

House Substitute for SENATE BILL No. 126

AN ACT concerning health and healthcare; relating to the Kansas department of health and environment; establishing an advance universal newborn screening program; providing for the reimbursement of certain treatment services; authorizing the secretary of health and environment to specify conditions included in newborn screenings; extending the transfer of moneys to the Kansas newborn screening fund; increasing state financial assistance to local health departments under certain circumstances; increasing the annual assessment on services rate on inpatient and outpatient revenue and expanding exemptions for such assessment; amending K.S.A. 65-181, 65-183, 65-242 and 65-6210 and K.S.A. 2024 Supp. 65-180, 65-6208 and 65-6209 and repealing the existing sections.

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

Section 1. K.S.A. 2024 Supp. 65-180 is hereby amended to read as follows: 65-180. *There is hereby established an advance universal newborn screening program to be administered by the secretary of health and environment. The secretary of health and environment shall:*

(a) Institute and carry on an intensive educational program among physicians, *mid-level practitioners, as defined in K.S.A. 65-1626, and amendments thereto*, hospitals, public health nurses and the public concerning ~~congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases detectable with the same specimen conditions identified by the secretary in accordance with subsection (i).~~ This educational program shall include information about the nature of such conditions and examinations for the detection thereof in early infancy in order that measures may be taken to prevent intellectual disability, *physical disability* or morbidity resulting from such conditions.

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

(c) Provide a follow-up program by providing test results and other information to identified physicians *or mid-level practitioners as defined in K.S.A. 65-1626, and amendments thereto*; locate infants with abnormal newborn screening test results; with parental consent, monitor infants to assure appropriate testing to either confirm or not confirm the disease suggested by the screening test results; with parental consent, monitor therapy and treatment for infants with confirmed diagnosis of ~~congenital hypothyroidism, galactosemia, phenylketonuria or other genetic diseases being screened under this statute; conditions identified by the secretary in accordance with subsection (i)~~ and establish ongoing education and support activities for individuals with confirmed diagnosis of ~~congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases being screened under this statute and for the families of such individuals such conditions.~~

(d) Maintain a registry of cases including information of importance for the purpose of follow-up services to ~~prevent intellectual support early diagnosis, treatment and services for healthy development and the prevention of~~ disability or morbidity.

(e) Provide, within the limits of appropriations available therefor, the necessary treatment product for diagnosed ~~eases conditions identified by the secretary in accordance with subsection (i)~~ for as long as medically indicated, ~~when and~~ the product is not available through other state agencies. ~~In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed ease under this subsection. Where~~ If the applicable income of the person or persons who have legal responsibility for the diagnosed individual meets medicaid eligibility, such ~~individuals~~

individual's needs shall be covered under the medicaid state plan. ~~Where~~ *If* the applicable income of the person or persons who have legal responsibility for the diagnosed individual is not medicaid eligible, but is below 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of between 50% to 100% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment. ~~Where~~ *If* the applicable income of the person or persons who have legal responsibility for the diagnosed individual exceeds 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of an amount not to exceed 50% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment.

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

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

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

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

(h) The department of health and environment shall continue to receive orders for both *medically* necessary treatment products and *medically* necessary food treatment products, purchase such products, and ~~shall deliver the such~~ products to an address prescribed by the diagnosed individual. The department of health and environment shall bill the person or persons who have legal responsibility for the

diagnosed ~~patient~~ *individual* for a pro-rata share of the total costs, in accordance with the rules and regulations adopted pursuant to this section.

(i) The secretary of health and environment shall adopt rules and regulations as needed to require, to the extent of available funding, newborn screening tests to screen for treatable ~~disorders~~ *conditions*. *The secretary shall determine and identify the conditions to be included in the newborn screening tests, which may include, but not be limited to, conditions listed in the ~~core-recommended~~ uniform screening panel of newborn screening conditions recommended in the 2005 report by the American college of medical genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" issued by the United States secretary of health and human services or another report determined by the department of health and environment to provide more appropriate newborn screening guidelines to protect the health and welfare of newborns for treatable ~~disorders~~ *conditions*.*

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

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

(l) There is hereby established in the state treasury the Kansas newborn screening fund ~~that~~, *which* shall be administered by the secretary of health and environment. All expenditures from the fund shall be for the newborn screening program. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee. On July 1 of each year, the director of accounts and reports shall determine the amount credited to the medical assistance fee fund pursuant to K.S.A. 40-3213, and amendments thereto, and shall transfer the estimated portion of such amount that is necessary to fund the newborn screening program for the ensuing fiscal year as certified by the secretary of health and environment or the secretary's designee to the Kansas newborn screening fund. Such amount shall not exceed \$5,000,000 ~~in fiscal years 2024, 2025 and 2026~~.

Sec. 2. K.S.A. 65-181 is hereby amended to read as follows: 65-181. (a) The administrative officer or other person in charge of each institution or the attending physician *or mid-level practitioner*, caring for infants 28 days of age or younger shall have administered to every such infant or child in its or such *institution's, mid-level practitioner's or physician's* care, tests for ~~congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases which may be detected with the same specimen~~ *conditions identified by the secretary of health and environment under K.S.A. 65-180(i), and amendments thereto*, in accordance with rules and regulations adopted by the secretary of health and environment.

(b) *As used in this section, "mid-level practitioner" means the same as defined in K.S.A. 65-1626, and amendments thereto.*

Sec. 3. K.S.A. 65-183 is hereby amended to read as follows: 65-183. (a) Every physician *or mid-level practitioner* having knowledge of a case of ~~congenital hypothyroidism, galactosemia or phenylketonuria and other genetic diseases as may be detected with tests given pursuant to this act~~ *a condition identified by the secretary of health and*

environment under K.S.A. 65-180(i), and amendments thereto, in one of such physician's or mid-level practitioner's own patients shall report the case to the secretary of health and environment on forms provided by the secretary.

(b) *As used in this section, "mid-level practitioner" means the same as defined in K.S.A. 65-1626, and amendments thereto.*

Sec. 4. K.S.A. 65-242 is hereby amended to read as follows: 65-242. For the purpose of ~~insuring~~ *ensuring* that adequate public health services are available to all inhabitants of the state of Kansas, the state shall assist in the financing of the operation of local health departments. Subject to appropriations therefor, state financial assistance shall be distributed to local health departments as follows:

(a) First, each local health department shall, upon application therefor, receive ~~\$7,000~~ *\$12,000*. If sufficient funds are not available to make this distribution, then the funds ~~which~~ *that* are available shall be divided equally among those local health departments making application therefor.

(b) Second, if any funds are available after the distribution required in subsection (a), the secretary shall distribute such funds as follows:

(1) A figure equal to the total amount of state financial assistance available for distribution, before deduction for the distribution in subsection (a), shall be determined.

(2) The figure determined in paragraph (1) ~~of this subsection~~ shall be allocated to local health departments making application for assistance based on the proportion that the population of the county or counties comprising the local health department applying for such assistance bears to the total population of all counties comprising local health departments ~~which~~ *that* have applied for such financial assistance.

(3) If any local health department making application for assistance ~~would receive~~ *receives* an amount equal to or less than ~~\$7,000~~ *\$12,000* using the formula in paragraph (2) ~~of this subsection~~, then such department shall be paid in accordance with subsection (a) ~~only~~. If any local health department making application for assistance ~~would receive~~ *receives* more than ~~\$7,000~~ *\$12,000* using the formula in paragraph (2) ~~of this subsection~~, then such department shall be paid based on the proportion that the population served by the county or counties comprising such local health department bears to the total population of all counties comprising local health departments ~~which~~ *that* have made application for assistance, except for departments receiving funds under subsection (a), except that in no case shall the assistance distributed under this subsection ~~(b)~~ to a local health department exceed the amount that the local health department receives from local tax revenues for the county fiscal year in which the state financial assistance is paid.

(c) If local tax revenues allotted to a local health department for a fiscal year fall below the level of local tax revenues allotted to the local health department for the preceding fiscal year, the amount of state financial assistance under this act for which such local health department is eligible for the fiscal year shall be reduced by a percentage equal to the percentage of reduction in local tax revenue for that fiscal year.

Sec. 5. K.S.A. 2024 Supp. 65-6208 is hereby amended to read as follows: 65-6208. (a) Subject to the provisions of K.S.A. 65-6209, and amendments thereto, an annual assessment on services is imposed on each hospital provider in an amount ~~not less than 1.83% of each hospital's net inpatient operating revenue and not greater than 3%~~ *6%* of each hospital's net inpatient and outpatient operating revenue, as

determined by the healthcare access improvement panel in consultation with the department of health and environment, for the hospital's fiscal year three years prior to the assessment year. In the event that a hospital does not have a complete 12-month fiscal year in such third prior fiscal year, the assessment under this section shall be \$200,000 until such date that such hospital has completed the hospital's first 12-month fiscal year. Upon completing such first 12-month fiscal year, such hospital's assessment under this section shall be the amount ~~not less than 1.83%~~ of each hospital's net inpatient operating revenue and not greater than ~~3%~~ 6% of such hospital's net inpatient and outpatient operating revenue, as determined by the healthcare access improvement panel in consultation with the department of health and environment, for such first completed 12-month fiscal year.

(b) Nothing in this act shall be construed to authorize any home rule unit or other unit of local government to license for revenue or impose a tax or assessment upon hospital providers or a tax or assessment measured by the income or earnings of a hospital provider.

~~(c) (1) The department of health and environment shall submit to the United States centers for medicare and medicaid services any approval request necessary to implement the amendments made to subsection (a) by section 1 of chapter 7 of the 2020 Session Laws of Kansas and this act. If the department has submitted such a request pursuant to section 80(1) of chapter 68 of the 2019 Session Laws of Kansas or section 1 of chapter 7 of the 2020 Session Laws of Kansas, then the department may continue such request, or modify such request to conform to the amendments made to subsection (a) by section 1 of chapter 7 of the 2020 Session Laws of Kansas and this act, to fulfill the requirements of this paragraph.~~

~~(2) The secretary of health and environment shall certify to the secretary of state the receipt of such approval and cause notice of such approval to be published in the Kansas register.~~

~~(3) The amendments made to subsection (a) by section 1 of chapter 7 of the 2020 Session Laws of Kansas and this act shall take effect on and after January 1 or July 1 immediately following such publication of such approval.~~

Sec. 6. K.S.A. 2024 Supp. 65-6209 is hereby amended to read as follows: 65-6209. (a) A hospital provider that is a state agency, the authority, as defined in K.S.A. 76-3304, and amendments thereto, a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, a critical access hospital, as defined in K.S.A. 65-468, and amendments thereto, *with revenues below the threshold determined by the healthcare access improvement panel*, or a rural emergency hospital licensed under the rural emergency hospital act, K.S.A. 2024 Supp. 65-481 et seq., and amendments thereto, *with revenues below the threshold determined by the healthcare access improvement panel*, is exempt from the assessment imposed by K.S.A. 65-6208, and amendments thereto.

(b) A hospital operated by the department in the course of performing its mental health or developmental disabilities functions is exempt from the assessment imposed by K.S.A. 65-6208, and amendments thereto.

Sec. 7. K.S.A. 65-6210 is hereby amended to read as follows: 65-6210. (a) The assessment imposed by K.S.A. 65-6208, and amendments thereto, for any state fiscal year to which this statute applies shall be due and payable in equal installments on or before ~~June~~ *May 30 and December 31* *November 30*, commencing with whichever date first occurs after the hospital has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services. No installment payment of

an assessment under this act shall be due and payable, ~~however~~, until after:

(1) The hospital provider receives written notice from the department that the payment methodologies to hospitals required under this act have been approved by the centers for medicare and medicaid services of the United States department of health and human services under 42 C.F.R. § 433.68 for the assessment imposed by K.S.A. 65-6208, and amendments thereto, has been granted by the centers for medicare and medicaid services of the United States department of health and human services; and

(2) in the case of a hospital provider, the hospital has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.

(b) The department is authorized to establish delayed payment schedules for hospital providers that are unable to make installment payments when due under this section due to financial difficulties, as determined by the department.

(c) If a hospital provider fails to pay the full amount of an installment when due, including any extensions granted under this section, there shall be added to the assessment imposed by K.S.A. 65-6208, and amendments thereto, unless waived by the department for reasonable cause, a penalty assessment equal to the lesser of:

(1) An amount equal to 5% of the installment amount not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each month thereafter; or

(2) an amount equal to 100% of the installment amount not paid on or before the due date.

For purposes of *this* subsection ~~(e)~~, payments ~~will~~ *shall* be credited first to unpaid installment amounts, rather than to penalty or interest amounts, beginning with the most delinquent installment.

(d) *The department is authorized to take legal action against any hospital that fails to pay the amount due, including penalties, upon recommendation of the healthcare access improvement program panel, unless such hospital has established and is compliant with a payment schedule approved by the department.*

(e) The effective date for the payment methodology applicable to hospital providers approved by the centers for medicare and medicaid services shall be the date of July 1 or January 1, whichever date is designated in the state plan submitted by the department of health and environment for approval by the centers for medicare and medicaid services.

Sec. 8. K.S.A. 65-181, 65-183, 65-242 and 65-6210 and K.S.A. 2024 Supp. 65-180, 65-6208 and 65-6209 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.