewide.** (a) Each individual hunting with a shotgun for waterfowl, coot, rail, snipe or sandhill crane shall possess and use only non-toxic shot.

(b) The following non-toxic shot materials shall be approved for the hunting of waterfowl, coot, rail, snipe and sandhill crane:

- (1) steel shot; and
- (2) steel shot coated with any of the following materials:

- (A) copper;
- (B) nickel;
- (C) zinc chromate; or
- (D) zinc chloride. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Dec. 27, 1994.)

Ted Ensley  
Secretary of Wildlife  
and Parks

Doc. No. 015573

## State of Kansas

## Board of Veterinary Medical Examiners

Permanent Administrative  
Regulations

## Article 1.—DEFINITIONS

**70-1-4.** "Mobile veterinary clinic" means a vehicular veterinary premises capable of moving from one location to another. (Authorized by and implementing K.S.A. 47-821(a)(10); effective Dec. 27, 1994.)

**70-1-5.** "Dental operation" means the following. (a) The application or use of any instrument or device to any portion of an animal's tooth, gum, or any related tissue for the prevention, cure or relief of any wound, fracture, injury or disease of an animal's tooth, gum or related tissue; and

(b) Preventative dental procedures including, but not limited to, the removal of calculous, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces. (Authorized by and implementing K.S.A. 47-821(a)(10); effective Dec. 27, 1994.)

Article 6.—MINIMUM STANDARDS FOR  
VETERINARY PREMISES SANITARY  
CONDITIONS AND PHYSICAL PLANT

**70-6-1. Premises sanitary conditions and physical plant.** (a) Each veterinary premises, except for a mobile veterinary clinic, shall meet all of the following minimum standards for sanitary conditions and a physical plant.

(1) General facilities and grounds.

(A) Sanitation. All areas of a veterinary premises, and all instruments, apparatus and apparel used in connection with the practice of veterinary medicine, shall be maintained in a clean and sanitary, inoffensive, and orderly condition at all times. Cleaning agents capable of killing viruses and bacteria shall be used to disinfect the premises.

(B) Safety. All public areas of a veterinary premises shall be maintained in a safe condition for the client and patient.

(2) Exterior and grounds.

(A) Exterior structure. The exterior structure shall exhibit evidence of regular maintenance.

(B) Signs. Signs shall be kept in good repair.

(C) Landscaping. The grounds shall exhibit evidence of regular maintenance.

(D) Parking lot and sidewalks. Parking lots shall be large enough for both staff and clientele. Parking lots and sidewalks shall be kept in good repair and free of debris.

(E) Loading and unloading structures of a facility. The loading and unloading structures of a facility shall be of adequate strength, and in good repair.

(F) Outside housing. If the temperature is below 50 degrees Fahrenheit or above 85 degrees Fahrenheit, small animals housed outside shall have adequate shelter.

(G) Holding facilities. Holding facilities shall be of adequate size and design to insure the animals' safety and

well being. The area shall contain provisions for food and water when necessary.

(H) Windows. All windows shall be kept clean. If windows are opened for ventilation purposes, effective screening shall be required.

(3) Interior.

(A) Space. Adequate space to safeguard each patient shall be available.

(B) Environment. Adequate heating, cooling, and ventilation necessary to maintain comfort of the patient, client and staff shall be provided.

(C) Water. Hot and cold running water shall be available.

(D) Storage. Adequate sanitary storage for the building size shall be available.

(E) Library. A library shall be provided with basic veterinary textbooks and current veterinary periodicals.

(F) Restraint devices. Restraint devices shall be of adequate design, clean and in good working order to insure the safety of the animals and personnel.

(G) Lighting. Indoor lighting for halls, wards, reception areas, examining and surgical rooms shall be adequate for the intended purpose.

(H) Odor and waste control. Ventilation and cleaning shall be provided to keep odors from lingering in the rooms.

(4) Reception room.

(A) Seating. Adequate seating shall be provided for the clientele.

(B) Lavatory. A clean lavatory shall be available to the clients.

(C) Permit. A current facility permit shall be conspicuously displayed.

(5) Examination room or rooms. An examination room or rooms shall be available for the complete physical examination of patients by a veterinarian.

(A) Size. This room shall be of sufficient size to accommodate the doctor, assistant, patient and client comfortably.

(B) Sanitation. The exam table surface shall be sanitized between patients.

(C) Equipment. Proper diagnostic equipment needed for the physical examination shall be readily available.

(6) Wards. Those premises where animals are retained overnight shall meet all of the following requirements.

(A) Exercise. Exercise shall be provided for animals having to stay in an overnight facility. Walking the animal shall meet this requirement.

(B) Walls and floors. Floors shall be smooth, waterproof, nonabsorbent, capable of being scrubbed with detergents and effective sanitizing products and in good repair. Walls shall be smooth and free of cracks or gaps large enough to interfere with effective cleaning.

(C) Temperature. The temperature shall be maintained in a range that is comfortable and safe for all patients.

(D) Separate compartments. A separate compartment shall be available for each animal.

(E) Compartment size. Caging or housing shall be designed with the animal's physical comfort as the primary consideration.

(i) Physical comfort assuring that the animal is dry and clean shall be provided.

(continued)

(ii) Sufficient space shall be provided to assure freedom of movement and normal postural adjustments with convenient access to food and water.

(F) Good repair. Cages, runs, stalls, pens, and other animal compartments shall be kept in good repair to prevent injury to the animal and to promote physical comfort.

(i) Sharp corners and edges, broken wires and any dangerous surfaces shall not be present.

(ii) Cages made of metal other than stainless steel shall be kept in good repair by regular painting or other maintenance as required.

(G) Cleaning procedures. Compartments shall be sanitized between patients. Floors and walls shall be regularly disinfected. Waste cans shall be metal or plastic, shall be leakproof and have tight-fitting lids.

(H) Drains in runways. Drains shall be constructed so that they facilitate sanitization between runways. To maintain proper sanitation, runways shall be cleaned between uses.

(I) Food Storage. Bulk food shall be stored in a vermin-proof container. Opened canned food shall be refrigerated until used.

(J) Sanitizing feeding dishes. Water and feed dishes, if not disposable, shall be sanitized.

(K) Feeding. Adequate daily feedings, with a wholesome, nutritional, palatable food, except where medically contra-indicated, shall be provided.

(L) Water. Adequate daily fresh water within easy reach of all patients, except where medically contra-indicated, shall be provided.

(M) Identification. An animal identification system shall be used.

(N) Isolation. Premises shall allow for the effective separation of contagious and noncontagious cases.

(7) Operating room. If other than minor surgical procedures are to be performed, room for major surgical procedures shall be provided, and shall meet the following requirements.

(A) Floors. The floors shall be made of impervious materials, including but not limited to terrazzo, sealed cement, and linoleum.

(B) Intravenous fluid setup. An intravenous setup for fluid administration shall be available.

(C) Emergency drugs. Emergency drugs shall be readily available.

(D) Surgery table. The surgery table shall be constructed of impervious material that is easily sanitized.

(E) Instruments. Instruments and equipment commensurate with the type of surgical services shall be provided.

(8) Sterilization. Articles to be used in surgery shall be sterilized either by gas sterilization or steam sterilization. Chemical sterilization shall be acceptable under field situations and in emergency situations. Surgical packs shall be dated as to the last time sterilized. Monitors shall be included within surgical packs regularly to detect proper sterilization. Caps, masks, gowns, drapes, towels, and sterile gloves shall be available.

(9) Oxygen. A mechanism of oxygen administration shall be available.

(10) Pharmacy. The veterinarian shall insure the storage, safekeeping and preparation of drugs.

(11) Radiology.

(A) Service availability. If radiology services are not available in the facility, arrangements shall be made to promote this service outside the facility within a reasonable distance.

(B) Film badge monitoring. Film badge monitoring of exposure levels shall be provided for all personnel working with or near an X-ray generator.

(C) Film identification. Permanent identification of the radiograph shall occur at the time of exposure or just prior to development.

(D) Protective apparel. "Leaded" aprons and gloves or mitts shall be available for anyone helping to restrain or position patients during radiography.

(12) Laboratory. The clinical pathology services shall be available either in the hospital or in a medical facility, and the results shall be made available within a reasonable time frame.

(13) Waste disposal.

(A) Dead animals and animal tissues. Prompt and sanitary disposal of dead animals and animal tissues shall be required. All animal tissues and dead animals shall be contained in plastic bags and kept in an area away from the public before being picked up for disposal. Dead animals held until a delayed pick up shall be placed in a refrigerator or freezer.

(B) Needles and syringes. Needles and syringes shall be destroyed or adequately disposed of in a proper manner.

(b) A mobile veterinary clinic shall meet the minimum standards for sanitary conditions and physical plant established in subsection (a) of this regulation except for paragraphs (a)(2)(E), Loading and unloading structures of a facility, (a)(2)(F), Outside housing, (a)(3)(B), Lavatory, (a)(6), Wards, and (a)(9), Oxygen. (Authorized by and implementing K.S.A. 47-840(b); effective Dec. 27, 1994.)

Dirk A. Hanson, D.V.M.  
Executive Director

Doc. No. 015594

## State of Kansas

### Health Care Data Governing Board

#### Permanent Administrative Regulations

#### Article 1.—CLIENT ASSESSMENT, REFERRAL AND EVALUATION (CARE) PROGRAM

**120-1-1. Data collection form.** Prior to admission to a nursing facility, each individual shall receive assessment and referral services. The following data entry form for the client assessment, referral and evaluation (CARE) program shall be used by all persons providing assessment services.

State of Kansas • Department on Aging  
**Client Assessment, Referral, and Evaluation**

I. Identification Information	II. PASARR	III. Functional Assessment
<p><b>A. Client Social Security # (optional)</b>  <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p> <p><b>B. Client Name</b>                      Last: _____                      First: _____ MI: _____</p> <p><b>C. Address</b>                      Street: _____                      _____                      City: _____                      County: <input type="text"/> <input type="text"/> <input type="text"/> State: <input type="text"/> <input type="text"/>                      ZIP: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>                      Phone: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p> <p><b>D. Birth date</b>  <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>                      Month Day Year</p> <p><b>E. Gender</b>                      1. Male      2. Female</p> <p><b>F. Date of Assessment</b>  <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>                      Month Day Year</p> <p><b>G. Assessor ID#</b> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p> <p><b>H. Primary Language</b>                      1. English      2. German                      3. Spanish      4. Other: _____</p> <p><b>I. Ethnic Background (code for the correct response)</b>                      1. Black (non-Hispanic)                      2. White (non-Hispanic)                      3. American Indian/Alaskan Native                      4. Hispanic                      5. Asian/Pacific Islander                      6. Other: _____</p>	<p><b>A. Have you or anyone else suggested you need to move to a nursing facility?</b>                      1. Yes                      2. No (skip to section III)</p> <p><b>B. MI/MR Screen</b>                      1. Client has been diagnosed as having a serious mental disorder                      1. Yes      2. No</p> <p>2. What psychiatric treatment has the client received in the past 2 years (check all that apply)                      1. Partial hospitalization                      2. Inpatient hospitalization                      3. Supportive services/intervention                      4. None</p> <p>3. Has the client been diagnosed with one of the following conditions prior to age 22 AND the condition is likely to continue indefinitely? (check all that apply)                      1. Mental retardation                      2. Related condition                      3. None</p> <p>4. What resources of information were used for the MI/MR screen (check all that apply)?                      1. Client                      2. Family                      3. Health care professional                      4. Clinical record</p> <p>5. Referred for level II assessment?                      1. Yes      2. No</p>	<p>Enter the code in the box to indicate the client's level of self performance at the time of the assessment.</p> <p>1. Independent                      2. Supervision needed                      3. Physical assistance needed                      4. Unable to perform</p> <p><b>A. Activities for daily living</b>                      1. Bathing                      2. Dressing                      3. Toileting                      4. Transfer                      5. Walking, mobility                      6. Eating</p> <p><b>B. Instrumental Activities for daily living</b>                      1. Meal preparation                      2. Shopping                      3. Money management                      4. Transportation                      5. Use of telephone                      6. Laundry, housekeeping                      7. Management of medications, treatments</p> <p><b>C. Bladder continence (code current performance for client)</b>                      1. Continent                      2. Usually continent                      3. Occasionally incontinent                      4. Frequently incontinent                      5. Incontinent</p> <p><b>D. Cognition</b>                      1. Comatose, persistent vegetative state                      1. Yes (skip to section V)                      2. No</p> <p>2. Memory, recall                      1. Short-term memory                      2. Long-term memory                      3. Memory / recall                      4. Decision making                      5. Total Score</p>



Name: \_\_\_\_\_

**E. Communication**

1. Expresses information content, however able
  1. Understandable
  2. Usually understandable
  3. Sometimes understandable
  4. Rarely or never understandable
2. Ability to understand others, verbal information, however able
  1. Understands
  2. Usually understands
  3. Sometimes understands
  4. Rarely or never understands

**IV. Current or Recent Problems and Risks**

Check all the current or recent problems and risks the patient has had

1. Falls, unsteadiness
2. Impaired vision
3. Impaired hearing
4. Wandering
5. Socially inappropriate, disruptive behavior
6. Self neglect
7. Neglect, abuse, or exploitation experienced
8. None

**V. Support**

- A. Lives alone
  1. Yes
  2. No
- B. Support, caregiver available
  1. Full time
  2. Part time—routine
  3. Part time—intermittent
  4. Not available

**C. Possible sources of payment for support services (check all that apply)**

1. Self pay
2. Medicare
3. Private insurance
4. VA
5. Medicaid
6. Senior Care Act
7. Other: \_\_\_\_\_

**D. Primary person for legal and financial matters (check all that apply)**

1. Self
2. Spouse
3. Son, daughter, or other relative
4. Guardian
5. Durable Power of Attorney for health care
6. Durable Power of Attorney/ Power of Attorney
7. Other legal oversight
8. Friend
9. Other: \_\_\_\_\_

**E. Primary person who manages care/ financial matters, if other than client**

Name: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone: \_\_\_\_\_

**VI. Referral information**

**A. These services are needed to assist client to remain in community care**


**B. Client, family choice for long-term care services (code for correct response)**

1. Client's or family member's home without services
2. Client's or family member's home with services
3. Personal, residential, or boarding care
4. Nursing facility

a. Name of facility: \_\_\_\_\_

b. Is the client's stay in the nursing facility anticipated to be less than 3 months?

- 1) Yes
- 2) No

**VII. Address where client can be contacted for further information and referral services**

(if different from Section I)

Street: \_\_\_\_\_

City: \_\_\_\_\_

County: \_\_\_\_\_ State: \_\_\_\_\_

ZIP: \_\_\_\_\_

Phone: \_\_\_\_\_

**Comments:**

\_\_\_\_\_

KDHE-Health Data Board, rev 10/94 (KDHE-OGCR/GAPS)

(Authorized by and implementing K.S.A. 39-931a, as amended by L. 1994, Ch. 147, sec. 1; effective Dec. 27, 1994.)

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 015578



## State of Kansas

## Social and Rehabilitation Services

Permanent Administrative  
Regulations

## Article 4.—PUBLIC ASSISTANCE PROGRAM

**30-4-34. Program.** (a) (1) The public assistance program. The public assistance program shall include:

- (A) aid to dependent children (ADC);
- (B) aid to dependent children-foster care (ADC-FC);
- (C) emergency assistance to needy families with children (EA);
- (D) aid to pregnant women (APW);
- (E) general assistance-unrestricted (GAU);
- (F) general assistance-foster care (GA-FC); and
- (G) burial assistance (BA).

(2) Applicable regulations. Those persons who are assigned to participate in the state's welfare reform demonstration project shall be subject to the following regulations: K.A.R. 30-4-35w, K.A.R. 30-4-38, K.A.R. 30-4-39, K.A.R. 30-4-40, K.A.R. 30-4-41w, K.A.R. 30-4-50w, K.A.R. 30-4-52w, K.A.R. 30-4-53, K.A.R. 30-4-54w, K.A.R. 30-4-55w, K.A.R. 30-4-58w, K.A.R. 30-4-59w, K.A.R. 30-4-60, K.A.R. 30-4-61w, K.A.R. 30-4-63w, K.A.R. 30-4-64w, K.A.R. 30-4-70w, K.A.R. 30-4-71, K.A.R. 30-4-72w, K.A.R. 30-4-74w, K.A.R. 30-4-80, K.A.R. 30-4-85a, K.A.R. 30-4-90w, K.A.R. 30-4-95, K.A.R. 30-4-96, K.A.R. 30-4-100w, K.A.R. 30-4-101, K.A.R. 30-4-102, K.A.R. 30-4-105w, K.A.R. 30-4-106w, K.A.R. 30-4-107, K.A.R. 30-4-108, K.A.R. 30-4-109w, K.A.R. 30-4-110w, K.A.R. 30-4-111w, K.A.R. 30-4-112w, K.A.R. 30-4-113w, K.A.R. 30-4-120w, K.A.R. 30-4-121, K.A.R. 30-4-122a, K.A.R. 30-4-130w, and K.A.R. 30-4-140w.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective May 1, 1981; amended, T-84-8, April 1, 1983; amended May 1, 1983; amended, T-84-9, May 1, 1983; amended May 1, 1984; amended, T-88-14, July 1, 1987; amended May 1, 1988; amended, T-30-6-10-91, July 1, 1991; amended Dec. 30, 1994.)

**30-4-35w. Assistance process.** (a) Attention given to requests. All applications, inquiries and requests for assistance shall be given prompt attention.

(b) Who may file. An application for public assistance shall be made by each applicant in person, or by another person authorized to act on the applicant's behalf.

(c) Applications. An application for assistance shall be considered an application for any type of public assistance. The applicant or person authorized to act on behalf of the applicant shall sign the application. If the applicant or the applicant's representative signs by mark, the names and addresses of two witnesses shall be required.

(d) Face-to-face interview. A face-to-face interview shall be required at the time of application unless there is good cause for waiving this requirement.

(e) Time in which application shall be processed.

(1) Applications for assistance shall be approved or denied within 45 days of the agency's receipt of a signed application for assistance unless:

(A) the application for assistance has been withdrawn; or

(B) the required determination of eligibility cannot be made within 45 days due to the failure of the applicant or a collateral to provide necessary information.

(2) If the agency takes action to deny an application within the 45-day time period and the applicant reappplies or provides required information within the 45-day time period, the application shall be reactivated and, if eligible, benefits shall be provided from the date of application.

(f) Changes in circumstances.

(1) All changes in circumstances which affect assistance shall be acted upon within 30 days of being reported to the agency.

(2) Except as indicated in K.A.R. 30-4-110w(c) regarding treatment of income, changes which result in an increase in benefits shall become effective in the month following the month the changes are reported provided that any necessary verification is received within 10 days of request. If verification is not provided in a timely manner, the change shall be effective in the month following the month verification is received.

(g) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-41w. 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 relationship.

(2) "Mandatory filing unit" means all persons in the family group whose needs or resources are required to be considered in determining eligibility and amount of payment as outlined in K.A.R. 30-4-74w for ADC purposes and K.A.R. 30-4-90w for GA purposes. If the agency is unable to determine who is required to be a member of the mandatory filing unit as a result of an applicant's or recipient's failure to cooperate in providing necessary information or in complying with an eligibility requirement that is within the applicant's or recipient's control, those persons who would otherwise be required to be in the mandatory filing unit had the applicant or recipient cooperated shall be ineligible for assistance.

(3) "Caretaker" means the parent or parents, including the parent or parents of an unborn child, or the person who is assigned the primary responsibility for the care and control of the child and is a guardian, conservator or a relative as defined in K.A.R. 30-4-72w, or is a legal custodian when based on an approved social service plan. Caretaker status may be extended to the spouse of a non-parental caretaker or the adult relative of a minor parent when assistance is requested for the child of a minor parent.

(4) "Eligible caretaker" means a caretaker who is considered in the plan with the child.

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

(b) The assistance plan shall consist of those members of the mandatory filing unit and any other persons in

(continued)

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.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-4-50w. Assistance eligibility, general.** (a) The requirements set forth in the following regulations shall apply to the ADC, ADC-FC, and GA programs except as noted:

- (1) K.A.R. 30-4-51;
- (2) K.A.R. 30-4-52w;
- (3) K.A.R. 30-4-53w;
- (4) K.A.R. 30-4-54w;
- (5) K.A.R. 30-4-55w;
- (6) K.A.R. 30-4-58w;
- (7) K.A.R. 30-4-59w;
- (8) K.A.R. 30-4-60w;
- (9) K.A.R. 30-4-61w;
- (10) K.A.R. 30-4-63w; and
- (11) K.A.R. 30-4-64w.

(b) The secretary may waive certain eligibility requirements and adopt additional eligibility requirements for all, or designated areas, of the state for the purpose of utilizing special project funds or grants or for the purpose of conducting special demonstration or research projects.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-4-52w. Act on own behalf.** (a) Emancipated minor. An emancipated minor is a person who is age 16 or 17 and who is or has been married, or a person who is under the age of 18 and who has acquired the rights of majority through court action.

(b) Ability to act on own behalf. Each applicant or recipient shall be legally capable of acting on his or her own behalf. Incapacitated persons shall not be eligible to receive assistance unless a caretaker applies for assistance on that person's behalf. Emancipated minors shall be eligible to receive assistance on their own behalf. Unemancipated minors shall not be deemed capable of acting on their own behalf and must reside with a caretaker in order to be eligible for assistance except when one of the following conditions exists:

- (1) the minor has no living parent or caretaker whose whereabouts is known;
- (2) the minor has lived apart from the parents and other caretakers for at least a year based on the minor's most recent absence; or
- (3) the health and safety of the minor would be jeopardized by remaining in a household with the minor's parents or other caretakers.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 1; effective Dec. 30, 1994.)

**30-4-53w. 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 set forth in 30-4-105w;

(b) has income that does not exceed 185 percent of the public assistance standards as set forth in K.A.R. 30-4-100w; and

(c) has a budgetary deficit after subtracting total applicable income from the public assistance standards.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-4-54w. Citizenship, alienage and residence.** (a) Definition. "Resident" means any person who is living in the state voluntarily, with no intention of presently moving from the state, and who is not living in the state for a temporary purpose. A child shall be a resident if living in the state. For ADC, residence shall be established for persons who have entered the state with a job commitment or who are seeking employment in the state. For GA, no individual shall be considered a resident if such individual owns an automobile or other motor vehicle which is not registered in this state, but which is required by law to be registered in this state.

(b) Citizenship and alienage. Each applicant or recipient shall be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, with the following exceptions.

(1) For ADC, an alien granted temporary or permanent residence status pursuant to titles II and III of P.L. 99-603, the immigration reform and control act of 1986, effective May 1, 1987, shall, unless otherwise specified by P.L. 99-603, be ineligible for assistance for a five-year period beginning on the date the alien is granted temporary residence status.

(2) An alien whose sponsor is a public or private agency shall be ineligible for assistance for three years after the date the alien entered the United States.

(c) Residence. Each applicant or recipient shall be a resident of the state of Kansas. A person who owns a home in another state and intends to return to that home shall not be considered as a resident of Kansas. Temporary absence from the state, with subsequent returns to the state, or intent to return when the purposes of the absence have been accomplished, shall not interrupt continuity of residence. Residence shall be maintained until abandoned or established in another state.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-55w. Cooperation.** (a) Establishment of eligibility. Each applicant, recipient, or caretaker shall cooperate with the agency in the establishment of eligibility as provided in K.A.R. 30-4-39. Failure to provide information necessary to determine eligibility shall render the assistance family ineligible for assistance.

(b) Monthly status report. Each recipient shall file a monthly status report on or before the 5th day of each calendar month. An additional five calendar days shall be allowed as an administrative period, before the report

is considered to be untimely, to allow for delays in mail service, weekends and holidays.

(c) Social security number. Each applicant or recipient shall provide the agency with the applicant's or recipient's social security number. Failure to provide the number, or failure to apply for a number if the applicant or recipient has not previously been issued a number, shall render the applicant or recipient ineligible for assistance.

(d) Paternity and support. The caretaker shall cooperate with the agency in establishing the paternity of any child born out-of-wedlock for whom assistance is claimed, and in obtaining support payments for the caretaker and any child for whom assistance is claimed. Failure to cooperate shall render the caretaker ineligible for assistance unless the caretaker demonstrates good cause for refusing to cooperate or begins cooperating. If the caretaker has not cooperated for three months in any assistance program administered by the secretary where such cooperation is required, assistance for the mandatory filing unit of which the child is a member shall not be provided until such time that the caretaker cooperates. Cooperation includes:

(1) appearing at the local child support enforcement office, as necessary, to provide information or documentation needed to establish paternity of a child born out-of-wedlock, to identify and locate the absent parent, and to obtain support payments;

(2) appearing as a witness at court or at other proceedings necessary to achieve the child support enforcement objectives;

(3) forwarding to the child support enforcement unit any support payments received from the absent parent which are covered by the support assignment; and

(4) providing information, or attesting to the lack of information, under penalty of perjury.

(e) Potential resources. Each applicant or recipient shall cooperate with the agency in obtaining any resources due the applicant, recipient or child for whom assistance is claimed. This requirement includes cooperation with the group health plan enrollment process in accordance with K.A.R. 30-6-55w(f). Failure to cooperate without good cause shall render the applicant or recipient ineligible for assistance.

(f) Third party resources. Each applicant or recipient shall cooperate with the agency in identifying and providing information to assist the agency in pursuing any third party who may be liable to pay for medical services under the medical assistance program. Failure to cooperate without good cause shall render the applicant or recipient ineligible for assistance.

(g) Work registration. Any applicant or a recipient who is not in active participation status in the work program shall register with Kansas employment services (KES) unless the individual meets one of the exempt criteria for work program participation as set forth in K.A.R. 30-4-64w(a) other than remoteness. This provision is applicable only in counties where a KES office is located. Failure to register shall render the individual ineligible for assistance. If the individual is a parent and has not registered for three months in any assistance program administered by the secretary where such reg-

istration is required, assistance for the mandatory filing unit of which that parent is a member shall not be provided until such time that the parent registers.

(h) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-4-58w. Potential employment.** (a) Effect on eligibility.

(1) Each applicant or recipient shall obtain or maintain employment opportunities. Each applicant or recipient shall be ineligible if that individual:

(A) without good cause, failed to attend a job interview, if referred;

(B) without good cause, refused suitable employment, if offered, or reduced the number of hours of employment;

(C) terminated a job without good cause; or

(D) was terminated from employment for good cause.

(2) For applicants, ineligibility shall result if one of the above conditions occurred in the month of application or the month immediately preceding the month of application or if the individual is being penalized under any other assistance program administered by the secretary where potential employment requirements must also be met.

(b) Good cause. The applicant or recipient shall be determined to have good cause for failing to attend a job interview, refusing suitable employment, reducing the hours of employment, or terminating a job if the individual has presented verification that one of the criteria listed below has been met.

(1) The individual was exempt from work program requirements at the time of the failure, refusal, reduction, or termination except that the exemption for full-time employment shall not be applicable.

(2) There was no bona fide offer of employment.

(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.

(6) Child care or day care for any incapacitated individual living in the same home was necessary for an individual to accept employment and such care was not available and the agency failed to provide such care.

(7) The employment would result in the family of the individual experiencing a net loss of cash income.

(8) The distance to the place of employment prohibited walking and neither public nor private transportation was available.

(9) The refusal or termination of employment was in accordance with an agency-approved plan for education or training which is expected to lead to employment resulting in self-sufficiency.

(10) The work offered was at a site subject to a strike or a lock-out at the time of the offer unless the strike has been enjoined or an injunction has been issued.

(11) The working hours or nature of the work interfered with a person's religious observances, convictions or beliefs.

(continued)

(12) Other extenuating circumstances exist which prevent the person from accepting or continuing employment, including a documented family emergency or situations in which the personal safety of the individual or the individual's children is threatened as a result of sexual or domestic violence.

(c) Penalty. If the applicant or recipient fails to meet the requirements of this regulation, the applicant or recipient shall be ineligible for assistance for three months. Eligibility may be re-established at any time during the three-month period if the individual:

(1) interviews for the job referred to if still available or attends another interview if referred;

(2) accepts the employment offered if still available or secures other employment which is comparable in work hours and salary to the job not accepted;

(3) resumes the terminated employment if still available or secures other employment comparable in work hours and salary to the terminated employment;

(4) secures employment with weekly earnings at least equal to the federal minimum wage multiplied by 30 hours; or

(5) becomes exempt from work program requirements.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-4-59w. Strikes.** (a) An applicant or recipient shall be ineligible for assistance if the person is participating in a strike. If the applicant or recipient is a legally responsible caretaker or a GA adult, the individual and all persons in the assistance plan shall be ineligible for assistance.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-60w. Living in a public institution.** (a) Definition. "Public institution" means any institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(b) Living arrangement. Each applicant or recipient living in a public institution shall be ineligible for assistance, except that any otherwise eligible recipient admitted to a public institution for short term medical care or diagnosis shall be eligible for assistance, if needed, for a period not to exceed three months. Any individual who is physically residing in a jail or penitentiary or under the care, custody and control of a law enforcement official shall be ineligible unless the individual is on probation, parole, or on bail. Fugitives from justice by reason of a felony conviction or charge shall also be ineligible for assistance.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-4-61w. Supplemental security income benefits.**

(a) Each applicant or recipient receiving supplemental security income benefits shall be ineligible for assistance. A caretaker shall not be denied eligibility for assistance

for the reason that a child is receiving supplemental security income benefits. This provision is not applicable to an ADC-FC child placed in a foster family home.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-63w. Work program participation.** The work program shall apply to the geographic areas in the state and the public assistance programs as designated by the secretary. The administration of the work program shall be within the limits of appropriations. (a) Participation requirements. Each assigned recipient shall participate in one or more components of an agency-approved, work-related program directed toward a plan of self-sufficiency. Any exempt recipient may volunteer or participate in the program. The work program may include, but is not limited to, the following components.

(1) Job search. Each assigned recipient shall participate in job search activities which may include agency-approved job clubs, and supervised and unsupervised job search activities.

(2) Work experience. Each assigned recipient shall participate in work experience activities which may include the opportunity to regain work skills, learn new skills, test interest and skills on the job, gain a work history, and obtain a work reference.

(3) Education and training. Each assigned recipient shall participate in education and training activities which are aimed at facilitating a recipient's movement toward self-sufficiency and employment retention. Education and training activities include:

(A) vocational training;

(B) adult basic education;

(C) literacy training;

(D) general educational development; and

(E) post-secondary education and training.

(4) Work supplementation. Each assigned recipient shall participate in a work supplementation program in which an employer receives a wage subsidy from money diverted from public assistance grants for employing program participants.

(5) Job readiness. Each assigned recipient shall participate in job readiness activities which may include employment counseling and survival skills.

(6) Job development and job placement. Each assigned recipient shall participate in job development and job placement activities.

(b) Participation limits. Active participation shall be limited to 30 months of which no more than nine months may be attributable to attainment of general education development credentials. These time periods may be extended for no longer than six months when:

(1) community services necessary to complete the requirements are temporarily unavailable; or

(2) a person participating in an agency-approved teen pregnancy case management project is exempt.

(c) Support costs. Support costs shall be provided for participants. Support costs shall include, but not be limited to:

(1) transportation expenses for each person participating in a work program activity in accordance with an agency-approved plan;

(2) day care expenses necessary for the person to participate in a work program activity in accordance with an agency-approved plan; or

(3) education and training costs for each participant based on an agency-approved plan which may include, but are not limited to tuition, books and fees.

(d) Transitional expenses. Transitional expenses shall be provided to participants who lose eligibility to ADC due to the participant's employment. Transitional services shall include, but are not limited to:

(1) transportation expenses necessary for the participant to continue employment in accordance with an agency-approved plan; and

(2) child care expenses necessary for the recipient to continue employment in accordance with an agency-approved plan.

(e) Good cause. Each individual shall be determined to have good cause for failing to participate in the work program if the individual has presented verification that one of the criteria listed below has been met.

(1) The person is exempt from participation in the program.

(2) The person was incapable of performing the activity.

(3) Performance of the activity was so dangerous or hazardous according to OSHA standards as to make the refusal or termination a reasonable one.

(4) Child care or day care for any incapacitated individual living in the same home is necessary for an individual to participate or continue participation in the program, and the care is not available, and the agency fails to provide such care.

(5) The total daily commuting time to and from home to the activity to which the individual is assigned exceeds two hours, not including the transporting of a child to and from a child care facility. If a longer commuting distance is generally accepted in the community, the round trip commuting time shall not exceed the generally accepted community standards.

(6) The person is the parent or other relative personally providing care for a child under age six and a non-education related activity requires the person to participate more than 20 hours per week.

(f) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 39-7,103, and L. 1994, Chapter 265, Sections 10, 11 and 12; effective Dec. 30, 1994.)

**30-4-64w. Work program requirements.** Each assigned recipient, unless exempted, shall be required to participate in one or more components of the work program. (a) Exemptions. The persons listed below shall be exempt from the work requirements:

(1) any person who is ill, when determined on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment;

(2) any person who is incapacitated, when verified that a physical or mental impairment, determined by a physician or a licensed or certified psychologist, by itself or in conjunction with age, prevents the individual from engaging in employment.

(A) Receipt of social security disability benefits shall establish incapacity without meeting further requirements.

(B) When an individual claims exempt status due to incapacity, but medial verification is needed to establish the incapacity, the individual shall be regarded as temporarily exempt for a period not to exceed 30 days while the individual's status is being verified.

(C) 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;

(3) any person who is under age 16 or 60 years of age or older;

(4) any person who is needed in the home because another member of the household requires the individual's presence due to illness or incapacity and no other appropriate member of the household is available to provide the needed care;

(5) any parent or other caretaker who is personally providing care for a child under age three, except that a custodial parent shall not be exempt from the educational component if the parent is under age 20, does not possess a high school diploma or its equivalent, and is not otherwise exempt.

(A) Only one person or other caretaker in a case may be exempt for providing care for a child under age three.

(B) This exemption shall not be claimed if the other parent or caretaker in the home is exempt from the work program requirements for another reason and is available and capable of providing child care;

(6) any person who is employed full-time, unless the employment was obtained during current participation in the program. Employment shall be considered full-time when the person is employed 30 or more hours a week and is earning at least the federal minimum wage;

(7) any person age 16, 17 or 18 who attends full-time and elementary, secondary, vocational or technical school. This exemption shall not apply to a person who attends full-time an elementary, secondary, vocational or technical school as a required work program activity;

(8) any person who resides in an area of the state where the work program is available, but in a location which is so remote that effective participation is precluded.

(A) The person's location shall be considered remote if a round trip of more than two hours by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility, would be required for a normal work or training day.

(B) If normal round trip community time in the area is more than two hours, then the round trip commuting time shall not exceed the generally accepted community standards.

(9) any person residing in a licensed or certified alcohol or drug treatment facility; and

(10) any person with multiple or severe barriers as determined by the agency which make it unlikely that the person's participation in work program activities

(continued)



would result in employment opportunities or self-sufficiency.

(b) Penalty. When a person who is required to participate in the work program fails without good cause to participate in the program, the individual shall be ineligible for assistance.

(1) If the individual is a parent and has not participated in the work program for three months in any assistance program administered by the secretary where work program participation is required, assistance for the mandatory filing unit of which that parent is a member shall not be provided.

(2) Eligibility for the individual or filing unit may be re-established if the individual:

(A) begins participation in the work program;

(B) becomes exempt from work program requirements; or

(C) secures employment with weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

(c) Good cause. The good cause criteria set forth in K.A.R. 30-4-63w(e) shall be used in determining good cause for the work program requirements.

(d) Effect of participation on eligibility. An individual who has been in active participation status for 30 months shall be ineligible for assistance for a period of three years.

(1) Months in which the individual is ineligible as set forth in K.A.R. 30-4-55w(d), K.A.R. 30-4-58w(d), and subsection (b) of this regulation while benefits are issued to the remaining family members shall be counted toward the 30-month limitation.

(2) The 30-month period may be extended as set forth in K.A.R. 30-4-63w.

(3) Assistance for the individual may be reinstated during the three-year disqualification period for any month in which:

(A) the individual meets the criteria of subsection (a)(1), (2), or (4) of this regulation; or

(B) there is an approved social service plan substantiating that the child is facing imminent removal from the home and placement into a foster care arrangement if assistance is not reinstated.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 39-7103, and L. 1994, Chapter 265, Sections 10 and 11; effective Dec. 30, 1994.)

**30-4-70w. Eligibility factors specific to the ADC program.** (a) Each applicant or recipient shall meet the applicable general eligibility requirements of K.A.R. 30-4-50w and the specific eligibility requirements set forth in K.A.R. 30-4-71w, K.A.R. 30-4-72w, and K.A.R. 30-4-74w to be eligible for ADC.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 39-719b, and L. 1994, Chapter 265, Section 7; effective Dec. 30, 1994.)

**30-4-71w. Assignment of support rights in ADC.**

(a) Each caretaker who is applying for or receiving assistance shall assign to the secretary any accrued, present or future rights to support from any other person the caretaker may have in his or her own behalf, or in behalf

of any other family member for whom the caretaker is applying for or receiving assistance.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-719b; effective Dec. 30, 1994.)

**30-4-72w. ADC child.** (a) Age and school attendance. In order for a child to be eligible for ADC, including an unborn child, the child shall be:

(1) under the age of 18; or

(2) 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.

(b) A child shall be considered to be in full-time attendance if the child is not in attendance because of official school or training program vocation, illness, convalescence, or family emergency, and for the month in which the child completes or discontinues the school or training program. Full-time attendance shall be determined as set forth below.

(1) In a trade or technical school involving shop practice, full-time shall be 30 clock hours per week. In a program without shop practice, full-time shall be 29 clock hours.

(2) In a secondary school, full-time shall be 25 clock hours per week or four Carnegie units per year.

(3) In a secondary education program of cooperative training or in apprenticeship training, full-time attendance shall be as defined by state education policy.

(c) Living with a specified caretaker. A child, to be eligible for ADC, shall be residing with:

(1) any blood relative who is within the fifth degree of kinship to the child, including:

(A) parents;

(B) siblings;

(C) nephews;

(D) nieces;

(E) aunts;

(F) uncles; and

(G) persons of preceding generations who may be denoted by prefixes of grand, great, great-great, or great-great-great;

(2) a stepfather, stepmother, stepbrother, or stepsister;

(3) a legally adoptive parent or parents or other relative or relatives of adoptive parents as noted in subparagraphs (1) and (2) above;

(4) a guardian or conservator or a legal custodian when based on an approved social service plan; or

(5) a spouse or former spouse if marriage is terminated by death or divorce, of any persons named in the above groups.

(d) Temporary absence from home.

(1) A child shall not be ineligible if out of the home temporarily because of:

(A) education or training;

(B) illness or the illness of another member of the household;

(C) the incarceration of the caretaker;

(D) visits with friends or relatives; or

(E) attendance at a scout or similar camp.

(2) When a child is temporarily absent from the home, the determining factor shall be the maintenance of care

and control by the caretaker with whom the child would be living were that child not absent.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 7; effective Dec. 30, 1994.)

**30-4-74w. Persons whose needs shall be considered with the needs of the ADC child.** (a) The needs of the parents and all blood-related and adoptive siblings who meet the criteria contained in K.A.R. 30-4-72w, excluding those persons set forth below, shall be included in determining the needs of the ADC child if the parents or siblings are living with the ADC child.

(1) If appropriate, the needs of a caretaker other than a parent shall be considered with the needs of the ADC child.

(2) A needy and otherwise eligible caretaker shall not be excluded from the assistance plan if the eligible caretaker is temporarily absent from the home due to employment, illness or incapacity, if the individual continues to maintain care and control of the child.

(b) The needs of certain parents and siblings shall be excluded in determining eligibility of the ADC child. The resources of certain parents and siblings shall, unless the resources are specifically exempt, be included in determining eligibility of ADC child. The following parents and siblings shall be excluded:

- (1) SSI recipients;
- (2) persons who are ineligible due to the receipt of lump sum income;
- (3) persons who are ineligible due to a sanction;
- (4) children whose needs are met through ADC foster care payments;
- (5) aliens who are ineligible because of the citizenship and alienage requirements or sponsorship provisions; and
- (6) unborn children.

(c) The caretaker of an SSI child who meets the criteria contained in K.A.R. 30-4-72w may receive ADC without the inclusion of the SSI child's siblings.

(d) If the unborn child is the only ADC child, the unborn child's needs shall be excluded but the caretaker or caretakers may receive ADC.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 7, effective Dec. 30, 1994.)

**30-4-90w. Eligibility factors specific to the GA-unrestricted (GAU) program.** (a) To be eligible for GAU, each applicant or recipient shall meet the applicable general eligibility requirements of K.A.R. 30-4-50w, and the specific eligibility requirements set forth below.

(1) Each 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 if the applicant or recipient:

- (A) is eligible for a federal program; or
- (B) has been rendered ineligible for a federal program due to a voluntary action on the part of the applicant or recipient.

(2) Each applicant or recipient and all persons for whom the applicant or recipient is legally responsible,

if living together, shall be within at least one of the following categories to be eligible for GAU:

(A) a person who has been medically or psychologically determined to be physically or mentally incapacitated based on one of the following conditions:

(i) fractures or soft tissue injuries requiring at least 12 months of surgical management to restore function or preventing full weight-bearing for at least 12 months;

(ii) amputation of a lower extremity: with hip disarticulation; or above the tarsal region due to peripheral vascular disease or diabetes mellitus; or with inability to use a lower prosthesis for at least 12 months;

(iii) permanent loss of use of any two limbs;

(iv) active inflammatory arthritis, corroborated by laboratory results, persisting at least three months despite prescribed treatment;

(v) arthritis, demonstrated on x-ray, with: inability to stand or walk unassisted; surgical reconstruction or arthrodesis preventing full weight-bearing for at least 12 months; or gross deformity and functional limitation of joints in both arms;

(vi) osteomyelitis or septic arthritis of a major bone or joint persisting at least five months despite prescribed treatment;

(vii) ankylosis or fixation of spine at 30 or more degrees flexion confirmed by x-ray;

(viii) osteoporosis with either multiple vertebral fractures not due to trauma, or at least 50 percent compression of vertebral body not due to trauma;

(ix) marked difficulty standing or walking which is expected to persist for at least 12 months;

(x) blindness with either best corrected central visual acuity of 20/100 in better eye, or constriction of visual fields to 25 degrees or less in each eye;

(xi) best corrected visual efficiency of 26 percent or less in the better eye;

(xii) total bilateral ophthalmoplegia confirmed by ocular motility studies;

(xiii) deafness with aided speech discrimination of 40 percent or less in better ear;

(xiv) permanent inability to produce intelligible, sustainable speech by any means;

(xv) labyrinthine - vestibular dysfunction with frequent vertiginous episodes and hearing loss;

(xvi) chronic skin disorders involving the hands, feet, axillae, perinium or extensive body areas which are resistant to treatment and result in severe functional limitations;

(xvii) chronic pulmonary insufficiency, confirmed on x-ray, due to any cause with: pulmonary function studies showing vital capacity or both one-second forced expiratory volume and maximum voluntary ventilation restricted to 35 percent or less of expected values; diffusing capacity of the lungs for carbon monoxide of 35 percent or less of expected values; severe, chronic impairment of gas exchange confirmed by arterial blood gas studies; cyanosis, dyspnea at rest, chronic wheezing and rhonchi and use of accessory muscles of breathing; or documented need for 24-hour supplemental oxygen;

(xviii) asthma or other episodic pulmonary impairments with severe prolonged attacks requiring intensive

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treatment which occur at intervals averaging at least every two months and prolonged expiration, wheezing and rhonchi between attacks despite prescribed treatment;

(xix) congestive heart failure with either persistence for three months despite treatment, cor pulmonale, or persistent severe left ventricular hypertrophy;

(xx) ischemic heart disease with ongoing angina resulting in severe functional limitations;

(xxi) cardiac arrhythmias with repeated uncontrolled syncopal episodes;

(xxii) peripheral vascular disease with persistent ulceration despite treatment, or with amputation or other manifestations causing severe functional limitations;

(xxiii) hypertensive end-organ damage resulting in severe functional limitations;

(xxiv) uncompensated cardiomyopathy with left ventricular ejection fraction of 30 percent or less;

(xxv) documented need for a heart transplant;

(xxvi) other congenital or acquired heart disease with severe functional limitations due to cardiac dysfunction;

(xxvii) proven stricture, stenosis or obstruction of the esophagus with weight loss sustained at a level indicative of malnutrition;

(xxviii) proven peptic ulcer disease with: recurrent ulceration which is persistent despite prescribed treatment after definitive surgery; inoperable fistula formation; demonstrated recurrent obstruction; or weight loss sustained at a level indicative of malnutrition;

(xxix) chronic liver disease with: esophageal varices resulting in massive bleeding or requiring a shunt; significantly elevated serum bilirubin persisting for at least three months; recurrent or persistent ascites associated with persistent hypoalbuminemia; proven hepatic cell necrosis or inflammation; or documented need for a liver transplant;

(xxx) chronic inflammatory disease of the digestive system with: persistent or recurrent systemic manifestations resulting in severe functional impairment; obstruction due to intractable abscess, fistula formation or stenosis; or significant and persistent weight loss sustained at a level indicative of malnutrition;

(xxxi) disorders of the pituitary, thyroid, parathyroid or adrenal cortex which are resistant to treatment and result in severe functional impairment;

(xxxii) diabetes mellitus with either severe neuropathy resulting in marked difficulty standing, walking or using the hands, or frequent episodes of ketoacidosis despite treatment;

(xxxiii) impaired renal function persisting for at least five months due to chronic, progressive disease with: elevation of serum creatinine to four mg. per 100 ml. or greater; creatinine clearance of 29 liters per 24 hours or less; or severe complications which require chronic dialysis or renal transplant;

(xxxiv) nephrotic syndrome with the following lasting three or more months: anasarca and serum albumin of 3.0 gm. per 100 ml. and proteinuria of at least 3.5 grams per 24 hours; or anasarca and proteinuria of at least 10 grams per 24 hours;

(xxxv) acute leukemia or acute phase of chronic leukemia;

(xxxvi) documented need for a bone marrow transplant;

(xxxvii) chronic anemia with hematocrit persisting below 30 percent which: requires blood transfusions each two months on average; or is due to a chronic gastrointestinal disorder;

(xxxviii) myeloma or myelofibrosis with radiologically demonstrated bony involvement and intractable bone pain;

(xxxix) myeloma with: severe persistent hypercalcemia; or significant levels of plasma cells in peripheral blood;

(xl) coagulation defects, including chronic thrombocytopenia with persistence of severely decreased platelet count, and hemorrhagic disorders with recent spontaneous hemorrhage or intracranial bleeding;

(xli) chronic polycythemia not controllable by treatment with severe, persistent functional impairment due to hemorrhage or thrombosis;

(xlii) sickle cell disease: with sickle cell crises occurring each three months on average; with chronic anemia with hematocrit persisting below 30 percent; or requiring frequent extended hospitalization;

(xliii) recurrent systemic bacterial infections within the past four months due to: myelofibrosis; chronic leukemia; or chronic granulocytopenia with absolute neutrophil counts persisting below 1000 cells per cubic millimeter;

(xliv) HIV infection with presence of opportunistic disease or severe functional impairment;

(xlv) morbid obesity of at least 100 percent over desired weight with sustained skeletal, cardiovascular or respiratory disease resulting in functional limitations;

(xlvi) systemic lupus erythematosus or progressive systemic sclerosis with recurrent visceral manifestations resulting in severe functional impairment;

(xlvii) polymyositis, polyarteritis or other collagen vascular disease with severe involvement of affected body systems resulting in severe functional impairment;

(xlviii) organic brain syndrome persisting for three or more months with severe functional limitations preventing the performance of employment;

(xlix) mental retardation;

(1) functional psychotic disorders which cause severe functional limitations precluding competitive employment and requiring ongoing psychiatric or psychological treatment;

(i) other severe and persistent mental illness, not controllable by medications or other treatment, causing severe functional limitations that preclude competitive employment and requiring ongoing psychiatric or psychological treatment;

(ii) seizure disorder not controllable by medications with: major motor seizures occurring on an average of one each two months despite at least three months of treatment; or minor motor seizures occurring on an average of one each week despite at least three months of prescribed treatment;

(iii) cerebral palsy with: mental retardation; severe emotional lability or abnormal behavior; severely limited ability to communicate; or severe limitations in motor functioning;

(liv) other chronic neurological disease, not controllable by treatment, or persistent manifestations of central nervous system insult resulting in: severely limited ability to stand, walk or use the hands; persistent severe difficulty swallowing or breathing; severe expressive or receptive aphasia resulting in severely decreased ability to communicate; or frequent acute exacerbations of the disease resulting in severe functional limitations;

(lv) histologically malignant brain tumors proven by pathology report; or other brain tumors causing severe functional limitations despite treatment;

(lvi) lymphoma that is not controlled despite treatment or metastatic disease of a lymph node from an undeterminable primary site;

(lvii) hormone-dependent or isotope-sensitive malignancies or sarcoma of soft parts not currently controlled despite treatment;

(lviii) solid malignancies that are not hormone-dependent or isotope-sensitive, with evidence of active disease, and which are: inoperable, unresectable, or incompletely excised; recurrent after radical surgery; metastatic beyond the regional lymph nodes; not controlled despite treatment; or generally considered uncontrollable by established medical or surgical procedures;

(lvix) permanent residuals of neoplastic disease resulting in severe functional impairment; or

(lx) one or more other medically determinable impairments which: prevent the performance of gainful employment; are expected to last 12 months or longer or result in death in less than 12 months; and are not controllable by medication, surgery, or other treatment within 12 months of onset;

(B) 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 who meets the criteria of subparagraph (2)(A) above, and when the care is not available from another person in the home; or

(C) a parent or parents of a child who has been removed from the home and placed in foster care, if there is an agency-approved plan to return the child to the home.

(3) The needs of the applicant or recipient and all persons for whom the applicant or recipient is legally responsible shall be included in the same assistance plan, if living together, except for persons who are not otherwise eligible. The needs of certain persons in the family group who are not otherwise eligible shall be excluded in determining eligibility for GAU. However, the resources of those persons in the family group shall, unless the resources are specifically exempt, be included in determining eligibility for GAU. The following persons shall be excluded:

(A) SSI recipients;

(B) persons who are ineligible due to the receipt of lump sum income;

(C) persons who are ineligible due to a sanction; and

(D) aliens who are ineligible because of the citizenship and alienage requirements or sponsorship provisions.

(b) A presumptive eligibility determination shall be made for persons who are being released from a med-

icaid-approved psychiatric hospital or from the Larned correctional mental health facility 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. 30-4-50w may be waived until a formal eligibility determination is completed. Assistance provided shall equal 100 percent of the applicable GAU budgetary standards and the provision of subsection (a)(1) of K.A.R. 30-4-140w shall be waived. Assistance under this provision shall not exceed the month of discharge and the two following months. Assistance under this provision may be extended by the department beyond the three-month limitation for good cause.

(c) 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.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, and L. 1994, Chapter 265, Section 7; effective Dec. 30, 1994.)

**30-4-100w. Payment standards for budgetary requirements in the ADC, ADC-FC, GA and GA-FC programs.** The standards contained in K.A.R. 30-4-101 and K.A.R. 30-4-102, and the designated special needs set forth in K.A.R. 30-4-120w, shall be used in determining total budgetary requirements. An applicant or recipient shall not be eligible to have a standard included in the computation of the applicant's or recipient's budgetary requirements if the agency or another state's assistance program has issued the applicant or recipient a payment for the same maintenance items in the same calendar month. (a) ADC program budgeting. Budgeting shall be predicated upon the total number of persons in the assistance plan.

(1) The basic standard and 100 percent of the shelter standard shall be used when:

(A) all persons in the home are in the same assistance plan;

(B) the only person in the home not in the plan is an SSI recipient to whom the one-third reduction is applied because the person lives in the household and receives support and maintenance in kind;

(C) there is a bona fide commercial landlord-tenant relationship between the family group and the other persons in the home;

(D) all persons in the plan are in a specialized living, commercial board and room, or commercial room-only living arrangement; or

(E) the only person in the home not in the plan is a person who has been rendered ineligible for assistance as set forth in K.A.R. 30-40-64w(d).

(2) The basic standard, plus a percentage reduction of the shelter standard, shall be used when there are one or more persons residing in the home who are not included in the assistance plan, except as set forth in paragraphs (B), (C), (D) and (E) above. The percentage reduction shall be as follows:

(continued)

- (A) 60 percent reduction for one person in the plan;
  - (B) 50 percent reduction for two persons in the plan;
  - (C) 40 percent reduction for three persons in the plan;
  - (D) 35 percent reduction for four persons in the plan;
  - (E) 30 percent reduction for five persons in the plan;
- and
- (F) 20 percent reduction for six or more persons in the plan.

(3) If a child is born to a recipient, including an SSI recipient who is excluded from the assistance plan, who has two children prior to the birth of such child, the need standard for the plan in which that child is included shall only be increased by 50 percent of the usual increment for the additional person. The rule also applies to the first child born after the individual becomes a recipient where the individual has two or more children at the time the individual was first approved for assistance. For any subsequent children born to the recipient after this birth, the need standard for the plan in which such children are included shall not take into account the needs of these children. The provisions of this subsection shall also be applicable to children born to an applicant who previously received assistance in one of the 9 months immediately preceding the month of application, including any child born in a month assistance was not provided during this period. The provisions of this subsection shall not be applicable:

(A) to a child born to a recipient in the 9 months following the most recent month of application if such recipient had not received assistance for 10 consecutive months preceding the month of application; or

(B) when the parent is engaged in bona fide employment of 30 or more hours a week and is earning at least the federal minimum wage.

(b) GAU program budgeting. Budgeting shall be predicated upon the total number of persons in the household. For budgeting, a household consists of one or more persons living as an economic unit and sharing in any of the maintenance items included in the basic standard or shelter standard. The basic and shelter standards shall be used for all persons in the assistance plan who are maintaining their own home, sharing a family home with others or living in a specialized living, commercial board and room, or commercial room-only living arrangement.

(1) The budgetary standards, excluding the amount designated as an energy supplement, shall equal 80% of the total budgetary requirements with the following exceptions:

- (A) persons receiving care or supervision;
- (B) assistance plans in which a person has been assigned to a community work experience program;
- (C) assistance plans in which a person is participating in vocational rehabilitation program training;
- (D) persons residing in specialized living arrangements; and
- (E) assistance plans in which a person is participating in an agency-approved work-related activity.

(2) For persons living alone, maintaining a separate household, or residing in a specialized living, commercial board and room, or commercial room-only living arrangement, the basic and shelter standards shall be used.

(3) For persons residing in a living arrangement other than that specified in paragraph (2) above, the basic and shelter standards shall be computed as follows.

(A) The standards set forth shall be used to determine the basic and shelter standards for the number of persons in the household not to exceed four persons.

(B) The applicable standard divided by the number of persons in the household, not to exceed four persons, times the number of persons in the assistance plan equals the basic and shelter standards.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 359, Section 1; effective Dec. 30, 1994.)

**30-4-105w. Resources.** (a) The principles set forth in the following regulations shall be applicable to the consideration of resources in determining financial eligibility in ADC, ADC-FC, GA, and FA-FC programs, except as noted:

- (1) K.A.R. 30-4-106w;
- (2) K.A.R. 30-4-107;
- (3) K.A.R. 30-4-108;
- (4) K.A.R. 30-4-109w;
- (5) K.A.R. 30-4-110w;
- (6) K.A.R. 30-4-111w;
- (7) K.A.R. 30-4-112w; and
- (8) K.A.R. 30-4-113w.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Sections 5, 8, and 13; effective Dec. 30, 1994.)

**30-4-106w. 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, 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 applicant or recipient and the agency, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(c) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available. A resource

shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain or the likelihood of succeeding in the legal action would be unfavorable to the applicant or recipient.

(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. Resources held jointly with a non-legally responsible person may be excluded from consideration if the applicant or recipient can demonstrate that the applicant or recipient has no ownership interest in the resource, has not contributed to the resource, and that any access to the resource by the applicant or recipient is limited to acting as an agent for the other person.

(e) Nonexempt resources of all persons in the assistance plan and the nonexempt resources of persons who have been excluded from the assistance plan pursuant to K.A.R. 30-4-74w(b) and 30-4-90w(a)(3) 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, the amount of the contribution to be counted shall be the net income realized by the household.

(i) Despite subsections (e), (f), and (g) 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 and the sponsor's spouse shall be considered in determining eligibility for the alien. "Sponsor" shall include a public or private agency or organization.

(k) A conversion of real or 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.

(m) Despite subsection (e) above, the income of an alien who is a sibling of an ADC child and who is excluded from the assistance plan due to the provisions of P.L. 99-603, the immigration reform and control act of 1986, shall not be considered.

(n) Despite subsection (e) above, the resources of a child whose needs are met through foster care payments shall not be considered.

(o) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

### **30-4-109w. 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, contracts from the sale of property 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, other than cash assets, if essential for employment or self-employment. This includes such items as tools, equipment, machinery and livestock;

(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. Additional vehicles may be exempt if used over 50 percent of the time for employment or self-employment, used as the family's home, or specially equipped for use by a handicapped person;

(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;

(10) for each assistance family member:

(A) burial plots; and

(B) burial funds, agreements, or merchandise not exceeding a total of \$8,000 including interest which has

(continued)

accumulated since the date of application, which are separately identifiable and clearly designated as being for burial purposes;

(11) any contract from the sale of property, if the proceeds from the contract are considered as income; and

(12) escrow accounts established for families participating in the family self-sufficiency program through the department of housing and urban development. Interest earned on such accounts shall also be exempted as income.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-4-110w. Income.** (a) Definitions.

(1) "Earned income" means income, in cash or in kind, that an applicant or recipient currently earns 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.

(2) "Unearned income" means all income not earned.

(3) "Lump sum" means a non-recurring payment.

(b) Each client shall be ineligible when the total income without disregards exceeds 185% of the standards for budgetary requirements when budgeted prospectively for the number of persons in the plan, except for:

(1) income-producing costs of the self-employed listed in K.A.R. 30-4-111w(c);

(2) the disregards for a stepparent, the parent of a minor parent, and an alien parent, as listed in K.A.R. 30-4-111w(d);

(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. 30-4-113w(i);

(4) the earned income of a child who is a student; 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, retrospective or income average budgetary 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 to be considered in determining the amount of payment and eligibility for the first and second retrospective month. When income is received on a bi-monthly 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.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-111w. Applicable income.** (a) Applicable income shall be the amount of earned and unearned income to be subtracted from the budgetary requirements in determining the budgetary deficit.

(b) Applicable earned income for persons included in the assistance plan, or for persons excluded from the assistance plan as set forth in K.A.R. 30-4-64w(d), shall equal gross earned income or the adjusted gross earned income from self-employment, less:

(1) ninety dollars for each employed person;

(2) for all persons in an ADC assistance plan and for all children in an ADC-FC or GA-FC assistance plan, the ADC earned income disregard of 40 percent of the remainder, for:

(A) each applicant who had received assistance in one of the four preceding months; and

(B) each recipient; and

(3) reasonable expenses for child care or expenses for the care of an incapacitated person. The amount of deductible dependent care shall not exceed \$200.00 per person for persons under age two or \$175.00 per person for persons age two or older. The dependent shall be included in the assistance plan before the deduction is allowed. For cases subject to retrospective budgeting, for the first and second months of employment, the agency may, based on an agency-approved plan, meet the cost of child care directly or through reimbursement and apply the child care deduction to offset income received in those months when determining the amount of the payment for the corresponding payment months. Under these circumstances, the agency shall not apply the child care deduction to income used to determine the amount



of the payment for the two months following the month in which child care ceases; and

(4) an amount equivalent to the incremental basic standard increase for more than four persons as set forth in K.A.R. 30-4-101(a) for a family with two adults in which only one adult is employed and child care is necessary. This provision shall not be applicable where a deduction for child care expenses provided for in subparagraph (b)(3) above is allowed or where the agency participated in the payment of child care expenses.

(c) For self-employed persons, adjusted gross earned income equals gross earned income less costs 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 public assistance program shall not be used to pay debts, set up an individual in business, subsidize a nonprofit activity, or treat income on the basis of IRS policies.

(2) If losses are suffered from self-employment, the losses shall not be deducted from other income nor may a net loss of a business be considered an income-producing cost.

(3) If a business is being conducted from a non-home location, business space and utilities shall be considered income-producing costs.

(4) If a business is being conducted from a person's own home, shelter and utility costs shall not be considered income-producing costs unless they are clearly distinguishable from the home operation.

(5) If payments increase the equity in equipment, vehicles, or other property, the payments shall not be considered income-producing costs.

(6) If equipment, vehicles, or other property are being purchased on an installment plan, the actual interest paid may be considered an income-producing cost.

(7) Depreciation on equipment, vehicles, or other property shall not be considered an income-producing cost.

(8) Insurance payments on equipment, vehicles, or other property shall be allowed if the payments directly relate to the business.

(9) Expenses for inventories and supplies that are reasonable and required for the business shall be considered income-producing costs.

(10) Wages and other mandated costs related to wages paid by the applicant or recipient shall be considered income-producing costs.

(d) In determining eligibility and the amount of payment, the applicable earned and unearned income of a stepparent or the parent of a minor parent not included in the assistance plan or of an alien who is a parent of an ADC child and who is excluded from the assistance plan due to the provisions of the immigration reform and control act of 1986 (P.L. 99-603, effective May 1, 1987) to be counted shall equal gross income or the adjusted gross income of the self-employed less:

(1) ninety dollars of earned income;

(2) the standards for budgetary requirements of the above referenced persons and dependents in the same

household who are claimed by the above referenced persons for internal revenue service purposes and who are not in the assistance plan;

(3) amounts paid by the above referenced persons to persons not living in the same household and claimed as dependents for internal revenue service purposes; and

(4) alimony or child support payments to individuals not living in the household which are made by the above referenced persons.

(e) For a person in the home whose income is required to be considered and 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 disregard or deduction, except as indicated in subsection (b) above.

(f) In determining eligibility and the amount of payment for a sponsored alien, 20 percent of the sponsor's income, including the income of the sponsor's spouse, shall be disregarded and the remainder of the income considered.

(g) All net, unearned income of persons included in the assistance plan shall be applicable unless exempted. Net unearned income shall equal gross unearned income less the costs of the production of the income. Income-producing costs include only those expenses directly related to the actual production of income. The principles set forth in subsection (c) of this regulation regarding the calculation of income-producing costs shall be applicable.

(h) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 13; effective Dec. 30, 1994.)

**30-4-112. Income exempt from consideration as income and as a cash asset.** The following income shall be exempt, except as provided in K.A.R. 30-4-110(b):

(a) Grants and scholarships provided for educational purposes;

(b) the value of the coupon allotment under the food stamp program;

(c) the value of the U.S. department of agriculture donated foods;

(d) the value of supplemental food assistance received under the child nutrition act of 1966, as amended, and the special food service program for children under the national school lunch act, as amended;

(e) benefits received under title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended;

(f) Indian funds distributed or held in trust, including interest and investment income accrued on such funds while held in trust and initial purchases made with such funds;

(g) distributions to natives under the Alaska native claims settlement act;

(h) payments provided to individual volunteers serving as foster grandparents, senior health aides and senior companions, and to persons serving in the service corps of retired executives and active corps of executives under titles II and III of domestic service act of 1973;

(continued)

(i) payments to individual volunteers under title I, sec. 404(g) of Public Law 93-113 when the director of ACTION determines that the value of such payments, adjusted to reflect the number of hours such volunteers are serving, is less than the federal minimum wage;

(j) payments received under the uniform relocation assistance and real property acquisition policies act of 1970;

(k) death benefits from SSA, VA, railroad retirement, or other burial insurance policy when the benefit is used toward the cost of burial;

(l) a one-time payment or a portion of a one-time payment from a cash settlement for repair or replacement of property or for legal services, or medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(m) money which VA determines may not be used for subsistence needs held in trust by VA for a child;

(n) retroactive corrective assistance payments in the month received or in the following month;

(o) income directly provided by vocational rehabilitation;

(p) benefits from special government programs at the discretion of the secretary, including energy assistance programs.

(q) assistance provided by another agency or organization that complements, but does not duplicate assistance provided by the agency;

(r) reimbursements for out-of-pocket expenses in the month received and the following month;

(s) proceeds from any bona fide loan requiring repayment;

(t) payments granted to certain U.S. citizens of Japanese ancestry and resident Japanese aliens under Title I of Public Law 100-383;

(u) payments granted to certain Aleuts under Title II of Public Law 100-383;

(v) agent orange settlement payments;

(w) foster care and adoption support payments;

(x) the amount of any earned income tax credit received. Such credit shall not be regarded as a cash asset in the month of receipt and the following month;

(y) federal major disaster and emergency assistance and comparable disaster assistance provided by state or local government or by disaster assistance organizations in conjunction with a presidentially declared disaster;

(z) payments granted to the Aroostook Band of Micmac Indians under Public Law 102-171; and

(aa) payments from the Radiation Exposure Compensation Trust Fund made by the Department of Justice. The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 1992 Supp. 39-708c; implementing K.S.A. 1992 Supp. 39-708c and 39-709, as amended by 1993 SB 317; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended May 1, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended May 1,

1991; amended, July 1, 1991; amended Jan. 2, 1992; amended Oct. 1, 1992; amended Oct. 1, 1993; amended Dec. 30, 1994.)

**30-4-112w. Income exempt from consideration as income and as a cash asset.** (a) The following income shall be exempt, except as provided in K.A.R. 30-4-110w(b):

(1) grants and scholarships provided for educational purposes;

(2) the value of the coupon allotment under the food stamp program;

(3) the value of the U.S. department of agriculture donated foods;

(4) the value of supplemental food assistance received under the child nutrition act of 1966, as amended, and the special food service program for children under the national school lunch act, as amended;

(5) benefits received under title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended;

(6) Indian funds distributed or held in trust, including interest and investment income accrued on such funds while held in trust and initial purchases made with such funds;

(7) distributions to natives under the Alaska native claims settlement act;

(8) payments provided to individual volunteers serving as foster grandparents, senior health aides and senior companions, and to persons serving in the service corps of retired executives and active corps of executives under titles II and III of domestic service act of 1973;

(9) payments to individual volunteers under title I, sec. 404(g) of Public Law 93-113 when the director of ACTION determines that the value of such payments, adjusted to reflect the number of hours such volunteers are serving, is less than the federal minimum wage;

(10) payments received under the uniform relocation assistance and real property acquisition policies act of 1970;

(11) death benefits from SSA, VA, railroad retirement, or other burial insurance policy when the benefit is used toward the cost of burial;

(12) a one-time payment or a portion of a one-time payment from a cash settlement for repair or replacement of property or for legal services, or medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(13) money which VA determines may not be used for subsistence needs held in trust by VA for a child;

(14) retroactive corrective assistance payments in the month received or in the following month;

(15) income directly provided by vocational rehabilitation;

(16) benefits from special government programs at the discretion of the secretary, including energy assistance programs.

(17) assistance provided by another agency or organization that complements, but does not duplicate assistance provided by the agency;

(18) reimbursements for out-of-pocket expenses in the month received and the following month;



(19) proceeds from any bona fide loan requiring repayment;

(20) payments granted to certain U.S. citizens of Japanese ancestry and resident Japanese aliens under Title I of Public Law 100-383;

(21) payments granted to certain Aleuts under Title II of Public Law 100-383;

(22) agent orange settlement payments;

(23) foster care and adoption support payments;

(24) the amount of any earned income tax credit received. Such credit shall not be regarded as a cash asset in the month of receipt and the following month;

(25) federal major disaster and emergency assistance and comparable disaster assistance provided by state or local government or by disaster assistance organizations in conjunction with a presidentially declared disaster;

(26) payments granted to the Aroostook Band of Micmac Indians under Public Law 102-171;

(27) payments from the radiation exposure compensation trust fund made by the Department of Justice; and

(28) the earned income of a child if the child is a student.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 5; effective Dec. 30, 1994.)

**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 monetary gifts which do not exceed \$30.00 per person in any calendar quarter;

(d) unearned income-in-kind;

(e) 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;

(f) tax refunds and rebates, except for earned income tax credits in accordance with K.A.R. 30-4-112(y);

(g) incentive payments received by renal dialysis patients;

(h) 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, nonprofit 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;

(i) 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;

(j) housing assistance from federal housing programs;

(k) assistance payments in the month received;

(l) the first \$50.00 of child support or child support in combination with spousal support received in a month;

(m) support payments received 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 subsection (l) of this section and which, if prospectively treated as nonexempt income, would result in ineligibility, or a support refund disbursed by the agency to the recipient, shall not be exempt income;

(n) up to \$2,000.00 per year of income received by an individual Indian which is derived from leases or other uses of an individually-owned trust or restricted lands.

(o) VA aid and attendance and housebound allowances; and

(p) VA payments resulting from unusual medical expenses.

(q) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929, Sec. 8; 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; amended, T-87-15, July 1, 1986; amended May 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended May 1, 1991; amended July 1, 1991; amended Sept. 30, 1994; amended Dec. 30, 1994.)

**30-4-113w. Income exempt as applicable income.**

(a) The following income shall be exempt as applicable income in the determination of the budgetary deficit:

(1) lump sum income;

(2) irregular, occasional or unpredictable monetary gifts which do not exceed \$30.00 per person in any calendar quarter;

(3) unearned income-in-kind;

(4) 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;

(5) tax refunds and rebates, except for earned income tax credits in accordance with K.A.R. 30-4-112w(x);

(6) incentive payments received by renal dialysis patients;

(7) 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, nonprofit 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;

(8) 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 by a

(continued)

child who is not a student shall only be exempt for a period of six months;

(9) housing assistance from federal housing programs;

(10) assistance payments in the month received;

(11) the first \$50.00 of child support or child support in combination with spousal support received in a month;

(12) support payments received following the effective date of the assignment of support rights to the agency. Reported current support which is in excess of the amount exempted in subsection (k) of this regulation and which, if prospectively treated as nonexempt income, would result in ineligibility, or a support refund disbursed by the agency to the recipient, shall not be exempt income;

(13) up to \$2,000.00 per year of income received by an individual Indian which is derived from leases or other uses of an individually-owned trust or restricted lands.

(14) interest income not to exceed \$50.00 per month;

(15) VA aid, attendance, and housebound allowances; and

(16) VA payments resulting from unusual medical expenses.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-120w. Special needs for applicants and recipients of ADC, ADC-FC, GA and GA-FC.** The following special needs shall be added to the basic and shelter standards as outlined in K.A.R. 30-4-100w to compute the budgetary requirements for applicants and recipients under the conditions as specified. (a) 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 percent 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.

(b) Temporary out-of-home care for children. The cost of temporary out-of-home care may be allowed if:

(1) 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;

(2) the temporary absence is only for a portion of a calendar month; and

(3) there is an approved service plan. The amount to be allowed shall be the foster care standard.

(c) 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.

(d) 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 trans-

portation shall not be related to discharge from a state institution.

(e) 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.

(f) Special needs 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.

(g) 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:

(1) the conservator or personal representative charges for those services; and

(2) 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 five percent of the person's cash payment or \$8.00, whichever is greater, shall be allowed.

(h) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-130w. Types of payments.** Public assistance payments shall be issued in accordance with the provisions set forth below. (a) Money payment. Payments 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) protective payments; and

(3) 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.

(1) the following persons shall be eligible to receive money payments:

(A) caretaker;

(B) recipient;

(C) personal representative; or

(D) substitute payee.

(2) A minor shall not receive a money payment unless the minor meets the provisions of K.A.R. 30-4-52w.

(c) Protective payments in the ADC and GA programs. If any caretaker 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, shall be issued to a substitute payee. If a substitute payee is unavailable, a protective vendor payment shall be issued.

(d) Substitute payee.

(1) Appointment and dismissal. Appointing and assisting each substitute payee, terminating the payee's services when no longer needed, and removal of any payee who is not giving satisfactory service shall be the

responsibility of the agency. 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, friend, neighbor, or member of a religious or community organization. However, the following persons shall not serve as a substitute payee:

- (i) the area director;
- (ii) the worker supervisor;
- (iii) the worker determining financial eligibility;
- (iv) special investigative or resource staff;
- (v) staff handling fiscal process for the client; or
- (vi) the landlord, grocers or vendors of goods or services dealing directly with the client.

(B) Exemption. 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 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 or has transportation so that close contacts with the caretaker and child are maintained; and

(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 at least every six months 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 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 has demonstrated an ability to manage the money payment or after a period of two years 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.

(e) Special personal representative. A petition for the appointment of a personal representative shall be filed 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. Confidential reports shall be filed with the appropriate court as requested.

(1) Appointment of personal representative. A person shall be recommended to the court who is not a 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) of this regulation for selection of substitute payee.

(2) Dismissal of personal representative. A recommendation to the court that a personal representative be dismissed shall be made by the agency 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 a substitute personal representative shall be recommended by the agency.

(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 necessity of continuing the appointment of a personal representative shall be reviewed semiannually. Consideration shall be given to 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

(continued)

unless the payee requests otherwise. If the payee requests a different mode of delivery, the appropriateness of the request shall be considered by the agency. In appropriate instances, including emergencies or repeated thefts from the mailbox, the warrant shall be delivered in person to the payee by the agency. No materials shall be included in the envelope containing the warrant except those directly related to the administration of SRS programs.

(f) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 59-2801 et seq., K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-4-140w. 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.

(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.

(1) Overpayments may be recovered by voluntary repayment, administrative recoupment, or legal action.

(2) The assistance payment shall not be reduced below an amount which when added to liquid resources, total earned income with no disregards or exemptions, and nonexempt unearned income is less than 90 percent in ADC or 80 percent in GA of the budgetary requirement for the number of persons in the assistance plan.

(3) The agency shall not initiate recovery procedures pending the disposition of a welfare fraud referral.

(d) Disqualification penalties.

(1) Individuals found to have committed fraud, either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible for assistance for:

- (A) six months for the first violation;
- (B) twelve months for the second violation; and
- (C) permanently for the third violation.

A court may impose an additional 18 months disqualification period for the first and second convictions on criminal cases only. If a court fails to impose a disqualification period, the disqualification periods outlined above shall be imposed unless it is contrary to the court order.

(2) Upon determination of fraud, an otherwise eligible applicant shall be denied assistance. An otherwise eligible recipient shall be terminated from assistance following the determination of fraud no later than the first day of the second month following the month the notice

of disqualification is sent. If the individual is not eligible for and not receiving assistance at the time of the fraud determination, the disqualification period shall be deferred until the individual applies for and is determined otherwise eligible for benefits, except as noted in a court order.

(e) Monthly reporting penalty. Failure to submit a monthly report form within the time period specified in K.A.R. 30-4-55w(b) without good cause shall result in a benefit reduction equal to 10 percent of the need standard.

(f) Discontinuance of assistance payments. Assistance payments shall be discontinued when the recipient no longer meets one or more of the appropriate factors of eligibility.

(g) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-719b and 39-708c; effective Dec. 30, 1994.)

#### Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

**30-5-59. Provider participation requirements.** The following shall be prerequisites for participation in and payment from the medicaid/medikan program. Providers of services to foster care recipients or adoption support recipients may be excluded from these prerequisites at the discretion of the secretary. (a) Enrollment. Each participating provider shall:

(1) Submit an application for participation in the medicaid/medikan program on forms as prescribed by the secretary of the Kansas department of social and rehabilitation services;

(2) obtain and maintain professional or department-specified credentials as determined by the secretary in the jurisdiction where the service is provided and for the time period when the service is provided, and if applicable, be certified, licensed or registered by the appropriate professional credentialing authority;

(3) notify the Kansas department of social and rehabilitation services if any of the original information provided on the application changes during the term of participation in the medicaid/medikan program;

(4) after completing the necessary application forms and receiving notice of approval to participate from the department, enter into and keep a provider agreement with the Kansas department of social and rehabilitation services;

(5) notify the Kansas department of social and rehabilitation services when a change of provider ownership occurs, submit new ownership information on forms for application for participation in the medicaid/medikan program, and receive approval from the department for participation as a new provider before reimbursement for services rendered to medicaid/medikan program recipients is made;

(6) locate a provider service representative who is available 24 hours per day and an outlet in Kansas or a border city which is accessible to the general public between the hours of 9:00 a.m. and 5:00 p.m. at a minimum excluding weekends, and state and federal holi-

days if applying to be a durable medical equipment or medical supply provider; and

(7) be located in Kansas or a border city if applying to be a pharmacy, unless the pharmacy is providing services to children in the custody of the secretary of the Kansas department of social and rehabilitation services or to program recipients in emergency situations. The only exception to this shall be if the pharmacy is an approved contractor with the Kansas department of health and environment as a supplier of intravenous blood fraction products. This exception applies to reimbursement for the intravenous blood fraction products only.

(b) Denial of application. If an application for participation in the medicaid/medikan program is denied, the applicant shall be notified in writing by the department.

(c) Continuing participation. Each participating provider shall:

(1) Comply with applicable state and federal laws, regulations or other program requirements;

(2) comply with the terms of the provider agreement;

(3) submit accurate claims or cost reports;

(4) submit claims only for covered services provided to recipients;

(5) engage in ethical and professional conduct;

(6) provide goods, services or supplies which meet professionally recognized standards of quality;

(7) submit a new application for participation in the medicaid/medikan program if a claim has been submitted for payment and if at least 18 months have elapsed since a previous claim for payment was submitted; and

(8) refund any overpayment to the program within a period of time specified by the secretary or lose eligibility to participate.

(d) Recordkeeping. Each participating provider shall:

(1) Maintain and furnish within the time frame specified in a request any information for five years from the date of service that the Kansas department of social and rehabilitation services, its designee or any other governmental agency acting in its official capacity may request to assure proper payment by the medicaid/medikan program, to substantiate claims for medicaid/medikan program payments, and to complete determinations of medicaid/medikan program overpayments. This information shall include:

(A) Fiscal, medical and other recordkeeping systems;

(B) matters of the provider's ownership, organization and operation, including documentation as to whether transactions occurred between related parties;

(C) documentation of asset acquisition, lease, sale or other action;

(D) franchise or management arrangements;

(E) matters pertaining to costs of operation;

(F) amounts of income received, by source and purpose; and

(G) a statement of changes in financial position;

(2) use standardized definitions, accounting, statistics and reporting practices which are widely accepted in the provider's field;

(3) permit the Kansas department of social and rehabilitation services, its designee, or any other governmental agency acting in its official capacity to examine any records and documents that are necessary to ascer-

tain information pertinent to the determination of the proper amount of a payment due from the medicaid/medikan program; and

(4) agree to repay overpayment determinations resulting from the use of sampling techniques.

(e) Payment. Each participating provider shall:

(1) Accept as payment in full, subject to audit when applicable, the amount paid by the medicaid/medikan program for covered services;

(2) not assign medicaid/medikan program claims or grant a power of attorney over or otherwise transfer right to payment for such claims except as set forth in 42 CFR 447.10, revised October 1, 1988, which is adopted by reference;

(3) not charge medicaid/medikan program recipients for services denied for payment by the medicaid/medikan program because the provider has failed to meet a program requirement including prior authorization;

(4) not charge medicaid/medikan program recipients for noncovered services unless the recipient has been informed of the noncoverage prior to the rendering of the service;

(5) not charge medicaid/medikan program recipients for services covered by the program with the exceptions of claims liable to spenddown or copayment;

(6) submit claims for payment on claim forms approved and prescribed by the secretary; and

(7) be subject to the payment limitations pursuant to K.A.R. 30-5-70.

(f) Provider participation in the medicaid/medikan program may be disallowed for any of the reasons set forth in K.A.R. 30-5-60.

(g) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-2-28-90, Feb. 28, 1990; amended Aug. 1, 1990; amended Jan. 7, 1991; amended May 1, 1992; amended May 3, 1993; amended Dec. 30, 1994.)

**30-5-71. Co-payment requirements.** (a) Except as set forth in subsection (b), (c) and (d) of this regulation, program recipients shall be obligated to the provider for the following co-payment charges.

(1) Co-payment for inpatient general hospital and free-standing psychiatric facility services shall be \$325.00 per admission.

(2) Co-payment for outpatient general hospital services shall be \$1.00 per non-emergency visit in place of a doctor's office visit.

(3) Co-payment for other medical services subject to co-payment shall be based upon the following ranges:

average medicaid/medikan payment for services	maximum copayment chargeable to recipient
\$10.00 or less	\$ .50
\$10.01 to \$25.00	\$1.00
\$25.01 to \$50.00	\$2.00
\$50.01 or more	\$3.00

(4) Copayment for other medical services subject to copayment shall be a standard amount based upon the

(continued)



average Medicaid payment for the services, calculated on an annual basis. The average Medicaid payment shall be calculated by dividing the cost of the services in aggregate by the total number of claims paid in the previous fiscal year. The result shall be published in the Kansas Register on or before December fifteenth to be effective January first of each year.

(5) Other medical services subject to co-payment shall include:

(A) ambulatory surgical center services, per date of service;

(B) audiological services, excluding batteries, per date of service;

(C) community mental health center services, per individual psychotherapy visit;

(D) durable medical equipment, prosthetics and orthotics, per claim, and excluding the rental of durable medical equipment;

(E) home health services, per skilled nursing visit and excluding the rental of durable medical equipment;

(F) non-emergency ambulance services, per date of service;

(G) optometric or ophthalmologist services, per date of service;

(H) outpatient general hospital surgery, per date of service;

(I) prescribed drugs, per new or refill prescription;

(J) physician or physician extender services, per office visit;

(K) podiatric services, per office visit;

(L) psychological services, per office visit;

(M) dietician services, per date of service;

(N) dental services, per date of service;

(O) federally qualified health center services, per encounter; and

(P) rural health clinic services, per encounter.

(b) The provisions of subsection (a) shall not apply to services provided:

(1) To residents in nursing facilities, including swing beds, intermediate care facilities for the mentally retarded, nursing facilities for mental health, and to recipients participating in the home- and community-based services programs;

(2) to recipients who have reached the age of 18 but are not yet 22 years of age, or who are age 65 or older, who are inpatients in a state psychiatric facility;

(3) to recipients under age 18;

(4) to recipients enrolled in a medicaid funded health maintenance organization;

(5) for family planning purposes;

(6) for medical services relating to an injury incurred on the job during a community work experience project;

(7) that are related to pregnancy; and

(8) as emergency services.

(c) Medicaid recipients in the 13th through the 24th months of the Transitional Medical Assistance Program (TransMed) as described in K.A.R. 30-6-65w(m) shall be obligated to the provider for the following copayment charges.

(1) Copayment for inpatient general hospital and free-standing psychiatric facility services shall be \$325.00 per admission.

(2) Copayment for other medical services subject to copayment shall be a standard amount based upon 25% of the average payment for that service, calculated on an annual basis. The average Medicaid payment shall be calculated by dividing the cost of the services in aggregate by the total number of claims paid in the previous fiscal year. The quotient of this division shall then be multiplied by 25% and the result shall be published in the Kansas Register on or before December fifteenth to be effective January first of each year;

(3) Other medical services subject to copayment shall include:

(A) ambulatory surgical center services, per date of service;

(B) audiological services, excluding batteries, per date of services;

(C) community mental health center services, per individual psychotherapy visit;

(D) durable medical equipment, prosthetics and orthotics, per claim, and excluding the rental of durable medical equipment;

(E) home health services, per skilled nursing visit and excluding the rental of durable medical equipment;

(F) non-emergency ambulance services, per date of service;

(G) optometric or ophthalmologist services, per date of service;

(H) outpatient general hospital surgery, per date of service;

(I) prescribed drugs, per new or refill prescription;

(J) physician or physician extender services, per office visit;

(K) podiatric services, per office visit;

(L) psychological services, per office visit;

(M) dietician services, per date of service;

(N) dental services, per date of service;

(O) federally qualified health center services, per encounter;

(P) rural health clinic services, per encounter;

(Q) family planning services;

(R) emergency services; and

(S) pregnancy related services.

(4) Where the provider's specific charge for a service is less than the required copay amount, the beneficiary is responsible to pay the lesser of the copayment amount or the charge. In these instances, the provider would be paid in full by the beneficiary.

(d) The provisions of paragraph (c)(3)(C) shall not apply to services provided:

(1) to transitional medical program recipients in the 13th through 24th months of eligibility who are residents in nursing facilities, including swing beds, intermediate care facilities for the mentally retarded, nursing facilities for mental health, and to recipients participating in the home and community-based services programs;

(2) to transitional medical program recipients in the 13th through 24th months of eligibility who have reached the age of 18 but are not yet 22 years of age, or who are age 65 or older, who are inpatients in a state psychiatric facility;

(3) to transitional medical program recipients in the 13th through 24th months of eligibility enrolled in a medicaid funded health maintenance organization; and



(4) for medical services relating to an injury incurred on the job during a community work experience project.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1981; amended May 1, 1982; amended, T-83-38, Nov. 23, 1982; amended May 1, 1983; amended, T-84-36, Jan. 1, 1984; amended May 1, 1984; amended May 1, 1986; amended, T-87-20, Sept. 1, 1986; amended May 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-2-28-90, Feb. 28, 1990; amended Aug. 1, 1990; amended Dec. 31, 1992; amended Sept. 27, 1993; amended Dec. 30, 1994.)

#### Article 6.—MEDICAL ASSISTANCE PROGRAM— CLIENTS' ELIGIBILITY FOR PARTICIPATION

**30-6-34. Program.** (a) The medical assistance program shall include automatic eligibles and determined eligibles.

(b) Those persons who are assigned to participate in the state's welfare-reform demonstration project shall be subject to the following regulations: K.A.R. 30-6-35w, K.A.R. 30-6-36, K.A.R. 30-6-38, K.A.R. 30-6-39, K.A.R. 30-6-40, K.A.R. 30-6-41w, K.A.R. 30-6-50w, K.A.R. 30-6-52w, K.A.R. 30-6-53w, K.A.R. 30-6-54w, K.A.R. 30-6-55w, K.A.R. 30-6-56w, K.A.R. 30-6-59w, K.A.R. 30-6-60w, K.A.R. 30-6-63, K.A.R. 30-6-65w, K.A.R. 30-6-70w, K.A.R. 30-6-72w, K.A.R. 30-6-77w, K.A.R. 30-6-78w, K.A.R. 30-6-80, K.A.R. 30-6-81w, K.A.R. 30-6-82w, K.A.R. 30-6-85w, K.A.R. 30-6-86w, K.A.R. 30-6-87w, K.A.R. 30-6-94w, K.A.R. 30-6-95, K.A.R. 30-6-103w, K.A.R. 30-6-105w, K.A.R. 30-6-106w, K.A.R. 30-6-107w, K.A.R. 30-6-108, K.A.R. 30-6-109w, K.A.R. 30-6-110w, K.A.R. 30-6-111w, K.A.R. 30-6-112w, K.A.R. 30-6-113w, K.A.R. 30-6-120, K.A.R. 30-6-140, and K.A.R. 30-6-150w.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1984; amended Dec. 30, 1994.)

**30-6-35w. Application process.** (a) Attention given to requests. Application, inquiry and request for medical assistance shall be given prompt attention.

(b) Who may file. An application for medical assistance shall be made by each applicant in person, or by another person authorized to act on the applicant's behalf, except that an application on behalf of a person mandated to receive tuberculosis care or on behalf of a deceased person may be made by any responsible person.

(c) Applications. Each application for assistance shall be considered an application for any type of medical assistance. The applicant or person authorized to act on behalf of the applicant shall sign the application. If any person signs by mark, the names and addresses of two witnesses shall be required. An application on behalf of a deceased person shall be made within three months of the month of the person's death. When assistance is requested for a family member following approval of assistance for other family members, the month of application for that member shall be the month following the month of the request, provided that any necessary

verification is received within 10 days of request. If timely verification is not provided, the month of application shall be the month following the month verification is received.

(d) Face-to-face interview. For non-SSI, a face-to-face interview shall be required at the time of application unless there is good cause for waiving this requirement.

(e) Time in which application is to be processed.

(1) Applications for medical assistance shall be approved or denied within 45 days of the agency's receipt of a signed application or within 90 days of the agency's receipt of a signed application for medical assistance that is dependent upon a finding of disability.

(2) The applicable time period may be extended if the application has been withdrawn or if the required determination of eligibility cannot be made within the mandated time period due to the failure of the applicant or a collateral to provide necessary information.

(3) If the agency takes action to deny an application within either the 45-day or 90-day time period as indicated above and the applicant reapplies or provides required information within the 45-day or 90-day time period, the application shall be reactivated.

(f) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-41w. 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 relationship.

(2) "Caretaker" means the parent or parents, including the parent or parents of an unborn child, or the person who is assigned the primary responsibility for the care and control of the child and is a guardian, conservator, legal custodian, or is a relative as defined in K.A.R. 30-6-72w.

(3) "Eligible caretaker" means a caretaker who is considered in the plan with the child.

(4) "Legally responsible person" 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. 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 unless one of the following exceptions applies.

(1) The person's protected income level is being computed as if the person were maintaining independent living arrangements.

(continued)

(2) 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).

(3) 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.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-6-50w. Determined eligibles; general eligibility factors.** The eligibility requirements set forth in the following regulations shall be eligibility factors applicable to determined eligibles except as noted:

- (1) K.A.R. 30-6-52w;
- (2) K.A.R. 30-6-53w;
- (3) K.A.R. 30-6-54w;
- (4) K.A.R. 30-6-55w;
- (5) K.A.R. 30-6-56w;
- (6) K.A.R. 30-6-59w;
- (7) K.A.R. 30-6-60w; and
- (8) K.A.R. 30-6-63.

(b) The secretary may waive certain eligibility requirements and adopt additional eligibility requirements for all, or designated areas, of the state for the purpose of utilizing special project funds or grants or for the purpose of conducting special demonstration or research projects.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-6-52w. Act on own behalf.** (a) Emancipated minor. An emancipated minor is a person who is age 16 or 17 and who is or has been married, or a person who is under the age of 18 and who has acquired the rights of majority through court action.

(b) Ability to act on own behalf. Each applicant or recipient shall be legally capable of acting on his or her own behalf.

(1) Incapacitated persons or minors shall not be eligible for medical assistance unless assistance on that person's behalf is applied for by a medical representative, representative payee for social security benefits, caretaker, or a responsible adult with whom a child resides as a result of an approved social service plan.

(2) Emancipated minors shall be eligible for medical assistance on their own behalf.

(3) Unemancipated minors shall not be capable of acting in their own behalf and must reside with a caretaker, representative payee for social security benefits, or a responsible adult with whom a child resides as a result of an approved social service plan in order to be eligible for assistance unless:

(A) the minor has no living parents or caretaker whose whereabouts is known;

(B) the minor has lived apart from the parents or other caretaker for at least a year based on the minor's most recent absence; or

(C) the health and safety of the minor would be jeopardized by remaining in a household with the minor's parents or other caretaker.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 1; effective Dec. 30, 1994.)

**30-6-53w. Financial eligibility.** The following provisions are applicable to all determined eligibles; except that subsections (c) and (d) of this regulation shall not be applicable to pregnant women and children who meet the provisions of K.A.R. 30-6-77w, medicare beneficiaries who meet the provisions of K.A.R. 30-6-86w, or to working disabled individuals who meet the provisions of K.A.R. 30-6-87w. (a) Definitions.

(1) "Eligibility base period" means the length of time used in the determination of financial eligibility. The length of the eligibility base period varies from one month to six months, based on the living arrangement of the persons in the assistance plan.

(2) "Spendedown" means the amount of applicable income that exceeds the protected income level in the eligibility base period and that is available to meet medical costs.

(3) "Patient liability" means the amount that the individual is required to pay towards the cost of care which the individual receives in an institutional arrangement. Patient liability is based on the amount of applicable income that exceeds the protected income level in the eligibility base period.

(b) The eligibility base period. For prior eligibility, the base period shall be the three months immediately preceding the month of application. The application base period shall begin on the first day of the month in which the application was received. Subsequent eligibility base periods for recipients shall begin on the first day of the month following the expiration of the previous base period. Any reapplication received outside of a previously established eligibility base shall be treated as a new application without regard to any previous eligibility base. However, if the reapplication includes a request for prior eligibility, the base period of prior eligibility shall not extend into a previously established eligibility base. The eligibility base period shall not exceed six months.

(c) Financial eligibility for persons in independent living and home- and community-based services arrangements.

(1) Total applicable income to be considered in the eligibility base period shall be compared to the protected income level for the base period. If the total applicable income is less than the protected income level and the individual owns property which has value within the allowable limits, the individual shall be financially eligible for medical assistance. If total applicable income exceeds the protected income level and the individual owns property which has value within the allowable limits, the excess applicable income shall be the spenddown.

(2) Each applicant or recipient shall incur allowable medical expenses in an amount at least equal to the spenddown before becoming eligible for assistance. Medical expenses paid either voluntarily or involuntarily

ily by third parties shall not be utilized to meet the spenddown, except for medical expenses paid by a public program of the state other than medicaid.

(3) A previously unconsidered increase in total applicable income during the current eligibility base period which results in additional spenddown shall not alter the base period. The additional spenddown shall be met by the individual during the eligibility base period before the individual becomes eligible or regains eligibility for medical assistance. Payments made through the program within the current eligibility base period shall not be considered to be overpayments if a previously eligible individual fails to meet the additional spenddown within the current eligibility base period.

(d) Financial eligibility for persons in institutional arrangements.

(1) An individual shall be financially eligible for medical assistance for payment of nursing facility care if:

(A) Property owned is within allowable limits; and

(B) total monthly, non-exempt gross income does not exceed 300 percent of the one-person benefit level in the federal supplemental security income (SSI) program. Persons who are ineligible under this provision may be eligible for medical assistance for other than nursing facility care. In such a case, eligibility shall be based on the provisions for persons in independent living arrangements. This income provision shall not be applicable to any recipient in a nursing facility as of September 1, 1991 who continues to reside in such an arrangement, who otherwise remains financially eligible for assistance and who either:

(i) had gross income in excess of 300 percent of the one-person SSI benefit level on that date; or

(ii) subsequently lost eligibility in the period September 1, 1991 through June 30, 1992 due to an increase in income.

(2) (A) Once financial eligibility has been determined, the applicable income to be considered in the eligibility base period shall then be compared to the protected income level for the base period. Income in excess of the protected income level shall be the patient liability.

(B) Medical expenses paid either voluntarily or involuntarily by third parties shall not be utilized to meet this liability, except for medical expenses paid by a public program of the state other than medicaid.

(C) Any increase in total applicable income during the current eligibility base period may result in financial ineligibility or in additional liability, but shall not alter the base period. Payments made through the program within the current eligibility base period shall not be considered to be overpayments if a previously eligible individual becomes ineligible because of an increase in total applicable income or fails to meet any additional liability within the current eligibility base period.

(e) Allowable expenses. The following expenses shall be allowable against the spenddown or patient liability when the individual provides evidence that the individual has incurred or reasonably expects to incur the expenses within the appropriate eligibility base period, or has incurred and is still obligated for expenses outside of the appropriate eligibility base period which have not been previously applied to a spenddown or liability:

(1) Co-pay requirements;

(2) the pro rata portion of medical insurance premiums for the number of months covered in the eligibility base period regardless of the actual date of payment, past or future;

(3) medicare premiums which are not covered by buy-in. Premiums which are subject to buy-in shall not be allowable, even if the individual pays them or the premiums are withheld, before completion of the buy-in process;

(4) if medically necessary, and recognized under Kansas law, all expenses for medical services incurred by the individual or a legally responsible family group member. Expenses for social services designated as medical services under the home- and community-based services (HCBS) program shall be allowable under this paragraph for persons in the HCBS program; and

(5) the cost of necessary transportation by appropriate mode to obtain medical services set forth in paragraph (4) above.

(f) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-6-54w. Citizenship, alienage, and residence.** (a) Definition. "Resident" means any person who is living in the state voluntarily, with no intention of presently moving from the state, and who is not living in the state for a temporary purpose. A child shall be a resident if living in the state. In addition, residence shall be established for medicaid eligibles who have entered the state with a job commitment or who are seeking employment.

(b) Citizenship and alienage. An applicant or recipient shall be:

(1) A citizen of the United States;

(2) an alien lawfully admitted for permanent residence;

(3) an alien otherwise permanently residing in the United States under color of law; or

(4) an alien who has been granted temporary or permanent residence status and for whom assistance can be granted pursuant to P.L. 99-603, the Immigration reform and control act of 1986.

An otherwise eligible alien who does not qualify under the above provisions shall be eligible for emergency medical care pursuant to P.L. 99-509, the Omnibus budget reconciliation act of 1986.

(c) Residence. Each applicant or recipient shall be a resident of Kansas.

(1) A person who owns a home in another state and intends to return to that home shall not be considered to be a resident of Kansas.

(2) The individual shall be living in Kansas and not receiving assistance from another state.

(3) Temporary absence from the state with subsequent returns to the state, or intent to return when the purposes of the absence have been accomplished, shall not interrupt continuity of residence.

(4) Residence shall be retained until abandoned or established in another state.

(5) For institutionalized individuals, the following criteria shall be used to determine residency.

(continued)

(A) Any person placed by a state agency in an out-of-state institution shall retain residence in the state making the placement.

(B) Any person who is under age 21 or who became incapable of intent before age 21 shall be determined to have the same residence as the parent or legal guardian.

(C) Any person who became incapable of intent on or after age 21 shall remain a resident of the state in which the person is physically residing.

(D) Any other person shall be regarded as a resident of the state in which the person is living with the intention to remain there permanently or for an indefinite period.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-55w. Cooperation.** (a) Establishment of eligibility. Each applicant, recipient, or caretaker shall cooperate with the agency in the establishment of eligibility. Failure to provide information necessary to determine eligibility shall render the assistance family ineligible for medical assistance as provided in K.A.R. 30-6-39.

(b) Potential resources. Each applicant or recipient shall cooperate with the agency in obtaining any resources due the applicant, recipient, or any other person for whom assistance is claimed. Failure to cooperate without good cause shall render the applicant or recipient ineligible for medical assistance.

(c) Social security number. Each applicant or recipient shall provide the agency with the applicant's or recipient's social security number. Failure to provide the number, or failure to apply for a number if the applicant or recipient has not previously been issued a number, shall render the applicant or recipient ineligible for assistance.

(d) Paternity and support. Each applicant, recipient, or caretaker shall cooperate with the agency in establishing the paternity of any child born out-of-wedlock for whom assistance is claimed, and in obtaining support for the applicant, recipient, caretaker, and any child for whom assistance is claimed. Failure to cooperate shall render the applicant, recipient, or caretaker ineligible for assistance unless the individual demonstrates good cause for refusing to cooperate or begins cooperating. If a caretaker has not cooperated for three months in any assistance program administered by the secretary where such cooperation is required, assistance for the family group shall not be provided until such time that the caretaker cooperates. Cooperation shall include:

(1) Appearing at the local child support enforcement office, as necessary, to provide information or documentation needed to establish the paternity of a child born out-of-wedlock, to identify and locate the absent parent, and to obtain support;

(2) appearing as a witness at court or at other proceedings necessary to achieve the child support enforcement objectives;

(3) forwarding to the child support enforcement unit any support payments received from the absent parent which are covered by the support assignment; and

(4) providing information, or attesting to the lack of information, under penalty of perjury.

(e) Third party resources. Each applicant or recipient shall cooperate with the agency in identifying and providing information to assist the agency in pursuing any third party who may be liable to pay for medical services under the medical assistance program. Failure to cooperate without good cause shall render the applicant or recipient ineligible for medical assistance.

(f) Group health plan enrollment. Each applicant or recipient who is otherwise eligible shall cooperate with the agency in enrolling in a group health plan offered by the applicant's or recipient's employer where the agency has determined that such plan is cost effective. To be cost effective the amount paid for premiums, co-insurance, deductibles, and other cost-sharing obligations under the group health plan, and any additional administrative costs, shall be less than the amount paid for an equivalent set of medicaid services. Failure to cooperate without good cause shall render the applicant or recipient ineligible for medical assistance.

(g) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-6-56w. Transfer of assets.** (a) Definitions.

(1) "Transfer of assets" means any act, contract, or lease, which partially or totally passes the use, control, or ownership of assets of an applicant or recipient to another person or corporation. A disclaimer of an inheritance shall constitute a transfer of assets.

(2) For purposes of this regulation, "institutionalized individual" means an applicant or recipient who is residing in a:

(A) nursing facility;

(B) medical institution that is providing the individual a level of care equivalent to the care provided by a nursing facility, or

(C) home- and community-based services living arrangement.

(3) For purposes of this regulation, "assets" means all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or spouse is entitled to but does not receive because of action by:

(A) the individual or the individual's spouse;

(B) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(C) any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(b) Eligibility limitation. An institutionalized individual shall not be eligible for coverage of institutional or home- and community-based services if the individual or individual's spouse transferred assets for less than fair market value on or after:

(1) 60 months before the date the individual received or was otherwise eligible to receive these services and has applied for medical assistance in the case of payments from a trust or portions of a trust that are treated as assets disposed of by the individual as specified in K.A.R. 30-6-109w(c) (1) and (2)(B); or

(2) 36 months before the date the individual received or was otherwise eligible to receive these services and has applied for medical assistance in the case of all other transfers.

Multiple transfers that occur within a calendar month shall be treated as a single transfer. The date of application for medical assistance referred to in paragraphs (b)(1) and (b)(2) above shall be based on the most recent application for assistance.

(c) Exempted transfers. The following transfers shall not affect eligibility under the provisions of subsection (b):

(1) transfers of assets that have been approved by the agency. If the transfer is for fair market value and is a bona fide transaction, approval shall be granted by the agency;

(2) a transfer of assets executed pursuant to the division of assets provisions contained in K.A.R. 30-6-106w;

(3) transfer of the institutionalized individual's home to:

(A) the spouse of the institutionalized individual;

(B) a child of the institutionalized individual who is under the age of 21 or who meets the blindness or disability criteria of K.A.R. 30-6-85w;

(C) a sibling of the institutionalized individual who has an equity interest in such home and who was residing in the home for a period of at least one year immediately before the date the individual entered the institutional or home- and community-based services arrangement; or

(D) a child of the institutionalized individual other than the child described in paragraph (3)(B) above, who was residing in the home for a period of at least two years immediately before the date the individual entered the institutional or home- and community-based services arrangement and who provided care to the institutionalized individual which permitted the individual to reside at home;

(4) a transfer of assets to:

(A) the institutionalized individual's spouse or to another for the sole benefit of the individual's spouse;

(B) the institutionalized individual's child who meets the blindness or disability criteria of K.A.R. 30-6-85w or to a trust established solely for the benefit of such child; or

(C) a trust established solely for the benefit of an individual under 65 years of age who meets the blindness or disability criteria of K.A.R. 30-6-85w; and

(5) a transfer of assets from the institutionalized individual's spouse to another for the sole benefit of the spouse.

(d) Procedures. The procedures set forth below shall be used in determining an institutionalized individual's eligibility for medical assistance under the above provisions.

(1) A record shall be assembled in chronological order for each transfer of assets.

(2) After securing the information listed above, the reason for the transfer shall be examined by the agency. In examining the reason for the transfer, a determination first shall be made as to whether fair market value was

received. If the agency determines that fair market value 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 assets shall be considered in the light of the circumstances at the time the transfer was made.

(B) The weight given to an institutionalized individual'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 institutionalized individual shall not be penalized for removal of the individual's name from the title or restricting access to the assets if the individual can substantiate that the individual has no ownership interest in the assets. Factors to be documented and considered shall include the source and use of the assets. This provision shall not be applicable to assets which are jointly owned between legally responsible persons.

(e) Period of ineligibility.

(1) If the agency determines that any institutionalized individual has transferred assets without the approval of the agency and for less than fair market value, the period of ineligibility shall be determined by the agency using the following formula.

(A) The uncompensated value of all resources and lump sum payments transferred on or after the time period specified in subparagraphs (b) (1) and (b) (2) shall be divided by the average monthly private pay rate of all nursing facilities in the state to determine the number of months of ineligibility. Recurring income transferred on or after the time period specified in paragraphs (b)(1) and (b)(2) shall continue to be considered as real and available income for purposes of determining patient liability.

(B) The period of ineligibility shall commence with the month in which the asset was transferred for applicants and not later than the second month following the month of transfer for recipients giving timely and adequate notice. In the case of the existence of a previously established period of ineligibility, the new period shall commence not earlier than the month following the month the previously established period ends.

(2) If the spouse of an institutionalized individual transfers an asset that results in a period of ineligibility and that spouse is later institutionalized and otherwise eligible for medical assistance, the remaining period of ineligibility shall be divided between the spouses. If the institutionalized individual is no longer subject to the established period of ineligibility, the remainder of that period shall be served by the spouse if he or she becomes institutionalized during the period.

(continued)



(3) If there is evidence that a transfer was made for less than fair market value and later the asset is reconveyed to the individual, or if there is an adjustment in the transfer through which the individual receives fair market value, the loss of the asset no longer exists. The individual shall, if otherwise qualified, be eligible for medical assistance.

(4) The period of ineligibility shall be initially waived or subsequently suspended if it is determined that the action to waive or suspend is necessary to avoid undue hardship. An undue hardship waiver or suspension may be granted if the individual verifies that:

(A) all available legal remedies for reclaiming the property or receiving full compensation have been exhausted;

(B) all otherwise available assets have been expended to meet living and medical expenses; and

(C) the individual's health or life would be endangered if deprived of medical care.

(f) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-59w. Strikes.** An applicant or recipient shall be ineligible for participation in the medical assistance program if the applicant or recipient is participating in a strike. If the individual is a legally responsible caretaker, the individual and all persons for whom he or she is legally responsible shall be ineligible for participation in the medical assistance program.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-60w. Living in a public institution.** (a) Definition. "Public institution" means any institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(b) Living arrangement. Each applicant or recipient living in a public institution shall be ineligible for assistance unless that person is an otherwise eligible medicaid (title XIX) applicant or recipient who is:

(1) under the age of 21 or over the age of 65 and living in a state institution;

(2) blind or disabled, as defined by the social security administration, and living in a state institution which has been approved as a title XIX intermediate care facility; or

(3) under the age of 21, or under the age of 22 if receiving inpatient psychiatric care on the person's 21st birthday, or over the age of 65 and receiving inpatient care in a state institution which has been approved as a title XIX accredited psychiatric hospital.

Any individual who is physically residing in a jail or penitentiary or under the care, custody and control of a law enforcement official shall be ineligible unless the individual is on probation, parole or on bail. Fugitives from justice by reason of a felony conviction or charge shall also be ineligible for assistance.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-6-65w. Automatic eligibility.** To be automatically eligible for medical assistance, each person shall meet the general eligibility requirements of K.A.R. 30-6-50w and K.A.R. 30-6-109(c) and shall be: (a) legally entitled to and receiving SSI benefits and in compliance with the general eligibility requirements of residence;

(b) legally entitled to and receiving state supplemental payments from Kansas related to SSI;

(c) determined by SSA to retain recipient status, although not currently receiving an SSI benefit;

(d) receiving public assistance, not including 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 of public assistance;

(2) the amount of recovery of an overpayment is greater than the budget deficit;

(3) the person is eligible using prospective budgeting, but ineligible due to retrospective accounting of income;

(4) the amount of the benefit reduction as specified in K.A.R. 30-4-140(e) is greater than the budget deficit; or

(5) the person is ineligible for assistance after 30 months of work program participation as set forth in K.A.R. 30-4-64(d) and at least one family group member continues to receive assistance;

(f) included in the assistance plan of a family which was receiving ADC or ADC-FC in at least three of the six months immediately preceding the month in which the family became ineligible for ADC or ADC-FC 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 and legally entitled to receive ADC or ADC-FC as long as the family remains ineligible for ADC or ADC-FC due to such collection or increased collection of support;

(g) mandated to receive inpatient treatment for tuberculosis;

(h) one who is not a public assistance recipient but is receiving maintenance payments from youth services;

(i) a child born to a mother eligible for and receiving medicaid at the time of birth for a period of up to one year. The child shall remain eligible so long as such mother remains eligible for medicaid or would be eligible for medicaid if still pregnant. The child shall also remain in the same household with the mother;

(j) a child receiving foster care payments under title IV-E, regardless of the state making payment;

(k) a child for whom an adoption assistance agreement under title IV-E is in effect, even if assistance payments are not being made or the adoption assistance agreement was entered into with another state. Automatic eligibility begins when the child is placed for adoption, even if an interlocutory decree of adoption or a judicial decree of adoption has not been issued;

(l) a child for whom a non-title IV-E adoption assistance agreement is in effect between the state and the adoptive parents and who cannot be placed without medical assistance because the child has special needs for medical or rehabilitative care; or



(m) (1) included in the assistance plan or be a sanctioned member of a family who:

(A) has received ADC in three of the six months immediately preceding the first month of transitional medical services;

(B) has lost eligibility for ADC as a result of excess income. Family income must consist in whole or in part of earned income; and

(C) has not been rendered ineligible for assistance as a result of a fraud determination at any time during the six months immediately preceding the first month of transitional medical services; or

(2) a child of, or legally responsible for, a member of the family who initially qualified for assistance under this provision.

Assistance under this provision shall be provided for a period not to exceed 24 months.

(n) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 39-7,103 and L. 1994, Chapter 265, Section 9; effective Dec. 30, 1994.)

**30-6-70w. Medicaid (title XIX) determined eligibles; eligibility factors specific to aid to dependent children (ADC).** (a) Each applicant or recipient shall meet applicable general eligibility requirements of K.A.R. 30-6-50w and the specific eligibility requirements set forth in K.A.R. 30-6-72w to be eligible for the medical assistance program related to ADC.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 7; effective Dec. 30, 1994.)

**30-6-72w. ADC child.** (a) To be eligible for the medical assistance program related to ADC, a child shall be:

(1) under the age of 18, or

(2) under the age of 19 and a full-time student, as defined in K.A.R. 30-4-72w(b), in a secondary school or the equivalent of vocational or technical training if, before the child attains age 19, the child may reasonably be expected to complete the program.

(b) The child shall be residing with:

(1) Any blood relative who is within the fifth degree of kinship to the child, including:

(A) parents;

(B) siblings;

(C) nephews;

(D) nieces;

(E) aunts;

(F) uncles; and

(G) persons of preceding generations who may be denoted by prefixes of grand, great, great-great, or great-great-great;

(2) stepfather, stepmother, stepbrother, or stepsister;

(3) a legally adoptive parent or parents and other relative or relatives of adoptive parents as noted in (b)(1) and (2) above;

(4) a guardian or conservator, or a legal custodian when based on an approved social service plan; or

(5) a spouse or former spouse, after marriage is terminated by death or divorce, of any persons named in b(1), (2) or (3) above.

(c) A child shall be eligible even if that child is out of the home temporarily because of education or training, illness or the illness of another member of the household, the incarceration of the caretaker, visits with friends or relatives, or attendance at a scout or similar camp. When a child is temporarily absent from the home, the determining factor shall be maintenance of care and control by the caretaker with whom the child would be living were the child not absent.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 7; effective Dec. 30, 1994.)

**30-6-77. Poverty level pregnant women and children; determined eligibles.** 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. (a) Pregnant women. Each eligible woman shall be medically determined to be pregnant. Assistance under this provision shall continue for two calendar months following the month in which the pregnancy terminates.

(b) Infants. Each eligible infant shall be under one year of age. Assistance under this provision shall continue:

(1) through the month in which the child turns age one; or

(2) if receiving inpatient services in the month in which the child turns age one:

(A) through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age one.

(c) Other young children. Each eligible child shall be at least one year of age, but no older than five years of age. Assistance under this provision shall continue:

(1) through the month in which the child turns age six; or

(2) if receiving inpatient services in the month in which the child turns age six:

(A) through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age six.

(d) Older children. Each eligible child shall be at least six years of age and be born on or after October 1, 1979.

(e) Persons whose needs are to be considered in determining eligibility.

(1) For pregnant women, the needs of the pregnant woman, the unborn child and the father if living with the pregnant woman shall be considered. If the pregnant woman is a minor and lives with her parents, the needs of her parents shall also be included.

(2) For all children, if the child lives with a parent or parents, the needs of the child and the child's parents shall be considered.

(continued)

(3) Other pregnant women and children in the family group for whom assistance is requested shall be included in the assistance plan if otherwise eligible.

(f) Financial eligibility. A percentage of the official federal poverty income guidelines as established in K.A.R. 30-6-103 shall be used as the protected income level for the number of persons in the plan and any other persons in the family whose income is being considered. Total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. To be eligible under this provision, the total applicable income shall not exceed the poverty level established for the base period. Ownership of excess nonexempt real or personal property shall not result in ineligibility.

(g) Continuous eligibility. A pregnant woman who becomes eligible for assistance under this regulation shall continue to be eligible throughout her pregnancy and the two calendar months following the month her pregnancy terminates without regard to any changes in family income.

(h) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-708c and 39-709; as amended by L. 1994, Chapter 265, Section 8; effective, T-30-7-1-88, July 1, 1988; effective Sept. 26, 1988; amended July 1, 1989; amended, T-30-3-29-90, April 1, 1990; amended, T-30-7-2-90, Aug. 1, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991; amended Sept. 30, 1994; amended Dec. 30, 1994.)

**30-6-77w. Poverty level pregnant women and children; determined eligibles.** Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50w and the specific eligibility requirements set forth below. (a) Pregnant women. Each eligible woman shall be medically determined to be pregnant. Assistance under this provision shall continue for two calendar months following the month in which the pregnancy terminates.

(b) Infants. Each eligible infant shall be under one year of age. Assistance under this provision shall continue:

(1) through the month in which the child turns age one; or

(2) through the shorter of the following time periods if receiving inpatient services in the month in which the child turns age one:

(A) through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age one.

(c) Other young children. Each eligible child shall be at least one year of age, but no older than five years of age. Assistance under this provision shall continue:

(1) through the month in which the child turns age six; or

(2) through the shorter of the following time periods if receiving inpatient services in the month in which the child turns age six:

(A) the calendar month in which that inpatient care ends; or

(B) the calendar month following the month the care begins. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age six.

(d) Older children. Each eligible child shall be at least six years of age but under the age of 18 and be born on or after October 1, 1979.

(e) Persons whose needs are to be considered in determining eligibility.

(1) For pregnant women, the needs of the pregnant woman, the unborn child and the father, if living with the pregnant woman, shall be considered. If the pregnant woman is a minor and lives with her parents, the needs of her parents shall also be included.

(2) For all children, if the child lives with a parent or parents, the needs of the child and the child's parents shall be considered.

(3) Other pregnant women and children in the family group for whom assistance is requested shall be included in the assistance plan if otherwise eligible.

(f) Financial eligibility.

(1) A percentage of the official federal poverty income guidelines as established in K.A.R. 30-6-103w shall be used as the protected income level for the number of persons in the plan and any other persons in the family whose income is being considered.

(2) Total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. To be eligible under this provision, the total applicable income shall not exceed the poverty level established for the base period.

(3) Ownership of excess nonexempt real or personal property shall not result in ineligibility.

(g) Continuous eligibility. A pregnant woman who becomes eligible for assistance under this regulation shall continue to be eligible throughout her pregnancy and the two calendar months following the month her pregnancy terminates without regard to any changes in family income.

(h) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-78w. Medicaid (title XIX) determined eligibles; eligibility factors specific to aid to pregnant women (APW).** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50w and the requirements set forth below.

(1) A woman shall not be eligible for medical assistance under the provisions of K.A.R. 30-6-77w.

(2) Each woman shall be medically determined to be pregnant.

(3) Financial eligibility shall be determined for each month as if the child was born and living with the mother.

(b) Assistance under this provision shall continue for two calendar months following the month in which the pregnancy terminates.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-81w. Medicaid (title XIX) determined eligibles; eligibility factors specific to children living in title XIX accredited psychiatric hospitals or intermediate care facilities.** To be eligible for participation in the medical assistance program under this provision, the child shall: (a) meet the general eligibility requirements of K.A.R. 30-6-50w; and

(b) be under the age of 21, or under the age of 22 if receiving inpatient psychiatric care on such person's twenty-first birthday and currently receiving inpatient care in a state institution which has been approved as a title XIX accredited psychiatric hospital or intermediate care facility.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-82w. Technology-assisted child; determined eligibles.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50w and the requirements set forth below to be eligible as a technology-assisted child.

(1) Each child shall be under the age of 16.

(2) Each child shall, if not for the provision of home- and community-based services, require the level of care provided in a hospital.

(3) Each child shall require substantial and ongoing care by a nurse and:

(A) Be dependent at least part of each day on mechanical ventilators for survival;

(B) require prolonged intravenous administration of nutritional substances or drugs; or

(C) need some other medical device to compensate for the loss of a vital body function.

(b) Eligibility shall be determined based on the financial eligibility standards and methodologies applicable to persons in home- and community-based services arrangements.

(c) The need for care and receipt of home- and community-based services under this provision shall be subject to approval by the division of medical programs.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-85w. Medicaid (title XIX) determined eligibles; eligibility factors specific to the aged, blind, or disabled (AABD).** Each applicant or recipient shall meet the applicable general eligibility requirements of K.A.R. 30-6-50w and the applicable specific eligibility requirements set forth below to be eligible for participation in the medical assistance program related to AABD.

(a) Age. An individual shall have attained the age of 65 prior to or within the month for which eligibility is being determined.

(b) Blindness. An individual shall be blind as determined by the social security administration. The determination shall be made either by the social security administration or by disability determination services.

(c) Disability. An individual shall be disabled as determined by the social security administration. The determination shall be made either by the social security administration or by disability determination services.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-86w. Poverty level and low income medicare beneficiaries; determined eligibles.** Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50w and the specific eligibility requirements set forth below. (a) Age, blindness or disability. Each individual must meet the age, blindness or disability requirements of K.A.R. 30-6-85w.

(b) Medicare part A beneficiary. Each individual shall be entitled to medicare part A benefits.

(c) Financial eligibility.

(1) A percentage of the official federal poverty income guidelines as established in K.A.R. 30-6-103w shall be used as the protected income level for the number of persons in the plan and any other persons whose income is considered.

(2) Total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. However, the amount of an annual social security cost-of-living adjustment shall be disregarded in determining eligibility during the first quarter of the year for which the adjustment is provided.

(3) To be eligible under this provision, the total applicable income shall not exceed the poverty level established for the base period. The individual also shall not own nonexempt real or personal property with a resource value in excess of two times the allowable amount specified in K.A.R. 30-6-107w for the number of persons whose nonexempt resources are considered available to the individual.

(d) Assistance provided.

(1) Assistance under this provision for individuals meeting the poverty income guidelines of K.A.R. 30-6-103w(a)(7) shall be limited to the payment of allowable medicare premiums, deductibles and coinsurance.

(2) Assistance for individuals meeting the poverty income guidelines of K.A.R. 30-6-103w(a)(9) shall be limited to the payment of medicare part B premiums only.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-87w. Poverty level working disabled individuals; determined eligibles.** Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50w and the specific eligibility requirements set forth below. (a) Blindness or disability. Each individual must meet the blindness or disability requirements of K.A.R. 30-6-85w.

(b) Medicare part A beneficiary. Each individual must be entitled to medicare part A benefits under section 1818A of the social security act.

(c) Financial eligibility.

(1) A percentage of the official federal poverty income guidelines as established in K.A.R. 30-6-103w shall be used as the protected income level for the number of persons in the plan and any other persons whose income is considered.

(2) Total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period.

(continued)

(3) To be eligible under this provision, the total applicable income shall not exceed the poverty level established for the base period. The individual must also not own nonexempt real or personal property with a resource value in excess of two times the allowable amount specified in K.A.R. 30-6-107w for the number of persons whose nonexempt resources are considered available to the individual.

(d) Assistance provided. Assistance under this provision shall be limited to the payment of medicare part A premiums.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-94w. Medical assistance (non-title XIX) determined eligibles; eligibility factors specific to persons living in nursing facilities for mental health (NF-MH).** (a) To be eligible for participation in the medical assistance program under this provision, the individual shall:

- (1) meet the general eligibility requirements of K.A.R. 30-6-50w;
- (2) be age 21 or older and under age 65;
- (3) be otherwise eligible for medicaid (title XIX) except for the individual's living arrangement; and
- (4) not meet the provisions of K.A.R. 30-6-60w(b) or K.A.R. 30-6-81w(b).

(b) Eligibility shall be determined based on the financial eligibility standards and methodologies applicable to persons in institutional arrangements.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-103. Determined eligibles; protected income levels.** (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for persons in independent living arrangements and in the home- and community-based services program shall be based on the total number of persons in the assistance plan and any other persons in the family group whose income is being considered.

(2) The protected income levels for independent living may also be used when an applicant or recipient:

(A) enters a medicaid-approved facility, except that this provision shall not apply in situations where only one spouse of a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed two months to allow for maintaining the applicant's or recipient's independent living arrangements.

(3) Except as provided in paragraphs (4), (5), (6), (7) and (8) below, 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
\$458.00	\$475.00	\$480.00

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.

(4) In determining eligibility for pregnant women and for infants under the provisions of K.A.R. 30-6-77(a) and (b), 150 percent of the official federal poverty income guidelines shall serve as the protected income level.

(5) In determining eligibility for other young children under the provisions of K.A.R. 30-6-77(c), 133 percent of the official federal poverty income guidelines shall serve as the protected income level.

(6) In determining eligibility for older children under the provisions of K.A.R. 30-6-77(d), 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(7) In determining eligibility for poverty-level medicare beneficiaries under the provisions of K.A.R. 30-6-86, 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(8) In determining eligibility for working disabled individuals under the provisions of K.A.R. 30-6-87, 200 percent of the official federal poverty income guidelines shall serve as the protected income level.

(9) In determining eligibility for low income medicare beneficiaries under the provisions of K.A.R. 30-6-86, 120 percent of the official federal poverty income guidelines shall serve as the protected income level.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be \$30.00, except as noted in paragraph (2) of subsection (a).

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 1994 HB 2929; 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; amended, T-86-19, July 1, 1985; amended, T-86-42, Jan 1, 1986; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended, T-88-2, Feb. 1, 1987; amended May 1, 1987; amended, T-88-10, May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-3-29-90, April 1, 1990; revoked, T-30-7-2-90, July 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended Jan. 7, 1991; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991; amended Jan. 2, 1992; amended, T-30-6-10-92, July 1, 1992; amended Oct. 1, 1992; amended Jan. 4, 1993; amended Jan. 3, 1994; amended Dec. 30, 1994.)

**30-6-103w. Determined eligibles; protected income levels.** (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for persons in independent living arrangements and in the home- and community-based services program shall be based on the total number of persons in the assistance plan and any

other persons in the family group whose income is being considered.

(2) The protected income levels for independent living may also be used when an applicant or recipient:

(A) enters a medicaid-approved facility, except that this provision shall not apply in situations where only one spouse of a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed two months to allow for maintaining the applicant's or recipient's independent living arrangements.

(3) Except as provided in paragraphs (4), (5), (6), (7) and (8) below, 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
\$458.00	\$475.00	\$480.00

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.

(4) In determining eligibility for pregnant women and for infants under the provisions of K.A.R. 30-6-77w(a) and (b), 150 percent of the official federal poverty income guidelines shall serve as the protected income level.

(5) In determining eligibility for other young children under the provisions of K.A.R. 30-6-77w(c), 133 percent of the official federal poverty income guidelines shall serve as the protected income level.

(6) In determining eligibility for older children under the provisions of K.A.R. 30-6-77w(d), 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(7) In determining eligibility for poverty-level medicare beneficiaries under the provisions of K.A.R. 30-6-86w, 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(8) In determining eligibility for working disabled individuals under the provisions of K.A.R. 30-6-87w, 200 percent of the official federal poverty income guidelines shall serve as the protected income level.

(9) In determining eligibility for low income medicare beneficiaries under the provisions of K.A.R. 30-6-86w, 120 percent of the official federal poverty income guidelines shall serve as the protected income level.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be \$30.00, except as noted in paragraph (2) of subsection (a).

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-105w. Determined eligibles; resources.** (a) The principles set forth in K.A.R. 30-6-106, K.A.R. 30-6-107, K.A.R. 30-6-108, K.A.R. 30-6-109w, K.A.R. 30-6-110w, K.A.R. 30-6-111w, K.A.R. 30-6-112w, and K.A.R. 30-6-113w shall apply to the consideration of resources in determining need for medical assistance determined eligibles.

(b) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-6-106w. General rules for consideration of resources, including real property, personal property, and income.** (a) Legal title shall determine ownership for assistance purposes. In the absence of legal title, possession shall determine ownership.

(b) Resources shall be of a nature that the value can be defined and measured. The objective measures set forth in paragraphs (1) and (2) below shall establish the resources' value.

(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, recipient, or 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 using 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. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(c) (1) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available. A resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain, or unless the probability of success in the legal action would be minimal for the applicant or recipient.

(2) For SSI, real property shall be considered unavailable for so long as it cannot be sold because:

(A) the property is jointly owned and its sale would cause undue hardship due to the loss of housing for the other owner or owners; or

(B) the owner's reasonable efforts to sell the property have been unsuccessful.

(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. Resources held jointly with a non-legally responsible person may be excluded from consideration if the applicant or recipient can demonstrate that the applicant or recipient has no ownership interest in the resource, has not contributed to the resource, and that any access to the resource by the applicant or recipient is limited to those duties performed while the applicant or recipient is acting as an agent for the other person.

(continued)



(e) Nonexempt resources of all persons in the assistance plan shall be considered in determining eligibility.

(f) (1) The combined resources of husband and wife, if they are living together, shall be considered in determining eligibility of either or both for the medical assistance program, unless otherwise prohibited by law.

(2) 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, training, working, securing medical treatment or visiting shall not interrupt the period of time during which the couple is considered to be living together.

(3) A husband and wife shall not be considered to be living together when they are physically separated and not maintaining a common life, or when one or both enter into an institutional living arrangement, including either a Medicaid-approved or non-approved medical facility or a home- and community-based services care arrangement.

(A) If only one spouse enters an institutional living arrangement, the provisions of subsection (m) below shall apply.

(B) If both spouses enter an institutional living arrangement, the combined resources of the husband and wife shall be considered available to both for the month in which the institutional arrangement begins.

(g) The resources of an ineligible parent shall be considered in determining the eligibility of a minor child for the medical assistance program if the parent and child are living together, except that such resources shall not be considered for children in an institutional or home- and community-based services arrangement beginning with the month following the month the arrangement begins.

(h) When any individual in the household 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, the amount of the contribution to be counted shall be the net income realized by the household.

(i) Despite subsections (e), (f), and (g) 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 conversion of real and personal property from one form to another shall not be considered to be income to the applicant or recipient, except for the proceeds from a contract for the sale of property.

(k) Income shall not be considered to be both income and property in the same month.

(l) Despite subsection (e) above, the resources of a child whose needs are met through foster care payments shall not be considered in determining eligibility.

(m) When one spouse enters an institutional living arrangement and the other spouse remains in the community, and an application for medical assistance is made on behalf of the institutionalized spouse, the following provisions apply.

(1) The separate income of each spouse shall not be considered available to the other beginning in the month

the institutional arrangement begins. Unless otherwise established,  $\frac{1}{2}$  of the income which is paid in the names of both spouses shall be considered available to each. Income which is paid in the name of either spouse, or in the name of both spouses and the name of another person or persons, shall be considered available to each spouse in proportion to the spouse's interest, unless otherwise established.

(2) A monthly income allowance for the community spouse shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for persons in institutional living arrangements or spenddown for persons in home- and community-based services arrangements. The income allowance for the community spouse, when added to the income already available to that spouse, shall not exceed 150 percent of the official federal poverty income guideline for two persons plus the amount of any excess shelter allowance. The excess shelter allowance is defined as the amount by which the community spouse's expenses for rent or mortgage payments, taxes and insurance for the community spouse's principal residence, plus the food stamp standard utility allowance, exceeds 30 percent of 150 percent of the federal poverty income guideline amount referred to above. The maximum monthly income allowance which can be provided under this provision shall be \$1,817.00. The \$1,817.00 limitation shall be increased annually to reflect the percentage increase in the consumer price index for all urban consumers. If a greater income allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(3) A monthly income allowance for each dependent family member shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for persons in institutional living arrangements or spenddown for persons in home- and community-based services arrangements.

(A) A dependent family member is defined as a minor or dependent child, dependent parent or dependent sibling of either spouse who lives with the community spouse.

(B) The allowance for each member shall be equal to  $\frac{1}{3}$  of 150 percent of the official federal poverty income guideline for two persons.

(C) An allowance shall not be provided if the family member's gross income is in excess of 150 percent of the federal poverty income guideline for two persons.

(4) If the spouse is institutionalized on or after September 30, 1989, the real and personal property of both spouses shall be considered in determining the eligibility of the institutionalized spouse, based on the amount of property in excess of the community spouse property allowance as set forth in paragraph (m) (6) below, whether or not such allowance will be made.

(A) If the excess property is within the allowable resource standards of K.A.R. 30-6-107w, the institutionalized spouse shall be eligible.

(B) In the month following the first month of eligibility for the institutionalized spouse, only the property of the institutionalized spouse shall be considered available in determining continuing eligibility, except for



property to be transferred in accordance with paragraph (m)(6) below.

(5) If the spouse was institutionalized before September 30, 1989, the real and personal property of each spouse shall be considered available to the other in the month in which the institutional arrangement began. Thereafter, the property of each spouse shall not be considered available to the other.

(6) The institutionalized spouse may make available to the community spouse a property allowance which, when added to the property already available to the community spouse, would be equal to  $\frac{1}{2}$  of the total value of the property owned by both spouses as of the first period of continuous institutionalization beginning on or after September 30, 1989.

(A) This allowance may not exceed \$72,660.00, but shall be no less than \$14,532.00. Both the \$14,532.00 and \$72,660.00 standards shall be increased annually to reflect the percentage increase in the consumer price index for all urban consumers.

(B) If a greater property allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(7) The amount of property received by the community spouse as a result of the property allowance determined in paragraph (m) (6) shall not be considered in determining the eligibility of the institutionalized spouse, except as provided in paragraph (m)(4) above. If the institutionalized spouse will be eligible based upon transferring sufficient property to the community spouse to equal the amount of the property allowance, the institutionalized spouse shall be given up to 90 days from the date of application to transfer the property. Additional time may be allowed for good cause. Pending disposition of the property, the institutionalized spouse shall be deemed to be temporarily eligible during this time period if all other eligibility factors are met. The resources of an alien sponsor and the sponsor's spouse shall be considered in determining eligibility for the alien. "Sponsor" shall include a public or private agency or organization.

(n) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708; effective Dec. 30, 1994.)

**30-6-107. Property exemption.** Ownership of otherwise nonexempt real or personal property shall not affect eligibility if the aggregate resource value is not in excess of \$2,000.00 for one person or \$3,000.00 for two or more persons whose nonexempt resources are considered available to a person in the assistance plan. (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, except for pregnant women and children who meet the provisions of K.A.R. 30-6-77. 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 except that, for medicare beneficiaries who meet the provisions of K.A.R. 30-6-86 and working disabled individuals who meet the provisions of K.A.R. 30-6-87, the resource value shall be in excess of two times the amounts above before the assistance family group is rendered ineligible. If the applicant or recipient is making a bona fide and documented effort to dispose of the excess property at a reasonable market value, assistance shall be provided not to exceed nine months. The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 1990 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; amended May 1, 1986; amended, T-87-43, Jan. 1, 1987; amended May 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended July 1, 1991; amended Dec. 30, 1994.)

**30-6-107w. Property exemption.** Ownership of otherwise nonexempt real or personal property shall not affect eligibility if the aggregate resource value is not in excess of \$2,000.00 for one person or \$3,000.00 for two or more persons whose nonexempt resources are considered available to a person in the assistance plan. (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, except for pregnant women and children who meet the provisions of K.A.R. 30-6-77w. 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 except that, for medicare beneficiaries who meet the provisions of K.A.R. 30-6-86w and working disabled individuals who meet the provisions of K.A.R. 30-6-87w, the resource value shall be in excess of two times the amounts above before the assistance family group is rendered ineligible. If the applicant or recipient is making a bona fide and documented effort to dispose of the excess property at a reasonable market value, assistance shall be provided not to exceed nine months.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-109w. 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.

(continued)

(3) "Other personal property" means personal effects, household equipment and furnishings, home produce, livestock, equipment, vehicles, inventory, contracts from the sale of property, 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. Trust funds shall be considered in accordance with subsection (c).

(c) Treatment of trust funds. For purposes of determining an individual's eligibility for or amount of assistance, the following rules shall apply. The term "trust" includes any legal instrument or device that is similar to a trust, including an annuity. The term "assets" shall be defined as specified in K.A.R. 30-6-56w(a)(3).

(1) In the case of a revocable trust, the value of the trust shall be considered resources available to the individual. Payments from the trust to or for the benefit of the individual shall be considered as income. Any other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 30-6-56w.

(2) In the case of an irrevocable trust:

(A) if there are any circumstances under which payment from the trust could be made to, or for the benefit of, the individual, the portion of the trust from which payment could be made shall be considered resources available to the individual. Payments made from the trust to or for the benefit of the individual shall be considered as income. Any other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 30-6-56w; or

(B) any portion of the trust from which no payment could be made under any circumstances to the individual shall be considered as of the date of establishment of the trust, or if later, the date on which payment to the individual was restricted or foreclosed, under the provisions of K.A.R. 30-6-56w.

(3) An individual shall be considered to have established a trust if assets of the individual were used to form all or part of the trust and if any of the following individuals established such trust other than by will:

(A) the individual or the individual's spouse;

(B) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(C) a person, including any court or administrative body, acting at the direction of or upon the request of the individual or the individual's spouse.

(4) If the corpus of the trust includes assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

(5) These provisions shall apply without regard to the purposes for which the trust was established, whether the trustees have or exercise any discretion under the trust, any restrictions on when or whether distributions may be made from the trust, or any restrictions on the use of distributions from the trust.

(6) These provisions shall not apply to any of the following trusts:

(A) a trust containing the assets of an individual under age 65 who meets the blindness or disability criteria of K.A.R. 30-6-85w and which is established for the benefit of such individual by a parent, grandparent, legal guardian of the individual, or a court. The state shall receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual;

(B) a trust established for the benefit of an individual in a nursing facility if the trust is composed only of pension, social security, and other income to the individual. The state shall receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual; or

(C) a trust containing the assets of an individual who meets the blindness or disability criteria of K.A.R. 30-6-85w if such trust is established by a non-profit association, a separate account is maintained for each beneficiary of the trust, and accounts in the trust are established solely for the benefit of individuals who meet the blindness or disability criteria of K.A.R. 30-6-85w, by that individual, the parent, grandparent, or legal guardian of such individuals, or by a court. The state shall receive all amounts remaining in the individual's account upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual.

(7) These provisions shall be waived if it is determined that the action is necessary to avoid undue hardship on the individual. Undue hardship may be granted if the individual verifies that he or she has exhausted all legal remedies for gaining access to the principal or income of the trust, that all otherwise available assets have been expended to meet living and medical expenses, and that his or her health or life would be endangered if deprived of medical care.

(d) 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 is 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) any contract from the sale of property, if the proceeds from the contract are considered as income;

(8) one vehicle for each assistance family. Additional vehicles may be exempt if used over 50 percent of the time for employment or self-employment, used as the family home, or specially equipped for use by a handicapped person;

(9) for each assistance family member:

(A) burial plots; and

(B) burial funds, agreements, or merchandise not exceeding \$8,000.00 in total including interest which has accumulated since the date of application, which are separately identifiable and clearly designated as being for burial purposes;

(10) 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;

(11) for non-SSI, income-producing property, other than cash assets, if essential for employment or self-employment. Income-producing property shall include items such as tools, equipment, machinery and livestock;

(12) for non-SSI, escrow accounts established for families participating in the family self-sufficiency program through the department of housing and urban development. Interest earned on the accounts shall also be exempted as income;

(13) 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;

(14) for SSI, any personal property of a blind or disabled person which is covered by an approved plan of self-support;

(15) for SSI, the equity value of income-producing personal property, other than cash assets, that is used in an applicant's or recipient's trade or business;

(16) for SSI, the equity value of non-business 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 \$6,000.00; and

(B) a net annual return of at least six percent of the total equity is produced;

(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 three months of the sale;

(18) for SSI, a retroactive social security payment received by the applicant or recipient or an ineligible legally responsible person for the nine months following the month of receipt; and

(19) for SSI, pension funds owned by an applicant's or recipient's spouse or parent if such spouse or parent is not an applicant for or recipient of SSI.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 8; effective Dec. 30, 1994.)

**30-6-110w. Income.** (a) Definitions.

(1) "Earned income" means income, in cash or in kind, that an applicant or recipient currently earns, 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.

(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 of eligibility for the three prior months, except that self-employment income shall be averaged.

(2) Current eligibility.

(A) 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 applicable income for the eligibility base period.

(B) Income from self-employment and intermittent income shall be considered and averaged. Intermittent income shall be divided by the proper number of months to establish the monthly amount. Intermittent income shall be considered as income beginning with the eligibility base period in which it is received.

(c) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**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. All earned income shall be applicable unless exempted in accordance with K.A.R. 30-6-112 and K.A.R. 30-6-113. Applicable earned income shall be determined as follows.

(1) Applicable earned income for persons included in the assistance plan, and except as noted in paragraph (a)(4) of this regulation, for all persons in the home whose earned income must be considered and who are excluded from the assistance plan, shall equal gross earned income, or the adjusted gross earned income from self-employment, less the following items:

(A) \$90.00 per month for each employed person; and

(B) reasonable and not excessive expenses for child care or expenses for the care of an incapacitated person. The amount of deductible dependent care shall not exceed \$200.00 per month per person for persons under age two or \$175.00 per month per person for persons age two or older. 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 applicant or 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

(continued)

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 medical assistance program shall not treat income on the basis of IRS policies and shall not be used to either subsidize the payment of debts, or set up an individual in a business or a nonprofit activity.

(B) If losses are suffered from self-employment, the losses 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 verifiable that they are clearly distinguishable from the home operation.

(E) If payments increase the equity in equipment, vehicles, or other property, the payments shall not be considered as an income-producing cost.

(F) If equipment, vehicles, or other property are 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 be allowed if the payments directly relate to the business.

(I) Expenses for 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) In determining eligibility and the amount of payment, the applicable earned and unearned income of an alien who is a parent of an ADC child and who is excluded from the assistance plan due to the provisions of the immigration reform and control act of 1986, P.L. 99-603, effective May 1, 1987, which is hereby adopted by reference, shall equal gross income less the following items:

(A) \$90.00 of earned income;

(B) the protected income level for the parent and dependents in the same household who are claimed by the parent for internal revenue service purposes and who are not in the assistance plan;

(C) amounts paid by the parent to persons not living in the same household who are claimed as dependents for internal revenue service purposes; and

(D) alimony or child support payments to individuals not living in the household which are made by the parent.

(b) SSI. Applicable earned income shall be determined as follows:

(1) Wages. All earned income shall be applicable except that the provisions of K.A.R. 30-6-112 and K.A.R. 30-6-113 shall be applicable to persons in independent

living or in the home- and community-based service program. 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 regulation 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 or in the home- and community-based service program:

(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  $\frac{1}{2}$  times the remainder of the monthly earned income.

(2) The following disregards shall apply to persons in long term care who are employed:

(A) \$75.00, if employed full time; and

(B) \$50.00, if employed part time.

(d) Applicable unearned income.

(1) All net, unearned income, except as noted in paragraph (a)(4) of this regulation, shall be applicable except that the provisions of K.A.R. 30-6-112 and K.A.R. 30-6-113 shall be applicable to persons in independent living or in the home- and community-based service program.

(2) The provisions of K.A.R. 30-6-113 (a), (i), (j), (x), (y), (bb), (ee) and (hh) shall be applicable to persons in long-term care.

(3) Net unearned income shall equal gross unearned income less the costs of the production of the income. Income-producing costs shall include only those expenses directly related to the actual production of income. The principles set forth in paragraph (a)(2) of this regulation regarding the calculation of income-producing costs shall be applicable.

(e) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 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; amended, T-86-9, May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-88-10, May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended Oct. 1, 1989; amended Jan. 2, 1990; amended April 1, 1990; amended May 1, 1991; amended July 1, 1994; amended Dec. 30, 1994.)

**30-6-111w. 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. All earned income shall be applicable unless exempted in accordance with K.A.R. 30-6-112w and K.A.R. 30-6-113w. Applicable earned income shall be determined as follows.

(1) Applicable earned income for persons included in the assistance plan, and except as noted in paragraph (a)(4) of this regulation, for all persons in the home whose earned income must be considered and who are excluded from the assistance plan, shall equal gross earned income, or the adjusted gross earned income from self-employment, less the following items:

(A) ninety dollars per month for each employed person; and

(B) reasonable and not excessive expenses for child care or expenses for the care of an incapacitated person. The amount of deductible dependent care shall not exceed \$200.00 per month per person for persons under age two or \$175.00 per month per person for persons age two or older. 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 applicant or 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 medical assistance program shall not treat income on the basis of IRS policies and shall not be used to either subsidize the payment of debts or set up an individual in a business or a nonprofit activity.

(B) If losses are suffered from self-employment, the losses 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 verifiable that they are clearly distinguishable from the home operation.

(E) If payments increase the equity in equipment, vehicles, or other property, the payments shall not be considered as an income-producing cost.

(F) If equipment, vehicles, or other property are 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 be allowed if the payments directly relate to the business.

(I) Expenses for 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) In determining eligibility and the amount of payment, the applicable earned and unearned income of an alien who is a parent of an ADC child and who is excluded from the assistance plan due to the provisions of the immigration reform and control act of 1986, P.L. 99-603, effective May 1, 1987, which is hereby adopted by reference, shall equal gross income less the following items:

(A) ninety dollars of earned income;

(B) the protected income level for the parent and dependents in the same household who are claimed by the parent for internal revenue service purposes and who are not in the assistance plan;

(C) amounts paid by the parent to persons not living in the same household who are claimed as dependents for internal revenue service purposes; and

(D) alimony or child support payments to individuals not living in the household which are made by the parent.

(b) SSI. Applicable earned income shall be determined as follows.

(1) Wages. All earned income shall be applicable except that the provisions of K.A.R. 30-6-112w and K.A.R. 30-6-113w shall be applicable to persons in independent living or in the home- and community-based service program. 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 regulation 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 or in the home- and community-based service program:

(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  $1/2$  times the remainder of the monthly earned income.

(2) The following disregards shall apply to persons in long term care who are employed:

(A) \$75.00, if employed full-time; and

(B) \$50.00, if employed part-time.

(d) Applicable unearned income.

(1) All net, unearned income, except as noted in paragraph (a)(4) of this regulation, shall be applicable except that the provisions of K.A.R. 30-6-112w and K.A.R. 30-6-113w shall be applicable to persons in independent living or in the home- and community-based service program.

(2) The provisions of K.A.R. 30-6-113w (a), (i), (j), (x), (y), (bb), (ee), and (hh) shall be applicable to persons in long-term care.

(continued)



(3) Net unearned income shall equal gross unearned income less the costs of the production of the income.

(4) Income-producing costs include only those expenses directly related to the actual production of income. The principles set forth in paragraph (a)(2) of this regulation regarding the calculation of income-producing costs shall be applicable.

(e) Applicable alien sponsor income. In determining eligibility for a sponsored alien, 20 percent of the sponsor's income, including the income of the sponsor's spouse, shall be disregarded and the remainder of the income considered.

(f) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265; effective Dec. 30, 1994.)

**30-6-112. Income exempt from consideration as income and as a cash asset.** Exempted income shall be: (a) grants and scholarships provided for educational purposes;

(b) the value of the coupon allotment under the food stamp program;

(c) the value of the U.S. department of agriculture-donated foods;

(d) the value of supplemental food assistance received under the child nutrition act of 1966, as amended, and the special food service program for children under the national school lunch act, as amended;

(e) benefits received under title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended;

(f) Indian funds distributed or held in trust, including interest and investment income accrued on such funds while held in trust and initial purchases made with such funds;

(g) distributions to natives under the Alaska native claims settlement act;

(h) payments provided to individual volunteers serving as foster grandparents, senior health aides and senior companions, and to persons serving in the service corps of retired executives and active corps of executives under titles II and III of the domestic service act of 1973;

(i) payments to individual volunteers under title I of public law, sec. 404(g) of public law 93-113 when the director of ACTION determines that the value of such payments, adjusted to reflect the number of hours such volunteers are serving, is less than the federal minimum wage;

(j) payments received under the uniform relocation assistance and real property acquisition policies act of 1970;

(k) death benefits from SSA, VA, railroad retirement, or other burial insurance policy when the benefits are used toward the cost of burial;

(l) money held in trust by VA for a child which VA determines may not be used for subsistence needs;

(m) retroactive corrective assistance payments in the month received or in the following month;

(n) income directly provided by vocational rehabilitation;

(o) benefits from special government programs at the discretion of the secretary, including energy assistance programs;

(p) reimbursements for out-of-pocket expenses in the month received and the following month;

(q) proceeds from any bona fide loan requiring repayment;

(r) payments granted to certain U.S. citizens of Japanese ancestry and resident Japanese aliens under title I of public law 100-383;

(s) payments granted to certain eligible Aleuts under title II of public law 100-383;

(t) agent orange settlement payments;

(u) federal major disaster and emergency assistance and comparable disaster assistance provided by state or local government or by disaster assistance organizations in conjunction with a presidentially declared disaster;

(v) payments granted to the Aroostook Band of Micmac Indians under public law 102-171;

(w) payments from the radiation exposure compensation trust fund made by the department of justice;

(x) for non-SSI, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(y) for non-SSI, assistance provided by another agency or organization that complements but does not duplicate assistance provided by the agency;

(z) for non-SSI, foster care and adoption support payments;

(aa) for non-SSI, the amount of any earned income tax credit received. Such credit shall not be regarded as a cash asset in the month of receipt and in the following month;

(bb) for SSI, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within nine months of its receipt. This time period may be extended for good cause;

(cc) for SSI, in kind support, vouchers, or cash assistance for food, clothing, or shelter provided by public or private organizations or agencies, if the assistance is based on need;

(dd) for SSI, income necessary for fulfillment of an approved plan to achieve self-support established for a blind or disabled person;

(ee) for SSI, interest which is paid on excluded burial funds and left to accumulate;

(ff) for SSI, housing assistance from federal housing programs operated by state and local subdivisions;

(gg) for SSI, any portion of any financial assistance funded under title IV of the higher education act of 1965, as amended, or under bureau of Indian affairs student assistance programs which is made available for tuition, fees, books, supplies, transportation and miscellaneous personal supplies;

(hh) for SSI, payments occasioned by the death of another person to the extent that the payments have been expended or committed to be expended for purposes of the deceased person's last illness and burial;

(ii) for SSI, payments received from a state-administered victims' compensation fund. Such payments shall



not be regarded as a cash asset for the nine months following the month of receipt; and

(jj) for SSI, relocation assistance provided by a state or local government which is comparable to assistance provided under title II of the uniform relocation assistance and real property acquisitions act of 1970. Such assistance shall not be regarded as a cash asset for the nine months following the month of receipt.

(kk) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 1992 Supp. 39-708c and 39-709, as amended by 1993 SB 317; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended May 1, 1991; amended July 1, 1991; amended Jan. 2, 1992; amended Oct. 1, 1992; amended Oct. 1, 1993; amended Dec. 30, 1994.)

**30-6-112w. Income exempt from consideration as income and as a cash asset.** Exempted income shall be:

(a) Grants and scholarships provided for educational purposes;

(b) the value of the coupon allotment under the food stamp program;

(c) the value of the U.S. department of agriculture-donated foods;

(d) the value of supplemental food assistance received under the child nutrition act of 1966, as amended, and the special food service program for children under the national school lunch act, as amended;

(e) benefits received under title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended;

(f) Indian funds distributed or held in trust, including interest and investment income accrued on such funds while held in trust and initial purchases made with such funds;

(g) distributions to natives under the Alaska native claims settlement act;

(h) payments provided to individual volunteers serving as foster grandparents, senior health aides and senior companions, and to persons serving in the service corps of retired executives and active corps of executives under titles II and III of the domestic service act of 1973;

(i) payments to individual volunteers under title I, sec. 404(g) of public law 93-113 when the director of ACTION determines that the value of such payments, adjusted to reflect the number of hours such volunteers are serving, is less than the federal minimum wage;

(j) payments received under the uniform relocation assistance and real property acquisition policies act of 1970;

(k) death benefits from SSA, VA, railroad retirement, or other burial insurance policy when the benefit is used toward the cost of burial;

(l) money held in trust by VA for a child which VA determines may not be used for subsistence needs;

(m) retroactive corrective assistance payments in the month received or in the following month;

(n) income directly provided by vocational rehabilitation;

(o) benefits from special government programs at the discretion of the secretary, including energy assistance programs;

(p) reimbursements for out-of-pocket expenses in the month received and the following month;

(q) proceeds from any bona fide loan requiring repayment;

(r) payments granted to certain U.S. citizens of Japanese ancestry and resident Japanese aliens under title I of public law 100-383;

(s) payments granted to certain eligible Aleuts under title II of public law 100-383;

(t) agent orange settlement payments;

(u) federal major disaster and emergency assistance and comparable disaster assistance provided by state or local government or by disaster assistance organizations in conjunction with a presidentially declared disaster;

(v) payments granted to the Aroostook Band of Micmac Indians under public law 102-171;

(w) payments from the radiation exposure compensation trust fund made by the department of justice;

(x) the earned income of a child, if the child is a student;

(y) for non-SSI, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(z) for non-SSI, assistance provided by another agency or organization that complements but does not duplicate assistance provided by the agency;

(aa) for non-SSI, foster care and adoption support payments;

(bb) for non-SSI, the amount of any earned income tax credit received. Such credit shall not be regarded as a cash asset in the month of receipt and in the following month;

(cc) for SSI, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within nine months of its receipt. This time period may be extended for good cause;

(dd) for SSI, in kind support, vouchers, or cash assistance for food, clothing, or shelter provided by public or private organizations or agencies, if the assistance is based on need;

(ee) for SSI, income necessary for fulfillment of an approved plan to achieve self-support established for a blind or disabled person;

(ff) for SSI, interest which is paid on excluded burial funds and left to accumulate;

(gg) for SSI, housing assistance from federal housing programs operated by state and local subdivisions;

(hh) for SSI, any portion of any financial assistance funded under title IV of the higher education act of 1965,

(continued)

as amended, or under bureau of Indian affairs student assistance programs which is made available for tuition, fees, books, supplies, transportation and miscellaneous personal supplies;

(ii) for SSI, payments occasioned by the death of another person to the extent that the payments have been expended or committed to be expended for purposes of the deceased person's last illness and burial;

(jj) for SSI, payments received from a state-administered victims' compensation fund. Such payments shall not be regarded as a cash asset for the nine months following the month of receipt; and

(kk) for SSI, relocation assistance provided by a state or local government which is comparable to assistance provided under title II of the uniform relocation assistance and real property acquisitions act of 1970. Such assistance shall not be regarded as a cash asset for the nine months following the month of receipt.

(ll) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and L. 1994, Chapter 265, Section 5; effective Dec. 30, 1994.)

### **30-6-113. Income exempt as applicable income.**

The following income shall be exempt as applicable income in the determination of eligibility: (a) unearned income-in-kind;

(b) 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;

(c) assistance payments in the month received;

(d) 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, nonprofit 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;

(e) 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;

(f) incentive payments received by renal dialysis patients;

(g) irregular, occasional, or unpredictable monetary gifts not to exceed \$30.00 per person in any calendar quarter;

(h) tax refunds and rebates, except for earned income tax credits for non-SSI in accordance with K.A.R. 30-6-112 (y);

(i) VA aid attendance and housebound allowances;

(j) VA payments resulting from unusual medical expenses;

(k) up to \$2,000 per year of income received by an individual Indian which is derived from leases or other uses of an individually-owned trust or restricted lands;

(l) 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;

(m) for non-SSI, earned income of a recipient child who is 18 years of age and a full-time student;

(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, one-third 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 minor children if the adult does not have a spouse who continues to live in the community. The income allocation shall not exceed the amount necessary to bring their income up to the protected income level appropriate to their living arrangement;

(z) for SSI, SSI payments to which the person is not legally entitled that are subject to SSI recovery;

(aa) for SSI, child support collected by the agency and paid as a \$50.00 or less pass-through of child support;

(bb) for SSI, the amount of the December, 1983 increase in social security disabled widow or widower benefits resulting from the changes in the actuarial reduction formula and all subsequent cost of living adjustments for a person who was concurrently receiving SSI and social security disabled widow and widower benefits under section 202(e) or 202(f) of the social security act, provided that:

(1) the person became ineligible for SSI due solely to the 1983 actuarial increase;

(2) the person has continuously received social security disabled widow or widower benefits since the 1983 actuarial increase was first received;

(3) the person would be currently eligible for SSI if it were not for the 1983 actuarial increase and all subsequent cost of living adjustments; and

(4) the person applied for medical assistance under this provision prior to July 1, 1988;

(cc) for SSI, reparation payments made under the Republic of Germany's federal law for compensation of nationalist socialist persecution;

(dd) for SSI, the amount of the social security adult disabled child benefit for an otherwise eligible SSI person age 18 or older who:

(1) was receiving SSI benefits that began prior to age 22; and

(2) lost SSI eligibility due solely to the person becoming eligible for the adult disabled child benefits or an increase in the adult disabled child benefits;

(ee) for SSI, the amount of social security early or disabled widow or widower benefits under section 202(e) or (f) of the social security act, provided that:

(1) the person became ineligible for SSI because of the receipt of such benefits;

(2) the person would be currently eligible for SSI in the absence of such benefits; and

(3) the person is not entitled to hospital insurance benefits under Part A of title XVIII of the social security act;

(ff) for SSI, the income of an SSI recipient which exceeds the protected income level for institutionalized persons for three months following the month of admission when the social security administration determines that the stay in the institution is temporary and the person needs to continue to maintain and provide for the expenses of the home or other living arrangement to which the person may return;

(gg) for SSI, the income of an applicant's or recipient's spouse or parent which was counted or excluded in determining the amount of a public assistance payment, if such spouse or parent is not an applicant for or recipient of SSI;

(hh) for SSI, the income of an applicant's or recipient's spouse or parent which is used to make support payments under a court order or title IV-D support order, if such spouse or parent is not an applicant for or recipient of SSI;

(ii) for SSI, the amount of VA pension received by a single veteran with no dependents or a surviving spouse with no children, if the pension has been reduced to \$90.00 or less because the veteran or spouse resides in a medicaid-approved nursing facility;

(jj) for SSI, foster care and adoption support payments;

(kk) for SSI, Austrian social insurance payments based, in whole or in part, on wage credits granted under the Austrian general social insurance act; and

(ll) for SSI, hostile fire pay received while in active military service.

(mm) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929,

Sec. 8; 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; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991; amended, T-30-6-10-92, July 1, 1992; amended Oct. 1, 1992; amended Jan. 4, 1993; amended May 3, 1993; amended, T-30-11-16-93, Dec. 1, 1993; amended Jan. 3, 1994; amended Sept. 30, 1994; amended Dec. 30, 1994.)

### **30-6-113w. Income exempt as applicable income.**

The following income shall be exempt as applicable income in the determination of eligibility: (a) unearned income-in-kind;

(b) 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;

(c) assistance payments in the month received;

(d) 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, nonprofit 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;

(e) 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 by a child who is not a student shall only be exempt for a period of six months;

(f) incentive payments received by renal dialysis patients;

(g) irregular, occasional, or unpredictable monetary gifts not to exceed \$30.00 per person in any calendar quarter;

(h) tax refunds and rebates, except for earned income tax credits for non-SSI in accordance with K.A.R. 30-6-112w(bb);

(i) VA aid and attendance and housebound allowances;

(j) VA payments resulting from unusual medical expenses;

(k) up to \$2,000.00 per year of income received by an individual American Indian which is derived from leases or other uses of an individually-owned trust or restricted lands;

(l) lump sum income;

(m) interest income not to exceed \$50.00 per month;

(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 re-

(continued)

fund, 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, one third of child support payments received by an eligible child from an absent parent;

(s) for SSI, work expenses of a blind recipient;

(t) for SSI, impairment-related work expenses of a disabled recipient;

(u) 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;

(v) 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;

(w) 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;

(x) for SSI, income allocated and expended by an adult in an institutional living arrangement for the support of the adult's minor children if the adult does not have a spouse who continues to live in the community. The income allocation shall not exceed the amount necessary to bring their income up to the protected income level appropriate to their living arrangement;

(y) for SSI, SSI payments to which the person is not legally entitled that are subject to SSI recovery;

(z) for SSI, child support collected by the agency and paid as a \$50.00 or less pass-through of child support;

(aa) for SSI, the amount of the December, 1983 increase in social security disabled widow or widower benefits resulting from the changes in the actuarial reduction formula and all subsequent cost of living adjustments for a person who was concurrently receiving SSI and social security disabled widow and widower benefits under section 202(e) or 202(f) of the social security act, provided that:

(1) the person became ineligible for SSI due solely to the 1983 actuarial increase;

(2) the person has continuously received social security disabled widow or widower benefits since the 1983 actuarial increase was first received;

(3) the person would be currently eligible for SSI if it were not for the 1983 actuarial increase and all subsequent cost of living adjustments; and

(4) the person applied for medical assistance under this provision prior to July 1, 1988;

(bb) for SSI, reparation payments made under the Republic of Germany's federal law for compensation of nationalist socialist persecution;

(cc) for SSI, the amount of the social security adult disabled child benefit for an otherwise eligible SSI person age 18 or older who:

(1) was receiving SSI benefits that began prior to age 22; and

(2) lost SSI eligibility due solely to the person becoming eligible for the adult disabled child benefits or an increase in the adult disabled child benefits;

(dd) for SSI, the amount of social security early or disabled widow or widower benefits under section 202(e) or (f) of the social security act, provided that:

(1) the person became ineligible for SSI because of the receipt of such benefits;

(2) the person would be currently eligible for SSI in the absence of such benefits; and

(3) the person is not entitled to hospital insurance benefits under Part A of title XVIII of the social security act;

(ee) for SSI, the income of an SSI recipient which exceeds the protected income level for institutionalized persons for three months following the month of admission when the social security administration determines that the stay in the institution is temporary and the person needs to continue to maintain and provide for the expenses of the home or other living arrangement to which the person may return;

(ff) for SSI, the income of an applicant's or recipient's spouse or parent which was counted or excluded in determining the amount of a public assistance payment, if such spouse or parent is not an applicant for or recipient of SSI;

(gg) for SSI, the income of an applicant's or recipient's spouse or parent which is used to make support payments under a court order or title IV-D support order, if such spouse or parent is not an applicant for or recipient of SSI;

(hh) for SSI, the amount of VA pension received by a single veteran with no dependents or a surviving spouse with no children, if the pension has been reduced to \$90.00 or less because the veteran or spouse resides in a medicaid-approved nursing facility;

(ii) for SSI, foster care and adoption support payments;

(jj) for SSI, Austrian social insurance payments based, in whole or in part, on wage credits granted under the Austrian general social insurance act; and

(kk) for SSI, hostile fire pay received while in active military service.

(ll) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994.)

**30-6-150w. Estate recovery.** (a) A claim against the property and estate of a deceased recipient shall be established for the amount of any medical assistance paid after June 30, 1992 on that person's behalf if the recipient:

(1) Was 55 years of age or older or was institutionalized while receiving such assistance; and

(2) has no surviving spouse or no surviving child who is under 21 years of age or meets the disability criteria of K.A.R. 30-6-85w(c).

(b) If there is no estate, a claim shall be filed against the estate of the surviving spouse, if any.

(c) No recovery of medical assistance correctly paid shall occur until the death of the surviving spouse, if any, and at the time when the deceased individual has no surviving child under 21 years of age or who meets the disability criteria of K.A.R. 30-6-85w(c).

(d) The amount of medical assistance paid shall be a claim against the estate in any guardianship or conservator proceeding.

(e) The secretary shall not be required to pursue every claim but shall have discretion in determining which claims to pursue.

(f) The monetary value of any benefits paid on behalf of a recipient under long-term care insurance, as defined by K.S.A. 40-2227 and amendments thereto, shall be a credit against the estate claim under this provision.

(g) Transfers of real or personal property by a recipient for less than fair market value shall be voidable and may be set aside. Fair market value shall be based on the percentage of ownership of the property. For real or personal property which is jointly owned, the value of the property shall be prorated to determine percentage of ownership unless otherwise specified in deed or title.

(h) The provisions of this regulation shall be waived if the application of the provisions would result in an undue hardship as determined on the basis of criteria established by the secretary of health and human services.

(i) The effective date of this regulation shall be December 30, 1994. (Authorized by K.S.A. 39-708c; effective Dec. 30, 1994.)

#### Article 10.—ADULT CARE HOME PROGRAM

**30-10-7. Screening, evaluation, and referral for nursing facilities.** (a) Each individual seeking admission to a nursing facility or nursing facility for mental health providing care under title XIX of the federal social security act, or referral to home- and community-based services (HCBS) shall receive a preadmission assessment, evaluation, and referral to all available community resources, including nursing facilities, prior to admission, with the following exceptions:

(1) a patient who has entered an acute care facility from a nursing facility and is returning to a nursing facility;

(2) a resident transferred from another adult care home other than from:

(A) a boarding care home;

(B) an intermediate personal care home; or

(C) a one-to-five-bed adult care home;

(3) individuals entering a nursing facility from a hospital whose length of stay is expected to be 30 days or less based on a physician's certification. The nursing facility shall arrange for a complete assessment from an authorized provider of assessment if the length of stay exceeds 30 days from the date of admission;

(4) individuals who are admitted to a nursing facility on an emergency basis based on a physician's certification of the emergency, if an assessment occurs within 10 days subsequent to such an admission;

(A) Emergency situations shall include medical, financial or social emergencies.

(B) A nursing facility which admits a medicaid eligible individual on an emergency basis may be reim-

bursed for a maximum of 13 days if the preadmission assessment determines the individual to be inappropriate for nursing facility level of care. Reimbursement shall be based upon the facility's applicable medicaid daily rate;

(5) individuals entering a nursing facility conducted by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing; or

(6) individuals who have made a written request for assessment and referral services from an authorized provider of assessment and who do not receive those services within 10 calendar days, if the assessment occurs within 10 days following admission.

(b) The preadmission assessment shall be valid for one year from the date of the assessment. Reimbursement for the assessment shall be limited to one assessment annually per individual, unless in the judgment of a qualified professional, the person's physical, emotional, social, or cognitive status has changed to the extent that another assessment is warranted.

(c) Each individual choosing to enter a nursing facility following a preadmission assessment identifying no need for nursing facility placement shall do so as a private-paying resident. Medicaid/medikan shall not participate in the cost of care unless and until a preadmission assessment determines there is a need for nursing facility placement with the exception noted in K.A.R. 30-10-7(a)(4) above.

(d) The effective date of this regulation shall be December 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 39-785; 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; amended May 1, 1986; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1991; amended Jan. 4, 1993; amended July 1, 1994; amended Dec. 30, 1994.)

Donna L. Whiteman  
Secretary of Social and  
Rehabilitation Services

Doc. No. 015565



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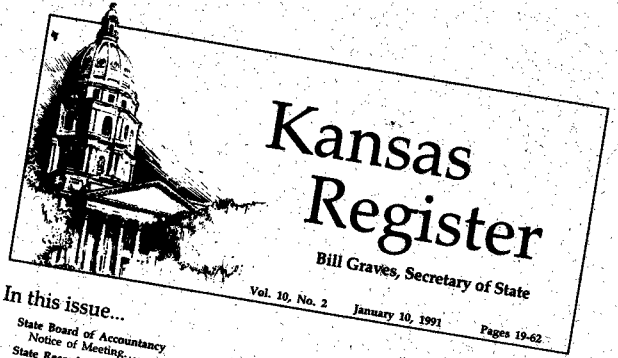
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117-4-1	Amended	V. 12, p. 1699
117-4-2	Amended	V. 13, p. 913
117-4-4	Amended	V. 12, p. 530
117-5-1	New	V. 13, p. 975
117-6-1	Amended	V. 13, p. 914
117-6-2	Amended	V. 12, p. 531
117-8-1	Amended	V. 12, p. 531

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