

# Kansas Register

Ron Thornburgh, Secretary of State

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## State of Kansas

## Legislature

## Interim Committee Schedule

The following committee meetings have been scheduled during the period of December 16 through December 29. For individual agendas available on the Internet, see: <http://www.kumc.edu/kansas/ksleg/KLRD/klrd.html>.

Date	Room	Time	Committee	Agenda
December 17	519-S	9:00 a.m.	Task Force on Retail Wheeling	Matt Brown, NCSL— presentation on retail wheeling activities in other states. Scott Harlan, Koch Energy Services— presentation on pilot projects in other states. Approval of preliminary report.
December 16	526-S	10:00 a.m.	Joint Committee on State Building Construction	16th: Commission on Veteran Affairs. 17th: Report on construction claims and litigation, consideration of change orders; State Fair.
December 17	527-S	9:30 a.m.	Legislative Post Audit	Legislative matters.
December 18	521-S	3:00 p.m.	Joint Committee on Computers and Telecommunications	Agenda not available. Telephone conference call planned.
December 18	531-N	10:00 a.m.	Joint Committee on Special Claims Against the State	Hearings on claims filed to date.
December 19	531-N	9:00 a.m.		

Emil Lutz  
Director of Legislative  
Administrative Services

Doc. No. 018489

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**State of Kansas  
University of Kansas Medical Center**

**Notice to Bidders**

Sealed bids for the item 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, December 30, 1996  
727069**

Fluorescence gel imager

Barbara Lockhart  
Purchasing Director

Doc. No. 018491

**State of Kansas  
Department of Administration  
Division of Architectural Services**

**Notice of Commencement of  
Negotiations for Technical Services**

Notice is hereby given of the commencement of negotiations for air and water balancing services and commissioning of mechanical and electrical systems for state construction projects for the six-month period from January 1, 1997 to June 30, 1997. Negotiations also are commencing for infrared and lead paint and other hazardous materials testing services.

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

Firms interested in providing these services should submit an SF 254 form indicating their qualifications, fees for their services, and geographical areas of the state in which they are willing to work to Gary Grimes, Division of Architectural Services, 625 Polk, Topeka, 66603-3288, (913) 233-9367, ext. 204. An original of the SF 254 form (plus attachments as required) should be submitted with letters of interest.

It is the intention of the division to pre-approve a separate group of qualifying balancing, commissioning and infrared contractors and award projects on a rotational basis. If a firm anticipates being limited to specific-sized projects, by dollar volume or location in the state, that information also should be supplied with the response.

Any questions or expressions of interest should be directed to Gary Grimes by 5 p.m. December 27.

Thaine Hoffman, AIA  
Director, Division of  
Architectural Services

Doc. No. 018496

**State of Kansas  
State Employees Health Care Commission**

**Notice of Meeting**

A Health Care Commission meeting has been scheduled from 2 to 4 p.m. Friday, December 20, in Room 313-S, State Capitol, 300 S.W. 10th Ave., Topeka. For further information, contact the Benefits Office at (913) 296-6280.

Duane Nightingale  
Chair

Doc. No. 018482

**State of Kansas  
Kansas Council on  
Developmental Disabilities**

**Notice of Meeting**

The Kansas Council on Developmental Disabilities will meet from 9 a.m. to 3 p.m. Friday, December 20, in cafeteria rooms A & B, Docking State Office Building basement, 915 S.W. Harrison, Topeka. The meeting is open to the public.

Jane Rhys  
Executive Director

Doc. No. 018483

**State of Kansas  
Consumer Credit Commissioner**

**Notice of Hearing on Proposed  
Administrative Regulations**

The office of the Consumer Credit Commissioner will conduct a public hearing at 10 a.m. Monday, February 10, in Suite 1001, Jayhawk Tower, 700 S.W. Jackson, Topeka, on permanent regulation 75-6-26. All interested parties may present oral or written comments and shall be given reasonable opportunity to present their views or arguments on adoption of this regulation at the hearing.

The proposed change in the regulation is to implement changes made to 15 USC 1601 et seq., Regulation M and Regulation Z. This will update the Uniform Consumer Credit Code to the current version of these federal regulations and statutes. There is no economic impact to the industry, State of Kansas or consumers.

Copies of the proposed regulation and the economic impact statement can be obtained from the office of the Consumer Credit Commissioner, Suite 1001, Jayhawk Tower, 700 S.W. Jackson, Topeka, 66603, (913) 296-3151.

This 60-day notice constitutes a public comment period for the purpose of receiving written public comments on the proposed permanent regulation. Written comments may be submitted to the Consumer Credit Commissioner at the address above.

Wm. F. Caton  
Consumer Credit Commissioner

Doc. No. 018480

## State of Kansas

## Pooled Money Investment Board

## Notice of Meeting

The Pooled Money Investment Board will meet at 10 a.m. Friday, December 13, at the City Treasurer's Office, City Hall, 455 N. Main, Wichita. All meetings of the board are open to the public. For more information, contact Diane Gates at (913) 296-3372.

William E. Lewis  
Chairman

Doc. No. 018493

## State of Kansas

## Secretary of State

## Notice of Corporations Forfeited

In accordance with K.S.A. 17-7510, the articles of incorporation of the following corporations organized under the laws of Kansas and the authority of the following foreign corporations authorized to do business in Kansas were forfeited during the month of November 1996 for failure to timely file an annual report and pay the annual franchise tax as required by the Kansas general corporation code:

## Domestic Corporations

A.S.P., Inc., Emporia, KS  
 Addis, Inc., Wichita, KS.  
 American Building Administrators, Inc., Olathe, KS.  
 Avcon Industries, Inc., Newton, KS.  
 B and B Drilling, Inc., Wichita, KS.  
 B M & N Oil Company, Inc., Stafford, KS.  
 CAC Mold Corporation, Wichita, KS.  
 Capitol Limo, Inc., Topeka, KS.  
 Continental Communications, Inc., Topeka, KS.  
 Deluxe Building Services, Inc., Mission, KS.  
 Deluxe Service Systems, Inc., Mission, KS.  
 Dinkel Custom Wood Products, Inc., Victoria, KS.  
 Fantasyland of Lawrence, Inc., Lawrence, KS.  
 Giorgio's of Hutchinson, Inc., Topeka, KS.  
 Giorgio's of Manhattan, Inc., Topeka, KS.  
 Giorgio's of Salina, Inc., Topeka, KS.  
 Giorgio's of Topeka, Inc., Topeka, KS.  
 Giorgio's Restaurants, Inc., Topeka, KS.  
 Grace Vault Works, Inc., Kansas City, KS.  
 Gray Brothers, Inc., Kansas City, KS.  
 Heartland Rowing Association, Manhattan, KS.  
 Higbee & Associates, Inc., Wichita, KS.  
 Hub Tool & Supply Co., Inc. of Kansas City,  
 Wichita, KS.  
 J. T. Farm, Inc., Holcomb, KS.  
 Kansas Antique Tractor Association, Inc.,  
 Spring Hill, KS.  
 Kansas Organization of Mothers of Twins Clubs, Inc.,  
 Hutchinson, KS.  
 Kirk Excavating Service, Inc., Wichita, KS.  
 Koeller Enterprises, Inc., Great Bend, KS.  
 Konzas Contracting, Inc., Pittsburg, KS.  
 Lynnwood Development, Inc., Wichita, KS.  
 Medtrans Systems, Inc., Concordia, KS.

Michael Turner, O.D., P.A., Wichita, KS.  
 Mid-American Realty, Inc., Overland Park, KS.  
 Milford Lake Association, Inc., Junction City, KS.  
 Mission Roofing and Repair, Inc., Shawnee, KS.  
 Morris Services, Inc., Overland Park, KS.  
 New Armourdale Auto Parts, Inc., Kansas City, KS.  
 Nigro and Sons, Inc., Lenexa, KS.  
 Oursler Brothers Construction Company, Peabody, KS.  
 Perkins Hardware, Inc., Bonner Springs, KS.  
 Plaza West Care Center, Inc., Topeka, KS.  
 Precast Engineering and Manufacturing, Inc.,  
 Kansas City, KS.  
 Quality Food Service, Inc., Topeka, KS.  
 R. L. Sweat Enterprises, Inc., Andover, KS.  
 Railcar Repair, Inc., Lenexa, KS.  
 SCB, Inc., Raytown, MO.  
 Shaw Enterprises, Inc., Chanute, KS.  
 Sulco, Inc., Sabetha, KS.  
 Taking Christ to Jamaica Ministries, Inc., Grenola, KS.  
 Talley and Son Flatwork, Inc., Gardner, KS.  
 The American Benefit Administrators, Inc., Olathe, KS.  
 The Integrity Financial Group, Inc., Overland Park, KS.  
 The Kansas Maverick, Inc., Great Bend, KS.  
 Western Enterprises, L.L.C., Overland Park, KS.  
 Wichita Area Development, Inc., Wichita, KS.  
 Zimmerman Chemicals, Inc., Coffeyville, KS.  
 Zink Construction, Inc., Shawnee, KS.

## Foreign Corporations

Alta Pacific Constructors, Inc., Santa Ana, CA.  
 Am-Rail Construction Inc., Tulsa, OK.  
 American Eagle Industries, Inc., Cheyenne, WY.  
 American Specialty Corp., Kansas City, MO.  
 Asset Protection Team, Inc., Oakton, VA.  
 Bayway Refining Company, Concord, CA.  
 Behr Paint Corp., Santa Ana, CA.  
 Cal Emblem Labels, Inc., Fresno, CA.  
 Eagle Brands of Oklahoma Inc., Oklahoma City, OK.  
 Eshenroder Construction Company, Inc., Liberty, MO.  
 ESMR, Inc., McLean, VA.  
 Fashionation, Inc., St. Louis, MO.  
 John Sexton & Co., Lisle, IL.  
 Lubbock Radio Paging Service, Inc., Lubbock, TX.  
 Midwest Ready Mix Company, Inc., Kansas City, MO.  
 Network Construction Services, Inc., Raleigh, NC.  
 Nextel Western Acquisition Corp., McLean, VA.  
 OKT Petroleum Company, Inc., Oklahoma City, OK.  
 Packers Central, Inc., Kansas City, MO.  
 Per Mar Security and Research Corp., Davenport, IA.  
 Research-Cottrell, Inc., Somerville, NJ.  
 Reservoir Capital Corporation, Baltimore, MD.  
 Sonny Hill Chevrolet-GEO-Jeep-Eagle, Inc.,  
 Lansing, KS.  
 Spider Staging Corporation, Kent, WA.  
 The Ozark Regional Land Trust, Inc., Carthage, MO.  
 The Right Price, Inc., St. Louis, MO.  
 Thrall Aviation Service, Inc., Guymon, OK.  
 TR Development, Inc., Kansas City, MO.

Ron Thornburgh  
Secretary of State

Doc. No. 018479



State of Kansas

Department of Administration  
Division of Purchases

Notice to Bidders

Sealed bids for the following items 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, December 23, 1996

- 32180  
Lansing Correctional Facility—Stone quarry products
- 32181  
Kansas Correctional Industries—Paint remover
- 32191  
Department of Wildlife and Parks—Uniform coats and hoods, various locations
- 32196  
Kansas State University—January (1997) meat products
- 32199  
University of Kansas Medical Center—Animal feed
- 32201  
Rainbow Mental Health Facility—Laboratory services
- 05157  
Department of Transportation—Glassware cleaning oven, Topeka
- 05160  
Kansas State University—Miscellaneous groceries
- 05167  
University of Kansas—Aerial lift truck
- 05168  
Adjutant General's Department—Air compressor, Fort Riley
- 05169  
Kansas State University—Film recorder

Tuesday, December 24, 1996

- 32203  
Board of Regents' facilities—Police uniforms

Thursday, December 26, 1996

- 32195  
Fort Hays State University—Charter/rental bus services, 1997 men's and women's track
- 32197  
University of Kansas—Frozen juice concentrate/dispensers

Friday, December 27, 1996

- 32198  
Department of Social and Rehabilitation Services—Security guard services, Kansas City, Kansas Area SRS Office
- 05158  
University of Kansas—Street sweeper
- 05159  
Kansas State University—Gas forklift

05161

Kansas State University—Seedlings

05162

University of Kansas—Furnish all labor and materials for chiller repair

05163

Department of Transportation—Wood signposts, Chanute and Salina

05164

Lansing Correctional Facility—Drywall and metal track/studs

05165

Department of Health and Environment—High volume copier

05166

Department of Social and Rehabilitation Services—KAESCES window envelopes

Monday, December 30, 1996

32205

Department of Social and Rehabilitation Services—Sexual abuse consultation services

Tuesday, January 7, 1996

A-7976

University of Kansas—Maintenance and repair, Cessna Stadium

A-8067

University of Kansas—Upgrade emergency lighting, Art/Design Building

A-8072

University of Kansas—Upgrade emergency lighting, Green Hall

32206

Statewide—Office furniture

Wednesday, January 8, 1997

A-8080

Kansas Insurance Department—Upgrade electrical distribution, Insurance Building

Thursday, January 9, 1997

A-7916

Larned State Hospital—Window replacement, Jung Building

A-8062

Pre-bid date 12-20-96, 10 a.m.

Pittsburg State University

Pittsburg State University—Chiller replacement and ADA modifications, Grubbs Hall

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Request for Proposals

32179

Consulting service for campus card technology for the University of Kansas Medical Center and Pittsburg State University

John T. Houlihan  
Director of Purchases

Doc. No. 018497

## State of Kansas

## Pooled Money Investment Board

## Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1995 Supp. 75-4210, as amended by 1996 Senate Bill No. 476. These rates and their uses are defined in K.S.A. 1995 Supp. 12-1675(b)(c)(d), and K.S.A. 1995 Supp. 75-4201(l) and 75-4209(a)(1)(B), as amended by 1996 Senate Bill 476.

## Effective 12-16-96 through 12-22-96

Term	Rate
0-90 days	5.41%
3 months	5.12%
6 months	5.28%
9 months	5.42%
12 months	5.49%
18 months	5.63%
24 months	5.71%
36 months	5.86%
48 months	5.96%

William E. Lewis  
Chairman

Doc. No. 018478

## State of Kansas

Department of Administration  
Division of Architectural ServicesNotice of Commencement of  
Negotiations for Engineering Services

Notice is hereby given of the commencement of negotiations for "on-call" engineering services for Kansas State University—Salina. The selected firm will provide services for small projects at the university.

For information regarding the scope of services, contact Gerald Carter, Director/University Architect, Kansas State University, (913) 532-6377.

If interested, an original and six copies of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Architectural Services, 625 Polk, Topeka, 66603, (913) 233-9367. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes by 5 p.m. December 27.

Thaine Hoffman, AIA  
Director, Division of  
Architectural Services

Doc. No. 018486

## State of Kansas

Department of Health  
and Environment

## Request for Applications

Two separate funding awards are being offered through the Outreach and Public Education Grants offered by the Kansas Breast and Cervical Cancer Initiative:

1. Mini-grant awards up to \$2,000 will be available to up to 20 individual counties.
2. Regional grant awards up to \$15,000 will be available for up to two separate regions including a minimum of four counties.

Grant funds may be used for the following:

**Mini-grants:** Materials for public education, meeting costs, communications (e.g. telephone, postage), travel and lodging reimbursement (must include partner meeting and one statewide meeting), and supplies (excluding screening supplies). A stipend of up to \$1,000 may be used for a nonsalaried position to recruit and follow women in the FREE to Know screening program.

**Regional grants:** Up to 60 percent of total grant funding may be used as salary for a regional coordinator to identify focus groups to assess needs and concerns of target population regarding education and screening (travel and incentives could be reimbursed), materials for public education, meeting costs, communications (e.g. telephone, postage), travel and lodging reimbursement (must include partner meeting and one statewide meeting), supplies (excluding screening supplies), ads for public education/media campaign (highlighting local, regional or state FREE to Know program), incentives for women who receive FREE to Know screening services, and regional workshops and/or conferences.

## Eligibility

Any nonprofit agency/organization demonstrating the ability to facilitate coalition activities and be responsible for funding disbursement. Only one application will be selected per county. A county may apply for a mini-grant or be involved in a regional grant, but not both.

Review of applications will be evaluated on (but not limited to) the following criteria:

- Demonstrated ability to assemble a committed team of community members, agencies/organizations, and health care professionals
- Clearly stated goals, measurable objectives, viable action plan and timeline
- Regional applications must demonstrate involvement by all counties involved in planning, including proposed timeline
- History of community involvement
- Identification of a target group
- Clear identification of project's benefit to target group
- Creativity of plan, identification and description of 50 percent local match funding

## Timeline

January 1—Letters of intent must be received in FREE to Know office.

**January 15**—Pre-application packets will be sent to potential applicants with letters of intent on file

**February 1**—Grant preparation workshop in Salina

**March 1**—Grant applications must be received in FREE to Know office

**April 1**—Grant awards will be announced

Any agency or organization interested in applying for funds to participate should submit a letter indicating its interest to be received not later than January 1 to: Deb Parsons, MA, FREE to Know, Suite 901N, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612-1290.

The availability of grant funding is based on approval from the Centers for Disease Control and Prevention.

For additional information, contact Deb Parsons, Public Health Educator, at (913) 296-8161.

James J. O'Connell  
Secretary of Health  
and Environment

Doc. No. 018477

State of Kansas

Department of Health  
and Environment

Notice Concerning Hazardous Waste  
Facility Closure Plan

The Kansas Department of Health and Environment has received a Resource Conservation and Recovery Act (RCRA) closure plan from Total Petroleum, Inc. for its #3A aerated lagoon located on 1400 S. M St., Arkansas City. Total Petroleum, Inc. has been assigned EPA Identification No. KSD 087418695.

The Total Petroleum refinery complex occupies approximately 300 acres and is located near the confluence of the Walnut River and the Arkansas River. The #3A aerated lagoon is an irregularly shaped surface impoundment that is approximately 200 feet by 200 feet, covers approximately 35,700 square feet, and is located at the refinery's east-central boundary adjacent to the Walnut River. The #3A aerated lagoon was utilized as part of the refinery's wastewater treatment system until September 21, 1994, at which time it was replaced by the new tank system. Wastewater that entered the #3A aerated lagoon exhibited the benzene toxicity characteristics (hazardous waste code D018) during the operational life of the unit; therefore, the #3A aerated lagoon was brought into interim status.

Total Petroleum is proposing to close the #3A aerated lagoon by removing impacted soil above the KDHE's RCRA closure cleanup standards for soil, or alternatively use site specific risk based levels with provisions for post-closure care and monitoring. The closure of the #3A aerated lagoon will be performed in a manner that minimizes both the need for maintenance and the potential for release of hazardous constituents from the unit after closure. Total Petroleum will place nonhazardous excavated soil on the land treatment unit according to the conditions specified in the facility's permit, collect soil samples to verify the removal of contaminated soils, and decontaminate all appurtenances and equipment. Excavated soil exhibiting hazardous characteristics will be dis-

posed at a permitted RCRA disposal facility. In addition, Total Petroleum will backfill the impoundment with clean fill, submit the required closure certification, and continue to perform post-closure care. Closure of the impoundment will be completed within 180 days following the approval of the closure plan.

The proposed closure plan is based on 40 Code of Federal Regulation (CFR) Part 265 Subpart G, specific requirements of Subpart K, and in accordance with Kansas Administrative Regulation 28-31-8, which adopts by reference 40 CFR 265 as in effect on July 1, 1992. The proposed closure plan meets the requirements of 40 CFR 265.111 through 40 CFR 265.115, the applicable requirements of Subpart F of 40 CFR 265, and 40 CFR 265.228; therefore, the approval process must follow the requirements established under 40 CFR 265.112(d)(4).

The specific regulation, 40 CFR 265.112(d)(4), requires the Secretary of Health and Environment to provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the closure plan not later than 30 days from the date of the notice. Following the closure of the 30-day comment period, the secretary may conduct a hearing on this matter depending on the nature of comments.

The closure plan will be available for review from December 16 through January 17 at the following locations during normal business hours:

Kansas Department of Health and Environment  
Bureau of Waste Management  
Forbes Field, Building 740  
Topeka, 66620-0001  
Contact: Mostafa Kamal  
(913) 296-1609

Arkansas City Public Library  
120 E. 5th Ave.  
Arkansas City, 67005  
Contact: Carole Dibben, Head Librarian  
(316) 442-1280

U.S. Environmental Protection Agency-Region 7  
Air, RCRA and Toxic Division  
726 Minnesota Ave.  
Kansas City, KS 66101  
Contact: Wes Bartley  
(913) 551-7632

Comments regarding the plan must be submitted in writing to Mostafa Kamal, KDHE, at the address above. Comments must be postmarked on or before January 17. Requests for additional information regarding the plan should be made to Mostafa Kamal.

If comments received indicate the need for a public hearing on this matter, a public hearing will be scheduled by KDHE. Any request for public hearing must be submitted to Mostafa Kamal by January 17.

James J. O'Connell  
Secretary of Health  
and Environment

Doc. No. 018485

## State of Kansas

## Department of Transportation

## Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consulting engineering firms for the projects listed below. Responses must be received by 5 p.m. January 2 for the consulting engineering firm to be considered. Seven signed copies of responses must be mailed to Neil R. Rusch, P.E., Assistant to the Director, Division of Engineering and Design, Room 1084-West, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568. Responses shall be limited to four pages.

**Project No. 56-80 K-6361-01, Rice County****Project No. 4-80 K-6378-01, Rice County**

The scope of service is to provide for the replacement of Little Cow Creek Bridge 008, 21.03 km east of the Barton/Rice county line, and for the replacement of Lost Creek Bridge 025, 1.54 km east of the K-171 junction.

**Project No. 57-19 K-6362-01, Crawford County****Project No. 7-19 K-6409-01, Crawford County**

The scope of service is to provide for the replacement of Second Cow Creek Bridge 024, 5.16 km east of the junction of K-7 and K-57, and for the replacement of Second Cow Creek Bridge 015, 8.38 km north of K-57.

**Project No. 31-16 K-6360-01, Coffey County**

The scope of service is to provide for the replacement of Rock Creek Bridge 033, 0.23 km east of the east city limits of Waverly.

**Project No. 57-31 K-6363-01, Geary County**

The scope of service is to provide for the replacement of Dry Creek Drainage Bridge 059, 19.67 km southeast of the junction of I-70 and K-57.

**Project No. 82-14 K-6365-01, Clay County**

The scope of service is to provide bridge rehabilitation to Milford Lake Bridge 026, 11.07 km east of the junction of K-15 and K-82.

**Project No. 383-74 K-6369-01, Phillips County**

The scope of service is to provide for the replacement of four bridges: Elk Creek Bridge 038, Prairie Dog Creek Bridge 029, Jack Creek Bridge 030 and Dry Creek Bridge 031, all northeast of the Norton/Phillips county line.

From the firms expressing interest, the Consultant Selection Committee will select a list of the most highly qualified (not less than three, not more than five) and invite them to attend the individual interview conference. At this time, the consulting firms can more thoroughly discuss their experience related to the type of project at hand. Firms not selected will be notified by letter.

The Consulting Negotiating Committee, appointed by the Secretary of Transportation, will conduct the discussions with the firms invited to the individual interview conferences. The committee will select the firm to perform the professional services required for completing the advertised project. After the selection of this firm, the remaining firms will be notified by letter of the outcome.

It is the policy of KDOT to use the following criteria as the basis for selection of the consulting engineering firms:

1. size and professional qualifications;
2. experience of staff;
3. location of firms with respect to proposed project;
4. work load of firm; and
5. firm's performance record.

E. Dean Carlson  
Secretary of Transportation

Doc. No. 018496

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Pan Energy has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to construct the Vastar natural gas compressor station. Emissions of NO<sub>x</sub>, CO and VOCs were evaluated during the permit review process.

Pan Energy, Denver, Colorado, owns and operates the stationary source located at S24-T28S-R36W in Grant County, Kansas, at which the natural gas compressor is to be installed.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during review of the permit application is available for public inspection during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE southwest district office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permit and supporting documentation, contact Daizy Dandass, (913) 296-6427, at the KDHE central office, or Wayne Neese, (316) 225-0596, at the KDHE southwest district office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Daizy Dandass, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business January 13 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business January 13 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell  
Secretary of Health  
and Environment

Doc. No. 018495

## State of Kansas

## Attorney General

## Opinion No. 96-83

**Cities and Municipalities—Code for Municipal Courts; General Provisions—Jurisdiction of Municipal Court; Cigarette and Tobacco Infractions. Judge Paul Wright, Municipal Court, Clay Center, November 14, 1996.**

Municipal courts have jurisdiction over juveniles who are charged with violating cigarette or tobacco infraction ordinances. Cited herein: K.S.A. 12-4113, 12-4209, 12-4212, and 12-4214, as amended by L. 1996, ch. 214, §§ 18-21; K.S.A. 1995 Supp. 12-4305, as amended by L. 1996, ch. 214, § 22; K.S.A. 21-3105, as amended by L. 1996, ch. 214, § 24; K.S.A. 1995 Supp. 38-1602, as amended by L. 1996, ch. 229, § 40; K.S.A. 79-3321, as amended by L. 1996, ch. 214, § 7. MF

## Opinion No. 96-84

**Cities and Municipalities—Buildings, Structures and Grounds—Neighborhood Revitalization Act; Tax Rebate Upon Sale of Property. Christopher McKenzie, Executive Director, League of Kansas Municipalities, Topeka, November 14, 1996.**

The neighborhood revitalization tax rebate is payable to the owner of the property or the person who is liable for payment of the taxes on the revitalized property regardless of who actually made the improvements. To the extent it is inconsistent with this conclusion, Attorney General Opinion No. 96-38 is hereby withdrawn. Cited herein: K.S.A. 12-1678a; K.S.A. 1995 Supp. 12-17,116; 12-17,117; 12-17,118, as amended by L. 1996, ch. 228; K.S.A. 79-1804. MF

## Opinion No. 96-85

**Public Health—Regulation of Pharmacists—Dispensing and Administering of Drugs by Duly Licensed Practitioners; Nurses and Other Persons. Larry Froelich, Executive Director, Kansas State Board of Pharmacy, November 14, 1996.**

A practitioner of medicine and surgery may dispense, i.e. deliver, prescription medication (including schedule IV controlled substance legend drugs) through sale to that practitioner's patients. However, in the scenario presented, although the practitioner physically delivers the drugs to the ultimate user, the weight loss clinic is actually selling the drugs to that ultimate user. A weight loss clinic does not fall within the exception provided by K.S.A. 65-1635(a) and thus may not sell drugs without being registered as a pharmacy and without having the actual sale of the drugs being made by a pharmacist or a person acting under the immediate, personal direction and supervision of a pharmacist. Cited herein: K.S.A. 65-1626, as amended by L. 1996, ch. 229, § 118; 65-1635; 65-1636; K.A.R. 100-21-2 through 100-20-5. CN

## Opinion No. 96-86

**Counties and County Officers—Planning and Zoning; Planning and Zoning in Counties—Zoning Regulations Inapplicable to Agricultural Land.**

**Taxation—Property Valuation, Appraisers and Assessment of Property—Method of Establishing Valuation; Definition of "Land Devoted to Agricultural Use." Representative Tom Sloan, 45th District, Lawrence; Representative Ralph M. Tanner, 10th District, Baldwin City, November 14, 1996.**

Where real property has both agricultural and non-agricultural uses, a court may consider whether the parcels can be split and valued accordingly or, if the parcels cannot be classified separately, consider which use is primary in order to determine whether the property is devoted to agricultural use pursuant to K.S.A. 1995 Supp. 79-1476. Whether real property is exempt from zoning regulations pursuant to K.S.A. 19-2921 will require a determination, based upon the totality of circumstances, whether the agricultural use is substantial enough to establish that the owner is not masking a residential or non-agriculture use with an agricultural pretense to gain exemption from zoning regulations. Whether a landscaping business qualifies for a zoning exemption pursuant to K.S.A. 19-2921, or may be classified as land devoted to agricultural use pursuant to K.S.A. 1995 Supp. 79-1476, will depend upon the facts, not the label which purports to describe the activity on the property. Moreover, any regulation that seeks to define a percentage ratio for agricultural land may be invalid to the extent it defines agricultural use more restrictively than the courts construe the term. Finally, the zoning exempt and tax classification analysis apply only to land owned by the taxpayer. Cited herein: K.S.A. 12-741; 12-758; 19-2908; 19-2921; K.S.A. 1995 Supp. 79.1476. MF

## Opinion No. 96-87

**Counties and County Officers—Public Improvements; Improvement and Service Districts—Improvement Districts; Election of Directors. Tom Ray, President, Oaklawn Improvement District, Wichita, December 3, 1996.**

Two persons who are related as mother and daughter may serve as members of the board of directors for the Oaklawn improvement district established pursuant to K.S.A. 19-2753 *et seq.* Cited herein: K.S.A. 19-2753; 19-2758; 19-2759; Kan. const., art. 2, § 18; Kan. const., art. 15, § 1. RDS

## Opinion No. 96-88

**Automobiles and Other Vehicles—General Provisions; Registration of Vehicles—Collection of Fees; Additional Fee for Priority Processing of Application for Certificate of Title. Representative Henry M. Helgerson, Jr., 86th District, Wichita, December 3, 1996.**

County treasurers are not authorized to assess fees in excess of those prescribed by statute for "priority processing" of applications for certificates of title. Cited herein: K.S.A. 8-129; K.S.A. 1995 Supp. 8-135, 8-135a, 8-139, 8-145, 8-170, 8-171, 8-198 and 74-2013, as amended by L. 1996, ch. 260, §§ 1-8. JLM

## Opinion No. 96-89

**State Boards, Commissions and Authorities—Public Employees Retirement Systems; Definitions—Benefi-**

(continued)



ciaries. Meredith Williams, Executive Secretary, Kansas Public Employees Retirement System, December 3, 1996.

Under the Kansas Public Employees Retirement System (KPERs), benefits to be paid to a beneficiary who is a minor must be paid to a conservator, estate or trust pursuant to K.S.A. 74-4902(7) of the KPERs act. A KPERs member may not designate payment to a custodian pursuant to the Kansas Uniform Transfers to Minors Act. Cited herein: K.S.A. 38-1701; 38-1713; 59-101; 59-1703; 59-1711; 59-1713; 59-3019; 59-3029, as amended by L. 1996, ch. 77, § 3; 59-3031; 59-3035; 74-4901; K.S.A. 1995 Supp. 74-4902. SP

Carla J. Stovall  
Attorney General

Doc. No. 108490

State of Kansas

Department of Health  
and Environment

Notice Concerning Kansas  
Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for discharges to the waters of the United States and the State of Kansas for the class of dischargers described below. The determinations for permit content are based on 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 subject to certain conditions.

Public Notice No. KS-AG-96-800/802

Name and Address of Applicant	Legal Description	Receiving Water
Merle Sterling Route 1, Box 172 Humboldt, KS 66748	SE/4, Sec. 36, T25S, R17E, Allen County	Neosho River Basin

Kansas Permit No. A-NEAL-S012

This is a new facility for 150 head (60 animal units) of swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided, which meets or exceeds KDHE minimum requirements.

Compliance Schedule: None, existing controls adequate.

Name and Address of Applicant	Legal Description	Receiving Water
Daniel B. Pfizermaier 2236 Frontier Road Morganville, KS 67468	NW/4, Sec. 13, T7S, R1E, Clay County	Republican River Basin

Kansas Permit No. A-LRCY-S048

This is a new facility for 16 head (6 animal units) of swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided, which meets or exceeds KDHE minimum requirements.

Compliance Schedule: A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas for application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Two to three acres of open lots are located immediately north of the farrowing unit. The lots are used for sow gestation, nursery and finishing purposes. The nursery and finishing lots shall be relocated to Section 23, Township 7S, Range 1E of Clay County by June 1, 1998. Plans and specification shall be submitted to this agency prior to implementation. The gestation lots shall be maintained and operated in a manner so as not to create water pollution.

Name and Address of Applicant	Legal Description	Receiving Water
Steve Eckman 825 E. 1600 Road Baldwin, KS 66006	SE/4, Sec. 5, T14S, R20E, Douglas County	Kansas River Basin

Kansas Permit No. A-KSDG-M005

This is a new facility for 60 head (84 animal units) of dairy cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided, which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The waste management plan developed by the designer and approved by the department shall be adhered to as a condition of this permit. The plan calls for nutrient analysis of both liquids and solids with applications to meet crop nutrient needs. If wastes are not analyzed for nutrient content, wastewater shall be applied at not greater than 3.4 acre inch per acre per year and solids shall be applied at not greater than 19 ton per acre.

Public Notice No. KS-96-316/318

Name and Address of Applicant	Waterway	Type of Discharge
City of Mayetta City Clerk Mayetta, KS 66509	Kansas River via South Cedar Creek	Treated domestic wastewater

Kansas Permit No.: M-KS40-0001

Federal Permit No.: KS-0026182

Location: NW/4, S23, T8S, R15E, Jackson County

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility. The facility is a two-cell lagoon system treating domestic wastewater. The proposed permit contains a schedule of compliance to upgrade the current facility to a three-cell lagoon system. The 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
Mulvane MHP c/o Bruce Simpson P.O. Box 733 Mulvane, KS 67110	Arkansas River via Dog Creek	Treated domestic wastewater

Kansas Permit No.: C-AR64-0001

Federal Permit No.: KS-0047694

Location: NE/4, S5, T30S, R2E, Sumner County

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility. The facility is an extended activated sludge package plant with a 0.014 MGD design flow. The proposed permit contains a schedule of compliance to upgrade the facility to meet the proposed limitations for fecal coliform and total residual chlorine. The 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 water quality based.



<b>Name and Address of Applicant</b>	<b>Waterway</b>	<b>Type of Discharge</b>
City of Norton 301 E. Washington Norton, KS 67654	Republican River via Prairie Dog Creek	Treated domestic wastewater

Kansas Permit No.: M-UR16-0001 Federal Permit No.: KS-0022446  
Location: SW¼, S36, T2S, R23W, Norton County

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility. The facility is a trickling filter with primary and final clarification and a 5000 design population equivalent. The proposed permit contains a schedule of compliance to upgrade the facility to meet the proposed limitations for fecal coliform, ammonia and total residual chlorine. The 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 water quality based.

**Public Notice No. KS-ND-96-082/086**

<b>Name and Address of Applicant</b>	<b>Legal Location</b>	<b>Type of Discharge</b>
John and Martha Hanson Riley MHP 13109 Barton Road Leonardville, KS 66449	NW¼, S1, T9S, R5E, Riley County	Nonoverflowing

Kansas Permit No. C-KS35-NO01

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility treating domestic wastewater. Disposal of the treated wastewater is by evaporation and percolation. The proposed permit contains supplemental conditions concerning restrictions on population served and a schedule of compliance for the permittee to either abandon or upgrade the system to meet lagoon maintenance standards.

<b>Name and Address of Applicant</b>	<b>Legal Location</b>	<b>Type of Discharge</b>
Raymond Ivie Clonmel Estates MHP 3512 W. Pawnee Wichita, KS 67213	SW¼, S33, T28S, R2W, Sedgwick County	Nonoverflowing

Kansas Permit No. C-AR90-NO01

Facility Location: Clonmel Estates MHP, 6920 S. 183rd St., Viola, KS  
Facility Description: The proposed action is to issue a new permit for operation of an existing wastewater treatment facility treating domestic wastewater. Disposal of the treated wastewater is by evaporation and percolation. The proposed permit contains a schedule of compliance for the permittee to obtain the services of a KDHE-certified operator and to correct specific maintenance deficiencies within the wastewater treatment system.

<b>Name and Address of Applicant</b>	<b>Legal Location</b>	<b>Type of Discharge</b>
Gus Pankratz Haverhill Circle Park Route 2, Box 158P Augusta, KS 67010	NW¼, S22, T27S, R5E, Butler County	Nonoverflowing

Kansas Permit No. C-WA11-NO02

Facility Location: Near 9257 & 9259 SW Plum Rd., Augusta, KS  
Facility Description: The proposed action is to issue a new permit for operation of an existing wastewater treatment facility treating domestic wastewater. Disposal of the treated wastewater is by evaporation and percolation. The proposed permit contains 1) supplemental conditions requiring this facility to be connected to a public treatment system when such becomes available and restricting additional connections without KDHE written approval, and 2) a schedule of compliance for the permittee to obtain the services of a KDHE-certified operator and to correct specific maintenance deficiencies within the wastewater treatment system.

<b>Name and Address of Applicant</b>	<b>Legal Location</b>	<b>Type of Discharge</b>
Unified School District No. 251 Northern Heights High School P.O. Box 527 Americus, KS 66835	NW¼, S13, T16S, R11E, Lyon County	Nonoverflowing

Kansas Permit No. M-MC02-NO02

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility treating domestic wastewater. The proposed permit contains a schedule of compliance for the facility to obtain the services of a KDHE-certified operator. Disposal of the treated wastewater is by evaporation and percolation.

<b>Name and Address of Applicant</b>	<b>Legal Location</b>	<b>Type of Discharge</b>
YMCA of Topeka 421 Van Buren Topeka, KS 66603	NW¼, S3, T13S, R17E, Shawnee County	Nonoverflowing

Kansas Permit No. C-KS98-NO01

Facility Name: Camp Hammond, 6320 SE Stubbs Rd., Tecumseh, KS  
Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility treating domestic wastewater. Disposal of the treated wastewater is by evaporation and percolation. The proposed permit contains a schedule of compliance for the permittee to obtain the services of a KDHE-certified operator.

Written comments on the draft permits must be submitted to the attention of Lisa Duncan for agricultural permits or to the permit clerk for all other permits, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620. All comments post-marked or received on or before January 10 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-96-800/802, KS-96-316/318, KS-ND-96-082/086) 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 determination. 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 for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The applications, proposed permits, 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 5 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.

James J. O'Connell  
Secretary of Health  
and Environment

Doc. No. 018488

## State of Kansas

## Department of Administration

## Public Notice

Under requirements of K.S.A. 65-34,117(c), as amended by 1996 House Bill No. 2966, records of the Division of Accounts and Reports show the unobligated balances are \$5,766,325.48 in the underground petroleum storage tank release trust fund and \$1,314,011.63 in the aboveground petroleum storage tank release trust fund at November 30, 1996.

Daniel R. Stanley  
Secretary of Administration

Doc. No. 018481

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Sherwin-Williams has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install additional paint manufacturing equipment. Emissions of volatile organic compounds were evaluated during the permit review process.

Sherwin-Williams, Cleveland, Ohio, owns and operates the stationary source located at 630 E. 13th, Andover, Kansas, at which the paint manufacturing equipment is to be installed.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during review of the permit application is available for public inspection during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE south central district office, 130 S. Market, sixth floor, Wichita. To obtain or review the proposed permit and supporting documentation, contact Eugene Sallee, (913) 296-1575, at the KDHE central office, or David Butler, (316) 337-6020, at the KDHE south central district office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Eugene Sallee, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business January 13 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business January 13 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell  
Secretary of Health  
and Environment

Doc. No. 018494

## State of Kansas

## Kansas Dental Board

Permanent Administrative  
RegulationsArticle 4.—CONTINUING EDUCATION  
REQUIREMENTS

**71-4-1. Continuing education credit hours required for renewal license of dentist and dental hygienist.** (a) Each dentist licensee shall submit to the board, with the license renewal application, evidence of satisfactory completion of at least 60 hours of continuing education courses that qualify for credit. Each dentist licensee who holds a specialist certificate shall provide evidence satisfactory to the board that at least 40 of the required 60 hours of continuing education are in courses in the specialty for which the licensee holds a specialist certificate. Each required course hour shall be completed in the 24-month period immediately preceding the date of expiration of the license. The term "courses" as used in article 4 of these regulations includes courses, institutes, seminars, programs and meetings.

(b) Each dental hygienist licensee shall submit, with the license renewal application, evidence of satisfactory completion of a minimum of 30 hours of continuing dental education courses that qualify for credit. Each course shall have been completed in the 24-month period immediately preceding the date of expiration of the dental hygienist license.

(c) A waiver or extension of time to complete the dental educational requirements may be granted by the board if the licensee demonstrates a good cause, including sickness, disability, financial hardship or another good cause beyond the control of the licensee as the board may determine.

(d) Upon request, any licensee may complete the required hours of continuing dental education courses for any year at any time during the two-year period immediately before or after the expiration date of the license. Continuing dental education hours shall not apply to or reduce the number of hours required during any subsequent licensing year. (Authorized by K.S.A. 74-1406 and K.S.A. 65-1431, as amended by L. 1996, ch. 210, sec. 3; implementing K.S.A. 65-1431, as amended by L. 1996, ch. 210, sec. 3; effective May 1, 1978; amended May 1, 1986; amended March 27, 1989; amended Dec. 27, 1996.)

**71-4-3. Continuing dental education reports.** On or before December 1 of each renewal year, each licensee shall submit with that licensee's renewal application, evidence of satisfactory completion of continuing dental education courses meeting the eligibility standards under K.A.R. 71-4-2. Upon receipt of the required renewal fee and evidence that the licensee has satisfactorily met the continuing dental education requirements of the board, the licensee shall be issued a renewal certificate authorizing the licensee to continue to practice in this state for a period of two years. (Authorized by K.S.A. 74-1406 and K.S.A. 1995 Supp. 65-1431, as amended by L. 1996, ch. 210, sec. 3; implementing K.S.A. 1995 Supp. 65-1431, as

amended by L. 1996, ch. 210, sec. 3; effective May 1, 1978; amended May 1, 1986; amended Dec. 27, 1996.)

Carol L. Macdonald  
Administrative Secretary

Doc. No. 018487

**State of Kansas**

**Board of Education**

**Notice of Hearing on Proposed  
Administrative Regulations**

The State Board of Education will conduct a public hearing at 1:30 p.m. Tuesday, February 11, in the board room of the State Education Building, 120 S.E. 10th Ave., Topeka, to consider proposed amendments to K.A.R. 91-10-2.

This regulation establishes the minimum test score requirements for receipt of a high school equivalency diploma (GED). The minimum test score requirement for issuing a GED has been increased by the test preparer, General Educational Development Testing Service, and it applies nationwide. Kansas needs to update its requirements to be consistent with the national minimum scores for issuance of a GED.

This regulation will have no economic impact upon the State Board of Education, school districts, other governmental agencies or private business. Individuals who cannot meet the higher test score requirement and do not gain a high school diploma may have fewer opportunities for employment and further education or training.

A copy of the full text of the regulation and the economic impact statement may be obtained by contacting the secretary of the State Board of Education, 120 S.E. 10th Ave., Topeka, 66612.

All interested persons will be given a reasonable opportunity at the hearing to present their views or arguments, either orally or in writing, in regard to the proposed amended regulation. In addition, the period of public notice hereby provided constitutes a public comment period for the purpose of receiving written public comments on the proposed regulation. Such written comments may be submitted to the secretary of the State Board of Education at the address above. The hearing shall be conducted in compliance with the public hearing procedures of the State Board of Education.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Lanny Gaston at (913) 296-3906 or (913) 296-8172 (TDD).

Andy Tompkins  
Commissioner of Education

Doc. No. 018475

**State of Kansas**

**Department of Administration  
Division of Architectural Services**

**Notice of Commencement of  
Negotiations for Technical Services**

Notice is hereby given of the commencement of negotiations for surveying and soil testing services for state construction projects for the six-month period from January 1, 1997 to June 30, 1997. Soil testing services would include testing and reporting prior to construction and inspection services during construction. Firms that provide concrete, welding, asphalt, steel and lead paint testing also are being sought.

Firms interested in providing these services should submit an SF 254 form indicating their qualifications, fees for their services, and geographical areas of the state in which they are willing to work to Gary Grimes, Deputy Director of Planning and Project Management, Division of Architectural Services, 625 Polk, Topeka, 66603-3288, (913) 233-9367, ext. 204. An original of the SF 254 form (plus attachments as required) should be submitted with letters of interest.

It is the intention of the division to pre-approve a separate group of qualifying surveying and testing firms and award projects on a rotational basis. If a firm anticipates being limited to specific-sized projects, by dollar volume or location in the state, that information also should be supplied with the response.

Any questions or expressions of interest should be directed to Gary Grimes by 5 p.m. December 27.

Thaine Hoffman, AIA  
Director, Division of  
Architectural Services

Doc. No. 018499

**State of Kansas**

**Department of Agriculture  
Division of Water Resources**

**Permanent Administrative  
Regulations**

**Article 50.—WATER TRANSFERS**

**5-50-1. Definitions.** As used in these rules and regulations, unless the context clearly requires otherwise: (a) "Application" means the document, made on the prescribed form furnished by the chief engineer, to request a permit to transfer water. The application shall be filed in the office of the chief engineer as provided in K.S.A. 82a-1501 et seq., as amended.

(b) "Approval of application" means issuance of a permit to transfer water as defined in K.S.A. 82a-1501(a)(1), as amended. (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1501; effective May 1, 1984; amended Dec. 27, 1996.)

**5-50-2. Requirements for application.** To be complete, a water transfer application shall show the following: (a) the name and mailing address of the applicant;

(continued)

(b) the maximum quantity of water proposed to be transferred in a calendar year and the proposed maximum diversion rate;

(c) the location of the proposed point or points of diversion;

(d) the location of the proposed point or points of use;

(e) the proposed use made of the water;

(f) any economically and technologically feasible alternative source or sources of supply available to the applicant and to any other present or future users of the water proposed to be transferred. The water transfer application shall specify why this source of supply was selected over the alternative sources available;

(g) the proposed plan of design, construction and operation of any works or facilities used in conjunction with carrying the water from the point or points of diversion to the proposed point or points of use. The proposed plan shall be in sufficient detail to enable all parties to understand the impacts of the proposed water transfer;

(h) the estimated date for completion of the infrastructure and initial operation thereof;

(i) that the benefits to the state if the transfer is approved outweigh the benefits to the state if the transfer is not approved;

(j) that the proposed transfer will not impair water reservation rights, vested rights, appropriation rights or prior applications for permits to appropriate water;

(k) any current beneficial use of the water that is proposed to be transferred, including minimum desirable streamflow requirements;

(l) any reasonably foreseeable future beneficial use of the water;

(m) the economic, environmental, public health and welfare, and other impacts of approving or denying the transfer of water;

(n) any and all measures the applicant has taken to preserve the quality and remediate any contamination of water currently available for use by the applicant;

(o) the provisions of a revised management program adopted by a groundwater management district that are applicable to the proposed transfer whenever any of the proposed points of diversion are located within a groundwater management district;

(p) whether or not the applicant, and any entity to be supplied water by the applicant, have adopted and implemented conservation plans and practices that fulfill the following requirements:

(1) are consistent with guidelines developed and maintained by the Kansas water office, pursuant to K.S.A. 74-2608 and its amendments;

(2) have been in effect for not less than 12 consecutive months immediately before the filing of this water transfer application; and

(3) provide for a rate structure that encourages efficient use of water and results in conservation and wise, responsible use of water, if the transfer is for use by a public water supply system;

(q) the effectiveness of conservation plans and practices that have been adopted and implemented by the applicant and any other entities to be supplied water by the applicant;

(r) if applicable, population projections for any public water supply system that will be supplied by the water transfer, and the basis for those projections;

(s) the projected water needs of the applicant and of any other entities to be supplied water by the applicant, and the basis for those projections;

(t) plans for any environmental mitigation made necessary by the proposed water transfer;

(u) a list of other federal, state and local permits necessary to complete the proposed water transfer and the projected dates they will be obtained;

(v) the current per capita per day usage of any public water supply user to be supplied water by the applicant, and the current average per capita per day usage of other similar users in a region of the state that is climatically similar. If the applicant's per capita per day usage exceeds the regional average, the applicant shall show why its per capita per day usage is reasonable.

(w) the projected per capita per day usage of any public water supply user to be supplied water by the applicant;

(x) a copy of the following contingently approved documents;

(1) a permit to appropriate water;

(2) an application for change in any or all of the following;

(A) the place of use;

(B) the type of use;

(C) point of diversion; or

(3) a contract to purchase water pursuant to the state water plan storage act;

(y) pursuant to K.A.R. 28-16-28b and K.A.R. 28-16-28d, the impacts of the proposed transfer on the water quality and designated uses of any stream that may be affected by the proposed transfer; and

(z) any additional factors that may be required by the chief engineer. (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1503; effective May 1, 1984; amended Dec. 27, 1996.)

**5-50-3.** (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1503; effective May 1, 1984; revoked Dec. 27, 1996.)

**5-50-4. Emergency use.** When a temporary emergency transfer of water has been approved, the chief engineer shall: (a) Require the applicant to compile and submit records, as necessary, regarding the daily rate and quantity of water transferred and any other information pertinent to the continued need for emergency transfer; and

(b) require the person requesting the transfer to consider alternate sources of water so the continued transfer will not be necessary. (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1502; effective May 1, 1984; amended Dec. 27, 1996.)

**5-50-5. Emergency transfer of water.** If the emergency causing the necessity for the transfer of water continues beyond one year, the person requesting the transfer may only file another new application for transfer for emergency use. This new application shall state the need for the water and the reasons why the need for transfer

of water still exists and cannot be supplied by an alternate source. (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1502; effective May 1, 1984; amended Dec. 27, 1996.)

**5-50-6. Authority of the chief engineer.** All emergency transfers of water shall be reviewed by the chief engineer to determine whether the applicant complied with the terms, conditions, and limitations of the emergency transfer approval. (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1503; effective May 1, 1984; amended Dec. 27, 1996.)

**5-50-7. Filing an application.** Unless this requirement is waived by the chief engineer for good cause, a water transfer application shall not be considered complete until one of the following has been approved contingent upon receiving a permit to transfer water: (a) a new application to appropriate water pursuant to the Kansas water appropriation act (KWAA), K.S.A. 82a-701 *et seq.*;

(b) an application for a change in any or all of the following:

- (1) point of diversion;
- (2) place of use; or
- (3) use made of water filed pursuant to the KWAA; or

(c) a contract for the purchase of water pursuant to the state water plan storage act, K.S.A. 82a-1301, *et seq.* (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1503; effective Dec. 27, 1996.)

**5-50-8. Selection of hearing officer.** (a) The panel shall mail notices to, and request nominations for a hearing officer from:

- (1) the applicant;
- (2) entities in the area or basin where the potential point or points of diversion are located; and
- (3) the commenting agencies.

(b) The panel shall also publish one notice in the Kansas register requesting nominations for a hearing officer. The panel shall allow 30 days following the notice for the nominations to be submitted.

(c) After the 30-day notice period has expired, the panel shall meet to consider the nominations and select an independent hearing officer. (Authorized by K.S.A. 82a-1506; implementing K.S.A. 1995 Supp. 82a-1501a; effective Dec. 27, 1996.)

Alice A. Devine  
Secretary of Agriculture

Doc. No. 018492

## State of Kansas

### Department of Education

#### Permanent Administrative Regulations

#### Article 1.—CERTIFICATE REGULATIONS

**91-1-68c. Procedures for initial approval of teacher education programs.** (a) Process initiation.

(1) Each teacher education institution that desires to have any new program approved by the state board shall submit an intent to seek program approval to the com-

missioner. The intent to seek program approval shall be submitted at least 12 months prior to the date of implementation.

(2) Each institution shall submit with its intent to seek program approval a detailed written description of the proposed program and a plan for implementation and operation of the program, which shall be in the form and contain the information prescribed by the commissioner. The institution shall submit the number of copies of the written program description and plan requested by the commissioner.

(b) Program report. Upon receipt of a program folio, the commissioner shall appoint a review team to analyze the program folio. The chairperson of the review team shall be designated by the commissioner. The number of review team members shall be determined by the commissioner based upon the scope of the program to be reviewed. An institution may challenge the appointment of a team member only on the basis of a conflict of interest.

(c) Program review.

(1) In accordance with procedures adopted by the state board, each review team shall examine and analyze the proposed program description and plan and prepare a report expressing the findings and conclusions of the review team. The review team report shall be submitted to the commissioner who shall forward the report to the evaluation review committee and to an appropriate representative of the teacher education institution.

(2) Any such institution may prepare a response to the review team report. This response shall be prepared and submitted to the commissioner within 30 days of receipt of the review team report. Any such response shall be forwarded to the evaluation review committee by the commissioner.

(d) Initial recommendation. The evaluation review committee, in accordance with procedures adopted by the state board, shall prepare a written initial recommendation regarding the appropriate status to be assigned to the proposed program, which shall include a statement of the findings and conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner.

(e) Request for hearing.

(1) Within 30 days of the receipt of an initial recommendation of the evaluation review committee, the teacher education institution may submit a written request to the evaluation review committee for a hearing before the committee to appeal the initial recommendation. This request shall specify, in detail, the basis for the appeal, including an identification of each item disputed by the institution.

(2) If a request for a hearing is submitted, the evaluation review committee shall conduct a hearing. The committee shall then prepare a written final recommendation regarding the appropriate status to be assigned to the proposed program, which shall include a statement of the findings and conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner who shall submit the final

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recommendation to the state board for its consideration and determination of program approval according to subsection (f)(1) of this regulation.

(3) If a request for a hearing is not submitted, within the time allowed under paragraph (1) of this subsection, the initial recommendation of the evaluation review committee shall become the final recommendation of the review committee. In any such situation, the recommendation of the evaluation review committee shall be submitted by the commissioner to the state board for its consideration and determination of program approval according to subsection (f)(1) of this regulation.

(f) Approval status.

(1) Each new program shall be approved with stipulation, or not approved.

(2) If a new program is approved with stipulation, that status shall be effective until the institution's next on-site visit.

(g) Annual report.

(1) If approved with stipulation status is assigned to a new program, the institution shall submit an annual report to the commissioner within 60 days after completion of the second semester of operation of the program, and on or before October 1 of each year thereafter until the institution's next on-site visit.

(2) The report shall be submitted by the commissioner to the evaluation review committee for its examination and analysis.

(h) Approval status.

(1) The state board, at any time, may change the approved status of a teacher education program if, after providing an opportunity for a hearing, it is found that the institution has failed to meet substantially program standards or has materially changed the program. The state board, for just cause, may extend the approved status of a program, and the status of a program shall be extended automatically if, at the end of the current approval period, the program is in the process of being reevaluated by the state board. Any such extension shall be counted as part of any subsequent approval period of a program.

(2) At the time of this institution's next on-site visit, the new program shall be reviewed pursuant to S.B.R. 91-1-68d.

(3) For licensure purposes, each teacher education program that is approved with stipulation shall be considered to be approved. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Sept. 2, 1991; amended June 26, 1995; amended Dec. 27, 1996.)

#### Article 5.—DRIVER AND TRAFFIC SAFETY EDUCATION COURSES

**91-5-3. Qualifications of instructors.** (a) Each instructor of an approved driver education program shall have the following:

(1) (A) a valid teacher certificate with an endorsement in driver education; or

(B) subject to the provisions of subsection (b), a valid substitute teacher certificate; and

(2) a valid motor vehicle operator's license.

(b) Each instructor who provides driver education under a substitute teacher certificate shall have had, within

the five years preceding the date of the issuance of each substitute teacher certificate, teaching experience in an approved driver education program. (Authorized by K.S.A. 72-7514; implementing K.S.A. 8-272; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Jan. 1, 1970; amended, E-74-3, Oct. 5, 1973; amended May 1, 1976; modified L. 1978, ch. 447, May 1, 1978; amended May 1, 1979; amended May 1, 1980; amended Dec. 27, 1996.)

#### Article 31.—ACCREDITATION

**91-31-1.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-31-2.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-31-3.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 1988 Supp. 72-1117; effective May 1, 1983; amended Nov. 10, 1987; amended Oct. 30, 1989; revoked June 30, 1997.)

**91-31-4.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended (temporary) July 12, 1985; (permanent) May 1, 1986; amended May 1, 1987; revoked June 30, 1997.)

**91-31-4a.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Oct. 30, 1989; revoked June 30, 1997.)

**91-31-5.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended May 1, 1988; revoked June 30, 1997.)

**91-31-6.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987; amended May 1, 1988; revoked June 30, 1997.)

**91-31-7.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987; amended July 1, 1989; amended July 1, 1991; revoked June 30, 1997.)

**91-31-8.** This regulation shall be revoked on June 30, 1997. (Authorized by Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; revoked June 30, 1997.)

**91-31-9.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1988; revoked June 30, 1997.)



**91-31-10.** This regulation shall be revoked on June 30, 1997. (Authorized by Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; revoked June 30, 1997.)

**91-31-12a.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended July 1, 1985; amended May 1, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-31-12b.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; revoked June 30, 1997.)

**91-31-12c.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1988; revoked June 30, 1997.)

**91-31-12d.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1988; revoked June 30, 1997.)

**91-31-12e.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987; amended May 1, 1988; revoked June 30, 1997.)

**91-31-12f.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1988; revoked June 30, 1997.)

**91-31-12g.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987; amended May 1, 1988; revoked June 30, 1997.)

**91-31-12h.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 1988 Supp. 72-1117; effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Oct. 30, 1989; revoked June 30, 1997.)

**91-31-13.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended June 12, 1986; amended May 1, 1987; revoked June 30, 1997.)

**91-31-14.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 1989; revoked June 30, 1997.)

**91-31-14a.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended July 12, 1985; amended May 1, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-31-14b.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1988; revoked June 30, 1997.)

**91-31-14c.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; revoked June 30, 1997.)

**91-31-15.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987; revoked June 30, 1997.)

**91-31-16. Definitions.** (a) "Accreditation cycle" means a five-year process in which schools are evaluated by the state board for compliance with specific standards which are based on identified outcomes.

(b) "Accreditation team" means the onsite team which conducts the accreditation visit.

(c) "Accreditation visit" means the onsite visit within the accreditation cycle conducted for the following purposes:

(1) Reviewing the school's progress towards accomplishing improvement plan outcomes; and

(2) making a recommendation to the state board regarding the school's accreditation status.

(d) "Accredited" means that a school meets state board accreditation requirements.

(e) "Accredited conditionally" means that a school has failed to meet the requirements for accreditation and shall have one year to meet the requirements for accreditation by implementing a corrective plan.

(f) "Annual report" means a report submitted yearly to the state board which contains updated information regarding the required state indicator data.

(g) "Appeal team" means a group of individuals appointed by the commissioner of education who are responsible for resolving an appeal of an accreditation recommendation.

(h) "Candidate" means a school which has begun its initial accreditation cycle to become accredited.

(i) "Continuous improvement" means advancement utilizing data from multiple assessments in targeted areas of student performance when compared to results of previous years.

(j) "Formal relationship" means any professional service to a school, including services as a consultant or past or present employee, or any relationship to any employee or student of the school or school district.

(k) "Local board of education" means the board of education of any unified school district or the governing body of any nonpublic school.

(l) "Non-accredited" means that a school does not meet state board accreditation requirements.

(m) "Onsite team" means the group of individuals selected by a school to conduct onsite visits.

(n) "Onsite visit" means a visit at the school by an onsite team during the accreditation cycle.

(o) "School" means an organizational unit which, for the purposes of school improvement, constitutes a logical

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sequence of elements which may be structured as grade levels, developmental levels or instructional levels.

(p) "School improvement plan" means a plan developed and submitted by a school to the local and state boards stating specific plans for achieving continuous improvement in student performance in each area targeted for improvement.

(q) "State board" means the state board of education.

(r) "Unit of credit" means a measure of credit that may be awarded to a student for satisfactory completion of all of the coursework of a particular course or subject. A full unit of credit is credit that is awarded for satisfactory completion of a course or subject that is offered for, and generally requires, a minimum of 120 clock hours to complete. Credit may be awarded in increments based upon the amount of time a course or subject is offered, and generally requires, to complete. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-17. Collection of data.** Each school and district shall collect, maintain and report to the state board data requested by the state board, including data concerning the following:

- (a) student achievement on state assessments;
- (b) student achievement on other assessment instruments;
- (c) student success indicators;
- (d) school performance on success indicators; and
- (e) school performance on staff development indicators. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-18. School improvement plan.** (a) Each school shall develop a school improvement plan. The school shall submit the plan to the state board for review, after approval by the local board. Within 60 days, the local board shall be notified by the state board of any deficiencies in the school improvement plan.

(b) Each school shall write its school improvement plan for at least one accreditation cycle.

(c)(1) Each school shall include in its school improvement plan the areas targeted for improvement. These targeted areas shall reflect the state outcomes established by the state board.

(2) Until the building standards of excellence established by the state board are met in each subject area, each school shall target for improvement three of the following academic areas:

- (A) mathematics;
- (B) reading;
- (C) science;
- (D) social studies; and
- (E) writing.

(3) Two of the three areas targeted for improvement shall be mathematics and reading until the school has achieved the building standards of excellence established by the state board for those subject areas.

(d) Each school may include in its school improvement plan additional areas targeted for improvement selected from local outcomes.

(e) Each school shall document and maintain records regarding student performance in each area targeted for

improvement. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-19. Board of education requirements.** (a) General. The board of education shall assure that each school meets the requirements of this regulation.

(b) Staff.

(1) In filling positions for which a certificate is issued by the state board, each school shall employ persons who hold appropriate certificates.

(2) A school shall not allow a person holding a substitute teaching endorsement to teach more than 90 days in any school year, unless a time of emergency has been declared by the state board. If the state board has declared a time of emergency, any person holding a substitute teaching endorsement may teach for the duration of the time of emergency in a position made vacant by reason of the emergency.

(3) A school shall not allow a person holding an emergency substitute teaching endorsement to teach more than 30 days in one semester, unless a time of emergency has been declared by the state board. If the state board has declared a time of emergency, any person holding an emergency substitute teaching endorsement may teach for the duration of the time of emergency in a position made vacant by reason of the emergency.

(4) If a teacher holding an appropriate certificate is not available, a school may:

- (A) use a substitute teacher holding a valid Kansas certificate at any level in any field or subject; or
- (B) employ persons who have been certified by the state board as emergency substitute teachers.

(5) Each school shall report the names of each certified staff member on the certified personnel report or the supplemental certified personnel report required by the state board. Each certified personnel staff change that occurs between September 15 and the end of the school year shall be reported on a form prescribed by the state board within 30 days after the staff change.

(c) Student credit. Each school, through the local board of education, shall have a written policy specifying that the credit of any pupil transferring from an accredited school shall be accepted.

(d) Records retention. Each school, under a policy of the local board of education, shall permanently retain records relating to each student's academic performance, attendance and activities.

(e) Athletic practice. Each school, through the local board of education, shall have a written policy specifying that athletic practice for competition shall not be conducted during physical education classes, or be counted for credit or as part of the school term. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-20. Required programs.** (a) Foreign language. Each board of education shall provide the opportunity for students to study a foreign language. The program of study shall provide for a minimum of two academic years of study of the same language at the elementary or secondary level. Total instructional time for elementary pro-

grams shall be equivalent to that of two-year secondary programs.

(b) Human sexuality.

(1) Each board of education shall provide a comprehensive education program in human sexuality, including information about sexually transmitted diseases, especially acquired immune deficiency syndrome (AIDS).

(2) The program shall:

(A) include instruction at the elementary and secondary levels;

(B) require that teachers and building administrators have appropriate academic preparation of inservice training designed to develop a basic knowledge of and a sensitivity to the area of human sexuality;

(C) require that all teachers who teach courses in human sexuality hold appropriate certification to provide such instruction; and

(D) include procedures whereby any pupil, whose parent or guardian so requests, shall be excused from any or all portions of the program without any penalty resulting from the action.

(3) Each board of education shall determine the specific curriculum of the program and the grades in which the program is to be offered. The curriculum shall be specified in writing and shall be on file in the board of education office.

(4) The provisions of this subsection shall not be construed as requiring, endorsing or encouraging the establishment of school-based health clinics or the teaching of birth control methods.

(c) Kansas history and government.

(1) Each board of education shall include in its social studies curriculum, within one of the grades seven to 12, a course of instruction to Kansas history and government. The course of instruction shall be at least nine consecutive weeks and at least 1,800 minutes.

(2) Each board of education shall:

(A) Determine the specific curriculum and the grade in which the course of instruction is to be offered; and

(B) waive this requirement for any student who transfers into the district at a grade level above that in which the course of instruction in Kansas history and government is taught.

(d) Each elementary school shall maintain an organized physical education program. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-21. Graduation requirements.** (a)(1) Except as otherwise provided in this regulation, each board of education shall adopt a written policy specifying that pupils shall be eligible for graduation only upon completion of requirements which include at least the following:

(A) four units of English language arts, which shall include three units in English. The building administrator may waive up to one unit of this requirement if the administrator determines that a pupil can profit more by taking another subject;

(B) three units of social studies, which shall include one unit of United States history and at least ½ unit of United States government, including the constitution of the United States, and except as otherwise provided in

S.B.R. 91-31-20, a course of instruction in Kansas history and government;

(C) two units of science, including one unit as a laboratory course;

(D) two units of mathematics;

(E) one unit of physical education, which may include one-half unit of health, safety, first aid, or physiology. This requirement shall be waived:

(i) upon receipt of a statement by a licensed physician that a pupil is mentally or physically incapable of participating in a regular or modified physical education program; or

(ii) when the requirement is contrary to the religious teachings of the pupil, as indicated in a written statement, signed by a lawful custodian of the pupil; and

(F) nine units of elective courses.

(2) A minimum of 21 units of credit shall be required for each graduating class.

(3) Any board of education may increase the number of units of credit required for graduation. Any additional requirements of the board of education that increase the number of units of credit required for graduation shall apply to those students who will be in the ninth grade class the following school year.

(b) The governing body of any district may adopt locally-determined graduation requirements different from those prescribed in subsection (a) if those requirements specify that students will be eligible for graduation upon the completion of at least the minimum total units of credit required by paragraph (a)(2). The required units of credit shall include one unit of United States history and at least ½ unit of United States government, including the Constitution of the United States, and except as otherwise provided in S.B.R. 91-31-20, a course of instruction in Kansas history and government.

(c) Graduation requirements established by any local board of education shall comply with statewide educational goals adopted by the state board and shall have broad-based community involvement in their formulation. Requirements adopted under subsection (b) shall have state board approval before implementation in the district. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-22. Elementary schools.** An elementary school shall not be, or retain its status as a candidate, accredited or accredited conditionally, if the school does not have an enrollment of 10 or more students on September 20 of any school year. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-23. Interscholastic athletics.** (a) A board of education shall not allow any student below the sixth grade level to participate in interscholastic athletics.

(b) A board of education may allow any student at the sixth grade level or higher to participate in interscholastic athletics.

(c) If a board of education allows students at the sixth grade level to participate in interscholastic athletics, the

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board of education shall comply with guidelines adopted by the state board for such interscholastic athletics.

(d) A board of education may join the Kansas state high school activities association and participate under its rules and regulations. A board of education which does not join that association shall comply with guidelines for interscholastic athletics adopted by the state board. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-24. Onsite visits.** (a) Each school shall evaluate its progress in meeting the goals of its school improvement plan in preparation for both onsite visits to the school.

(b)(1) Each school shall select an onsite team for each accreditation cycle; and

(2) Whenever possible, the same onsite team shall conduct onsite visits during an accreditation cycle.

(c)(1) Each onsite team shall be comprised of the following:

(A) A team chair approved by the state board; and

(B) at least two other members from outside the school district who have background and skills in school improvement.

(2)(A) Onsite team members shall not have had any formal relationship with the school within the past five years, except that a school may select any team members to serve for one succeeding accreditation cycle.

(B) Each school shall replace at least 50 percent of the onsite team membership in the succeeding accreditation cycle.

(C) The team chairperson may be reappointed to serve from one accreditation cycle to the next, but may serve as team chairperson for only one accreditation cycle.

(d) During the first onsite visit, the onsite team shall do the following:

(1) Facilitate the school's self-review;

(2) review the school improvement plan and provide feedback relative to the targets selected in the school improvement plan; and

(3) determine if any technical assistance is needed.

(e)(1) The accreditation visit shall be conducted before June 30 of the fifth year of the accreditation cycle. During the accreditation visit, the onsite team shall do the following:

(A) Review the school's progress toward improvement plan outcomes; and

(B) make a recommendation to the state board regarding the school's accreditation status.

(2) The accreditation team shall examine and analyze the following in determining whether to recommend accreditation:

(A) The school's annual reports;

(B) school improvement data not included in the annual reports;

(C) the first onsite visit report;

(D) the school improvement plan;

(E) data relating to continuous improvement of student performance in each area targeted for improvement; and

(F) data relating to the school's performance in state outcomes not targeted for improvement. (Authorized by

and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-25. Accreditation recommendation and appeal.** (a)(1) The accreditation team shall prepare a written recommendation regarding the accreditation status to be assigned to the school. The recommendation shall include a statement of the findings and conclusions of the accreditation team.

(2) The accreditation team may determine that there is reasonable justification for lack of improvement in one or more areas targeted for improvement or for failure to maintain a level of performance in nontargeted areas. The accreditation team shall include these justifications in its recommendation.

(b) Within 30 days following the accreditation visit, the accreditation team shall submit its recommendation to the local board of education and to the commissioner of education.

(c) If the local board of education disagrees with the accreditation team's recommendation, the local board may file an appeal with the commissioner within 30 days after receipt of the accreditation team's recommendation.

(d)(1) If the local board files an appeal, a consultation shall be ordered by the commissioner and shall be conducted by an appeal team.

(2) The appeal team shall consult with one or more of the accreditation team members and one or more representatives of the local board.

(3) If there is agreement on the recommendation following the appeal, the appeal team shall forward the accreditation recommendation to the state board.

(4) If there is no agreement on a recommendation following the appeal, the appeal team shall request the commissioner to appoint a hearing officer to conduct a hearing and forward an accreditation recommendation to the state board.

(e) The recommendation for accreditation status shall be acted upon by the state board. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-26. Accreditation status.** (a) Each school shall be classified as one of the following:

(1) a candidate;

(2) accredited;

(3) accredited conditionally; or

(4) denied accreditation.

(b) If a school is granted accredited status, the status shall be effective for five years and the school shall proceed with its next quality performance accreditation improvement cycle.

(c) The accreditation status of any school may be extended until the school's accreditation status is determined by the state board.

(d) If a school is accredited conditionally, the school shall develop and implement a one-year modified improvement plan which shall be approved by the state board. Following implementation of the one-year modified improvement plan, the state board shall conduct an accreditation visit and shall determine whether the school shall be accredited or denied accreditation.

(e) If a school is denied accreditation, sanctions shall be applied. (Authorized by and implementing Article 6,

Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-27. Rewards.** (a) A letter of accreditation and press releases announcing a school's accredited status shall be sent by the state board.

(b) A school may be recognized in additional ways by the state board. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-28. Sanctions.** (a) The following sanctions related to the failure to make progress, to maintain appropriate student performance levels, or to achieve accredited status shall be applied by the state board:

(1) A letter of notification identifying the lack of progress or maintenance documented on the annual report; or

(2) A letter of notification and press releases announcing conditional accreditation status or denial of accreditation status.

(b) One or more of the following sanctions may be applied by the state board to a school denied accreditation.

(1) The state board may direct that district personnel or resources be reassigned or reallocated within the district by the local board of education.

(2) The state board may direct that the local board of education hire one or more designated persons to assist the school in making the changes necessary to improve student performance.

(3) The state board may recommend to the legislature that it approve a reduction in state funding to the local school district by an amount which shall be added to the local property tax imposed by the local board of education.

(4) The state board may recommend that the legislature abolish or restructure the local district.

(5) The state board may recommend other action as deemed appropriate. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-29. Public disclosure.** At least once each year, each school shall notify the school board, parents, and community of the school's status in the accreditation process and the progress the school has made in school improvement. Within 60 day after being notified of the final determination of its accreditation status, each school shall disclose the accreditation results, including deficiencies and the plan to address such deficiencies, to the school board, parents, and community. The school shall make all notices and disclosures available in the primary languages of the community. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

**91-31-30. Waiver.** (a) Any school may request a waiver from one or more accreditation requirements imposed by the state board. Any request for a waiver shall meet the following requirements:

(1) The school shall make the request, in writing, to the commissioner of education.

(2) The chief administrative officer of the school shall sign the request. If the request is by a public school, the superintendent of the unified school district shall sign the request.

(3) In the request, the school shall state the specific requirement or requirements for which the school is requesting a waiver and shall indicate how the granting of the waiver would enhance improvement at the school.

(b) The commissioner of education, within 30 days after the receipt of a request for a waiver, shall make a recommendation to the state board to either grant or deny the request.

(c) The request and the recommendation from the commissioner of education shall be considered by the board and the final decision on whether to grant or deny the request shall be made. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Dec. 27, 1996.)

### Article 33.—ACCREDITING SPECIAL PURPOSE SCHOOLS

**91-33-1.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1984; amended May 1, 1988; amended July 1, 1989; revoked June 30, 1997.)

**91-33-2.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1984; amended May 1, 1988; revoked June 30, 1997.)

**91-33-3.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 1988 Supp. 72-1117; effective May 1, 1984; amended Nov. 10, 1987; amended Oct. 30, 1989; revoked June 30, 1997.)

**91-33-4.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1984; amended May 1, 1988; revoked June 30, 1997.)

**91-33-5.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1984; amended May 1, 1988; amended July 1, 1989; revoked June 30, 1997.)

**91-33-6.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1984; amended May 1, 1988; revoked June 30, 1997.)

**91-33-7.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1984; amended May 1, 1988; revoked June 30, 1997.)

**91-33-8.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 1988 Supp. 72-1117; effective May 1, 1984; amended May 1, 1985; amended May 1, 1988; amended Oct. 30, 1989; revoked June 30, 1997.)

(continued)



**Article 34.—REGULATIONS FOR ACCREDITING  
YOUTH CENTER SCHOOLS**

**91-34-1.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 10, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-34-2.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 10, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-34-3.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 10, 1987; amended July 1, 1989; revoked June 30, 1997.)

**91-34-4.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-5.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-7.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 1988 Supp. 72-1117; effective Nov. 10, 1987; amended Oct. 30, 1989; revoked June 30, 1997.)

**91-34-8.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-9.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-10.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-11.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-12.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

**91-34-13.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 1988 Supp. 72-1117; effective Nov. 10, 1987; amended Oct. 30, 1989; revoked June 30, 1997.)

**91-34-14.** This regulation shall be revoked on June 30, 1997. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Nov. 9, 1987; revoked June 30, 1997.)

Dr. Andy Tompkins  
Commissioner of Education

Doc. No. 018494

State of Kansas

Social and Rehabilitation Services

Permanent Administrative  
Regulations

Article 4.—PUBLIC ASSISTANCE PROGRAM

**30-4-90.** 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. 30-4-50, 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 each person 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) parents and their minor children who are living together, if the parents are not voluntarily unavailable for employment. A person shall not be considered voluntarily unavailable for employment if the person is attending high school full-time or is participating in an agency-approved, work-related activity. Assistance under this provision shall not be denied solely because a person is participating in post-secondary education or training activities not occurring during normal working hours. Assistance under this provision shall also be granted to non-ADC children who are living with a guardian, conservator, or a personal representative who is not within the degree of relationship for ADC;

(B) 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 when the amputation involves hip disarticulation, when the amputation is at or above the tarsal region due to peripheral-vascular disease or diabetes mellitus, or when the amputation results in an 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, as 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 and due to any cause, with: pulmonary function studies showing vital capacity, or both one-second forced expiratory volume and maximum voluntary ventilation, is 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 as 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 treatment which occur at intervals averaging at least every two months and with 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, with obstruction due to an intractable abscess, fistula formation or stenosis, or with 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 which 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, with creatinine clearance of 29 liters per 24 hours or less, or with severe complications which require chronic dialysis or renal transplant;

(xxxiv) nephrotic syndrome accompanied for three or more months, by anasarca and serum albumin of 3.0 gm. per 100 ml. and proteinuria of at least 3.5 grams per 24 hours, or by anasarca and proteinuria of at least 10 grams per 24 hours;

(xxxv) acute leukemia or the 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 and a hematocrit persisting below 30 percent, or requiring frequent extended hospitalization;

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(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 that prevent the performance of employment;

(xlix) mental retardation;

(i) functional psychotic disorders which cause severe functional limitations that preclude competitive employment and require ongoing psychiatric or psychological treatment;

(ii) 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;

(iii) seizure disorder not controllable by medications with either 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;

(iiii) cerebral palsy with mental retardation, severe emotional lability, 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 when the disease or insult results in a severely limited ability to stand, walk, or use the hands, a persistent, severe difficulty swallowing or breathing, a 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 a 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, excluding alcoholism, drug addiction or other impairments which can be controlled through treatment;

(C) 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 paragraph (2)(B) above, if the care is not available from another person in the home;

(D) a woman who is pregnant and not eligible for APW. The father of the unborn child shall be included in the same assistance plan if the pregnant woman and the father are living together. Neither the pregnant woman nor the father shall be voluntarily unavailable for employment;

(E) 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; or

(F) a child in a family group who is not otherwise eligible for assistance as a result of an established period of ineligibility resulting from the provisions of K.A.R. 30-4-58(d), 30-4-63(e), 30-4-64(d), or 30-4-110(c)(8) if 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. Assistance shall be provided in accordance with the social service plan. Assistance shall not exceed the budget deficit for the family group.

(3) The needs of the applicant or recipient and each person 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) any SSI recipient;

(B) any person who is ineligible due to the receipt of lump sum income;

(C) any person who is ineligible due to a sanction;

(D) any minor parent whose needs are met through foster care payments; and

(E) any alien who is 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 Medicaid-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. 30-4-50 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. 30-4-140 shall be waived. Assistance under this provision shall not extend beyond the month of discharge and the two following months except that 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 to the individual pending a determination of eligibility for the supplemental security income program shall be ineligible for GAU.

(d) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended May 1, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-88-14, July 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, T-30-6-10-91, July 1, 1991; amended Oct. 28, 1991; amended, T-30-6-10-92, July 1, 1992; amended Oct. 1, 1992; amended Dec. 31, 1992; amended, T-30-2-15-93, Feb. 15, 1993; amended June 1, 1993; amended July 1, 1994; amended Jan. 1, 1997.)

**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 each person 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 when the amputation involves hip disarticulation, when the amputation is at or above the tarsal region due to peripheral vascular

disease or diabetes mellitus, or when the amputation results in an 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, as 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 and due to any cause, with: pulmonary function studies showing vital capacity, or both one-second forced expiratory volume and maximum voluntary ventilation, is 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 as 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 treatment which occur at intervals averaging at least every two months and with 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;

(continued)

- (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, with obstruction due to an intractable abscess, fistula formation or stenosis, or with 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 which 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, with creatinine clearance of 29 liters per 24 hours or less, or with severe complications which require chronic dialysis or renal transplant;
- (xxxiv) nephrotic syndrome accompanied for three or more months by anasarca and serum albumin of 3.0 gm. per 100 ml. and proteinuria of at least 3.5 grams per 24 hours or by anasarca and proteinuria of at least 10 grams per 24 hours;
- (xxxv) acute leukemia or the 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 and a 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 either 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 when the disease or insult results in a severely limited ability to stand, walk, or use the hands, a persistent, severe difficulty swallowing or breathing, a 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 a 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, excluding alcoholism, drug addiction or other impairments which can be controlled through treatment;

(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 paragraph (2)(A) above, if 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 each person 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) any SSI recipient;

(B) any person who is ineligible due to the receipt of lump sum income;

(C) any person who is ineligible due to a sanction; and

(D) any alien who is 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 medicaid-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 extend beyond the month of discharge and the two following months except that 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 to the individual pending a determination of eligibility for the supplemental security income program shall be ineligible for GAU.

(d) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Dec. 30, 1994, amended Jan. 1, 1997.)

**30-4-120. Special allowances and requirements for applicants and recipients of ADC, ADC-FC, APW, GA, and GA-FC.** (a) Special allowances. Special allowances shall be issued to otherwise eligible applicants and recipients under the conditions as specified. The allowances shall include the following.

(1) Transportation. In accordance with an agency-approved plan, an allowance for work-related transportation expenses shall be issued for each person who is assigned to participate in a KanWork or work program activity.

(2) Day care. An allowance for work-related day care expenses shall be issued in accordance with an agency-approved plan.

(3) Education and training. If there is an agency-approved plan, education and training costs shall be allowed for the participant. The costs shall include tuition, books, and fees.

(4) Transition services. Transitional expenses shall be allowed for any recipient who loses eligibility as outlined in K.A.R. 30-4-63(d) and 30-4-64(d). The expenses may include child care and transportation. Extended medical assistance shall be provided as outlined in K.A.R. 30-6-65(n).

(b) Special requirements. The expenses for the following special requirements shall be added to the basic and shelter standards as outlined in K.A.R. 30-4-100 to compute the budgetary requirements for applicants and recipients under the conditions as specified.

(1) Moving expense. The cost of moving to a new location to take employment, in an amount not to exceed \$100.00, shall be allowed if other funds are not available to meet the costs and the recipient has employment which meets at least 75 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 new job location.

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

(A) the child is temporarily absent from the home due to the illness of another member of the household or the incarceration of the caretaker relative;

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

(continued)



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

(3) Conservator or personal representative expense. The fee of the legally appointed conservator for conservatorship or the personal representative fee for service shall be allowed if:

(A) The conservator or personal representative charges for those services; and

(B) the conservator or personal representative is not the spouse, parent, or child of the incapacitated person. The amount allowed by the court, or the conservator's or personal representative's charge, shall be allowed to a maximum of five percent of the person's cash payment or \$8.00, whichever is greater.

(4) Special household and childrearing expenses. Costs for special household and childrearing expenses may be allowed in an amount that does not exceed the highest allowable basic and shelter standard, as outlined in K.A.R. 30-4-100. Payment for these expenses shall be derived from donor funds which are earmarked for the family or otherwise designated to the family by a donor. Expenses covered under this provision may include the following:

- (A) repair or replacement of household items;
- (B) replacement of essential clothing;
- (C) special needs related to a pregnancy or newborn child;
- (D) special schooling expenses for children; and
- (E) other essential household expenses or expenses resulting from a catastrophe.

(c) This regulation shall take effect on and after January 1, 1997. (Authorized by K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, K.S.A. 1995 Supp. 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended, T-84-8, March 29, 1983; amended May 1, 1983; amended, T-84-9, March 29, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-33, Dec. 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended May 1, 1988; amended, T-30-7-29-88, July 29, 1988; amended Sept. 26, 1988; amended Oct. 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 Jan. 7, 1991; amended May 1, 1991; amended Aug. 1, 1995; amended Jan. 1, 1997.)

**30-4-120w.** Special needs for applicants and recipients of ADC, ADC-FC, GA and GA-FC. The expenses for 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 new 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) 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 conservator's or personal representative's charge, shall be allowed to a maximum of five percent of the person's cash payment or \$8.00, whichever is greater, shall be allowed.

(d) Special household and childrearing expenses. Costs for special household and child-rearing expenses may be allowed in an amount that does not exceed the highest allowable basic and shelter standard, as outlined in K.A.R. 30-4-100. Payment for these expenses shall be derived from donor funds which are earmarked for the family or otherwise designated to the family by a donor. Expenses covered under this provision may include the following:

- (1) repair or replacement of household items;
- (2) replacement of essential clothing;
- (3) special needs related to a pregnancy or newborn child;
- (4) special schooling expenses for children; and
- (5) other essential household expenses or expenses resulting from a catastrophe.

(e) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Dec. 30, 1994; amended Aug. 1, 1995; amended Jan. 1, 1997.)

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

**30-5-101.** Scope of chiropractic services. Chiropractic services shall be covered for Kan Be Healthy program participants. (a) Up to 24 office visits per calendar year shall be covered for diagnosis and treatment.

(b) One chiropractic history and physical shall be covered per calendar year.

(c) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1981; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-5, May 1, 1986; amended May 1, 1987; amended Jan. 2, 1989; amended, T-30-12-28-89, Jan. 1, 1990; amended Jan. 7, 1991;



amended, T-30-8-9-91, Aug. 9, 1991; amended Oct. 28, 1991; amended Jan. 1, 1997.)

**30-5-300. Definitions.** (a) The following words and terms for home and community-based services (HCBS), when used in this article, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Accept medicare assignment" means the provider will accept the medicare-allowed payment rate as payment in full for services provided to a consumer.

(2) "Activities of daily living (ADLs)" means the following:

- (A) bathing;
- (B) dressing;
- (C) toileting;
- (D) transferring;
- (E) ambulating; and
- (F) eating.

(3) "Agency" means the Kansas department of social and rehabilitation services.

(4) "Area agency on aging" means the agency or organization within a planning and service area that has been designated by the secretary of the Kansas department of aging (KDOA) to develop, implement, and administer a plan for the delivery of a comprehensive and coordinated system of services to older persons in the planning and service area.

(5) "Assessment" means the face-to-face interview and evaluation of a home and community-based services consumer by an authorized case manager-assessor, or independent living counselor to determine the consumer's care needs and support systems and to develop a service plan.

(6) "Case management services" means a comprehensive service comprised of a variety of specific tasks and activities designed to coordinate and integrate all other services required in the individual's plan of care.

(7) "Client obligation" means the monthly amount collected from an HCBS consumer by the service provider for the cost of a service.

(8) "Conflict of interest" means any relationship between two or more parties in which one party has the ability to influence another party to the transaction in a way that one or more of the transacting parties might fail to fully pursue the party or parties' own separate interests. Related parties shall include parties related by family, business, or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arm-length negotiations. Transactions or agreements that are illusory or a sham shall not be recognized.

(9) "Cost cap" means the average HCBS monthly service cost limit per consumer including primary and acute care costs. The average HCBS monthly service cost limit shall be based on and compared to the average monthly cost that the consumer would incur in a nursing facility.

(10) "Cost efficient" means using all of the available formal and informal service systems to meet individual needs before using HCBS services.

(11) "Cost effective" means the cost of utilizing a service is recovered by the savings generated from avoiding the necessary utilization of a more expensive service.

(12) "Direct cost" means any cost that can be identified specifically with a particular cost objective.

(13) "Documentation" means maintenance of the HCBS consumer's case file, which includes the following:

- (A) a current assessment or reassessment;
- (B) a plan of care;
- (C) service plan;
- (D) an activity log; and
- (E) a financial eligibility communication form, including current client obligation information.

(14) "Effective date" means the date on which a program or service begins and on which a provider can be reimbursed for services.

(15) "Formal service" means any needed service as documented on the plan of care and funded by medicaid.

(16) "Frail elderly waiver" means a medicaid HCBS services waiver authorizing services in accordance with a federally approved waiver to the Kansas medicaid state plan for individuals age 65 and older who meet the medicaid long term care threshold.

(17) "Home health agency" means a public or private agency or organization that provides, for a fee, one or more home health services at the residence of a consumer.

(18) "Housing options" means all home and residential environments in which individuals would be eligible to receive HCBS services.

(19) "Instrumental activities of daily living (IADL's)" means the following:

- (A) meal preparation;
- (B) shopping;
- (C) medication monitoring and treatments;
- (D) laundry and housekeeping;
- (E) money management;
- (F) telephone use; and
- (G) transportation.

(20) "Independent living center" means a public or private agency or organization recognized by the agency whose primary function is to provide independent living services, including:

- (A) independent living skills training;
- (B) advocacy;
- (C) peer counseling; and
- (D) information and referral.

(21) "Independent living counseling" means a service provided through the HCBS/PD waiver which assesses need, negotiates care plans and service plans, and teaches independent living skills.

(22) "Indirect costs" means the administrative costs of long term care (LTC) programs or their functional components, including the costs of supplying goods, services, and facilities to those programs or their functional components.

(23) "Ineligible provider" means a provider who is not enrolled in the medicaid/medikan program due to one or more of the reasons set forth in K.A.R. 30-5-60, or because the provider committed civil or criminal fraud in another state or another program.

(24) "Informal service" means any needed or desired service provided voluntarily to a consumer by one or more organizations, agencies, or families at no cost to the medicaid program.

(continued)

(25) "Kan Be Healthy Program participant" means an individual under the age of 21 who is eligible for medicaid and who has undergone a Kan Be Healthy medical screening in accordance with a specified screening schedule. The medical screening shall be performed in order to:

- (A) ascertain physical and mental defects; and
- (B) provide treatment which corrects or ameliorates any defects and chronic conditions which are found.

(26) "Level of care" means functional needs of consumers, as determined through an assessment or reassessment, based on impairments in ADL's and IADL's.

(27) "Home- and community-based services (HCBS)" means services provided in accordance with a federally-approved waiver to the Kansas medicaid state plan which are designed to prevent unnecessary utilization of institutional services and to reduce health care related costs. Any individual with a primary diagnosis of mental illness, and who is 21 years of age or older, but less than 65 years old, shall not be eligible.

(28) "Home- and community-based services for persons with head injuries (HCBS/HI)" means medicaid services which are:

(A) provided in accordance with a federally-approved waiver to the Kansas medicaid state plan;

(B) designed as an alternative to services in head injury rehabilitation facilities for individuals who:

- (i) have external, traumatic head injuries; and
- (ii) are 16 years of age or older, but are less than 55 years of age.

(29) "Medicaid long term care threshold" means the level of care criteria, as established by the agency and approved in the waiver to the medicaid state plan for HCBS, which is used to determine eligibility for medicaid long term care programs.

(30) "Mental retardation" means significantly subaverage intellectual functioning which:

- (A) is manifested before age 22; and
- (B) is evidenced by:
  - (i) a score of 70 or below on any standardized measure of intelligence; and
  - (ii) concurrently existing deficits in adaptive behavior.

(31) "Nursing facility (NF)" means a facility which:

- (A) meets state licensure standards;
- (B) provides health-related care and services, prescribed by a physician; and
- (C) provides residents with 24 hours per-day, seven days-per-week, licensed nursing supervision for ongoing observation, treatment, or care for long-term illness or injury.

(32) "Normal rhythms of the day" means the average time frame in which an individual without a physical disability typically completes clusters of ADL and IADL activities.

(33) "Organized health care delivery system" means a system, at least one component of which is organized for the purpose of delivering health care, which furnishes at least one service under a medicaid-covered waiver or the state plan.

(34) "Out of state provider" means any provider that is physically located more than 50 miles beyond the border of Kansas, except any provider providing services to

children who are in the custody of the secretary. The following shall be considered out-of-state providers if they are physically located beyond the borders of Kansas:

- (A) nursing facilities;
- (B) community mental health centers;
- (C) partial hospitalization service providers; and
- (D) alcohol and drug program providers.

(35) "Participating provider" means any individual or entity that has a current agreement with the agency to provide medicaid services. For HCBS services, parents of minor children and spouses shall not be paid providers.

(36) "Physical disabilities waiver" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan for any individual who:

- (A) is 16 years of age or older, but less than 65 years of age;
- (B) is physically disabled according to social security disability standards;
- (C) meets the medicaid LTC threshold; and
- (D) requires assistance with normal rhythms of the day.

(37) "Plan of care (POC)" means a document which states and prescribes the responsibilities of providers to ensure that the providers meet the health and safety needs of HCBS consumers. The document shall include the following information:

- (A) a statement identifying the need for care;
- (B) the estimated length of the service or program;
- (C) a description of the prescribed treatment, modalities, and methodology to be used;
- (D) a description of the expected results;
- (E) the name of provider; and
- (F) the cost of the program or services.

(38) "Prior authorization" means that a service to be provided will be reimbursed only when approval is given by the agency before the service is provided.

(39) "Program" means the Kansas medicaid/mediKan program.

(40) "Provider enrollment" means the process through which the agency determines whether an applicant meets the requirements for persons or agencies to provide services to the medicaid program.

(41) "Reassessment" means an annual review and evaluation of an HCBS consumer's continued need for services.

(42) "Reimbursement rate" means the dollar value assigned by the secretary for a covered service.

(43) "Risk factor" means any condition that may increase an individual's functional impairment. The risk factor is used to determine needs for services, as appropriate for the individual's level of care.

(44) "Self-directed care" means an option under the HCBS program that allows an individual in need of care to live in a home environment and direct the attendant services that are essential to the maintenance of the individual's health and safety.

(45) "Service plan" means a document which describes specific tasks to be performed, based on the needs of the consumer. The description shall include the type of service, the frequency, and the provider.

(46) "Targeted case management service" means any service which assists medicaid consumers in gaining ac-

cess to care that is medically necessary. A case manager with credentials specified by the department of social and rehabilitation services shall provide such services through an entity jointly recognized or authorized by the Kansas department on aging and the agency. Targeted case management shall include the following:

- (A) assessment of need;
- (B) plan of care development;
- (C) coordination of service plans and providers;
- (D) maintaining cost effectiveness;
- (E) resource development;
- (F) documentation; and
- (G) advocacy.

(47) "Technology-assisted child" means a chronically ill or medically fragile child who:

- (A) is 15 years of age or younger;
- (B) has an illness or disability which, in the absence of home care services, would require admission to or a prolonged stay in a hospital;
- (C) needs both a medical device to compensate for the loss of a vital body function and substantial, continuous care by a nurse or other caretaker under the supervision of a nurse in order to avert death or further disability;
- (D) is dependent at least part of each day on mechanical ventilators for survival; and
- (E) requires prolonged intravenous administration of nutritional substances or drugs, or requires other medical devices to compensate for the loss of a vital body function.

(48) "Terminally ill" means the medical condition of an individual whose life expectancy is six months or less, as determined and documented by a physician.

(49) "Timely filing" means the receipt by the agency or its fiscal agent of a claim for payment from a provider for services provided to a medicaid program consumer. The claim for payment shall be submitted not later than 24 months after the date the claimed services were provided.

(50) "Traumatic head injury" means non-degenerative structural brain damage resulting in residual deficits and disability which have been acquired by external physical injury.

(51) "Termination date" means the last day on which a program or service will be reimbursed. For HCBS this date shall not extend beyond the last date of medicaid eligibility.

(52) "Uncollectible overpayment to an out-of-business provider" means the following:

- (A) any amount which is due from a provider of medical services who:
  - (i) has ceased all medical services practice or operations as an individual, a partnership, or a corporate identity; and
  - (ii) has no assets capable of being applied to any extent toward a medicaid overpayment; or
- (B) any amount due which is less than its collection and processing costs.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-301. Provider participation.** (a) Each provider shall meet the provider participation requirements specified in K.A.R. 30-5-59, including record keeping requirements, and the following additional requirements:

- (1) All assessment records;
- (2) All plan of care records; and
- (3) All case file documentation records.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-302. Limitations for independent living counselors.** (a) An independent living center shall not use any consumer as an independent living counselor when that consumer receives services from the same independent living counseling agency.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-303. Cost effectiveness.** (a) Except for "cost cap" approvals, each HCBS plan of care shall be cost-effective.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-304. Cost efficient plans of care.** (a) Each HCBS plan of care shall be cost efficient and shall be provided in accordance with K.A.R. 30-5-70.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-305. Assessment requirements.** (a) Qualified staff and assessment providers shall conduct an assessment prior to the implementation of any HCBS service.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-306. Effective date for HCBS eligibility.** (a) The effective date of eligibility for HCBS services shall not be before the effective date of medicaid eligibility.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

**30-5-307. Family reimbursement restriction.** (a) An adult consumer's spouse shall not be paid to provide HCBS services to that consumer. A minor consumer's parents shall not be paid to provide HCBS services to that consumer.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

(continued)

**30-5-308. Non-supplementation of HCBS services.**

(a) An organization, agency, or family shall not be allowed to pay for additional services of the same type as those described on the plan of care.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Jan. 1, 1997.)

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

**30-6-53. Financial eligibility.** The following provisions shall apply to all determined eligible groups, except that subsections (c) and (d) of this regulation shall not apply to any pregnant woman or child who meets the provisions of K.A.R. 30-6-77, to any medicare beneficiary who meets the provisions of K.A.R. 30-6-86, or to any working disabled individual who meets the provisions of K.A.R. 30-6-87. (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 shall be 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 period shall be treated as a new application without regard to any previous eligibility base period. 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 period. 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 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 the 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 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 an additional spenddown shall not alter the base period. The individual shall meet the additional spenddown during the eligibility base period before the individual becomes eligible or regains eligibility for medical assistance. Any payment made through the program within the current eligibility base period shall not be considered an overpayment 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) Total applicable income 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 the 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 patient liability.

(2) Each applicant or recipient shall incur allowable medical expenses in an amount at least equal to the patient liability before becoming eligible for assistance. 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.

(3) 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. Any payments made through the program within the current eligibility base period shall not be considered an overpayment 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 applied to 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) any medicare premiums which are not covered by the agency through the buy-in process. Premiums which are subject to buy-in shall not be allowable before completion of the buy-in process, even if the individual pays the premiums or the premiums are withheld;

(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. Expenses for routine supplies as defined in K.A.R. 30-10-15a(b), and for institutional care where the individual does not meet nursing facility criteria through the level of care evaluation or reevaluation process as defined in K.A.R. 30-10-7, shall not be allowable under this paragraph; and

(5) the cost of necessary transportation by appropriate mode to obtain medical services set forth in paragraph (4) above.

(f) This regulation shall take effect on and after January 1, 1997. (Authorized by K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Chapter 229, Section 104; implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, and 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended July 1, 1989; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended, T-30-8-9-91, Aug. 30, 1991; amended Oct. 28, 1991; amended Jan. 4, 1993; amended July 19, 1996; amended Jan. 1, 1997.)

**30-6-53w. Financial eligibility.** The following provisions shall apply to all determined eligible groups, except that subsections (c) and (d) of this regulation shall not apply to any pregnant woman or child who meets the provisions of K.A.R. 30-6-77w, to any medicare beneficiary who meets the provisions of K.A.R. 30-6-86w, or to any working disabled individual who meets 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 shall be 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 period shall be treated as a new application without regard to any previous eligibility base period. 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 period. 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 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 the 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 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 an additional spenddown shall not alter the base period. The individual shall meet the additional spenddown during the eligibility base period before the individual becomes eligible or regains eligibility for medical assistance. Any payment made through the program within the current eligibility base period shall not be considered an overpayment 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) Total applicable income 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 the 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 patient liability.

(2) Each applicant or recipient shall incur allowable medical expenses in an amount at least equal to the patient liability before becoming eligible for assistance. 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.

(continued)



(3) 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. Any payments made through the program within the current eligibility base period shall not be considered an overpayment 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 applied to 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) any medicare premiums which are not covered by the agency through the buy-in process. Premiums which are subject to buy-in shall not be allowable before completion of the buy-in process, even if the individual pays the premiums or the premiums are withheld;

(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. Expenses for routine supplies as defined in K.A.R. 30-10-15a(b), and for institutional care where the individual does not meet nursing facility criteria through the level of care evaluation or reevaluation process as defined in K.A.R. 30-10-7, shall not be allowable under this paragraph; and

(5) the cost of necessary transportation by appropriate mode to obtain medical services set forth in paragraph (4) above.

(f) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Chapter 229, Section 104; effective Dec. 30, 1994; amended July 19, 1996; amended Jan. 1, 1997.)

**30-6-103. Determined eligibles; protected income levels.** (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for any person in an independent living arrangement or 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
\$475.00	\$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) Home and community-based services arrangements. For persons in the home and community-based services program, the protected income level shall be 100 percent of the official federal poverty income guidelines as of January 1 of each year.

(d) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; 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; amended Dec. 29, 1995; amended Jan. 1, 1997.)

**30-6-103w. Determined eligibles; protected income levels.** (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for any person in an independent living arrangement or 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
\$475.00	\$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) Home and community-based services arrangements. For persons in the home and community-based services program, the protected income level shall be 100 percent of the official federal poverty income guidelines as of January 1 of each year.

(d) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective Dec. 30, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

**30-6-109. Personal property.** (a) Definitions.

(1) "Personal property" means all property, excluding real property.

(2) "Cash assets" means the following:

(A) money;

(B) investments;

(C) cash surrender or loan values of life insurance policies;

(D) trust funds; and

(E) similar items on which a determinate amount of money can be realized.

(3) "Other personal property" means the following:

(A) personal effects;

(B) household equipment and furnishings;

(C) home produce;

(D) livestock;

(E) equipment;

(F) vehicles;

(G) inventory;

(H) contracts from the sale of property; and

(I) 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 assistance or the amount of assistance, the following rules shall apply. The term "trust" shall include 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. 30-6-56(a)(3).

(1) In the case of a revocable trust, the value of the trust shall be considered a resource available to the individual. Payments from the trust to or for the benefit of the individual shall be considered income. Any other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 30-6-56.

(2) Irrevocable trusts.

(continued)

(A) If there are any circumstances under which payment from the trust could be made to the individual or for the benefit of the individual, the portion of the trust from which payment could be made shall be considered as a resource available to the individual. Payments made from the trust to the individual or for the benefit of the individual shall be considered income. Any other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 30-6-56.

(B) Any portion of the trust from which no payment could be made to the individual under any circumstances 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. 30-6-56.

(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 the trust, other than by will:

(A) the individual or the individual's spouse;

(B) any 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.

(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)(A) These provisions shall not apply to a trust containing the assets of an individual under age 65 who meets the blindness or disability criteria of K.A.R. 30-6-85 and which is established for the benefit of the 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 the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

(B) These provisions shall not apply to a trust containing the assets of an individual who meets the blindness or disability criteria of K.A.R. 30-6-85 if the trust meets the following criteria:

(i) the trust is established by a non-profit association;

(ii) a separate account is maintained for each beneficiary of the trust;

(iii) accounts in the trust are established solely for the benefit of individuals who meet the blindness or disability criteria of K.A.R. 30-6-85; and

(iv) each account in the trust is established by that individual, the parent, grandparent, or legal guardian of the individual, or by a court. The state shall receive all amounts remaining in the individual's account upon the death of the 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 a waiver is necessary to avoid undue hardship on the individual. A finding of undue hardship may be granted if the individual verifies that:

(A) the individual has exhausted all legal remedies for gaining access to the principal or income of the trust;

(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 the individual was 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 a house or a garden;

(4) the stock and inventory of any self-employed person that are reasonable and necessary in the production of goods and services;

(5) items for home consumption which shall consist of the following:

(A) produce from a small garden consumed from day to day and any excess which may be canned or stored; and

(B) a small flock of fowl or livestock which are used to meet the food requirements of the family;

(6) cash assets which are traceable to income exempted as income and as a cash asset;

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

(8) 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;

(9) for non-SSI, income-producing property, other than cash assets, if essential for employment or self-employment. Income-producing property may include the following items:

(A) tools;

(B) equipment;

(C) machinery; or

(D) livestock;

(10) for non-SSI, one vehicle for each assistance family with a value in an amount not to exceed \$1,500.00;

(11) for non-SSI, burial plots and funeral agreements as established by the secretary of health and human services and as approved by the secretary of social and rehabilitation services;

(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 such 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. The face value shall not include and shall not be increased by accumulated dividends, but shall be decreased by any 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, one vehicle for each assistance family. Additional vehicles shall be exempt if shown to be essential for employment, for self-support, for medical treatment of a specific medical problem, or if specially equipped for use by a handicapped person;

(15) for SSI, any personal property of a blind or disabled person which is covered by an approved plan of self-support;

(16) 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;

(17) 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;

(18) for SSI, burial plots as established by the secretary of health and human services for the SSI program;

(19) for SSI, any burial contract as established by the secretary of health and human services for the SSI program and as approved by the secretary of social and rehabilitation services;

(20) 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;

(21) 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

(22) 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) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, and K.S.A. 39-709, effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended, T-85-34, Dec. 19, 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 May 1, 1988; amended, T-89-13, April 26, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended, T-30-5-1-90, May 1, 1990; amended, T-30-7-2-90, Aug. 30, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended Oct. 1, 1992; amended, T-30-11-16-93, Dec. 1, 1993; amended Jan. 3, 1994; amended July 1, 1994; amended Jan. 1, 1997.)

**30-6-109w. Personal property.** (a) Definitions.

(1) "Personal property" means all property, excluding real property.

(2) "Cash assets" means the following:

(A) money;

(B) investments;

(C) cash surrender or loan values of life insurance policies;

(D) trust funds; and

(E) similar items on which a determinate amount of money can be realized.

(3) "Other personal property" means the following:

(A) personal effects;

(B) household equipment and furnishings;

(C) home produce;

(D) livestock;

(E) equipment;

(F) vehicles;

(G) inventory;

(H) contracts from the sale of property; and

(I) 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 assistance or the amount of assistance, the following rules shall apply. The term "trust" shall include 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 as a resource 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) Irrevocable trusts.

(A) If there are any circumstances under which payment from the trust could be made to the individual or for the benefit of the individual, the portion of the trust from which payment could be made shall be considered as a resource available to the individual. Payments made from the trust to the individual 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.

(B) Any portion of the trust from which no payment could be made to the individual under any circumstances 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 the trust, other than by will:

(A) the individual or the individual's spouse;

(B) any 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.

(4) If the corpus of the trust includes assets of any other person or persons, the provisions of this subsection shall

(continued)

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)(A) These provisions shall not apply to 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 the 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 the individual up to an amount equal to the total medical assistance paid on behalf of the individual;

(B) These provisions shall not apply to a trust containing the assets of an individual who meets the blindness or disability criteria of K.A.R. 30-6-85w if the trust meets the following criteria:

(i) the trust is established by a non-profit association;

(ii) a separate account is maintained for each beneficiary of the trust;

(iii) 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; and

(iv) each account in the trust is established by that individual, the parent, grandparent, or legal guardian of the individual, or by a court. The state shall receive all amounts remaining in the individual's account upon the death of the 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 a waiver is necessary to avoid undue hardship on the individual. A finding of undue hardship may be granted if the individual verifies that:

(A) the individual has exhausted all legal remedies for gaining access to the principal or income of the trust;

(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 the individual was 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 a house or a garden;

(4) the stock and inventory of any self-employed person that are reasonable and necessary in the production of goods and services;

(5) items for home consumption which shall consist of the following:

(A) produce from a small garden consumed from day to day and any excess which may be canned or stored; and

(B) 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, if used as the family home, or if 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 the following items:

(A) tools;

(B) equipment;

(C) machinery; and

(D) 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 a recipient family member. The face value shall not include and shall not be increased by accumulated dividends, but shall be decreased by any 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) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Chapter 229, Section 104; effective Dec. 30, 1994; amended Jan. 1, 1997.)

#### Article 7.—APPEALS, FAIR HEARINGS AND AFDC/GA DISQUALIFICATION HEARINGS

**30-7-65. Notice to recipients of intended action.** (a)

(1) "Adequate notice" means a written notice that includes a statement of what action the agency intends to take, the reasons for the intended agency action, the specific policies supporting the action, explanation of the individual's right to request a fair hearing, and the circumstances under which assistance is continued if a hearing is requested.

(2) "Timely" means that the notice is mailed at least 10 days, including Saturdays, Sundays and legal holidays, before the date upon which the action would become effective.

(b) When the agency intends to take action to discontinue, terminate, suspend, or reduce assistance, timely and adequate notice shall be given by the agency, except as set forth in subsection (c) of this regulation.

(c) Under the following circumstances, timely notice shall not be required, but an adequate notice shall be sent by the agency not later than the date of action:

(1) when the agency has factual information confirming the death of a recipient or of the ADC payee and there is no relative available to serve as a new payee;

(2) when the agency receives a clear written statement signed by a recipient that the recipient no longer wishes assistance or that gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, an understanding that termination or reduction of assistance will be the consequence of supplying the information;

(3) when the recipient has been admitted or committed to an institution, and further payments to that individual are not authorized by program regulations as long as the person resides in the institution;

(4) when the recipient has been placed in skilled nursing care, intermediate care or long-term hospitalization;

(5) when the recipient's whereabouts are unknown and agency mail directed to the recipient has been returned by the post office indicating no known forwarding address. The check shall, however, be made available to the recipient if the recipient's whereabouts become known during the payment period covered by a returned check;

(6) when the agency has established that a recipient has been accepted for assistance in a new jurisdiction;

(7) when a child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by the child's legal guardian;

(8) when a change in the level of medical care is prescribed by the recipient-patient's physician;

(9) when a special allowance granted for a specific period is terminated and the recipient was informed in writing at the time the allowance was granted that it would automatically terminate at the end of the specified period;

(10) when the agency takes action because of information the recipient furnished in a monthly status report or because the recipient has failed to submit a complete or a timely monthly status report without good cause; or

(11) when the recipient is disqualified due to fraud through:

(A) a court of appropriate jurisdiction;

(B) a disqualification hearing process in accordance with K.A.R. 30-7-102; or

(C) waiver of an administrative disqualification hearing in accordance with K.A.R. 30-7-103.

(d) This regulation shall take effect on and after January 1, 1997. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective July 1, 1989; amended July 1, 1991; amended Jan. 1, 1997.)

#### Article 10.—ADULT CARE HOME PROGRAM

**30-10-1a. Nursing facility program definitions.** (a) The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Accrual basis of accounting" means that revenue of the provider is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Active treatment for individuals with mental retardation or a related condition" means a continuous program for each client, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services that is directed toward:

(A) the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(B) the prevention or deceleration of regression or loss of current optimal functional status.

(3) "Agency" means the department of social and rehabilitation services.

(4) "Ancillary services and other medically necessary services" means those special services or supplies, in addition to routine services, for which charges are made.

(5) "Case mix" means a measure of the intensity of care and services used by a group of residents in a facility.

(6) "Case mix index" means a numeric score with a specific range that identifies the relative resources used by a particular group of residents and represents the average resource consumption across a population or sample.

(7) "Change of ownership" means a transfer of rights and interests in real and personal property used for nursing facility services through an arms-length transaction between unrelated persons or legal entities.

(8) "Change of provider" means a change of ownership or lessee specified in the provider agreement.

(9) "Common ownership" means that an entity holds a minimum of five percent ownership or equity in the

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provider facility and in the company engaged in business with the provider facility.

(10) "Control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(11) "Cost and other accounting information" means adequate financial data about the nursing facility operation, including source documentation, that is accurate, current, and in sufficient detail to accomplish the purposes for which it is intended. Source documentation, including petty cash pay out memoranda and original invoices, shall be valid only if the documentation originated at the time and near the place of the transaction. In order to provide the required cost data, the provider shall maintain financial and statistical records in a manner that is consistent from one period to another. This requirement shall not preclude a beneficial change in accounting procedures when there is a compelling reason to effect a change of procedures.

(12) "Cost finding" means recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(13) "Costs not related to resident care" means costs which are not appropriate, necessary, or proper in developing and maintaining the nursing facility operation and activities. These costs shall not be allowed in computing reimbursable costs.

(14) "Costs related to resident care" means all necessary and proper costs, arising from arms-length transactions in accordance with general accounting rules, which are appropriate and helpful in developing and maintaining the operation of resident care facilities and activities. Specific items of expense shall be limited pursuant to K.A.R. 30-10-23a, K.A.R. 30-10-23b, K.A.R. 30-10-23c, K.A.R. 30-10-24, K.A.R. 30-10-25, K.A.R. 30-10-26, K.A.R. 30-10-27, and K.A.R. 30-10-28.

(15) "Cost report" means the nursing facility financial and statistical report.

(16) "Educational activities" means an approved, formally organized, or planned program of study usually engaged in by providers in order to enhance the quality of resident care in an institution. These activities shall be licensed when required by state law.

(17) "Educational activities—net cost" means the cost of approved educational activities less any grants, specific donations or reimbursements of tuition.

(18) "Hospital-based nursing facility" means a nursing facility, as defined in K.A.R. 30-10-1a, that is attached to or associated with a hospital.

(19) "Inadequate care" means any act or failure to act which may be physically or emotionally harmful to a recipient.

(20) "Level of care" means the type and intensity of services prescribed in the resident's plan of care as based on the assessment and reassessment process.

(21) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that is typically associated with either a distressing symptom or impairment of function. Relevant diagnoses shall be limited to schizophrenia, major affective disorders, atypical psy-

chosis, bipolar disorder, paranoid disorders, or schizoaffective disorder.

(22) "Mental retardation" means subaverage general intellectual functioning which originates in the developmental period and which is associated with an impairment in adaptive behavior.

(23) "Non-working owners" means any individual or organization having five percent or more interest in the provider who does not perform a resident-related function for the nursing facility.

(24) "Non-working related party or director" means any related party, as defined in K.A.R. 30-10-1a, who does not perform a resident-related function for the nursing facility.

(25) "Nursing facility (NF)" means a facility which:

(A) meets state licensure standards;

(B) provides health-related care and services, prescribed by a physician; and

(C) provides 24-hours-per-day, seven-days-per-week, licensed nursing supervision to residents for ongoing observation, treatment, or care for long-term illness, disease, or injury.

(26) "Nursing facility for mental health" means a nursing facility which:

(A) meets state licensure standards;

(B) provides structured mental health rehabilitation services, in addition to health-related care, for individuals with a severe and persistent mental illness; and

(C) provides 24-hours-per-day, seven-days-per-week, licensed nursing supervision. The nursing facility shall have been operating in accordance with a provider agreement with the agency on June 30, 1994.

(27) "On-going entity" means a change in the provider has not been recognized.

(28) "Organization costs" means those costs directly incidental to the creation of the corporation or other form of legal business entity. These costs shall be considered to be intangible assets representing expenditures for rights and privileges which have value to the business.

(29) "Owner and related party compensation" means salaries, drawings, consulting fees, or other payments paid to or on behalf of any owner with a five percent or greater interest in the provider or any related party as defined in K.A.R. 30-10-1a, whether the payment is from a sole proprietorship, partnership, corporation, or non-profit organization.

(30) "Owner" means the person or legal entity that has the rights and interests of the real and personal property used to provide the nursing facility services.

(31) "Plan of care for nursing facilities" means a document completed by the nursing facility staff, which states the need for care, the estimated length of the program, the methodology to be used, and the expected results for each resident.

(32) "Projected cost report" means a cost report submitted to the agency by a provider prospectively for a 12-month period of time. The projected cost report shall be based on an estimate of the costs, revenues, resident days, and other financial data for that 12-month period of time.

(33) "Provider" means the operator of the nursing facility specified in the provider agreement.

(34) "Recipient" means a person determined to be eligible for medicaid/medikan services in a nursing facility.

(35) "Related parties" refers to any relationship between two or more parties in which one party has the ability to influence another party to the transaction in the following manner:

(A) When one or more of the transacting parties might fail to pursue the parties' own separate interests fully;

(B) when the transaction is designed to inflate medicaid/medikan costs; or

(C) when any party considered a related party to a previous owner or operator, becomes the employee, or otherwise functions in any capacity on behalf of a subsequent owner or operator. Related parties shall include parties related by family, business or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arms-length negotiations.

(36) "Related to the nursing facility" means that the facility is significantly associated or affiliated with, has control of, or is controlled by the organization furnishing the services, facilities, or supplies.

(37) "Representative" means either of the following:

(A) a legal guardian, conservator, or representative payee as designated by the social security administration; or

(B) any person designated in writing by the resident to manage the resident's personal funds, and who is willing to accept the designation.

(38) "Resident assessment form" means the document which:

(A) is jointly specified by the Kansas department of health and environment and the agency;

(B) is approved by the health care finance administration; and

(C) includes the minimum data set.

(39) "Resident assessment instrument" means the resident assessment, resident assessment protocols, and the plan of care, including reassessments.

(40) "Resident day" means that period of service rendered to a patient or resident between census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any medicaid/medikan or non-medicad/medikan resident who was not in the home. Census-taking hours shall consist of 24 hours beginning at midnight.

(41) "Resident status review" means a reassessment to identify any nursing facility resident who may no longer meet the level of care criteria and who could be placed in a less intensive level of care setting.

(42) "Routine services and supplies" means services and supplies that are commonly stocked for use by or provided to any resident. The services and supplies shall be included in the provider's cost report.

(43) "Sale-leaseback" is a transaction where an owner sells a facility to a related or non-related purchaser and then leases the facility from the new owner to operate as the provider.

(44) "Severe and persistent mental illness" means that an individual:

(A) meets one of the following criteria:

(i) the individual has undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime;

(ii) the individual has experienced a single episode of continuous, structured supportive residential care other than hospitalization for a duration of at least two months; and

(B) meets at least two of the following criteria, on a continuing or intermittent basis, for at least two years:

(i) the individual is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history;

(ii) the individual requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help;

(iii) the individual shows severe inability to establish or maintain a personal social support system;

(iv) the individual requires help in basic living skills; or

(v) the individual exhibits inappropriate social behavior which results in a need for intervention by the mental health or judicial system.

(45) "Specialized mental health rehabilitation services" means one of the specialized rehabilitative services which provide ongoing treatment for mental health problems and which are aimed at attaining or maintaining the highest level of mental and psychosocial well-being. The specialized rehabilitative services include the following:

(A) crisis intervention services;

(B) drug therapy or monitoring of drug therapy;

(C) training in medication management;

(D) structured socialization activities to diminish tendencies toward isolation and withdrawal;

(E) development and maintenance of necessary daily living skills, including grooming, personal hygiene, nutrition, health and mental health education, and money management; and

(F) maintenance and development of appropriate personal support networks.

(46) "Specialized services" means inpatient psychiatric care for the treatment of an acute episode of mental illness.

(47) "Swing bed" means a hospital bed that can be used interchangeably as either a hospital bed or nursing facility bed.

(48) "Twenty-four hour nursing care" means the provision of 24-hour licensed nursing services with the services of a registered nurse for at least eight consecutive hours a day, seven days a week.

(49) "Working trial balance" means the summary from the provider's general ledger that was used in completing the cost report.

(b) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended April 1, 1992; amended Nov. 2, 1992; amended

(continued)

Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

**30-10-2. Standards for participation; nursing facilities and nursing facilities for mental health.** (a) As a prerequisite for participation in the medicaid/medikan program as a provider of nursing facility services, each nursing facility shall:

- (1) provide nursing services;
- (2) meet the requirements of Title IV, subtitle C, part 2, pp. 190-230, of the federal omnibus budget reconciliation act of 1987, effective October 1, 1990, which is adopted by reference;
- (3) be certified for participation in the program for all licensed beds by the Kansas department of health and environment or the federal department of health and human services;
- (4) have been operating under a provider agreement with the agency on June 30, 1994 if the certification is for a nursing facility for mental health;
- (5) submit an application for participation in the program on forms prescribed by the secretary;
- (6) update provided information as required by the application forms;
- (7) within 30 days of any request, furnish full and complete ownership information concerning any subcontractor with whom the provider has had business transactions in an aggregate amount exceeding \$25,000.00 during the previous 12 months;
- (8) furnish and allow inspection of any information that the agency, its designee, or the department of health and human services may request in order to assure proper payment by the medicaid/medikan program;
- (9) inform all new residents of the availability of potential eligibility assessment under the federal spousal impoverishment law. This assessment shall be completed by the agency or a local agency office;
- (10) ensure that prior to a non-emergency admission of each resident, state-mandated preadmission and referral services have been completed by the Kansas department on aging;
- (11) submit to the agency a copy of the resident assessment form for each resident in accordance with subsection (b); and
- (12) provide non-emergency transportation.

(b)(1) Each nursing facility shall ensure that each initial resident assessment is conducted during the first seven days of admission, completed by the eighth day of admission, and submitted to the agency within 14 days of admission.

(2) Each nursing facility shall ensure that a full quarterly reassessment is completed at least every 90 days after the previous or an initial resident assessment has been completed. The nursing facility shall submit the quarterly assessment to the agency within seven days of completion. The annual reassessment shall substitute for a quarterly assessment. The annual and quarterly assessments shall be used to monitor the appropriate level of care.

(3) Each nursing facility shall ensure that a significant change reassessment is completed within 14 days after the determination that such a change has occurred and shall submit the reassessment to the agency within seven days of completion.

(4) Any nursing facility may use a significant change reassessment to meet the requirement for the quarterly reassessment.

(5) Each nursing facility shall submit resident assessment forms on computer disc or through electronic transmission. A resident assessment form shall be considered timely submitted upon the receipt of a computer disc or electronic transmission.

(6) Any nursing facility may obtain an extension of no more than one month for good cause, if approved by the agency. The request for an extension shall be in writing and shall be received by the agency before the submission date. Requests for an extension received after the due date shall not be approved.

(7) Penalty for non-submission of accurate and timely assessment and correction forms.

(A) If 10 percent or more of a nursing facility's assessments are not completed and submitted as required, all further payments to the provider shall be suspended until the forms have been completed and submitted electronically or on a computer disc. Thirty days before suspending payment to a provider, written notice which states the agency's intent to suspend payments shall be sent by the agency to the provider. The notice shall explain the basis for the agency's determination and shall explain the necessary corrective action that must be taken before payments are reinstated.

(B) Incorrectly completed assessments shall be returned to the nursing facility for correction through an edit check letter. The nursing facility shall return this letter and the correctly completed assessment to the agency within 14 days from date of notification.

(8) Any assessment that cannot be classified shall be assigned to the lowest classification group.

(9) Each nursing facility shall notify the agency on the prescribed form within 30 days of a resident's discharge or death.

(c) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective, E-74-43, Aug. 16, 1974; effective, E-74-63, Dec. 4, 1974; effective May 1, 1975; amended, E-76-34, July 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

**30-10-7. Screening, evaluation, reevaluation, and referral for nursing facilities.** (a) In accordance with K.S.A. 39-968, 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 seeking 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.

(b) 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.

(c) Continued eligibility for services shall be based on each resident's level of care needs as determined through quarterly reassessments. When the reassessment indicates the resident's level of care needs no longer meet level of care criteria, the resident shall be considered to be in "resident status review." Payment for services shall continue until the authorized case manager indicates that more appropriate and less intensive services are available which meet the resident's health, safety and social needs.

(d) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, and K.S.A. 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; amended March 1, 1995; amended Jan. 1, 1997.)

**30-10-15a. Reimbursement.** Payment for services.

(a) Providers with a current signed provider agreement shall be paid a per diem rate for services furnished to medicaid/medikan eligible residents. Payment shall be for the type of medical or health care required by the resident, as determined by the attending physician's or physician extender's certification upon admission, and the individual's level of care needs, as determined through assessment and reassessment. However, payment for services shall not exceed the type of care the provider is certified to provide under the medicaid/medikan program. The type of care required by the resident may be verified by the agency before and after payment.

(b) Payment for routine services and supplies, pursuant to K.A.R. 30-10-1a, shall be included in the per diem reimbursement and such services and supplies shall not be otherwise billed or reimbursed.

(1) The following durable medical equipment, medical supplies, and other items and services shall be considered routine for each resident to attain and maintain the highest practicable physical and psychosocial well-being, in accordance with the comprehensive assessment and plan of care, and shall not be billed or reimbursed separately from the per diem rate:

- (A) Alternating pressure pads and pumps;
- (B) armboards;
- (C) bedpans, urinals, and basins;
- (D) bed rails, beds, mattresses, and mattress covers;
- (E) canes;
- (F) commodes;

- (G) crutches;
- (H) denture cups;
- (I) dialysis, including supplies and maintenance;
- (J) dressing items, including applicators, tongue blades, tape, gauze, bandages, band-aids, pads, compresses, ace bandages, vaseline gauze, cotton balls, slings, triangle bandages, pressure pads and tracheostomy care kits;
- (K) emesis basins and bath basins;
- (L) enemas and enema equipment;
- (M) facial tissues and toilet paper;
- (N) footboards;
- (O) footcradles;
- (P) gel pads or cushions;
- (Q) geri-chairs;
- (R) gloves, rubber or plastic;
- (S) heating pads;
- (T) heat lamps and examination lights;
- (U) humidifiers;
- (V) ice bags and hot water bottles;
- (W) intermittent positive pressure breathing (IPPB) machines;
- (X) I.V. stands and clamps;
- (Y) laundry, including personal laundry;
- (Z) lifts;
- (AA) nebulizers;
- (BB) occupational therapy;
- (CC) oxygen masks, stands, tubing, regulators, hoses, catheters, cannulae, and humidifiers;
- (DD) parenteral and enteral infusion pumps;
- (EE) patient gowns, pajamas, and bed linens;
- (FF) physical therapy;
- (GG) restraints;
- (HH) sheepskins and foam pads;
- (II) speech therapy;
- (JJ) sphygmomanometers, stethoscopes, and other examination equipment;
- (KK) stretchers;
- (LL) suction pumps and tubing;
- (MM) syringes and needles, except insulin syringes and needles for diabetics that are covered by the pharmacy program;
- (NN) thermometers;
- (OO) traction apparatus and equipment;
- (PP) underpads and adult diapers, disposable and non-disposable;
- (QQ) walkers;
- (RR) water pitchers, glasses and straws;
- (SS) weighing scales;
- (TT) wheelchairs;
- (UU) irrigation solution, both water and normal saline;
- (VV) lotions, creams and powders, including baby lotion, oil, and powders;
- (WW) first-aid ointments and similar ointments;
- (XX) skin antiseptics, including alcohol;
- (YY) over-the-counter vitamins;
- (ZZ) mouthwash;
- (AAA) over-the-counter analgesics and antacids taken for the occasional relief of pain or discomfort as needed;
- (BBB) laxatives;
- (CCC) stool softeners;

(continued)



(DDD) nutritional supplements;  
 (EEE) blood glucose monitors and supplies;  
 (FFF) extra nursing care and supplies;  
 (GGG) compressors;  
 (HHH) orthoses and splints to prevent or correct contractures;

(III) maintenance care for residents who have head injuries;

(JJJ) non-emergency transportation; and

(KKK) respiratory therapy.

(2) Urinary supplies. Urinary catheters and accessories shall be covered services in the medicaid/medikan program when billed through the durable medical equipment or medical supply provider. This expense shall not be reimbursed in the per diem rate of the cost report.

(3) Total nutritional replacement therapy. Total nutritional replacement therapy shall be a covered service in the medicaid/medikan program and billed through the durable equipment or medical supply provider. Total nutritional replacement therapy expenses shall not be reimbursed in the per diem rate for the cost report.

(4) Each nursing facility shall provide at no cost to residents over-the-counter drugs, supplies, and personal comfort items which:

(A) are available without a prescription at a commercial pharmacy or medical supply outlet; and

(B) the facility provides as a reasonable accommodation for individual needs and preferences. Such over-the-counter products shall be included in the nursing facility cost report. A nursing facility shall not be required to stock all products carried by vendors in the nursing facility's community that are viewed as over-the-counter products.

(5) When the nursing facility participates in both medicaid and medicare, and medicaid is the only payor for occupational, physical, respiratory, or speech therapy, the cost of those therapies shall be determined as follows:

(i) compute the ratio of medicaid therapy units to the total therapy units provided to the nursing facility residents during the cost report period;

(ii) multiply the ratio of medicaid therapy units by the total reported therapy costs to determine the allowable medicaid portion of the therapy costs; and

(iii) multiply the medicaid portion of the therapy costs by the ratio of total days to medicaid resident days to determine the allowable therapy expenses for the cost reported period.

(c) Each provider of ancillary services, as defined in K.A.R. 30-10-1a, shall bill separately for each service when the services or supplies are required. Payment for oxygen shall be reimbursed to the oxygen supplier through the agency's fiscal agent, or the fiscal agent may reimburse the nursing facility directly if an oxygen supplier is unavailable.

(d) Payment for specialized rehabilitative services or active treatment programs shall be included in the per diem reimbursement.

(e) Payment shall be limited to providers who accept, as payment in full, the amount paid in accordance with the fee structure established by the medicaid/medikan program.

(f) Payment shall not be made for allowable, non-routine services and items unless the provider has obtained prior authorization.

(g) Private rooms for recipients shall be covered when medically necessary or at the discretion of the facility, and the costs shall be reflected in the facility's cost report. If a private room is not medically necessary or is not occupied at the discretion of the facility, then a family member, guardian, conservator, or other third party may pay the difference between the usual and customary charge and the medicaid payment rate.

(h) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1985; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

### 30-10-17. Cost reports. (a) Historical cost data.

(1) For cost reporting purposes, each provider shall submit the nursing facility financial and statistical report in accordance with the December, 1996 version of the "instructions for completing the nursing facility financial and statistical report (MS-2004)," which is hereby adopted by reference.

(2) Each provider who has operated a facility for 12 or more months as of December 31st shall file the nursing facility financial and statistical report on a calendar year basis.

(3) Each provider who has operated a facility on cost data from the previous provider or a projected cost report shall file an historical cost report.

(A) The historical cost report period shall begin:

(i) on the first day of the month in which the nursing facility was certified if that date is on or before the 15th of the month; or

(ii) on the first day of the month following the date the nursing facility was certified if that date is on or after the 16th of the month.

(B) The historical cost report shall end on the last day of the 12-month period following the date specified in paragraph (A), except:

(i) The cost report shall end on December 31st when that date is not more than one month before or after the end of the 12-month period;

(ii) the cost report shall end on the provider's normal fiscal year end used for the internal revenue service when that date is not more than one month before or after the end of the 12-month period and the criteria in K.A.R. 30-10-18 for filing the cost report ending on December 31st does not apply; or

(iii) the cost report shall end on the last date of service if a provider change occurs before 11 months of operation and the interim rate was based on a projected cost report.

(C) The historical cost report period shall cover a consecutive period of time not less than 11 months and not more than 13 months.

(D) The provider shall file a subsequent overlapping 12-month historical cost report for the calendar year ending December 31st, if the first cost report does not end on that date.

(b) Projected cost data.

(1) Projected cost reports for providers.

(A) If a provider is required to submit a projected cost report under subsection (c), (d), or (g) of K.A.R. 30-10-18, the provider's rate shall be based on a proposed budget with costs projected on a line item basis.

(B) The projected cost report for each provider who is required to file a projected cost report shall begin:

(i) on the first day of the month in which the nursing facility was certified by the department of health and environment if that date is on or before the 15th of the month; or

(ii) on the first day of the following month if the facility is certified by the department of health and environment between the 16th and 31st of the month.

(C) The projected cost report shall end on the last day of the 12-month period following the date specified in paragraph (B), except:

(i) The projected cost report shall end on December 31st when that date is not more than one month before or after the end of the 12-month period; or

(ii) the projected cost report shall end on the provider's normal fiscal year-end used for the internal revenue service when that date is not more than one month before or after the end of the 12-month period and the criteria in K.A.R. 30-10-18 for filing the projected cost report ending on December 31st do not apply.

(D) The projected cost report period shall cover a consecutive period of time not less than 11 months and not more than 13 months.

(E) The projected cost report shall be reviewed for reasonableness and appropriateness by the agency. The projected cost report items that are determined to be unreasonable shall be disallowed before the projected rate is established.

(2) Projected cost reports for each provider with more than one facility.

(A) Each provider required to file a projected cost report in accordance with this subsection and who operates more than one facility, either in-state or out-of-state, shall allocate central office costs to each facility that is paid rates from the projected cost data. The provider shall allocate the central office cost at the end of the provider's fiscal year or the calendar year that ends during the projection period.

(B) The method of allocating central office costs to those facilities filing projected cost reports shall be consistent with the method used to allocate such costs to those facilities in the chain that are filing historical cost reports.

(c) Amended cost reports.

(1) Each provider shall submit an amended cost report revising cost report information previously submitted when an error or omission is identified which is material in amount and results in a change in the provider's rate of \$.10 or more per resident day.

(2) An amended cost report shall not be allowed after 13 months have passed since the last day of the year covered by the report.

(d) Due dates of cost reports.

(1) Each calendar year cost report shall be received not later than the close of business on the last working day of February following the year covered by the report.

(2) Each historical cost report covering the projection status period shall be received by the agency not later than the close of business on the last working day of the second month following the close of the period covered by the report.

(3) Each cost report approved for a filing extension in accordance with K.A.R. 30-10-17(e) shall be received not later than the close of business on the last working day of the month approved for the extension request.

(e) Extension of time for submitting a cost report.

(1) A one-month extension of the due date for the filing of a cost report may be granted by the agency when the cause for delay is beyond the control of the provider. Delays beyond the control of the provider that may be considered by the agency in granting an extension shall include the following:

(A) disasters that significantly impair the routine operations of the facility or business;

(B) destruction of records as a result of a fire, flood, tornado, or another accident that is not reasonably foreseeable; and

(C) computer viruses that impair the accurate completion of cost report information.

(2) The provider shall make the request in writing. The request shall be received by the agency before the due date of the cost report. Requests received after the due date shall not be accepted.

(3) A written request for a second one-month extension may be granted by the medicaid/medikan director when the cause for further delay is beyond the control of the provider. The request shall be received by the agency before the due date of the cost report or it shall not be approved.

(f) Penalty for late filing. Each provider filing a cost report after the due date shall be subject to the following penalties.

(1) If the cost report has not been received by the agency by the close of business on the due date, all further payments to the provider shall be withheld and suspended until the complete nursing facility financial and statistical report has been received.

(2) Failure to submit cost information within one year after the end of the cost report period shall be cause for termination from the medicaid/medikan program.

(g) Balance sheet requirement. Each provider shall file a balance sheet prepared in accordance with cost report instructions as part of the cost report forms for each provider.

(h) Working trial balance requirement. Each provider shall submit a working trial balance with the cost report. The working trial balance shall contain account numbers, descriptions of the accounts, the amount of each account, and the cost report expense line on which the account was reported. The working trial balance shall reconcile to the cost report schedules.

(i) An allocation of expenditures between the hospital and the long-term care unit facility shall be submitted through a step-down process prescribed in the cost report instructions.

(j) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995

(continued)

Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

**30-10-19. Rates; effective dates.** (a) Effective date of per diem rates for on-going providers filing calendar year cost reports. The effective date of a new rate that is based on information and data in the nursing facility cost report for the calendar year shall be the following July 1st.

(b) Effective date of the per diem rate for a new provider operating on the rate from cost data of the previous provider.

(1) The effective date of the per diem rate for a new provider shall be the date of certification by the department of health and environment.

(2) The effective date of the per diem rate based on the first historical cost report filed in accordance with K.A.R. 30-10-17 shall be the first day of the month following the end of the cost reporting period. Any rates paid after the effective date of the rate based on the first historical cost report shall be adjusted to the new rate from the historical cost report.

(c) Effective date of the per diem rate from a projected cost report.

(1) The effective date of the per diem rate based on a projected cost report for a new provider, as set forth in subsections (c), (d), and (g) of K.A.R. 30-10-18, shall be the date of certification by the department of health and environment.

(2) The interim rate determined from the projected cost report filed by the provider shall be established by the agency and given to the fiscal agent on or by the first day of the third month after the receipt of a complete and workable cost report.

(3) The effective date of the final rate, determined after an audit of the historical cost report filed for the projected cost report period, shall be the date of certification by the department of health and environment.

(4) The second effective date for a provider filing an historic cost report covering a projected cost report period shall be the first day of the month following the last day of the period covered by the report, which is the date that the inflation factor is applied in determining prospective rates.

(d) Each provider shall receive a new rate for each quarter when:

(1) there is a change in the average case mix index for the facility from previously submitted assessments; and

(2) the allowed per diem cost in the health cost center changes due to a change in the health care cost center limit as adjusted by the case mix.

(e) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended

Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

**30-10-25. Real and personal property fee.** (a) A real and personal property fee shall be developed by the agency in lieu of an allowable cost for ownership or lease expense, or both. The real and personal property fee shall equal the sum of the property allowance determined under subsection (b) and the property value factor determined under subsection (c). The fee shall be facility-specific and shall not change as a result of change of ownership or lease by providers on or after July 18, 1984. An inflation factor may be applied to the fee on an annual basis.

(b)(1) The property allowance shall include an appropriate component for:

(A) Rent or lease expense;

(B) interest expense on a real estate mortgage;

(C) amortization of leasehold improvements; and

(D) depreciation on buildings and equipment, calculated pursuant to subsection (d).

(2) The property allowance shall be subject to a program maximum. Percentile limitations shall be established, based on an array of the costs on file with the agency as of July 18, 1984.

(c) The property value factor shall be computed as follows.

(1) The sum of the components under paragraph (b)(1) shall be determined by the agency for each facility, based on costs on file with the agency as of July 18, 1984. These sums shall be placed in an array, and percentile groupings shall be developed from that array.

(2) The average property allowance shall be determined by the agency for each percentile grouping under paragraph (1).

(3) The average property allowance for each percentile grouping shall be multiplied by a percentage as established by the secretary.

(d)(1) The depreciation component of the property allowance shall be:

(A) Identifiable and recorded in the provider's accounting records;

(B) based on the historical cost of the asset as established in this regulation; and

(C) prorated over the estimated useful life of the asset using the straight-line method.

(2)(A) Appropriate recording of depreciation shall include the following:

(i) Identification of the depreciable assets in use;

(ii) the assets' historical costs;

(iii) the method of depreciation;

(iv) the assets' estimated useful life; and

(v) the assets' accumulated depreciation.

(B) Each provider shall report gains and losses on the sale of depreciable personal property on the cost report at the time of the sale. The provider shall record trading of depreciable property in accordance with the income tax method of accounting for the basis of property acquired. Under the income tax method, gains and losses arising from the trading of assets shall not be recognized in the year of trade, but shall be used to adjust the basis of the newly acquired property.

(3) For depreciation purposes, the cost basis for a facility acquired after July 17, 1984 shall be the lesser of the acquisition cost to the holder of record on that date, or the purchase price of the asset. The cost basis shall not include costs attributable to the negotiation or final purchase of the facility, including legal fees, accounting fees, travel costs, and the cost of feasibility studies.

(e)(1) Any provider may request that the agency re-base the property fee if the provider meets the following capital expenditure thresholds:

- (A) \$25,000.00 for facilities with 50 or fewer beds; or
- (B) \$50,000.00 for facilities with 51 or more beds.

(2) The per diem based on the interest or depreciation, amortization, or both, from the capital expenditures as reported in the ownership cost center of the cost report, shall be added to the property allowance per diem originally established. Interest expense reported in the administrative cost center of the cost report shall not be included in the request for a re-base of the property fee.

(3) The resident days used in the denominator of the property allowance calculation shall be based on the total resident days used to compute the rate which is paid at the time the request is made to re-base the property fee. The resident days shall be subject to the 85 percent minimum occupancy requirement, including any new beds documented in the request for a re-base.

(4) The revised property allowance shall be used to determine the property value factor. The revised property value factor shall be based on the existing arrays. The skilled nursing facility array shall be used for medicare skilled nursing facilities. The nursing facility array shall be used for all other facilities.

(5) Effective dates for rebased property fees.

(A) If the number of beds of an existing nursing facility is increased by the construction of a new addition to the existing facility, the property fee established through the re-base shall be effective:

(i) on the first day of the month in which the new beds were certified if the certification date was on or before the 15th of the month; or

(ii) on the first day of the month following the month in which the beds were certified if the certification date is on or after the 16th of the month.

(B) If the capital expenditure which is the basis for the re-base request is not related to an increased number of beds, the effective date of the property fee established through the re-base shall be effective.

(i) on the first day of the month in which the request is received, if the request is received on or before the 15th of the month; or

(ii) on the first day of the month following the month in which the request is received, if the request is received on or after the 16th of the month.

(C) The documentation in paragraph (5)(B) shall include the following:

(i) The depreciation/amortization schedule reflecting the expense;

(ii) the loan agreement;

(iii) the amortization schedule for interest;

(iv) invoices;

(v) contractor fees; and

(vi) proof of other costs associated with the capital expenditure.

(6) The request to re-base a property fee shall not be allowed if the request and documentation are submitted more than one year after the property subject to the re-base has been acquired and put into service.

(f) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104; effective May 1, 1985; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997.)

#### Article 41.—LICENSING OF COMMUNITY BASED AGENCIES PROVIDING SERVICES TO ADULTS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

**30-41-6b.** This regulation shall be revoked on and after January 1, 1997. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b; effective May 1, 1982; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; revoked Jan. 1, 1997.)

#### Article 46.—CHILD ABUSE AND NEGLECT

**30-46-10. Definitions.** Pursuant to the Kansas code for care of children: (a) "Abuse" means any act or failure to act by a person responsible for the care of a child under age 18 which results in death, physical harm, mental or emotional harm, or sexual abuse or which presents a likelihood of harm to the child.

(b) "Department" means the Kansas department of social and rehabilitation services.

(c) "Alleged perpetrator" means the person identified in the initial report or during the investigation as the person suspected of perpetrating an act of abuse or neglect.

(d) "Person responsible for the care of a child" means a parent, or person who, with the knowledge or consent of a parent or custodian, exercises significant authority over and responsibility for a child.

(1) "Person responsible for the care of a child" shall include the following individuals:

(A) a family member;

(B) a relative;

(C) a person residing with the child;

(D) a companion of a person residing with the child or custodian of the child;

(E) an owner, operator, employee, resident, or volunteer of a child care home or facility subject to regulation by the Kansas department of health and environment; or

(F) anyone on whom the child is dependent for basic needs and protection.

(2) "Person responsible for the care of a child" shall not include any owner, operator, employee, or volunteer of an organization which has as its primary purpose education, religious instruction, recreation, character building, or similar purposes when care of the child is incidental to those purposes.

(continued)



(e) "Confirmed abuse or neglect" means that a report of abuse or neglect has been substantiated by a preponderance of the evidence.

(f) "Confirmed perpetrator" means a person who has been determined by a preponderance of the evidence to have committed a confirmed act of abuse or neglect.

(g) "Validated" means a determination by the department of social and rehabilitation services that a confirmed perpetrator poses a danger to children and should not be permitted to operate, reside in, be employed by, or volunteer in a home or facility for the care of children licensed under provisions of article 5 of chapter 65 of the Kansas Statutes Annotated.

(h) "Mental or emotional abuse" means acts or omissions by a person responsible for the care of a child which impairs a child's social, emotional, or intellectual functioning or presents a likelihood of such impairment. Emotional abuse shall include the following:

(1) Terrorizing a child, by creating a climate of fear or engaging in violent or threatening behavior toward the child or toward others in the child's presence which demonstrates a flagrant disregard for the child;

(2) Emotionally abandoning a child, by being psychologically unavailable to the child, demonstrating no attachment to the child, or failing to provide adequate nurturance of the child;

(3) Corrupting a child, by teaching or rewarding the child for unlawful, antisocial, or sexually precocious behaviors; or

(4) Engaging in any behavior of substantially the same nature or having substantially the same effect on the child.

(i) "Investigation" means the gathering and assessing of information to determine if a child has been abused or neglected.

(j) "Neglect" means acts or omissions on the part of a person responsible for the care of the child that result in harm to a child or present a likelihood of harm. Neglect shall include the following:

(1) Failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child;

(2) Failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a likelihood of harm to the child;

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, correct or substantially diminish a crippling condition, lengthen the life span, or prevent the condition from worsening; or

(4) any behavior or omission of substantially the same nature or having substantially the same effect on the child.

(k) "Physical abuse" means non-accidental or intentional action or inaction by a person responsible for the care of a child which results in bodily injury or which presents likelihood of death or of bodily injury.

(l) "Sexual abuse" means any contact or interaction with a child by a person responsible for the care of that child in which the child is being used for the sexual stim-

ulation of the perpetrator, the child, or another person. Sexual abuse shall include allowing, permitting, or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in obscene or pornographic material.

(m) This regulation shall take effect on and after January 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, and K.S.A. 38-1522 et seq., K.S.A. 65-516, as amended by L. 1996, Ch. 229, Sec. 117; effective Jan. 2, 1989; amended Jan. 2, 1990; amended Oct. 1, 1993; amended Jan. 1, 1997.)

**30-46-13. Right to interview.** (a) Each alleged perpetrator shall have an opportunity to be interviewed before a finding is issued validating a perpetrator under K.A.R. 30-46-15.

(b) This regulation shall take effect on and after July 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, K.S.A. 1995 Supp. 65-516, as amended by L. 1996, Ch. 229, Sec. 117; effective Jan. 2, 1989; amended Oct. 28, 1991; amended July 1, 1997.)

**30-46-15. Notice of decision.** (a) The confirmed perpetrator shall be notified in writing of the agency decision to validate the perpetrator for the purpose of placing the name of the perpetrator in the child abuse and neglect central registry. The notice shall set forth the reasons for the finding and shall inform the confirmed perpetrator of the perpetrator's right to appeal the decision.

(b) This regulation shall take effect on and after July 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, K.S.A. 1995 Supp. 65-516, as amended by L. 1996, Ch. 229, Sec. 117; effective Jan. 2, 1989; amended Oct. 28, 1991; amended July 1, 1997.)

**30-46-16. Child abuse and neglect central registry.** (a) The name of a validated perpetrator shall not be entered into the agency's child abuse and neglect central registry until the person has exhausted or failed to exercise the appeal process in K.A.R. 30-7-26, et seq.

(b) This regulation shall take effect on and after July 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104, K.S.A. 1995 Supp. 65-516, as amended by L. 1996, Ch. 229, Sec. 117; effective Jan. 2, 1989; amended July 1, 1997.)

**30-46-17. Expungement of validated perpetrator from central registry.** (a) Application for expungement.

(1) Any validated perpetrator of abuse or neglect may apply in writing to the secretary to have the perpetrator's name expunged from the central registry when three years have passed since the most recent confirmed incident or when information not available at the time of confirmation is presented.

(2) Each application for expungement shall be referred to the expungement review panel. The panel shall consist of the commissioner of children and family services or the commissioner's designee, the chief legal counsel of the department or the counsel's designee, and a representative of the public appointed by the secretary. The com-



missioner of children and family services or the commissioner's designee shall chair the panel.

(3) A review hearing shall be convened by the panel, at which time the applicant may present evidence supporting expungement of the applicant's name from the central registry. Evidence in support of or in opposition to the application may be presented by the department area office which conducted the original investigation.

(4) Recommendations of the review panel shall be determined by majority vote. The following factors shall be considered by the panel in making its recommendation:

(A) The nature and severity of the confirmed act of abuse or neglect;

(B) the number of confirmations of abuse or neglect involving the applicant;

(C) if the applicant was a child at the time of the validation for which expungement is requested, the age of the applicant at the time of the confirmed abuse or neglect;

(D) circumstances that no longer exist which contributed to the finding of abuse or neglect by the applicant; and

(E) actions taken by the applicant to prevent the recurrence of acts of abuse or neglect.

(5) The review hearing shall be set within 30 days from the date the application for expungement is received by the department. A written notice shall be sent to the applicant and the area office that made the finding by the commissioner of children and family services or the commissioner's designee at least 10 days prior to the hearing. The notice shall state the day, hour, and place of the hearing. Continuances may be granted only for good cause.

(6) A written recommendation to the secretary of the department shall be rendered by the panel within 60 days from the date of the hearing. The decision of the secretary of the department shall be in writing and shall set forth the reasons for the decision.

(b) Expungement by the department. Records may be expunged from the central registry by the secretary or the designee of the secretary when 18 years have passed since the most recent confirmed incident or upon recommendation of the expungement review panel.

(c) This regulation shall take effect on and after July 1, 1997. (Authorized by and implementing K.S.A. 1995 Supp. 39-708c, as amended by L. 1996, Ch. 229, Sec. 104,

K.S.A. 1995 Supp. 65-516, as amended by L. 1996, Ch. 229, Sec. 117, K.S.A. 38-1522 et seq.; effective Jan. 2, 1989; amended Jan. 1, 1990; amended July 1, 1997.)

Rochelle Chronister  
Secretary of Social and  
Rehabilitation Services

Doc. No. 018476

State of Kansas

Kansas Economic Development Institute

Request for Proposals

Pursuant to Section (a)(12) of K.S.A. 75-430, the Kansas Economic Development Institute hereby publishes notice of issuance of a Request for Proposals (RFP) to obtain proposals from qualified bidders for technical assistance and analysis in connection with issues related to retail wheeling in the electric industry. The Kansas Economic Development Institute is a not-for-profit tax-exempt 501(c)(3) organization, established by the Board of Directors of Kansas, Inc.

This project will support the work of the 23-member Retail Wheeling Task Force, established by 1996 House Bill 2600. A primary mission of the task force is to analyze and report on issues related to restructuring of electric utility service in Kansas. To assist the task force in those efforts, the successful bidder or bidders for this project will provide technical advice and assistance; gather and provide information; formulate multiple policy options with supporting documentation for task force consideration; and prepare and present interim and final reports to the task force. The duration of the project is estimated to be six months (February 1-July 31, 1997).

Staff of the Kansas Legislative Research Department, which also is staff of the Retail Wheeling Task Force, is the initial point of contact for action related to this RFP. To receive a copy of the RFP, contact Raney Gilliland, Kansas Legislative Research Department, Room 545-N, State Capitol, 300 S.W. 10th, Topeka, 66612, (913) 296-3181.

The deadline for submittal of all proposals in response to the RFP is 5 p.m. January 3.

Raney Gilliland  
Kansas Legislative Research Department

Doc. No. 018508

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. This cumulative index supplements the index found in the 1996 Supplement to the *Kansas Administrative Regulations*.

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through		
9-19-11	Amended	V. 15, p. 1671-1677
9-25-1		
through		
9-25-15	New	V. 15, p. 1677-1684
9-26-1	New	V. 15, p. 1684

**AGENCY 11: STATE CONSERVATION COMMISSION**

Reg. No.	Action	Register
11-8-8	Amended	V. 15, p. 1401

**AGENCY 16: ATTORNEY GENERAL**

Reg. No.	Action	Register
16-2-1	Amended	V. 15, p. 375
16-5-1	Amended	V. 15, p. 375
16-5-4	Amended	V. 15, p. 375
16-5-5	Amended	V. 15, p. 376
16-6-1	Amended	V. 15, p. 376

**AGENCY 17: STATE BANKING DEPARTMENT**

Reg. No.	Action	Register
17-1-1	New	V. 15, p. 1130
17-9-1		
through		
17-9-10	New	V. 15, p. 1130, 1131
17-10-1	Revoked	V. 15, p. 1131
17-11-1		
through		
17-11-12	Revoked	V. 15, p. 1131
17-11-13	Amended	V. 15, p. 1131
17-11-14	Amended	V. 15, p. 1380
17-11-15		
through		
17-11-19	Amended	V. 15, p. 1131, 1132
17-11-20	Revoked	V. 15, p. 1132
17-11-21	Amended	V. 15, p. 1132
17-11-23	New	V. 15, p. 1132
17-12-1	Amended	V. 15, p. 1132
17-12-2	Amended	V. 15, p. 1132
17-16-1	Amended	V. 15, p. 1132
17-16-2	Amended	V. 15, p. 1132
17-16-3	Revoked	V. 15, p. 1133

17-16-4	Amended	V. 15, p. 1133
17-16-5		
through		
17-16-8	Revoked	V. 15, p. 1133
17-16-9	Amended	V. 15, p. 1133
17-17-1		
through		
17-17-10	Amended	V. 15, p. 1133, 1134
17-18-1		
through		
17-18-4	Revoked	V. 15, p. 1134
17-21-1		
through		
17-21-6	Amended	V. 15, p. 1134, 1135
17-21-7	Revoked	V. 15, p. 1135
17-21-8	Amended	V. 15, p. 1135

**AGENCY 24: KANSAS WHEAT COMMISSION**

Reg. No.	Action	Register
24-1-1	Amended	V. 15, p. 703

**AGENCY 25: STATE GRAIN INSPECTION DEPARTMENT**

Reg. No.	Action	Register
25-1-1	Revoked	V. 15, p. 138
25-3-3	Amended	V. 15, p. 138
25-4-1	Revoked	V. 15, p. 1380
25-4-4	Amended	V. 15, p. 1538

**AGENCY 26: DEPARTMENT ON AGING**

Reg. No.	Action	Register
26-5-6	Amended	V. 15, p. 1625
26-5-9	New	V. 15, p. 1626
26-5-10	New	V. 15, p. 1626
26-6-1		
through		
26-6-8	Revoked	V. 15, p. 1626

**AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT**

Reg. No.	Action	Register
28-1-9	Revoked	V. 15, p. 550
28-1-10	Revoked	V. 15, p. 550
28-1-13	Amended	V. 15, p. 970
28-1-14	Amended	V. 15, p. 970
28-1-15	Amended	V. 15, p. 971
28-1-19	Revoked	V. 15, p. 550
28-1-21	Revoked	V. 15, p. 550
28-1-22	Revoked	V. 15, p. 550
28-3-5	Revoked	V. 15, p. 550
28-3-6	Revoked	V. 15, p. 550
28-4-72	Revoked	V. 15, p. 551
28-4-431	Revoked	V. 15, p. 551
28-4-506	Revoked	V. 15, p. 551
28-4-507	Revoked	V. 15, p. 551
28-4-508	Revoked	V. 15, p. 551
28-4-558		
through		
28-4-563	Amended	V. 15, p. 490-494
28-4-567	Amended	V. 15, p. 494
28-4-570	Amended	V. 15, p. 495
28-5-8	Revoked	V. 15, p. 551
28-6-1	Revoked	V. 15, p. 551
28-6-2	Revoked	V. 15, p. 551
28-7-1		
through		
28-7-9	Revoked	V. 15, p. 551
28-8-1	Revoked	V. 15, p. 551
28-10-36	Revoked	V. 15, p. 551
28-10-40	Revoked	V. 15, p. 551
28-10-41	Revoked	V. 15, p. 551
28-11-1		
through		
28-11-6	Revoked	V. 15, p. 551
28-13-10	Revoked	V. 15, p. 551
28-13-11	Revoked	V. 15, p. 551
28-16-50		
through		
28-16-54	Revoked	V. 15, p. 551
28-16-56a	Revoked	V. 15, p. 1402
28-16-56b	Revoked	V. 15, p. 1402
28-16-56c	New	V. 15, p. 1402
28-16-56d	New	V. 15, p. 1403
28-16-59	Amended	V. 15, p. 1403
28-16-65	Revoked	V. 15, p. 551

28-16-67	Revoked	V. 15, p. 551
28-17-5	Revoked	V. 15, p. 551
28-17-8	Revoked	V. 15, p. 551
28-19-45	Revoked	V. 15, p. 183
28-19-46	Revoked	V. 15, p. 183
28-19-47	Revoked	V. 15, p. 183
28-19-83		
through		
28-19-96	Revoked	V. 15, p. 551
28-19-98	Revoked	V. 15, p. 551
28-19-98a	Revoked	V. 15, p. 551
28-19-99		
through		
28-19-108	Revoked	V. 15, p. 552
28-19-108a	Revoked	V. 15, p. 552
28-19-109	Revoked	V. 15, p. 552
28-19-119		
to		
28-19-121a	Revoked	V. 15, p. 552
28-19-123	Revoked	V. 15, p. 552
28-19-124	Revoked	V. 15, p. 552
28-19-125	Revoked	V. 15, p. 552
28-19-127		
through		
28-19-131	Revoked	V. 15, p. 552
28-19-133		
through		
28-19-141	Revoked	V. 15, p. 552
28-19-149		
through		
28-19-162	Revoked	V. 15, p. 552
28-19-202	Amended	V. 15, p. 257
28-19-645	New	V. 15, p. 183
28-19-646	New	V. 15, p. 183
28-19-647	New	V. 15, p. 183
28-19-648	New	V. 15, p. 184
28-19-800	New	V. 15, p. 257
28-19-801	New	V. 15, p. 258
28-21-3	Revoked	V. 15, p. 552
28-21-90a	Revoked	V. 15, p. 552
28-21-91a	Revoked	V. 15, p. 552
28-21-91b	Revoked	V. 15, p. 552
28-21-92a	Revoked	V. 15, p. 552
28-21-93a	Revoked	V. 15, p. 552
28-21-94a	Revoked	V. 15, p. 552
28-21-96a	Revoked	V. 15, p. 552
28-21-98a	Revoked	V. 15, p. 552
28-21-99a	Revoked	V. 15, p. 552
28-21-102		
through		
28-21-112	Revoked	V. 15, p. 552
28-23-5	Revoked	V. 15, p. 552
28-23-8	Revoked	V. 15, p. 552
28-23-14	Revoked	V. 15, p. 552
28-23-15	Revoked	V. 15, p. 552
28-23-25	Revoked	V. 15, p. 552
28-23-33	Revoked	V. 15, p. 552
28-23-60		
through		
28-23-66	Revoked	V. 15, p. 552
28-23-69	Revoked	V. 15, p. 552
28-23-72	Revoked	V. 15, p. 553
28-23-74	Revoked	V. 15, p. 553
28-23-76	Revoked	V. 15, p. 553
28-23-77	Revoked	V. 15, p. 553
28-26-80		
through		
28-26-87	Revoked	V. 15, p. 553
28-26-90a	Revoked	V. 15, p. 553
28-28-1	Revoked	V. 15, p. 553
28-28-2	Revoked	V. 15, p. 553
28-29-1	Revoked	V. 15, p. 553
28-29-83	Revoked	V. 15, p. 553
28-29-98	Amended	V. 15, p. 1804
28-29-100	Amended	V. 15, p. 1804
28-29-103	Amended	V. 15, p. 1804
28-31-4	Amended	V. 15, p. 297
28-31-10	Amended	V. 15, p. 301
28-33-1	Revoked	V. 15, p. 495
28-33-11	Revoked	V. 15, p. 495
28-33-12	Amended	V. 15, p. 495
28-34-11	Amended	V. 15, p. 497
28-35-178b	Amended	V. 15, p. 1592
28-35-180a	Amended	V. 15, p. 1593
28-35-184b	New	V. 15, p. 1596

28-35-193b	New	V. 15, p. 1596
28-35-201	New	V. 15, p. 1598
28-35-202	New	V. 15, p. 1599
28-35-290	New	V. 15, p. 1601
28-35-291	New	V. 15, p. 1601
28-35-362	Amended	V. 15, p. 1602

28-37-10		
through		
28-37-14	Revoked	V. 15, p. 553
28-41-1		
through		
28-41-9	Revoked	V. 15, p. 553
28-42-1	Revoked	V. 15, p. 553
28-42-3		
through		
28-42-7	Revoked	V. 15, p. 553
28-42-9		
through		
28-42-16	Revoked	V. 15, p. 553
28-49-1		
through		
28-49-8	Revoked	V. 15, p. 553

**AGENCY 30: SOCIAL AND REHABILITATION SERVICES**

Reg. No.	Action	Register
30-4-50	Amended	V. 15, p. 1583
30-4-63	Amended	V. 15, p. 911
30-4-64	Amended	V. 15, p. 913
30-4-85a	Amended	V. 15, p. 914
30-4-96	Amended	V. 15, p. 915
30-4-121	Revoked	V. 15, p. 915
30-4-130	Amended	V. 15, p. 915
30-5-58	Amended	V. 15, p. 917
30-5-64	Amended	V. 15, p. 923
30-5-70	Amended	V. 15, p. 1017
30-5-81	Amended	V. 15, p. 925
30-5-88	Amended	V. 15, p. 925
30-6-53	Amended	V. 15, p. 1018
30-6-53w	Amended	V. 15, p. 1019
30-6-65	Amended	V. 15, p. 926
30-7-102	Amended	V. 15, p. 927
30-7-103	Amended	V. 15, p. 929
30-7-104	Amended	V. 15, p. 929
30-10-21	Amended	V. 15, p. 929
30-10-217	Amended	V. 15, p. 930
30-10-218	Amended	V. 15, p. 550
30-41-1		
through		
30-41-5	Revoked	V. 15, p. 930
30-41-6a	Revoked	V. 15, p. 930
30-41-6c		
through		
30-41-6h	Revoked	V. 15, p. 930, 931
30-41-7a		
through		
30-41-7i	Revoked	V. 15, p. 931
30-41-8	Revoked	V. 15, p. 931
30-41-10		
through		
30-41-20	Revoked	V. 15, p. 931
30-63-1	New	V. 15, p. 931
30-63-10		
through		
30-63-14	New	V. 15, p. 931-933
30-63-20	New	V. 15, p. 933
30-63-21	New	V. 15, p. 933
30-63-22	New	V. 15, p. 934
30-63-23	New	V. 15, p. 1215
30-63-24		
through		
30-63-31	New	V. 15, p. 934-937
30-64-1	New	V. 15, p. 937
30-64-10		
through		
30-64-13	New	V. 15, p. 937
30-64-20		
through		
30-64-34	New	V. 15, p. 938-942

**AGENCY 40: KANSAS INSURANCE DEPARTMENT**

Reg. No.	Action	Register
40-4-17	Amended	V. 15, p. 77
40-4-35	Amended	V. 15, p. 622

40-4-37	Amended	V. 15, p. 77
40-4-37d	Amended	V. 15, p. 78
40-5-109	Amended	V. 15, p. 78

**AGENCY 49: DEPARTMENT OF HUMAN RESOURCES**

Reg. No.	Action	Register
49-45-10		
through		
49-45-19	Revoked	V. 15, p. 1709
49-53-1	Revoked	V. 15, p. 1709
49-53-2	Revoked	V. 15, p. 1709

**AGENCY 50: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF EMPLOYMENT**

Reg. No.	Action	Register
50-2-21	Amended	V. 15, p. 1707

**AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION**

Reg. No.	Action	Register
51-9-7	Amended	V. 15, p. 345

**AGENCY 60: BOARD OF NURSING**

Reg. No.	Action	Register
60-9-109	Revoked	V. 15, p. 1807
60-11-108	Amended	V. 15, p. 115
60-11-109	Revoked	V. 15, p. 115
60-11-112	Revoked	V. 15, p. 115
60-11-114	Revoked	V. 15, p. 115
60-11-117	Revoked	V. 15, p. 115
60-12-106	Amended	V. 15, p. 115
60-12-109	Revoked	V. 15, p. 116
60-13-112	Amended	V. 15, p. 116
60-13-115	Revoked	V. 15, p. 116
60-16-102	Amended	V. 15, p. 1807
60-16-104	Amended	V. 15, p. 1807

**AGENCY 66: BOARD OF TECHNICAL PROFESSIONS**

Reg. No.	Action	Register
66-6-1	Amended	V. 15, p. 184
66-6-6	Amended	V. 15, p. 185
66-7-3	Amended	V. 15, p. 185
66-8-1	Amended	V. 15, p. 185
66-10-1	Amended	V. 15, p. 185
66-12-1	Amended	V. 15, p. 185
through		
66-14-12	New	V. 15, p. 186, 187

**AGENCY 69: BOARD OF COSMETOLOGY**

Reg. No.	Action	Register
69-1-1	Amended	V. 15, p. 292
69-1-2	Amended	V. 15, p. 292
69-1-3	Revoked	V. 15, p. 292
69-1-4	Amended	V. 15, p. 292
69-1-7	Revoked	V. 15, p. 293
69-1-8	Amended	V. 15, p. 293
69-2-1	Revoked	V. 15, p. 293
69-3-1	Amended	V. 15, p. 293
69-3-2	Revoked	V. 15, p. 293
69-3-3	Amended	V. 15, p. 293
69-3-4	Amended	V. 15, p. 294
69-3-5	Revoked	V. 15, p. 294
69-3-6	Amended	V. 15, p. 294
69-3-7	Amended	V. 15, p. 294
69-3-8	Amended	V. 15, p. 742
69-3-9	Amended	V. 15, p. 294
69-3-10	Revoked	V. 15, p. 294
69-3-11	Revoked	V. 15, p. 294
69-3-17	Revoked	V. 15, p. 294
69-3-19	Revoked	V. 15, p. 294
69-3-22		
through		
69-3-25	Revoked	V. 15, p. 294
69-3-26	New	V. 15, p. 294
69-3-27	New	V. 15, p. 294
69-3-28	New	V. 15, p. 294
69-4-2	Amended	V. 15, p. 294
69-4-6	Revoked	V. 15, p. 295
69-4-9	Amended	V. 15, p. 295
69-4-11	Revoked	V. 15, p. 295

69-4-12	Amended	V. 15, p. 295
69-5-2	Revoked	V. 15, p. 295
69-5-6	Amended	V. 15, p. 295
69-5-10	Revoked	V. 15, p. 295
69-5-13	Revoked	V. 15, p. 295
69-5-14	New	V. 15, p. 295
69-5-15	New	V. 15, p. 295
69-5-16	New	V. 15, p. 295
69-6-1	Revoked	V. 15, p. 295
69-6-2	Amended	V. 15, p. 295
69-6-5	Amended	V. 15, p. 295
69-6-6	Revoked	V. 15, p. 296
69-6-7	Amended	V. 15, p. 296
69-8-2	Revoked	V. 15, p. 296
69-8-3	Revoked	V. 15, p. 296
69-8-4	Revoked	V. 15, p. 296
69-8-6	Revoked	V. 15, p. 296
69-11-1	Amended	V. 15, p. 296
69-11-2	Amended	V. 15, p. 296
69-13-1	Amended	V. 15, p. 296
69-13-2	Amended	V. 15, p. 296
69-14-1		
through		
69-14-5	New	V. 15, p. 971, 972

**AGENCY 74: BOARD OF ACCOUNTANCY**

Reg. No.	Action	Register
74-12-1	Amended	V. 15, p. 1215

**AGENCY 75: CONSUMER CREDIT COMMISSIONER**

Reg. No.	Action	Register
75-6-3	Revoked	V. 15, p. 1129
75-6-4	Revoked	V. 15, p. 1129
75-6-7	Revoked	V. 15, p. 1129
75-6-8	Revoked	V. 15, p. 1129
75-6-9	Amended	V. 15, p. 1379
75-6-10	Revoked	V. 15, p. 1129
75-6-11	Revoked	V. 15, p. 1129
75-6-16	Revoked	V. 15, p. 1129
75-6-17	Revoked	V. 15, p. 1129
75-6-18	Revoked	V. 15, p. 1129
75-6-25	Revoked	V. 15, p. 1129
75-6-29	Revoked	V. 15, p. 1129
75-8-1		
through		
75-8-11	Revoked	V. 15, p. 1129

**AGENCY 80: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Reg. No.	Action	Register
80-8-2	Amended	V. 15, p. 1832
80-8-3	Amended	V. 15, p. 1832
80-8-4	Amended	V. 15, p. 1833
80-8-7	Amended	V. 15, p. 1833

**AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER**

Reg. No.	Action	Register
81-1-1	Amended	V. 15, p. 697
81-2-1	Amended	V. 15, p. 698
81-3-1	Amended	V. 15, p. 698
81-3-4	Revoked	V. 15, p. 700
81-4-1	Amended	V. 15, p. 700
81-5-1	Revoked	V. 15, p. 701
81-5-2	Revoked	V. 15, p. 701
81-5-3	Amended	V. 15, p. 701
81-5-4	Amended	V. 15, p. 701
81-5-7	Amended	V. 15, p. 701
81-5-9	Amended	V. 15, p. 702
81-6-1	Amended	V. 15, p. 702
81-7-2	Amended	V. 15, p. 703
81-8-1	Revoked	V. 15, p. 703
81-9-1	Revoked	V. 15, p. 703
81-13-1	Revoked	V. 15, p. 703

**AGENCY 82: STATE CORPORATION COMMISSION**

Reg. No.	Action	Register
82-3-101	Amended	V. 15, p. 1538
82-3-103	Amended	V. 15, p. 1541
82-3-206	Amended	V. 15, p. 1670
82-3-307	Amended	V. 15, p. 1670
82-3-700		
through		
82-3-704	New	V. 15, p. 1542-1544

(continued)

**AGENCY 86: REAL ESTATE COMMISSION**

Reg. No.	Action	Register
86-1-5	Amended	V. 15, p. 598
86-1-11	Amended	V. 15, p. 1831
86-3-25	Amended	V. 15, p. 1331

**AGENCY 91: DEPARTMENT OF EDUCATION**

Reg. No.	Action	Register
91-12-22	Amended	V. 15, p. 226
91-12-61	Amended	V. 15, p. 230

**AGENCY 98: KANSAS WATER OFFICE**

Reg. No.	Action	Register
98-5-1	Amended	V. 15, p. 1708
98-5-8	New	V. 15, p. 1709

**AGENCY 100: BOARD OF HEALING ARTS**

Reg. No.	Action	Register
100-69-1 through 100-69-9	New	V. 15, p. 1021, 1022

**AGENCY 104: STATE BANKING DEPARTMENT, CONSUMER CREDIT COMMISSIONER AND DEPARTMENT OF CREDIT UNIONS**

Reg. No.	Action	Register
104-1-2	Amended	V. 15, p. 1129

**AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES**

Reg. No.	Action	Register
105-3-2	Amended	V. 15, p. 1583
105-3-12	New	V. 15, p. 1584
105-4-2	Amended	V. 15, p. 1584
105-5-4	Amended	V. 15, p. 1584

**AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES**

Reg. No.	Action	Register
109-5-1	Amended	V. 15, p. 1585
109-6-1	Amended	V. 15, p. 1586
109-6-2	New	V. 15, p. 1586
109-7-1	Amended	V. 15, p. 1586
109-8-1	Amended	V. 15, p. 1625
109-10-1	Amended	V. 15, p. 1587

**AGENCY 111: KANSAS LOTTERY**

Reg. No.	Action	Register
111-1-2	Amended	V. 7, p. 1190
111-1-3	Amended	V. 15, p. 1304
111-2-1	Amended	V. 15, p. 881
111-2-2	Amended	V. 12, p. 1261
111-2-2a through 111-2-2e	New	V. 14, p. 1633, 1634
111-2-4	Amended	V. 15, p. 1709
111-2-6	Revoked	V. 13, p. 149
111-2-7	Revoked	V. 10, p. 1210
111-2-13	Revoked	V. 10, p. 881
111-2-14	Amended	V. 14, p. 1634
111-2-15	Revoked	V. 10, p. 881
111-2-16	Revoked	V. 10, p. 1210
111-2-17	Revoked	V. 10, p. 1210
111-2-18	Revoked	V. 11, p. 413
111-2-19	Revoked	V. 11, p. 413
111-2-20 through 111-2-26	Revoked	V. 13, p. 1401
111-2-27	Revoked	V. 14, p. 972
111-2-28	New	V. 12, p. 1844
111-2-29	Revoked	V. 14, p. 972
111-2-30	Amended	V. 15, p. 1180
111-2-31	New	V. 14, p. 170
111-2-32	New	V. 14, p. 311
111-2-33	Amended	V. 14, p. 1741
111-2-34	Amended	V. 14, p. 722
111-2-35	New	V. 14, p. 796
111-2-36	New	V. 14, p. 908
111-2-37	New	V. 14, p. 1094
111-2-38	New	V. 14, p. 1741
111-2-39	New	V. 14, p. 1502
111-2-40	New	V. 14, p. 1502
111-2-41	New	V. 14, p. 1742

111-2-42	New	V. 14, p. 1742
111-2-43	New	V. 15, p. 287
111-2-44	New	V. 15, p. 288
111-2-45	New	V. 15, p. 288
111-2-46	New	V. 15, p. 624
111-2-47	New	V. 15, p. 882
111-2-48	New	V. 15, p. 1055
111-2-49	New	V. 15, p. 1055
111-2-50	New	V. 15, p. 1056
111-2-51	New	V. 15, p. 1440
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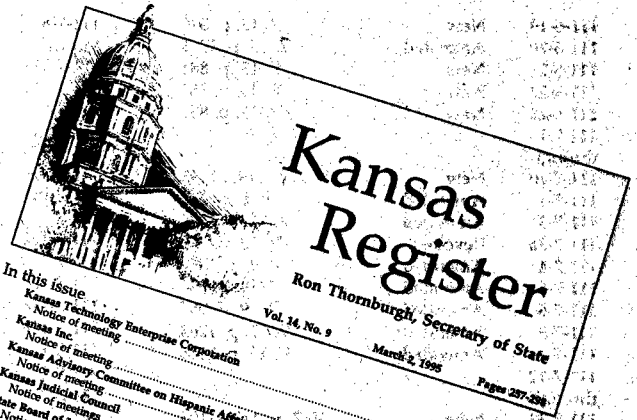
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