

KANSAS DEPARTMENT FOR CHILDREN
AND FAMILIES
Family Services
DCF Administration Building
555 S. Kansas Ave., 6th Floor
Topeka, KS 66603

To: Regional Directors
Economic and Employment Services Program Administrators
Economic and Employment Services Staff
KDHE-HCF Staff, including the KanCare Clearinghouse
Prevention and Protection Services Administrators
Other Staff

Re: Summary of Changes for Kansas Economic and Employment Services
Manual (KEESM) Revision No. 81 effective April 1, 2017

OVERVIEW OF CHANGES

A brief overview of the major changes is described below. Other clarifications and technical corrections are also included and described in the next section. Additional technical corrections not mentioned here are being incorporated in KEESM as needed.

Medical Assistance – New tax advantaged savings accounts for disabled individuals, known as ABLE accounts, are an exempt resource. Effective 12-13-2016, a disabled individual may establish his/her own exempt disability payback trust. The balance in a Direct Express electronic debit account used for the deposit of federal benefits need not be verified in specific instances. Individuals who may request a fair hearing has been redefined. The annual cost of living increase in the minimum and maximum community spouse resource allowance and the maximum community spouse income allowance have changed. These amounts increased effective January 1, 2017 pursuant to federal law and are based on the annual change in the federal consumer price index (CPI). The substantial home equity limit for individuals applying for long term care assistance increased effective January 1, 2017. The resource standards for the Medicare Savings Programs (MSP – QMB, LMB and ELMB) have also increased effective January 1, 2017. Costs related to Medicare Part D and the Subsidy program changed. The benchmark premium amount for Kansas and the amount of prescription co-payments have changed effective January 1, 2017. The time period for providing requested information has changed from 10 days to 15 days. Additional guidance has been provided as to when a Medically Needy (MN) spenddown should be approved and how to add a spouse to an existing spenddown. The list of PACE service providers has been

updated. A DDS disability determination is considered the final decision for eligibility purposes regardless of any subsequent SSA application. The transfer of property penalty divisor has changed.

DESCRIPTION, PURPOSE, AND DETAILS OF POLICY CHANGE

Medical Assistance

A. Changes

1. **ABLE Act** – The Achieving a Better Life Experience (ABLE) Act allows individuals with disabilities to own special tax advantaged savings accounts. These accounts allow eligible individuals to use the funds for disability-related expenses. The accounts are exempt as a resource and distributions and earnings from the account are exempt as income.

This change is implemented per Public Law 113-295.

KEESM Sections [5430](#) and [6410](#) are being updated with this revision.

2. **Disability Trust** – This revision implements a change in who may establish an exempt disability payback trust for the benefit of a disabled individual. Previously, only the individual's parent, grandparent, conservator, legal guardian, or a court could establish the trust. With this change, the disabled individual has been included in those who may establish the trust.

This change is implemented per the 21st Century Cures Act of 2016, Section 5007 which amended Section 1917(d)(4)(A) of the Social Security Act (42 U.S.C. 1396p(d)(4)(A)).

KEESM Section [5621](#) is being updated with this revision.

3. **Direct Express Account** – Self attestation of the balance in a Direct Express electronic debit account will be accepted if the only monies in the account are from Social Security or SSI benefits, or the value of all countable resources, including the account, are not within \$300 of the resource limit. Otherwise, verification of the account balance is required.

KEESM Section [1322.1](#)(9)(c) is being updated with this revision.

4. **Fair Hearings** – Individuals allowed to request a fair hearing on behalf of an applicant/recipient are being limited to those who may file an application on behalf of the applicant/recipient.

In addition, only individuals authorized by a court of appropriate jurisdiction may request a fair hearing or represent a deceased individual in a fair hearing action.

New language has also been included to indicate fair hearings shall be conducted at the Office of Administrative Hearings or the KDHE District Office.

KEESM Section [1610.1](#) is being updated and a new section, [1610.3](#), is being added with this revision. Section [1616](#) is also being updated.

- 5. Act in Own Behalf** – Individuals designated by applicants to serve as facilitators are only granted limited authority to provide assistance to the applicant through the application process. That authority does not include the right to request a fair hearing on behalf of the applicant.

KEESM Sections [2111](#)(3) and [2112](#)(3) are being updated with this revision.

- 6. COLA Mass Change** – Effective January 1, 2017, the minimum community spouse resource allowance increased from \$23,844 to \$24,180 and the maximum resource allowance increased from \$119,220 to \$120,900. In addition, the maximum community spouse income allowance increased from \$2,981 to \$3,023. Neither the minimum income allowance nor the dependent family member allowance has changed.

Because the SSI income level has changed, the Presumptive Medical Disability – SSI Related eligibility level has also changed. The income level is changing from \$733 to \$735 for a single individual and from \$1,100 to \$1,103 for a couple.

KEESM sections [8144](#) and [8244](#) is being updated with this revision. The [ES-3162](#) (Resource Assessment and Allowance Determination Form), the [ES-3163](#) (income Allowance Determination Form), the [ES-3104.6](#) (determination worksheet for Pickle Eligibles and Other Protected Medical Groups) and the Appendix Item [F-8](#) (Kansas Medical Assistance Standards) are also being updated with this revision.

- 7. Substantial Home Equity** – The substantial home equity limit for individuals applying for long term care coverage has increased from \$552,000 to \$560,000 effective January 1, 2017. This increase is mandated by the federal law and is based

on the annual change in the consumer price index (CPI).

KEESM section [5331.1](#) is being updated with this revision.

8. **Medicare Savings Programs** – The resource limit for the Medicare Savings Programs (MSP – QMB, LMB, ELMB) has increased from \$7,280 to \$7,390 for a single individual and from \$10,930 to \$11,090 for a couple. The increase is mandated by federal law and is based on the annual change in the consumer price index (CPI).

KEESM sections [2671](#), [2672](#) and [5130](#) are being updated with this revision.

9. **Medicare Part D Subsidy** – Costs related to the Medicare Part D prescription drug coverage have changed for 2017. The following co-payments for dual eligible Medicare Part D beneficiaries are effective January 1, 2017:

- For individuals eligible for QMB, LMB or ELMB, the co-payments have increased from \$2.95 to \$3.30 per generic and from \$7.40 to \$8.25 per brand name.
- For full Medicaid eligibles with income at or below 100% of FPL, the co-payment remains \$1.20 per generic and has increased from \$3.60 to \$3.70 per brand name.
- For full Medicaid eligibles with income above 100% of FPL, the co-payment has increased from \$2.95 to \$3.30 per generic and from \$7.40 to \$8.25 per brand name.

The benchmark subsidy premium for Kansas has also changed from \$30.67 to \$30.27 effective January 1, 2017. This figure impacts the amount of Medicare Part D subsidy a beneficiary can receive. The subsidy will provide coverage of the lowest premium a Part D plan offers, up to the basic premium level for the state. A beneficiary receiving the subsidy may elect an enhanced or high cost plan, but he/she is responsible for the difference between the benchmark and the actual premium amount.

KEESM section [2675.4](#) is being updated with this revision.

10. **15 Day Rule** – The time period for providing requested information has been changed from 10 calendar days to 15 calendar days. The deadline for providing information on a denied application is also changing to the later of 45/90 days

from the date of application or 15 days from the date of denial.

KEESM sections [1321\(3\)](#), [1321.1](#), [1414.2\(3\)](#) and [2662.4\(5\)](#) are being updated with this revision.

11. **Medically Needy (MN)** – The following Medically Needy (MN) provisions have been updated with this revision:

a. **Approval Guidance** – Eligibility staff have been provided additional guidance in determining whether a Medically Needy (MN) spenddown should be approved by making reference to an existing policy memo which addresses the subject.

b. **Base Periods** – All long term care (LTC) months will use a one month eligibility base period beginning with the month the arrangement begins through the month the arrangement ends. A spouse transitioning from LTC to independent living shall be added to the community spouse's Medically Needy (MN) spenddown instead of creating a new one.

KEESM sections [1414.1\(2\)](#) and [1414.2\(4\)](#) are being updated with this revision. Section [7330](#) is also being updated by adding language to subsection (1) and adding a new subsection (5).

12. **PACE** – There are now three Program of All-Inclusive Care for the Elderly (PACE) providers in the state: Via Christi HOPE (Wichita), Midland Care (Topeka) and Bluestem PACE (McPherson). Only individuals living in the service area of these providers are eligible for the PACE program.

KEESM section [8310](#) is being updated with this revision.

13. **DDS Determination** – A disability determination completed by Disability Determination Services (DDS) is considered the final decision for purposes of determining eligibility. A subsequent SSA application does not create a new protected filing date for the original application.

KEESM sections [2662.10](#) and [2663.6](#) are being updated with this revision.

14. **Transfer of Property** – The average nursing home private pay daily rate in the state increased from \$183.15 to \$192.21. The new rate is effective with all penalty periods with a start date on or after July 1, 2016.

KEESM [5724.4](#)(2) is being updated with this revision.

B. Clarifications

1. **Vehicles** – The resource section concerning vehicles has been rewritten to reinsert language that was inadvertently removed in a previous revision. The medical assistance resource policy for vehicles has not changed.

KEESM section [5521](#) is being updated and a new section, [5511](#), is being created with this revision.

FORMS (Explanation provided if not mentioned previously in this summary.)

[ES-3162](#), **Resource Assessment and Allowance Determination Form**

[ES-3163](#) **Income Allowance Determination Form**

[ES-3104.6](#), **Determination worksheet for Pickle Eligibles and Other Protected Medical Groups** and the Appendix Item [F-8](#)
(Kansas Medical Assistance Standards)

APPENDIX (Explanation provided if not mentioned previously in this summary.)

[F-8](#), **Kansas Medical Assistance Standards**

MISCELLANEOUS FORMS (Explanation provided if not mentioned previously in this summary.)

EFFECTIVE DATE

All changes are effective April 1, 2017, unless specified otherwise in the implementation memo.

EFFECT ON LOCAL STAFF (No significant effect if not explained below.)

MATERIALS OBSOLETE BY THIS REVISION

COORDINATION EFFORTS

This change was initiated with KDHE.

Sincerely,
Sandra Kimmons, EES Director
Economic and Employment Services
SK:am

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