Kansas Administrative Regulations

Kansas Department for Children and Families

Article 4.—Public Assistance Program

30-4-130. Types of payments and payees.

Public assistance payments shall be issued in accordance with this regulation.

(a) Money payment.

(1) Payments shall be available through the state electronic benefit transfer system or, in certain circumstances, by check or written order immediately redeemable at face value. Payments shall be made with no restriction on the use of the funds, except TANF payments.

(2) All payments shall be money payments, except for the following types of payments:

(A) Payments pursuant to the foster care programs; and

(B) work program support costs and transitional expenses in accordance with K.A.R. 30-4-64 (c) and (d).

(b) Who may receive money payments. The following persons may receive money payments:

(1) A caretaker;

(2) a recipient;

(3) a personal representative;

(4) a substitute payee;

(5) a protective payee; or

(6) an emancipated minor who meets the requirements in K.A.R. 30-4-52.

(c) Protective payments in the TANF program.

(1) If any caretaker repeatedly mismanages the money payment to the detriment of any child for whom assistance is claimed and if an approved service plan is on file, a protective payment, in lieu of a money payment to the caretaker, shall be issued to a protective payee.

(2) If a caretaker has refused to undergo drug testing or has tested positive for illegal use of a controlled substance, a protective payee shall be named to administer the caretaker's cash benefit for each remaining household member.

(d) Substitute payee.

(1) Appointment and dismissal. Each substitute payee shall be appointed as assisted by the department. The substitute payee may be terminated by the department if the payee's services are no longer needed or if the payee is not giving satisfactory service.

(2)(A) Who may be substitute payee. An individual selected to be a substitute payee may be a relative, friend, neighbor, or member of a religious or community organization. The following persons shall not serve as substitute payees:

(i) Any staff member of the department, unless there is a direct familial relationship;

(ii) the landlord, grocers, or vendors of goods or services dealing directly with the client; or

(iii) another adult residing in the household.

(e) Protective payee.

(1) A protective payee may be selected by the household. If the household does not name a suitable protective payee, the protective payee may be selected by the department.

(2)(A) Who may be a protective payee. An individual selected to be a protective payee may be a relative, friend, neighbor, or member of a religious or community organization. The following persons shall not serve as protective payees:

(i) Any staff from the department, unless there is a direct familial relationship;

(ii) the landlord, grocers, or vendors of goods or services dealing directly with the client; and

(iii) another adult residing in the household.

(B) Exception. Payments may be made to a foster parent on behalf of a minor living in a foster care home with the minor's child in order to provide TANF for the child. The foster care home shall be licensed or approved as meeting licensing standards. This provision shall not be used in any other kind of public assistance case and may continue until the minor is released from custody of the department or becomes emancipated.

(3) Criteria for selection. Each protective payee shall demonstrate the following characteristics:

(A) An interest in and concern for the welfare of the family;

(B) the ability to help the family with ordinary budgeting, experience in purchasing food, clothing, and household equipment within a limited income, and knowledge of effective household practices;

(C) the ability to establish and maintain a positive relationship;

(D) the ability to maintain close contacts with the caretaker and child by virtue of living near the caretaker or having transportation available; and

(E) responsibility and dependability.

(4) Payee-recipient relationship. Any payee may make decisions about the expenditure of the assistance payment. The payee may expend the payment in any of the following ways:

(A) Spend the money for the family;

(B) supervise the recipient's use of the money; or

(C) give a portion of the money to the recipient to spend for certain expenses and pay for other expenses of the recipient.

(5) Payee-department relationship. Each payee shall ensure that the money is spent for the children's benefit. The payee's responsibility to the department shall be specified in writing with one copy for the payee and one for the department.

(A) This written agreement shall cover the following areas:

(i) The plans for accounting;

(ii) use of the assistance funds; and

(iii) reporting on the general progress made.

(B) The agreement shall be supplemented by the following:

(i) Discussions of the payee's responsibility;

(ii) a statement of the purpose of the plan;

(iii) a description of the nature and frequency of reports;

(iv) a statement of the rights of the recipient; and

(v) a statement of the confidential nature of the relationship.

(6) Periodic review of cases. Each money payment mismanagement case shall be reviewed at least every six months to determine which of the following actions will be taken:

(A) Restore the recipient to regular money payment status;

(B) continue the recipient on protective payment status; or

(C) develop another plan for the care of the child or children if necessary, including any of the following options:

(i) Placement with another relative;

(ii) seeking appointment of a guardian; or

(iii) placement in a foster home.

(7) Discontinuance of protective payments. Protective payments shall be discontinued when the caretaker has demonstrated an ability to manage the money payment or after a period of two years has lapsed, whichever comes first. Payment may continue for any additional time reasonably necessary to complete a substitute plan for the care of the child.

(8) Discontinuance of protective payments. Protective payments shall be discontinued under either of the following conditions:

(A) The individual who failed to complete a drug test completes that person's period of ineligibility, submits to a drug test, and has a negative result for illegal controlled substances.

(B) The individual who tested positive for an illegal controlled substance successfully completes the requirements to regain eligibility for cash assistance.

(f) Special personal representative. A petition for the appointment of a personal representative shall be filed by the department pursuant to K.S.A. 59-2801, and amendments thereto, only if the need for an appointment is clearly established and the department has counseled the applicant or recipient concerning the money management problems. Confidential reports shall be filed by the department with the appropriate court as requested.

(1) Appointment of personal representative. A person who meets the following requirements shall be recommended to the court as a personal representative by the department:

(A) The person shall not be an employee of the department.

(B) The person shall not benefit directly from the assistance payment.

(C) The person shall meet the criteria in paragraph (d)(2)(A).

(2) Dismissal of personal representative. A recommendation to the court to dismiss a personal representative shall be made by the department if the client demonstrates that the client no longer requires a personal representative, or if the personal representative is failing to execute the responsibilities specified in this regulation, in which instance a substitute personal representative shall be recommended by the department.

(3) Responsibility of personal representative. Each personal representative shall be responsible to the court, the department, and the recipient. Each personal representative shall make an annual accounting to both the court and the department. A more frequent accounting may be required by the department or the court in the form and at the times prescribed by the department or the court. Each personal representative shall maintain a confidential relationship with the applicant or recipient and shall consult with the applicant or recipient concerning the applicant's or recipient's requirements, resources, and the use of the money payment.

(4) Periodic review. The necessity of continuing the appointment of a personal representative shall be reviewed semiannually. Consideration shall be given to whether or not the recipient's ability to manage personal affairs has improved or if other changes in the recipient's circumstances or living arrangements make it possible for the recipient to manage without the help of a personal representative.

(Authorized by K.S.A. 2018 Supp. 39-708c; implementing K.S.A. 2018 Supp. 39-708c and K.S.A. 2018 Supp. 39-709; effective May 1, 1981; amended May 1, 1983; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-6-10-91, July 1, 1991; amended Oct. 1, 1993; amended July 1, 1996; amended March 1, 1997; amended May 3, 2019.)