129-14-2. Definitions. The terms defined in K.A.R. 129-1-1 shall be applicable to this article. In addition and for purposes of this article, each of the following terms shall have the meaning specified in this regulation, unless the context clearly indicates otherwise:

(a) "Capitated managed care" means health care services provided by a contracted provider for which payment is made on an approved contracted rate for each enrolled person assigned to the provider, regardless of the number or nature of the services provided.

(b) "Caretaker" means the person who is assigned the primary responsibility for the care and control of the child and who is any of the following persons:

(1) Parent, including parent of an unborn child;

(2) guardian, conservator, legal custodian, or person claiming the child as a tax dependent;

(3) sibling;

(4) nephew;

(5) niece;

(6) aunt;

(7) uncle;

(8) person of a preceding generation who is denoted by a term that includes any of the following prefixes: "grand," "great-," "great-great-," or "great-great-great-;"

(9) stepfather, stepmother, stepbrother, or stepsister;
(10) legally adoptive parent or another relative of adoptive parents as listed in this subsection; or

(11) spouse of any person listed in this subsection or former spouse of any of those persons, if marriage is terminated by death or divorce.

(c) “Child” means natural or biological child, adopted child, or stepchild, if the child is under the age of 19.

(d) “Earned income” means all income, in cash or in kind, that an applicant or recipient currently earns through the receipt of wages, salary, or profit from activities in which the individual engages as an employer or as an employee.

(e) “Family group” means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relationship.

(f) “Household size” means the number of persons counted as members of an individual’s tax household in accordance with K.A.R. 129-14-33. For each pregnant woman in the household, the household size shall include the woman and the number of children she is expected to deliver.

(g) “Legally responsible relative” means the person who has the legal responsibility to provide support for the person in the assistance plan.

(h) “Modified adjusted gross income” and “MAGI” mean income as defined in 26 U.S.C. 36D(d).

(i) “Parent” means natural or biological parent, adoptive parent, or stepparent.

(j) “Sibling” means natural or biological sibling, adopted sibling, half sibling, or stepsibling.
(k) "Tax dependent" means a dependent under 26 U.S.C. 152 for whom another individual claims a deduction for a personal exemption under 26 U.S.C. 151 for a taxable year.

(l) "Unearned income" means all income that is not earned income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, ________; effective P-__________.)
129-14-3. Providers. (a) Subject to provider availability, any recipient may be required to be enrolled in a managed care option in order to access covered program services.

(b) Managed care contractors shall be selected by the secretary from willing providers, as determined by the secretary or designees.

(c) Before signing a contract to provide services, each provider of capitated managed care shall demonstrate the ability to meet contract requirements, including providing or maintaining the following:

(1) Financial solvency;

(2) a panel of service providers, who shall meet the following requirements:

(A) Have professional credentials required by the state in which the services are provided;

(B) be in active practice;

(C) be available to provide services to program enrollees; and

(D) be able to provide services sensitive to the needs of a diverse population, including individuals of any race, ethnicity, or disability;

(3) a quality management process under 42 C.F.R. Part 438; and

(4) any other relevant requirements as determined by the secretary.

(d) Penalties for failure to abide by the contract provisions shall be imposed by the secretary, or other appropriate actions, as specified in the contract, may be taken.

(c) Each capitated managed care contractor shall be reimbursed at a rate agreed to by the secretary. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, __________; effective P-___________.)
129-14-20. Application process. (a) An application for kancare-CHIP shall be
made by an applicant or by another person authorized to act on the applicant’s behalf.

(b) An application for kancare-CHIP shall be made using a department-approved
form. The applicant or person authorized to act on behalf of the applicant shall sign the
application. Electronic signatures, including telephonically recorded signatures, and
handwritten signatures transmitted by any other electronic transmission shall be
acceptable. If any person signs by mark, the names and addresses of two witnesses shall
be required.

Each application shall be submitted on the state application web site or the
federally facilitated exchange web site, by telephone, in person, by mail, by electronic
mail, or by fax.

(c) If the department denies an application within 45 days of receipt of the
application and the applicant reapplies or provides required information within this 45-day
period, the application shall be reactivated. (Authorized by and implementing K.S.A. 2012
Supp. 65-1,254 and 75-7403; effective, T-__________, __________; effective
P-__________.)

ATTORNEY GENERAL
AUG 26 2013

DEPT. OF ADMINISTRATION
AUG 09 2013

APPROVED
129-14-21. Reenrollment process. (a) Each recipient shall reenroll for the program by providing the department with information on the recipient's current situation and having an opportunity to review the eligibility factors so that the department can redetermine the recipient's eligibility for coverage under the program.

(b) Each recipient shall complete the reenrollment process by either of the following:

(1) Reviewing and, if necessary, responding to information provided from the department's records, including information obtained through electronic data matching with other state or federal agencies; or

(2) completing and returning information on the recipient's current situation requested by the department.

(e) Each recipient shall reenroll for coverage at least once each 12 months or as often as a need for review is indicated. Coverage under the program shall not be provided for more than 12 months, unless the recipient completes the required reenrollment process.

(Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, __________; effective P-__________. )
129-14-23. Responsibilities of applicants and recipients. Each applicant or recipient shall meet the following requirements:

(a) Submit an application for medical assistance on a department-approved form. Any applicant may withdraw the application between the date the application is submitted and the date of the notice of the department’s decision;

(b) supply information essential to the determination of initial and continuing eligibility, insofar as the applicant or recipient is able to do so;

(c) give written permission for release of information, when needed;

(d) report each change in circumstances that could affect eligibility within 10 calendar days of the change or as otherwise required by the program. Changes to be reported shall include changes to income, living arrangement, household size, family group members, residency, alienage status, health insurance coverage, and employment;

(e) take all necessary action to obtain any income due the person; and

(f) except for children for whom a determination under presumptive medical assistance as defined in K.A.R. 129-14-51 has been made, request a fair hearing in writing if the individual is dissatisfied with any department decision or lack of action in regard to the application for or the receipt of assistance. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-_________, ________; effective P-________.).
129-14-25. Act on own behalf. (a) For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) “Emancipated minor” means either of the following:

(A) A person who is aged 16 or 17 and who is or has been married; or

(B) a person who is under the age of 18 and who has been given or has acquired the rights of majority through court action.

(2) “Medical facilitator” means a person authorized to help complete the application or reenrollment process on behalf of an applicant or recipient under written authorization made by the applicant or recipient. The medical facilitator may help with completing and submitting the application or reenrollment form, providing necessary information and verifications, and receiving copies of notices or other official communications from the department to the applicant or recipient. A medical facilitator shall not be authorized to apply for medical assistance on behalf of another person.

(3) “Medical representative” means a person who is authorized to act on behalf of an applicant or recipient under a written authorization made by the applicant or recipient and who is knowledgeable of the applicant’s or recipient’s financial holdings and circumstances.

(b) Each applicant or recipient shall be legally capable of acting on that individual’s own behalf.

(1) An incapacitated person aged 18 for whom a court has named a guardian or conservator shall not be eligible for kancare-CHIP, unless the named legal guardian or conservator applies for assistance on the person’s behalf.
(2) An incapacitated person aged 18 for whom a court has not named a guardian or conservator shall not be eligible for kancare-CHIP, unless a representative payee for the person’s social security benefits, a person with durable power of attorney for financial decisions for the individual, or a medical representative applies for assistance on the person’s behalf.

(3) Each emancipated minor shall be eligible to apply for and receive assistance under kancare-CHIP on that individual’s own behalf.

(4) An unemancipated minor shall not be deemed capable of acting on that individual’s own behalf and shall not be eligible to apply for or receive assistance under kancare-CHIP on that individual’s own behalf, except as specified in this paragraph. An unemancipated minor shall not be eligible unless a caretaker, representative payee for social security benefits, or other nonrelated responsible adult who is approved by the parent or legal guardian and who resides with the child applies for assistance on the minor’s behalf. However, an unemancipated minor may apply for or receive assistance on that individual’s own behalf if one of the following conditions exists:

(A) The parents of the minor are institutionalized.

(B) The minor has no parent who is living or whose whereabouts are known, and there is no other caretaker who is willing to assume parental control of the minor.

(C) The health and safety of the minor has been or would be jeopardized by remaining in the household with the minor’s parents or other caretakers. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-________, __________; effective P-_________.)
129-14-26. Residence. Each applicant or recipient shall be a resident of Kansas.
Temporary absence from a state with subsequent return to the state, or intent to return when the
purposes of the absence have been accomplished, shall not be considered to interrupt continuity
of residence. Residence shall be considered to be retained until abandoned or established in
another state. Residency shall be established as follows:

(a) For each individual who is not residing in an institution, capable of stating intent, and
either is emancipated from the individual’s parents or is married, the individual shall choose the
state of residence based on either of the following:

(1) The state in which the individual is living and intends to reside, including without a
permanent address; or

(2) the state that the individual has entered with a job commitment or for seeking
employment, whether or not the individual is currently employed.

(b) For each individual who is not residing in an institution and who does not meet the
conditions of subsection (a), the state of residence shall be either of the following:

(1) The state in which the individual is residing, including without a permanent address;
or

(2) the state in which the individual’s parent or caretaker resides, if the individual is
living with the parent or caretaker.

(c) For each individual residing in an institution, the state of residence shall be one of the
following, whether or not the individual is capable of stating intent:

(1) The state in which the individual’s parent or guardian resides, if the individual
became incapable of stating intent before the age of 21;
(2) the state that placed the individual in an out-of-state institution; or

(3) for any other institutionalized individual, the state in which the individual is living and intends to reside. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, ________; effective P-________________.)
129-14-27. Financial eligibility. (a) Persons whose needs are to be considered in determining each child's eligibility:

(1) If the child lives with a parent or parents, the needs of all individuals in the filing unit in accordance with K.A.R. 30-14-2 shall be considered.

(2) If the child does not live with a parent and is under age 18, only the needs of the child and any siblings of the child who are in the family group shall be considered.

(3) If the child is age 18 and does not reside with a parent, only the needs of the child shall be considered.

(b) Poverty-level determination. Total monthly income, as described above, shall not exceed a percentage of the official federal poverty-income guidelines, as established in K.A.R. 30-6-103, to be determined by the agency to be eligible for coverage. If the agency determines that the program funds appropriated are insufficient to fund up to this income level, a lower income level shall be implemented by the agency, and the changes shall be published by the agency in the Kansas register.

(c) Continuous eligibility. Except for children determined eligible for presumptive medical assistance as specified in K.A.R. 129-14-52, each child who becomes eligible for coverage under this regulation shall continue to be eligible for 12 months beginning with the month in which the child is enrolled or reenrolled for coverage in the healthwave program, without regard to any changes in family income. The general eligibility requirements of K.A.R. 30-14-26 shall continue to be met. Citizenship and alienage. (a) Each applicant or recipient
shall be a citizen of the United States or shall be a noncitizen who meets either of the following conditions:

(1) The individual entered the United States before August 22, 1996 and meets one of the following conditions:

(A) Is a refugee, as specified in 8 U.S.C. 1101, including any person who is a Cuban or Haitian entrant as defined in public law 96-422 or is admitted as an Amerasian immigrant as defined in public law 100-202;

(B) is granted asylum, pursuant to 8 U.S.C. 1158;

(C) has deportation withheld under 8 U.S.C. 1253(h) as in effect before April 1, 1997 or under 8 U.S.C. 1231(b)(3);

(D) is a lawful, permanent resident;

(E) is an honorably discharged veteran or is on active duty in the armed forces or is the spouse or unmarried dependent child of the veteran or the person on active duty;

(F) has been paroled into the United States for at least one year under 8 U.S.C. 1182(d)(5);

(G) has been granted conditional entry under 8 U.S.C. 1157;

(H) has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent spouse or parent and has a pending or approved violence against women act (VAWA) case or petition before the department of homeland security pursuant to 8 U.S.C. 1641(c); or

(I) is a certified victim of severe forms of trafficking, as defined in 22 U.S.C. 7105; or
(2) the individual entered the United States on or after August 22, 1996 and meets one of the following conditions:

(A) Is a refugee, as specified in 8 U.S.C. 1101, including any person who is a Cuban or Haitian entrant as defined in public law 96-422 or is admitted as an Amerasian immigrant as defined in public law 100-202;

(B) is granted asylum, pursuant to 8 U.S.C. 1158;

(C) has deportation withheld under 8 U.S.C. 1253(h) as in effect before April 1, 1997 or under 8 U.S.C. 1231(b)(3);

(D) is an honorably discharged veteran or is on active duty in the armed forces or is the spouse or unmarried dependent child of the veteran or the person on active duty;

(E) is an Iraqi or Afghani special immigrant under the 2006 national defense authorization act, public law 109-163;

(F) is a certified victim of severe forms of trafficking, as defined in 22 U.S.C. 7105;

(G) is a lawful, permanent resident who has resided in the United States for at least five years;

(H) has been paroled into the United States under 8 U.S.C. 1182(d)(5) for at least one year and has resided in the United States for at least five years;

(I) has been granted conditional entry under 8 U.S.C. 1157 and has resided in the United States for at least five years; or

(J) has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent spouse or parent, has a pending or approved violence against women act (VAWA)
case or petition before the department of homeland security pursuant to 8 U.S.C. 1641(c), and
has resided in the United States for at least five years.

(b) Each applicant or recipient declaring to be a citizen or national of the United States
shall present evidence of citizenship or nationality in accordance with the department’s policy
memo titled “KDHE-DHCF policy no. 2013-10-01,” dated October 4, 2013 and hereby adopted
by reference. This requirement shall not apply to any of the following:

(1) Newborn children who meet the provisions of K.A.R. 129-6-65(e);

(2) individuals receiving SSI benefits;

(3) individuals entitled to or enrolled in any part of medicare;

(4) individuals receiving disability insurance benefits under 42 U.S.C. 423 or monthly
benefits under 42 U.S.C. 402, based on the individual’s disability; or

(5) individuals who are in foster care and who are assisted under title IV-B of the social
security act as amended by public law 109-288 and individuals who are recipients of foster care
maintenance or adoption assistance payments under title IV-E.

(c) Each individual declaring to be a noncitizen shall present evidence of that individual’s
status in accordance with “KDHE-DHCF policy no. 2013-10-01,” which is adopted by reference
in subsection (b). Each noncitizen who has provided evidence of qualified noncitizen status that
has been verified with the department of homeland security shall be eligible for medical
assistance.

(d) Each applicant or recipient shall have 90 days from the date the application is
approved to supply the evidence described in subsections (b) and (c). (Authorized by and
implementing K.S.A. 2005 Supp. 75-7442 65-1,254 and 75-7403; effective June 30, 2006; amended, T-__________, ___________; amended P-_____________.)
129-14-28. Cooperation. (a) Establishment of eligibility. Each applicant or recipient shall cooperate with the department in the establishment of the applicant’s or recipient’s eligibility by providing all information necessary to determine eligibility as provided in K.A.R.

129-14-23. Failure to provide all information necessary shall render the members of the assistance plan, as defined in K.A.R. 129-14-33, ineligible for medical assistance.

(b) Social security number. Except as noted in this subsection, each applicant or recipient shall cooperate by providing the department with the applicant’s or recipient’s social security number. Failure to provide the number, or failure to apply for a number if the applicant or recipient has not previously been issued a social security number, shall render the applicant or recipient ineligible for medical assistance. The following individuals shall be exempt from this requirement:

(1) Any individual who is not eligible to receive a social security number;

(2) any individual who does not have a social security number and can be issued a number only for a valid non-work reason; and

(3) any individual who refuses to obtain a social security number because of well-established religious objections. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-_________, __________; effective P-_________.)
129-14-30. Public institution. (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Institution" means an establishment that furnishes food, shelter, and some form of treatment or services to four or more persons who are unrelated to the proprietor.

(2) "Public institution" means any institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(b) Living arrangement. Each applicant or recipient meeting one of the following conditions shall be ineligible for assistance:

(1) Lives in a public institution, unless one of the following conditions is met:

(A) The individual is in a public educational or vocational training institution for purposes of completing education or vocational training; or

(B) the individual is in the public institution for a temporary period not to exceed the month of entrance and the following two months;

(2) resides in a state intermediate care facility for diagnosis, treatment, or rehabilitation of persons with intellectual disabilities or related conditions that has been approved for medicaid coverage of inpatient services;

(3) receives inpatient care in either of the following:

(A) A state psychiatric hospital that has been approved for medicaid coverage of inpatient services; or

(B) a nursing facility for mental health that has been approved for medicaid coverage of inpatient services;
(4) receives inpatient care in a psychiatric residential treatment facility as defined in K.A.R. 28-4-1200;

(5) resides in a correctional facility; or

(6) is in the custody of the department of corrections as an accused or convicted criminal and does not meet any of the following conditions:

(A) is on probation, parole, bail, or bond;

(B) has been released on the individual’s own recognizance; or

(C) is participating in a prison diversion program operated by a privately supported facility. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, _________; effective P-__________.)
129-14-31. Insurance coverage. (a) An applicant or recipient shall not currently be covered under a “group health plan” or under “health insurance coverage” as defined in 42 U.S.C. 300gg-91. The applicant or recipient shall not be considered covered if the applicant or recipient does not have reasonable geographic access to care under that plan or coverage. Reasonable geographic access to care shall mean that the applicant or recipient routinely does not have to travel more than 50 miles to reach providers participating in the group health plan or health insurance coverage.

(b) For family groups with income over 200 percent of the official federal poverty-level income guidelines, the applicant or recipient shall not have had health insurance coverage in the three-month period before the effective date of coverage and terminated this coverage without good cause.

(c) For family groups with income less than or equal to 200 percent of the official federal poverty-level income guidelines, the applicant or recipient shall not have had health insurance coverage in the prior three months and terminated this coverage without good cause.

(d) An applicant or recipient shall not be eligible for enrollment in the Kansas state employee health plan.

(e) The standards for good cause shall include the loss of health insurance due to the involuntary loss of employment, the death of the policy holder, and the elimination of coverage by the applicant’s or recipient’s employer. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-________, __________; effective P-________.)
129-14-32. Premium payment requirement. (a) If the total monthly applicable income in a family group exceeds 166 percent of the official federal poverty-level income guidelines, the family shall pay a monthly premium for coverage in kancare-CHIP.

(b) Each family who fails to pay the monthly premium for two consecutive months shall be considered delinquent, which shall result in the ineligibility of that family. The period of ineligibility shall not exceed 90 days. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-_________, __________; effective P-_________.)
129-14-33. Assistance plan. (a) The assistance plan shall consist of those persons in the household as determined in subsections (b) through (f).

(b) For each person who is not claimed as a tax dependent by any other taxpayer and is expected to file a tax return, the household shall consist of the person and all of the person’s tax dependents, except as noted in subsection (e). If a taxpayer cannot reasonably establish that another individual is a tax dependent of the taxpayer for the tax year in which assistance is determined, the inclusion of the individual in the household of the taxpayer shall be determined in accordance with subsections (d) and (e).

(c) For each person claimed as a tax dependent by another taxpayer, the household shall consist of that taxpayer and the taxpayer’s dependents, except as noted in subsection (e).

(d) For each person who neither files a tax return nor is claimed as a tax dependent, the household shall consist of the person and, if living with the person, the following:

(1) The person’s spouse;

(2) the person’s natural children, adopted children, and stepchildren under the age of 21;

(3) the person’s natural parents, adopted parents, and stepparents, if the person is under the age of 21; and

(4) the person’s natural siblings, adopted siblings, and stepsiblings under the age of 21, if the person is under the age of 21.

(e) For each person who is claimed as a tax dependent by another taxpayer, the household shall be determined in accordance with subsection (d) if the person meets the following conditions:
(1) Is not a spouse of the taxpayer and is not a biological child, an adopted child, or a stepchild of the taxpayer;

(2) is claimed by one parent as a tax dependent and is living with both parents who do not expect to file a joint tax return; or

(3) is under the age of 21 and expected to be claimed as a tax dependent by a noncustodial parent.

(f) For any married couple living together, each spouse shall be included in the household of the other spouse, whether both spouses expect to file a joint tax return under 26 U.S.C. 6013 or whether one spouse expects to be claimed as a tax dependent by the other spouse.

(Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, __________; effective P-__________)
129-14-34. Financial eligibility. (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Household income" means the sum of the MAGI-based income of every individual included in the individual's household minus an amount equivalent to five percentage points of the federal poverty level for the applicable family size.

(2) "MAGI-based income" means income calculated using the same financial methodologies used to determine MAGI as defined in 26 U.S.C. 36B(d)(2), with the following exceptions:

(A) Each amount received as a lump sum shall be counted as income only in the month received;

(B) scholarships, awards, and fellowship grants used for education purposes and not for living expenses shall be excluded from income; and

(C) for American Indian or Alaska native funds, the following shall be excluded from income:

(i) Distributions from Alaska native corporations and settlement trusts;

(ii) distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation or otherwise under the supervision of the secretary of the interior;

(iii) distributions and payments from rents, leases, rights-of-way, royalties, usage rights, or natural resource extraction and harvest from rights of ownership or possession in any lands described in this paragraph or federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
(iv) distributions either resulting from real property ownership interests related to natural resources and improvements located on or near a reservation or within the most recent boundaries of a prior federal reservation or resulting from the exercise of federally protected rights relating to these real property ownership interests;

(v) payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom; and

(vi) student financial assistance provided under the bureau of Indian affairs education programs.

(b) Determination of financial eligibility. Financial eligibility for families and children shall be based on household income, except for the following:

(1) The MAGI-based income of an individual who is included in the household of the individual’s natural parent, adoptive parent, or stepparent and is not expected to be required to file a tax return under 26 U.S.C. 6012(a)(1) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the individual files a tax return.

(2) The MAGI-based income of a tax dependent described in K.A.R. 129-14-33(e)(1) who is not expected to be required to file a tax return under 26 U.S.C. 6012(a)(1) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the tax dependent files a tax return.

(c) Income deductions. No other deductions shall be applied in determining household income.
(d) Budget periods. Each household’s financial eligibility shall be based on the current monthly income and family size of the household, unless a change in circumstances is expected. In these instances, financial eligibility shall be based on the projected monthly income and family size of the household.

(e) Exclusion of resources. The value of the household’s resources shall not be taken into consideration in determining financial eligibility.

(f) Poverty-level determination. The total monthly income limits for the poverty-level determination shall be established by the secretary and converted to MAGI-equivalent numbers in accordance with 42 C.F.R. 457.300 et seq. If the department determines that the program funds appropriated are insufficient to fund up to this income level, a lower income level shall be implemented by the department, and the notice of the lower income level shall be published by the department in the Kansas register.

(g) Continuous eligibility. Except for children determined eligible for presumptive medical assistance as specified in K.A.R. 129-14-51, each child under the age of 19 who becomes eligible for kancare-CHIP shall continue to be eligible for assistance for 12 months beginning with the month of enrollment or reenrollment regardless of any changes in circumstances, unless one of the following conditions is met:

(1) The child reaches the age of 19.

(2) Assistance is voluntarily terminated for the child.

(3) The child no longer resides in the state.

(4) The state determines that eligibility was granted erroneously because of fraud or agency error.
129-14-35. Treatment of income. (a) For purposes of this regulation, "prospective monthly amount" shall mean an amount that is projected for purposes of determining an applicant’s or recipient’s monthly income. All earned income and unearned income received or expected to be received in the month of application shall be used to determine a prospective monthly amount.

(b) For changes in earned income and unearned income, an estimate of those changes shall be used to determine a prospective monthly amount.

(c) For self-employment income, a prospective monthly amount shall be determined based on annual federal tax information from the most recent tax year. In the absence of federal tax information from the most recent tax year, an estimate shall be used to determine a prospective monthly amount. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-__________, __________; effective P-________.)
129-14-36. Applicable income. For purposes of this regulation, “applicable income” shall mean the amount of earned income and unearned income that is compared with the appropriate income standard to establish financial eligibility. All earned income and unearned income shall be considered applicable income, unless exempted in accordance with K.A.R. 129-14-34(a)(7), and shall be determined as follows:

(a) Applicable income shall be based on the methodologies used to determine modified adjusted gross income, as specified in K.A.R. 129-14-34(a)(2), for persons in the household, as specified in K.A.R. 129-14-34(b).

(b) An amount equivalent to five percentage points of the federal poverty level for the applicable family size shall be deducted from the combined household income, in accordance with K.A.R. 129-14-34(a)(1). (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-________., __________; effective P-________.)
129-14-37. Overpayments. Each recipient who receives an overpayment, whether caused by the department or the individual, shall repay the amount of the overpayment, either by voluntary action or through administrative processes including recoupment and legal action. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-_________31, __________; effective P-_________.)
129-14-40. Discontinuance of assistance. A recipient's participation in kanscare-CHIP shall be discontinued if the recipient no longer meets one or more of the applicable eligibility requirements. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-_________._______; effective P-___________.)
129-14-50. Scope of services. The services provided to children enrolled in kanscare-CHIP shall be Kansas medicaid services as specified in K.A.R. 30-5-58 through 30-5-310 and K.A.R. 129-5-1 through 129-5-118b. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-_________, _________; effective P-_________.)
129-14-51. Presumptive eligibility for healthwave. (a) Each child, as defined in K.A.R. 30-14-2(a)(2) 129-14-2, shall be eligible for a presumptive period if a qualified entity, as specified in K.A.R. 129-14-52, designated by the agency department determines that the child meets the presumptive eligibility requirements.

(b) Each eligible child shall meet the financial requirements of K.A.R. 129-14-27(b), K.A.R. 129-14-27(a), and K.A.R. 30-14-29. Each eligible child shall be uninsured as specified in K.A.R. 30-14-26(a) and (b). Each eligible child shall also meet the general eligibility requirements of K.A.R. 30-14-25(a), (b), and (e), following requirements:

(1) The child shall be under the age of 19.


(3) The child shall be financially eligible according to K.A.R. 129-14-34.

(4) The child shall be uninsured as specified in K.A.R. 129-14-31.

(5) The child shall not be living in a public institution, as specified in K.A.R. 129-14-30.

(c) The presumptive period shall begin on the date on which the qualified entity makes an eligibility determination. The presumptive period shall end on the last day of the month following the month in which the determination is made, unless an application for medical assistance is received. If an application is filed in accordance with K.A.R. 30-14-20 129-14-20 before this date, the presumptive period shall end on the last day of the month in which a full determination is made according to this article.

(d) Each child shall be eligible for only one period of presumptive eligibility within a
12-month period under this article regulation or under K.A.R. 129-6-151. The 12-month period shall begin on the first day of presumptive eligibility under either of these regulations.

(Authorized by and implementing K.S.A. 2005 Supp. 75-7412 65-1,254 and 75-7403; effective June 30, 2006; amended, T-_________, __________; amended P-_________.)
Healthwave Presumptive eligibility to be determined by qualified entities. (a) Each qualified entity shall be designated by the agency department to make determinations of presumptive eligibility as specified in K.A.R. 129-14-51.

(b) Each qualified entity shall be authorized to provide health care items and services and to receive reimbursement for these items and services under the medical assistance program meet the requirements of 42 C.F.R. 435.1100.

(c) For each determination of presumptive eligibility, a qualified entity shall perform the following:

   (1) Make a finding of presumptive eligibility pursuant to K.A.R. 129-14-51(b) or K.A.R. 129-6-151(b);

   (2) notify the child’s parent or caretaker, in writing by written or electronic means, of the results of the determination at the time of the determination;

   (3) provide the child’s parent or caretaker of the child with an application for regular medical assistance. For a child determined to be presumptively eligible, the qualified entity shall notify the child’s parents or caretaker that, unless a regular medical application is submitted before the last day of the month following the month of the presumptive determination, eligibility shall end on that date;

   (4) assist the child’s parent or caretaker in completing and filing a regular medical assistance application; and
(5) notify the agency department of the presumptive determination within five working days after the determination. (Authorized by and implementing K.S.A. 2005 2012 Supp. 75-7412 65-1,254 and 75-7403; effective June 30, 2006; amended, T-__________, __________, amended P-__________.)