SENATE BILL No. 436

By Committee on Ways and Means

2-20

AN ACT concerning the department of health and environment; relating to education and screening for congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases and disorders; creating the Kansas newborn screening fund; amending K.S.A. 2011 Supp. 40-3213 and 65-180 and repealing the existing section sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2011 Supp. 40-3213 is hereby amended to read as follows: 40-3213. (a) Every health maintenance organization and medicare provider organization subject to this act shall pay to the commissioner the following fees:

(1) For filing an application for a certificate of authority, $150;

(2) for filing each annual report, $50;

(3) for filing an amendment to the certificate of authority, $10.

(b) Every health maintenance organization subject to this act shall pay annually to the commissioner at the time such organization files its annual report, a privilege fee in an amount equal to 1% per annum of the total of all premiums, subscription charges or any other term which may be used to describe the charges made by such organization to enrollees. In such computations all such organizations shall be entitled to deduct therefrom any premiums or subscription charges returned on account of cancellations and dividends returned to enrollees. If the commissioner shall determine at any time that the application of the privilege fee would cause a denial of, reduction in or elimination of federal financial assistance to the state or to any health maintenance organization subject to this act, the commissioner is hereby authorized to terminate the operation of such privilege fee.

(c) For the purpose of insuring the collection of the privilege fee provided for by subsection (b), every health maintenance organization subject to this act and required by subsection (b) to pay such privilege fee shall at the time it files its annual report, as required by K.S.A. 40-3220, and amendments thereto, make a return, generated by or at the direction of its chief officer or principal managing director, under penalty of K.S.A. 2011 Supp. 21-5824, and amendments thereto, to the commissioner, stating the amount of all premiums, assessments and charges received by the health maintenance organization, whether in
cash or notes, during the year ending on the last day of the preceding
calendar year. Upon the receipt of such returns the commissioner of
insurance shall verify the same and assess the fees upon such
organization on the basis and at the rate provided herein and such fees
shall thereupon become due and payable.

(d) Premiums or other charges received by an insurance company
from the operation of a health maintenance organization subject to this
act shall not be subject to any fee or tax imposed under the provisions of
K.S.A. 40-252, and amendments thereto.

(e) Fees charged under this section shall be remitted to the state
treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, except as
provided by K.S.A. 65-180, and amendments thereto, the state treasurer
shall deposit the entire amount in the state treasury to the credit of the
state general fund.

Sec. 2. K.S.A. 2011 Supp. 65-180 is hereby amended to read as
follows: 65-180. The secretary of health and environment shall:

(a) Institute and carry on an intensive educational program among
physicians, hospitals, public health nurses and the public concerning
congenital hypothyroidism, galactosemia, phenylketonuria and other
genetic diseases detectable with the same specimen. This educational
program shall include information about the nature of such conditions and
examinations for the detection thereof in early infancy in order that
measures may be taken to prevent the mental retardation or morbidity
resulting from such conditions.

(b) Provide recognized screening tests for phenylketonuria,
galactosemia, hypothyroidism and such other diseases as may be
appropriately detected with the same specimen. The initial laboratory
screening tests for these diseases shall be performed by the department of
health and environment or its designee for all infants born in the state.
Such services shall be performed without charge.

(c) Provide a follow-up program by providing test results and other
information to identified physicians; locate infants with abnormal newborn
screening test results; with parental consent, monitor infants to assure
appropriate testing to either confirm or not confirm the disease suggested
by the screening test results; with parental consent, monitor therapy and
treatment for infants with confirmed diagnosis of congenital
hypothyroidism, galactosemia, phenylketonuria or other genetic diseases
being screened under this statute; and establish ongoing education and
support activities for individuals with confirmed diagnosis of congenital
hypothyroidism, galactosemia, phenylketonuria and other genetic diseases
being screened under this statute and for the families of such individuals.

(d) Maintain a registry of cases including information of importance
for the purpose of follow-up services to prevent mental retardation or morbidity.

(e) Provide, within the limits of appropriations available therefor, the necessary treatment product for diagnosed cases for as long as medically indicated, when the product is not available through other state agencies. In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual meets medicaid eligibility, such individuals' needs shall be covered under the medicaid state plan. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual is not medicaid eligible, but is below 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of between 50% to 100% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual exceeds 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of an amount not to exceed 50% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment.

(f) Provide state assistance to an applicant pursuant to subsection (e) only after it has been shown that the applicant has exhausted all benefits from private third-party payers, medicare, medicaid and other government assistance programs and after consideration of the applicant's income and assets. The secretary of health and environment shall adopt rules and regulations establishing standards for determining eligibility for state assistance under this section.

(g) (1) Except for treatment products provided under subsection (e), if the medically necessary food treatment product for diagnosed cases must be purchased, the purchaser shall be reimbursed by the department of health and environment for costs incurred up to $1,500 per year per diagnosed child age 18 or younger at 100% of the product cost upon submission of a receipt of purchase identifying the company from which the product was purchased. For a purchaser to be eligible for reimbursement under this subsection (g)(1), the applicable income of the person or persons who have legal responsibility for the diagnosed child shall not exceed 300% of the poverty level established under the most recent poverty guidelines issued by the federal department of health and
human services.

(2) As an option to reimbursement authorized under subsection (g)(1), the department of health and environment may purchase food treatment products for distribution to diagnosed children in an amount not to exceed $1,500 per year per diagnosed child age 18 or younger. For a diagnosed child to be eligible for the distribution of food treatment products under this subsection (g)(2), the applicable income of the person or persons who have legal responsibility for the diagnosed child shall not exceed 300% of the poverty level established under the most recent poverty guidelines issued by the federal department of health and human services.

(3) In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection (g).

(h) The department of health and environment shall continue to receive orders for both necessary treatment products and necessary food treatment products, purchase such products, and shall deliver the products to an address prescribed by the diagnosed individual. The department of health and environment shall bill the person or persons who have legal responsibility for the diagnosed patient for a pro-rata share of the total costs, in accordance with the rules and regulations adopted pursuant to this section.

(i) Not later than July 1, 2008, The secretary of health and environment shall adopt rules and regulations as needed to require, to the extent of available funding, newborn screening tests to screen for treatable disorders listed in the core uniform panel of newborn screening conditions recommended in the 2005 report by the American college of medical genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by the department of health and environment to provide more appropriate newborn screening guidelines to protect the health and welfare of newborns for treatable disorders.

(j) In performing the duties under subsection (i), the secretary of health and environment shall appoint an advisory council to advise the department of health and environment on implementation of subsection (i).

(k) The department of health and environment shall periodically review the newborn screening program to determine the efficacy and cost effectiveness of the program and determine whether adjustments to the program are necessary to protect the health and welfare of newborns and to maximize the number of newborn screenings that may be conducted with the funding available for the screening program.

(l) There is hereby established in the state treasury the Kansas newborn screening fund which shall be administered by the secretary of health and environment. All expenditures from the fund shall be for the
newborn screening program. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee. Each month, the director of accounts and reports shall determine the amount credited to the state general fund pursuant to K.S.A. 40-3213, and amendments thereto, and shall transfer the amount equal to the amount so determined from the state general fund to the Kansas newborn screening fund, except that the aggregate amount transferred for any fiscal year shall not exceed $3,000,000 portion of such amount that is necessary to fund the newborn screening program for the preceding month as certified by the secretary of health and environment or the secretary's designee, to the newborn screening fund, except that such amount shall not exceed the amount to be credited to the state general fund pursuant to K.S.A. 40-3213, and amendments thereto.

Sec. 3. K.S.A. 2011 Supp. 40-3213 and 65-180 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.