

STATE DEPARTMENT OF SOCIAL REHABILITATION SERVICES

Integrated Services Delivery

Docking State Office Building Room 681 - West Topeka, Kansas
66612 (Code 1)

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

State Commissioner's Letter

April 27, 2001

Re: Kansas Economic and Employment Support Manual (KEESM) Revision No. 5

PURPOSE OF LETTER

This revision implements numerous changes to policy including a change in record retention for child care provider files, a change to the requirements for pregnant women to apply for unemployment compensation, removal of the requirement to report illegal aliens, a change to remove the required referral to child support enforcement for medical assistance when the only applicants are children and an expansion of the policy which allows an adult member of the family group to apply for TAF or medical for a minor parent to also include minor expectant parents. This revision also incorporates the agency protocol required prior to terminating a TAF case due to the 60-month time limit, the hardship provisions that apply to TAF family groups that reach the 60 month time limit, and an extension of the time limit for domestic violence victims.

This revision also implements a change in the date asylees become eligible for the refugee program, the inclusion of child care procedures for the Flint Hills Job Corps, expansion of the work program assessment to include domestic violence/sexual assault services situations, a change to the policies for payment of relocation allowances and other modifications to the components sections. This revision also implements income and resource provisions applicable to Individual Development Accounts, a change in the process of obtaining a level of care score for a person seeking payment of nursing facility expenses, a change in the determination of countable resources for an applicant/recipient who is also a community spouse, and a change to allow persons in HCBS arrangements to be a community spouse for purposes of spousal impoverishment. In addition, due to the new federal poverty level guidelines, the minimum community spouse income allowance has been increased as well as the family income and share schedule for child care services. This revision also incorporates changes in the intercounty transfer procedures for medical programs, other clarifications to policy and procedure as described below and several new forms and items in the Appendix.

BACKGROUND AND REASON FOR CHANGE

New poverty level guidelines have been published by the Department of Health and Human Services that reflect an increase of 2.8% from last year for a single individual. These guidelines affect the eligibility standards in the child care, MP, QMB, LMB and QWD programs as well as increases the minimum community spouse income allowance under the spousal impoverishment provisions. The increase will not be reflected in the HCBS income standard until January 1, 2002. For other programs, the poverty standard increases are to be implemented effective May 1, 2001. Separate instructions will be issued to the field regarding implementation of these standards.

Two additional spousal impoverishment changes are being made based on recent clarification of federal provisions. The definition of community spouse is being expanded to include persons receiving HCBS. This will allow income allocation to a spouse receiving HCBS. For purposes of establishing the community spouse resource allowance, court-ordered divisions of property will no longer be recognized unless they were the direct result of a fair hearing.

Based on a recent interpretation by the Health Care Financing Administration (HCFA), the required referral to Child Support Enforcement for all medical applicants with an absent parent has been eliminated. Families applying only for children's medical coverage will be given the opportunity to receive CSE services but will not be automatically referred for services. This will align the Medicaid policy to that which currently exists for HealthWave eligible children. Caretakers applying for Family Medical coverage must continue to comply with CSE as a condition of eligibility.

The changes in the inter-county transfer procedure are being made to incorporate material originally issued in Policy Memo [01-01-01](#) that eliminated the required review for all medical programs when a family moved to another county. This was also based on a directive from HCFA as a direct result of a concern stemming from the nationwide review of medical assistance for TANF households in 1999. Previously, review periods were shortened for family medical, medically needy and HCBS households moving to a new county.

Effective October 1, 2000 many TAF families began their final twelve months of TAF assistance. States may grant hardship status for certain family groups which would allow them to continue receiving TAF beyond 60 months. In Kansas, only families in the hardship group will continue to receive TAF after their 60th month. No more than 20% of the TAF caseload may comprise the hardship group. The hardship criteria is being incorporated into the KEESM with this revision. In addition to the hardship criteria, information regarding the extension of TAF assistance beyond the 60-month limit for victims of domestic violence is being incorporated into the manual.

Exemptions to work related requirements for TAF recipients are being changed to allow an exemption for adults age 60 or over in two parent TAF cases. This change is

consistent with food stamp policy and is also consistent with the inclusion of the age 60 and over in the TAF hardship criteria.

To help families become independent of cash assistance, the agency is taking steps to address the impact of domestic violence/sexual assault on TAF families by creating a Domestic Violence/Sexual Assault (DV/SA) work component (OARS) within the KansasWorks employment services structure. Since 1999, the OARS Program has been piloted in the Topeka Area Office. TAF clients who are victims of domestic violence/sexual assault may develop an employment plan which includes goals for resolving DV/SA issues and be placed in the OARS work component while they implement the plan.

TAF work related exemptions are being further modified to remove the child under age one exemption when either a parent or caretaker has reached the 48th month of TAF cash assistance. This change will ensure that work program services are provided to TAF clients before the family reaches the 60-month time limit.

As of October 1, 1999, Kansas adopted Family Violence provisions offered by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. This allows victims of domestic violence to be excused from TAF requirements that would put the victims and/or their children at further risk of violence and provides opportunities for safety planning and the resolution of domestic violence/sexual assault issues. National studies show a high prevalence rate of the incidence of current and former domestic violence and sexual assault in the cash assistance population. The studies show DV/SA as a major barrier to employment and self-sufficiency for women on assistance. The United States Congress gives unique status to victims of domestic violence under the TANF program. Both the federal and Kansas state government have a strong commitment to reducing domestic violence and helping victims of domestic violence access the safety and supportive services that they need to make transitions to self-sufficiency. In particular, the authors of the law wanted to ensure that States identify victims of domestic violence so that they may be appropriately served, rather than be exempted and denied services that could lead to independence. The overall goal is to provide alternative services for victims of domestic violence that foster both safety and self-sufficiency. The DV/SA work component differs from other TAF work components because the primary focus must be on safety for the families before employment. To this end, the federal government has provided the states with protection from financial penalty if the state is failing to meet the work program participation rate. States may remove all the cases from the work participation rate formula that are domestic violence/sexual assault cases. The authors of the final federal rule recognized that, in the short-term, safety issues and other demands on the family may preclude specific steps toward work. Thus, they clarify that States have the ability to postpone work activities when safety or fairness issues would so indicate. For example, if a victim of domestic violence needs time to recover from injuries, secure safe and stable housing, and get her children resettled, or needs to stay at home or in a shelter to avoid danger,

there may be a need to postpone work activities. Additionally, they state that in certain circumstances, an appropriate service plan for a victim may be to do nothing. Forcing victims to take specific steps within a fixed time frame may make their situation more precarious. It's a fact that violence often escalates after a woman has separated from the perpetrator and has sought court orders of protection. States should recognize that a battered woman often does not have control over her own actions and respect a victim's judgment of whether she can safely take certain action steps (e.g., move out of her home).

To carry out the retention and advancement mission of Phase II of Welfare Reform, the KEESM is being clarified to indicate that education and training services are available for one year following exit from cash assistance due to employment.

CHANGES AND REQUIRED ACTIONS

Beginning in January 2001, the OARS work component is available statewide, and eight sites (in addition to Topeka) provide special features through a contract with the Kansas Coalition Against Sexual and Domestic Violence (KCSDV). The eight new sites include: Emporia, Great Bend, Hutchinson, Kansas City, Lawrence, Olathe, Pittsburg, and Wichita. The special features provided include: a one-day staff training, placement of an advocate in the local SRS office (two in Wichita) and brochures/other informational materials.

Due to recent federal guidance placing more restrictive criteria on the reporting of undocumented aliens, this revision incorporates the elimination of the procedure for reporting undocumented aliens to INS as described previously in Policy Memo 00-12-03. In addition, guidance recently received from the Office of Refugee Resettlement alters the "entry" date for asylees and therefore effectively alters the start date of their benefit eligibility period for refugee assistance and services. Asylees are eligible for refugee assistance and services beginning on the date they are granted asylum. Under the new policy the date that an individual is granted asylum is the person's "entry" date.

This revision also incorporates other technical corrections and clarifications to policy and procedure outlined in the manual. Policy changes were recommended for implementation by the Policy Development Team and reviewed for implementation by the Implementation Planning Team.

KEESM 1227 - Subpoenas and Testifying in Court Concerning Information Not Otherwise Authorized to be Disclosed- This section has been amended to update the statement staff shall make to a court if they are subpoenaed to testify regarding confidential information concerning a client. This statement was revised by the SRS Legal Section to include current federal citations.

2.KEESM 1434 - Notice of Actions Resulting from Federal Match Data- This section has been corrected to include the Food Stamp Program in the list of programs that this section is applicable to. This was an oversight when the manuals were combined.

3.KEESM 1513.4 - Moving/Travel Out-of-State- This section has been modified to clarify that cash recipients who move out-of-state should be able to access their cash benefits via the Vision card at any ATM with the logos of KETS, Bankmate, Shazzam, Via or Honor.

4.KEESM 1524.1 - Alternate Payees- This section has been changed to clarify that the client type of C1, which can be added directly onto the EBT Client/Card Detail Screen, is really a first alternate for cash(not a second alternate), and that this code should be used when both the PI and the alternate need cash access. Accordingly, the "Third Alternate" has been changed to the Second Alternate.

5.KEESM 1615 - Dismissal of Fair Hearings- This section has been modified to clarify the process for dismissal of fair hearings. The terminology has also been updated to include the Office of Administrative Hearings. A sample Motion to Dismiss form is also being included in the Appendix Section, and instructions for completing this form are now included in Section 1615. These changes were prepared by the SRS Legal Section.

6.KEESM 1712 - Disposition of Child Care Provider Files- Policy in this section has changed to be in compliance with SRS Administrative Services Retention and Disposition Schedule, K.A.R. 53-2-109, and federal regulations regarding record retention for child care provider files and CCDF grant files. Provider Agreement files shall be maintained for 5 fiscal years past the closure date of the last provider enrollment form. Grant files shall be retained for 5 years following the end of the grant period.

7.KEESM 2123 - Cooperation with Quality Assurance (Not Applicable to the Medical Program) - This section has been modified to clarify that failure to cooperate with any Quality Assurance Review renders the household ineligible for food stamps and would make the entire assistance plan ineligible for TAF.

8.KEESM 2124 - Potential Resources- This section has been modified to add information regarding the requirements of pregnant women to apply for unemployment compensation. Receipt of UC is contingent upon someone being considered employable. Although there may be a number of factors that impact this requirement, staff at the Department of Human Resources indicate that they are further complicated by a pregnancy. In addition, because of the continuous eligibility provisions for pregnant women, medical eligibility will seldom be impacted by the receipt of UC. Therefore, it is not necessary for pregnant, medical only applicants/recipients to pursue and cooperate with UC as a condition of eligibility. For TAF, pregnant women who may be able to

receive UC shall be required to cooperate with the process during the first two trimesters of the pregnancy. Cooperation and pursuit of UC is not required in the third trimester. Potential UC shall again be pursued following the end of the postpartum period.

9.KEESM 2143.4 - Reporting Illegal Aliens- As noted in the Background Section and Policy Memo 00-12-03, the requirement to report illegal aliens to INS has been removed from the manual due to recent federal guidance placing more restrictive criteria on the reporting of illegal aliens. This section is now reserved. The Policy Memo is being retained at this time as it contains other important information for staff.

10.KEESM 2163 - Referral to Child Support Enforcement- This section has been amended to remove the requirement to refer all child-only medical applicants to CSE. However, non-pregnant adult applicant/recipients for Family Medical coverage must continue to cooperate with CSE as a condition of eligibility. All Family Medical cases shall continue to be referred to CSE if a non-pregnant adult is requesting/receiving Medicaid coverage. If the Family Medical program is providing coverage only for the pregnant women and/or children, a referral is not required.

11.KEESM 2165.1 - TAF Noncooperation - Due to several questions from the field, this section has been modified to clarify that failure to cooperate with CSE while the person is in applicant status shall result in ineligibility (denial) for the mandatory filing unit until the failure or refusal ceases. An additional change to the second paragraph has also been made to clarify that a penalty applies when the person who fails to cooperate is a member of the mandatory filing unit and the case is in recipient status. Previous wording, "not a recipient" was confusing as it appeared to apply when a person is not "a recipient" of TAF due to reasons such as being disqualified for fraud. For example, failure to cooperate with CSE when the TAF PI is disqualified for fraud and the remaining assistance plan receives TAF, results in a penalty situation.

This section has been amended to note that persons applying for assistance shall not be impacted by previous findings of non-cooperation if the non-cooperation occurred as a result of a voluntary referral (food stamps, HealthWave, children's Medicaid) or as result of a required referral which did not require cooperation (prior to 05-01, MP, SI, other children's medical). Applications will be processed without regard to the non-cooperation status in these instances.

This section has been clarified to include penalty periods for medical coverage. Only non-pregnant adult caretakers participating in the Family Medical program are penalized.

This section has also been clarified to state that if a prior finding of non-cooperation exists, the family must be given the opportunity to cooperate prior to taking action to deny the application based on non-cooperation. Local referral processes that are in

place should ensure that CSE staff become aware of the new application/new referral that has occurred to ensure the client has the opportunity to cooperate.

12.**KEESM 2168 - Voluntary Referral-** This section has been amended to state that families requesting child only medical coverage may be voluntarily referred to CSE. Recent guidance issued by HCFA has eliminated the required referral when the household is only applying for children's medical coverage. Families wanting assistance through CSE may still be referred through a manual process. Additional details regarding this process will be available in the Implementation Memo.

13.**KEESM 2210 - Child in Family-** The note in this section has been clarified to state that children placed with a caretaker are not entitled to receive both a TAF payment and a foster care payment in the same month. Families working with private contractors for the receipt of foster care payments for children who have been placed with them are not entitled to receive TAF for those children, however, a dependent child of a foster care recipient shall have his or her needs met through TAF if the child and recipient are living together in a foster family home, the child is not in SRS custody, and other TAF requirements are met. Also, refer to Policy Memo 01-02-02.

14.**KEESM 2220 - Living With a Caretaker-** This section has been modified to denote that children leaving a household to attend school or for placement in Job Corps shall continue to be a part of the current household as long as the child intends to return back home. This is true as long as school attendance or the Job Corps placement lasts, regardless if it exceeds the time frame associated with temporary absence.

15.**KEESM 2222 - Minor Parent Not Living with Caretaker-** This section is being amended to expand the current policy which allows an adult member of the family group to apply for TAF or medical for a minor parent to also include minor expectant parents (both male and female). Any adult within the fifth degree of relationship to the dependent child (the unborn) would be allowed to apply for the unborn's parents, as long as the pregnant mother of the unborn is in the home. For example, this would allow a paternal grandparent of an unborn to apply for the unborn's mother, regardless of the father's presence in the household. The adult family group member would have the option of being included in the TAF assistance plan as any other caretaker/relative.

16.**KEESM 2241 – Agency Protocol Prior to Terminating TAF Case Due to the 60 Month Time Limit -** This section is being amended to expand the current policy which allows an adult member of the family group to apply for TAF or medical for a minor parent to also include minor expectant parents (both male and female). Any adult within the fifth degree of relationship to the dependent child (the unborn) would be allowed to apply for the unborn's parents, as long as the pregnant mother of the unborn is in the home. For example, this would allow a paternal grandparent of an unborn to apply for the unborn's mother, regardless of the father's presence in the household. The adult

family group member would have the option of being included in the TAF assistance plan as any other caretaker/relative.

17.**KEESM 2242 - Hardship Status** - This section has been added to the manual to describe those TAF family groups that qualify for hardship status in relation to the 60-month time limit.

18.**KEESM 2243 - Guidelines for Closing TAF Hardship Cases Following the Loss of Hardship Status** - This section has been added to provide guidelines on closing TAF hardship cases.

19.**KEESM - 2244 Extension of Time Limits for Domestic Violence Victims** - This section has been added to acknowledge that victims of domestic violence may be granted extensions to the time limits on a case by case basis.

20.**KEESM 2410 - General Requirements (Refugee Program) -General Requirements (Refugee Program)** - This section has been modified to change the date asylees become eligible for benefits. Asylees are now eligible beginning with the month that asylee status is granted, rather than from the date of entry. In addition, the refugee codes have been alphabetized to make it easier to find the appropriate code when determining eligibility.

21.**KEESM 2521 - Persons Exempt From the ABAWD Provision** -- This section has been modified to clarify that a person being served by VR would meet the criteria of being medically certified as physically or mentally unfit for employment and would thus be exempt from the ABAWD provisions.

22.**KEESM 2634 - 1619 Status** - This section is being amended to reflect an increase in Social Security's substantial gainful activity level from \$700.00/month to \$740.00/month. This was effective 01-01-01.

23.**KEESM 2850 - Flint Hills Job Corps** - This section has been added outlining policies and procedures regarding parents participating in the Flint Hills CDC Solo Parent Program. This information had previously been distributed through a memo to the Manhattan Area.

24.**KEESM 3100 - Work Related Requirements** - This section has been expanded to include information regarding domestic violence victims. It has also been expanded to include clarification related to requiring work activities for Food Stamp applicants and recipients in counties that do not provide FS E & T services.

25.**KEESM 3113 - Component Assignment for Federal Work Participation Purposes (TAF)**- This section has been modified to add the Mental Health Care and the Domestic Violence/Sexual Assault components.

26.**KEESM 3114 - Domestic Violence/Sexual Assault Intervention Services (OARS)**
- This section is being added to provide guidance related to the provision of domestic violence/sexual assault services.

27.**KEESM 3130 - Orientation** - This section has been expanded to indicate that information regarding domestic violence/sexual assault should be included in the agency orientation.

28.**KEESM 3140 - Assessment** - This section has been expanded to include the assessment of the need to modify work component assignment due to domestic violence/sexual assault services situations. This section has also been modified to cross reference the Agency Protocol Prior to Terminating TAF Case Due to the 60 Month Time Limit section. Much of the information gathered during the work program assessment process is required in the protocol.

This section has been further modified to incorporate clarification that was previously issued related to referral sources for mental health barriers. The RS CDC may be an appropriate referral source for mental health barriers.

29.**KEESM 3210 - All Programs Work Related Exemptions (TAF, RE, and Food Stamps)-All Programs Work Related Exemptions (TAF, RE, and Food Stamps)-**
This section has been modified to allow the age 60 and over exemption in TAF two parent households.

30.**KEESM 3220 - TAF Only Work Related Exemption** - This section has been modified to indicate that the exemption for caring for a child under age one cannot be claimed in situations where the parent or caretaker has received TAF cash benefits for 48 months or longer.

31.**KEESM 3310.3 - Applicant Job Search** - This section has been expanded to indicate that individuals who have disclosed domestic violence/sexual assault issues and have not developed a safety plan or cannot safely participate in AJS are considered inappropriate for this activity.

32.**KEESM 3310.9 - Employment Assessment Process** - This section has been expanded to include domestic violence/sexual assault issues as subject to address during the EAP component assignment.

33.**KEESM 3310.16 - Job Corps - TAF Only-** This section has been modified to include policies and procedures regarding on campus participation in Job Corps.

34.**KEESM 3310.22 - Mental Health Care** - This component is being added and should be utilized when a TAF client is participating in Mental Health counseling. Due to the

addition of this new component, sections 3310.22 through 3310.32 and the new 3310.24 described below have been renumbered accordingly.

35. **KEESM 3310.24 - Orientation, Assessment, Referral, Safety** - This component is being added and should be utilized when TAF clients are participating in a plan that is directed toward removing a domestic violence/sexual assault barrier to employment.