

Public Assistance Eligibility; Step Therapy in Medicaid; House Sub. for SB 402

House Sub. for SB 402 makes changes pertaining to eligibility for public assistance. Additionally, the bill removes the prohibition from requiring a Medicaid recipient to use or fail with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's physician (a practice commonly referred to as step therapy); provides for patient protections for individuals on a drug therapy commenced prior to the effective date of the bill, including a 30-day trial limit on drug usage or drug therapy used for the treatment of multiple sclerosis; provides for a 72-hour expedited appeal process on a physician request for an override; requires the Kansas Department of Health and Environment (KDHE) to study, review, and report to the Legislature on the use of step therapy in Medicaid and the savings under the program; provides for a step therapy exemption; and requires any policy or rule and regulation related to the implementation of the program be reviewed and approved by the Medicaid Drug Utilization Review (DUR) Board prior to implementation by KDHE, with the additional requirement any policy or rule and regulation regarding any medication used to treat mental illness also is reviewed and approved by the Mental Health Medication Advisory Committee.

Public Assistance Eligibility

The bill makes changes to the Temporary Assistance for Needy Families (TANF) and other related public assistance programs as follows:

- Reduces the TANF benefit limit from 36 calendar months to 24 calendar months, with the possibility of a hardship extension allowing receipt of TANF benefits until the 36-month lifetime limit is reached (the current lifetime limit is 48 months);
- Reduces from 42 months to 18 months the TANF cash assistance lifetime limit for a recipient of a TANF diversion payment;
- Removes the limit on TANF cash assistance transactions for cash withdrawals from automated teller machines (ATMs) and removes the authority of the Secretary for Children and Families to raise or rescind the withdrawal limits;
- Requires the Kansas Department for Children and Families (DCF) to monitor repeated requests for replacement of a Kansas Benefits Card and refer frequent replacements for fraud investigation;
- Changes work participation requirements and exemptions for recipients of TANF, non-TANF child care, and food assistance (Supplemental Nutrition Assistance Program [SNAP]);
- Makes TANF and Child Care Subsidy Program recipients ineligible for assistance for failure to cooperate with fraud investigations;
- Requires verification of all adults in the assistance household;

- Requires monthly reporting of persons with lottery winnings in excess of \$5,000 to determine any recipient's continued eligibility for public assistance as a result of such winnings; and
- Addresses the recovery of public assistance debt owed to the State.

TANF Eligibility

TANF Diversion Assistance Lifetime Limit

Any recipient who receives a one-time TANF diversion assistance payment is limited to 18 months of TANF cash assistance in a lifetime.

TANF Lifetime Limits

A family group is not eligible for TANF if at least one adult in the family group has received TANF (including federal TANF assistance received in another state) for 24 calendar months beginning on or after October 1, 1996, unless the Secretary for Children and Families determines a hardship exists and grants a TANF benefit extension until the 36-month lifetime limit is reached. No extension beyond 36 months will be granted. The hardship provision applies to a recipient who is determined by the 24th month of assistance to have an extreme hardship other than those described in statute.

TANF Cash Withdrawals from ATMs

The \$25 per transaction per day limit on TANF cash assistance transactions for cash withdrawals from ATMs is removed. The bill also removes the authority of the Secretary for Children and Families to raise or rescind the withdrawal limit.

TANF Work Participation

TANF work experience placements are limited to 6 months per 24-month lifetime limit.

Other Work Requirements and Exemptions

Non-TANF Child Care Recipient

The bill exempts from the 20-hour per week minimum work requirement all non-TANF child care recipients participating in a SNAP Employment and Training Program (previously available only to mandatory SNAP Education and Training Program participants) or participating in an Early Head Start Child Care Partnership Program and working or in school or training.

SNAP Recipients

Each SNAP household member who is not exempt from work requirements is required to register for work, participate in an employment and training program if assigned to such a program by DCF, accept a suitable employment offer, and not voluntarily quit a job of at least 30 hours per week. A recipient who fails to comply with the work requirements is ineligible for SNAP for the following time periods and until compliance with the work requirements: three months of ineligibility for a first penalty, six months for a second penalty, and one year for a third and any subsequent penalty.

Fraud Investigations

Ineligibility for TANF for Failure to Cooperate

An individual who fails to cooperate with a fraud investigation is ineligible to participate in the TANF cash assistance program and the child care subsidy program until determined by DCF to be cooperating with the fraud investigation. DCF is required to maintain sufficient fraud investigative staff to allow for fraud investigations that are timely and in full compliance with state laws and DCF rules and regulations or policies.

Kansas Benefits Card Replacement

DCF is required to monitor all recipient requests for Kansas benefits card replacement, send a notice on the fourth replacement request in a 12-month period alerting the recipient his or her account is being monitored for potential suspicious activity, and refer the investigation to DCF's fraud investigation unit if an additional request for replacement is made subsequent to the notice.

Verification of Identities

DCF is required to verify the identity of all adults in the assistance household for TANF cash assistance, SNAP, and the Child Care Subsidy Program.

Verification of Lottery Winnings for Continued Eligibility

The Kansas Department of Administration is required to provide monthly to DCF the Social Security numbers or alternate taxpayer identification numbers of all persons who claim a Kansas Lottery prize in excess of \$5,000 during the reported month. DCF is required to verify whether the lottery prize winners are receiving TANF cash assistance, SNAP, or assistance under the Child Care Subsidy Program and to take appropriate action. DCF is allowed to use the data received only to determine whether a recipient's eligibility for benefits has been affected by the lottery winnings and is prohibited from publicly disclosing the identity of any lottery prize winners, including those recipients determined to have illegally received benefits.

State Recovery of Public Assistance Debt

Except as authorized in state and federal law and DCF or KDHE rules and regulations and agency policy, the total amount of any assistance sold, transferred, or otherwise disposed of to others by a recipient or another person, or the total amount of any assistance knowingly purchased, acquired, or possessed by any person, is considered a debt due the State. Such debt is recoverable by the Secretary for Children and Families or the Secretary of Health and Environment during the life or upon the death of any recipient or person who sold, transferred, disposed, purchased, acquired, or possessed such assistance. The bill allows the debt to be recovered as a fourth-class claim from the estate of such individual or in an action brought while the recipient or person is living.

Step Therapy

The bill removes the prohibition on KDHE from requiring step therapy for a Medicaid recipient. A recipient is not required to go through step therapy prior to being allowed to receive a physician-recommended product or drug therapy:

- If such drug usage or drug therapy commenced on or before July 1, 2016; or
- For a period longer than 30 days, if the drug usage or drug therapy is used for the treatment of multiple sclerosis.

Step Therapy Exemption

If KDHE utilizes the step therapy system outlined in this legislation, or any other system or program to require a recipient to utilize or fail with a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician, the bill requires KDHE to provide access for prescribing physicians to a clear and convenient process to request an override of such requirement. KDHE is required to expeditiously grant such a request for an override if:

- The required drug usage or drug therapy is contraindicated for the patient or will likely cause an adverse reaction by or physical or mental harm to the patient;
- The required drug usage or therapy is expected to be ineffective based on the known relevant clinical characteristics of the patient and the known characteristics of the required drug usage or drug therapy;
- The patient has tried the required drug usage or drug therapy while under his or her current or previous health insurance or health benefit plan, and such use was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event. For purposes of the step therapy exemption, use of pharmacy drug samples does not constitute use and failure of such drug usage or drug therapy; or

- The patient has previously been found to be stable on a different drug usage or drug therapy selected by the patient's physician for treatment of the medical condition under consideration.

KDHE, or any managed care organization or other entity administering the step therapy system established under the bill, is required to respond to and render a decision on a prescribing physician's request for an override as provided under this section within 72 hours of receiving a request.

Step Therapy Policy Review and Approval by Medicaid DUR Board

Any policy or rule and regulation proposed by KDHE related to any use of the step therapy system established by this bill, or any other system or program to require that a recipient has utilized or failed with a drug usage or therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician, shall be reviewed and approved by the Medicaid Drug Utilization Review Board, prior to implementation by KDHE. Any such KDHE-proposed policies or rules and regulations related to any medication used to treat mental illness require review and approval by the Mental Health Medication Advisory Committee and the Medicaid DUR Board, prior to implementation by KDHE.

Report Requirement

The bill requires the Secretary of Health and Environment to study and review the use of step therapy in Medicaid; prepare a report detailing the total funds saved under the program and the percentage and amount of such savings returned to the State; and submit such report to the Senate Committee on Public Health and Welfare, the Senate Committee on Ways and Means, the House Committee on Appropriations, and the House Committee on Health and Human Services on or before January 9, 2017, and on or before the first day of each subsequent legislative session.