STATE DEPARTMENT OF SOCIAL
REHABILITATION SERVICES
Integrated Services Delivery
Docking State Office Building
Room 681 - West
Topeka, Kansas 66612

Final - Oct. 1, 2004

TO: Area Directors
Economic and Employment Support Chiefs
Economic and Employment Support Staff
Social Service Chiefs
Other Staff

RE: Summary of Changes for Kansas Economic and Employment Support Manual (KEESM) Revision No. 20 effective October 1, 2004

PURPOSE, BACKGROUND, and REASON FOR CHANGE

The purpose of this document is to transmit Revision No. 20 of the Kansas Economic and Employment Support Manual effective October 1, 2004.

All Programs - This revision corrects an inadvertent error in a previous manual revision regarding the resources which must be verified prior to approving eligibility for cash, food stamps, and medical assistance. Further information is found under clarifications for all programs.

This revision also implements special provisions for the treatment of medical expenses for food stamp and Medicaid recipients with a Medicare Approved Drug Discount Card. These special provisions are mandated by USDA and based on the Medicare Prescription Drug, Improvement and Modernization Act of 2003. Section 1860D-31(g)(6) of this act directs that the availability of negotiated prices or Transitional Assistance received through the Medicare Approved Drug Discount Card "shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under any other Federal program." To implement this provision, food stamp consumers with a Medicare Approved Drug Discount Card must be allowed the pre-discount price of the prescription drug when determining allowable food stamp medical expenses. Implementation instructions for this new policy will be provided in the Implementation Memo.

Child Care - This revision will introduce several changes related to child care providers. A KsCares system change will be migrated to coincide with this revision.

- There will be a new division for relative child care separate from registered child care on PRRA and on the Maximum Hourly Child Care Provider Rate Schedule.

- In-home child care will have one flat statewide rate. The rate proposed will be $1.72/hour for all ages. Also, clients who use in-home care (care in the child's own home) will be

required to verify contact with IRS and obtain their own Federal Employee Identification Number (FEIN). Proof of the FEIN will be required at enrollment. KsCares will still require the client's SSN preceded by a "3" for payment purposes. This additional approval criterion for In-Home subsidy is an attempt to insure that parents and providers are clear on their IRS and Dept. of Labor obligations regarding use of this type of care.

- A new category "Older infants" is being added to the child care center rates. Older infants are 13 months through 18 months. Current rates will be populated in this field until the state is able to offer a different rate for this category. A 2004 Market Rate Analysis is currently under way.

- A new Tier table will be added to the provider rate structure. A Tier field will appear on PRRA. All providers will have this field blank until Tiers are actually implemented. This will allow SRS to recognize provider efforts to increase the quality of their care by having the ability to pay a higher rate. These higher rates will be implemented as Budget allows.

This revision will also begin to implement child care provider data collection needed for EBT CC. This data will need to be kept in the file for staff to enter onto KsCares when the new screens are available.

This revision will also implement changes on responsibilities for child care costs when a foster child is involved. A new Foster Care contract interpretation was given during the past Legislative session and the change is reflected in section 2833 (2).

This revision also includes several other technical corrections and clarifications applicable to child care policy.

Food Assistance - This revision incorporates the annual adjustments to the Food Stamp Program that are effective October 1 of each year. Increasing are the standard deduction amounts, the excess shelter deduction, the gross and net income limits, and the maximum allotment amounts. These changes were processed with rollover in August effective for October 1, 2004. Further information about these changes was provided prior to rollover in August.

This revision also includes several other technical corrections and clarifications applicable to food stamp policy.

Medical Assistance - House Substitute for SB 272, passed by the 2004 Kansas Legislature, contains four separate provisions related to medical assistance implemented in this revision: Medicaid lien provisions; an expanded definition of estate for Estate Recovery purposes; specific rules for treatment of some property with shared ownership; and provisions for treating some contractual arrangements for provision of long term care services as a resource.

The changes in the Tuberculosis coverage group are being made as a result of an interagency agreement between KDHE and SRS to better provide service to individuals in a more cost effective manner.

Successful Families - The information regarding Welfare to Work (WtW) is being removed from the KEESM as all of the Local Areas (LA) have exhausted their WtW funding.

I. ALL PROGRAMS

A. CHANGES

1. **Living with a Caretaker** - The definition of an eligible caretaker is being expanded to include a step-grandparent, a step-aunt, and a step-uncle. Children and Family Services requested this change to match the definition of a relative used for foster care purposes and to match the definition used by the Kansas Department of Health and Environment (KDHE) when licensing child care providers. See Section 2220(2).

2. **Non-Cooperation with Child Support Enforcement (CSE)** - For TAF, children will no longer be penalized when a non-legally responsible caretaker fails to comply with CSE. This is in compliance with federal law. Although the children will continue to receive assistance, the caretaker will not be eligible to receive assistance until he/she cooperates. On the other hand, non-cooperation by a parent, even one who is excluded from the TAF case due to receipt of SSI or who is disqualified due to fraud or being a drug felon or ineligible alien, will continue to result in a full-family sanction. A parent, even if not receiving TAF assistance for himself/herself, remains legally responsible for the children.

   For Child Care, the same policy will apply. Children will no longer be penalized (have their child care plans closed) when a non-legally responsible caretaker fails to comply with CSE. Child care plans for affected children are to be closed if a parent fails to comply with CSE.

   See Sections 2165 and 2165.1.

3. Billed Medical Expenses (Food Stamps and Medicaid) - The manual is being modified to provide special medical expense provisions for persons with Medicare Approved Drug Discount Cards as described in the Background. Effective 10/1/04, food stamp consumers with a Medicare Approved Drug Discount Card must be allowed the pre-discount price of the prescription drug when determining allowable food stamp medical expenses. The consumer is only required to provide an adequate description of the prescriptions and the pharmacy where the prescription is filled. The state agency is responsible for obtaining the pre-discount price of the drug to allow as a food stamp medical expense. Detailed information about this new policy, including a definition of what the pre-discount price is, will be provided in the Implementation Memo. This information is being included in a new item, (8), in Section 7227.5, Billed Medical Expenses.

   A similar policy is also being implemented for medical assistance. The pre-Medicare Approved Drug Discount Card price of a prescription drug is used when an allowable expense is used to meet a spenddown. In addition, the same principals must be followed when allowing non-covered medical

expenses against patient liability for institutional cases or against client obligation for HCBS. The pre-discount drug card price is used in these situations even if the $600 credit was used to help purchase the drug. For medical assistance, the policy is effective 06-01-04.

This policy is only applicable for Medicare Approved Drug Discount Cards and not for any other discount cards.

Sections 7532.3, 8172.1 and 8270.1 are being updated to reflect these changes.

B. CLARIFICATIONS

1. **Drug-Related Convictions (Not Applicable to Medical or Child Care)** - The manual is being modified to clarify that a felony drug conviction that has been expunged from the record does not have an effect on eligibility for cash or food stamps. Persons with such expunged convictions are to be treated as though they do not have a felony drug conviction and may participate if otherwise eligible. Section 2183 is being modified to include this clarification. Since some persons with an expunged drug-related felony conviction may currently be disqualified from receiving benefits, additional information about the implementation of this policy will be provided in the Implementation Memo.

2. **Reporting Changes** - The manual is being clarified regarding household responsibility to report changes between the time of the initial interview for certification and the date of the notice of approval. Simplified FS reporters are only required to report the two changes listed in 9122.1 that occur between the date of the interview and the date of approval. These changes must be reported within 10 days of the date of the notice of approval. Reporting requirements for change reporters are also being modified to clarify that changes which occur after the interview, but before the date of the notice of approval must be reported within 10 days from the date of the notice of approval. These changes are found in Section 9110.

3. **Mandatory Verification That Affects Eligibility for Program Benefits** - Resources - There was an inadvertent error in a previous manual revision regarding the resources which must be verified prior to approving eligibility for cash, food stamps, and medical assistance which is being corrected with this revision. Trust accounts, real property (excluding the home), stocks, bonds, and non-exempt retirement funds must be verified for all programs. For medical assistance, all burial agreements, life insurance, checking accounts, and savings accounts must also be verified. For cash and food stamps, checking and savings accounts must be verified only if resources are close to the resource limit or if questionable. For medical, verification of the home is required if the applicant/recipient is not currently residing in the home. Generally, a copy of the deed will serve as sufficient proof. These

corrections are being made in Section 1322.1.

4. **Voter Registration** - Requirements of the National Voter Registration Act of 1995 as they relate to EES consumers and staff are being added as a new Section 1731.

5. **Computing the Overpayment** - The manual is being clarified regarding the computation of overpayments that are due to agency error. This applies mostly to calculation or mathematical errors when budgeting earned income. In these instances, the overpayment shall be calculated using all income, expenses and deductions that should have been allowed at the time the original benefit was calculated. Actual income for the months in question does not have to be obtained from the client or the employer in determining the amount of the overpayment. Section 11124 is being modified to reflect this clarification.

II. ADULT SERVICES

A. CHANGES

None

B. CLARIFICATIONS

1. **Intake Process** - The fax number, 1-800-221-7973, to report abuse, neglect, exploitation or fiduciary abuse in institutions (Osawatomie, Larned, Rainbow, KNI and Parsons) is being included in Section 12200.

2. **Confirmed Findings and Case Decisions** - Clarification that the form, ES-1020, **Report to State Regulatory Authority from Adult Protective Services Regarding Findings of Abuse, Neglect, or Exploitation** must be used to forward any confirmed finding committed by licensed, registered or otherwise authorized providers to the appropriate state regulatory agency. The form must be sent within five working days of completing the investigation and making the finding. This change is reflected in Section 12430.

3. **Redetermination of Eligibility** - The last paragraph of Section 12712 is being deleted because it conflicts with Section 12721.

4. **Medicaid Fraud and Abuse Division of the Office of the Kansas Attorney General** - Sections 12820 and 12830 are being revised following a meeting with the Assistant Attorney General of that division. A new section 12821 is being added to show the definition of “board and care” facilities as used by the Medicaid Fraud Division. Section 12840 is being added to incorporate the Memorandum of Understanding Between the Medicaid Fraud and Abuse Division of the Attorney General’s Office and SRS APS Reports.

III. CASH ASSISTANCE

A. CHANGES

1. **Minors Acting in Own Behalf** - A minor, who enters an approved adult-supervised group living arrangement, such as Job Corps, and is not otherwise entitled to act in his/her own behalf, may act in his/her own behalf if the EES program administrator or designee determines it is in the minor's best interests to do so. Once the minor leaves the approved group living arrangement, the EES program administrator or designee must determine if it remains in the minor's best interests to continue to act in his/her own behalf. These decisions must be documented in the case record. See Section 2112. Note: Section 2112 is also being reorganized.

2. **Guidelines When Applying a Penalty** - The guidelines are being updated to require EES staff to determine if there is good cause for failing to cooperate with work programs or CSE due to domestic violence when a referral has been made to OARS due to domestic violence or when the family is involved with Children and Family Services. See Sections 2165 and 3500. Also, Section 2165 is being updated to reflect that a personal contact to discuss CSE non-cooperation must be attempted and documented in the case file. This was a 1999 policy change for both work program and CSE non-cooperation that was inadvertently left out of 2165.

B. CLARIFICATIONS

1. **Penalties Accrued by Minors** - This clarifies that penalties accrued by a minor who is unable to act in his/her own behalf do not count as a first or subsequent penalty when the minor becomes an adult cash or food stamp recipient. PRAP and JOPR codes for such an individual must be changed when the minor becomes an adult. See Section 2551 and 3511.2.

2. **Instances Not Requiring a Claim** - This section, 11122, has been modified by removing "Agency and Client" in the title to clarify that this section does not just apply to agency and client error claims. It also applies to potential fraud claims. This section outlines situations when claims shall not be established.

3. **Collecting Overpayments** - To collect an overpayment, an adult must be coded "IN" or "DI" on SEPA. An overpayment shall not be collected through benefit reduction or off-setting when the only adult is a non-legally responsible caretaker who is not receiving assistance for himself/herself. See Section 11126.1. This section is also being clarified that timely and adequate notice must be given before recouping an overpayment through benefit reduction.

4. **Social Security Advocacy** - A modification is being made to a parenthetical phrase in Section 1724(3) to clarify that parents may choose not to apply for SSI or cooperate with KLS on behalf of their children who may potentially

qualify for SSI.

IV. CHILD CARE ASSISTANCE - GENERAL ELIGIBILITY

A. CHANGES

1. **IE EM (Employed Income Eligible) Child Care** - A note is being added to Section 2834 stating that the employment criteria for income eligible training/education shall also be waived for plans approved by the KBOR Waiver Program or Loan Program.

2. **Foster Care Child Care** - A new Foster Care Contract interpretation was discovered through research that was done during the last Legislative session on an issue related to Foster Care. Based on this new interpretation, policy is being changed regarding responsibility for child care costs when a foster child is involved. Section 2833(2) is being revised to indicate that the Foster Care contractor is responsible for child care expenses for all foster care placement situations - licensed facility/home, licensed relative foster home, and non-licensed (approved) relative homes. EES Child Care Subsidy can still be accessed in situations where a foster parent is in need of child care for a child (not in SRS custody) of a foster child (e.g., a teen foster child with own child). Example - Employed foster parent, teen in high school, teen's infant needs child care.

B. CLARIFICATIONS

1. **JO Child Care** - In Section 2831(2) reference to Applicant Job search is being replaced with EAP to reflect current policy.

2. **ET Child Care** - Clarification is being added to Section 2835 to reflect that the IE EM subtype would be used in cases where a minor teen parent drops out of high school with no intention of returning and then needs child care for employment.

3. **SS Child Care** - Clarification is being added in Section 2833(2) regarding cases which include an adjudicated juvenile offender in the custody of the Juvenile Justice Authority. The clarification is that if there is a request for child care subsidy for other children in the household, along with the adjudicated juvenile offender, an application for IE EM child care can be made. One case is set up to include all family members.

4. **IE ET Child Care** - Clarification is being added stating that the IE EM subtype is used in situations where a minor teen parent drops out of high school with no intention of returning and then needs child care for employment.

V. CHILD CARE - PROVIDER ISSUES

A. CHANGES

1. **In-Home Child Care (Child Care in a Child's Home)** - Policy is being changed to reflect the need for verification of the client's contact with the IRS through the receipt of a Federal Employer's Identification Number (FEIN). Sections 10022 (1), 10036.1 and 10036.3 are being revised to reflect this change.

   The client's Social Security Number preceded by a 3 will still be used to identify the client as the recipient of payment for in-home child care. Sections 10036.3 and 10270 are being revised to reflect this change.

   Also, a statewide payment rate of $1.72 /hour for all ages is being established for in-home child care. Sections 10036 and 10270 are being revised to reflect this change.

   Clients are expected to pay their provider at least minimum wage. With the current rate payment method, clients in Johnson county, for example, receive greater assistance toward this minimum wage requirement than clients in Elk county. The statewide rate for in-home care is more equitable for all who choose in-home care.

2. **Child Care Provider Rates** - The description of how child care provider market rates are collected and analyzed is being updated to reflect a change in procedure. See Sections 10040 and 10240. The possibility for keying zero hours for a child care plan is being eliminated. Section 10220 is being revised to reflect policy of not keying time sheets with zero hours of care provided.

3. **Data Collection** - Addendums to the ES-1650, Regulated Provider Enrollment; ES-1651, Unregulated Provider Enrollment; ES-1652, In-Home Child Care Request; and ES-1653, Out of Home Relative Provider Enrollment are being added to collect additional child care provider information. Appendix Items 97, 98, 99, & 100 reflect the addition of these documents.

4. **Provider Responsibilities** - An additional responsibility is being added to assure providers are aware of the expectation they will comply with all applicable State and Federal laws, statutes, and regulations. See Section 10034, Appendix Item 97 (ES-1650 Addendum) and Appendix Item 98 (ES-1651 Addendum).

B. CLARIFICATIONS

1. **Child Care Provider Rates** - Clarification is being added to describe when Central Office approval is needed for paying an enhanced payment rate for children with disabilities and where to find information to implement the payment. See Section10260(6).

2. **Direct Deposit** - A sentence is being added to better describe how direct deposit payments are issued. See Section 10220.

VI. FOOD ASSISTANCE

A. CHANGES

Annual Adjustments to the Food Stamp Program Standards - Effective October 1, 2004, the following changes are being implemented to incorporate the annual federal adjustments to the FSP that increase the standard deduction, excess shelter deduction and gross and net income limits. Also, see Appendix Items 49 and 50.

1. **Standard Deduction** - Section 7222 is being modified to increase the standard deduction amounts. The new amounts effective 10/1/04 are $153 for households of 5 and $175 for household sizes of 6 or more. The standard deduction for household sizes of 1-4 remains $134.

2. **Shelter Costs** -Section 7226 - is being modified to increase the excess shelter deduction amount to $388.

   These amounts were entered into the KAECSES system prior to rollover in August 2004, and were processed automatically when rollover was processed. Further information about the implementation of the annual adjustments has been provided separately.

B. CLARIFICATIONS

1. **Mandatory Verification That Affects Eligibility for Program Benefits** - A technical correction is being made to the Note under item (1)(a) that discuss the verification of gross non-exempt earned income. The words “interim report” have been added to the sentence that discusses when the client tries to, but cannot, provide necessary verification and the employer will not provide the necessary information that the agency shall not deny assistance, but rather the interim report/application/review/change shall be processed using all available information. Section 1322.1 is being modified to capture this correction.

2. **Verification of Questionable Information -** The requirement to provide a purchase and prepare statement has been expanded to include the purchase and prepare sections of the ES-3100, **Application for Cash, Medical, Child Care and Food Stamp Benefits**, and ES-3100.6. **Welcome to the Kansas Food Assistance Program!**. If these sections are completed at application or review, the FP-1013 or V030 is not required. Those forms would be required at the time of an address change or a change in household composition when a claim of purchase and prepare separately from others in the home is made. Section 1322.3(1) is being updated with this clarification.
3. **Establishing Comparable Work Requirement Penalties** - Provisions in this section of the manual are being removed due to simplified reporting requirements. These provisions required that staff take certain actions if the

household has not cooperated by the 15th day of the second month following the month the TAF case was closed and the household has reported no other income or means of support. These special provisions are no longer needed with the implementation of simplified reporting. Sections 2552 and 2560 are being modified accordingly.

4. **Resource Value of Property** - A reference to the food stamp vehicle policy is being removed from section 5200, item (7), since all vehicles are exempt for food stamp purposes.

5. **Resources of TAF/SSI Recipients** - A technical correction is being made to this section of the manual. Since vehicles are exempt for FS purposes, special provisions to code vehicles on VEHI are no longer needed. Section 5430 (19) is being modified accordingly.

6. **Exempt Income - Independent Living Foster Care** - For clarification purposes, a new item listing exempt income is being included in Section 6410. This new item, (27), clarifies that the portion of independent living foster care payments that the sponsor or community advisor is allowed to keep (usually $50 or less) is exempt as income for the foster care child receiving the independent living payment. This has been stated for some time in 6220(2), but including it in the exempt income section will make it easier for staff to find the correct policy. This new item is (27), under Section 6410. Cross references are also now included.

   As part of this numbering change, Item 11, which was “Reserved” is being deleted and current items 12 through 27 are being renumbered as items 11 through 26.

7. **Shelter Clarifications** - Section 7226.1 is being modified to clarify that costs of repairs and/or improvements are not allowable shelter costs for homeowners, or renters who make repairs in exchange for rent. Another clarification under item 7226.3(1), regarding the Standard Utility Allowance, clarifies that persons who live in private rental housing and who are billed for utilities by their landlord on the basis of individual usage or a flat rate separately from rent, must be billed for, or have an element of, heating or cooling to be allowed the Standard Utility Allowance.

8. **Proration** - The section on food stamp proration is being clarified to state that proration applies after FS case closure or the expiration of the most recent review period. Proration applies immediately after case closure for FS, unlike cash where proration does not apply in the month following closure when there has been no break in assistance. Exception - proration continues to not apply to FS reinstatements when information/cooperation or the interim report is provided in the month following the month of closure. Section 7401 is being modified to capture this clarification.

9. **Processing the Interim Report** - This section is being modified to clarify that other information reported on the interim report form can be verified if questionable. The provisions of 1310 and 1320 and subsections apply. The

need for verification must be documented in the case file. In addition, if verification of questionable information is not provided, the agency shall act on the reported change/information if benefits would decrease and not act on the reported change/information if benefits would increase. Section 9122.6 is being modified accordingly.

10. **Situations When a Claim Shall Not Be Established** - A note is being added to Section 9123 to clarify that a claim shall not be established for food stamp purposes for failure to report a change for cash or medical purposes, unless the change was also required to be reported for food stamp purposes per 9121 or 9122.

VII. MEDICAL ASSISTANCE

A. CHANGES

1. **Tuberculosis Coverage** - Changes in the TB program previously issued on September 13, 2004 have been incorporated into this revision. The changes were made due an interagency agreement between the Kansas Department of Health and Environment and SRS. Although the program continues to provide for persons in need of inpatient treatment for tuberculosis, outpatient services may now be covered when determined cost effective. Several new processes were implemented as a result of this change.

   - All potential eligibles are referred from KDHE program staff. Persons are not permitted to access the program without first going through KDHE.
   - Eligibility has been centralized to a single contact point. The TB Eligibility Specialist is located in the HealthWave Clearinghouse.
   - All services must be approved by KDHE, in conjunction with SRS-HCP staff.
   - The ES-3100.3, **Certification of Need for Tuberculosis Treatment**, has been updated to better capture demographic information and add a signature line. A certification portion to be completed by KDHE was also added.

     Sections 1411.3(3) and 2692 are being updated with this information.

2. **Contracts For Care/Services (Life Care Contracts)** - Specific rules are being added for treatment of contracts established to meet current or future medical service needs. These changes are being made as a result of SB 272, which added K.S.A. 39-707(e) (4). Unless established according to the specific provisions of this section, the value of any contract between a medical assistance plan member and another individual or organization to receive long term care or related services is considered a resource countable toward the allowable limit. These include all contracts which are established with a prospective payment in advance of any service actually rendered.

   Contracts which are not considered to have a value must:

- be in writing, revocable and contain an outline of the services to be provided and the rates to be paid;
- be executed prior to paying any service;
- insure that the contracted amount paid for the service is consistent with the market value of the service;
- contain a requirement that the provider must report all receipts from the contract to IRS and other agencies as required by law; and
- contain a clause which states the contract terminates upon the death of the individual.

Contracts which do not meet these criteria are a countable resource. The value of the contract is the total amount paid by the recipient of the services under the contract. This amount may be reduced by the value of any services paid under the contract to date. However, the services must be documented and paid under a rate consistent with the cost of such a service.

Contracts which are not prepaid but are not established according to these provisions may be considered a transfer of property without adequate consideration if the rate of payment or contract terms are not consistent with market rates for the services provided.

The new law was specifically written to negate the impact of instruments referred to as life care contracts. These devices permitted an individual to fund a contract prospectively in exchange for provision of future services. Such contracts are now fully countable.

Additional implementation instructions will be issued to address review of current contracts.

Two new items, Sections 5430(5) and 5721(9) have been added with this information.

3. **Shared Property Ownership** - SB 272 also added K.S.A. 39-709(e)(2). The new law establishes specific rules for treatment of jointly owned property in which a member of the medical assistance plan has a designated and discrete property interest. In these situations, the entire value of the property is attributable to the medical assistance plan member. This does not alter rules for treatment of property held in joint tenancy without a specified property interest.

   The full value of the property is attributable to the individual regardless of any other exemptions. For example, property used as rental property, home property with an intent to return home or property attempting to be sold would not be considered exempt under these provisions. This is similar to placing property in a trust arrangement.

   In situations where the change of deed has occurred within the transfer of property look back period, if the entire value of the property is counted, no transfer penalty is considered.

For example, medical assistance applicant, Mr. Smith owns his home outright and places his daughter, Ms. Jones, on the deed as a 10% owner of the property leaving him with 90% ownership. He indicates he intends to return home. Because he now owns a discrete and specified portion of the property, the entire value is attributable to Mr. Smith. Although he intends to return home, by exercising such a deed, the property loses exempt status and is fully countable.

Implementation instructions will be issued under separate cover.

Section 5200(6) is being updated with this change. Several cross references are also being corrected in this section.

4. **Estate Recovery Changes** - SB 272 also provides for major modifications in the Estate Recovery Program through two specific changes.

    a. **Medicaid Liens** - Beginning October 1, 2004 the agency may place a lien against real property owned by a medical assistance recipient who has received funded care in a medical institution for a period of at least 6 months. Liens are only applicable to persons in a long term care arrangement, including those under a PACE arrangement. Liens are not applicable to persons in independent living or on HCBS.

    The purpose of the lien is to guarantee recovery of medical assistance paid for certain portions of the Medicaid population subject to estate recovery. A lien is a legal means of securing a debt against an individual's property. The property cannot be sold, transferred or given away until the lien is satisfied. Liens in place at the time of the property owner's death also ensure recovery action.

    Liens may be placed on any real property in which the Medicaid recipient has a legal interest. However, liens may not be placed on the home property when any of the following individuals are residing in the home:

    • the spouse of the recipient;
    • the child of the recipient who is under the age of 21, blind or disabled; or
    • the sibling of the recipient who has an equity interest in the home and who has continuously resided in the home for at least a year prior to the recipient's admission into a long term care facility.

    Prior to initiating the process of imposing a lien, the agency must establish through medical documentation the individual is not reasonably expected to return home. To assist in this determination, the agency will utilize a medical statement established for this purpose. The ES-3152, **Medical Assistance Lien Physician Verification,** will

be obtained by the eligibility worker at the time of approval for NF care. The document will obtain the necessary physician certification and provide the medical reason for the opinion of the physician. If the physician indicates the person is expected to return home, an estimated length of stay will be obtained. The eligibility worker must recheck with the physician at the end of the period if the individual has not yet returned home. A referral for HCBS services may also be appropriate

If medical evidence indicates the person will not return home, staff in the Estate Recovery Unit will notify the individual of the agency's intent to file the lien. The individual may appeal this action. The agency will then proceed to file a written lien with the Register of Deeds in the county where the property is located. The amount of the lien is the amount of medical assistance expended to date. However, the amount of the lien will be adjusted over time if necessary.

If the individual returns to live in a property in which a lien has been placed for at least 90 consecutive days, the lien shall lifted.

The agency may foreclose a lien by filing an action in a Kansas district court. Foreclosing a lien refers to judicial or legal action taken to recover the property.

b. **Expanded Definition of Estate** - The Estate Recovery program recovers Medicaid funds through claims against the individuals estate. By state law, these estates consist of the property owned solely by the deceased medical assistance recipient. This definition will continue to be applicable for medical assistance services provided prior to July 1, 2004. However, an expanded definition of estate may be used to recover claims paid on or after July 1, 2004.

   The new 'medical assistance estate' will include all real and personal property in which the deceased individual had any legal title or interest immediately before or at the time of death. The medical assistance estate includes assets conveyed upon death through such mechanisms as joint tenancy, tenancy-in-common, survivorship, transfer-on-death deed or pay-on-death contract. It includes such resources as life estates, trust funds or accounts, annuities and life insurance (including term policies).

   The medical assistance estate is limited to the recipient's interest in the property. For example, a medical assistance recipient has a ½ interest in a home valued at $50,000 with his brother. Because the recipient has a one half interest in the home, $25,000 will be considered in determining the medical assistance estate.

   When medical assistance is received for periods before and after July 1, 2004 separate rules are used when establishing the total estate available for recovery. The medical assistance estate is only used for services

received on or after July 1, 2004.

Example: A beneficiary receives $20,000 in services prior to 07-01-04 and $30,000 in services after 07-01-04. He dies in December, 2004 with no surviving spouse or dependent children. At the time of death, the individual has sole ownership of a car (valued at $8000) and has joint ownership of the home with his brother (valued at $80,000). To determine the amount of the estate available for recovery, only the car is considered for services prior to 07-01-04. As there are $20000 in services, the entire value is recoverable. For services after 07-01-04 the client's ownership interest in the house, $40,000, is considered. As the total amount of paid claims is $30,000 estate recovery has a claim of $30,000 on the home.

Although the Estate Recovery Unit will handle the bulk of the implementation workload for these two policies, additional information and instructions related to both changes will be issued under separate cover to address SRS field staff responsibilities and to summarize implementation plans.

Section 1725 and subsections are being revised with this information.

B. **CLARIFICATIONS**

1. **ADAP/Ryan White Funds** - The generic use of the title "Ryan White Funds" has created confusion when determining which bills, paid by KDHE, can be allowed against a spenddown. Clarification is included in this revision. Medical items purchased using federal funds through the AIDS Drug Assistance Program (ADAP) are NOT allowable to use against spenddown. However, drugs purchased through the state-only portion of ADAP are allowable against the spenddown. Both funding sources are frequently referenced as a combined pool of money and called "Ryan White Funds". It is necessary to specify which funding source actually was used for the cost of the medical service or item. The funding source is taken into consideration when determining if a pharmacy claim received by the MMIS and paid under ADAP funds can be used against spenddown.

   Section 7532.3 is being updated with this revision.

2. **Medical Review Periods** - A reference to review periods for Partial LMB coverage included in Section 9373 is being removed, since this program has terminated.

3. **Treatment of Annuities** - Additional information regarding treatment of annuities is being added with this revision. Information on all annuities owned by an applicant, recipient or LRP must be obtained at application. For any annuity which is not directly related to payment of retirement benefits (e.g., Civil Service Annuity), a copy of the annuity and supporting documentation must be obtained and submitted to central office for review.

For revocable annuities, the cash value of the annuity is considered an available resource. For irrevocable annuities (those which are producing an income stream) the income is countable in the month received. However, if the annuity was purchased within the past 5 years, the annuity must be evaluated to determine if adequate compensation was received under the transfer of property rules. Adequate compensation is not received if the annuity does not provide equal payments (no balloon or graduated payments) OR is not expected to pay out over the course of the individuals life time.

Under the new expanded definition of the medical assistance estate, annuities which include a remainder clause allowing for unpaid monies to be paid to a beneficiary upon the death of the annuitant may be recovered by estate recovery.

Sections 5622 and 5722 are being updated with this revision. A new Appendix Item 63 is also being incorporated to determine life expectancy when evaluating an annuity under the transfer of property provisions.

4. **CI Program - Parental Income and Resources** - Rules for treatment of parental income and assets for children in an institution under the CI program are being clarified in this revision. The CI program is applicable for a child under the age of 21 (or age 22 if receiving inpatient psychiatric care on the 21st birthday) who enters a long term care facility, including a general hospital, for at least 30 days. For children under the age of 18, parental income and resources are not included in the determination. Long term care budgeting applies, including a $30.00 protected income level in all months. For individuals age 18 and over, long term care budgeting also applies unless the individual is eligible under another category, in which case the temporary stay provisions apply.

   For example, an individual age 18 who is currently eligible under the MP program enters a state hospital for 60 days. Because the stay does not exceed the month of entrance and the following two months, long term care budgeting does not apply. However, if the individual is age 19 and no longer eligible for MP, long term care budgeting begins the month of entrance into the facility.

   Sections 8142(2), 8143(3) and 8183 are being updated with this revision.

VIII. SUCCESSFUL FAMILIES

A. CHANGES

Welfare to Work (WtW) - The WtW component information in Section 3310.6 is being removed from the KEESM. WtW is no longer an available component for TAF recipients. Section 3310.6 is now “RESERVED”

B. CLARIFICATIONS

1. **Participation - TAF Participation Rate Requirements** - Clarification is being added in Section 3110 that the participation requirements in this section

are specific to TAF and do not apply to the Food Stamp Employment and Training (FS E & T) program in those counties where FS E & T is operated.

A note is also being added to **Definition And Special Rules For Two-Parent Families**. The note emphasizes the importance of correctly coding legal responsibility as this information determines the 2-parent designation.

2. **Support Services/Component Costs/Contracted Employment Services/Employment Services for Work Programs** - Clarification is being added in Section 3400 that an adult member residing in eligible TAF and/or Food Stamp households who is a fugitive felon, drug felon, probation or parole violator, disqualified for a fraud conviction, or an ineligible alien, is not eligible for work program support services, component costs, contracted employment services, and/or employment services. This clarification is consistent with Section 3100.

3. **Provisions Specific to TAF Support Services/Component Costs/Contracted Employment Services/Employment Services** -Clarification is being added in Section 3410 regarding the availability of work program services for 12 months following the loss of TAF cash assistance for TAF adults not open on KsCares at the time of TAF cash closure. A KsCares work program case needs to be opened at the time of TAF cash case closure.

4. **Expiration of the TANF Waiver** - Several KEESM references are being updated to reflect current program design that was implemented due to the loss of the federal TANF waiver and issued in KEESM Revision 18. Sections 1414.2(8) and 3512 are being updated to remove references to applicant job search assignments.

FORMS (Not previously discussed in this Summary)

A. **Cash Assistance**

ES-3102, Important Information About Cooperation, is being renumbered from IM-3102 and updated.

B. **Child Care**

1. **Child Care Forms Explanation** - This document is being revised to reflect the changes in the instructions on the ES-1602 and ES-1640

2. **ES-1602, Child Care Provider Rate Modification** - This form was the CC-1602 and is being revised to reflect the clarifications in the definitions of classifications for child care rates and the change from SRS Areas to Regions.

C. **Food Assistance**

ES-3114, Interim Report Form - Both PDF and WordPerfect versions of the Interim

Report Form are being added. These versions of the form can be easily printed for use in local offices as needed.

MISCELLANEOUS FORMS (Not previously discussed in this Summary)

The Vendor letter which accompanies the request for Direct Deposit was updated by the Department of Administration. This form, the DA-130, Authorization for Electronic Deposit of Vendor Payment, was updated in April, 2004. The revised version of the form is already out on the KEESM site.

APPENDIX (Not previously discussed in this Summary)

A. **All Programs**

Item #78, Definition of Common Terms - is being updated to add definitions for two programs administered through the Kansas Board of Regents. These programs are the KBOR Loan Program and KBOR Waiver Program. Both are post secondary education programs, the loan program for former WIA and TAF recipients and the Waiver Program for foster children who aged out of foster care.

B. **Cash Assistance**

Item #59, County Group Assignments - is being updated to reflect the change from management areas to regions and the corresponding change in region numbers due to realignment.

C. **Child Care**

1. **Item #10, Child Care Assistance Planning Case Examples** - This item is being removed from the KEESM. Assistance planning examples for child care is available through the training material. This is consistent with other programs.

2. **Item #22, Child Care Provider Handbook** - This item is now also available in Spanish.

3. **Item #25, Maximum Hourly Child Care Provider Rate Schedule** - This item is being revised to reflect the new In-Home statewide rate. Staff will also notice that relative and registered categories have been split. This is in preparation for a future policy and system change which will allow for Tiered Reimbursement. An older infant category is being added to child care center rates also.

D. **Food Assistance**

1. **Item #49**, Food Stamp Program Standards Chart - is being revised to reflect the October 1, 2004 increases in the standard deduction, excess shelter deduction, gross and net income limits and maximum allotments.

2. **Item #50**, Food Stamp Benefit Tables Chart - is being revised to reflect the new allotment amounts per household size and net income amounts effective October 1,

2004.

3. **Item #112**, 130% Income Reporting Chart for Simplified Reporters - is being revised to reflect the increase in gross income limit effective 10/1/04. The new reporting threshold shall be used for all applications and reviews received or processed on or after 10/1/04.

E. **Successful Families**

1. **Item #58, Components to Meet Work Requirements/Participation**, is being renamed to emphasize that this tool is specific to TAF and also to remove the WtW components (i.e., WTW, WWC, WWG, WWP). This item is now titled **Components to Meet TAF Work Requirements/Participation**.

2. **Item #101, ICT CHECKLIST**, is being modified to add Notify Work Programs/KsCares section to the SENDING COUNTY CHECKLIST and Check ABAWD Status to the RECEIVING COUNTY CHECKLIST.

3. **Item #110, Comparison of TAF and FS E & T Employment Services Desk Aid**, is being added to help staff identify differences between TAF and Food Stamp work programs.

MATERIALS RESCINDED WITH THIS REVISION:

Policy Memo 99-10-08, re: Stepparent Income Related to Military Service, is being rescinded with this revision. The instructions in that policy memo were valid during the time of AFDC but are no longer valid with TANF or current FS rules.

EFFECTIVE DATE

Except where noted, all policies in this revision are effective October 1, 2004. All new applications and reviews processed on or after October 1, 2004 shall be completed using these revised policies. All open cases should be updated using the new policies when the case is being worked on to process other changes. As stated above, special instructions will be issued in an Implementation Memo for the implementation of the drug conviction changes on existing cases.

MATERIALS OBSOLETED BY THIS REVISION

None

EFFECT ON LOCAL STAFF

It is expected that the changes in this revision will free staff from nonessential work and allow staff to focus efforts on other more critical areas. Clarifications are intended to provide greater understanding of program expectations in order to allow faster and easier administration at the local level. Changes in Child Care provider issues will cause some greater work for staff when approving in-home child care plans of care. Changes in medical assistance estate recovery policies will generate additional and more in-depth inquiries from current and potential recipients and representatives. The bulk of the workload will be handled by central office staff.

COORDINATION EFFORTS

Within SRS, the material in this letter and manual revision have been coordinated with staff in the Economic and Employment Support, the Child Support Enforcement policy staff, Children and Family Services policy staff, Health Care Policy staff, the regional EES Program Administrators and other Regional staff, the Implementation Planning Team, EES Program Training Unit, and other EES field staff. In addition, Kansas Department of Commerce and Kansas Coalition Against Sexual and Domestic Violence (KCSDV) staff were consulted.

Sincerely,

Bobbi Mariani, Director
Economic and Employment Support

BM:MSW:jmm/lf

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