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Cover Artwork: *Wheat Ready to Harvest*
Photo by Todd Caywood

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State of Kansas

Legislative Administrative Services

Interim Committee Schedule

The Legislative Research Department gives notice that the following legislative committees plan to meet on the dates listed below based on current information and subject to change. Requests for accommodation to participate in committee meetings should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at 785-296-2391 or TTY 711, or email legserv@las.ks.gov.

December 9 through December 27, 2024

Date	Room	Time	Committee	Agenda
Dec. 11	582-N	9:00 a.m.	Joint Committee on Administrative Rules and Regulations	https://kslegislature.gov/li/b2023_24/committees/ctte_jt_rules_regs_1/documents/agenda/weeklyinterim/20241211.pdf
Dec. 11	548-S	10:00 a.m.	Joint Committee on Legislative Budget	Legislative Matters
Dec. 12	112-N	9:00 a.m.	Special Committee on Legislative Budget	No Agenda Available
Dec. 12	582-N	10:00 a.m.	Joint Committee on Special Claims Against the State	https://kslegislature.gov/li/b2023_24/committees/ctte_jt_clms_agnst_1/documents/agenda/weeklyinterim/20241212.pdf
Dec. 13	112-N	9:00 a.m.	Special Committee on Legislative Budget	No Agenda Available
Dec. 16	112-N	9:30 a.m.	Joint Committee on State Building Construction	https://kslegislature.gov/li/b2023_24/committees/ctte_jt_bldg_constr_1/documents/agenda/weeklyinterim/20241216.pdf
Dec. 16	546-S	11:00 a.m.	Legislative Post Audit	https://www.kslpa.gov/wp-content/uploads/2024/12/Draft-LPAC-Agenda-12.16.24.pdf
Dec. 18	112-N	9:00 a.m.	Special Committee on Legislative Budget	No Agenda Available
Dec. 19	112-N	9:00 a.m.	Special Committee on Legislative Budget	No Agenda Available

Tom Day
Director
Legislative Administrative Services

Doc. No. 052713

State of Kansas

Pooled Money Investment Board

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 12-1675(b)(c)(d) and K.S.A. 12-1675a(g).

Effective 12-9-24 through 12-15-24

Term	Rate
1-89 days	4.58%
3 months	4.37%
6 months	4.30%
12 months	4.28%
18 months	4.20%
2 years	4.13%

Joel Oliver
Executive Director
Chief Investment Officer
Pooled Money Investment Board

Doc. No. 052705

State of Kansas

Department of Administration
Office of Accounts and Reports

Public Notice

Under requirements of K.S.A. 65-34,117(c), as amended, records of the Office of Accounts and Reports show the unobligated balances are $6,080,251.43 in the Underground Petroleum Storage Tank Release Trust Fund and $5,690,107.79 in the Aboveground Petroleum Storage Tank Release Trust Fund at November 30, 2024.

Jocelyn Gunter
Director
Office of Accounts and Reports
Department of Administration

Doc. No. 052707

State of Kansas

Department of Administration
Office of Facilities and Property Management

Notice of Requested On-Call Architectural Services

Notice is hereby given of the commencement of the selection process for on-call architectural services for the Department of Administration – Office of Facilities and Property Management. Services are required for restricted (small) projects with a project budget of $1,500,000 or less. Projects will be primarily east of US-281 Highway and the Capitol Complex; however, project may be assigned anywhere within the State of Kansas. Multiple firms will be selected. The contracts will be for three years with two one-year renewal options.

For more information, contact Barbara Schilling at Barb.Schilling@ks.gov. Firms interested in providing these services should be familiar with the requirements which can be found in Part B-Chapter 4 of the Building Design and Construction Manual at the website below.

To be considered, one (1) PDF file of the following should be provided: State of Kansas Professional Qualifications DCC Forms 051-054, inclusive, and information regarding similar projects. These forms may be found at https://admin.ks.gov/offices/facilities-property-management/design-construction--compliance/forms-and-documents. State of Kansas Professional Qualifications DCC Form 050 for each firm and consultant should be provided at the end of each proposal. Please include your firm name, agency abbreviation, and an abbreviated project name in the title of the PDF document. Proposals should be less than 5 Mb and follow the current State Building Advisory Commission guidelines which can be found in Part B – Chapter 2 of the Building Design and Construction Manual at https://admin.ks.gov/offices/facilities-property-management/design-construction--compliance/building-design-and-construction-manual-bdcm. Paper copies and flash drives containing copies of the proposals are not required.

Proposals should be sent to professional.qualifications@ks.gov. Proposals received after the date and time noted below will not be forwarded to the State Building Advisory Commission for review. If you have questions about the proposal submissions, please contact Randy Riveland at randy.riveland@ks.gov or call 785-296-0749. The PDF proposal submissions shall be delivered to the attention of State Building Advisory Commission by 2:00 p.m. on or before December 27, 2024.

The State of Kansas, as a matter of public policy, encourages anyone doing business with the State of Kansas to take steps to discourage human trafficking. If prospective bidders/vendors/contractors have any policies or participate in any initiatives that discourage human trafficking, then the prospective bidder/vendor/contractor is encouraged to submit same as part of their bid response.

Barbara Schilling
Deputy Director-DCC
Office of Facilities and Property Management
Department of Administration

Doc. No. 052720

State of Kansas

Department of Administration
Office of Procurement and Contracts

Notice to Bidders

Sealed bids for items listed will be received by the Office of Procurement and Contracts until 2:00 p.m. on the date indicated. For more information, call 785-296-2376.

All bids are to be submitted via email only to procurement@ks.gov. For more information, please visit https://supplier.sok.ks.gov/psc/sokfsprdsup/SUPPLIER/ERP/c/SCP_PUBLIC_MENU_FL.SCP_PUB_BID_CMP_FL.GBL.

12/18/2024	EVT0010040	Elevator Maintenance
12/19/2024	EVT0010032	HVAC Preventative Maintenance
12/19/2024	EVT0010041	Masonry Restoration and Waterproofing
12/30/2024	EVT0010029	Post Secondary and Apprenticeship Technical Assistant
01/03/2025	EVT0010030	Central Kansas Water Bank Review
01/07/2025	EVT0010043	Annual Comprehensive Financial Report Software

The above referenced bid documents can be downloaded at the following website:

https://supplier.sok.ks.gov/psc/sokfsprdsup/SUPPLIER/ERP/c/SCP_PUBLIC_MENU_FL.SCP_PUB_BID_CMP_FL.GBL

Additional files may be located at the following website (please monitor this website on a regular basis for any changes/addenda):

https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/additional-bid-opportunities

There are No Bids Under this Website Closing in this Week's Ad

Information regarding prequalification, projects, and bid documents can be obtained at 785-296-8899 or http://admin.ks.gov/offices/ofpm/dcc.

Todd Herman
Director
Office of Procurement and Contracts
Department of Administration

Doc. No. 052716

State of Kansas

Board of Regents Universities

Notice to Bidders

The universities of the Kansas Board of Regents encourage interested vendors to visit the various universities' purchasing offices' websites for a listing of all transactions, including construction projects, for which the universities' purchasing offices, or one of the consortia commonly utilized by the universities, are seeking information, competitive bids, or proposals. The referenced construction projects may include project delivery con-

struction procurement act projects pursuant to K.S.A. 76-7,125 et seq.

Emporia State University – Bid postings: https://www.emporia.edu/about-emporia-state-university/business-office/purchasing. Additional contact info: phone: 620-341-5137, email: purchaseorders@emporia.edu. Mailing address: Emporia State University Purchasing, Campus Box 4021, 1 Kellogg Cir., Emporia, KS 66801.

Fort Hays State University – Electronic bid postings: http://www.fhsu.edu/purchasing/bids. Additional contact info: phone: 785- 628-4251, email: purchasing@fhsu.edu. Mailing address: Fort Hays State University Purchasing Office, 601 Park St., Sheridan Hall 318, Hays, KS 67601.

Kansas State University – Bid postings: https://bidportal.ksu.edu. Effective August 1, 2023, all bids, quotes, or proposals must be submitted via the Kansas State University Bid Portal at https://bidportal.ksu.edu. Division of Financial Services/Purchasing, 2323 Anderson Ave., Kansas State University, Manhattan, KS 66506. Additional contact information, phone: 785-532- 6214, email: kspurch@k-state.edu.

Pittsburg State University – Bid postings: https://www.pittstate.edu/office/purchasing. Additional contact info: phone: 620-235-4167, email: purch@pittstate.edu. Mailing address: Pittsburg State University, Purchasing Office, 1701 S. Broadway, Pittsburg, KS 66762.

University of Kansas – Electronic bid postings: http://www.procurement.ku.edu/. The University of Kansas exclusively uses the online eBid tool and will no longer accept paper responses unless otherwise specified in a solicitation. Additional contact information, email: purchasing@ku.edu. Mailing address: University of Kansas, Procurement Department, 1246 W. Campus Road Room 20, Lawrence, KS 66045.

University of Kansas Medical Center – Electronic bid postings: https://www.kumc.edu/finance/supply-chain/bid-opportunities.html. Additional contact information, phone: 913-588-1117, email: hunkemoore@kumc.edu. The University of Kansas Medical Center accepts only electronic bids.

Wichita State University – Bid postings: https://www.wichita.edu/services/purchasing/Bid_Documents/Bid Documents.php. Additional contact information, phone: 316-978-3080, fax: 316-978-3738, email: purchasing.office@wichita.edu. Mailing address: Wichita State University, Office of Purchasing, 1845 Fairmount Ave., Campus Box 38, Wichita, KS 67260-0038.

Jim Hughes
Director of Purchasing
Pittsburg State University

Doc. No. 052485

State of Kansas

Wichita State University

Notice of Intent to Lease Real Property

Public notice is hereby given that Wichita State University (WSU), directly or through its affiliate corporation Wichita State Innovation Alliance, Inc., intends to lease, subject to all required state approvals, up to 1.22 acres of real property located on the northwest corner of the intersection of Fountain Avenue and 21st Street North, directly adjacent to the Wichita State University campus. This location would be designated for private development committed to supporting broadband infrastructure and Internet exchanges. The university is interested in leasing such ground to any individual, organization, or entity whose presence would advance WSU's vision or its mission as an educational, cultural, and economic driver for Kansas and the greater public good. WSU intends to lease such space for a mutually agreeable period of time, but extended terms and renewal options would be considered. Interested tenants must be willing to be a good fit with WSU's educational mission and identify anticipated benefits to the university, its students, and the surrounding community (i.e. applied learning, joint research, faculty start-up, WSU curriculum or program support, community benefit commitments, etc.), and must agree to the essential ground lease terms and restrictive covenants. Interested tenants will be evaluated on: proposal terms, demonstrated benefit to WSU and the surrounding community, design concepts, financial stability, and proposed use. Interested tenants will be responsible for all costs associated with the development and ongoing maintenance costs of any improvements. Rental rate shall be based on fair market value and negotiable based on term of lease, purpose/use of the improvement, and benefit to WSU. WSU will consider serious offers and inquiries from any financially qualified individual, group, organization. If interested, please contact Property Manager Crystal Stegeman at crystal.stegeman@wichita.edu. This publication is being published pursuant to K.S.A. 75-430a(d), to the extent applicable.

Crystal Stegeman
University Property Manager
Office of the Vice President for
Administration and Finance
Wichita State University

Doc. No. 052352

State of Kansas

Wichita State University

Notice of Intent to Lease Real Property

Public notice is hereby given that Wichita State University (WSU), directly or through its affiliate corporation Wichita State Innovation Alliance, Inc., intends to lease, subject to all required state approvals, up to four acres of real property located on the Wichita State University's campus designated as the "Innovation Campus," for the private development and operation of a partnership building or buildings. The university is interested in leasing such ground to any individual, organization, or entity whose presence on campus would advance the university's applied learning vision or its mission as an educational, cultural, and economic driver for Kansas and the greater public good. The university intends to lease such space for a mutually agreeable period of time up to sixty years, but extend-

(continued)

ed terms and renewal options would be considered. Interested tenants must be willing to be a good fit with the university's educational mission and identify anticipated benefits to the university, its students, and the WSU community (i.e. applied learning, joint research, faculty start-up, WSU curriculum or program support, etc.), and must agree to the essential ground lease terms and restrictive covenants. Interested tenants will be evaluated on: proposal terms, demonstrated benefit to WSU, design concepts, financial stability, and proposed use. Interested tenants will be required to construct adjacent and adequate surface parking that will not be included in the leased ground. Rental rate shall be based on fair market value and negotiable based on term of lease, purpose/use of building improvement, and benefit to the university. The university will consider serious offers and inquiries with detailed proposal terms from any financially qualified individual, group, organization. If interested, please contact Senior Vice President for Industry and Defense Programs, Dr. John Tomblin at john.tomblin@wichita.edu or Property Manager Crystal Stegeman at crystal.stegeman@wichita.edu. This publication is being published pursuant to K.S.A. 75-430a(d), to the extent applicable.

Crystal Stegeman
University Property Manager
Office of the Vice President for
Administration and Finance

Doc. No. 052353

State of Kansas

Insurance Department

Notice of Data Security Incident

This is notice of a data security incident involving the electronic records of Physicians Standard Insurance Company (PSIC) and certain affiliates to alert those whose personal information may have been impacted. PSIC is an insolvent medical malpractice insurer. The vendor storing PSIC's servers reported that a criminal actor gained unauthorized access to the PSIC servers and encrypted the data. The data included the following types of information: names, basic contact information, summaries of claimant allegations which contain medical information and some medical records of claimants, potential social security numbers, tax identification numbers, license numbers, and information used for payments. For more information visit https://insurance.kansas.gov/legal-issues/#psic or email us at kdoi.psic@ks.gov. For your security, please note that we will not initiate contact with you regarding this cybersecurity incident by phone call, text, or email. We encourage you to take steps to ensure your data remains secure and remain vigilant for incidents of identity theft or fraud by reviewing bank accounts and other financial statements, and by proactively monitoring free credit reporting. Under U.S. law, you are entitled to one free credit report annually from each of the three major credit reporting bureaus. To order your free credit report, visit http://www.annualcreditreport.com or call 1-877-322-8228 (toll free). To learn more about credit bureau resources, visit our website at https://insurance.kansas.gov/legal-issues/#psic. You may contact the three major credit reporting agencies listed below:

Equifax
PO Box 740241, Atlanta, GA 30374-0241
1-866-349-5191
http://www.equifax.com

Experian
PO Box 2002, Allen, TX 75013-9701
1-866-200-6020
http://www.experian.com

TransUnion
PO Box 1000, Chester, PA 19016-1000
1-800-888-4213
http://www.transunion.com

Vicki Schmidt
Insurance Commissioner

Doc. No. 052706

State of Kansas

Department of Health and Environment
Division of Health Care Finance

Public Notice

The Kansas Department of Health and Environment, Division of Health Care Finance (KDHE-DHCF) is amending the Kansas Medicaid State Plan. Kansas Medicaid has received the Centers for Medicare and Medicaid Services (CMS) approval to enter into agreements with drug/product manufacturers, regarding rebates tied to drug effectiveness benchmarks, collectively called Outcomes-Based Agreement (OBA). An Outcomes-Based Agreement with an Amendment form is being added.

The proposed effective date for the State Plan Amendment (SPA) is January 1, 2025.

Fee-For-Service Only	Estimated Federal Financial Participation
FFY 2025	$0
FFY 2026	$0

To request a copy of the proposed SPA, to submit a comment, or to review comments, please contact William C. Stelzner by email at william.stelzner@ks.gov, or by mail at:

William C. Stelzner
Kansas Department of Health and Environment
Division of Health Care Finance
900 SW Jackson, Room 900N
Topeka, KS 66612

The last day for public comment is January 13, 2025.

Draft copies of the proposed SPA may also be found at a Local Health Department (LHD).

Christine Osterlund
Medicaid Director
Deputy Secretary of Agency Integration and Medicaid
Division of Health Care Finance
Department of Health and Environment

Doc. No. 052708

State of Kansas

Department of Health and Environment
Division of Health Care Finance

Public Notice

The Kansas Department of Health and Environment, Division of Health Care Finance (KDHE-DHCF) is amending the Kansas Medicaid State Plan. Kansas Medicaid will reimburse pharmacists for Medication Therapy Management (MTM) intervention services.

The proposed effective date for the State Plan Amendment (SPA) is January 1, 2025.

Fee-For-Service Only	Estimated Federal Financial Participation
FFY 2024	$109
FFY 2024	$175

To request a copy of the proposed SPA, to submit a comment, or to review comments, please contact William C. Stelzner by email at william.stelzner@ks.gov, or by mail at:

William C. Stelzner
Kansas Department of Health and Environment
Division of Health Care Finance
900 SW Jackson, Room 900N
Topeka, KS 66612

The last day for public comment is January 13, 2025.

Draft copies of the proposed SPA may also be found at a Local Health Department (LHD).

Christine Osterlund
Medicaid Director
Deputy Secretary of Agency Integration and Medicaid
Division of Health Care Finance
Department of Health and Environment

Doc. No. 052709

State of Kansas

Department of Health and Environment

Notice of Proposed Kansas/Federal Water Pollution Control Permits and Applications

In accordance with Kansas Administrative Regulations 28-16-57a through 63, 28-18-1 through 17, 28-18a-1 through 31 and 33, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, various draft water pollution control documents (permits, notices to revoke and reissue, notices to terminate) have been prepared and/or permit applications have been received for discharges to waters of the United States and the state of Kansas for the class of discharges described below.

The proposed actions concerning the draft documents are based on staff review, applying the appropriate standards, regulations, and effluent limitations of the state of Kansas and the Environmental Protection Agency. The final action will result in a Federal National Pollutant Discharge Elimination System Authorization and/or a Kansas Water Pollution Control permit being issued, subject to certain conditions, revocation, and reissuance of the designated permit or termination of the designated permit.

Las acciones propuestas con respecto a los documentos preliminares se basan en la revisión del personal, aplicando los estándares, regulaciones y limitaciones de efluentes apropiados del estado de Kansas y de la Agencia de Protección Ambiental de Estados Unidos. La acción final resultará en la emisión de una Autorización Federal del Sistema Nacional de Eliminación de Descargas de Contaminantes y un permiso de Control de Contaminación del Agua de Kansas, sujeto a ciertas condiciones, revocación y reemisión del permiso designado o terminación del permiso designado. Si desea obtener más información en español o tiene otras preguntas, por favor, comuníquese con el Coordinador de No Discriminación al 785-296-5156 o en: KDHE.NonDiscrimination@ks.gov.

Public Notice No. KS-AG-24-394/401

Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Came Farms, Inc. 2566 W. Humbarger Rd. Salina, KS 67401	NE/4 of Section 09 T13S, R03W Saline County	Saline River Basin

Kansas Permit No. A-SASA-B001

The proposed action is to reissue an existing state permit for an existing facility for 999 head (499.5 animal units) of cattle weighing 700 pounds or less. There will be no change in the operation or permitted number of animal units from the previous permit. This facility has an approved Waste Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
Chase Bontrager 16014 254th Rd. Whiting, KS 66552	SW/4 of Section 20 & NE/4 of Section 29 T06S, R16E Jackson County	Kansas River Basin

Kansas Permit No. A-KSJA-B012

The proposed action is to issue a new state permit for a facility for 999 head (999 animal units) of cattle weighing more than 700 pounds. The facility will consist of approximately 27 acres of open lot pens and a waste management system consisting of three (3) sediment basins and one (1) retention control structure. This facility has an approved Waste Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
Detweiler Farm 2565 Eagle Rd. Summerfield, KS 66541	NE/4 of Section 31 T01S, R10E Marshall County	Big Blue River Basin

Kansas Permit No. A-BBMS-S049

The proposed action is to reissue an existing state permit for an existing facility for 1,920 head (768 animal units) of swine more than 55 pounds, 320 head (32 animal units) of swine 55 pounds or less, and 100 head (50 animal units) of cattle 700 pounds or less, for a total of 850 animal units of swine and cattle. There will be no change in the operation or permitted number of animal units from the previous permit. This facility has an approved Waste Management Plan on file with KDHE.

(continued)

Name and Address of Applicant	Legal Description	Receiving Water
LEI Lake View, LLC 1008 29th Rd. Morrowville, KS 66958	SW/4 of Section 03 T01S, R02E Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-S065

The proposed action is to reissue an existing state permit for an existing facility for 2,499 head (999.6 animal units) of swine more than 55 pounds. There will be no change in the operation or permitted number of animal units from the previous permit. This facility has an approved Waste Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
Michael Arndt 1181 Road E Emporia, KS 66801	NE/4 of Section 10 T20S, R10E Lyon County	Neosho River Basin

Kansas Permit No. A-NELY-B008

The proposed action is to reissue an existing state permit for an existing facility for 999 head (999 animal units) of cattle weighing more than 700 pounds. There will be no change in the operation or permitted number of animal units from the previous permit. This facility has an approved Waste Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
Schrock Dairy Enos Schrock 2205 W. Mills Ave. Hutchinson, KS 67501	NW/4 of Section 10 T24S, R06W Reno County	Lower Arkansas River Basin

Kansas Permit No. A-ARRN-M054

The proposed action is to reissue an existing state permit for an existing facility for 40 head (56 animal units) of mature dairy cattle and 15 head (15 animal units) of cattle (dry heifers) weighing more than 700 pounds; for a total of 71 animal units. There will be no change in the operation or permitted number of animal units from the previous permit. This facility has an approved Waste Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
Sealock, Inc. 1547 N. Road 20W Hoxie, KS 67740	NE/4 of Section 18 T08S, R28W Sheridan County	Solomon River Basin

Kansas Permit No. A-SOSD-C005
Federal Permit No. KS0095940

The proposed action is to modify and reissue the existing NPDES permit for a facility for a proposed maximum capacity of 1,999 head (1,999 animal units) of cattle weighing more than 700 pounds. This represents an increase in the permitted animal units from the previous permit. There will be no change in operation or the footprint of the facility. This facility has an approved Nutrient Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
Sellers Farms, Inc. Kevin Dwyer 1346 Avenue N Lyons, KS 67554	SW/4 of Section 06 & N/2 of Section 07 T20S, R08W Rice County	Lower Arkansas River Basin

Kansas Permit No. A-ARRC-C004
Federal Permit No. KS0086690

The proposed action is to modify and reissue the existing NPDES permit for a facility for a proposed maximum capacity of 15,000 head (15,000 animal units) of cattle weighing more 700 pounds This represents a 2,000-animal unit increase from the previous permit. Only the updated portions of the permit are subject to public comment.

Public Notice No. KS-Q-24-253/256

The requirements of the draft permit public noticed below are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-g), and Federal Surface Water Criteria.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Pittsburg, City of PO Box 688 Pittsburg, KS 66762	Cow Creek	Treated Domestic

Permit No. M0NE57-OO01
Federal Permit No. KS0038954

Legal Description: NW¼, SE¼, Section 31, Township 30S, Range 25E, Crawford County

Location: 37.38626, -94.71269

The proposed action consists of reissuance of a Kansas/NPDES Water Pollution Control permit for an existing facility. The existing facility is a mechanical treatment plant consisting of two mechanical bar screens, extraneous flow screw pump station, main pump station, aerated grit removal, vortex grit removal, hydrated lime addition and two parallel treatment trains (with interconnection capability). The permit contains a schedule of compliance to address a total phosphorus load limit. This permit contains limits for Biochemical Oxygen Demand, Total Suspended Solids, pH, E. coli, Dissolved Oxygen, and Chronic Whole Effluent Toxicity. The permit contains monitoring for Total Phosphorus, Nitrates + Nitrites, Total Kjeldahl Nitrogen, Total Nitrogen, Sulfates, and Zinc.

Name and Address of Applicant	Receiving Stream	Type of Discharge
New Century Wastewater Treatment Facility 11811 S. Sunset Dr., Suite. 2500 Olathe, KS 66061-7061	Maris des Cygnes River via Bull Creek via Little Bull Creek	Treated Domestic

Permit No. M-MC51-OO01
Federal Permit No. KS0119296

Legal Description: NW¼, NE¼, NE¼, Section 19, Township 14S, Range 23E and SE¼, SE¼, SE¼, Section 18, Township 14S, Range 23E, Johnson County

Location: 38.82539, -94.89463

The proposed action consists of reissuance of a Kansas/NPDES Water Pollution Control permit for an existing facility. The facility receives domestic wastewater from residential and commercial areas and industrial wastewater from local manufacturers. This facility has entered an Integrated Management Plan between Johnson County and KDHE under consent order #19-E-5. This permit contains limits for Carbonaceous Biochemical Oxygen Demand, Total Suspended Solids, pH, Ammonia, E. coli, and Chronic Whole Effluent Toxicity. The permit contains monitoring for Total Phosphorus, Nitrates + Nitrites, Total Kjeldahl Nitrogen, and Total Nitrogen.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Nelson Complex Wastewater Treatment Plant 11811 S. Sunset Dr., Suite 2500 Olathe, KS 66061-7061	Turkey Creek	Treated Domestic

Permit No. M-KS45-OO01
Federal Permit No. KS0055492

Legal Description: NE¼, NW¼, NE¼, Section 5, Township 12S, Range 25E, Johnson County

Location: 39.04193, -94.65185

The proposed action consists of reissuance of a Kansas/NPDES Water Pollution Control permit for an existing facility. The existing facility is a mechanical wastewater treatment plant consisting of: The Mission Township M.S.D. #1 consists of mechanical bar screen and grit chamber, two primary clarifiers, two primary trickling filters, four intermediate clarifiers three secondary trickling filters, three final clarifiers, chlorination, sludge thickening and holding tanks and sludge dewatering unit with a design flow of 7.0 MGD. This facility has entered an Integrated Management Plan between Johnson County and KDHE under consent order #19-E-5. The total proposed design discharge from the treatment system is about 86,400 gallons/day. This permit contains limits for Carbonaceous Biochemical Oxygen Demand, Total Suspended Solids, pH, Ammonia, E. coli, Dissolved Oxygen, Total Residual Chlorine, and Chronic Whole Effluent Toxicity. The permit contains monitoring for Total Phosphorus, Nitrates + Nitrites, Total Kjeldahl Nitrogen, and Total Nitrogen.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Tyson Fresh Meats, Inc. 800 Stevens Port Dr. Dakota Dunes, SD 57049	Neosho River via Cottonwood River via Unnamed Tributary	Process Wastewater

Permit No. I-NE24-PO02
Federal Permit No. KS0000817

Legal Description: SE¼, Section 18, Township 19S, Range 11E, Lyon County

Location: 38.39060, -96.23212

The proposed action consists of reissuance of an existing Kansas Water Pollution Control (KWPC)/National Pollutant Discharge Elimination System (NPDES) permit for an existing facility. The facility retains facilities and wastewater treatment capability to allow restarting of slaughterhouse operations. Live cattle slaughter and rendering are currently not conducted at this facility. This permit contains limits for BOD, TSS, Oil and Grease, pH, Ammonia, Whole Effluent Toxicity Chromic, TMDL Phosphorus, and Total Nitrogen. The permit contains monitoring for Total Phosphorus, Nitrates + Nitrites, Total Kjeldahl Nitrogen, and Total Nitrogen.

Persons wishing to comment on or object to the draft documents and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment (KDHE) if they wish to have the comments or objections considered in the decision-making process. All written comments regarding the draft documents, application or registration notices received on or before January 11, 2025, will be considered in the formulation of the final determination regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-24-394/401, KS-Q-24-253/256) and name of the applicant/permittee when preparing comments.

All comments received will be responded to at the time the Secretary of Health and Environment issues a determination regarding final agency action on each draft document/application. If response to any draft document/application indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). A request for public hearing must be submitted in writing and shall state the nature of the issues proposed to be raised during the hearing.

Comments or objections for agricultural related draft documents, permit applications, registrations or actions should be submitted to the attention of Casey Guccione, Livestock Waste Management Section at the KDHE, Bureau of Environmental Field Services (BEFS), 1000 SW Jackson, Suite 430, Topeka, KS 66612. Comments or objections for all other proposed permits or actions should be sent to Andrew Bowman at the KDHE, Bureau of Water, 1000 SW Jackson St., Suite 420, Topeka, KS 66612.

All draft documents/applications and the supporting information including any comments received are on file and may be inspected at the offices of the KDHE. For agricultural related draft documents or applications an appointment can be scheduled, or copies requested by contacting Jada Martin at 1000 SW Jackson St., Suite 430, Topeka, KS 66612, telephone 785-296-0076 or email at kdhe.feedlots@ks.gov. Las preguntas o comentarios por escrito deben dirigirse a Erich Glave, Director, Bureau of Environmental Field Services en KDHE: 1000 SW Jackson St., Suite 430, Topeka, KS 66612-1367; por correo electrónico: kdhe.feedlots@ks.gov; por teléfono: 785-296-6432. For all other proposed permits or actions an appointment can be scheduled, or copies requested by contacting Jamie Packard, Bureau of Water, 1000 SW Jackson St., Suite 420, Topeka, KS 66612, telephone 785-296-4148 or email at Jamie.Packard@ks.gov. These documents are available upon request at the copying cost assessed by KDHE. Application information and components of plans and specifications for all new and expanding swine facilities are available at http://www.kdhe.ks.gov/livestock. Division of Environment offices are open from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

Janet Stanek
Secretary
Department of Health and Environment

Doc. No. 052712

(Published in the Kansas Register December 12, 2024.)

Mid-States Materials, LLC

Request for Proposals

Interested parties are invited to submit a proposal to complete scope of repairs for the proposed Mid-States Materials, LLC – South Hutchinson, Kansas location.

Scope of Work

Complete all aspects needed for completion of Design Build project for new track siding in South Hutchinson, Kansas. Scope to include civil/structural/rail engineering services, civil grading drainage, new track construction, rail dump pit installation, site improvement, and mobile transloading ramp required for the Mid-States Materials, LLC – South Hutchinson Kansas track project. The scope is defined further as follows:

- Contract with ASM Engineering for civil, rail, and structural engineering:
  - Contact Ryan McCune at rmccune@asm4.com.
- Civil grading and drainage package for rail bed and truck routes.
- Install two mainline No. 10 switch packages.
- 1251 track feet new construction.
- Design and installation of rail dump pit.
- Manufacture/furnish transload ramp:
  - Contact Bettis Contractors, Inc. – Justin Collins at jcollins@bettiscontractors.com.
- All track materials to be provided by owner to include ballast, sub-ballast, turnouts, rail, and OTM.

(continued)

Receiving of all materials to be coordinated by winning contractor.

All pre-existing rail, ties, OTM, or other materials that are removed must be disposed of according to all local, state, and federal regulations.

Minimum Requirements

1. Roadway Worker Protection.
2. Comply with all Kansas & Oklahoma (K&O) Railroad requirements.
3. Contractors shall comply with all parts of 49 CFR Part 214 and 219 regarding FRA Roadway Worker Safety at all times. Workers and equipment shall remain clear of the track unless they have gained Roadway Worker Protection from a qualified person.
4. Contractor, contractor employees, agents, and/or subcontractors must be enrolled and comply with the FRA 219 approved drug testing program.
5. Subcontracted work will need to be approved prior to any work starting.

Work Windows

Impact to current railroad operations must be kept to a minimum. When work must take place that causes an active track to be taken out of service for the purposes of performing work that pertains to the project, the contractor must pre-arrange a defined work window with the K&O Railroad.

Standards

All Standards referenced by the project plans, scope of work, and specifications, as well as applicable AREMA standards must be upheld during all phases of the project. Use existing rail.

Submittals

The following documents shall be submitted at the time listed, by the contractor as part of the project:

1. Schedule of Work – Submitted with proposal.
2. Certificate of Insurance – Submitted prior to construction.
3. Safety Plan – Submitted prior to construction.
4. Proof of Roadway Worker Training – Submitted prior to construction.

Other Responsibilities

1. Permits – Contractor is responsible for all federal, state, and local permits for the work.
2. Utilities – Contractor is responsible for locating and protecting site utilities.
3. Site Clean-up – Contractor is responsible for proper site disposal of materials in accordance with local, state and federal laws. Contractor is responsible for site restoration. Contractor is responsible for securing dumpster and hauling off used material. No old ties will be allowed to be stored on site in a pile.
4. Right-of-Way Access – Contractor is responsible for obtaining proper right of way entry prior to Mid-States Materials, LLC property and entering K&O Railroad property.
5. KDOT Grant – All requirements applicable to the contractor pursuant to the grant provided to Mid-States Materials, LLC from the Kansas Department of Transportation (KDOT) in connection with this project.

Insurance

Contractor shall purchase required insurance coverage and submit verification of Certificate of Insurance prior to construction. Contractor shall address insurance requirements by K&O Railroad and submit proof to both Mid-States Materials, LLC and K&O Railroad.

Materials

All materials will be supplied by the owner. Coordination, delivery unload, and material safety will be the responsibility of the winning contractor. Material storage is granted on Mid-States Materials, LLC right of way to the contractor. However, no materials shall be stored closer than 15′ from the centerline of any active track at any time. Material and equipment laydown areas and reclaimed materials stockpiling locations shall be discussed and further if needed. Contractor is responsible for furnishing all required materials to complete the project.

Non-Project Areas

Mid-States Materials, LLC has secured access to the project through the K&O Railroad. Other access may be obtained by the contractor if they so choose. All areas (public, private, and railroad right of way) that are used for access to the project, including parts of the railroad right of way which have no proposed work, shall be maintained and/or remediated, incidental to the project, by the contractor to the satisfaction of the property owner if any damage to these areas occurs.

Pre-Bid Meeting

There will be a mandatory onsite pre-bid meeting December 23, 2024, at 108 Williams Ave., South Hutchinson, KS 67505. Anyone who does not attend the mandatory pre-bid meeting will not be offered a chance to offer a proposal.

Project Completion

All work pertaining to this project shall be completed by June 1, 2025. Failure to complete work by June 1, 2025, may result in the contractor's removal from the property or charges of $2,500/day until completed to satisfaction.

Submission of a Proposal

All proposals must be submitted no later than January 6, 2025, via email to Cole Andersen at candersen@midstatesmaterials.com. All submitted proposals shall be reviewed by Mid-States Materials, LLC. Proposal must include all required information. Incomplete proposals shall be rejected. The structure of the proposal must be clearly understood, all proposals shall provide the following line items and provide costs as required. Bid tabs to be provided at pre-bid meeting.

Work Reporting

Weekly work reports must be filled out and submitted to Cole Anderson via email at candersen@midstatesmaterials.com. Weekly reports should include updates to project schedules, materials used, materials received, any delays, or any change in the scope of work. A detailed summary report must be submitted at the completion of the project.

Cole Andersen
Senior Vice-President
Mid-States Materials, LLC

Doc. No. 052710

(Published in the Kansas Register December 12, 2024.)

Logan County, Kansas

Notice of Intent to Seek Private Placement General Obligation Bonds, Series 2025-A

Notice is hereby given that Logan County, Kansas (the "Issuer") proposes to seek a private placement of the above-referenced bonds (the "Bonds"). The maximum aggregate principal amount of the Bonds shall not exceed $2,000,000. The proposed sale of the Bonds is in all respects subject to approval of a bond purchase agreement between the Issuer and the purchaser of the Bonds and the adoption of a resolution by the governing body authorizing the issuance of the Bonds and the execution of various documents necessary to deliver the Bonds.

Dated December 2, 2024.

Crystal Rucker
County Clerk
Logan County, Kansas

Doc. No. 052714

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9:00 a.m. Friday, December 27, 2024, in the offices of the Kansas Development Finance Authority (KDFA), 534 S. Kansas Ave., Suite 800, Topeka, Kansas, on the proposal for the KDFA to issue its Agricultural Development Revenue Bonds for the projects numbered below in the respective maximum principal amounts. The bonds will be issued to assist the borrowers named below (who will be the owners and operators of the projects) to finance the cost in the amount of the bonds, which are then typically purchased by a lender bank who then, through the KDFA, loans the bond proceeds to the borrower for the purposes of acquiring the project. The projects shall be located as shown:

Project No. 001153 Maximum Principal Amount: $649,400. Owner/Operator: Matthew J. and Ashlyn N. Hammes; Description: Acquisition of 160 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes (the "Project"). The Project is being financed by the Lender for Matthew J. and Ashlyn N. Hammes (the "Beginning Farmer") and is located at the Southeast Quarter of Section 17, Township 4 South, Range 12 East, Nemaha County, Kansas, approximately 2 miles east of Centralia, Kansas on K-9 Highway and 2 miles south on I Road.

Project No. 001154 Maximum Principal Amount: $649,400. Owner/Operator: Joshua D. Hammes; Description: Acquisition of 160 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes (the "Project"). The Project is being financed by the Lender for Joshua D. Hammes (the "Beginning Farmer") and is located at the Southwest Quarter of Section 27, Township 4 South, Range 12 East, Nemaha County, Kansas, approximately 2 miles west of Corning, Kansas on 52nd Road and 1/2 mile north on J Road.

The bonds, when issued, will be a limited obligation of the KDFA and will not constitute a general obligation or indebtedness of the state of Kansas or any political subdivision thereof, including the KDFA, nor will they be an indebtedness for which the faith and credit and taxing powers of the state of Kansas are pledged. The bonds will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bonds when they become due.

Interested individuals may participate in the public hearing in person or via conference call. Please call 844-621-3956 and use conference identification number 145 880 8929 followed by # to join the conference.

All individuals who appear at the hearing will be given an opportunity to express their views concerning the proposal to issue the bonds to finance the projects, and all written comments previously filed with the KDFA at its offices at 534 S. Kansas Ave., Suite 800, Topeka, KS 66603, will be considered. Additional information regarding the projects may be obtained by contacting the KDFA.

Rebecca Floyd
President
Kansas Development Finance Authority

Doc. No. 052715

State of Kansas

Secretary of State

Notice of Forfeiture

In accordance with Kansas statutes, the following business entities organized under the laws of Kansas and the foreign business entities authorized to do business in Kansas were forfeited during the month of November 2024 for failure to timely file an annual report and pay the annual report fee.

Please Note: The following list represents business entities forfeited in November. Any business entity listed may have filed for reinstatement and be considered in good standing. To check the status of a business entity, go to the Kansas Business Center's Business Entity Search Station at https://www.kansas.gov/bess/flow/main?execution=e2s4 (select Business Entity Database) or contact the Business Services Division at 785-296-4564.

Domestic Business Entities

Ancient Assets Private Philanthropy Fund, Hutchinson, CA
Apres, LLC, Mission Hills, KS
Boconcept Franchise, Inc., Springfield, NJ
Building Bridges, Inc., Kansas City, MO
Capitol Orthopedic Center, Incorporated, Tonganoxie, KS
Elite Commercial Cleaning Services, LLC, Salina, KS
Forward Holdings, Inc., Wichita, KS
Hometown Management KS, LLC, Wichita, KS
Integrative Medical Solutions, L.L.C., Wichita, KS
Jalisco's, Incorporated, Kansas City, KS
Jollis Enterprises, Inc., Spearville, KS
MCAP, LLC, Naperville, IL

(continued)

Ness County Chapter of the Kansas State Historical Society and Department, Ness City, KS
New Leaf Wellness Co., Overland Park, KS
Nohea, LLC, Overland Park, KS
North Village Fund, LLC, Rolla, MO
NVLCC, LLC, Overland Park, KS
Oaks MHP, LLC, Asheville, NC
Oswego Coal Co., Inc., Ottawa, KS
Paul's Valley Third Addition Homeowners' Association, Rose Hill, KS
Penn Street Lofts GP Partners, LLC, Prairie Village, KS
Penn Street Lofts Housing Partners, LP, Prairie Village, KS
Pragmatica, Inc., Topeka, KS
Prairie Gypsy, LLC, Whiting, KS
Rosehill Place GP, LLC, Overland Park, KS
Rosehill Place Two GP, LLC, Overland Park, KS
Siding Repair Systems, Inc., Ofallon, MO
Springs One, LLC, Leawood, KS
Sunflower Paving, Inc., Lawrence, KS
The Reola Grant Center for Family Life Development, Inc., Kansas City, KS
Trinket Records, Inc., Overland Park, KS
Yeux, LLC, Overland Park, KS

Foreign Business Entities

AAA Builders Supply Company Grandview, MO
AHP Servicing, LLC, Chicago, IL
BR Capital & Finance Glendora, CA
Debt Cleanse Group Legal Services, LLC, Plantation, FL
Employee Benefit Counseling Company, Overland Park, KS
Energy Transport USA, Inc., Chicago, IL
Exiant Communications, LLC, Buford, GA
Foundation Home Finance, LLC, Carbondale, CO
KPC Promise Hospital of Overland Park, LLC, Boca Raton, FL
KPC Promise Skilled Nursing Facility of Overland Park, LLC, Boca Raton, FL
Long Distance Consolidated Billing Co., Kernersville, NC
Perkins, LLC, Atlanta, GA
Tank Capital, LLC, McKinney, TX
Zyante, Inc., Hoboken, NJ

Scott Schwab
Secretary of State

Doc. No. 052711

State of Kansas

Real Estate Commission

Permanent Administrative Regulations

Article 1.—EXAMINATION AND REGISTRATION

86-1-5. Fees. (a) Each applicant shall pay a fee in an amount equal to the actual cost of the examination and the administration of the examination to the testing service designated by the commission.

(b) Each applicant shall submit the following fees for licensure to the commission:

(1) For submission of an application for an original salesperson's license, a fee of $15;

(2) for submission of an application for an original broker's license, a fee of $50;

(3) for an original salesperson's license, a prorated fee based on a two-year amount of $125;

(4) for an original broker's license, a prorated fee based on a two-year amount of $175;

(5) for renewal of a salesperson's license, a two-year fee of $125;

(6) for renewal of a broker's license, a two-year fee of $175;

(7) for each branch office, a fee of $100; and

(8) for each primary office of a company created or established by a supervising broker, a fee of $100.

(c)(1) Each applicant shall pay a fee of $70 to the commission for the cost of submitting the applicant's fingerprints to the Kansas bureau of investigation (KBI) for the purpose of obtaining a criminal history check conducted by the KBI and the federal bureau of investigation and for the commission's reasonable costs of administering the criminal history check program.

(2) Each licensee who is submitting fingerprints in connection with an investigation of that licensee shall pay a fee of $70 for the cost of submitting the licensee's fingerprints to the KBI for the purpose of obtaining a criminal history check conducted by the KBI and the federal bureau of investigation and for the commission's reasonable costs of administering the criminal history check program in connection with any investigation.

(d) Each military spouse of an active military service member who resides or plans to reside in this state due to the assigned military station of the individual or the individual's spouse shall pay a fee of $0 to the commission for any licensure fees or fingerprinting fees related to licensure.

(e) Each course provider seeking course approval pursuant to K.S.A. 58-3046a, and amendments thereto, shall pay a fee of $75 to the commission.

(f) Each licensee seeking approval of a course of instruction pursuant to K.S.A. 58-3046a(j), and amendments thereto, shall pay a fee of $20 to the commission. (Authorized by K.S.A. 2023 Supp. 58-3063; implementing K.S.A. 2023 Supp. 58-3039, as amended by L. 2024, ch.15, sec. 39, K.S.A. 2023 Supp. 58-3063 and K.S.A. 2023 Supp. 48-3406, as amended by L. 2024, ch. 9, sec. 1; effective Jan. 1, 1966; amended, E-73-30, Sept. 28, 1973; amended Jan. 1, 1974; amended, E-74-50, Sept. 13, 1974; amended May 1, 1975; amended, E-81-18, July 16, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-86-10, May 1, 1985; amended May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended Sept. 26, 1988; amended July 31, 1991; amended Dec. 20, 1993; amended July 31, 1996; amended, T-86-10-1-97, Oct. 1, 1997; amended Oct. 24, 1997; amended March 13, 1998; amended, T-86-7-2-07, July 2, 2007; amended Nov. 16, 2007; amended Dec. 1, 2015; amended March 17, 2017; amended Dec. 21, 2018; amended Sept. 16, 2022; amended Dec. 27, 2024.)

86-1-10. Approved courses of instructions; procedure. (a) Definitions. Each of the following terms, as defined in this subsection, shall apply to K.A.R. 86-1-10 through K.A.R. 86-1-12 and K.A.R. 86-1-17:

(1) "Commission" means Kansas real estate commission.

(2) "Coordinator" means an individual who serves as the primary contact for a school and is responsible for complying with the requirements in this regulation.

(3) "Course" means instruction designed to fulfill the education requirements of K.S.A. 58-3046a, and amendments thereto.

(4) "Asynchronous distance education course" means a course for which the school provides self-paced instruction by mail or electronic transmission to students who

are physically separated from the instructor for all or a portion of the course.

(5) "In-person education course" means a course provided to students who are not physically separated from the instructor.

(6) "Monitoring" means review of approved courses by commission staff to ensure that the attendance, presentation platform, instruction time, outline, and materials provided by schools meet the requirements of the commission.

(7) "School" means an entity eligible under K.S.A. 58-3046a(g), and amendments thereto, to offer courses approved by the commission.

(8) "Synchronous distance education course" means a course for which the school provides live instruction in real time by electronic transmission to students who are physically separated from the instructor for all of the course.

(b) Request for course approval. Each school seeking commission approval of a course shall submit the following information to the commission at least 45 days before the first scheduled class session:

(1) A completed course approval application obtained from the commission;

(2) a copy of all course materials, including textbooks, student workbooks, and examinations with answers;

(3) the total number of sessions, sections, or modules;

(4) the duration of each session, section, or module;

(5) the total number of requested hours for the course;

(6) the course objectives and a detailed course outline; and

(7) the course approval fee prescribed by K.A.R. 86-1-5.

(c) Additional course approval requirements for asynchronous distance education courses.

(1) In addition to meeting the requirements of subsection (b), each school requesting approval of an asynchronous distance education course shall submit the following information:

(A) The means to access the asynchronous distance education course as it will be offered to students;

(B) evidence of sufficient information technology support to enable students to complete the asynchronous distance education course;

(C) documentation on how the asynchronous distance education course will require active participation by each student and substantial interaction between the students and the instructor, other students, or a computer program; and

(D) evidence that the system used for testing students will scramble questions and items for any quizzes or examinations to ensure a random presentation.

(2) Each asynchronous distance education course certified by the association of real estate license law officials shall be presumed to meet the requirements in paragraph (c)(1).

(3) Each school offering an asynchronous distance education course approved by the commission under K.S.A. 58-3046a(e) or K.S.A. 58-3046a(f), and amendments thereto, shall require each student to answer at least 10 quiz or examination questions per credit hour.

(4) Each school offering an asynchronous distance education course approved by the commission under K.S.A. 58-3046a(a), K.S.A. 58-3046a(b), K.S.A. 58-3046a(c) or K.S.A. 58-3046a(d), and amendments thereto, shall require each student to answer at least 50 quiz or examination questions.

(5) Each school shall issue a certificate of completion of each asynchronous distance education course approved by the commission to meet any requirement of K.S.A. 58-3046a, and amendments thereto, to each student who has answered at least 90 percent of the quiz or examination questions correctly during the distance education course.

(d) Additional course approval requirements for synchronous distance education courses.

(1) In addition to meeting the requirements of subsection (b), each school requesting approval of a synchronous distance education course shall submit the following information:

(A) The means to access the synchronous distance education course as it will be offered to students;

(B) evidence of sufficient information technology support to enable students to complete the synchronous distance education course;

(C) documentation on how the synchronous distance education course will require active participation by each student and substantial interaction between the students and the instructor, other students, or a computer program;

(D) documentation on how the school will require students to have a functional video camera and be present on camera at all times;

(E) documentation on how the school will require students to be actively engaged in the course at all times without distractions; and

(F) evidence of no more than 30 students in a course unless an additional moderator is assisting with the monitoring of students.

(2) Each synchronous distance education course certified by the association of real estate license law officials shall be presumed to meet the requirements in paragraph (d)(1).

(e) Instructors. Each school coordinator shall be responsible for ensuring that the school's instructors have the specialized preparation, training, and experience in the subject matter to be taught to ensure competent instruction.

(f) Changes to an approved course.

(1) Except as provided in paragraph (f)(2), each school shall submit a new application for course approval under subsection (b) if there is any significant change to the course content, outline, objectives, or presentation platform for an approved course.

(2) A school shall not be required to submit a new application for course approval under subsection (b) if any of the following changes:

(A) The coordinator;

(B) the location of the school;

(C) the course title; or

(D) the course schedule.

(3) Each school shall submit notification to the commission of each change described in paragraph (f)(2) at least five days before the change is scheduled to occur.

(continued)

(4) Each school shall submit notification to the commission at least 15 days before the discontinuation of any course or the intent to close the school.

(g) Registration of approved courses; application for renewal.

(1) The registration of courses approved by the commission shall expire on January 31 of each year. Each application to renew the approval of a course shall be submitted on a form provided by the commission.

(2) Each application to renew approval of a course received after the expiration date shall require the submission of a new application for approval pursuant to subsection (b). (Authorized by K.S.A. 2023 Supp. 58-3046a and K.S.A. 2023 Supp. 74-4202; implementing K.S.A. 2023 Supp. 58-3046a; effective, T-83-32, Oct. 25, 1982; effective May 1, 1983; amended May 1, 1984; amended, T-86-31, Sept. 24, 1985; amended May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended Jan. 29, 1990; amended July 16, 1990; amended Nov. 17, 1995; amended Dec. 14, 2001; amended, T-86-7-2-07, July 2, 2007; amended Nov. 16, 2007; amended July 1, 2020; amended Dec. 27, 2024.)

Erik Wisner
Executive Director
Real Estate Commission

Doc. No. 052717

State of Kansas

Department of Wildlife and Parks

Permanent Administrative Regulations

Article 25.—WILDLIFE SEASONS; BAG, CREEL, POSSESSION, SIZE, AND LENGTH LIMITS

115-25-8. Elk; open season, bag limit, and permits. (a) The unit designations in this regulation shall have the meanings specified in K.A.R. 115-4-6b, except that the area of Fort Riley, subunit 2a, shall not be included as part of Republican-Tuttle, unit 2.

(b) The open seasons for the taking of elk shall be as follows:

(1) The archery season dates and units shall be as follows:

(A) Statewide, except Fort Riley, subunit 2a, and unit 1: the Monday after the second Saturday in September through the last day of the same year.

(B) Fort Riley, subunit 2a: the first day of September through the last day of September.

(2) The firearm season dates and units shall be as follows:

(A) Statewide, except Fort Riley, subunit 2a, and unit 1: the first day of August through the last day of August; the Wednesday after Thanksgiving through the second following Sunday; and the first day of January through the 15th day of March.

(B) Fort Riley, subunit 2a:

(i) First segment: the first day of October through the last day of October.

(ii) Second segment: the first day of November through the last day of November.

(iii) Third segment: the first day of December through the last day of December.

(iv) Fourth segment: the first day of January through the last day of January.

(3) The muzzleloader season dates and units shall be as follows:

(A) Statewide, except Fort Riley, subunit 2a, and unit 1: the first day of September through the last day of September.

(B) Fort Riley, subunit 2a: the first day of September through the last day of September.

(c) A limited-quota either-sex elk permit shall be valid during any season using equipment authorized for that season. Twelve either-sex elk permits shall be authorized.

(d) A limited-quota antlerless-only elk permit shall be valid during any season using equipment authorized for that season, except that a limited-quota antlerless-only elk permit shall be valid on Fort Riley, subunit 2a, only as follows:

(1) A first-segment antlerless-only elk permit shall be valid on Fort Riley, subunit 2a, only during the first segment. Six first-segment antlerless-only elk permits shall be authorized.

(2) A second-segment antlerless-only elk permit shall be valid on Fort Riley, subunit 2a, only during the second segment. Six second-segment antlerless-only elk permits shall be authorized.

(3) A third-segment antlerless-only elk permit shall be valid on Fort Riley, subunit 2a, only during the third segment. Six third-segment antlerless-only elk permits shall be authorized.

(4) All antlerless-only elk permits shall be valid on Fort Riley, subunit 2a, during the September archery and muzzleloader seasons, and the January firearm season.

(e) The bag limit shall be one elk as specified on the permit issued to the permittee.

(f) An unlimited number of hunt-on-your-own-land antlerless-only elk permits and either-sex elk permits shall be authorized in units 2 and 3. A hunt-on-your-own-land permit shall be valid during any open season. The bag limit for each hunt-on-your-own-land elk permit shall be one elk as specified on the permit.

(g) An unlimited number of over-the-counter antlerless-only elk permits and either-sex elk permits shall be authorized in unit 3.

(h) Permits are not valid after March 15 following the date of issuance. (Authorized by and implementing K.S.A. 2023 Supp. 32-807 and K.S.A. 32-937; amended Dec. 27, 2024.)

115-25-9a. Deer; open season, bag limit, and permits; additional considerations; military subunits. (a) In addition to the pre-rut antlerless whitetail deer only season specified in K.A.R. 115-25-9, in the Fort Riley subunit the antlerless white-tailed deer only season shall also be November 29, 2024, through December 1, 2024.

(b) In the Fort Riley subunit, the open firearm season for the taking of deer shall be December 14, 2024, through December 22, 2024.

(c) Five antlerless-only white-tailed deer permits shall be valid in subunit 8A.

(d) In the Fort Leavenworth subunit, the open firearm season for the taking of deer shall be November 16, 2024, through November 17, 2024; November 23, 2024, through November 24, 2024; November 28, 2024, through Decem-

ber 1, 2024; December 7, 2024, through December 8, 2024; and December 14, 2024, through December 15, 2024.

(e) In the Fort Leavenworth subunit, the extended firearms season for the taking of antlerless-only white-tailed deer shall be January 1, 2025, through January 19, 2025.

(f) In the Fort Leavenworth subunit, the extended archery season for the taking of antlerless-only white-tailed deer shall be January 20, 2025, through January 31, 2025.

(g) In the Smoky Hill subunit, the open firearm season for the taking of deer shall be December 4, 2024, through December 15, 2024. Five additional antlerless white-tailed deer permits shall be valid in subunit 4a. This regulation shall have no force and effect on and after March 1, 2025. (Authorized by and implementing K.S.A. 2023 Supp. 32-807, and K.S.A. 32-937; amended, T-115-10-11-24, Oct. 11, 2024; amended Dec. 27, 2024.)

Christopher Kennedy
Acting Secretary
Department of Wildlife and Parks

Doc. No. 052718

State of Kansas

Department of Health and Environment Division of Health Care Finance

Permanent Administrative Regulations

Article 1.—DEFINITIONS

129-1-1. Definitions. Each of the following terms, when used in the division's Regulations, shall have the meaning specified in this regulation, unless the context clearly indicates otherwise:

(a) "Acknowledgement and order" means the initial documentation from the presiding officer that acknowledges the filing of an administrative hearing case and that includes an order from the presiding officer requiring the department to submit a department summary by the designated due date.

(b) "Activities of daily living" and "ADL" mean basic daily activities involving bathing, dressing, eating, ambulating, toileting, and personal hygiene.

(c) "Affordable care act" and "ACA" mean the patient protection and affordable care act of 2010, public law 111-148, as amended by the health care and education reconciliation act of 2010, public law 111-152, and any subsequent amendments.

(d) "Appellant" means an applicant, a beneficiary, an enrollee, or a provider who has received an adverse benefit determination or adverse action, the real party in interest as defined in K.S.A. 60-217 and amendments thereto, or the department if the department is the losing party of an external independent third-party review and requests a state fair hearing.

(e) "Applicant" means any individual who is seeking an eligibility determination for that individual through the submission of an application for medical assistance.

(f) "Beneficiary" means an individual who is eligible to receive covered services. This term shall include a recipient or consumer who is eligible to receive covered services. This term shall include a beneficiary's authorized representative.

(g) "Business day" means any day that is not a Saturday, Sunday, or legal holiday. "Legal holiday" shall include any day designated as a holiday by any Kansas statute or regulation. If a department is inaccessible on the last day of any period of time prescribed by the division's regulations, the time period shall be extended until the next business day on which the department is open for business.

(h) "CMS" means the centers for medicare and medicaid services, a division within the U.S. department of health and human services.

(i) "Computing period of time" means that, in computing any period of time prescribed by K.S.A. 77-503, the day from which the designated period of time begins to run shall not be included.

(j) "Continuation of benefits" and "continuation of services" means the continuation of previously authorized covered services.

(k) "Covered services" means medical services or other care for which reimbursement will be made, directly or indirectly, by KMAP. Coverage may be limited by the secretary through prior authorization requirements.

(l) "Department" means Kansas department of health and environment and its designees authorized to administer the medicaid program and kancare-CHIP.

(m) "Division" means division of health care finance in the Kansas department of health and environment.

(n) "Durable medical equipment" and "DME" mean equipment that meets the following conditions:

(1) Withstands repeated use;

(2) is not generally useful to a person in the absence of an illness or injury;

(3) is primarily and customarily used to serve a medical purpose;

(4) is appropriate for use in the home; and

(5) is rented or purchased as determined by the secretary or the secretary's designee.

(o) "Effective date of action" means the date on which the action, as defined in K.A.R. 129-7-1, becomes effective.

(p) "Election statement" means the revocable statement signed by a beneficiary that is filed with a particular hospice and that consists of the following:

(1) Identification of the hospice selected to provide care;

(2) acknowledgement that the beneficiary has been given a full explanation of hospice care;

(3) acknowledgement by the beneficiary that other medicaid services are waived;

(4) the effective date of the election period; and

(5) the beneficiary's signature or the signature of the beneficiary's legal representative.

(q) "Eligibility" means qualification for or access to medical assistance.

(r) "Emergency services" means medical care provided promptly after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(continued)

(1) Serious jeopardy to the patient's health;
(2) serious impairment to bodily functions; or
(3) serious dysfunction of any bodily organ or part.

(s) "Enrollee" means an individual who has been assigned to and has enrolled with a KanCare MCE and is entitled to receive covered services provided by a KanCare MCE. This term shall include a recipient, consumer, or beneficiary who is entitled to receive covered services provided by a KanCare MCE and who has been assigned to and enrolled with a KanCare MCE. This term shall include an enrollee's authorized representative.

(t) "Evidentiary standard" means the responsibility to establish a proposition in a state fair hearing by a preponderance of the evidence.

(u) "Federally facilitated exchange" and "FFE" mean an insurance exchange operated by the federal government as established under the patient protection and affordable care act, public law 111-148.

(v) "Fee-for-service" and "FFS" mean a system of health insurance payment in which a doctor or other health care provider is paid a fee for each service rendered.

(w) "Final administrative action" as used in 42 C.F.R. 431.244 means a decision rendered by a presiding officer pursuant to K.S.A. 77-526(b), and amendments thereto, that determines the legal rights, duties, privileges, immunities, or other legal interest of one or more specific persons. For the purpose of interpreting 42 C.F.R. 431.244, an initial order shall be a final administrative action. This term shall include a proposed default order that has become effective.

(x) "Final order" means an initial order decision by a presiding officer that becomes a final order pursuant to KAPA, and amendments thereto, an initial order reviewed by the secretary or the state appeals committee pursuant to K.S.A. 77-527, and amendments thereto, or a final order reconsidered by the secretary pursuant to K.S.A. 77-529, and amendments thereto.

(y) "Home- and community-based services" and "HCBS" mean a program of covered services operated under the authority of section 1915(c) of the social security act that permits a state to waive certain medicaid requirements in order to furnish an array of home- and community-based services that promote community living for medicaid beneficiaries to avoid institutionalization. Waiver-based covered services complement and supplement the covered services that are available through the medicaid state plan or other federal, state, and local public programs, as well as the supports that families and communities provide to individuals.

(z) "Initial order" means a decision rendered by a presiding officer pursuant to K.S.A. 77-526(b), and amendments thereto, that determines the legal rights, duties, privileges, immunities, or other legal interest of one or more specific persons. This term shall include a proposed default order that has become effective. For the purpose of interpreting 42 C.F.R. 431.244, an initial order shall be a final administrative action.

(aa) "Instrumental activities of daily living" and "IADL" mean activities involving shopping, housekeeping, paying bills, food preparation, medicine regimens, communication, transportation, and resting.

(bb) "Kan be healthy program participant" means an individual under the age of 21 who is eligible for medicaid and who has undergone a kan be healthy medical screening in accordance with a specified screening schedule. The medical screening shall be performed for the following purposes:

(1) To ascertain physical and mental defects; and
(2) to provide treatment that corrects or ameliorates defects and chronic conditions that are found.

(cc) "Kancare-CHIP" means the health insurance program for children administered by the department and authorized under title XXI of the social security act.

(dd) "KAPA" means the Kansas administrative procedure act, K.S.A. 77-501 et seq. and amendments thereto.

(ee) "KDHE" means the Kansas department of health and environment, which is the single state medicaid agency.

(ff) "KJRA" means the Kansas judicial review act, K.S.A. 77-601 et seq. and amendments thereto.

(gg) "KMAP" means the Kansas medical assistance program.

(hh) "Local evidentiary hearing" as used in 42 C.F.R. 431.201 means a hearing held on the local or county level serving a specified portion of the state. Local evidentiary hearings are not available in Kansas.

(ii) "Long-term services and supports" and "LTSS" mean covered services and supports provided to beneficiaries of all ages with functional limitations or chronic illnesses that have the primary purpose of supporting the ability of the beneficiary to live or work in the setting of the individual's choice, which may include the individual's home, a worksite, a provider-owned or provider-controlled residential setting, a nursing facility, or other institutional setting.

(jj) "Managed care" means a system of managing and financing health care delivery to ensure that covered services provided to managed care plan members are necessary, efficiently provided, and appropriately priced.

(kk) "MCE" means a managed care entity, including an MCO, a PAHP, or a PIHP.

(ll) "MCO" means a managed care organization that has a comprehensive risk contract with the Kansas medical assistance program to provide covered services to enrollees of the MCO. The contract shall have the approval of the U.S. department of health and human services or its designee. An MCO shall provide a grievance, appeal, and state fair hearing process to its enrollees.

(mm) "Medicaid" means the federal medical assistance program authorized under title XIX of the social security act.

(nn) "Medical assistance" means assistance that covers all or part of the cost of medical care for eligible persons paid through joint federal and state funding, federal-only funding, and state-only funding, including Kansas medicaid, kancare-CHIP, and medikan. This assistance is administered under KMAP.

(oo) (1) "Medical necessity" means that a health intervention is an otherwise covered category of service, is not specifically excluded from coverage, and is medically necessary, according to all of the following criteria:

(A) Authority. The health intervention is recommended by the treating physician and is determined to be necessary by the secretary or the secretary's designee.

(B) Purpose. The health intervention has the purpose of treating a medical condition.

(C) Scope. The health intervention provides the most appropriate supply or level of service, considering potential benefits and harms to the patient.

(D) Evidence. The health intervention is known to be effective in improving health outcomes.

(i) For new interventions, effectiveness shall be determined by scientific evidence as described in paragraph (oo)(3).

(ii) For existing interventions, effectiveness shall be determined by scientific evidence as described in paragraph (oo)(4).

(E) Value. The health intervention is cost-effective for this condition compared to alternative interventions, including no intervention. Cost-effective shall not necessarily be construed to mean lowest-priced. An intervention may be medically indicated and yet not be a covered service or benefit or meet the definition of medical necessity in this subsection. Interventions that do not meet this regulation's definition of medical necessity may be covered at the discretion of the secretary or the secretary's designee. An intervention shall be considered cost-effective if the benefits and harms relative to the costs represent an economically efficient use of resources for patients with this condition. In the application of this criterion to an individual case, the condition of the individual patient shall be determinative.

(2) The following definitions shall apply to these terms only as they are used in this subsection:

(A) "Effective," when used to describe an intervention, means that the intervention can be reasonably expected to produce the intended results and to have expected benefits that outweigh potential harmful effects.

(B) "Health intervention" means an item or covered service delivered or undertaken primarily to treat a medical condition or to maintain or restore functional ability. For the definition of medical necessity in this subsection, a health intervention shall be determined not only by the intervention itself, but also by the medical condition and patient indications for which the health intervention is being applied.

(C) "Health outcomes" means treatment results that affect health status as measured by the length or quality of a person's life.

(D) "Medical condition" means a disease, illness, injury, genetic or congenital defect, pregnancy, or biological or psychological condition that lies outside the range of normal, age-appropriate human variation.

(E) "New intervention" means an intervention that is not yet in widespread use for the medical condition and patient indications under consideration.

(F) "Scientific evidence" means controlled clinical trials that either directly or indirectly demonstrate the effect of the intervention on health outcomes. However, if controlled clinical trials are not available, observational studies that demonstrate a causal relationship between the intervention and health outcomes may be used. Partially controlled observational studies and uncontrolled clinical series may be considered to be suggestive, but shall not by themselves be considered to demonstrate a causal relationship unless the magnitude of the effect observed exceeds anything that could be explained either by the natural history of the medical condition or by potential experimental biases.

(G) "Secretary's designee" means a person or persons designated by the secretary to assist in the medical necessity decision-making process.

(H) "Treat" means to prevent, diagnose, detect, or palliate a medical condition.

(I) "Treating physician" means a physician who has personally evaluated the patient.

(3) Each new intervention for which clinical trials have not been conducted because of epidemiological reasons, including rare or new diseases or orphan populations, shall be evaluated on the basis of professional standards of care or expert opinion as described in paragraph (oo)(4).

(4) The scientific evidence for each existing intervention shall be considered first and, to the greatest extent possible, shall be the basis for determinations of medical necessity. If no scientific evidence is available, professional standards of care shall be considered. If professional standards of care do not exist or are outdated or contradictory, decisions about existing interventions shall be based on expert opinion. Coverage of existing interventions shall not be denied solely on the basis that there is an absence of conclusive scientific evidence. Existing interventions may be deemed to meet the definition of medical necessity in this subsection in the absence of scientific evidence if there is a strong consensus of effectiveness and benefit expressed through up-to-date and consistent professional standards of care or, in the absence of those standards, convincing expert opinion.

(pp) "Medical necessity in psychiatric situations" means that there is medical documentation indicating either of the following:

(1) The person could be harmful to that individual or others if not under psychiatric treatment.

(2) The person is disoriented in time, place, or person.

(qq) "Medikan" means a totally state-funded program covering all or part of the cost of medical care for disabled individuals who do not qualify for medicaid but who are eligible for covered services and benefits under K.A.R. 129-6-95.

(rr) "Non-covered services" means services for which KMAP will not provide direct or indirect reimbursement, including services that have been denied due to the lack of medical necessity.

(ss) "PACE" means a program of all-inclusive care for the elderly under K.A.R. 129-6-34.

(tt) "Plan of care" and "POC" mean a plan prepared and authorized by the secretary or the secretary's designee that identifies the following:

(1) The medical and LTSS needs of a KMAP beneficiary or enrollee for a specified period of time;

(2) the treatment and covered services, including LTSS, to be used in meeting the needs of the KMAP beneficiary or enrollee during that time period;

(3) the expected result of the treatment and covered services, including LTSS;

(4) the provider or providers of the treatment and covered services, including LTSS; and

(continued)

(5) the cost of the treatment and covered services, including LTSS.

(uu) "Prepaid ambulatory health plan" and "PAHP" mean an entity that meets the following conditions:

(1) Provides covered services to enrollees under contract with the state and on the basis of capitation payments or other payment arrangements that do not use state plan payment rates;

(2) does not provide or arrange for, and is not otherwise responsible for the provision of, any inpatient hospital or institutional services for its enrollees; and

(3) does not have a comprehensive risk contract.

(vv) "Prepaid inpatient health plan" and "PIHP" mean an entity that meets the following conditions:

(1) Provides covered services to enrollees under contract with the state and on the basis of capitation payments or other payment arrangements that do not use state plan payment rates;

(2) provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its enrollees; and

(3) does not have a comprehensive risk contract.

(ww) "Preponderance of the evidence" means a standard of evidence in which the evidence presented demonstrates a fact to be more likely true than not true.

(xx) "Presiding officer" means the secretary, one or more members of the department, or an administrative law judge assigned by the secretary's state fair hearing designee for the purposes of conducting an initial adjudicative hearing.

(yy) "Primary care" means all health care and laboratory services customarily furnished through a general medical practitioner, family physician, internal medicine physician, obstetrician, gynecologist, or pediatrician.

(zz) "Primary diagnosis" means the most significant diagnosis related to the medical care rendered.

(aaa) "Prior authorization" means a KMAP beneficiary's or a managed care enrollee's request for the provision of a covered service before the covered service is rendered. This term is also known as a covered service authorization.

(bbb) "Provider" means a person or entity who provides covered services to eligible beneficiaries and enrollees and receives payment, directly or indirectly, from KMAP. This term shall include a provider's authorized representative.

(ccc) "Recipient" means any individual who has been determined eligible and is receiving medical assistance. This term shall include a consumer who has been determined eligible and is receiving medical assistance.

(ddd) "Respondent" means the department, which appears at the state fair hearing; the skilled nursing facility or nursing facility in a discharge or transfer of a resident; the real party in interest as defined in K.S.A. 60-217, and amendments thereto; or a provider, if the provider was the winning party of the external independent third-party review and the department requests a state fair hearing.

(eee) "Secretary" means secretary of the Kansas department of health and environment. This term shall include the secretary's designee.

(fff) "Secretary's designee" means a designee of the secretary, whether an individual or an entity, who has been delegated authority as specified in a contract between the secretary and the individual or entity.

(ggg) "Secretary's reconsideration" means a response by the secretary to a petition for reconsideration of the orders pursuant to K.S.A. 77-529, and amendments thereto.

(hhh) "Send" or "Sent" means deliver by mail, facsimile, or in electronic format.

(iii) "Service of order or notice" means the delivery of the order or the notice by U.S. mail or in electronic format. Delivery of a copy of an order or notice means handing the order or notice to the person or leaving the order or notice at the person's principal place of business or residence with a person of suitable age and discretion who works or resides there. Service of order or notice by mail shall be complete upon mailing. Service of order or notice by electronic means shall be complete upon transmission. Service includes delivery of a copy of an order or notice to the person's authorized representative.

(jjj) "Single state agency" and "single state medicaid agency" mean the Kansas executive agency that has been designated as the agency responsible for the overall administration and supervision of the medicaid program in Kansas. The single state agency may delegate part of the administration of the Kansas medicaid program to another state, a local agency, or a contractor. The overall authority of the single state agency for the Kansas medicaid program shall not be impaired.

(kkk) "State appeals committee" and "SAC" mean the committee appointed by the secretary as the secretary's designee to respond to petitions for review of the initial orders pursuant to K.S.A. 77-527, and amendments thereto.

(lll) "State fair hearing" means a proceeding during which evidence is presented to the secretary or the secretary's designee by an appellant and a respondent. This term is also known as a fair hearing, an evidentiary hearing, or an administrative hearing under KAPA.

(mmm) "State medicaid agency" means the single state agency for the medicaid program pursuant to K.S.A. 75-7409.

(nnn) "State plan" means the agreement between Kansas and federal authorities allowing Kansas to participate in certain federal programs.

(ooo) "Swing bed" means a hospital bed that can be used interchangeably as a hospital, skilled nursing facility, or intermediate care facility bed, with reimbursement based on the specific type of care provided.

(ppp) "Targeted case management services" means a set of covered services that will assist an enrollee in gaining access to medical, social, educational, or other needed covered services. This term shall include the following:

(1) Assessment of an enrollee to determine covered service needs;

(2) development of a specific care plan;

(3) referral and related activities; and

(4) monitoring and follow-up activities.

(qqq) "Waiver" means an amendment to the state plan in which some part of federal medicaid requirements are no longer applied to a specific applicant or enrollee seeking medical assistance. A waiver shall require agreement between KDHE and federal medicaid authorities before

the waiver can be effective for KMAP. HCBS programs shall be established by waivers. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014; amended Dec. 27, 2024.)

Article 7.— MEDICAL ASSISTANCE GRIEVANCES AND STATE FAIR HEARINGS FOR ELIGIBILITY AND FEE-FOR-SERVICE

129-7-1. Applicability; definitions. (a) Applicability. This article of the division's regulations shall apply to grievances and state fair hearings involving medical assistance eligibility and fee-for-service covered services.

(b) Definitions. For purposes of this article of the division's regulations, each of the following terms shall have the meaning specified in this regulation:

(1)(A) "Action" and "adverse action" mean any of the following department decisions:

(i) A denial or limited authorization of a requested non-covered service or FFS covered service;

(ii) a change in the amount or type of FFS covered services;

(iii) a termination of, suspension of, or reduction in FFS covered services;

(iv) a denial of, termination of, suspension of, or reduction in medicaid eligibility; or

(v) a determination of the amount or an increase in applicant or beneficiary liability, including a determination that an applicant or beneficiary shall incur a greater amount of medical expenses in order to establish income eligibility or shall be subject to an increase in premiums or cost-sharing charges.

(B) This term shall include the following:

(i) A determination by a skilled nursing facility or a nursing facility to transfer or discharge a resident, even though the secretary is not the respondent;

(ii) a determination by KMAP with regard to the preadmission screening and resident review that a beneficiary does not require the level of services provided by a nursing facility or that a beneficiary does or does not require specialized services; and

(iii) a denial by the secretary of the enrollee's request to disenroll from the enrollee's MCE outside of the annual open enrollment period.

(2) "Adequate notice of action" means a written document that is sent to an applicant or beneficiary by the secretary as specified in K.A.R. 129-7-4.

(3) "Adequate notice of approval" means a written document that is sent by the secretary to the applicant or beneficiary at the time the secretary approves eligibility or a covered service authorization request and that meets the requirements specified in K.A.R. 129-7-8.

(4) "Adequate skilled nursing facility or nursing facility notice of action" means a written document that is sent to a resident by a skilled nursing facility or nursing facility as specified in K.A.R. 129-7-4.

(5) "Date of action" means the intended date on which a termination, suspension, reduction, transfer, or discharge becomes effective. This term shall include the date of the finding made by the department with regard to the preadmission screening and annual resident review.

(6) "Days" means calendar days, unless otherwise specified.

(7) "Grievance" means either of the following:

(A) The expression of dissatisfaction by a KMAP applicant or beneficiary about any eligibility matter other than an action involving eligibility. An applicant or beneficiary submitting an eligibility grievance shall not have state fair hearing rights; or

(B) the expression of dissatisfaction by a KMAP beneficiary who is not enrolled with an MCE about any FFS matter including actions involving FFS covered services. An FFS beneficiary submitting an FFS grievance shall have state fair hearing rights if the matter involves an action.

(8) "Grievance and appeal system" means the grievance and state fair hearing processes that are available to applicants and beneficiaries for expressions of dissatisfaction and for contesting actions regarding eligibility, covered services, and non-covered services, as well as the process to collect and track information about them.

(9) "Lock-in" means the restriction of a beneficiary's access to covered services because of abuse that is accomplished through limitation of the use of the KMAP medical identification card to designated medical providers.

(10) "Preadmission screening and annual resident review" and "PASRR" mean a federally required evaluation to help ensure that beneficiaries are not inappropriately placed in nursing homes for long-term care.

(11) "Timely notice of action" means an adequate notice of action that is sent to a beneficiary by the secretary within the time frames specified in K.A.R. 129-7-4.

(12) "Timely notice of approval" means an adequate notice of approval that is sent by the secretary to the applicant or beneficiary within the time frames specified in K.A.R. 129-7-8.

(13) "Timely skilled nursing facility or nursing facility notice of action" means a written document that is sent to a resident by a skilled nursing facility or nursing facility within the time frames specified in K.A.R. 129-7-4. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-2. FFS beneficiary grievance. (a) Any FFS beneficiary may submit a grievance about any FFS matter, including an action.

(b) Any FFS beneficiary may submit an oral or written grievance to the secretary or secretary's designee at any time. Any applicant or beneficiary may submit an FFS grievance in person, by telephone, by U.S. mail, or by facsimile. Each written grievance delivered by the postal service or submitted by facsimile to the secretary or secretary's designee shall be date-stamped when received as proof of receipt.

(c) Each grievance involving an FFS matter shall be resolved by the secretary or the secretary's designee within 30 days from the date the secretary receives the grievance from the FFS beneficiary. The resolution of the grievance shall be communicated by the secretary or the secretary's designee to the FFS beneficiary by telephone or letter.

(d) An FFS beneficiary's right to submit an FFS grievance shall not be limited or interfered with by the secretary or the secretary's designee.

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(e) If the secretary delegates the tracking and resolution of grievances involving an FFS matter to a contractor, that contractor shall cooperate with the state, the state's fiscal agent, or representatives of either to resolve all FFS beneficiary grievances. Cooperation may include providing internal FFS beneficiary grievance information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-3. Eligibility grievance. (a) Any applicant or beneficiary may submit a grievance about any eligibility matter other than an action.

(b) Any applicant or beneficiary may submit an oral or written eligibility grievance to the secretary or secretary's designee at any time. Any applicant or beneficiary may submit an eligibility grievance in person, by telephone, by U.S. mail, or by facsimile. Each written grievance delivered by the postal service or submitted by facsimile to the secretary or secretary's designee shall be date-stamped when received as proof of receipt.

(c) Each grievance involving an eligibility matter shall be resolved by the secretary or the secretary's designee within 30 days, or sooner as directed by the secretary, from the date the secretary receives the grievance from the applicant or beneficiary. Three attempts shall be made by the secretary to reach the applicant or beneficiary by telephone regarding the grievance resolution. If the applicant or beneficiary cannot be reached by telephone, a letter shall be sent by the secretary to the applicant or beneficiary regarding the grievance resolution.

(d) An applicant's or beneficiary's right to submit an eligibility grievance shall not be limited or interfered with by the secretary or the secretary's designee.

(e) If the secretary delegates the tracking and resolution of grievances involving an eligibility matter to a contractor, that contractor shall cooperate with the state, the state's fiscal agent, or representatives of either, to resolve all eligibility grievances. Cooperation may include providing internal eligibility grievance information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-4. Notices to applicants, beneficiaries, and residents; applicability. This regulation shall apply to adequate notices of action and timely notices of action sent by the secretary to applicants and beneficiaries regarding an eligibility or FFS decision, and to adequate notices of action and timely notices of action sent by a nursing facility or skilled nursing facility regarding a decision by the facility to transfer or discharge a resident.

(a) An adequate notice of action shall be sent by the secretary to an applicant for medical assistance and the applicant's authorized representative when the secretary denies an applicant's claim for eligibility or to a beneficiary of medical assistance and the beneficiary's authorized representative when the secretary takes an action, as defined in K.A.R. 129-7-1. Each adequate notice of action shall include the following:

(1) The date of the adequate notice of action;

(2) the eligibility determination that the secretary has made or intends to make or the action that the secretary has taken or intends to take;

(3) the effective date of the secretary's eligibility determination or action. If no effective date is specified, the effective date shall be the date of the adequate notice of action;

(4) the reasons for the eligibility determination, the action taken, or the intended action;

(5) the statute, regulation, policy, or procedure supporting the eligibility determination or action;

(6) a statement of the applicant's or beneficiary's right to request a standard or expedited state fair hearing within 30 days of the date of the adequate notice of action. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means;

(7) the circumstances under which a state fair hearing process can be expedited and the way to request an expedited state fair hearing process;

(8) the procedures by which the applicant or beneficiary may request a standard or expedited state fair hearing and the address and contact information for submission of the request or, for an eligibility determination or action based on a change in law, the circumstances under which a state fair hearing will be granted;

(9) any change in federal or state law that requires the eligibility determination or action;

(10) a statement of the applicant's or beneficiary's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson;

(11) the time frames in which the department must make a state fair hearing decision;

(12) the circumstances under which a beneficiary may continue to receive previously authorized FFS covered services pending resolution of the state fair hearing; and

(13) any other information required by Kansas statute or regulation that involves the secretary's adequate notice of action.

(b) A timely notice of action shall be sent by the secretary to an applicant and the applicant's authorized representative no later than one business day following the date upon which the secretary takes the action that is the subject of the adequate notice of action. A timely notice of action shall be sent by the secretary to a beneficiary and the beneficiary's authorized representative within the time frames specified in paragraphs (b)(1) through (b)(4). An adequate notice of action as specified in subsection (a) shall be sent by the secretary to applicants and beneficiaries in accordance with the timeliness standards specified in this subsection.

(1) An adequate notice of action shall be sent by the secretary at least 10 days before the date upon which the action that is the subject of the notice would become effective, except as specified in paragraphs (b)(2) through (b)(4).

(A) A beneficiary's previously authorized and ongoing medical assistance or eligibility shall not be terminated, suspended, or reduced and a beneficiary's liability shall not be increased, unless the secretary issues an adequate notice of action and a timely notice of action to the beneficiary.

(B) Expiration of an approved time-limited stay as an inpatient shall not constitute a termination, suspension, or reduction of covered services.

(2) Timely notice shall not be required, but an adequate notice shall be sent by the secretary five days before the effective date if both of the following conditions are met:

(A) The secretary has facts indicating that action should be taken because of probable fraud by the beneficiary.

(B) The facts have been verified, if possible, through secondary sources.

(3) Timely notice shall not be required, but an adequate notice shall be sent by the secretary no later than the effective date of the action under any of the following conditions:

(A) The secretary has factual information confirming the death of a beneficiary.

(B) The secretary receives a clear written statement signed by a beneficiary that the beneficiary no longer wishes services or gives information that requires termination or reduction of medical assistance and indicates that the beneficiary understands that this must be the result of supplying that information.

(C) The beneficiary has been admitted or committed to an institution, and further payments for that beneficiary's care are not authorized by program regulations as long as the person resides in the institution.

(D) The beneficiary has been placed in a skilled nursing facility, an intermediate care facility, or a long-term care facility.

(E) The beneficiary's whereabouts are unknown and the post office returns department mail directed to the beneficiary indicating no known forwarding address.

(F) The secretary establishes the fact that the beneficiary has been accepted for medicaid services in a new jurisdiction.

(G) A child is removed from the home as a result of a judicial determination or has been voluntarily placed in foster care by the child's legal guardian.

(H) A change in the level of medical care is prescribed by the beneficiary's physician.

(I) A special allowance granted for a specific period is terminated, and the beneficiary was informed in writing when the allowance was granted that it would automatically terminate at the end of the specified period.

(J) The department takes action because of information that the beneficiary furnished in a status report or because the beneficiary has failed to submit a complete or a timely status report.

(K) An individual fails to participate in an assessment process.

(L) An individual threatens or endangers personal care attendants, case managers, or workers.

(M) The notice involves an adverse determination made regarding the preadmission screening requirements.

(N) The notice involves a denial by the secretary of the enrollee's request to disenroll from the MCE outside of the enrollee's annual open enrollment period.

(4) If the secretary takes action to discontinue, terminate, suspend, or reduce medical coverage for a child who has been determined eligible for presumptive medical assistance as specified in K.A.R. 129-6-151 or K.A.R. 129-6-152, neither timely notice of action nor adequate notice of action shall be required.

(c) A skilled nursing facility or nursing facility shall send an adequate skilled nursing facility or nursing facility notice of action to each resident proposed to be transferred or discharged, which shall include a statement of the facility's determination to transfer or discharge the resident. Each adequate skilled nursing facility or nursing facility notice of action shall include the following:

(1) The date of the adequate skilled nursing facility or nursing facility notice of action;

(2) the action the skilled nursing facility or nursing facility has taken or intends to take;

(3) the effective date of the transfer or discharge;

(4) the reasons supporting the action taken or the intended action;

(5) the location to which the resident is transferred or discharged;

(6) the regulations or policy that supports, or the change in federal or state law that requires, the action;

(7) a statement of the resident's right to request a state fair hearing or, in cases of an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(8) the method by which the resident may obtain a state fair hearing, the way to obtain assistance in completing and submitting the request, and the mailing address of the presiding officer;

(9) the name, postal mailing and electronic-mail addresses, and telephone number of the Kansas office of the long-term care ombudsman;

(10) for nursing facility residents with a mental disorder, intellectual and developmental disabilities, and related disabilities, the postal mailing and electronic-mail addresses and the telephone number of the entity responsible for the protection and advocacy of these individuals;

(11) for nursing facility residents with a mental disorder or related disabilities, the postal mailing and electronic-mail addresses and the telephone number of the Kansas advocacy and protection organization;

(12) a statement that the resident may have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(13) the time frame in which the secretary shall make a state fair hearing decision.

(d) The skilled nursing facility or nursing facility shall send a timely skilled nursing facility or nursing facility notice of action to each resident proposed to be transferred or discharged in accordance with the timeliness requirements in K.A.R. 26-39-102, as in effect on February 8, 2023, which is hereby adopted by reference. The skilled nursing facility or nursing facility shall send an adequate skilled nursing facility or nursing facility notice of action as specified in subsection (c) to residents in accordance with the timeliness standards specified in this subsection. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-5. Continuation of covered services for FFS beneficiaries; applicability. This regulation shall apply to maintaining or reinstating FFS covered services when a beneficiary requests a state fair hearing involving an action by the secretary.

(a) Medical assistance shall be maintained by the secretary if an adequate and timely notice is sent by the secretary as required in K.A.R. 129-7-4 and the beneficiary requests a state fair hearing before the effective date of the action. Medical assistance shall not be terminated or

(continued)

reduced by the secretary until a decision is rendered after the state fair hearing unless one of the following conditions is met:

(1) The request for a state fair hearing concerns a discontinued program or service.

(2) The presiding officer determines at the state fair hearing that the sole issue is one of federal or state law, regulation, or policy, or change in federal or state law, regulation, or policy and not one of incorrect application of policy.

(3) The beneficiary is promptly informed in writing by the secretary that covered services will be terminated or reduced pending the state fair hearing decision.

(4) A change affecting the beneficiary's medical assistance occurs while the state fair hearing decision is pending and the beneficiary fails to request a state fair hearing after notification of the change.

(5) The beneficiary's redetermination or reenrollment period expires.

(6) A change affecting the eligibility or basis of issuance of multiple beneficiaries within one or more coverage groups specified in K.A.R. 129-6-34 or in article 14 of the division's regulations affects the beneficiary's eligibility or basis of issuance while the state fair hearing decision is pending.

(7) The beneficiary has reached the maximum benefit for the coverage time period.

(b) If any of the exceptions noted in subsection (a) apply to the case being heard by the presiding officer and the secretary seeks to terminate, suspend, or reduce a beneficiary's medical assistance, including previously authorized and ongoing FFS covered services, before the issuance of an initial order, the beneficiary shall be informed in writing by the secretary. For the purposes of this subsection, an adequate and timely notice of action shall not be required by the secretary to inform the beneficiary of the secretary's decision to seek the termination, suspension, or reduction of medical assistance, including previously authorized FFS covered services, before the issuance of an initial order.

(c) If the secretary's action is sustained by the state fair hearing decision, recovery procedures may be instituted by the secretary against the beneficiary to recover the cost of any FFS covered services furnished the beneficiary, to the extent the covered services were furnished solely by reason of subsection (a).

(d) Medical assistance shall be reinstated by the secretary and continued until a decision is rendered after a state fair hearing if all of the following conditions are met:

(1) A beneficiary's medical assistance, including previously authorized and ongoing FFS covered services, was terminated, suspended, or reduced without adequate and timely notice of action by the secretary as required in K.A.R. 129-7-4.

(2) The beneficiary requests a state fair hearing within 10 days from the date that the beneficiary receives the adequate notice of action. The date on which the adequate notice of action is received shall be considered to be five days after the date of the adequate notice of action, unless the beneficiary shows that the beneficiary did not receive the adequate notice of action within the five-day period.

(3) The action was determined by the secretary to have resulted from other than the application of federal or state law, regulation, or policy or a change in federal or state law, regulation, or policy.

(e) If a beneficiary's whereabouts are unknown, as indicated by the return of mail directed to the beneficiary by the secretary that cannot be forwarded, all discontinued medical assistance shall be reinstated if the beneficiary's whereabouts become known while the beneficiary is eligible for medical assistance. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-8. Notices to applicants and beneficiaries; applicability. This regulation shall apply to adequate and timely notices of approval sent by the secretary to applicants and beneficiaries regarding approval of eligibility or approval of an FFS covered service authorization request.

(a) An adequate notice of approval shall be sent by the secretary to an applicant for medical assistance when the secretary approves an applicant's claim for eligibility, or to a beneficiary of medical assistance when the secretary fully or partially approves an FFS covered service authorization request, and to an applicant or a beneficiary following a decision by a presiding officer that reverses the secretary's action. Each adequate notice of approval shall include the following:

(1) The date of the adequate notice of approval;

(2) the approved eligibility, including the basis of the eligibility;

(3) the effective date and, if applicable, the end date of the approved eligibility or approved FFS covered service authorization request. If no effective date is specified, the effective date shall be the date of the adequate notice of approval;

(4) the circumstances under which the applicant or beneficiary must report, and procedures for reporting, any changes that could affect the applicant's or beneficiary's eligibility;

(5) if applicable, the amount of medical expenses, if any, that must be incurred to establish eligibility for a medically needy applicant or beneficiary under a spenddown program, including the following:

(A) The budget period used to determine the spenddown amount;

(B) medical expenses, if any, applied toward the spenddown amount; and

(C) types of medical expenses allowed against any remaining spenddown amount; and

(6) basic information on the level of benefits and services available based on the applicant's or beneficiary's eligibility, including the following, if applicable:

(A) A description of any premiums and cost sharing required;

(B) an explanation of how to receive additional detailed information on benefits and financial responsibilities; and

(C) an explanation of any right to appeal the eligibility status or level of benefits and services approved.

(b) A timely notice of approval shall be sent by the secretary to the applicant or beneficiary within the time frames specified in paragraphs (b)(1) and (b)(2). A timely

notice of approval shall include the contents of an adequate notice of approval as specified in subsection (a).

(1) An adequate notice of approval shall be sent by the secretary to an applicant or beneficiary no later than one business day following the date upon which the secretary makes the eligibility or FFS covered service authorization approval decision that is the subject of the adequate notice of approval.

(2) An adequate notice of approval shall be sent by the secretary to an applicant or beneficiary no later than one business day following the date upon which notice of the presiding officer's reversal of the secretary's action is received by the secretary. If a petition for review to SAC is filed by the secretary, the adequate notice of approval shall be delayed until notice of the SAC decision affirming the presiding officer's reversal of the secretary's action is received by the secretary. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-10. When a state fair hearing is required. (a) Any applicant or beneficiary may submit a request for a standard state fair hearing if the applicant or beneficiary identifies an action by the department as the basis for the request.

(b) Any applicant or beneficiary may submit a request for an expedited state fair hearing if an action by the department is identified as the basis for the request. The applicant or beneficiary shall submit medical documentation that supports the need for an expedited state fair hearing at the time of the request.

(1) The department taking the adverse action shall review the medical documentation submitted with the expedited state fair hearing request to determine if processing the applicant's or beneficiary's request for a state fair hearing in the 90-day time frame ordinarily permitted for a standard state fair hearing decision could jeopardize the individual's life, health, or ability to attain, maintain, or regain maximum function. The department shall make that determination as expeditiously as possible following receipt of the request. The department shall communicate that determination to the presiding officer.

(2) The department shall communicate an adverse determination in writing to the appellant. The presiding officer shall communicate an approval of the expedited request in writing to the appellant by issuing a notice of a state fair hearing. For denied expedited hearing requests, the presiding officer shall schedule state fair hearings in the usual time frame.

(3) The applicant's or beneficiary's request for an expedited state fair hearing, when combined with the department's approval of the request, shall constitute a mutual waiver of procedural time requirements otherwise required by law that would defeat the purpose for the expedited state fair hearing. The applicant or beneficiary shall submit the request for an expedited state fair hearing in accordance with the timeliness requirements in K.A.R. 129-7-11.

(c) The granting of a state fair hearing shall not be required of the secretary if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all beneficiaries.

(d) Each request for a state fair hearing received by the secretary shall be forwarded to the secretary's designee for the state fair hearing within one business day by the secretary. Each oral request for a state fair hearing shall be reduced to writing by the secretary before it is forwarded.

(e) The applicant's or beneficiary's right to request a state fair hearing shall not be limited or interfered with by the secretary. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-11. Request for state fair hearing; timeliness. (a) (1) For each request for a standard state fair hearing by an applicant or beneficiary under this article of the division's regulations to be considered timely, the request shall be received by the secretary or the secretary's designee for the state fair hearing within 30 days from the date of the written notice of action. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) The presiding officer shall issue an initial order in a standard state fair hearing within 90 days from the date the presiding officer receives a request for a state fair hearing, except when the presiding officer allows an extension.

(b) Any applicant or beneficiary may request an expedited state fair hearing. For each request for an expedited state fair hearing to be considered timely, the request shall be received by the secretary or the secretary's designee for the state fair hearing within 30 days from the date of the written notice of action. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(1) The processing of the state fair hearing request shall be expedited by the department if the department determines that the 90-day time frame ordinarily permitted for a standard state fair hearing decision could jeopardize the individual's life, health, or ability to attain, maintain, or regain maximum function.

(2) The time limits specified by binding regulations issued by federal medicaid authorities shall be used by the secretary or the secretary's designee for the state fair hearing in scheduling an expedited state fair hearing. If no binding federal regulations have been promulgated or the binding federal regulations have been promulgated but are currently not effective, the expedited state fair hearing shall be scheduled as expeditiously as possible by the presiding officer as required by 42 C.F.R. 431.244(f)(3), as in effect on February 8, 2023, which is hereby adopted by reference.

(continued)

(3) The presiding officer shall issue an initial order following an expedited state fair hearing as expeditiously as possible as required by the secretary.

(c) Any applicant or beneficiary may submit an oral or written request for a standard or expedited state fair hearing to the secretary. Oral, telephonic, or electronic requests for a standard or expedited state fair hearing may not be submitted to the secretary's designee for the state fair hearing.

(d) Any request for a standard or expedited state fair hearing made by telephone or other electronic means and received by the secretary during normal business hours may be accepted as a valid request for a standard or expedited state fair hearing by the secretary if the request and proof of receipt by the secretary are documented, dated, and reduced to writing. The date and time of the telephonic or electronic request for a standard or expedited state fair hearing shall be used to determine the timeliness of the request even if there is a delay by the secretary in reducing the request to writing. Oral, telephonic, or electronic requests for a standard or expedited state fair hearing may not be submitted to the secretary's designee for the state fair hearing.

(e) Each request for a standard or expedited state fair hearing shall be forwarded by the secretary to the secretary's designee for the state fair hearing within one business day of receipt.

(f) If a written request for a standard or expedited state fair hearing is received by the secretary or the secretary's designee for the state fair hearing, the request shall be date-stamped by the secretary or the secretary's designee when received as proof of receipt. The timeliness standards specified in subsections (a) and (b) shall apply with the date of receipt by the secretary or the secretary's designee being used to determine the timeliness of the request.

(g) If an applicant or beneficiary sends a written request for a standard or expedited state fair hearing directly to the secretary's designee for the state fair hearing, the timeliness standards specified in subsections (a) and (b) shall apply, with the date of receipt by the secretary's designee being used to determine the timeliness of the request.

(h) If the request for a standard or expedited state fair hearing is not received within the response periods specified in subsections (a) and (b), the request shall be deemed untimely and shall be dismissed.

(i) The presiding officer shall issue an initial order on a standard or expedited state fair hearing request within the time limits specified in subsections (a) and (b), unless one of the following conditions is met:

(1) The presiding officer cannot reach a decision because the appellant requests a delay or fails to take a required action.

(2) There is an administrative or other emergency beyond the control of the presiding officer or the secretary. The presiding officer shall document the reasons for any delay in the appellant's record. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-12. Evidentiary standard; burden of proof. (a) Unless preempted by federal or state law, a preponderance of the evidence shall be the evidentiary standard used for state fair hearings under this article of the division's regulations.

(b) Any appellant or respondent may sustain that individual's burden of proof by using testimony, documents, statutes, regulations, the state plan and its amendments, the MCE contract, and policy to support the appellant's or respondent's case. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-13. Parties. (a) The parties to each state fair hearing shall be an appellant and a respondent. The case caption in each medical assistance state fair hearing case shall identify the appellant and the respondent as follows:

(1) The named appellant in the case caption shall be an applicant or beneficiary. Any authorized representative of the applicant or beneficiary may request a state fair hearing.

(A) A state fair hearing may be requested only by or on behalf of the appellant applying for or receiving covered services and benefits.

(B) Any appellant applying for or receiving covered services and benefits may designate, in writing, an individual or entity to request a state fair hearing and represent the appellant in a state fair hearing. The appellant shall be the only individual who can grant another individual or entity the authorization to request a state fair hearing and represent the appellant in a state fair hearing subject to the exception in paragraph (a)(1)(C).

(C) The individual or entity authorized to request a state fair hearing and represent the appellant in a state fair hearing shall not transfer written authorization to another individual or entity unless the authorized individual or entity has a power of attorney or is a guardian or conservator appointed by a court of competent jurisdiction. Any power of attorney, guardian, or conservator may authorize an individual or entity, in writing, to request a state fair hearing and represent the appellant in a state fair hearing.

(D) Written authorization, including power of attorney, letters of guardianship, or letters of conservatorship, shall accompany all state fair hearing requests made on an appellant's behalf, with the following exceptions:

(i) An unemancipated minor appellant's parent or legal guardian may request a state fair hearing on behalf of the appellant and represent the appellant in a state fair hearing without written authorization.

(ii) Any attorney-at-law retained by the appellant or the appellant's representative may request a state fair hearing on behalf of the appellant using the attorney's official letterhead or other proof of representation as written authorization.

(2) The named respondent in the case caption shall be the department, nursing facility, or skilled nursing facility taking the action.

(A) If the matter involves an action regarding eligibility, the respondent shall be the department that took the action. If the eligibility determination process requires several agencies to act consecutively, the respondent shall be the department that took the action involving the portion of the eligibility process that is being appealed in the state fair hearing.

(B) If the matter involves the termination, suspension, or reduction of previously authorized and ongoing FFS covered services, the respondent shall be the secretary.

(C) If the matter involves determinations concerning the preadmission screening and annual resident review, the respondent shall be the department designated as responsible for these determinations.

(D) The department shall review the matters identified in paragraphs (a)(2)(A) through (a)(2)(C) to determine whether both of the following conditions are met:

(i) The matter was filed within the regulatory time frame.

(ii) The matter involves an action.

(E) If the department determines that the matter has not satisfied each of the conditions specified in paragraph (a)(2)(D), the department shall submit a request to the presiding officer to dismiss the matter.

(F) If the matter involves the transfer or discharge of a medicaid or non-medicaid resident in a nursing facility or skilled nursing facility, the respondent shall be the nursing facility or skilled nursing facility that made the transfer or discharge decision. A designation of legal counsel for the respondent shall not affect the identification of the respondent as named party in the case caption.

(b) The presiding officer conducting the state fair hearing may grant a motion to modify the case caption to clarify the parties.

(c) Any applicant or beneficiary may authorize representation by legal counsel, a relative, a friend, or a spokesperson in the state fair hearing if the applicant or beneficiary has authorized the representation in writing. This regulation shall not authorize the secretary or the presiding officer to grant exceptions to the Kansas supreme court rules concerning the practice of law in Kansas if the applicant or beneficiary is represented by an attorney who is not licensed in Kansas.

(d) If the applicant for or beneficiary of medical assistance has died before filing a request for a state fair hearing, then an administrator or executor appointed by a court in the estate proceedings of the deceased applicant or beneficiary may file the request for a state fair hearing. The appellant shall be the estate of the deceased applicant or beneficiary.

(e) If the applicant for or beneficiary of medical assistance has died after filing a request for a state fair hearing, then an administrator or executor appointed by a court in the estate proceedings of the deceased applicant or beneficiary may request to substitute the estate of the deceased applicant or beneficiary as the appellant.

(f) If a presiding officer allows an entity to intervene in a state fair hearing covered by this article of the division's regulations pursuant to KAPA, the intervening entity shall be identified in the caption of the case as an intervenor. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-14. Department's review of decision. (a) Upon receipt of notice that a request for state fair hearing has been made, the action shall be reviewed by the department. Upon review, the action may be amended or changed before or during the state fair hearing as directed by the department.

(b) If the parties reach a satisfactory adjustment before the state fair hearing, a written request to dismiss the state fair hearing request shall be submitted by the department to the presiding officer, but the state fair hearing request shall remain pending until the following are completed:

(1) Upon receipt of the department's request to dismiss, the presiding officer shall issue a prehearing order to the appellant providing a 15-day response time. If the 15th day falls on a non-business day for the state, the 15-day response time shall be extended to the next business day on which the department is open for business. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 15-day response period if the order is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) If the appellant responds to the presiding officer within the above response time, the respondent may reply within five days.

(3) The presiding officer shall review the appellant's response and any respondent's reply and make a determination regarding the department's request to dismiss.

(4) If the appellant fails to respond to the presiding officer's order within the above response time, the presiding officer may dismiss the state fair hearing request.

(c) If the parties reach a satisfactory adjustment during the state fair hearing, an oral withdrawal stated on the record by the appellant or the appellant's representative before the presiding officer shall be acceptable.

(d) If the appellant withdraws the state fair hearing request, withdrawal of the state fair hearing request by means of the internet, telephone, U.S. mail, in-person contact, or facsimile shall be accepted by the department.

(1) For telephonic, internet, and in-person withdrawals, the appellant shall be provided with written confirmation, by regular U.S. mail or electronic notification.

(2) For telephonic state fair hearing withdrawals, the appellant's statement shall be recorded by the department. This recording process shall include electronic or contemporaneous written documentation of the appellant's oral statement by the department.

(3) If the appellant submits a signed, written statement withdrawing the appellant's request for state fair hearing, the presiding officer shall close the state fair hearing request. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-16. State fair hearings for income and resource allowance determinations. (a) For purposes of this regulation, "significant financial duress" shall mean circumstances in which expenses are unforeseen or are ongoing and are reasonable and necessary for the health, safety, or well-being of the community spouse, as specified in K.A.R. 129-6-106(k). "Expenses" shall include the costs of medical or other necessary support services or the costs associated with unforeseen circumstances, including a fire or flood.

(b) Any applicant or beneficiary may request a state fair hearing when challenging any adverse consequence of any of the following department determinations:

(1) The income allowance in accordance with K.A.R. 129-6-106(k)(2);

(continued)

(2) the amount of monthly income available to the community spouse as specified in K.A.R. 129-6-106(k)(2)(B);

(3) the share of resources for the institutionalized and community spouse in accordance with K.A.R. 129-6-106(k)(6);

(4) the consideration of resources in determining the eligibility of the institutionalized spouse as specified in K.A.R. 129-6-106(k)(4); or

(5) the community spouse resource allowance in accordance with K.A.R. 129-6-106(k)(6).

(c) The presiding officer shall determine the accuracy of the initial determination described in subsection (b).

(d) The presiding officer shall increase the amount of the community spouse income allowance if either spouse establishes that a greater allowance is necessary due to exceptional circumstances resulting from significant financial duress. The community spouse income allowance shall be increased sufficient to cover the expenses and based on whether the condition is temporary or ongoing.

(e) If the community spouse income allowance determined to be needed for exceptional circumstances resulting from significant financial duress has not been reached after application of subsection (d), the presiding officer may consider and grant an increase to the community spouse resource allowance if either the community or institutionalized spouse establishes that additional income producing resources from the institutional spouse need to be provided to the community spouse in order to raise the community spouse's income to the allowable community spouse income allowance amount determined in accordance with K.A.R. 129-6-106(k)(2) or as determined through a state fair hearing under subsection (d). Each decision to grant an increase in the community spouse resource allowance shall require that all of the following criteria be met:

(1) The institutionalized spouse has allocated the maximum amount of available income to the community spouse.

(2) The additional income producing resources allocated to the community spouse does not exceed an amount necessary to generate income sufficient to raise the total community spouse income to the allowable amount.

(3) The income value of both the current resources allowed and the additional resources to be allocated are based on the income that could be generated by the sale of the property and the investment of the proceeds into a single premium life annuity. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-17. Department's summary. (a) Within 30 days of the date of the acknowledgment and order issued by the presiding officer in response to a request for state fair hearing, the appellant and the presiding officer shall be furnished by the department with a summary providing the following information and exhibits:

(1) The appellant's name and address;

(2) a summary statement concerning why the appellant is filing a request for a state fair hearing;

(3) a brief and relevant chronological summary of the events that occurred in relationship to the appellant's request for a state fair hearing;

(4) a statement of the basis of the adverse action;

(5) a citation to and copy of the applicable policies or manual excerpts relied upon for the decision. The applicable medical necessity criteria or guidelines used in making medical necessity decisions shall be included;

(6) a citation to or copy of the applicable Kansas and federal statutes and regulations relied upon for the adverse action;

(7) a citation to or copy of the applicable state plan or waiver documents relied upon for the adverse action;

(8) a copy of the notice which notified the appellant of the decision in question and any subsequent notices;

(9) a copy of any applicable correspondence; and

(10) the name and title of each person who will testify or represent the secretary at the state fair hearing.

(b) Upon written request by the department, the presiding officer may grant additional time for the completion of the summary. The presiding officer shall file notification of the approval or denial of the extension request. If approved, the notification shall include the revised due date for the department's summary.

(c) The department's summary shall be submitted to the presiding officer and the appellant within 30 days as specified in subsection (a) or by the date approved by the presiding officer as specified in subsection (b), unless there is an administrative or other emergency beyond the control of the presiding officer or the department. The due date for the department's summary may be modified by the presiding officer before or after the administrative or other emergency.

(d) If the responsibility for the preparation of the department's summary has been given to the secretary's designee, the secretary's designee shall meet the requirements of this regulation and any additional directives by the department. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective, T-129-1-6-23, Jan. 6, 2023; effective Dec. 27, 2024.)

129-7-18. Motions. (a) Each motion shall meet the following requirements, unless the motion is made during a state fair hearing:

(1) Be submitted in writing; and

(2) state with specificity the basis of the motion.

(b) Unless otherwise specified by the presiding officer, the opposing party shall have 15 days from the date of mailing, electronic filing, or personal delivery of the motion within which to file a response. The presiding officer may waive or change the deadline for good cause.

(c) Unless otherwise specified by the presiding officer, the party that filed the motion shall have five days from the date of mailing, electronic filing, or personal delivery of the response filed under subsection (b) within which to file a reply.

(d) The presiding officer on that individual's own motion or at the request of either party may conduct a state fair hearing on the motion. Each party requesting a state fair hearing shall include the request in the motion or response. The presiding officer may render a decision on the motion after receipt of the response, reply, and any state fair hearing on the motion. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-19. Prehearing resolution. The parties may settle or otherwise resolve the dispute before the date of the state fair hearing. The parties may also narrow and define the issues before the date of the state fair hearing. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-20. Dismissal; limitations. (a) Any state fair hearing may be considered for dismissal before the state fair hearing is convened. The party seeking to dismiss the state fair hearing shall use a written motion to dismiss the state fair hearing. Written motions to dismiss may be submitted in lieu of the department's summary when based on one of the reasons specified in this subsection. Each written motion to dismiss the state fair hearing shall state one of the following reasons and provide evidence, argument, and citations to federal or state law, regulation, policy, or manual that support the reason for dismissal:

(1) The appellant failed to submit a request for a state fair hearing within the timeliness standards specified in K.A.R. 129-7-11.

(2) The appellant failed to state a claim.

(3) The secretary has not taken an action adverse to the appellant.

(4) The secretary reversed its action.

(5) The request for a state fair hearing was submitted by an individual or entity without documentation of authorization from the applicant or beneficiary.

(6) The appellant challenges the validity of or states a disagreement with federal or state law, regulation, or policy. The department shall not submit a written motion to dismiss for a state fair hearing request in which the appellant is challenging an incorrect computation or determination by the secretary using the law, regulation, or policy.

(7) The secretary has taken an action required by federal or state law or regulation, including an automatic or mandated adjustment that is applied to a class of beneficiaries that included the appellant. The department shall not submit a written motion to dismiss for a state fair hearing in which the appellant is challenging an incorrect computation or determination by the secretary using the law, regulation, or policy.

(8) The secretary has taken an action required by the governor of the state of Kansas that is applied to a class of beneficiaries that included the appellant.

(b) Any written motion to dismiss may be filed with the presiding officer by the secretary or the secretary's designee who has been delegated authority to file the motion.

(c) If the motion to dismiss is denied, the presiding officer shall file notification of the denial.

(d) If the secretary seeks to dismiss a state fair hearing on the basis that the action being appealed is based on federal or state law, regulations, or policy, including an action based upon changes in federal or state law, regulations, or policy, and the action taken by the secretary shall result in the termination, suspension, or reduction of medical assistance, including previously authorized and ongoing covered services, medical assistance shall continue until a decision concerning the request for dismissal is rendered. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-21. Presiding officer; decisions. (a) The presiding officer shall conduct a state fair hearing requested by an appellant concerning an action, as defined in K.A.R. 129-7-1, taken against the appellant by a respondent.

(b) The presiding officer shall weigh the evidence and determine the facts and conclusions of law pertinent to the state fair hearing.

(c) The presiding officer shall determine the facts and conclusions of law based on supporting and detracting testimony, documents, statutes, regulations, the state plan and its amendments, and policies allowed into the record of the state fair hearing by the presiding officer.

(d) The presiding officer shall control the state fair hearing. Unless preempted by federal or state law, the presiding officer conducting a state fair hearing under this article of the division's regulations shall use KAPA and may use Kansas civil procedure in the state fair hearing as needed.

(e) The presiding officer shall determine whether the action made by the respondent is due to a correct interpretation of the applicable statute, regulation, or policy.

(f) The presiding officer shall determine the basis for the state fair hearing. If the presiding officer determines the state fair hearing in favor of the appellant, the remedy ordered by the presiding officer shall be limited to orders that are within the lawful authority of the secretary to execute.

(1) If the basis for the appellant's state fair hearing request is a belief that the department has failed to determine eligibility in a timely manner and the presiding officer determines that the secretary has not determined eligibility in a timely manner, the presiding officer shall direct the secretary to determine eligibility within a specified period of time as the remedy. The presiding officer may determine whether to keep the current state fair hearing case open pending the completion of the eligibility process or may dismiss the case.

(2) If the presiding officer determines that the eligibility action challenged by the appellant required sequential decisions by the secretary or by two or more of the secretary's designees before eligibility could be correctly determined and that the sequential eligibility process had not been completed, the presiding officer may return the matter to the department that last took action. The presiding officer may direct the department to complete the sequential eligibility process, including forwarding the eligibility matter to the next secretary's designee in sequence, as the remedy. The presiding officer may determine whether to keep the current state fair hearing case open pending the completion of the eligibility process or to dismiss the case.

(3) If the presiding officer determines the state fair hearing in favor of the respondent, the action of the respondent shall be affirmed. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-22. Rehearing. (a) Any party, within 15 days after service of the presiding officer's decision, may file a petition for rehearing stating the specific grounds upon which the rehearing of the presiding officer's decision is requested.

(continued)

(b) The presiding officer may grant a rehearing to either party on all or part of the issues when it appears that the rights of the party are substantially affected for any of the following reasons:

(1) An erroneous ruling by the presiding officer;

(2) a decision that, in whole or in part, is contrary to the evidence;

(3) newly discovered evidence that the moving party could not with reasonable diligence have discovered or produced at the hearing; or

(4) fraud, misrepresentation, or misconduct by an opposing party resulting in the order or proceeding.

(c) The filing of a petition for rehearing is not a prerequisite for review at any stage of the proceedings. The filing of a petition for rehearing does not stay any time limits or further proceedings that may be conducted under the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto, or any other provision of law.

(d) Once an initial order has been rendered, relief may be sought only through a petition for review to the secretary or the state appeals committee. (Authorized by K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-23. Relief from preliminary or prehearing order. (a) During the pendency of a state fair hearing proceeding and before the rendering of the initial order by the presiding officer, any party to the state fair hearing proceeding may file with the presiding officer a motion for review of the ruling made by the presiding officer, stating the specific grounds upon which the review of the presiding officer's decision is requested.

(b) The presiding officer may relieve a party or its legal representative from order or proceeding for any of the following reasons:

(1) An erroneous ruling by the presiding officer;

(2) a decision that, in whole or in part, is contrary to the evidence;

(3) newly discovered evidence the moving party that could not with reasonable diligence have discovered or produced at the state fair hearing; or

(4) fraud, misrepresentation, or misconduct by an opposing party resulting in the order or proceeding.

(c) The filing of a motion for review under this regulation concerning preliminary matters shall not be a prerequisite for review at any other stage of the proceedings. The filing of a motion for review shall not affect any time limits or further proceedings that may be conducted under KAPA or any other provision of law. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-24. Transcripts. (a) If a transcript of a state fair hearing is requested, the requestor shall receive a digital recording from the presiding officer. A transcript of the state fair hearing may be prepared by a certified court reporter if requested by an appellant, the department, the presiding officer, the state appeals committee, or the secretary. The party requesting the transcript or review of the presiding officer's decision shall pay any costs associated in obtaining a transcript.

(b) If an appellant requests a transcript and signs a poverty affidavit, the costs of transcribing the recording shall be paid by the department.

(c) A transcript shall be prepared as required by K.S.A. 77-620, and amendments thereto, and have a signed certification on all copies as follows: "This is to certify that [Name of presiding officer] conducted a state fair hearing involving [Name of appellant] in [County], state of Kansas, on [Date] at [Time] and that the foregoing is a true and correct transcript of the record of the state fair hearing. [Signature of reporter]." (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-25. Review of an initial order or final order. (a) Any initial order may be reviewed by the secretary by giving notice of intent to do so and identifying the issues to be reviewed. This review shall include any proposed default order that becomes effective.

(1) Any party to a state fair hearing may request a review of the initial order within 15 days of the date the presiding officer served the order upon the parties pursuant to K.S.A. 77-527, and amendments thereto. When the order is served by U.S. mail or electronic means, pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 15-day review request period. The initial order may be reviewed by the secretary or the state appeals committee.

(2) Upon written request, authority may be granted by the secretary or the state appeals committee for the submission of additional written briefs or arguments that would assist in their deliberations.

(3) If the parties submit new evidence during the review of the initial order, the state appeals committee shall have discretion to remand the matter to the presiding officer for consideration of the new evidence if the new evidence could not have been presented during the state fair hearing.

(4) The decision from the secretary or the state appeals committee shall be the final order.

(5) The final order of the secretary or the state appeals committee shall be effective upon service unless stated otherwise in the final order or unless a stay has been granted pursuant to K.S.A. 77-528, and amendments thereto.

(b) Any final order may be reconsidered by the secretary in accordance with K.S.A. 77-529, and amendments thereto.

(c) The record, as defined in K.S.A. 77-532 and amendments thereto, shall be the basis for the review of the initial order or final order by the secretary or the state appeals committee.

(d) This regulation shall not apply to orders concerning determinations by skilled nursing facilities and nursing facilities to transfer or discharge a resident since the secretary is not the respondent. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-7-65. (Authorized by and implementing K.S.A. 2005 Supp. 75-7412; effective June 30, 2006; revoked Dec. 27, 2024.)

Article 8.— MEDICAL ASSISTANCE GRIEVANCES, APPEALS, AND STATE FAIR HEARINGS FOR MANAGED CARE ENROLLEES

129-8-1. Applicability; definitions. (a) Applicability. This article of the division's regulations shall apply

to grievances, appeals, and state fair hearings involving medical assistance enrollees who are receiving covered services from a managed care entity with a CMS approved contract with the secretary.

(b) Definitions. For purposes of this article of the division's regulations, each of the following terms shall have the meaning specified in this regulation:

(1) "Adequate notice of adverse benefit determination" means a written document that is sent by the MCE to the enrollee or requesting provider at the time the MCE makes an adverse benefit determination and that meets the requirements specified in K.A.R. 129-8-4.

(2) "Adequate notice of appeal resolution" means a written document that is sent by the MCE to the enrollee and requesting provider that includes the MCE's resolution of the enrollee's appeal request and that meets the requirements specified in K.A.R. 129-8-4.

(3) "Adequate notice of approval" means a written document that is sent by the MCE to the enrollee and the requesting provider at the time the MCE approves a covered service authorization request and that meets the requirements specified in K.A.R. 129-8-8.

(4) "Adequate notice of external review decision" means a written document that is sent by the MCE to the enrollee and the provider that includes the external independent third-party reviewer's decision and meets the requirements specified in K.A.R. 129-9-4.

(5) "Adverse benefit determination" means a decision by the MCE for any of the following:

(A) The denial or limited authorization of a requested non-covered service or covered service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered service;

(B) the reduction, suspension, or termination of a previously authorized covered service;

(C) the failure to provide covered services in a timely manner, as defined by the secretary;

(D) the failure of the MCE to act within required time frames, which constitutes a denial and an adverse benefit determination and are the following:

(i) The failure to resolve a grievance and send notice within the time frames specified in K.A.R. 129-8-3;

(ii) the failure of the MCE to resolve an appeal and send notice within the time frames specified in K.A.R. 129-8-7; and

(iii) the failure of the MCE to reach service authorization decisions within the time frames specified in K.A.R. 129-8-4;

(E) the denial of the enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities; and

(F) the placement of the enrollee into administrative lock-in due to the enrollee's persistent noncompliance with the requirements of care and treatment, abusive or threatening conduct by the enrollee, fraud or waste by the enrollee, or overuse of covered services, including LTSS, at a frequency or amount that is not medically necessary.

(6) "Appeal" means a review by the MCE of an adverse benefit determination. An appeal is not a local evidentiary hearing, a request to the presiding officer for a state fair hearing, or a grievance.

(7) "Days" means calendar days unless otherwise specified.

(8) "Grievance" means the expression of dissatisfaction to an MCE by the enrollee about any matter other than an adverse benefit determination. This term may include dissatisfaction with the quality of care or services provided, aspects of interpersonal relationships including rudeness of the provider or employee, and failure to respect the enrollee's rights regardless of whether the enrollee requests remedial action. This term shall include the enrollee's right to dispute an extension of time proposed by the MCE to make an authorization decision or resolve an appeal or grievance. An enrollee submitting a grievance shall not have state fair hearing rights.

(9) "Grievance and appeal system" means the grievance, appeal, and state fair hearing processes that are available to enrollees for expressions of dissatisfaction and for contesting adverse benefit determinations regarding covered services and non-covered services, as well as the process by which information is collected and tracked.

(10) "Lock-in" means the MCE's restriction of the enrollee's access to medical services because of the enrollee's abuse of medical services. Lock-in is accomplished through limitation of the use of the MCE's medical identification card to designated medical providers.

(11) "New healthcare service" means a covered service that an MCE has not previously authorized or a covered service that an MCE has previously authorized, but the authorization period for that covered service has expired at the time of the request for additional covered services.

(12) "PCCM" means a primary care case manager, including a physician, a physicians' group practice, or an entity that uses physicians, who provides primary care to the enrollee under a contract with the Kansas medical assistance program.

(13) "Send" means to deliver by U.S. mail or in electronic format.

(14) "Timely notice of adverse benefit determination" means an adequate notice of adverse benefit determination sent by the MCE to the enrollee within the time frames specified in K.A.R. 129-8-4.

(15) "Timely notice of appeal resolution" means an adequate notice of appeal resolution that is sent by the MCE to the enrollee within the time frames specified in K.A.R. 129-8-7.

(16) "Timely notice of approval" means an adequate notice of approval that is sent by the MCE to the enrollee within the time frames specified in K.A.R. 129-8-8.

(17) "Timely notice of external review decision" means an adequate notice of external review decision that is sent by the MCE to the enrollee and requesting provider within the time frame specified in K.A.R. 129-9-4. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-3. MCE member grievance. (a) Any enrollee may submit a grievance about any MCE matter other than an adverse benefit determination.

(b) Any enrollee may submit an oral or written griev-

(continued)

ance to the MCE at any time. Any enrollee may submit a grievance in person, by telephone, by U.S. mail, or by facsimile. Each written grievance delivered by the postal service or submitted by facsimile to the MCE shall be date-stamped when received by the MCE as proof of receipt.

(c) The MCE shall acknowledge each oral or written grievance received from the enrollee in writing within 10 days of receipt.

(d) The MCE shall resolve enrollee grievances and issue a notice of grievance resolution within 30 days from the date the MCE receives the grievance from the enrollee. The notice of grievance resolution shall meet with the requirements specified by the secretary.

(1) The MCE may extend this 30-day resolution time period up to 14 days, if the enrollee requests the extension or the MCE shows to the satisfaction of the secretary, upon the secretary's request, that there is need for additional information and how the delay is in the enrollee's interest.

(2) If the MCE extends the time frames not at the request of the enrollee, the MCE shall perform the following:

(A) Make reasonable efforts to give the enrollee prompt oral notice of the delay;

(B) within two days, give the enrollee written notice of the reason for the decision to extend the time frame and inform the enrollee of the right to submit a grievance if the enrollee disagrees with that decision; and

(C) resolve the grievance as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(e) Any enrollee may submit a request for grievance to the secretary if the enrollee is unable to obtain medical care that accommodates the member's culturally based attitudes, beliefs, and needs. The enrollee shall complete the MCE's grievance process before submitting a request for grievance to the secretary.

(f) The enrollee's right to submit a grievance shall not be limited or interfered with by the secretary or the MCE.

(g) The MCE shall cooperate with the state, the state's fiscal agent, or representatives of either, to resolve all enrollee grievances. Cooperation may include providing internal enrollee grievance information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-4. Notices to enrollees; applicability. This regulation shall apply to adequate and timely notices of adverse benefit determinations and to adequate and timely notices of appeal resolution issued by the MCE to the enrollee, the enrollee's authorized representative, and to the provider requesting an authorization for a new healthcare service on behalf of the enrollee.

(a) The MCE shall send an adequate notice of adverse benefit determination to the enrollee, the enrollee's authorized representative, and the requesting provider when the MCE makes an adverse benefit determination, as defined in K.A.R. 129-8-1. Each adequate notice of adverse benefit determination shall include the following:

(1) The date of the adequate notice of adverse benefit determination;

(2) the date the adequate notice of adverse benefit determination was sent;

(3) the adverse benefit determination that the MCE has made or intends to make, including the dates, types, and amount of service requested, if the adverse benefit determination pertains to a service authorization request;

(4) the effective date of the MCE's adverse benefit determination;

(5) the reasons for the adverse benefit determination, including an explanation of the medical basis for the decision, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the MCE based its adverse benefit determination upon a decision that the covered service is not medically necessary;

(6) the statute, regulation, policy, or procedure supporting the adverse benefit determination;

(7) a statement of the enrollee's right to be provided, upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the enrollee's adverse benefit determination. The information shall include medical necessity criteria and any processes, strategies, or evidentiary standards used in setting coverage limits;

(8) an explanation of the enrollee's right to request an appeal and the MCE's requirement for the enrollee to complete the MCE's appeal process before requesting a state fair hearing;

(9) the circumstances under which an appeal process can be expedited and the way to request an expedited appeal process;

(10) an explanation of the enrollee's right to request an appeal within 60 days of the date of the adequate notice of adverse benefit determination. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means;

(11) the procedures by which the enrollee may request an appeal regarding the MCE's adverse benefit determination;

(12) an explanation of the enrollee's right to request a state fair hearing within 120 days of the date of the adequate notice of appeal resolution. Three days shall be added to the 120-day response period if the adequate notice is served by U.S. mail or electronic means;

(13) the circumstances under which a state fair hearing process can be expedited and the way to request an expedited state fair hearing process;

(14) the procedures by which the enrollee may request a standard or expedited state fair hearing and the address and contact information for submission of the request or, for an adverse benefit determination based on a change in law, the circumstances under which a state fair hearing will be granted;

(15) any change in federal or state law that requires the adverse benefit determination;

(16) an explanation of the enrollee's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson;

(17) the circumstances under which the enrollee may continue to receive benefits pending resolution of the appeal or state fair hearing, the procedures by which the enrollee may request that benefits be continued, and the circumstances under which the enrollee may be required to pay the costs of these services;

(18) a toll-free number that the enrollee can call to request the assistance of the enrollee representative, request an appeal, or request a state fair hearing; and

(19) any other information required by Kansas statute or regulation that involves the MCE's adequate notice of adverse benefit determination.

(b) The MCE shall send a timely notice of adverse benefit determination to the enrollee, the enrollee's authorized representative, and the requesting provider within the time frames specified in paragraphs (b)(1) through (b)(4). A timely notice of adverse benefit determination shall include the contents of an adequate notice of adverse benefit determination as specified in subsection (a).

(1) The MCE shall send an adequate notice of adverse benefit determination at least 10 days before the date upon which the adverse benefit determination that is the subject of the adequate notice would become effective if the adverse benefit determination involves a termination, suspension, or reduction of covered services.

(A) The enrollee's previously authorized and ongoing covered services shall not be terminated, suspended, or reduced unless the MCE issues an adequate and timely notice of adverse benefit determination to the enrollee or the provider.

(B) If the enrollee is approved for additional or different medical assistance and a concurrent action to terminate, suspend, or reduce previously approved medical assistance that was being received immediately before the newly approved medical assistance is incorporated in the adequate notice of adverse benefit determination, a timely notice of adverse benefit determination shall be required if the newly approved medical assistance is less in quantity or quality than the previously approved medical assistance.

(C) Changes in the enrollee's plan of care due to a new assessment that terminates, suspends, or reduces previously authorized covered services being received by the enrollee in the plan of care immediately preceding the new assessment shall constitute a termination, suspension, or reduction of covered services.

(D) Expiration of an approved time-limited stay as an inpatient shall not constitute a termination, suspension, or reduction of covered services.

(2) A timely notice shall not be required, but the MCE shall send an adequate notice five days before the effective date if both of the following conditions are met:

(A) The MCE has information indicating that the adverse benefit determination is necessary because of probable fraud by the enrollee in receiving previously authorized and ongoing services.

(B) The MCE's information has been verified from a secondary source, if possible.

(3) A timely notice shall not be required, but the MCE shall send an adequate notice of adverse benefit determination no later than the effective date of the adverse benefit determination if at least one of the following conditions is met:

(A) The MCE or department has factual information confirming the death of the enrollee.

(B) The MCE receives a clear written statement signed by the enrollee that the enrollee no longer wishes services or gives information that requires termination or reduction of medical assistance. The enrollee shall indicate that the enrollee understands that this shall be the result of supplying that information.

(C) The enrollee has been admitted or committed to an institution, and further payments for that enrollee's care are not authorized by program regulations as long as the person resides in the institution.

(D) The enrollee's whereabouts are unknown and the post office returns MCE or secretary mail directed to the enrollee indicating no known forwarding address.

(E) The MCE or secretary establishes the fact that the enrollee has been accepted for medicaid services in a new jurisdiction.

(F) A change in the level of medical care is prescribed by the enrollee's physician.

(G) An individual fails to participate in an assessment process.

(H) An individual threatens or endangers personal care attendants, case managers, or workers.

(4) The MCE shall send an adequate notice of adverse benefit determination when the MCE denies a service authorization request or authorizes a service in an amount, duration, or scope that is less than requested within the following time frames:

(A) For standard authorization decisions, the MCE shall make an authorization decision and send an adequate notice as expeditiously as the enrollee's condition requires and no later than 14 days after the MCE's receipt of the request for service. The MCE may extend the 14-day time period by up to 14 days if the enrollee, or the provider, requests the extension or the MCE justifies to the secretary, upon the secretary's request, a need for additional information and how the extension is in the enrollee's interest. If the resolution time frame is extended by up to 14 days, the MCE shall send an adequate notice no later than 28 days after the MCE's receipt of the request for service.

(B) If the provider indicates, or the MCE determines, that following the standard time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, the MCE shall make an expedited authorization decision and send an adequate notice as expeditiously as the enrollee's health condition requires and no later than 72 hours after the MCE's receipt of the request for service.

The MCE may extend the 72-hour time period by up to 14 days if the enrollee, or the provider, requests the extension or the MCE justifies to the secretary, upon the secretary's request, a need for additional information and how the extension is in the enrollee's interest. If the resolution time frame is extended by up to 14 days, the MCE shall send an adequate notice no later than 14 days after the date of the extension decision.

(c) The MCE shall send an adequate notice of appeal resolution to the enrollee, the enrollee's authorized representative, and the requesting provider when the MCE reviews a request for an appeal of an adverse benefit determination. Each adequate notice of appeal resolution shall include the following:

(1) The date of the adequate notice of appeal resolution;

(2) the date the adequate notice of appeal resolution was sent;

(continued)

(3) the adverse benefit determination that is the subject of the appeal;

(4) the results of the resolution process and the date of the appeal resolution;

(5) the reasons for the appeal resolution, including an explanation of the medical basis for the resolution, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the resolution is based upon a determination that the service is not medically necessary;

(6) the statute, regulation, policy, or procedure supporting the appeal resolution;

(7) a statement of the enrollee's right to be provided, upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the enrollee's appeal resolution. This information shall include medical necessity criteria and any processes, strategies, or evidentiary standards used in setting coverage limits;

(8) a statement of the enrollee's right to request a state fair hearing within 120 days of the date of the MCE's adequate notice of appeal resolution. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means;

(9) the procedures by which the enrollee may request a state fair hearing regarding the MCE's resolution or, for an appeal resolution based on change in law, the circumstances under which a state fair hearing will be granted;

(10) the circumstances under which the enrollee may continue to receive benefits pending the decision in the state fair hearing, the procedures by which the enrollee may request that benefits be continued, and the circumstances under which the enrollee may be required to pay the costs of these services;

(11) a toll-free number that the enrollee can call to request the assistance of the enrollee representative to request a state fair hearing;

(12) a statement of the enrollee's right to have self-representation or to be represented by legal counsel, a relative, a friend, or a spokesperson when requesting a state fair hearing; and

(13) any other information required by Kansas statute or regulation that involves the MCE's adequate notice of appeal resolution.

(d) The MCE shall send a timely notice of appeal resolution to the enrollee, the enrollee's authorized representative, and the provider within 30 days following the date of receipt of the appeal. The MCE shall send an adequate notice of appeal resolution to the enrollee and the provider as specified in subsection (c) in accordance with the timeliness standards specified in this subsection.

(e) A response by the MCE or department to an inquiry concerning a prior adverse benefit determination shall not be a new adverse benefit determination. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-5. Continuation of covered services for MCE enrollees; applicability. This regulation shall apply to continuation of non-waiver and waiver covered services when an enrollee requests an appeal or a state fair hearing involving an adverse benefit determination by the MCE.

(a) Any enrollee currently receiving non-waiver covered services may submit a request to the MCE to continue receiving non-waiver covered services while an appeal and state fair hearing decision are pending.

(1) Any enrollee who has received an MCE's adequate notice of adverse benefit determination that reduces, suspends, or terminates a previously authorized non-waiver covered service may submit a request to the MCE to continue the enrollee's covered services while an appeal decision is pending. To timely file a request, the enrollee shall submit a request to continue the enrollee's covered services on or before the later of the following:

(A) Within 10 days of the MCE sending the adequate notice of adverse benefit determination; or

(B) on the intended effective date of the MCE's proposed adverse benefit determination.

(2) The MCE shall continue the enrollee's non-waiver covered services while the appeal decision is pending if all of the following conditions are met:

(A) The enrollee timely files a request for an appeal, as timely is defined in K.A.R. 129-8-7.

(B) The appeal involves the termination, suspension, or reduction of previously authorized covered services.

(C) The covered services were ordered by an authorized provider.

(D) The period covered by the original authorization has not expired.

(E) The enrollee timely files for continuation of covered services.

(3) Any enrollee who has received an MCE's adequate notice of appeal resolution that upholds the MCE's decision to reduce, suspend, or terminate a previously authorized non-waiver covered service may submit a request to the MCE to continue the enrollee's covered services while a state fair hearing decision is pending. To timely file a request, the enrollee shall submit a request for a state fair hearing and a request to continue the enrollee's covered services within 10 days after the MCE sends the adequate notice of appeal resolution.

(4) If the enrollee fails to request a state fair hearing and continuation of covered services within 10 days, the covered services continued pending the appeal decision shall end 10 days following the sending date of the MCE's adequate notice of appeal resolution. If the enrollee requests a state fair hearing and continuation of covered services within 10 days, the MCE shall continue the covered services until the presiding officer in the state fair hearing issues the decision.

(5) The MCE shall continue the enrollee's non-waiver covered services while the appeal or state fair hearing decisions are pending until one of the following conditions is met:

(A) The enrollee withdraws the appeal or request for state fair hearing.

(B) The enrollee fails to request a state fair hearing and continuation of non-waiver covered services within 10 days after the MCE sends the adequate notice of appeal resolution.

(C) The department determines that the request for a state fair hearing concerns a discontinued program or service.

(D) The presiding officer determines at the state fair

hearing that the sole issue is one of federal or state law, regulation, or policy, or change in federal or state law, regulation, or policy and not one of incorrect application of policy.

(6) If the authorized time period for non-waiver covered services has not expired at the time of the request for continued covered services but would expire while the covered services were being continued pending the appeal or state fair hearing decision, the MCE shall continue the covered services until 10 days following the sending date of the MCE's adequate notice of appeal resolution unless the enrollee requests a state fair hearing and continuation of covered services. If the enrollee requests a state fair hearing and continuation of covered services within 10 days, the MCE shall continue the covered services until the presiding officer in the state fair hearing issues the decision.

(7) If the final resolution of the appeal or state fair hearing is adverse to the enrollee and upholds the MCE's adverse benefit determination, the MCE may institute recovery procedures against the enrollee to recover the cost of any non-waiver covered services furnished the enrollee, to the extent that the covered services were furnished solely by reason of this regulation.

(b) Any enrollee currently receiving waiver covered services may continue to receive waiver covered services while an appeal and state fair hearing decision are pending.

(1) The enrollee who has received an MCE's adequate notice of adverse benefit determination that reduces, suspends, or terminates a previously authorized waiver covered service shall not be required to submit a request to the MCE to continue the enrollee's covered services while an appeal decision is pending.

(2) The MCE shall continue the enrollee's current waiver covered services for 63 days following the date of the adequate notice of adverse benefit determination.

(3) If the enrollee fails to timely file a request for an appeal, as timely is defined in K.A.R. 129-8-7, the continued waiver covered services shall end.

(4) If the enrollee timely files a request for an appeal, the MCE shall continue the enrollee's current waiver covered services as specified in the state plan, an amendment to the state plan, a waiver, or a CMS-approved contract between the secretary and the MCE.

(5) If the enrollee fails to timely file a request for a state fair hearing, as timely is defined in K.A.R. 129-8-11, the continued waiver covered services shall end.

(6) If the enrollee timely files a request for a state fair hearing, the MCE shall continue the enrollee's current waiver covered services until the presiding officer in the state fair hearing issues the decision.

(7) If the enrollee withdraws the appeal or state fair hearing request, the continued waiver covered services shall end on the date the enrollee requests the withdrawal.

(8) If the final resolution of the appeal or state fair hearing is adverse to the enrollee receiving waiver covered services and upholds the MCE's adverse benefit determination, then to the extent that the waiver covered services were furnished solely by reason of this regulation, the enrollee shall not have to pay the MCE for waiver covered services unless fraud has occurred. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-7. Enrollee appeal. (a) Any enrollee may submit a request for an appeal to the MCE if the basis of the request is an adverse benefit determination.

(b) Any enrollee may submit an oral or written appeal to the MCE. Any enrollee may request an appeal in person, by telephone, by U.S. mail, or by facsimile. Each written appeal delivered by the postal service or submitted by facsimile to the MCE shall be date-stamped when received by the MCE as proof of receipt. The MCE shall use the date of receipt to determine timeliness of the request.

(c) Following receipt of an oral appeal, the MCE shall attempt to obtain the appeal in writing. The MCE shall not require a written form from the enrollee for an oral appeal and shall process and resolve the oral appeal in accordance with subsections (d) through (g).

(d) Each MCE shall provide the enrollee with the opportunity to submit a request for an appeal following receipt of the MCE's notice of adverse benefit determination. For each appeal under this article of the division's regulations to be considered timely, the request shall be received by the MCE within 60 days from the date of the notice of adverse benefit determination. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means.

(e) The MCE shall acknowledge, in writing, each appeal received from the enrollee within five days of receipt.

(f) The MCE shall resolve each appeal and send a notice of appeal resolution within 30 days from the date the MCE receives the appeal from the enrollee, unless the appeal requires expedited resolution. The notice of appeal resolution shall meet the requirements specified in K.A.R. 129-8-4.

(1) The MCE may extend this 30-day resolution time period up to 14 days if the enrollee requests the extension or the MCE shows, to the satisfaction of the secretary, upon the secretary's request, that there is need for additional information and how the delay is in the enrollee's interest.

(2) If the MCE extends the time frame not at the request of the enrollee, the MCE shall perform the following:

(A) Make reasonable efforts to give the enrollee prompt oral notice of the delay;

(B) within two days, give the enrollee written notice of the reason for the decision to extend the time frame and inform the enrollee of the right to file a grievance if the enrollee disagrees with that decision; and

(C) resolve the appeal as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(g) Each MCE shall provide the enrollee with the opportunity to submit a request for an expedited appeal if the enrollee indicates that there is a risk to the enrollee's life, physical or mental health, or ability to attain, maintain, or regain maximum function. Each MCE shall establish and maintain an expedited review process for appeals if the MCE determines that taking the time for a standard resolution could seriously jeopardize the en-

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rollee's life, physical or mental health, or ability to attain, maintain, or regain maximum function.

(1) The MCE shall resolve expedited appeals and issue a notice of appeal resolution within 72 hours from the time the MCE received the earliest request for an expedited appeal from the enrollee. The notice of appeal resolution shall meet the requirements specified in K.A.R. 129-8-4.

(2) The MCE may extend the 72-hour resolution time period up to 14 days if the enrollee requests the extension or the MCE shows to the satisfaction of the secretary, upon the secretary's request, that there is need for additional information and how the delay is in the enrollee's interest.

(3) If the MCE extends the time frame not at the request of the enrollee, the MCE shall complete the following:

(A) Make reasonable efforts to give the enrollee prompt oral notice of the delay;

(B) within two calendar days, give the enrollee written notice of the reason for the decision to extend the time frame and inform the enrollee of the right to file a grievance if the individual disagrees with that decision; and

(C) resolve the appeal as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(h) The enrollee shall complete the MCE's appeal process before requesting a state fair hearing.

(i) If the MCE fails to adhere to the resolution and notification requirements in this regulation or in K.A.R. 129-8-3, the enrollee shall be deemed to have exhausted the MCE's appeal process. The enrollee may initiate a state fair hearing.

(j) The enrollee's right to request an appeal shall not be limited or interfered with by the department or the MCE.

(k) The MCE shall consider the enrollee or an estate representative of a deceased enrollee as a party to the appeal. The enrollee may seek a state fair hearing if the enrollee is not satisfied with the MCE decision in response to an appeal.

(l) If the MCE reverses a decision to deny, limit, or delay covered services that were not furnished while the appeal was pending, the MCE shall authorize or provide the disputed covered services promptly and as expeditiously as the enrollee's health condition requires but no later than 72 hours from the date the MCE reverses its decision.

(m) If the MCE reverses a decision to deny authorization of covered services and the enrollee received the disputed covered services while the appeal was pending, the MCE shall pay for those covered services.

(n) The MCE shall ensure that punitive action is not taken against any provider who requests an appeal on the enrollee's behalf or supports the enrollee's appeal request.

(o) The MCE shall cooperate with the secretary, the secretary's fiscal agent, or representatives of either to resolve all enrollee appeals. Cooperation may include providing internal enrollee appeal information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-8. Notices to enrollees; applicability. This regulation shall apply to adequate and timely notices of approval sent to enrollees by the MCE regarding approval of a covered service authorization request.

(a) Each MCE shall send an adequate notice of approval to the enrollee, the enrollee's authorized representative, and the requesting provider when the MCE fully or partially approves a covered service authorization request submitted by an enrollee or on behalf of an enrollee, when the MCE fully or partially approves a covered service authorization request following an appeal resolution, and when the MCE approves a covered service authorization request following a decision by a presiding officer that reverses the MCE's adverse benefit determination.

(b) Each adequate notice of approval shall include the following:

(1) The date of the adequate notice of approval;

(2) the date the MCE made the approval;

(3) the approval decision the MCE has made, including the dates, types, and amount of service requested; and

(4) the effective date and, if applicable, the end date of the approved covered service authorization request.

(c) The MCE shall send a timely notice of approval to the enrollee, the enrollee's authorized representative, and the requesting provider within the time frames specified in paragraphs (c)(1) through (c)(3). A timely notice of approval shall include the contents of an adequate notice of approval as specified in subsection (b).

(1) The MCE shall send an adequate notice of approval when the MCE approves a covered service authorization request within the following time frames:

(A) For standard authorization decisions, the MCE shall make an authorization decision and send an adequate notice of approval as expeditiously as the enrollee's condition requires and no later than 14 days after the MCE's receipt of the request for service. The MCE may extend the 14-day time period by up to 14 days if the enrollee or the provider requests the extension or the MCE justifies to the secretary, upon the secretary's request, a need for additional information and the reason that the extension is in the enrollee's interest. If the time frame for the decision is extended by up to 14 days, the MCE shall send an adequate notice of approval no later than 28 days after the MCE's receipt of the request for service.

(B) For expedited authorization decisions, if the provider indicates or the MCE determines that following the standard time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, the MCE shall make an expedited authorization decision and send an adequate notice of approval as expeditiously as the enrollee's health condition requires and no later than 72 hours after the MCE's receipt of the request for service. The MCE may extend the 72-hour time period by up to 14 days if the enrollee or the provider requests the extension or the MCE justifies to the secretary, upon the secretary's request, a need for additional information and how the extension is in the enrollee's interest. If the time frame for the decision is extended by up to 14 days, the MCE shall send an adequate notice of approval no later than 14 days after the date of the extension decision.

(2) The MCE shall send a timely notice of approval when the MCE approves a covered service authorization

request following resolution of an enrollee's appeal within the following time frames:

(A) For standard authorization approval decisions made by the MCE following resolution of an appeal, the MCE shall resolve the appeal and send an adequate notice of approval as expeditiously as the enrollee's condition requires and no later than 30 days after the MCE's receipt of the appeal. The MCE may extend the 30-day time period by up to 14 days if the enrollee, or the provider, requests the extension or the MCE justifies to the secretary, upon the secretary's request, a need for additional information and the reason that the extension is in the enrollee's interest. If the resolution time frame is extended by up to 14 days, the MCE shall resolve the appeal and send an adequate notice of approval no later than 14 days after the date of the extension decision.

(B) For expedited authorization approval decisions made by the MCE following resolution of an appeal, if the provider indicates, or the MCE determines, that following the standard time frame for appeal resolution could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, the MCE shall resolve the appeal and send an adequate notice of approval as expeditiously as the enrollee's health condition requires and no later than 72 hours after the MCE's receipt of the request for appeal. The MCE may extend the 72-hour time period by up to 14 days if the enrollee or the provider requests the extension or the MCE justifies to the secretary, upon the secretary's request, a need for additional information and the reason that the extension is in the enrollee's interest. If the resolution time frame is extended by up to 14 days, the MCE shall resolve the appeal and send an adequate notice of approval no later than 14 days after the date of the extension decision.

(C) If the MCE extends the resolution time frames in paragraph (b)(2)(A) or (b)(2)(B), the MCE shall make reasonable efforts to give the enrollee prompt oral notice of the delay. Within two calendar days, the MCE shall give the enrollee written notice of the reason for the decision to extend the time frame and inform the enrollee of the right to file a grievance if the enrollee disagrees with that decision. The MCE shall resolve the appeal and send an adequate notice of approval as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(3) The MCE shall send a timely notice of approval when a presiding officer reverses an MCE's adverse benefit determination within the time frame specified in this paragraph. For adverse benefit determination decisions reversed by a presiding officer, the MCE shall authorize the disputed services and send an adequate notice of approval as expeditiously as the enrollee's health condition requires and no later than 72 hours after the MCE receives notice of the presiding officer's reversal of the determination. If the department files a petition for review to SAC, the adequate notice of approval shall be delayed until the department receives notice of the SAC decision affirming the presiding officer's reversal of the adverse benefit determination. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-10. When a state fair hearing is required. (a) Any enrollee may submit a request for a standard state fair hearing if the enrollee identifies an adverse benefit determination by the MCE or an action by the secretary to deny the enrollee's request to disenroll from the enrollee's current MCE, as the basis for the request. Any enrollee may submit a request for a state fair hearing following receipt of the MCE's notice of external review decision if the enrollee identifies the MCE's denial of an authorization for a new healthcare service that was the subject of the external review as the basis for the request.

(b) If the basis for the state fair hearing request is an adverse benefit determination by the MCE, the enrollee shall complete the appeal process with the MCE before requesting a standard state fair hearing. The enrollee shall meet the requirements stated in a state plan, an amendment to a state plan, a waiver, or a CMS-approved contract between the secretary and the MCE before the enrollee may request a state fair hearing. Failure to meet any contractual preconditions shall be grounds for dismissing the request for a state fair hearing. The enrollee shall submit the request for a state fair hearing in accordance with the timeliness requirements in K.A.R. 129-8-11(a)(1).

(c) Any enrollee may submit a request for an expedited state fair hearing if the enrollee has completed the appeal process with the MCE, an adverse benefit determination by an MCE is identified as the basis for the request, and the MCE determines that the expedited state fair hearing request meets one of the following conditions:

(1) The enrollee met the criteria for expedited appeal resolution, but the appeal was not resolved within the time frame for expedited resolution.

(2) The appeal was resolved within the time frame for expedited resolution, but the MCE reached a decision wholly or partially adverse to the enrollee.

(d) The enrollee's request for an expedited state fair hearing, when combined with the secretary's approval, shall constitute a mutual waiver of procedural time requirements otherwise required by law that would defeat the purpose for the expedited state fair hearing. The enrollee shall submit the request for an expedited state fair hearing in accordance with the timeliness requirements in K.A.R. 129-8-11(b).

(e) If the basis for the state fair hearing request is a denial of an authorization for a new healthcare service by the MCE and the denial has been reviewed by the external independent third-party reviewer, the enrollee shall first meet any requirements stated in a state plan, an amendment to a state plan, a waiver, or a CMS-approved contract between the secretary and the MCE before the enrollee may seek a state fair hearing. Failure to meet any contractual preconditions shall be grounds for dismissing the request for a state fair hearing. The enrollee shall submit the request for a state fair hearing in accordance with the timeliness requirements in K.A.R. 129-8-11(a)(2).

(f) If the request for a state fair hearing concerns a matter that the MCE, by the terms of the managed care contract, does not handle or make decisions upon, the MCE shall forward the request to the secretary for routing to

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the appropriate entity for processing the request for a state fair hearing.

(g) If the basis for the state fair hearing request is a denial of the enrollee's disenrollment request by the secretary, the enrollee shall not be required to complete the appeal process with the MCE before requesting a standard state fair hearing. The enrollee shall submit the request for a state fair hearing in accordance with the timeliness requirements in K.A.R. 129-8-11(a)(3).

(h) The granting of a state fair hearing shall not be required of the secretary if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all enrollees.

(i) Each request for a state fair hearing received by the secretary or the MCE shall be forwarded to the secretary's designee for the state fair hearing within one business day by the secretary or the MCE. Each oral request for a state fair hearing shall be reduced to writing by the secretary or the MCE before the request is forwarded.

(j) The enrollee's right to request a state fair hearing shall not be limited or interfered with by the secretary or the MCE. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-11. Request for state fair hearing; timeliness. (a) For each request for a standard state fair hearing under this article of the division's regulations to be considered timely, the request shall be received by the MCE or the secretary's designee for the state fair hearing according to the following time frames:

(1) For each standard state fair hearing request by the enrollee involving the MCE's adverse benefit determination, the request shall be received by the MCE or the secretary's designee for the state fair hearing within 120 days from the date of the adequate notice of appeal resolution. If the 120th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) For each standard state fair hearing request by the enrollee involving the MCE's denial of an authorization for a new healthcare service that was reviewed by the external independent third-party reviewer, the request shall be received by the MCE or the secretary's designee for the state fair hearing within 30 days from the date of the MCE's adequate notice of external review decision pursuant to K.S.A. 39-709i, and amendments thereto. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(3) For each standard state fair hearing request by the enrollee involving the enrollee's request to disenroll from the enrollee's MCE, the request shall be received by the secretary or the secretary's designee for the state fair hearing within 30 days from the date of the secretary's adequate notice of action. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(4) The presiding officer shall issue an initial order in a standard state fair hearing within 90 days from the date the presiding officer receives a request for a state fair hearing, except when the request for a state fair hearing involves the issue being reviewed by the external independent third-party reviewer or when the presiding officer allows an extension.

(b) For each request for an expedited state fair hearing under this article of the division's regulations to be considered timely, the request shall be received by the MCE or the secretary's designee for the state fair hearing according to the following time frames:

(1) For each request for an expedited state fair hearing involving the MCE's adverse benefit determination, the request shall be received by the MCE or the secretary's designee for the state fair hearing within 120 days from the date of the written adequate notice of appeal resolution. If the 120th day falls on a non-business day for the state, the time period for receipt of a request for an expedited state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) For each expedited state fair hearing request by the enrollee involving the MCE's denial of an authorization for a new healthcare service that was reviewed by the external independent third-party reviewer, the request shall be received by the MCE or the secretary's designee for the state fair hearing within 30 days from the date of the MCE's adequate notice of external review decision pursuant to K.S.A. 39-709i, and amendments thereto. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for an expedited state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(3) Any enrollee may request an expedited state fair hearing following any appeal of a denial of a service that, as indicated by the MCE, meets the criteria for expedited resolution of the appeal but was not resolved within the time frame for expedited resolution of the appeal by the MCE or was resolved within the time frame for expedit-

ed resolution of the appeal, but the MCE reached a decision wholly or partially adverse to the enrollee.

(4) The presiding officer shall schedule the expedited state fair hearing and issue an initial order as expeditiously as the enrollee's health condition requires, but no later than three business days after the presiding officer receives from the MCE the case file and information for any request that meets the criteria specified in subsection (b).

(c) Any enrollee may submit an oral or written request for a standard or expedited state fair hearing with the MCE. Any enrollee may submit a written request for a standard or expedited state fair hearing with the secretary's designee for the state fair hearing. Oral, telephonic, or electronic requests for a standard or an expedited state fair hearing may not be submitted to the secretary's designee for the state fair hearing.

(d) Any request for a standard or expedited state fair hearing made by telephone or other electronic means and received by the MCE during normal business hours may be accepted as a valid request for a standard or expedited state fair hearing by the MCE if the request and proof of receipt are documented, dated, and reduced to writing by the MCE. The date and time of the telephonic or electronic request for a standard or expedited state fair hearing shall be used to determine the timeliness of the request even if there is a delay by the MCE in reducing the request to writing. Oral, telephonic, or electronic requests for a standard or expedited state fair hearing may not be submitted to the secretary's designee for the state fair hearing.

(e) The MCE shall forward each request for a standard or expedited state fair hearing received by the MCE to the secretary's designee for the state fair hearing within one business day of receipt.

(f) If a written request for a standard or expedited state fair hearing is received by the MCE, the MCE shall date-stamp the request when received as proof of receipt. The timeliness standards specified in subsections (a) and (b) shall apply with the date of receipt by the MCE being used to determine the timeliness of the request.

(g) If the enrollee sends a written request for a standard or expedited state fair hearing directly to the secretary's designee for the state fair hearing, the timeliness standards specified in subsections (a) and (b) shall apply with the date of receipt by the secretary's designee being used to determine the timeliness of the request.

(h) If the request for a standard or expedited state fair hearing is not received within the response periods specified in subsections (a) and (b), the request shall be deemed untimely and shall be dismissed.

(i) The presiding officer shall issue an initial order on a standard or expedited state fair hearing request within the time limits specified in subsections (a) and (b), unless one of the following conditions is met:

(1) The presiding officer cannot reach a decision because the appellant requests a delay or fails to take a required action.

(2) There is an administrative or other emergency beyond the control of the presiding officer or the secretary. The presiding officer shall document the reasons for any delay in the appellant's record. (Authorized by and implementing K.S.A. 39-709i, 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-12. Evidentiary standard; burden of proof. (a) Unless preempted by federal or state law, a preponderance of the evidence shall be the evidentiary standard used for state fair hearings under this article of the division's regulations.

(b) Any appellant or respondent may sustain that individual's burden of proof by using testimony, documents, statutes, regulations, the state plan and its amendments, the MCE contract, and policy to support the appellant's or respondent's case. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-13. Parties. (a) The parties to each state fair hearing shall be an appellant and a respondent. The case caption in each medical assistance state fair hearing case shall identify the appellant and the respondent as follows:

(1) The named appellant in the case caption shall be the enrollee, except as specified in subsections (d) through (g). Any authorized representative of the enrollee may request a state fair hearing.

(A) A state fair hearing may be requested only by or on behalf of the appellant receiving covered services and benefits.

(B) Any appellant receiving covered services and benefits may designate, in writing, an individual or entity to request a state fair hearing and represent the appellant in a state fair hearing. The appellant shall be the only individual who can grant another individual or entity the authorization to request a state fair hearing and represent the appellant in a state fair hearing subject to the exception in paragraph (a)(1)(C).

(C) The individual or entity authorized to request a state fair hearing and represent the appellant in a state fair hearing shall not transfer written authorization to another individual or entity unless the authorized individual or entity has a power of attorney or is a guardian or conservator appointed by a court of competent jurisdiction. Any power of attorney, guardian, or conservator may authorize an individual or entity, in writing, to request a state fair hearing and represent the appellant in a state fair hearing.

(D) Written authorization, including power of attorney, letters of guardianship, or letters of conservatorship, shall accompany all state fair hearing requests made on an appellant's behalf, with the following exceptions:

(i) An unemancipated minor appellant's parent or legal guardian may request a state fair hearing on behalf of the appellant and represent the appellant in a state fair hearing without written authorization.

(ii) Any attorney-at-law retained by the appellant or the appellant's representative may request a state fair hearing on behalf of the appellant using the attorney's official letterhead or other proof of representation as written authorization.

(2) The named respondent in the case caption shall be the department that administers the program involved in the MCE's adverse benefit determination or the secretary involved in the adverse disenrollment decision, except as specified in subsection (h).

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(A) If the matter involves the MCE's adverse benefit determination, the department that administers the program shall be the real party in interest. The respondent shall be the department and the case caption shall note the MCE beneath the case number. The MCE shall be an interested party in the matter. As an interested party, the MCE, in meeting its contractual responsibilities, shall review the state fair hearing matter to determine whether the following conditions are met:

(i) The MCE appeal process has been completed.

(ii) The matter was filed within the regulatory time frames.

(iii) The matter involves an adverse benefit determination.

(B) If the MCE determines that the matter has not met any of the conditions specified in paragraphs (a)(2)(A)(i)-(iii), the MCE shall submit a request to the presiding officer to dismiss the matter, subject to the approval by the department.

(C) If the matter involves an adverse disenrollment decision made by the secretary against the enrollee, the secretary shall be the real party in interest. The secretary shall be named as the respondent. The state fair hearing matter shall be reviewed by the secretary or the secretary's designee to determine whether the following conditions are met:

(i) The matter was filed within the regulatory time frames.

(ii) The matter involves an adverse disenrollment decision.

(D) If the secretary determines that the matter has not met either of the conditions specified in paragraphs (a)(2)(C)(i) and (ii), a request to the presiding officer to dismiss the matter shall be submitted by the secretary or the secretary's designee.

(b) The presiding officer conducting the state fair hearing may grant a motion to modify the case caption to clarify the parties.

(c) Any enrollee may authorize representation by legal counsel, a relative, a friend, or a spokesperson in the state fair hearing if the enrollee has authorized the representation in writing. This regulation shall not authorize the secretary or the presiding officer to grant exceptions to the Kansas supreme court rules concerning the practice of law in Kansas if the enrollee is represented by an attorney who is not licensed in Kansas.

(d) If the enrollee has died before filing a request for a state fair hearing, then an administrator or executor appointed by a court in the estate proceedings of the deceased enrollee may file the request for a state fair hearing. The appellant shall be the estate of the deceased enrollee.

(e) If the enrollee has died after filing a request for a state fair hearing, then an administrator or executor appointed by a court in the estate proceedings of the deceased enrollee may move to substitute the estate of the deceased enrollee as the appellant.

(f) The appellant may be an entity other than the enrollee in any of the following circumstances:

(1) If the matter involves a denial of an authorization for a new healthcare service made by the MCE against the enrollee, the appellant may be the provider who would have received reimbursement if the MCE had approved the authorization.

(2) If the matter involves an action by the MCE concerning a claim for payment for medical services that have already been provided to the enrollee and the enrollee will not be responsible for the payment of the medical services if the claim is denied by the MCE, the appellant may be the provider, and the case shall follow the requirements stated in article 9 of the division's regulations.

(3) If the matter involves an adverse benefit determination and an entity other than the enrollee seeks to be named the appellant, the presiding officer shall determine whether the entity seeking to be named as appellant is the real party in interest instead of the enrollee.

(g) For each state fair hearing requested by the losing party of the external independent third-party review, the appellant may be the department that administers the program or payment involved in the MCE's denial of an authorization for a new healthcare service.

(h) For each state fair hearing requested by the losing party of the external independent third-party review, the respondent may be the enrollee if the issue is a denial of an authorization for a new healthcare service.

(i) If a presiding officer allows an entity to intervene in a state fair hearing covered by this article of the division's regulations pursuant to KAPA, the intervening entity shall be identified in the caption of the case as an intervenor. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-14. Department's review of decision. (a) Upon receipt of notice that a request for state fair hearing has been made, the MCE's adverse benefit determination, and any decision by the external independent third-party reviewer, shall be reviewed by the department. Upon review, the MCE's decision may be amended or changed before or during the state fair hearing as directed by the department.

(b) If the parties reach a satisfactory adjustment before the state fair hearing, a written request to dismiss the state fair hearing request shall be submitted by the MCE or the department to the presiding officer, but the state fair hearing request shall remain pending until the following are completed:

(1) Upon receipt of the MCE's or the department's request to dismiss, the presiding officer shall issue a prehearing order to the appellant providing a 15-day response time. If the 15th day falls on a non-business day for the state, the 15-day response time shall be extended to the next business day on which the department is open for business. Three days shall be added to the 15-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) If the appellant responds to the presiding officer within the above response time, the respondent may reply within five days.

(3) The presiding officer shall review the appellant's response and any respondent's reply and make a determination regarding the MCE's or the department's request to dismiss.

(4) If the appellant fails to respond to the presiding offi-

cer's order within the above response time, the presiding officer may dismiss the state fair hearing request.

(c) If the parties reach a satisfactory adjustment during the state fair hearing, an oral withdrawal stated on the record by the appellant or the appellant's representative before the presiding officer shall be acceptable.

(d) If the appellant withdraws the state fair hearing request, withdrawal of the state fair hearing request by means of the internet, telephone, U.S. mail, in-person contact, or facsimile shall be accepted by the MCE or the department.

(1) For telephonic, internet, and in-person withdrawals, the appellant shall be provided with written confirmation, by regular U.S. mail or electronic notification.

(2) For telephonic state fair hearing withdrawals, the appellant's statement shall be recorded by the department. This recording process shall include electronic or contemporaneous written documentation of the appellant's oral statement by the department.

(3) If the appellant submits a signed, written statement withdrawing the appellant's request for a state fair hearing, the presiding officer shall close the state fair hearing request. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-17. Department's summary. (a) Within 30 days of the date of the acknowledgement and order issued by the presiding officer in response to a request for state fair hearing, the appellant and the presiding officer shall be furnished by the department with a summary providing the following information and exhibits:

(1) The appellant's name and address;

(2) a summary statement concerning why the appellant is filing a request for a state fair hearing;

(3) a brief and relevant chronological summary of the events that occurred in relationship to the appellant's request for a state fair hearing;

(4) a statement of the basis of the adverse benefit determination;

(5) a citation to and copy of the applicable policies or member handbook excerpts relied upon for the adverse benefit determination. The applicable medical necessity criteria or guidelines used in making medical necessity decisions shall be included;

(6) a citation to or copy of the applicable Kansas and federal statutes and regulations relied upon for the adverse benefit determination;

(7) a citation to or copy of the applicable state plan or waiver documents relied upon for the adverse benefit determination;

(8) a copy of the notice that notified the appellant of the decision in question and any subsequent notices;

(9) a copy of any applicable correspondence;

(10) the name and title of each person who will testify or represent the department at the state fair hearing; and

(11) for state fair hearings involving a decision by the external independent third-party reviewer, copies of the notice of provider appeal resolution, all of the provider appeal documentation submitted to and reviewed by the external reviewer, the MCE's acknowledgement of receipt of the request for external review, the external reviewer's decision letter, and the MCE's notice of external reviewer's decision.

(b) Upon written request by the department, the presiding officer assigned to the state fair hearing may grant additional time for the completion of the summary. The presiding officer shall file notification of the approval or denial of the extension request. If approved, the notification shall include the revised due date for the department's summary.

(c) If the responsibility for the preparation of the department's summary has been given to the secretary's designee, the secretary's designee shall meet the requirements of this regulation and any additional directives by the department.

(d) If a member or a provider submits a state fair hearing request regarding an MCE's decision that is subsequently reviewed by the external independent third-party reviewer and a department summary has been submitted to the presiding officer for one or both state fair hearing requests, the department or the department's designee shall not be required to submit a second department summary if a member or a provider submits a state fair hearing request regarding the same MCE decision following the decision by the external independent third-party reviewer. An addendum to the department summary may be submitted in lieu of an additional department summary.

(e) If the state fair hearing request involves a decision by the external independent third-party reviewer and the department is the appellant, the department or the department's designee shall furnish to the respondent and the presiding officer a summary providing the information and exhibits specified in subsection (a). The exhibits shall include all documents reviewed and relied upon by the external independent third-party reviewer for its decision.

(f) The department's summary shall be submitted to the presiding officer and the appellant within 30 days as specified in subsection (a) or by the date approved by the presiding officer as specified in subsection (b) unless there is an administrative or other emergency beyond the control of the presiding officer or the department. The due date for the department's summary may be modified by the presiding officer before or after the administrative or other emergency. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective, T-129-1-6-23, Jan. 6, 2023; effective Dec. 27, 2024.)

129-8-18. Motions. (a) Each motion shall meet the following requirements, unless the motion is made during a state fair hearing:

(1) Be submitted in writing; and

(2) state with specificity the basis of the motion.

(b) Unless otherwise specified by the presiding officer, the opposing party shall have 15 days from the date of mailing, electronic filing, or personal delivery of the motion within which to file a response. The presiding officer may waive or change the deadline for good cause.

(c) Unless otherwise specified by the presiding officer, the party that filed the motion shall have five days from the date of mailing, electronic filing, or personal delivery of the response filed pursuant to subsection (b) within which to file a reply.

(d) The presiding officer on that individual's own mo-

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tion or at the request of either party may conduct a state fair hearing on the motion. Each party requesting a state fair hearing shall include the request in the motion or response. The presiding officer may render a decision on the motion after receipt of the response, reply, and any state fair hearing on the motion. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-19. Prehearing resolution. The parties may settle or otherwise resolve the dispute before the date of the state fair hearing. The parties may also narrow and define the issues before the date of the state fair hearing. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-20. Dismissal; limitations. (a) Any state fair hearing may be considered for dismissal before the state fair hearing is convened. The party seeking to dismiss the state fair hearing shall use a written motion to dismiss the state fair hearing. Written motions to dismiss may be submitted in lieu of the department's summary when based on one of the reasons specified in this subsection. Each written motion to dismiss the state fair hearing shall state one of the following reasons and provide evidence, argument, and citations to federal or state law, regulation, policy, or manual that support the reason for dismissal:

(1) The appellant failed to submit a request for a state fair hearing within the timeliness standards specified in K.A.R. 129-8-11.

(2) The appellant failed to submit a request for appeal of the adverse benefit determination to the MCE in accordance with K.A.R. 129-8-7 before submitting a request for a state fair hearing.

(3) The appellant failed to state a claim.

(4) The department or the MCE has not taken an action pursuant to K.A.R. 129-7-1 or made a benefit determination adverse to the appellant pursuant to K.A.R. 129-8-1.

(5) The department or MCE reversed its action or adverse benefit determination.

(6) The request for a state fair hearing was submitted by an individual or entity without documentation of authorization from the appellant.

(7) The appellant challenges the validity of or states a disagreement with federal or state law, regulation, or policy. The department shall not submit a written motion to dismiss for a state fair hearing request in which the appellant is challenging an incorrect computation or determination by the department or the MCE using the law, regulation, or policy.

(8) The department or the MCE has taken an action, required by federal or state law or regulation, including an automatic or mandated adjustment that is applied to a class of enrollees that included the appellant. The department shall not submit a written motion to dismiss for a state fair hearing request in which the appellant is challenging an incorrect computation or determination by the department or the MCE using the law, regulation, or policy.

(9) The department has taken an action required by the governor of the state of Kansas that is applied to a class of enrollees that included the appellant.

(b) Any written motion to dismiss may be filed with the presiding officer by the department or the department's designee who has been delegated authority to file the motion.

(c) If the motion to dismiss is denied, the presiding officer shall file notification of the denial.

(d) If the department or the MCE seeks to dismiss a state fair hearing on the basis that the adverse benefit determination being appealed is based on federal or state law, regulations, or policy, including an adverse benefit determination based upon changes in federal or state law, regulations, or policy, and the adverse benefit determination made by the department or the MCE shall result in the termination, suspension, or reduction of covered services, the covered services shall continue until a decision concerning the request for dismissal is rendered. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-21. Presiding officer; decisions. (a) The presiding officer shall conduct a state fair hearing requested by an appellant concerning an adverse benefit determination as defined in K.A.R. 129-8-1, a denial by the secretary of the enrollee's request to disenroll from the enrollee's MCE, or a decision by the external independent third-party reviewer.

(b) The presiding officer assigned to administer the state fair hearing shall weigh the evidence and determine the facts and conclusions of law pertinent to the state fair hearing.

(c) The presiding officer shall determine the facts and conclusions of law based on supporting and detracting testimony, documents, statutes, regulations, the state plan and its amendments, and policies allowed into the record of the state fair hearing by the presiding officer.

(d) The presiding officer shall control the state fair hearing. Unless preempted by federal or state law, the presiding officer conducting a state fair hearing under this article of the division's regulations shall use KAPA and may use Kansas civil procedure in the state fair hearing as needed.

(e) The presiding officer shall determine the basis for the state fair hearing.

(f) If the presiding officer determines the state fair hearing in favor of the appellant, the remedy ordered by the presiding officer shall be limited to orders that are within the lawful authority of the secretary to execute.

(g) For state fair hearings that do not involve a decision by the external independent third-party review, the presiding officer shall determine whether the adverse benefit determination made by the respondent is due to a correct interpretation of the applicable statute, regulation, or policy. If the presiding officer determines the state fair hearing in favor of the respondent, the presiding officer shall affirm the adverse benefit determination of the respondent. If the presiding officer determines the state fair hearing in favor of the appellant, the remedy ordered by the presiding officer shall be limited to orders that are within the lawful authority of the secretary to execute.

(h) For state fair hearings that involve a decision by the external independent third-party review, the presiding officer shall determine whether the decision made by the external independent third-party reviewer is due to

a correct interpretation of the applicable statute, regulation, or policy.

(1) If the presiding officer determines the state fair hearing in favor of the respondent and the respondent is a department, the remedy ordered by the presiding officer shall be limited to orders that affirm the department's action reviewed by the external independent third-party reviewer. If the presiding officer determines the state fair hearing in favor of the appellant and the appellant is the enrollee, the remedy ordered by the presiding officer shall be limited to orders that reverse the department's action or denial of an authorization for a new healthcare service reviewed by the external independent third-party reviewer. The presiding officer shall issue orders that are within the lawful authority of the secretary to execute.

(2) If the presiding officer determines the state fair hearing in favor of the respondent and the respondent is the enrollee, the remedy ordered by the presiding officer shall be limited to orders that reverse the department's action or denial of an authorization for a new healthcare service reviewed by the external independent third-party reviewer. If the presiding officer determines the state fair hearing in favor of the appellant and the appellant is a department, the remedy ordered by the presiding officer shall be limited to orders that affirm the department's action or denial of an authorization for a new healthcare service reviewed by the external independent third-party reviewer. The presiding officer shall issue orders that are within the lawful authority of the secretary to execute.

(i) If the presiding officer determines that the adverse benefit determination challenged by the appellant required sequential decisions by the same department, or by two or more departments, before a decision could be correctly determined and that the sequential process had not been completed, the presiding officer may remand the matter to the department that last took action in the matter. The presiding officer may direct the departments to complete the sequential process, including forwarding the matter to the next department in sequence, as the remedy. The presiding officer may determine whether to keep the current state fair hearing case open pending the completion of the process or to dismiss the case. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-22. Rehearing. (a) Any party, within 15 days after service of the presiding officer's decision, may file a petition for rehearing stating the specific grounds upon which the rehearing of the presiding officer's decision is requested.

(b) The presiding officer may grant a rehearing to either party on all or part of the issues when it appears that the rights of the party are substantially affected for any of the following reasons:

(1) An erroneous ruling by the presiding officer;

(2) a decision that, in whole or in part, is contrary to the evidence;

(3) newly discovered evidence that the moving party could not with reasonable diligence have discovered or produced at the hearing; or

(4) fraud, misrepresentation, or misconduct by an opposing party resulting in the order or proceeding.

(c) The filing of a petition for rehearing is not a prerequisite for review at any stage of the proceedings. The filing of a petition for rehearing does not stay any time limits or further proceedings that may be conducted under the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto, or any other provision of law.

(d) Once an initial order has been rendered, relief may be sought only through a petition for review to the secretary or the state appeals committee. (Authorized by K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-23. Relief from preliminary or prehearing order. (a) During the pendency of a state fair hearing proceeding and before the rendering of the initial order by the presiding officer, any party to the state fair hearing proceeding may file with the presiding officer a motion for review of the ruling made by the presiding officer, stating the specific grounds upon which the review of the presiding officer's decision is requested.

(b) The presiding officer may relieve a party or its legal representative from an order or proceeding for any of the following reasons:

(1) An erroneous ruling by the presiding officer;

(2) a decision that, in whole or in part, is contrary to the evidence;

(3) newly discovered evidence that the moving party could not with reasonable diligence have discovered or produced at the state fair hearing; or

(4) fraud, misrepresentation, or misconduct by an opposing party resulting in the order or proceeding.

(c) The filing of a motion for review under this regulation shall not be a prerequisite for review at any stage of the proceedings. The filing of a motion for review shall not affect any time limits or further proceedings that may be conducted under KAPA or any other provision of law. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-24. Transcripts. (a) If a transcript of a state fair hearing is requested, the requestor shall receive a digital recording from the presiding officer. A transcript of the state fair hearing may be prepared by a certified court reporter if requested by an appellant, the department, the presiding officer, the state appeals committee, or the secretary. The party requesting the transcript or review of the presiding officer's decision shall pay any costs associated in obtaining a transcript.

(b) If an appellant requests a transcript and signs a poverty affidavit, the costs of transcribing the recording shall be paid by the department.

(c) A transcript shall be prepared as required by K.S.A. 77-620, and amendments thereto, and have a signed certification on all copies as follows: "This is to certify that [Name of presiding officer] conducted a state fair hearing involving [Name of appellant] in [County], state of Kansas, on [Date] at [Time] and that the foregoing is a true and correct transcript of the record of the state fair hearing. [Signature of reporter]." (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-8-25. Review of an initial order or final order. (a) Any initial order of a presiding officer may be re-

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viewed by the secretary by giving notice of intent to do so and identifying the issues to be reviewed. This review shall include any proposed default order that becomes effective.

(1) Any party to a state fair hearing may request a review of the initial order within 15 days of the date the presiding officer served the order upon the parties pursuant to K.S.A. 77-527, and amendments thereto. When the order is served by U.S. mail or electronic means, three days shall be added to the 15-day review request period. The initial order may be reviewed by the secretary or the state appeals committee.

(2) Upon written request, authority may be granted by the secretary or the state appeals committee for the submission of additional written briefs or arguments that would assist in their deliberations.

(3) If the parties submit new evidence during the review of the initial order, the state appeals committee shall have discretion to remand the matter to the presiding officer for consideration of the new evidence if the new evidence could not have been presented during the state fair hearing.

(4) The decision from the secretary or the state appeals committee shall be the final order.

(5) The final order of the secretary or the state appeals committee shall be effective upon service unless stated otherwise in the final order or unless a stay has been granted pursuant to K.S.A. 77-528, and amendments thereto.

(b) Any final order may be reconsidered by the secretary in accordance with K.S.A. 77-529, and amendments thereto.

(c) The record, as defined in K.S.A. 77-532 and amendments thereto, shall be the basis for the review of the initial order or final order by the secretary or the state appeals committee.

(d) This regulation shall not apply to orders concerning determinations by skilled nursing facilities and nursing facilities to transfer or discharge a resident since the secretary is not the respondent. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

Article 9.— MEDICAL ASSISTANCE GRIEVANCES, RECONSIDERATION, APPEALS, EXTERNAL INDEPENDENT THIRD-PARTY REVIEW, AND STATE FAIR HEARINGS INVOLVING PROVIDERS

129-9-1. Applicability; definitions. (a) Applicability. This article of the division's regulations shall apply to grievances, reconsiderations, appeals, external independent third-party reviews, and state fair hearings involving providers of medical care to enrollees of MCEs and to grievances and state fair hearings involving providers of medical care to FFS beneficiaries.

(b) Definitions. For purposes of this article of the division's regulations, each of the following terms shall have the meaning specified in this regulation:

(1) "Action" and "adverse action" mean a decision by the secretary or the MCE to perform any of the following:

(A) Deny payment for a requested non-covered service or covered service, in whole or in part;

(B) determine and recoup an overpayment of funds made to a provider that was identified through a post-payment review;

(C) terminate a KMAP provider's status as a KMAP provider as specified by K.A.R. 129-9-15. A decision by the MCE to terminate, suspend, or limit a provider's status as an MCE network provider shall not be included in this definition; or

(D) deny a provider's KMAP application as specified by K.A.R. 129-9-15. A decision by the MCE to deny a provider's application to be an MCE network provider shall not be included in this definition.

(2) "Adequate notice of action" means a written document or remittance advice that is sent by the MCE to a provider for an action taken, or sent by the secretary to a provider for an action taken, that meets the requirements specified in K.A.R. 129-9-4 and K.A.R. 129-9-5.

(3) "Adequate notice of administrative review" means a written document that is sent by the secretary to a provider that includes the secretary's decision following the administrative review and that meets the requirements specified in K.A.R. 129-9-5.

(4) "Adequate notice of appeal resolution" means a written document or remittance advice that is sent by the MCE to the provider that includes the MCE's resolution of the provider's appeal request and that meets the requirements specified in K.A.R. 129-9-4.

(5) "Adequate notice of approval" means a written document or remittance advice that is sent by the MCE to the provider at the time the MCE approves a service authorization request or payment and that meets the requirements specified in K.A.R. 129-9-8.

(6) "Adequate notice of external review decision" means a written document that is sent by the MCE to the enrollee and the provider that includes the external independent third-party reviewer's decision and that meets the requirements specified in K.A.R. 129-9-4.

(7) "Adequate notice of reconsideration resolution" means a written document or remittance advice that is sent by the MCE to the provider that includes the MCE's resolution of the provider's reconsideration request and that meets the requirements specified in K.A.R. 129-9-4.

(8) "Administrative review" means a review by the secretary of evidence submitted by the provider following notification from the secretary of KMAP's intent to terminate the provider's participation in KMAP.

(9) "Appeal" means a review by the MCE of an adverse action or adverse benefit determination. An appeal is not a local evidentiary hearing, a request for a state fair hearing, or a grievance.

(10) "Days" means calendar days, unless otherwise specified.

(11) "External independent third-party review" means a review by the secretary or secretary's designee of a final decision of the MCE's internal appeal process involving a denial of an authorization for a new healthcare service to the enrollee or a claim for reimbursement to the provider for a healthcare service rendered to the enrollee.

(12) "Grievance" means either of the following:

(A) The expression of dissatisfaction to an MCE by a provider of covered services to an enrollee about any matter other than an MCE's adverse benefit determina-

tion as defined in 129-8-1 or an MCE's action as defined in this subsection. A provider submitting a grievance to an MCE shall not have state fair hearing rights.

(B) The expression of dissatisfaction to the secretary by a provider of covered services to an FFS beneficiary about any FFS matter including actions involving payment for FFS covered services. A provider submitting an FFS grievance shall have state fair hearing rights if the matter involves an action.

(13) "Grievance and appeal system" means either of the following:

(A) The grievance, reconsideration, appeal, and state fair hearing processes that are available to providers of medical care to enrollees for expressions of dissatisfaction and for contesting adverse actions regarding payment for covered services rendered to enrollees, as well as the process to collect and track information; or

(B) the grievance and state fair hearing processes that are available to providers of services to FFS beneficiaries for expressions of dissatisfaction and for contesting adverse actions regarding payment for covered services rendered to FFS beneficiaries, as well as the process to collect and track information.

(14) "New healthcare service" means a covered service that an MCE has not previously authorized or a covered service that an MCE has previously authorized, for which the authorization period for that covered service has expired at the time of the request for additional covered services.

(15) "Non-participating provider" means a provider without a provider agreement.

(16) "PCCM" means a primary care case manager, including a physician, a physicians' group practice, or an entity that uses physicians, who provides primary care to the enrollee under a contract with the Kansas medical assistance program.

(17) "Participating provider" means a provider with a provider agreement.

(18) "Provider agreement" means a contract between a claims reimbursing entity, the secretary or the MCE, and the provider that specifies the terms and conditions of the provider's participation within the network of providers created by the reimbursing entity. This term shall include a contract that is limited by time or instance to specific goods or services.

(19) "Reconsideration" means a request by the provider to the MCE to review the MCE's action. A reconsideration is not an appeal, a request for a state fair hearing, or a grievance. Submission of a reconsideration request shall be optional and shall not be required before completion of the required provider appeal process.

(20) "Reimbursing entity" means the secretary or the MCE that reviews, determines, and pays claims submitted by providers.

(21) "Remittance advice" and "RA" mean a document supplied by the MCE or KMAP that provides notice and explanation of reasons for payment, adjustment, denial, or noncovered charge of a medical claim.

(22) "Send" means to deliver by U.S. mail or in electronic format.

(23) "Timely notice of action" means an adequate notice of action or remittance advice that is sent by the MCE or the secretary to the provider within the time frames specified in K.A.R. 129-9-4 or K.A.R. 129-9-5.

(24) "Timely notice of administrative review" means an adequate notice of administrative review that is sent by the secretary to the provider within the time frames specified in K.A.R. 129-9-5.

(25) "Timely notice of appeal resolution" means an adequate notice of appeal resolution that is sent by the MCE to the provider within the time frames specified in K.A.R. 129-9-4.

(26) "Timely notice of approval" means an adequate notice of approval that is sent by the MCE to the provider within the time frames specified in K.A.R. 129-9-8.

(27) "Timely notice of external review decision" means an adequate notice of external review decision that is sent by the MCE to the enrollee and the provider within the time frame specified in K.A.R. 129-9-4.

(28) "Timely notice of reconsideration resolution" means an adequate notice of reconsideration resolution or remittance advice that is sent by the MCE to the provider within the time frame specified in K.A.R. 129-9-4. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-2. FFS provider grievance. (a) Any provider rendering services to a beneficiary of the FFS medical assistance program may submit a grievance about any FFS matter, including an action.

(b) Any provider rendering services to a beneficiary of the FFS medical assistance program may submit an oral or written grievance to the secretary or the secretary's designee at any time. Any provider may submit a grievance involving an FFS matter in person, by telephone, by U.S. mail, or by facsimile. Each written grievance delivered by the postal service or submitted by facsimile to the secretary or the secretary's designee shall be date-stamped when received as proof of receipt.

(c) Each grievance involving an FFS matter shall be resolved by the secretary or the secretary's designee within 30 days from the date the secretary receives the grievance from the provider. The resolution of the grievance shall be communicated by the secretary or the secretary's designee to the provider by telephone or letter.

(d) A provider's right to submit a grievance involving an FFS matter shall not be limited or interfered with by the secretary or the secretary's designee.

(e) If the secretary delegates the tracking and resolution of grievances involving an FFS matter to a contractor, that contractor shall cooperate with the state, the state's fiscal agent, or representatives of either, to resolve all provider grievances. Cooperation may include providing internal provider grievance information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-3. MCE provider grievance. (a) Any provider rendering services to an enrollee may submit a grievance about any MCE matter other than an action.

(b) Any provider may submit an oral or written grievance to the MCE within 180 days of the date of the incident. Any provider may submit a grievance in person, by telephone, by U.S. mail, or by facsimile. Each written

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grievance delivered by the postal service or submitted by facsimile to the MCE shall be date-stamped when received by the MCE as proof of receipt. The date of receipt shall be used to determine the timeliness of the request.

(c) The MCE shall resolve each grievance within 30 days from the date the MCE receives the grievance from the provider and provide notice of grievance resolution no later than five business days following the date of grievance resolution as specified in the state's managed care contract. The notice of grievance resolution shall meet the requirements specified by the secretary.

(d) The provider's right to request a grievance shall not be limited or interfered with by the secretary or the MCE.

(e) The MCE shall cooperate with the state, the state's fiscal agent, or representatives of either to resolve all grievances. Cooperation may include providing internal provider grievance information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-4. Notices to providers rendering services to enrollees; applicability. This regulation shall apply to adequate and timely notices of action, adequate and timely notices of reconsideration resolution, adequate and timely notices of appeal resolution, and adequate and timely notices of external review decision issued by the MCE to the provider regarding a denial of payment for services rendered to enrollees. This regulation shall also apply to adequate and timely notices of appeal resolution and adequate and timely notices of external review decision issued by the MCE to the provider and to the affected enrollee regarding a denial of an authorization for a new healthcare service to the enrollee.

(a) The MCE shall send an adequate notice of action to the provider when the MCE takes an action, as defined in K.A.R. 129-9-1(b)(1)(A) and (b)(1)(B). The adequate notice for an action defined in K.A.R. 129-9-1(b)(1)(A) may take the form of a remittance advice. Each adequate notice of action shall include the following:

(1) The date of the adequate notice of action;

(2) the action the MCE has taken or intends to take;

(3) the date the MCE made the adverse action;

(4) the reasons for the action, including an explanation of the medical basis for the decision, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the action is based upon a determination that the service is not medically necessary;

(5) the statute, regulation, policy, or procedure supporting the action;

(6) an explanation of the provider's right to request either a reconsideration or an appeal following receipt of the MCE's adequate notice of action;

(7) an explanation of the optional nature of the MCE's reconsideration process and the MCE's requirement for the provider to complete the MCE's appeal process before requesting a state fair hearing;

(8) an explanation of the provider's right to request a reconsideration within 120 days of the date of the adequate notice of action and the provider's right to request an appeal within 60 days of the date of the adequate notice of action. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means. The adequate notice of action shall include the address and contact information for submission of the reconsideration and submission of the appeal;

(9) an explanation of the provider's right to terminate the reconsideration process and request an appeal with the MCE within 60 days of the date of the adequate notice of action. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means. The adequate notice of action shall include an explanation that submission of the appeal request is not dependent upon completion of the reconsideration process or receipt of an adequate notice of reconsideration resolution;

(10) an explanation that if the provider chooses to request a reconsideration and wait until receipt of the adequate notice of reconsideration resolution, the provider has the right to request an appeal to the MCE within 60 days of the date of the adequate notice of reconsideration resolution. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means;

(11) the procedures by which the provider may request a reconsideration or an appeal regarding the MCE's action;

(12) a statement of the provider's right, pursuant to K.S.A. 39-709h(e)(4) and amendments thereto, to request a state fair hearing within 120 days of the date of the adequate notice of appeal resolution. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means;

(13) the procedures by which the provider may request a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(14) any change in federal or state law that requires the action;

(15) a statement of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(16) any other information required by Kansas statute or regulation that involves the MCE's adequate notice of action.

(b) The MCE shall send a timely notice of action to the provider within one business day following the date of action. The MCE shall send an adequate notice of action to the provider as specified in paragraph (a) in accordance with the timeliness standards specified in this subsection.

(c) The MCE shall send an adequate notice of reconsideration resolution to the provider when the MCE reviews a request for reconsideration of an action. Each adequate notice of reconsideration resolution shall include the following:

(1) The date of the adequate notice of reconsideration resolution;

(2) the action that is the subject of the reconsideration;

(3) the results of the resolution process and the date of the reconsideration resolution;

(4) the reasons for the reconsideration resolution, including an explanation of the medical basis for the reconsideration resolution, application of policy, or accepted standard of medical practice to the enrollee's medical

circumstances, if the resolution is based upon a determination that the service is not medically necessary;

(5) the statute, regulation, policy, or procedure supporting the reconsideration resolution;

(6) a statement of the provider's right to request an appeal within 60 days of the date of the adequate notice of reconsideration resolution. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means. The explanation shall include the address and contact information for submission of the request;

(7) the procedures by which a provider may request an appeal following receipt of the MCE's adequate notice of reconsideration resolution;

(8) a statement of the MCE's requirement for the provider to complete the MCE's appeal process before requesting a state fair hearing;

(9) any change in federal or state law that requires the action;

(10) a statement of the provider's right to request a state fair hearing within 120 days of the date of the adequate notice of appeal resolution following completion of the provider appeal process;

(11) the procedures by which the provider may request a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(12) an explanation of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(13) any other information required by Kansas statute or regulation that involves the MCE's adequate notice of reconsideration resolution.

(d) The MCE shall send a timely notice of reconsideration resolution to the provider within five business days following the date the MCE resolves the reconsideration. The MCE shall send an adequate notice of reconsideration resolution to the provider as specified in paragraph (c) in accordance with the timeliness standards specified in this subsection.

(e) The MCE shall send an adequate notice of appeal resolution to the provider when the MCE reviews a request for an appeal of an action or an adverse benefit determination. Each adequate notice of appeal resolution shall include the following:

(1) The date of the adequate notice of appeal resolution;

(2) the action or adverse benefit determination that is the subject of the appeal;

(3) the results of the resolution process and the date of the appeal resolution;

(4) the reasons for the appeal resolution, including an explanation of the medical basis for the resolution, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the MCE based its resolution upon a determination that the service is not medically necessary;

(5) the statute, regulation, policy, or procedure supporting the appeal resolution;

(6) a statement that the provider has completed the appeal process with the MCE;

(7) a statement of the provider's right to request an external independent third-party review following receipt of the adequate notice of appeal resolution;

(8) a statement of the procedures by which a provider may request an external independent third-party review with the MCE issuing the decision to be reviewed within 60 days of the date of the adequate notice of appeal resolution. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means. The explanation shall include the address and contact information for submission of the request;

(9) a statement that if the provider does not request an external independent third-party review, the provider has a right, pursuant to K.S.A. 39-709h(e)(4) and amendments thereto, to request a state fair hearing within 120 days of the date of the adequate notice of appeal resolution. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means;

(10) the procedures by which the provider may request a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(11) a statement of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(12) any other information required by Kansas statute or regulation that involves the MCE's adequate notice of appeal resolution.

(f) The MCE shall send a timely notice of appeal resolution to the provider within five business days following the date the MCE resolves the appeal. The MCE shall send an adequate notice of appeal resolution to the provider as specified in paragraph (e) in accordance with the timeliness standards specified in this subsection.

(g) The MCE shall send an adequate notice of external review decision to the provider following receipt of the external independent third-party reviewer's decision involving a denial of payment and to the provider and the affected enrollee involving a denial of an authorization for a new healthcare service to the enrollee. Each adequate notice of external review decision shall include the following:

(1) The date of receipt of the external review decision;

(2) the date of the adequate notice of the external review decision;

(3) the action or denial of an authorization for a new healthcare service that is the subject of the review;

(4) the results of the review by the external independent third-party reviewer and the date of that decision;

(5) the reasons for the external reviewer's decision, including an explanation of the medical basis for the external review decision, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the external review is based upon a determination by the MCE that the service is not medically necessary;

(6) the statute, regulation, policy, or procedure supporting the external review decision;

(7) a statement of the provider's right to request a state fair hearing within 30 days of the date of the MCE's ade-

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quate notice of external review decision. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means;

(8) the procedures by which the provider may request a state fair hearing and the address and contact information for submission of the request;

(9) a statement of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(10) any other information required by Kansas statute or regulation that involves an MCE's adequate notice of external review decision.

(h) The MCE shall send a timely notice of external review decision to the provider and any affected enrollee within 10 business days following the date the MCE receives the external reviewer's decision. The MCE shall send an adequate notice of external review decision to the provider and any affected enrollee as specified in paragraph (g) in accordance with the timeliness standards specified in this subsection.

(i) A response by the MCE, the secretary, or the department to an inquiry concerning a prior action or denial of an authorization for a new healthcare service shall not be a new action or a new denial of a healthcare service. (Authorized by K.S.A. 39-709h(e)(4), 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-5. Notices to providers rendering services to beneficiaries of the FFS medical assistance program; notices to providers regarding participation in KMAP; applicability. This regulation shall apply to adequate and timely notices of action sent by the secretary to the provider regarding a denial of payment for services rendered to FFS beneficiaries. This regulation shall also apply to adequate and timely notices of action sent by the secretary to the provider regarding termination of the provider's participation in KMAP, denial of a provider's application to KMAP, and to adequate and timely notices of administrative review sent by the secretary to the provider.

(a) An adequate notice of action shall be sent by the secretary to the provider when the secretary takes an action, as defined in K.A.R. 129-9-1(b)(1)(A) through (b)(1)(D). The adequate notice for an action defined in K.A.R. 129-9-1(b)(1)(A) may take the form of a remittance advice. Each adequate notice of action shall include the following:

(1) The date of the adequate notice of action;

(2) the action the secretary has taken or intends to take;

(3) the date the secretary took the adverse action or the effective date of the action;

(4) the reasons for the action, including an explanation of the medical basis for the decision, application of policy, or accepted standard of medical practice to the beneficiary's medical circumstances, if the action is based upon a determination that the service is not medically necessary;

(5) the statute, regulation, policy, or procedure supporting the action;

(6) for an action defined in K.A.R. 129-9-1(b)(1)(C), an explanation of the provider's right to request an administrative review before the secretary, the provider's right to present evidence at the administrative review regarding the proposed termination, and the procedures by which the provider may submit a request for an administrative review, including the address and contact information for submission of the request;

(7) for an action defined in K.A.R. 129-9-1(b)(1)(C), an explanation of the provider's right to request a state fair hearing within 30 days of the date of the adequate notice of administrative review. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means;

(8) for an action defined in K.A.R. 129-9-1(b)(1)(C), an explanation of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson in the administrative review;

(9) an explanation of the provider's right to request a state fair hearing within 30 days of the date of the adequate notice of action. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means;

(10) the procedures by which the provider may submit a request for a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(11) any change in federal or state law that requires the action;

(12) an explanation of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson in the state fair hearing; and

(13) any other information required by Kansas statute or regulation that involves an adequate notice of action sent by the secretary.

(b) A timely notice of action shall be sent by the secretary to the provider no later than one business day following the date upon which the secretary takes the action that is the subject of the adequate notice of action. An adequate notice of action shall be sent by the secretary to the provider as specified in subsection (a) in accordance with the timeliness standards specified in this subsection.

(c) An adequate notice of administrative review shall be sent by the secretary to the provider when the secretary affirms the decision to terminate a provider's participation in KMAP. Each adequate notice of administrative review shall include the following:

(1) The date of the adequate notice of administrative review;

(2) the action the secretary has taken or intends to take;

(3) the effective date of the action;

(4) the reasons for the action;

(5) the statute, regulation, policy, or procedure supporting the action;

(6) an explanation of the provider's right to request a state fair hearing within 30 days of the date of the adequate notice of administrative review that affirms the decision to terminate the provider's participation in KMAP. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means;

(7) the procedures by which the provider may submit a request for a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(8) any change in federal or state law that requires the action; and

(9) an explanation of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson in the state fair hearing.

(d) A timely notice of administrative review shall be sent by the secretary to the provider no later than one business day following the date upon which the secretary takes the action that is the subject of the adequate notice of administrative review. An adequate notice of administrative review shall be sent by the secretary to the provider as specified in subsection (c) in accordance with the timeliness standards specified in this subsection.

(e) A response by the secretary or department to an inquiry concerning a prior action shall not be a new action. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-6. Provider reconsideration. (a) Any provider may submit a request for a reconsideration to the MCE if the basis of the request is an action by an MCE as defined in K.A.R. 129-9-1(b)(1)(A) and (b)(1)(B).

(b) Any provider may submit either a reconsideration request or an appeal request following receipt of the notice of action. The MCE may require that the provider submit the reconsideration in writing. Each written reconsideration delivered by the postal service or submitted by facsimile to the MCE shall be date-stamped when received by the MCE as proof of receipt. The MCE shall use the date of receipt to determine timeliness of the request.

(c) Each MCE shall provide the provider with the opportunity to submit a request for a reconsideration following receipt of the MCE's notice of action. For each reconsideration under this article of the division's regulations to be considered timely pursuant to K.S.A. 39-709h(e)(4) and amendments thereto, the request shall be received by the MCE within 120 days of the date of the notice of action. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means.

(d) The MCE shall not be required to send an acknowledgement letter after receipt of the reconsideration request.

(e) The MCE shall not be required to resolve the reconsideration request within a defined period of time. The MCE shall send notice of reconsideration resolution no later than five business days of the date of reconsideration resolution as specified in the state's managed care contract. The notice of reconsideration resolution shall meet the requirements in K.A.R. 129-9-4.

(f) The reconsideration process shall be optional, but the provider shall complete the MCE's appeal process before requesting a state fair hearing.

(g) The provider's right to appeal shall be preserved throughout the reconsideration process. The provider may terminate the reconsideration process and submit an appeal request within 60 days of the date of the notice of action. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means.

(h) If the provider terminates the reconsideration process more than 63 days after the date of the notice of action, the provider shall wait to receive the MCE's notice of reconsideration resolution before submitting an appeal or the appeal will be untimely.

(i) The provider's right to request a reconsideration shall not be limited or interfered with by the secretary or the MCE.

(j) The MCE shall cooperate with the state, the state's fiscal agent, or representatives of either to resolve all provider reconsiderations. Cooperation may include providing internal provider reconsideration information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-7. Provider appeal. (a) Any provider may submit a request for an appeal to the MCE if the basis of the request is an action by the MCE as defined in K.A.R. 129-9-1(b)(1)(A) and (b)(1)(B) or a denial of an authorization for a new healthcare service to the enrollee.

(b) Any provider may submit an appeal request or a reconsideration request following receipt of the MCE's notice of action. The provider's right to appeal shall not be dependent upon the completion of the reconsideration process. The MCE may require that the provider submit the appeal in writing. Each written appeal delivered by the postal service or submitted by facsimile to the MCE shall be date-stamped when received by the MCE as proof of receipt. The MCE shall use the date of receipt to determine timeliness of the request.

(c) Each MCE shall provide the opportunity to a provider to submit a request for an appeal following receipt of the MCE's notice of adverse benefit determination or notice of action. For each appeal under this article of the division's regulations to be considered timely pursuant to K.S.A. 39-709h(e)(4) and amendments thereto, the request shall be received by the MCE within 60 days of the date of the notice of adverse benefit determination or notice of action. Three days shall be added to the 60-day response period if the notice is served by U.S. mail or electronic means.

(d) The MCE shall acknowledge, in writing, each appeal received from the provider within 10 days of receipt.

(e) The MCE shall resolve each appeal within 30 days from the date the MCE receives the appeal from the provider and issue a notice of appeal resolution no later than five business days following the date of appeal resolution, pursuant to K.S.A. 39-709h(e)(4) and amendments thereto. The notice of appeal resolution shall meet the requirements specified in K.A.R. 129-9-4.

(f) The provider shall complete the MCE's appeal process before requesting an external independent third-party review pursuant to K.A.R. 129-9-9 or a state fair hearing.

(g) The provider's right to request an appeal shall not be limited or interfered with by the department or the MCE.

(h) The MCE shall cooperate with the state, the state's fiscal agent, or representatives of either to resolve all provider appeals. Cooperation may include providing internal provider appeal information to the state. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

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129-9-8. Notices to providers rendering covered services to enrollees and FFS beneficiaries; applicability. This regulation shall apply to adequate and timely notices of approval sent to providers by the MCE or the secretary regarding approval of payment, approval of an enrollee covered service authorization request, or approval of an FFS covered service authorization request.

(a) Each MCE shall send an adequate notice of approval to the provider when the MCE fully or partially approves payment to the provider following a claim submission for covered services rendered to an MCE enrollee, when the MCE fully or partially approves a covered service authorization request submitted by a provider on behalf of an enrollee, when the MCE fully or partially approves payment following a reconsideration resolution, when the MCE fully or partially approves payment or a covered service authorization request following an appeal resolution, and when the MCE approves payment or a covered service authorization request following a decision by a presiding officer that reverses the MCE's action or adverse benefit determination. The adequate notice of approval involving payment may take the form of a remittance advice.

(b) An adequate notice of approval shall be sent when the secretary fully or partially approves payment to the provider following a claim submission for covered services rendered to an FFS beneficiary, when the secretary fully or partially approves a covered service authorization request submitted by a provider on behalf of an FFS beneficiary, and when the secretary approves payment or an FFS covered service authorization request following a decision by a presiding officer that reverses the secretary's action. The adequate notice of approval involving payment may take the form of a remittance advice.

(c) Each adequate notice of approval shall include the following:

(1) The date of the adequate notice of approval;

(2) the date the MCE made the approval;

(3) the approval decision the MCE has made, including the dates and type of service requested, if the approval is for payment, and the dates, types, and amount of service requested if the approval is for a covered service authorization request; and

(4) the effective date and, if applicable, the end date of the approved covered service authorization request.

(d) The MCE shall send a timely notice of approval to the provider within the time frames specified in paragraphs (d)(1) through (d)(5). A timely notice of approval shall include the contents of an adequate notice of approval as specified in subsection (c).

(1) For approval of full or partial payment for enrollee covered services following a claim submission, the MCE shall send an adequate notice of approval to the provider within one business day of the approval decision.

(2) For approval of a standard or expedited covered service authorization request submitted by a provider on behalf of an enrollee, the MCE shall send an adequate notice of approval to the requesting provider within the time frames specified in 129-8-8(c)(1).

(3) For approval of full or partial payment following an MCE's reconsideration resolution, the MCE shall send an adequate notice of approval to the provider within five business days of the approval decision.

(4) For approval of full or partial payment following an MCE's appeal resolution, the MCE shall send an adequate notice of approval to the provider within five business days of the approval decision.

(5) For approval of full or partial payment or approval of a covered service authorization request following a presiding officer's reversal of an MCE's action or adverse benefit determination, the MCE shall send an adequate notice of approval within the following time frames:

(A) For adverse payment decisions reversed by a presiding officer, the MCE shall authorize payment and send an adequate notice of approval within five business days of the date the MCE receives notice of the presiding officer's reversal of the MCE's action. If the department files a petition for review to SAC, the adequate notice of approval shall be delayed until the department receives notice of the SAC decision affirming the presiding officer's reversal of the action. The MCE shall send an adequate notice of approval within five business days of the date the MCE receives notice of the SAC decision.

(B) For adverse benefit determination decisions reversed by a presiding officer, the MCE shall authorize the disputed services and send an adequate notice of approval as expeditiously as the enrollee's health condition requires and no later than 72 hours after the MCE receives notice of the presiding officer's reversal of the MCE's determination. If the department files a petition for review to SAC, the adequate notice of approval shall be delayed until the department receives notice of the SAC decision affirming the presiding officer's reversal of the adverse benefit determination. The MCE shall send an adequate notice of approval no later than 72 hours after the date the MCE receives notice of the SAC decision.

(e) A timely notice of approval shall be sent by the secretary or the secretary's designee to the provider within the time frames specified in paragraphs (e)(1) through (e)(4). A timely notice of approval shall include the contents of an adequate notice of approval as specified in subsection (c).

(1) For approval of full or partial payment for FFS covered services following a claim submission, an adequate notice of approval shall be sent by the secretary to the provider within seven business days of the approval decision.

(2) For adverse payment decisions reversed by a presiding officer, payment for FFS covered services shall be authorized by the secretary and an adequate notice of approval shall be sent by the secretary within seven business days of the date the secretary receives notice of the presiding officer's reversal of the secretary's action. If a petition for review to SAC is filed by the secretary, the adequate notice of approval shall be delayed until notice of the SAC decision affirming the presiding officer's reversal of the secretary's action is received by the secretary. An adequate notice of approval shall be sent by the secretary to the provider no later than seven business days following the date upon which the secretary receives notice of the SAC decision.

(3) For approval of an FFS covered service authorization request submitted by a provider on behalf of an FFS beneficiary, an adequate notice of approval shall be sent by the secretary to the requesting provider within three business days of the approval decision.

(4) For adverse FFS covered service authorization decisions reversed by a presiding officer, the disputed services shall be authorized by the secretary and an adequate notice of approval shall be sent by the secretary within three business days after the date the secretary receives notice of the presiding officer's reversal of the secretary's action. If a petition for review to SAC is filed by the secretary, the adequate notice of approval shall be delayed until notice of the SAC decision affirming the presiding officer's reversal of the secretary's action is received by the secretary. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-10. When a state fair hearing is required. (a) Any provider may submit a request for a state fair hearing if the provider identifies an action by the MCE or the secretary as the basis for the request. Any provider may submit a request for a state fair hearing following receipt of the MCE's notice of external review decision if the provider identifies the MCE's denial of an authorization for a new healthcare service or an action that was the subject of the external review as the basis for the request.

(b) If the basis for the state fair hearing request is an action by the MCE or a denial of an authorization for a new healthcare service by the MCE, the provider shall first meet any requirements stated in the state plan, an amendment to the state plan, a waiver, or a CMS-approved contract between the secretary and the MCE before the provider may request a state fair hearing. Failure to meet any contractual preconditions shall be grounds for dismissing the request for a state fair hearing. The provider shall submit the request for a state fair hearing in accordance with the timeliness requirements in K.A.R. 129-9-11(a)(1).

(c) If the basis for the state fair hearing request is an action by the secretary, the provider shall first meet any requirements stated in the state plan, an amendment to a state plan, or a waiver before the provider may request a state fair hearing. Failure to meet any contractual preconditions shall be grounds for dismissing the request for a state fair hearing. If the secretary's action is a termination or limitation of the KMAP provider's status as the KMAP provider, the KMAP provider may appear before the secretary regarding the question of continuing eligibility as a KMAP provider according to K.A.R. 129-9-15. The provider shall submit the request for a state fair hearing in accordance with the timeliness requirements in K.A.R. 129-9-11(a)(3).

(d) If the basis for the state fair hearing request is an action by the MCE or a denial of an authorization for a new healthcare service by the MCE and the denial has been reviewed by the external independent third-party reviewer, the provider shall first meet any requirements stated in the state plan, an amendment to a state plan, a waiver, or a CMS-approved contract between the secretary and the MCE before the provider may request a state fair hearing. Failure to meet any contractual preconditions shall be grounds for dismissing the request for a state fair hearing. The provider shall submit the request for a state fair hearing in accordance with the timeliness requirements in K.A.R. 129-9-11(a)(2).

(e) The granting of a state fair hearing shall not be required of the secretary if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all providers.

(f) Each request for a state fair hearing received by the secretary or the MCE shall be forwarded to the secretary's designee for the state fair hearing within one business day by the secretary or the MCE. Each oral request for a state fair hearing shall be reduced to writing by the secretary or the MCE before the request is forwarded.

(g) The provider's right to request a state fair hearing shall not be limited or interfered with by the secretary or the MCE. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-11. Request for state fair hearing; timeliness. (a) For each request for a standard state fair hearing under this article of the division's regulations to be considered timely, the request shall be received by the MCE, the secretary, or the secretary's designee for the state fair hearing according to the following time frames:

(1) For each request by the provider involving the MCE's action or the MCE's denial of an authorization for a new healthcare service that was not reviewed by the external independent third-party reviewer, the request shall be received by the MCE or the secretary's designee for the state fair hearing within 120 days from the date of the adequate notice of appeal resolution, pursuant to K.S.A. 39-709h(e)(4) and amendments thereto. If the 120th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 120-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) For each request by the provider involving the MCE's action or the MCE's denial of an authorization for a new healthcare service that was reviewed by the external independent third-party reviewer, the request shall be received by the MCE or the secretary's designee for the state fair hearing within 30 days from the date of the MCE's adequate notice of external review decision, pursuant to K.S.A. 39-709i and amendments thereto. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(3) For each request by the provider involving an action by the secretary, the request shall be received by the secretary or the secretary's designee within 30 days from the date of the secretary's adequate notice of action, pursuant to K.A.R. 129-9-10. If the 30th day falls on a non-business day for the state, the time period for receipt of a request for a state fair hearing shall be extended to the next business day on which the department is open for business. Three days shall be added to the 30-day response period

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if the notice is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(b) Any provider may submit an oral or written request for a state fair hearing with the MCE or the secretary. The MCE, the secretary, or the secretary's designee for the state fair hearing may require that the provider submit the request for a state fair hearing in writing. Oral, telephonic, or electronic requests for a standard or expedited state fair hearing may not be submitted to the secretary's designee for the state fair hearing.

(c) Any request for a state fair hearing made by telephone or other electronic means and received by the MCE or the secretary during normal business hours may be accepted as a valid request for a state fair hearing by the MCE or the secretary if the request and proof of receipt are documented, dated, and reduced to writing by the MCE or the secretary. The date and time of the telephonic or electronic request for a state fair hearing shall be used to determine the timeliness of the request even if there is a delay by the MCE or the secretary in reducing the request to writing. Oral, telephonic, or electronic requests for a state fair hearing may not be submitted to the secretary's designee for the state fair hearing.

(d) Each request for a state fair hearing received by the MCE or the secretary shall be forwarded to the secretary's designee for the state fair hearing within one business day of receipt.

(e) If a written request for a state fair hearing is received by the MCE, the MCE shall date-stamp the request when received as proof of receipt. The timeliness standards specified in subsection (a) shall apply with the date of receipt by the MCE being used to determine the timeliness of the request.

(f) If the provider sends a written request for a state fair hearing directly to the secretary's designee for the state fair hearing, the timeliness standards specified in subsection (a) shall apply with the date of receipt by the secretary's designee being used to determine the timeliness of the request.

(g) If the request for a state fair hearing is not received within the response periods specified in subsection (a), the request shall be deemed untimely and shall be dismissed.

(h) The presiding officer shall issue an initial order in a standard state fair hearing within 90 days from the date the presiding officer receives a request for a state fair hearing, except when the request for a state fair hearing involves the issue being reviewed by the external independent third-party reviewer or when the presiding officer allows an extension.

(i) Unless preempted by federal law, a request for payment of a claim by a non-participating provider to a reimbursing entity shall be treated as a request to use all applicable provisions from statutes, regulations, policies, state plans, amendments to a state plan, waivers, CMS-approved contracts between the secretary and the MCE, and the provider agreements that the reimbursing entity would use in determining a claim for reimbursement from a participating provider.

(j) The presiding officer shall issue an initial order on each state fair hearing request within the time limits specified in subsection (h), unless one of the following conditions is met:

(1) The presiding officer cannot reach a decision because the appellant requests a delay or fails to take a required action.

(2) There is an administrative or other emergency beyond the control of the presiding officer or the secretary. The presiding officer shall document the reasons for any delay in the appellant's record. (Authorized by and implementing K.S.A. 39-709i, 65-1,254, and 75-7403; effective Dec. 27, 2024.)

129-9-12. Evidentiary standard; burden of proof. (a) Unless preempted by federal or state law, a preponderance of the evidence shall be the evidentiary standard used for state fair hearings under this article of the division's regulations.

(b) Any appellant or respondent may sustain that individual's burden of proof by using testimony, documents, statutes, regulations, the state plan and its amendments, the MCE contract, and policy to support the appellant's or respondent's case. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-13. Parties. (a) The parties to each state fair hearing shall be an appellant and a respondent. The case caption in each medical assistance state fair hearing case shall identify the appellant and the respondent as follows:

(1) The named appellant in the case caption shall be a provider, except as specified in subsection (e). Any authorized representative of the provider may request a state fair hearing.

(2) The named respondent in the case caption shall be the department that administers the program or payment for program services involved in the MCE's denial of an authorization for a new healthcare service, the MCE's action, or the secretary's action except as specified in subsection (f).

(A) If the matter involves an MCE's denial of an authorization for a new healthcare service or an MCE's action, the department that administers the program or payment for the program services shall be the real party in interest. The respondent shall be the department and the case caption shall note the MCE beneath the case number. The MCE shall be an interested party in the matter. As an interested party, the MCE, in meeting its contractual responsibilities, shall review the state fair hearing matter to determine whether the following conditions are met:

(i) The MCE appeal process has been completed.

(ii) The matter was filed within the regulatory time frames.

(iii) The matter involves a denial of an authorization for a new healthcare service to the enrollee or a denial of a claim for reimbursement to the provider for an authorization of a new healthcare service rendered to the enrollee.

(B) If the MCE determines that the matter has not met any of the conditions specified in paragraphs (a)(2)(A)(i)-(iii), the MCE, subject to approval by the department, shall submit a request to the presiding officer to dismiss the matter.

(C) If the matter involves an action by the secretary, the department that administers payment for the program services shall be the real party in interest. The respondent shall be the department. The state fair hearing matter shall be reviewed by the secretary or the secretary's designee to determine whether the following conditions are met:

(i) The matter was filed within the regulatory time frames.

(ii) The matter involves an action.

(D) If the secretary determines that the matter has not met either of the conditions specified in paragraphs (a)(2)(C)(i) and (ii), the secretary or the secretary's designee shall submit a request to the presiding officer to dismiss the matter.

(b) The presiding officer conducting the state fair hearing may grant a motion to modify the case caption to clarify the parties.

(c) Any provider may authorize representation by legal counsel, a relative, a friend, or a spokesperson in the state fair hearing if the provider has authorized the representation in writing. This regulation shall not authorize the secretary or the presiding officer to grant exceptions to the Kansas supreme court rules concerning the practice of law in Kansas if the provider is represented by an attorney who is not licensed in Kansas.

(d) The appellant may be a provider in any of the following circumstances:

(1) If the matter involves a denial of an authorization for a new healthcare service made by the MCE against the enrollee, the appellant may be the provider who would have received reimbursement if the MCE had approved the authorization.

(2) If the matter involves an action by an MCE concerning a claim for payment for medical services that have already been provided to the enrollee and the enrollee will not be responsible for the payment of the medical services if the claim is denied by the MCE, the appellant may be the provider.

(3) If the matter involves an adverse benefit determination and an entity other than the provider seeks to be named the appellant, the presiding officer shall determine whether the entity seeking to be named as appellant is the real party in interest instead of the provider.

(e) For each state fair hearing requested by the losing party of the external independent third-party review, the appellant may be the department that administers the program or payment involved in the MCE's denial of an authorization for a new healthcare service or the MCE's action.

(f) For each state fair hearing requested by the losing party of the external independent third-party review, the respondent may be the provider who requested the external independent third-party review.

(g) If a presiding officer allows an entity to intervene in a state fair hearing covered by this article of the division's regulations pursuant to KAPA, the intervening entity shall be identified in the caption of the case as an intervenor. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-14. Department's review of decision. (a) Upon receipt of notice that a request for a state fair hearing has been made, the MCE's denial of an authorization for a new healthcare service, the MCE's action, any decision by the external independent third-party review, or the secretary's action shall be reviewed by the department. Upon review, the decision may be amended or changed before or during the state fair hearing as directed by the department.

(b) If the parties reach a satisfactory adjustment before the state fair hearing, a written request to dismiss the state fair hearing request shall be submitted by the MCE or the department to the presiding officer, but the state fair hearing request shall remain pending until the following are completed:

(1) Upon receipt of the MCE's or the department's request to dismiss, the presiding officer shall issue a prehearing order to the appellant providing a 15-day response time. If the 15th day falls on a non-business day for the state, the 15-day response time shall be extended to the next business day on which the department is open for business. Three days shall be added to the 15-day response period if the order is served by U.S. mail or electronic means. If the third day falls on a non-business day for the state, the time period shall be extended to the next business day on which the department is open for business.

(2) If the appellant responds to the presiding officer within the above response time, the respondent may reply within five days.

(3) The presiding officer shall review the appellant's response and any respondent's reply and make a determination regarding the MCE's or the department's request to dismiss.

(4) If the appellant fails to respond to the presiding officer's order within the above response time, the presiding officer may dismiss the state fair hearing request.

(c) If the parties reach a satisfactory adjustment during the state fair hearing, an oral withdrawal stated on the record by the appellant or the appellant's representative before the presiding officer shall be acceptable.

(d) If the appellant withdraws the state fair hearing request, withdrawal of the state fair hearing request by means of the internet, telephone, U.S. mail, in-person contact, or facsimile shall be accepted by the MCE or the department.

(1) For telephonic, internet, and in-person withdrawals, the appellant shall be provided with written confirmation, by regular U.S. mail or electronic notification.

(2) For telephonic state fair hearing withdrawals, the appellant's statement shall be recorded by the department. This recording process shall include electronic or contemporaneous written documentation of the appellant's oral statement by the department.

(3) If the appellant submits a signed, written statement withdrawing the appellant's request for a state fair hearing, the presiding officer shall close the state fair hearing request. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-15. Provider termination or denial of enrollment. (a) Any provider's participation in KMAP may be terminated by the secretary for one or more of the following reasons:

(continued)

(1) Voluntary withdrawal of the provider from participation in the program;

(2) non-compliance with applicable state laws, administrative regulations, or program issuances concerning medical providers;

(3) non-compliance with the terms of a provider agreement;

(4) non-compliance with the terms and certification set forth on claims submitted to the secretary for reimbursement;

(5) assignment, granting a power of attorney over, or otherwise transferring right to payment of program claims except as set forth in 42 U.S.C. 1396a (32), as in effect on February 8, 2023, which is hereby adopted by reference;

(6) pattern of submitting inaccurate billings or cost reports;

(7) pattern of submitting billings for services not covered under the program;

(8) pattern of unnecessary utilization;

(9) unethical or unprofessional conduct;

(10) suspension, termination, or expiration of license, registration, or certification in any state;

(11) provision of goods, services, or supplies harmful to individuals or of an inferior quality;

(12) civil or criminal fraud against medicare, the Kansas medicaid or social service programs, or any other state's medicaid or social service programs;

(13) suspension or exclusion by the secretary of health and human services from the title XVIII or title XIX programs;

(14) direct or indirect ownership or controlling interest of five percent or more in a provider institution, organization or agency by a person who has been found guilty of civil or criminal fraud against the medicare program or the Kansas medicaid or social service programs or any other state's medicaid or social service programs;

(15) employment or appointment by a provider of a person in a managerial capacity or as an agent if the person has been found guilty of civil or criminal fraud against the medicare program, or the Kansas medicaid or social service programs, or any other state's medicaid or social service programs;

(16) insolvency;

(17) non-compliance with the requirements of 42 C.F.R. 455.416, as in effect on February 8, 2023, which is hereby adopted by reference; or

(18) discovery of information by the secretary that requires termination pursuant to 42 C.F.R. 455.416.

(b) Prior to the termination of a provider from the program pursuant to subsection (a), an adequate and timely notice of action shall be sent by the secretary to the provider. Each adequate and timely notice of action shall meet the requirements of K.A.R. 129-9-5(a) and (b).

(c) Any provider terminated pursuant to subsection (a) may request an administrative review by the secretary and may request a state fair hearing.

(1) An administrative review shall be scheduled by the secretary not less than five days nor more than 15 days from the date of the adequate notice of action.

(2) All evidence presented, including that of the provider, shall be considered by the secretary in the administrative review. If the decision following the administrative review is to affirm the decision to terminate the provider's participation in KMAP, an adequate and timely notice of administrative review shall be sent by the secretary as specified in K.A.R. 129-9-5(a) and (b).

(d) Termination, unless based upon civil or criminal fraud against the program, suspension or exclusion by the secretary of health and human services, or suspension or exclusion by any other state medicaid agency or medicare, shall remain in effect until the secretary determines that the reason for the termination has been removed and that there is a reasonable assurance that it shall not recur. Terminations based upon civil or criminal fraud shall remain in effect for such time period as deemed appropriate by the secretary. Termination based upon suspension or exclusion by the secretary of health and human services shall remain in effect no less than the time period specified in the notice of suspension issued by the secretary of health and human services. Termination based upon suspension or exclusion by any other state medicaid agency or medicare, shall remain in effect no less than the time period specified by another state medicaid agency or medicare.

(e) A request for reinstatement by a provider terminated from participation in KMAP shall not be considered for a period of 60 days following the effective date of the termination. As a prerequisite for reinstatement in the program, one or more of the following conditions may be imposed by the secretary:

(1) Implementation and documentation of corrective action taken by the provider to comply with program policies and to reasonably ensure that the reason for the termination shall not recur;

(2) probationary period not to exceed one year;

(3) attendance at provider education sessions;

(4) prior authorization of services;

(5) peer supervision; and

(6) other conditions as the specific situation may warrant.

(f) Any provider who is noncompliant with one or more requirements of KMAP participation may be subject to suspension of payment pursuant to 42 C.F.R. 455.23, as in effect on February 8, 2023, which is hereby adopted by reference or other remedies in lieu of termination.

(g) Any provider's application for enrollment in KMAP may be denied by the secretary for one or more of the following reasons:

(1) as required by 42 C.F.R. 455.416;

(2) as required by 42 C.F.R. 455.106, as in effect on February 9, 2023, which is hereby adopted by reference;

(h) Following the denial of a provider's application to KMAP pursuant to subsection (g), an adequate and timely notice of action shall be sent by the secretary to the provider. Each adequate and timely notice of action shall meet the requirements of K.A.R. 129-9-5(a) and (b). (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-17. Department's summary. (a) Within 30 days of the date of the acknowledgement and order issued by the presiding officer in response to a request for a state fair hearing, the appellant and the presiding officer shall be furnished by the department with a summary providing the following information and exhibits:

(1) The appellant's name and address;

(2) a summary statement concerning why the appellant is filing a request for a state fair hearing;

(3) a brief and relevant chronological summary of the events that occurred in relationship to the appellant's request for a state fair hearing;

(4) a statement of the basis of the adverse action;

(5) a citation to and copy of the applicable policies or provider manual excerpts relied upon for the adverse decision. The applicable medical necessity criteria or guidelines used in making medical necessity decisions shall be included;

(6) a citation to or copy of applicable Kansas and federal statutes and regulations relied upon for the adverse action;

(7) a citation to or copy of applicable state plan or waiver documents relied upon for the adverse action;

(8) a copy of the notice that notified the appellant of the decision in question and any subsequent notices;

(9) a copy of any applicable correspondence;

(10) a copy of the provider's contract with the MCE or the provider's contract with KMAP, as applicable to the issue involved in the state fair hearing;

(11) the name and title of each person who will testify or represent the department at the state fair hearing; and

(12) for state fair hearings involving a decision by the external independent third-party reviewer, copies of the notice of the provider appeal resolution, all of the provider appeal documentation submitted to and reviewed by the external reviewer, the MCE's acknowledgement of receipt of the request for external review, the external reviewer's decision letter, and the MCE's notice of external reviewer's decision.

(b) Upon written request by the department, the presiding officer assigned to the state fair hearing may grant additional time for the completion of the summary. The presiding officer shall file notification of the approval or denial of the extension request. If approved, the notification shall include the revised due date for the department's summary.

(c) If the responsibility for the preparation of the department's summary has been given to the secretary's designee, the secretary's designee shall meet the requirements of this regulation and any additional directives by the department.

(d) If a member or a provider submits a state fair hearing request regarding an MCE's decision that is subsequently reviewed by the external independent third-party reviewer and a department summary has been submitted to the presiding officer for one or both state fair hearing requests, the department or the department's designee shall not be required to submit a second department summary if a member or a provider submits a state fair hearing request regarding the same MCE decision following the decision by the external independent third-party reviewer. An addendum to the department summary may be submitted in lieu of an additional department summary.

(e) If the state fair hearing request involves a decision by the external independent third-party reviewer and the department is the appellant, the department or the department's designee shall furnish to the respondent and the presiding officer a summary providing the information and exhibits specified in subsection (a). The exhibits shall include all documents reviewed and relied upon by the external independent third-party reviewer for its decision.

(f) The department's summary shall be submitted to the presiding officer and the appellant within 30 days as specified in subsection (a) or by the date approved by the presiding officer as specified in subsection (b) unless there is an administrative or other emergency beyond the control of the presiding officer or the department. The due date for the department's summary may be modified by the presiding officer before or after the administrative or other emergency. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective, T-129-1-6-23, Jan. 6, 2023; effective Dec. 27, 2024.)

129-9-18. Motions. (a) Each motion shall meet the following requirements, unless the motion is made during a hearing:

(1) Be submitted in writing; and

(2) state with specificity the basis of the motion.

(b) Unless otherwise specified by the presiding officer, the opposing party shall have 15 days from the date of mailing, electronic filing, or personal delivery of the motion within which to file a response. The presiding officer may waive or change the deadline for good cause.

(c) Unless otherwise specified by the presiding officer, the party that filed the motion shall have five days from the date of mailing, electronic filing, or personal delivery of the response filed pursuant to subsection (b) within which to file a reply.

(d) The presiding officer on that individual's own motion or at the request of either party may conduct a state fair hearing on the motion. Each party requesting a state fair hearing shall include the request in the motion or response. The presiding officer may render a decision on the motion after receipt of the response, reply, and any state fair hearing on the motion. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-19. Prehearing resolution. The parties may settle or otherwise resolve the dispute before the date of the state fair hearing. The parties may also narrow and define the issues before the date of the state fair hearing. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-20. Dismissal; limitations. (a) Any state fair hearing may be considered for dismissal before the state fair hearing is convened. The party seeking to dismiss the state fair hearing shall use a written motion to dismiss the state fair hearing. Written motions to dismiss may be submitted in lieu of the department's summary when based on one of the reasons specified in this subsection. Each written motion to dismiss the state fair hearing shall state one of the following reasons and provide evidence, argument, and citations to federal or state law, regulation, policy, or manual that support the reason for dismissal:

(1) The appellant failed to submit a request for a state fair hearing within the timeliness standards specified in K.A.R. 129-9-11.

(continued)

(2) The appellant failed to submit a request for an appeal of the adverse benefit determination or action to the MCE in accordance with K.A.R. 129-9-7 before submitting a request for a state fair hearing.

(3) The appellant failed to state a claim.

(4) The department or the MCE has not taken an action or made a benefit determination adverse to the appellant.

(5) The department or MCE reversed its action or adverse benefit determination.

(6) The request for a state fair hearing was submitted by an individual or entity without documentation of authorization from the appellant.

(7) The appellant challenges the validity of or states a disagreement with federal or state law, regulation, or policy. The department shall not submit a written motion to dismiss for a state fair hearing request in which the appellant is challenging an incorrect computation or determination by the department or the MCE using the law, regulation, or policy.

(8) The department or the MCE has taken an action required by federal or state law or regulation, including an automatic or mandated adjustment that is applied to a class of enrollees or providers that included the appellant. The department shall not submit a written motion to dismiss for a state fair hearing request in which the appellant is challenging an incorrect computation or determination by the department or the MCE using the law, regulation, or policy.

(9) The secretary or the department has taken an action required by the governor of the state of Kansas that is applied to a class of providers that included the appellant.

(b) Any written motion to dismiss may be filed with the presiding officer by the department or the department's designee who has been delegated authority to file the motion.

(c) If the motion to dismiss is denied, the presiding officer shall file notification of the denial.

(d) If the department or the MCE seeks to dismiss a state fair hearing on the basis that the action or adverse benefit determination being appealed is based on federal or state law, regulations, or policy, including an action or adverse benefit determination based upon changes in federal or state law, regulations, or policy, and the action or adverse benefit determination made by the department or the MCE shall result in the termination, suspension, or reduction of covered services, the covered services shall continue until a decision concerning the request for dismissal is rendered. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-21. Presiding officer; decisions. (a) The presiding officer shall conduct a state fair hearing requested by an appellant concerning an action or a decision by the external independent third-party reviewer.

(b) The presiding officer assigned to administer the state fair hearing shall weigh the evidence and determine the facts and conclusions of law pertinent to the state fair hearing.

(c) The presiding officer shall determine the facts and conclusions of law based on supporting and detracting testimony, documents, statutes, regulations, the state plan and its amendments, and policies allowed into the record of the state fair hearing by the presiding officer.

(d) The presiding officer shall control the state fair hearing. Unless preempted by federal or state law, the presiding officer conducting a state fair hearing under this article of the division's regulations shall use KAPA and may use Kansas civil procedure in the state fair hearing as needed.

(e) The presiding officer shall determine the basis for the state fair hearing.

(f) For state fair hearings that do not involve a decision by the external independent third-party reviewer, the presiding officer shall determine whether the action taken by the respondent is due to a correct interpretation of the applicable statute, regulation, or policy. If the presiding officer determines the state fair hearing in favor of the respondent, the presiding officer shall affirm the action of the respondent. If the presiding officer determines the state fair hearing in favor of the appellant, the remedy ordered by the presiding officer shall be limited to orders that are within the lawful authority of the secretary to execute.

(g) For state fair hearings that involve a decision by the external independent third-party reviewer, the presiding officer shall determine whether the decision made by the external independent third-party reviewer is due to a correct interpretation of the applicable statute, regulation, or policy.

(1) If the presiding officer determines the state fair hearing in favor of the respondent and the respondent is the department, the remedy ordered by the presiding officer shall be limited to orders that affirm the department's action or denial of an authorization for a new healthcare service to the enrollee reviewed by the external independent third-party reviewer. If the presiding officer determines the state fair hearing in favor of the appellant and the appellant is a provider, the remedy ordered by the presiding officer shall be limited to orders that reverse the department's action or denial of an authorization for a new healthcare service reviewed by the external independent third-party reviewer. The presiding officer shall issue orders that are within the lawful authority of the secretary to execute.

(2) If the presiding officer determines the state fair hearing in favor of the respondent and the respondent is a provider, the remedy ordered by the presiding officer shall be limited to orders that reverse the department's action or denial of an authorization for a new healthcare service to the enrollee reviewed by the external independent third-party reviewer. If the presiding officer determines the state fair hearing in favor of the appellant and the appellant is a department, the remedy ordered by the presiding officer shall be limited to orders that affirm the department's action or denial of an authorization for a new healthcare service reviewed by the external independent third-party reviewer. The presiding officer shall issue orders that are within the lawful authority of the secretary to execute. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-22. Rehearing. (a) Any party, within 15 days after service of the presiding officer's decision, may file a petition for rehearing stating the specific grounds upon which the rehearing of the presiding officer's decision is requested.

(b) The presiding officer may grant a rehearing to either party on all or part of the issues when it appears that the rights of the party are substantially affected for any of the following reasons:

(1) An erroneous ruling by the presiding officer;

(2) a decision that, in whole or in part, is contrary to the evidence;

(3) newly discovered evidence that the moving party could not with reasonable diligence have discovered or produced at the hearing; or

(4) fraud, misrepresentation, or misconduct by an opposing party resulting in the order or proceeding.

(c) The filing of a petition for rehearing is not a prerequisite for review at any stage of the proceedings. The filing of a petition for rehearing does not stay any time limits or further proceedings that may be conducted under the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto, or any other provision of law.

(d) Once an initial order has been rendered, relief may be sought only through a petition for review to the secretary or the state appeals committee. (Authorized by K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-23. Relief from preliminary or prehearing order. (a) During the pendency of a state fair hearing proceeding and before the rendering of the initial order by the presiding officer, any party to the state fair hearing proceeding may file with the presiding officer a motion for review of the ruling made by the presiding officer, stating the specific grounds upon which the review of the presiding officer's decision is requested.

(b) The presiding officer may relieve a party or its legal representative from order or proceeding for any of the following reasons:

(1) An erroneous ruling by the presiding officer;

(2) a decision that, in whole or in part, is contrary to the evidence;

(3) newly discovered evidence that the moving party could not with reasonable diligence have discovered or produced at the state fair hearing; or

(4) fraud, misrepresentation, or misconduct by an opposing party resulting in the order or proceeding.

(c) The filing of a motion for review under this regulation shall not be a prerequisite for review at any stage of the proceedings. The filing of a motion for review shall not affect any time limits or further proceedings that may be conducted under KAPA or any other provision of law. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-24. Transcripts. (a) If a transcript of a state fair hearing is requested, the requestor shall receive a digital recording from the presiding officer. A transcript of the state fair hearing may be prepared by a certified court reporter if requested by an appellant, the department, the presiding officer, the state appeals committee, or the secretary. The party requesting the transcript or review of the presiding officer's decision shall pay any costs associated in obtaining a transcript.

(b) If an appellant requests a transcript and signs a poverty affidavit, the costs of transcribing the recording shall be paid by the department.

(c) A transcript shall be prepared as required by K.S.A. 77-620, and amendments thereto, and have a signed certification on all copies as follows: "This is to certify that [Name of presiding officer] conducted a state fair hearing involving [Name of appellant] in [County], state of Kansas, on [Date] at [Time] and that the foregoing is a true and correct transcript of the record of the state fair hearing. [Signature of reporter]." (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

129-9-25. Review of an initial order or final order. (a) Any initial order may be reviewed by the secretary by giving notice of intent to do so and identifying the issues to be reviewed. This review shall include any proposed default order that becomes effective.

(1) Any party to a state fair hearing may request a review of the initial order within 15 days of the date the presiding officer served the order upon the parties pursuant to K.S.A. 77-527, and amendments thereto. When the order is served by U.S. mail or electronic means, three days shall be added to the 15-day review request period. The initial order may be reviewed by the secretary or the state appeals committee.

(2) Upon written request, authority may be granted by the secretary or the state appeals committee for the submission of additional written briefs or arguments that would assist in their deliberations.

(3) If the parties submit new evidence during the review of the initial order, the state appeals committee shall have discretion to remand the matter to the presiding officer for consideration of the new evidence if the new evidence could not have been presented during the state fair hearing.

(4) The decision from the secretary or the state appeals committee shall be the final order.

(5) The final order of the secretary or the state appeals committee shall be effective upon service unless stated otherwise in the final order or unless a stay has been granted pursuant to K.S.A. 77-528, and amendments thereto.

(b) Any final order may be reconsidered by the secretary in accordance with K.S.A. 77-529, and amendments thereto.

(c) The record, as defined in K.S.A. 77-532 and amendments thereto, shall be the basis for the review of the initial order or final order by the secretary or the state appeals committee.

(d) This regulation shall not apply to orders concerning determinations by skilled nursing facilities and nursing facilities to transfer or discharge a resident since the secretary is not the respondent. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective Dec. 27, 2024.)

Janet Stanek
Secretary
Department of Health and Environment

Doc. No. 052719

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended, and revoked administrative regulations with a future effective date and the *Kansas Register* issue in which the regulation can be found. A complete listing and the complete text of all currently effective regulations required to be published in the *Kansas Administrative Regulations* can be found at https://www.sos.ks.gov/publications/pubs_kar.aspx.

AGENCY 4: DEPARTMENT OF AGRICULTURE

Reg. No.	Action	Register
4-15-5	Amended (T)	V. 43, Issue 42
4-15-7	Amended (T)	V. 43, Issue 42

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 *Kansas Register*. A list of regulations filed from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 *Kansas Register*. A list of regulations filed from 2004 through 2005 can be found in the Vol. 24, No. 52, December 29, 2005 *Kansas Register*. A list of regulations filed from 2006 through 2007 can be found in the Vol. 26, No. 52, December 27, 2007 *Kansas Register*. A list of regulations filed from 2008 through November 2009 can be found in the Vol. 28, No. 53, December 31, 2009 *Kansas Register*. A list of regulations filed from December 1, 2009, through December 21, 2011, can be found in the Vol. 30, No. 52, December 29, 2011 *Kansas Register*. A list of regulations filed from December 22, 2011, through November 6, 2013, can be found in the Vol. 32, No. 52, December 26, 2013 *Kansas Register*. A list of regulations filed from November 7, 2013, through December 31, 2015, can be found in the Vol. 34, No. 53, December 31, 2015 *Kansas Register*. A list of regulations filed from 2016 through 2017, can be found in the Vol. 36, No. 52, December 28, 2017 *Kansas Register*. A list of regulations filed from 2018 through 2019, can be found in the Vol. 38, No. 52, December 26, 2019 *Kansas Register*. A list of regulations filed from 2020 through 2021, can be found in the Vol. 40, No. 52, December 30, 2021 *Kansas Register*. A list of regulations filed from 2022 through 2023 can be found in the Vol. 42, No. 52, December 28, 2023 *Kansas Register*.

Reg. No.	Action	Register
111-2-331	New	V. 43, Issue 46
111-4-3547	Amended	V. 43, Issue 31
111-4-3771	New	V. 43, Issue 5
111-4-3772	New	V. 43, Issue 11
111-4-3773	New	V. 43, Issue 12
111-4-3774	New	V. 43, Issue 14
111-4-3775	New	V. 43, Issue 29
111-4-3776	New	V. 43, Issue 29
111-4-3777	New	V. 43, Issue 29
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111-4-3795	New	V. 43, Issue 36
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111-4-3813	New	V. 43, Issue 46
111-4-3814	New	V. 43, Issue 46
111-4-3815	New	V. 43, Issue 46
111-4-3816	New	V. 43, Issue 46
111-4-3817	New	V. 43, Issue 46
111-4-3818	New	V. 43, Issue 46
111-5-23	Amended	V. 43, Issue 46
111-5-24	Amended	V. 43, Issue 46
111-5-28	Amended	V. 43, Issue 46
111-5-30	Amended	V. 43, Issue 46
111-9-233	New	V. 43, Issue 5
111-9-234	New	V. 43, Issue 12
111-9-235	New	V. 43, Issue 45
111-9-236	New	V. 43, Issue 45
111-9-237	New	V. 43, Issue 45
111-15-1	Amended	V. 43, Issue 31
111-15-3	Amended	V. 43, Issue 31
111-18-5	Amended	V. 43, Issue 12
111-19-169	New	V. 43, Issue 5
111-19-170	New	V. 43, Issue 12
111-19-171	New	V. 43, Issue 12
111-19-172	New	V. 43, Issue 12
111-19-173	New	V. 43, Issue 12
111-19-174	New	V. 43, Issue 14
111-19-175	New	V. 43, Issue 14
111-19-176	New	V. 43, Issue 14
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111-19-180	New	V. 43, Issue 29
111-19-181	New	V. 43, Issue 30
111-19-182	New	V. 43, Issue 30
111-19-183	New	V. 43, Issue 31
111-19-184	New	V. 43, Issue 36
111-19-185	New	V. 43, Issue 45
111-19-186	New	V. 43, Issue 45
111-19-187	New	V. 43, Issue 45
111-19-188	New	V. 43, Issue 45
111-19-189	Amended	V. 43, Issue 47
111-19-190	New	V. 43, Issue 45
111-19-191	New	V. 43, Issue 45
111-19-192	New	V. 43, Issue 46
111-19-193	New	V. 43, Issue 47
111-19-194	New	V. 43, Issue 47
111-19-195	New	V. 43, Issue 47
111-20-1	New	V. 43, Issue 5
111-20-2	New	V. 43, Issue 5
111-20-3	New	V. 43, Issue 5
111-20-4	New	V. 43, Issue 5
111-20-5	New	V. 43, Issue 5
111-20-6	New	V. 43, Issue 5
111-20-7	New	V. 43, Issue 5
111-20-8	New	V. 43, Issue 5
111-20-9	New	V. 43, Issue 5
111-20-10	New	V. 43, Issue 5
111-20-11	New	V. 43, Issue 5
111-20-12	New	V. 43, Issue 5
111-20-13	New	V. 43, Issue 5
111-20-14	New	V. 43, Issue 5
111-20-15	New	V. 43, Issue 5
111-20-16	New	V. 43, Issue 5
111-20-17	New	V. 43, Issue 5
111-20-18	New	V. 43, Issue 5
111-20-19	New	V. 43, Issue 5
111-20-20	New	V. 43, Issue 5
111-20-21	New	V. 43, Issue 5
111-20-22	New	V. 43, Issue 5
111-20-23	New	V. 43, Issue 5
111-21-1	New	V. 43, Issue 11
111-21-2	New	V. 43, Issue 11
111-21-3	New	V. 43, Issue 11
111-21-4	New	V. 43, Issue 11
111-21-5	New	V. 43, Issue 11
111-21-6	New	V. 43, Issue 11
111-21-7	New	V. 43, Issue 11
111-21-8	New	V. 43, Issue 11
111-21-9	New	V. 43, Issue 11
111-21-10	New	V. 43, Issue 11
111-21-11	New	V. 43, Issue 45
111-21-12	New	V. 43, Issue 45
111-21-13	New	V. 43, Issue 45
111-21-14	New	V. 43, Issue 45
111-22-1	New	V. 43, Issue 36
111-22-2	New	V. 43, Issue 36
111-22-3	New	V. 43, Issue 36
111-22-4	New	V. 43, Issue 36
111-22-5	New	V. 43, Issue 36
111-22-6	New	V. 43, Issue 36
111-22-7	New	V. 43, Issue 36
111-22-8	New	V. 43, Issue 36
111-22-9	New	V. 43, Issue 36
111-22-10	New	V. 43, Issue 36
111-22-11	New	V. 43, Issue 36
111-22-12	New	V. 43, Issue 36
111-22-13	New	V. 43, Issue 36
111-23-1	New	V. 43, Issue 36
111-23-2	New	V. 43, Issue 36
111-23-3	New	V. 43, Issue 36
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111-23-5	New	V. 43, Issue 45
111-23-6	New	V. 43, Issue 45
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111-313-5	New	V. 43, Issue 47
111-313-6	New	V. 43, Issue 47
111-501-68	Amended	V. 43, Issue 45
111-501-113	Amended	V. 43, Issue 11
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112-201-4	New (T)	V. 42, Issue 44	112-201-17	New (T)	V. 42, Issue 44	112-203-5	New (T)	V. 42, Issue 44
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112-201-12	New (T)	V. 42, Issue 44	112-202-2	New (T)	V. 42, Issue 44	112-204-5	New (T)	V. 42, Issue 44
112-201-13	New (T)	V. 42, Issue 44	112-203-1	New (T)	V. 42, Issue 44	112-204-6	New (T)	V. 42, Issue 44
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