

Kansas Administrative Regulations

Kansas Department for Children and Families

Article 4.—Public Assistance Program

30-4-106. General rules for consideration of resources, including real property, personal property, and income.

(a) For purposes of determining eligibility for assistance, ownership of property shall be determined by legal title. In the absence of a legal title, ownership shall be determined by possession.

(b) Resources, to be real, shall be of a nature that the value can be defined and measured. The value of resources shall be established by the objective measurements set forth in paragraphs (1) and (2) below.

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property, which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value as determined above is not satisfactory to the applicant or recipient or the agency, an estimate or appraisal of its value shall be obtained from a disinterested real estate broker. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(2) Personal property. The market value of personal property shall be initially determined by a reputable trade publication. If a publication is not available, or if there is a difference of opinion regarding the value of the property between the applicant or recipient and the agency, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(c) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available. A resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would exceed the resource value of the property or that it is unlikely the applicant or recipient would succeed in the legal action.

(d) The resource value of property shall be that of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly owned real property and the full value of jointly owned personal property shall be considered available to the applicant or recipient. Resources held jointly with a non-legally responsible person may be excluded from consideration if the applicant or recipient can demonstrate that the applicant or recipient has no ownership interest in the resource, that the applicant or recipient has not contributed to the resource, and that any access to the resource by the applicant or recipient is limited to acting as an agent for the other person.

(e) Except as provided in subsection (h) and (l), nonexempt resources of all persons in the assistance plan and the nonexempt resources of persons who have been excluded from the assistance plan pursuant to K.A.R. 30-4-70(e)(3) and 30-4-90(a)(3) shall be considered.

(f) Except as provided in subsection (h), the combined resources of husband and wife, if they are living together, shall be considered in determining the eligibility of either or both for assistance, unless otherwise prohibited by law. A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of one of the couple for education or training, working, securing medical treatment, or visiting shall not be considered to interrupt the couple's living together.

(g) Despite subsections (e) and (f), the resources of an SSI beneficiary shall not be considered in the determination of eligibility for assistance of any other person, except for funeral assistance.

(h) The resources of an alien sponsor and the sponsor's spouse shall be considered in determining eligibility for the alien.

(i) A conversion of real or personal property from one form of a resource to another shall not be considered as income for the applicant or recipient except for the proceeds from a contract for the sale of property.

(j) Income shall not be considered both as income and as property in the same month.

(k) Despite subsection (e) above, the resources of a child whose needs are met through foster care payments shall not be considered.

(l) This regulation shall take effect on and after October 1, 1997.

(Authorized by K.S.A. 1996 Supp. 39-708c; implementing K.S.A. 1996 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-20, Sept. 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended March 1, 1997; amended Oct. 1, 1997.)

***** Authenticated Kansas Administrative Regulation *****