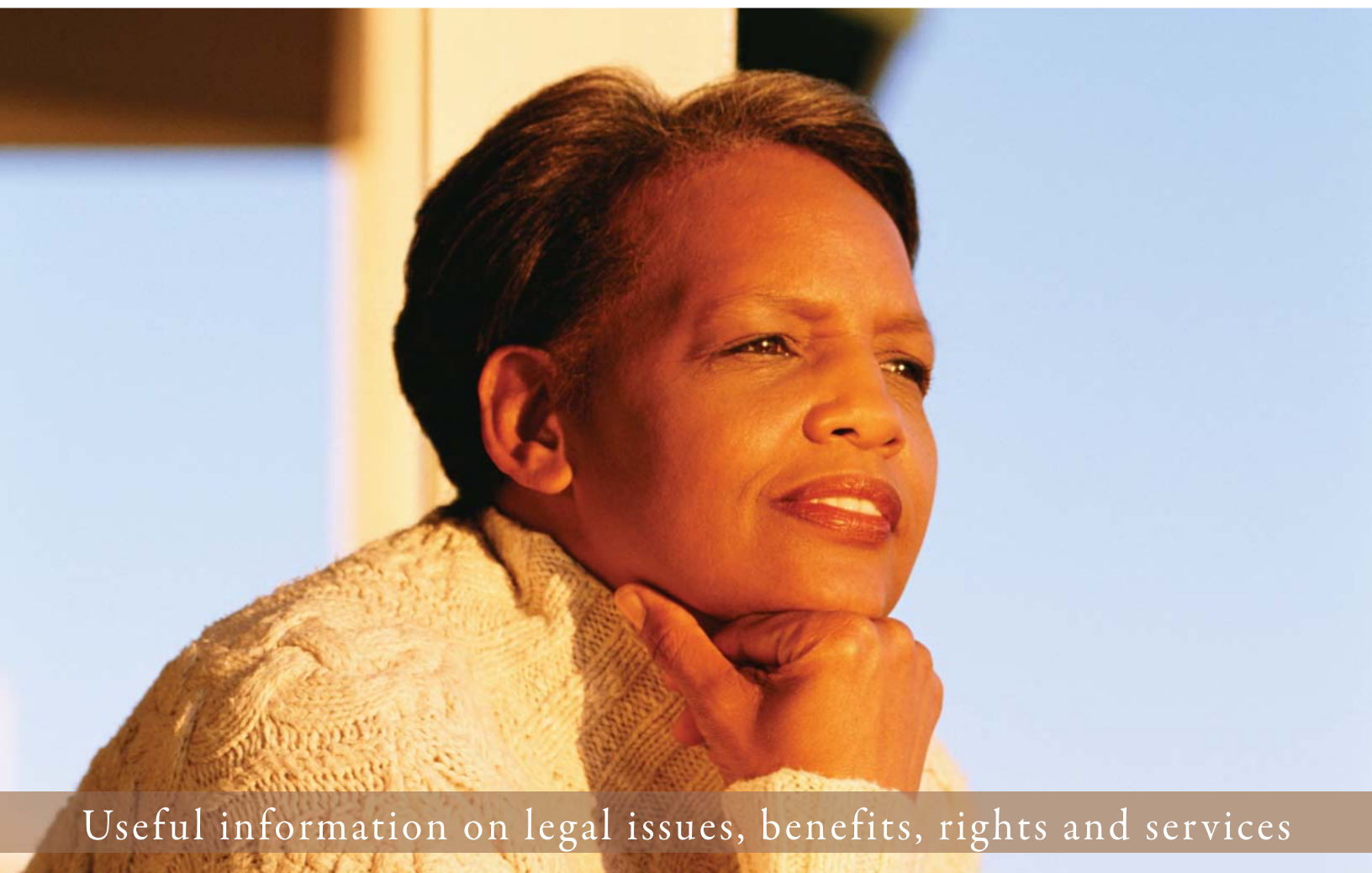


KANSAS DEPARTMENT ON AGING

Resource Guide for Seniors



Useful information on legal issues, benefits, rights and services

Acknowledgements

This guide is provided solely for educational and informational purposes and may not be construed or relied upon as individual legal advice. Persons in need of such advice should seek legal counsel.

The material contained in this publication is of a general nature, will answer commonly asked questions, and is not an endorsement of any product or service. Contact the appropriate agency for current information, as eligibility and benefit amounts frequently change. The service of a professional should be sought if legal advice or expert assistance is needed.

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Visit our Website at <http://www.agingkansas.org>

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The Kansas Department on Aging (KDOA) does not discriminate on the basis of race, color, national origin, sex, age or disability. If you believe you have been discriminated against by either KDOA or a KDOA funded program, please contact KDOA to receive additional information on filing a complaint: 1-800-432-3535 (voice); 1-800-766-3777 (TTY).

Table of Contents

Consumer Information

Area Agencies on Aging (Map).....	1
Information & Assistance (I & A).....	2
Kansas Department of Social and Rehabilitation Services (SRS).....	2
Multi-Purpose Senior Centers.....	2
Eldercare Locator	2
Audio-Reader.....	3
Grandparents Visitation Rights.....	3
Medicare Abuse and Fraud.....	3
Elder Abuse, Neglect, Exploitation and Fiduciary Abuse.....	4
Consumer Protection.....	5
Where to Turn for Consumer Protection Assistance.....	6
Identity Theft.....	6
Banking/Checking Accounts.....	7
Major Credit Purchases.....	8
National Do Not Call Registry.....	8
Internet Safety	9
Telemarketing Fraud.....	9
Mail Order Problems.....	10
Pornographic Mail.....	10
Charitable Contributions.....	11
Door-To-Door Sales.....	11
Home Repair Companies.....	11
Warranty Laws Offer Important Consumer Protection.....	12
Funeral Plans: It's Best to Compare Prices.....	12
Utility Customer: Do I Have Rights.....	13

Your Rights

Americans with Disabilities Act.....	15
Disability Rights Center	16
Age Discrimination on the Job.....	17
Federal Programs Cannot Discriminate on the Basis of Age.....	17
Victims' Rights.....	18
Nursing Home Residents.....	18

Financial Assistance

Social Security Retirement Benefits.....	19
Social Security Disability Benefits.....	20
Dependent or Survivor Benefits	21
Supplemental Security Income.....	21
How to Apply for Benefits	22
Railroad Retirement.....	23
Company Pensions	24
Kansas Veterans Benefits.....	24
General Assistance	25
Food Assistance.....	26
Low Income Energy Assistance Program (LIEAP).....	28

Health Care

Medicare Meets Some Hospital and Medical Costs.....	29
Qualified Medicare Beneficiary (QMB) Program.....	32
Medicaid Provides Health Care to Limited-Income Persons.....	33
Private Insurance: Gaps in Medicare Coverage.....	35

Housing

Renters Have Important Legal Rights.....	38
Subsidized Housing.....	39
Continuing Care Retirement.....	41
Client Assessment, Referral and Evaluation (CARE).....	41
How To Select a Nursing Home.....	41
Alternatives to Nursing Home Placement.....	43
In-Home Services.....	44

Legal Assistance

Selecting an Attorney	44
Small Claims Court	45
Power of Attorney	47
When the Court Appoints a Guardian or Conservator.....	47

Future Planning

Estate Planning	49
A Will.....	49
Trusts	50
Planning for the Time You Can't Make Health Decisions for Yourself	52
Living Wills	54

Taxes

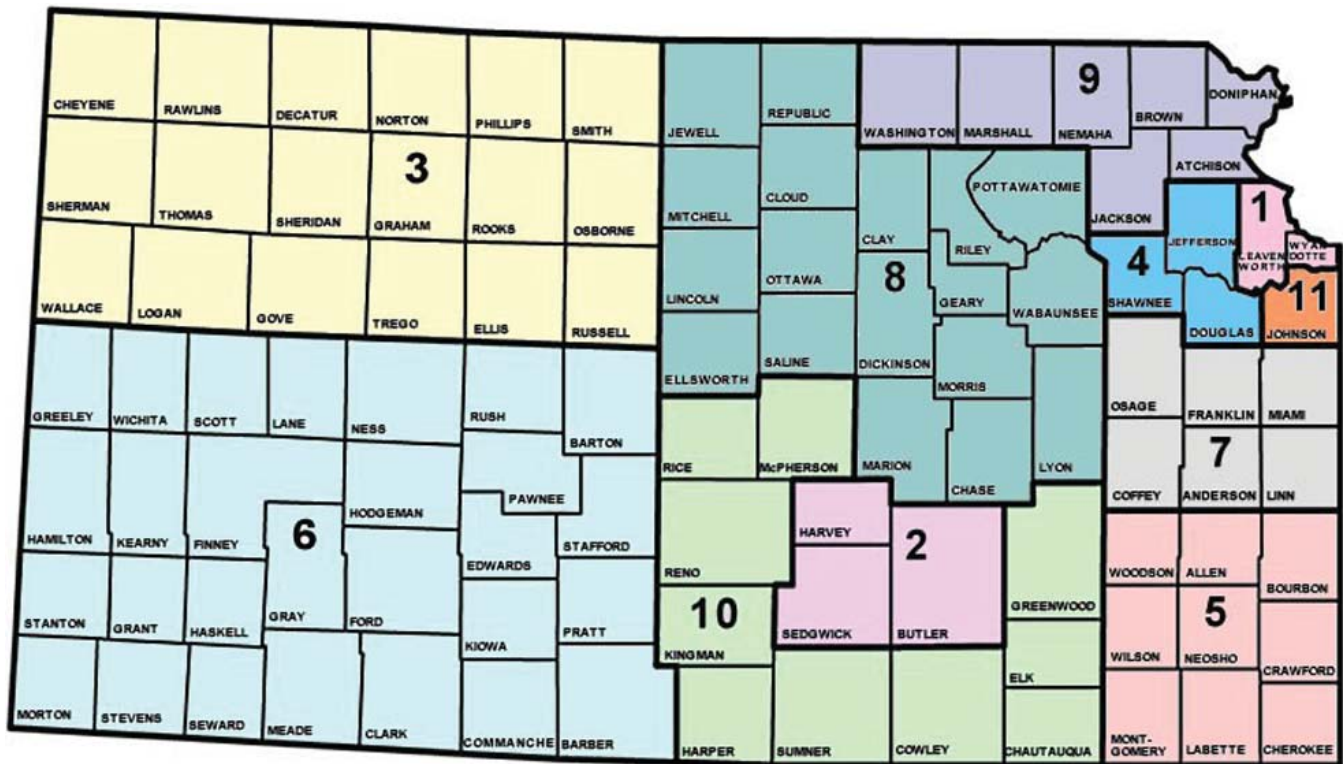
Many Older Americans Qualify for Tax Refunds	54
Specific Federal Tax Benefits for Older Americans.....	55
Senior Citizens May Be Exempt From Intangibles Taxes.....	55

Contact Information & Forms Enclosed

Kansas Commission on Veterans Affairs.....	A-1
Senior Citizen Law Projects & Counties Served.....	A-2
Durable Power of Attorney for Health Care Decisions.....	A-3
Living Will.....	A-4
Do Not Resuscitate.....	A-5
Where Personal and Property Records are Kept.....	A-6
Where Business Records are Kept.....	A-7

Toll-Free Numbers.....	A-8
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Area Agencies on Aging(AAA) by Planning Service Area (PSA)



Consult the map to locate the Area Agency serving your Area.

1. Wyandotte-Leavenworth AAA - Kansas City

Area Agency 913-573-8531
 Information 888-661-1444

2. Central Plains AAA - Wichita

Area Agency 316-660-7298
 Information 800-367-7298

3. Northwest Kansas AAA -Hays

Area Agency 785-628-8204
 Information 800-432-7422

4. Jayhawk AAA - Topeka

Area Agency 785-235-1367
 Information 800-798-1366

5. Southeast Kansas AAA - Chanute

Area Agency 628-431-2980
 Information 800-794-2440

6. Southwest Kansas AAA - Dodge City

Area Agency 620-225-8230
 Information 800-742-9531

7. East Central Kansas AAA - Ottawa

Area Agency 785-242-7200
 Information 800-633-5621

8. North Central/Flint Hills AAA - Manhattan

Area Agency 785-776-9294
 Information 800-432-2703

9. Northeast Kansas AAA - Hiawatha

Area Agency 785-742-7152
 Information 800-883-2549

10. South Central Kansas AAA - Arkansas City

Area Agency 620-442-0268
 Information 800-362-0264

11. Johnson County AAA - Olathe

Area Agency 913-715-8800
 Information 888-214-4404

Consumer Information

Area Agencies on Aging

There are eleven Area Agencies on Aging (AAA) in Kansas, each covering a specific geographical area. The AAAs provide information, coordinate services, and programs for persons age 60 and over. Among the services that may be provided are meals, caregiver services, transportation, education, in-home services, health screening and friendly visiting. Consult the previous page for the address and phone number of the Area Agency on Aging (AAA) in your area or call **1-866-457-2364**.

Information & Assistance (I & A)

Information & Assistance programs are located throughout Kansas and operate in conjunction with the Area Agencies on Aging. Information & Assistance staff provide information about community and public assistance programs. They also link people with appropriate helping agencies. Each I & A program is designed to meet the needs of older Kansans living in the AAA service area and, therefore, programs differ from area to area.

Kansas Department of Social and Rehabilitation Services (SRS)

SRS provides integrated service delivery in: Child Support Enforcement, Children and Family Services, Economic and Employment Support, Rehabilitation Services, Medical Services, Health Wave, Mental Health Community Support and Services, and Addiction and Prevention Services.

When you have questions about benefits or services or when you need to know if you or your family are eligible for certain programs, SRS staff may be able to help. For answers, contact customer services at your nearest area SRS access point or call **(888) 369-4777**.

Multi-Purpose Senior Centers

Kansas has more than 352 senior centers across the state. Most offer a variety of services, including:

- **Information and Assistance:** The centers may assist you in contacting service providers in regard to health, safety, legal assistance, family and financial issues.
- **Recreation:** Programs and equipment may be provided for social and recreational activities. Instructors may be available to conduct programs in crafts, music and various other hobbies, as well as numerous educational programs.
- **Nutrition:** Many centers also offer low-cost meals as well as educational programs on food planning and purchasing.
- **Social Events:** Celebrations for birthdays, weddings, and anniversaries may be held at the centers. Entertainment throughout the year can provide opportunities for seniors to socialize.
- **Friendship:** A great place to meet new friends and to renew old friendships. If you would like someone to talk to or do things with, your senior center is a good place to start.

To find a senior center near you, contact your Area Agency on Aging (See page 1).

Eldercare Locator

Eldercare Locator is a service provided by the U.S. Administration on Aging. This service can be used by anyone to find aging services in any state. For example, someone could use the Eldercare Locator to find legal services or in-home services in a community outside of Kansas. People with older relatives in other states may use Eldercare Locator as a first source of help.

Call the Eldercare Locator toll-free at **(800) 677-1116**, or visit the website at www.eldercare.gov.

Audio-Reader

Audio-Reader is a radio reading service for anyone who has difficulty reading standard printed material. Any person whose eyesight or physical condition makes it difficult or impossible to read a newspaper or book may receive this service. To find out if this service is available in your area call **(800) 772-8898** or in Lawrence **(785) 864-4600**.

Grandparents Visitation Rights

A grandparent has the right to seek the court's assistance in obtaining visitation rights with a grandchild. Visitation MAY be granted when:

- The parents divorce. The divorce decree may include this provision or be modified later to allow visitation;
- One parent dies. If the surviving spouse remarries and the grandchild is adopted by the new stepparent, visitation is still possible.
- The child has been abused or neglected and custody is awarded to someone other than the parent.
- The parents are alive and have denied visitation to a grandparent.

In all situations, the court will examine what is in the child's best interest and whether there is an established and substantial relationship between the child and the grandparent.

Medicare Abuse and Fraud

Nationally billions of dollars are lost each year to Medicare abuse and fraud. Most health care providers are honest, but the activities of a few result in wasted funds for the Medicare program and the loss of quality care for individuals who use Medicare. Individuals can become part of the solution to help secure a health care system for all people by eliminating waste, responding to abusive and fraudulent activities and correcting mistakes in billing practices.

What is Medicare Fraud?

Medicare fraud is an incident or practice that intentionally misleads or misrepresents a Medicare claim. Violators may be health care practitioners, hospitals or other institutional providers, clinical laboratories, billing services or any individuals in positions to file claims for Medicare benefits.

How can I prevent Medicare Abuse and Fraud?

- Carefully review each of your Medicare summary notices. If you have questions, contact your health care provider.
- Treat your Medicare card like a credit card. Do not give out your Medicare number over the telephone unless you initiated the call or know with whom you are speaking.
- If your card is lost or stolen, report it immediately to the Social Security Administration.
- Be cautious of individuals who claim they know how to bill Medicare to get uncovered items/services paid for.

Whom do I contact if I suspect fraud or abuse?

If you see a charge on your payment notice that may be wrong, call the health care provider and ask about it. If you think that a provider may be cheating or abusing Medicare, call the Medicare Carrier or Fiscal Intermediary that sent you the notice. Their phone number is printed on the front of the notice. To report Medicare Fraud in Kansas call **(800) 860-5260**. You can also call the Inspector General's hotline to report Medicare fraud. The hotline number is **(800) 447-8477**, or send an e-mail to HHSTips@oig.hhs.gov. You can request your name not to be used.

My Medicare Summary Notice shows a charge for a service that I did not receive. Is this fraud?

You should check your Medicare Summary Notice carefully to verify that you received the services that Medicare is paying. If you identify an erroneous charge on your Medicare Summary Notice, you should call the number listed in the Customer Service Box and speak with the Medicare-contracted insurance company that processed the claim.

A representative will be able to access your records via computer, and may be able to determine immediately whether the service charge represents a billing error, a misunderstanding on your part, or a potential instance of fraud.

If you are unable to reach a Medicare contractor, or if so advised by the contractor representative, you may also report the charge to the Inspector General's Hotline at **(800) 447-8477**.

Elder Abuse, Neglect, Exploitation and Fiduciary Abuse

Elder Abuse

It is hard to believe that someone you love or trust would harm you. Yet, abuse, neglect and exploitation are a reality for many older persons. National estimates show that one in 20 persons age 60 or older have been injured, exploited, or otherwise mistreated by someone whom they depend on for care or protection.

What is Abuse?

There is no universal definition of elder abuse. The term elder abuse usually refers to abuse, neglect, exploitation or fiduciary abuse of an adult age 60 or older. In Kansas the statute definitions of abuse of a dependent adult or resident of an adult care home are very similar (adult as defined in K.S.A. 39-1430(a) or adult care home resident as defined by K.S.A. 39-923).

Abuse of an adult or resident is considered as: Any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm, including: inflection of physical or mental injury; any sexual act with an adult when the adult or resident does not consent or when the other person knows or should know that the adult or resident is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship; unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult or resident; unreasonable use of a physical or chemical restraint, medication or isolation as punishment for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult or resident; a threat or menacing conduct directed toward an adult or resident that results or might reasonably be expected to result in fear or emotional or mental distress to an adult or resident; fiduciary abuse; or omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.

What is Neglect?

Neglect of an adult or resident is: The failure or omission by one's self, caretaker or another responsible person to supply or provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

What is Exploitation?

Exploitation of an adult or resident is: The misappropriation of property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person.

What is Fiduciary Abuse?

A situation in which any person who is the caretaker of, or who stands in a position of trust to, an adult or resident, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of such person's trust or benefit.

What protections are available?

Certain professionals are mandated to report abuse, neglect, or exploitation. Also any person who has reasonable cause to believe that an adult or a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of abuse, neglect, or exploitation or is in need of protective services can make a report. Any mandated reporter who knowingly fails to make a report shall be guilty of a class B misdemeanor. (K.S.A. 39-1402(e) and K.S.A. 39-1431(e).

Note: Any person who makes a report in good faith cannot be sued for doing so. Mandatory reporters cannot be fired, suspended, or disciplined by their employer for making a report.

What are "Protective Services"?

Services provided by either the state or a governmental agency, or any private organizations or individuals which are necessary to prevent abuse, neglect or exploitation. Services shall include, but are not limited to, evaluation of the need for services, assistance in obtaining appropriate social services and assistance in securing medical or legal services.

A reported adult has the right not to consent to an investigation or protective services. If the reported adult lacks capacity and is in need of protective services the Kansas Department of Social and Rehabilitation Services (SRS) may petition the court for appointment of a guardian or conservator to assist the adult.

How do I report Abuse, Neglect, Exploitation or Fiduciary Abuse?

In an Adult Care Home:

Kansas Department on Aging
(800) 842-0078

In a Medical Care Facility:

(Not long-term care)
Kansas Department of Health and Environment
(800) 842-0078
(same number as for an Adult Care Home)

An Adult in the Community:

Kansas Department of Social and Rehabilitation Services (SRS)
(800) 922-5330

To make a report after business hours, on weekends, or holidays contact your local law enforcement agency.

What happens when an abuse report is made?

The agency receiving the report will:

- Notify law enforcement if a criminal act has or appeared to have occurred.
- Visit with the involved adult or resident;
 - ◆ within 24 hours when there is imminent danger to the health or welfare of the involved adult or resident;
 - ◆ within three working days if there is no imminent danger; or
 - ◆ within five working days for all reports of neglect or exploitation when no imminent danger is indicated.

Consumer Protection

Even though consumer protection legislation and court decisions in favor of consumer rights are increasing, the best protection is to be a well-informed, careful buyer. You should be knowledgeable about your legal rights, cautious of product exaggerations and unafraid to demand satisfaction for the price of the purchase.

The Kansas Consumer Protection Act makes it illegal for businesses to engage in any deceptive act or practice in the sale or rental of goods or services. For example, the seller cannot state that a product is new when it has been used. It is illegal to falsely state that a product will never need repair or service.

It is also illegal for a seller to engage in an unconscionable act or practice. An unconscionable act is not necessarily deceptive, but is an unfair advantage taken by the seller. For example:

- Selling an item when there is no probability the buyer can pay for it.
- Selling an item at a price that is far higher than the normal selling price.
- Selling an item by taking advantage of the buyer's physical infirmity, ignorance or inability to understand the language of the agreement.

If you believe a deceptive or unconscionable practice is occurring, notify the Attorney General at **(800) 432-2310**, the Better Business Bureau, your attorney or your Area Agency on Aging.

Where to Turn for Consumer Protection Assistance

In Kansas, the Attorney General is charged with the general responsibility of enforcing the laws that grant protection to consumers. A special division has been created for consumer complaints:

Office of the Attorney General
Consumer Protection Division
120 SW 10th
Topeka, KS 66612-1597
(785) 296-3751 or (800) 432-2310

If you have a complaint about a business, you may contact the Attorney General's Consumer Protection Division, the Better Business Bureau, the Senior Citizens Law Project in your area, or your local Area Agency on Aging.

Identity Theft

Identity theft occurs when an individual uses another individual's personal information to take on that person's identity. If you are the victim of identity theft, immediately contact the fraud department of any one of the three major credit bureaus: Equifax **(800) 525-6285**; Experian, **(888) 397-3742**; or Trans Union, **(800) 680-7289**. Request that a "fraud alert" be placed in your file, as well as a victim's statement asking creditors to call you before opening any new accounts or changing your existing accounts. *As soon as the credit bureau confirms your fraud alert, the other two credit bureaus will be automatically notified to place fraud alerts. Once the alert is placed, you may order a free copy of your credit report from all three major credit bureaus.*

- For any accounts that have been fraudulently accessed or opened, contact the security departments of the appropriate creditors or financial institutions. Close those accounts and put passwords on any new accounts you open.
- File a report with your local police or the police where the identity theft took place. Get a copy of the report in case proof of the crime is needed later on.
- Contact the Office of the Attorney General, Consumer Protection Division:
120 SW 10th Ave., 2nd Floor,
Topeka, KS 66612 or call the toll-free Consumer Hotline, **(800) 342-2310**. You may also contact the Federal Trade Commission's Identity Theft Clearinghouse at **(877) 438-4338** or online at www.consumer.gov/idtheft/.

How can I minimize the risk of identity theft?

- Be stingy with your personal information (social security number, date of birth, mother's maiden name). Confirm that you're dealing with a legitimate representative of a legitimate organization before you divulge any personal information. Find out exactly why that information is needed, how it will be used and whether it will be shared with others.

- Never preprint your Social Security number on your checks, insurance cards, or drivers license.
- Create unique passwords and personal identification numbers (PINS). Avoid using information such as your mother's maiden name, date of birth, or the last four digits of your Social Security number.
- Pay close attention to your bills and credit card statements.
- Do not mail your bills from your home mailbox. Take them directly to the Post Office. Pick up your mail from your mailbox as quickly as possible after delivery.
- Watch your trash. Shred old bills, unwanted credit card solicitations, credit card receipts and insurance or other medical information that you no longer need.
- Minimize the identity information and credit cards that you carry with you.

Check your credit report annually. Once a year you can order a free credit report. You can order your report either online at www.annualcreditreport.com, call toll-free (877) 322-8228, or by completing an Annual Credit Report Form and mailing it to:

Annual Credit Report Request Service
P. O. Box 105281
Atlanta, GA 30348

If you request your report online, you should be able to access it immediately. If you ask for your report by phone or request a report by mail, the report will be processed and mailed within 15 days.

Banking/Checking Accounts

Checks

Review your checks and store all new checks in a secure location. Never pre-sign blank checks.

What should I know about bank accounts?

Individual: An account owned by one person. When the owner is deceased the funds in the account go to the owner's estate and is usually probated.

Joint Tenants in Common: An account owned jointly by two or more persons. Each owner owns a certain portion of the account (usually a proportionate share). If one owner dies, his/her share of the funds passes to his/her estate. The surviving owner(s) is left only with their remaining portion of the account.

Joint Tenancy with Right of Survivorship and Not as Tenants in Common: An account owned jointly by two or more persons. Each owner has an undivided interest in the funds in the account (each owner owns 100% of the funds). If one owner dies the surviving owner(s) remains the owner of the entire account. None of the funds passes to the decedent's estate.

- Note- Each joint owner technically owns the account. If one of the owners receives a garnishment, tax levy, or other legal attachment the account would be considered part of that person's assets. *Example: Mother adds son to her account as a joint owner. Son has a legal problem and mother's account is attached.*
- Authorized Signer: An individual may have a child or trusted person transact business for the account owner. This can be accomplished by adding the person as an Authorized Signer rather than a joint owner. The authorized signer has authority to transact business but is not an owner of the account. This authority ceases to be effective upon the death of the account owner. The owner may name payable-on-death beneficiaries on the account.

Payable-on-Death (POD) Account: This is a simple account in which the account owner lists someone as beneficiary. The owner retains full ownership and control of the funds, and can change

the beneficiary as necessary. There can be more than one beneficiary named. The beneficiary(s) has no claim to funds as long as the owner is alive. Upon the death of the owner the funds pass to all living beneficiaries, usually in equal amounts. The funds in this type of account will not pass through probate.

(An eligible beneficiary must be one of the following: an individual, an individual or corporate fiduciary (trustee), a nonprofit religious or charitable organization.)

Safe Deposit Box

- A beneficiary cannot be named on a box
- Add a trusted person as a joint signer on the box contract
- Tell this person where the key is located

Major Credit Purchases

Most major purchases and even routine purchases involve making a contract between the buyer and the seller. Contracts most often come into the picture when credit is extended for purchase of an item or service, and payment is delayed over a period of time.

In effect, the company you are buying from extends you a loan in the amount needed to make the purchase. You, in turn, agree to pay back the money plus a finance charge of some kind.

Basic Tips:

- Insist that the salesman let you take home a copy of the fill-in contract before you sign it.
- Show the contract to a friend or attorney if there is a question about some provision of the contract.
- Have all warranties and guarantees put in writing.
- Have all blanks filled in on a contract before signing it.
- Keep a copy of all contracts, payment records and complaint letters in a safe place.

- Take time to read a contract carefully before signing it.

Whenever you buy on time, make sure that you know how much your total cost will be. Know how long you will have to make payments and be sure you can make them. The Federal Truth-In-Lending Act requires businesses that extend credit to tell you the cost of credit in the long run. When you buy on credit, you must be told the Finance Charge and the Annual Percentage Rate.

Terms You Should Know

Finance Charge- the price you pay for the privilege of paying in installments over a period of time.

Annual Percentage Rate (APR)- the rate of interest you pay for the privilege of buying on credit.

Cash Price- what an item or service would cost if you paid for it completely at the time you bought it.

Deferred Payment Price- the total amount you will pay for the item or service over the term of the installment period.

Remember:

**Cash Price + Finance Charge =
Deferred Payment Price.**

National Do Not Call Registry

The National Do Not Call Registry gives you an opportunity to limit the telemarketing calls you receive. The registry is managed by the Federal Trade Commission (FTC). It is enforced by the FTC and the Federal Communications Commission (FCC) in conjunction with the Kansas Attorney General.

How can I add my phone number to the registry?

To access this service you may either call toll-free, **(888) 382-1222**, or visit the website at www.donotcall.gov. To register for this service you must provide your name, address, and telephone number.

What happens after I register my phone number?

Once you register your phone number, telemarketers covered by the National Do Not Call Registry have up to 31 days from the date you register to stop calling you.

How long will my phone number stay on the registry?

Your telephone number may be removed from the registry per your request or if phone service is disconnected.

What should I do if I receive a call?

Consumers who believe that they have received an unsolicited consumer telephone call should obtain as much information as they can about the telemarketer, such as the company's name, telephone number, address and the name of the caller, if possible. This information will aid in the investigation and enforcement of alleged violations. You may file a No-Call complaint by contacting either the Kansas Attorney General's Consumer Protection Division at **(800) 432-2310** or the National Do Not Call Registry at **(888) 382-1222** or www.donotcall.gov.

Remember, political and charitable calls are not covered by this law. In addition, companies you have specifically asked to call you, as well as companies with which you have an established business relationship within the past 36 months, are exempted from the requirements of the law.

Internet Safety

When you use the internet, be aware that the person requesting information from you may not be who you think they are. No matter how impressive or professional a web site looks, it doesn't mean it is official.

When Surfing the Web

- Protect your personal information (name, date of birth, Social Security number and pin numbers).
- Never disclose your password.
- Verify online security before you do business on the internet.
- Be mindful of who you're talking with before you give out personal information.
- Install a virus protection program before you go online.
- Watch out for "exe" files that could contain a virus, collect information about you, or ruin your hard drive.
- Be wary of any company that makes a product or performance claim that's unlikely or hard to believe.

Internet Pharmacy

Whether it's via the internet or pharmacy, the Kansas Board of Pharmacy must register all pharmacies doing business in Kansas. Call the Kansas Board of Pharmacy at **(785) 296-4056**, to find out if a particular pharmacy is registered.

If you purchase your prescription online, choose an online pharmacy that requires a valid prescription from your personal doctor and is registered with the Kansas Board of Pharmacy.

Telemarketing Fraud

Senior citizens often become targets of unscrupulous telemarketers. While many firms that sell by telephone and through the mail are reputable, some are not and it is sometimes difficult to know the difference. To protect yourself, you should live

by the motto, “If it sounds too good to be true, it probably is.”

Generally, “scam” telemarketers follow a similar pattern. Consumers are called and pressured into listening to a sales presentation. The telemarketer will promise that the consumer will receive a prize, award, or special bonus. In order to claim the prize, however, you must make a purchase, and send money or call a 900 telephone number. The free gifts invariably turn out to be worthless vacation packages or trinket jewelry, rather than the cars or large cash awards promised.

To protect yourself, you should always be prepared to hang up. **Give out your credit card number only when you are certain you are dealing with a reputable company.** Be cautious about making quick decisions. Ask lots of questions. Get the name and street address of the person calling. Ask them to send you written sales information, including product prices. Be cautious about revealing personal information. Don’t make the telemarketer your friend- **they are not.**

Mail

Mail solicitors will occasionally send unordered merchandise to consumers. Whenever any person or company voluntarily sends you goods you did not order, the law considers the item to be a gift to you. You don’t have to pay for or return the merchandise.

Unscrupulous mail solicitations can be very similar to telephone solicitations. Again, consumers are lured by promises of riches. Read your mail very carefully. Read everything on the front and, even more importantly, read the back. If you can’t see or read the print, seek some assistance. Be aware that many companies intentionally select names that make them sound as if they are associated with the government when, in fact, they are not. Consumers are also solicited for charitable contributions.

Mail Solicitation

Puzzle and game contests have gained popularity nationwide. These solicitors operate in a similar fashion to telemarketing fraud. The consumer is mailed a solicitation announcing a contest in which the consumer may win a large amount of money. In order to be eligible for the money, the consumer must complete the puzzle and return it along with the entry fee. The puzzles are very simple in the early rounds. This type of contest may have as many as five regular rounds and several tie-breakers and playoff rounds.

Mail Order Problems

Check with the Better Business Bureau, Chamber of Commerce or state or local consumer protection agency, before ordering merchandise from a business you are not familiar with. If you suspect you are a victim of fraud or experience difficulty with the company, contact your local postmaster.

To report postal crimes such as drugs in the mail, mail fraud or mail theft, contact your local postmaster or the Postal Crime Hotline at **(800) 564-8896.**

Pornographic Mail

Complete Postal Service Form 1500 (available at your local Post Office) if you do not want to receive unsolicited sexually oriented advertisements through the mail. Thirty days after your name has been placed on the Postal Service reference list, any mailer who sends you a sexually oriented advertisement may be subject to civil and criminal sanctions.

Your name will remain on the list for five years unless you ask to have it removed. At the end of five years, you must complete another form.

Charitable Contributions

Consumers are often solicited for charitable contributions. The Kansas Charitable Organization and Solicitation Act as defined in K.S.A. 17-1759 et seq., requires charitable organizations, fundraisers, and solicitors to register with the Secretary of State prior to soliciting. ***Registration does not constitute an endorsement of the charity, its fundraisers, or its solicitors.***

Find out whether or not you are dealing with a professional fund-raiser. Ask how much of your donation goes to pay the fund-raisers and how much will go to charity. Some fund-raising organizations keep more money than they give away. The Better Business Bureau has a philanthropic service which can give you further information about charitable organizations.

You may contact the Office of the Secretary of State **(785) 296-4564** or visit the Kansas Charity Check website at www.KsCharityCheck.org for information on the following:

- Charitable organizations registered in Kansas
- Money raised by the charitable organization
- Percentage of money spent by the charitable organization for fund-raising expenses
- Consumer advice on charitable giving
- Your rights as a consumer
- Kansas Solicitation Law

Door-to Door Sales

Door-to-door sales are of particular concern because sales people can be very persuasive. You may find yourself buying a product you really do not want or need. If you do change your mind, you may be able to cancel the contract and get back any money you have spent. But you have to act promptly.

Kansas law allows you a three-day “cooling off” period from the time you complete a door-to-door sale. If you decide you do not want the product, you must notify the company in writing before midnight of the third business day after you agreed to purchase. You can mail this notice, and it is

effective from the time it is mailed, but you must be able to show that it was properly mailed. It is a good idea to send the notice by certified mail with a return receipt requested.

The law also requires that the agreement or offer to purchase contain the date that it was signed by you and a statement notifying you of the right to cancel. In addition, the salesperson should give you a **Notice of Cancellation form**. If you decide to cancel, simply date and sign one copy of the Notice and mail or deliver it to the company within the three-day period.

Once the notice is received, the seller has ten (10) days to refund any money you have paid, return any documents you have signed, return any goods or property you have traded in, and inform you whether any items left with you will be picked up or whether you may keep them. Any product left with you must be available to the seller in the same condition it was in when you received it. It is not your responsibility to ship the item back to the seller or pay any postage for shipping. Only sales, leases, or rentals of goods or services with a purchase price of \$25 or more are covered by this law. In some situations, however, this law may not apply. If you have been harassed by salespersons coming to your home or contacting you on the telephone, it would be a good idea to report them to the County or District Attorney, Kansas Attorney General, Better Business Bureau, or telephone company.

Home Repair Companies

Whenever it is necessary to hire someone to do work on your home, be cautious and shop around. Get two or three estimates to see who is offering the best bargain. Also, check references before you hire. Watch out for fly-by-night operators.

After you decide upon a contractor, ask that your agreement be written down. Include items such as price and the guarantees of work to be done.

Do not pay the contractor in advance, and do not pay the contractor the full amount until the job is finished.

If a considerable amount of construction materials have gone into the job, you may want to request proof from your contractor that the bills for these items have been paid. If the bills go unpaid, the supplier of the materials could place a lien on your home and force you to pay the contractor's debt. You would then have to sue the contractor to recover your added expenses.

Warranty Laws Offer Important Consumer Protection

A warranty is a representation that a product has certain characteristics and that the seller or manufacturer will support its product and its claims in a certain way. When shopping, be sure to compare the different warranties that are given on products.

Basically there are four types of warranty:

- **Warranty of Title**- the seller guarantees to give you a valid title to the product or property. No one else has any legal interest in the property.
- **Express Warranty**- the seller makes an oral or written statement about the goods it is advertising or packaging at the time of sale. This does not include the seller's opinion of the product or its value.
- **Implied Warranty of Merchantability**- the goods are fit for the ordinary purpose for which the goods are to be used. The manufacturer, seller, etc. need not make any written or oral statement.
- **Warranty of Fitness for a Particular Purpose**- the seller knows you are looking for a product for a special purpose and states that the item being sold to you will fit that purpose. You are relying on the seller's judgment in selecting an appropriate product.

Under the Kansas Consumer Protection Act, the implied and fitness types of warranties can never be disclaimed - which means the seller, manufacturer, etc. can not exclude these guarantees from part of

the conditions of the sale. Nor can the seller enforce any agreement in which you agree to a limit on the types of remedies you may seek if the goods do not meet the standards. If you believe that you purchased an item that is not fit for a particular purpose you expressed, or of merchantable quality, or consistent with the express warranty, you may generally demand that the goods be repaired or replaced. Return the goods and request a refund, refuse to pay for the goods, or keep the goods and deduct any repair costs.

If you have been physically injured by goods purchased, then you may have a right to sue the seller or manufacturer. You should consult with an attorney as soon as possible, since there are time limits imposed on bringing such actions.

Funeral Plans: It's Best To Compare Prices

By making funeral plans in advance, you can choose the kind of arrangements you want and be prepared for costs. You can save money and spare your family the pain and expense of making decisions in crisis. When plans are made according to your wishes, you will have added peace of mind. The first step is to think about your preferences and make some basic decisions.

There are two major considerations:

- whether you prefer burial, cremation or bequeathal; and
- what type of service you prefer.

Burial is the most common choice and can be economical or expensive depending on the casket, services, and cemetery charges. Cremation is becoming more popular and is usually less expensive than burial.

Bequeathal of your body to a medical school is an important service to humanity. It is economical because the school pays for almost all arrangements. You do need an agreement with a medical school and alternate plans in case the circumstances at death make bequeathal impossible.

When you are clear about your wishes, you need to find out who can provide the necessary arrangements and what they will charge.

Funeral Plan Purchasing Tips

- **Discuss costs when you make plans.** A funeral is a major purchase and should be treated as such.
- **Think carefully before you pay in advance.** Prepayment involves the risk of paying more than the cost of your funeral or having too little to cover the bills. Prepayment can also cause problems if the funeral home goes out of business or if you move or change your plans. If you wish to have funds ready for your funeral, arrange a special bank account or third-party trust.
- **Call on several firms,** explain what you want and find out what they have to offer. Under the Federal Trade Commission (FTC) Funeral Rule you may telephone funeral providers and ask about terms, conditions or prices of funeral goods and services.
- **Ask for an itemized price list** of the services and merchandise you want.
- **Put any instructions and plans in writing** and give them to your next-of-kin or the person responsible for making your arrangements. Do not put instructions in your will or safe deposit box.

The Kansas State Board of Mortuary Arts (KSBMA) also has free copies of information brochures, “Facts About Funerals,” “Preparing/ Planning Your Funeral Arrangements” and the “Memorial Planning Guide.”

Although this agency does not regulate the cost of merchandise or services, they will answer questions regarding funeral homes. While the Mortuary Arts Board regulates how prices are displayed and provided to consumers, the cost amounts are based on what the market will bear.

Complaints against Kansas funeral homes can be made with Kansas State Board of Mortuary Arts (KSBMA). KSBMA does not license or regulate

cemeteries. The KSBMA can be contacted at:

700 SW Jackson St., Suite # 904
Topeka, KS 66603-3373
(785) 296-3980

or you can visit its website at
www.kansas.org/ksbma/
or e-mail: boma1@ksbma.ks.gov

Utility Customer: Do I Have Rights?

In today’s society, we rely heavily on electricity and natural gas. By law, consumers of publicly owned utilities under the rule of the Kansas Corporation Commission are given a number of rights and protections. You should know about the following standards for billing, late payment charges, security deposits and discontinuance of service.

How long do I have to pay my bill?

All bills for utility service are due and payable upon receipt of each bill. Each bill will note a past due date.

How much can I be charged as a late penalty?

Any charge for late payment cannot exceed 2% of the current bill. A bill is deemed delinquent if payment is not received by the utility or its agent on or before the date stated on the bill.

What are the rules about security deposits?

- Security deposits for residential customers are allowed only if the customer has an unsatisfactory credit rating, insufficient prior credit history, or has been late in paying their bill for three consecutive billing periods.
- The maximum security deposit a utility can require is two times the amount of the projected average monthly bill for the customer. Customers have the right to pay this security deposit in four equal monthly installments.

- The security deposit must be returned with interest to those customers who have paid nine of their twelve bills on time, or when service is terminated.

What is the level payment plan?

Customers have the right to enter into a level payment plan under which each bill is calculated as being one-twelfth of the estimated annual usage. If you want to set up a plan, you will need to contact the utility and work with a customer service representative.

What if I fall behind in utility payments?

Customers who have bills that are in arrears may also work with the utility to set up a plan to pay off the amount due over a period of time.

If you get a notice of disconnection, do not ignore it. If you have reason to dispute the bill, call or write the utility company and let them know. Disconnection will not occur while your complaint is being investigated.

What about when the landlord is responsible for paying the bills?

If you rent your home and the landlord is responsible for paying the utility, the utility company must notify both the landlord and you of plans to disconnect service if the billing address is different from your address.

Can I list a relative to receive my disconnect notice?

You may make arrangements with the utility to have a relative or close friend receive your disconnect notice. This may help you avoid an inadvertent disconnection if you forget to pay your bills.

What rights do I have to prevent disconnection?

Utility service may not be disconnected when it would be especially dangerous to the health of the customer or other resident. Once you show this to the utility and inform them that you are able to pay for service only in installments, the utility company must postpone discontinuing service for at least 21 days in order to make arrangements for payment. Factors the utility company will consider are:

- your medical condition or that of another resident;
- your age;
- any disabilities;
- the weather/time of year.

Kansas utilities are also subject to the Cold Weather Rule (see next page).

What are satisfactory arrangements?

The customer must make an initial payment of 1/12th of the outstanding balance, apply for federal, state or local utility assistance funds for which the customer may be eligible and enter into a payment agreement for the remainder of the outstanding balance.

Where can I turn for help in resolving a complaint?

If you have a dispute with the utility company, try contacting the utility first. The number is listed on your bill. If you do not hear from the company or are not satisfied, then contact the following agencies:

- The Consumer Protection office of the Kansas Corporation Commission, Office of Public Affairs at (800) 662-0027 or in Topeka, (785) 271-3140.
- Your local Senior Citizen Law Project.
- Your local Area Agency on Aging.

Cold Weather Rule

Contact your utility provider if you can't fully pay your winter utility bill. The Cold Weather Rule will be in effect every year between November 1 and March 31. This means that a utility will not disconnect service when the local National Weather Service forecasts the temperature to drop below 35 degrees or to be in the mid-30s or colder within the following 48 hour period.

To avoid being disconnected when the weather is forecasted to be above those temperatures, or to reconnect your service regardless of temperature, customers must meet the following provisions:

- Notify your utility company if you can't pay your entire bill.
- Provide your utility company with information to place you on a payment plan.
- You must pay your new service bill while paying off the overdue amount.
- Make an initial payment of 1/12th of the total bill and enroll in an 11-month Payment Plan. Future monthly payments will be based on your current bill or average usage plus 1/12th of the arrears.
- Apply for federal, state, local, or other funds for which you might be eligible.
- Do not illegally take service.
- Do not default on payment plan.

Your Rights

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) and the Kansas Act Against Discrimination prohibit discrimination against persons with disabilities and allow persons who have been discriminated against to file complaints under the acts.

Under the ADA, an individual is considered to have a disability if that person either (1) has a physical or mental impairment that substantially limits one or more of that person's major life activities; (2) has a record of such an impairment; or (3) is regarded by the covered entity as having such an impairment. Major life activities include (but are not limited to) activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Title I prohibits private employers, state and local governments and others from discriminating against qualified individuals with disabilities in job application procedures, hiring, advancement, compensation, job training, etc.

Title II prohibits state and local governments from discriminating against qualified individuals with disabilities in providing their services, programs or activities. Governments or government-funded entities must make their offices, programs and services accessible to a disabled person in a form they can use, such as by interpreter or in large print, audio tape or Braille.

Title III covers public accommodations and prohibits restaurants, hotels, theaters, shopping centers and malls, retail stores, museums, libraries, parks and other similar places from discriminating. Title III organizations must make their facilities physically accessible where readily achievable and allow these services to be used by persons with disabilities. If you are blind, you can expect menus, price tags and signs to be read to you or be available on tape or with Braille print.

Title IV covers telecommunications. In Kansas, the State Relay Center allows persons using TTYs to communicate with those who do not have a TTY. The relay center can be contacted at **(800) 766-3777** or **711**. The Kansas Relay Center can be used as long as one of the parties is in Kansas.

If you feel you have been discriminated against you may be able to receive advice and representation from the Senior Citizen Law Project for your area. Contact them through your local Area Agency on Aging (see page 1).

Americans with Disabilities Act (ADA) Amendment Act (ADAAA) January 1, 2009

This new law put back in place the original intent for the definition of disability.

For additional resources on the ADA or the ADAAA, go to the Kansas Commission on Disability Concerns website at KCDCinfo.com.

Disability Rights Center

The Disability Rights Center of Kansas (DRC), formerly Kansas Advocacy & Protective Services (KAPS), is a public interest legal advocacy agency empowered by federal law to advocate for the civil and legal rights of Kansans with disabilities.

Who is Eligible for DRC Services?

Almost every Kansan with a disability rights issue is eligible for some type of disability rights advocacy (legal representation, advocacy, self-advocacy, or information and referral). Some federal laws limit DRC's services to individuals that meet disability guidelines or have specific needs (for example DRC cannot serve seniors whose disability was caused by the aging process).

DRC provides advocacy for the civil and legal rights of Kansans with disabilities to individuals with:

- Developmental Disabilities
- Mental Illness
- Traumatic Brain Injury
- Disabled who need access to Assistive Technology
- Supplemental Security Income (SSI) or beneficiaries of Social Security Disability Insurance (SSDI) who experience disability rights barriers to employment
- Disabled who need advocacy in order to exercise their right to vote under the Help America Vote Act
- Other permanent disabilities, that were not caused by the aging process

What type of cases does DRC accept?

Depending on the individual's disability, and the requirements of federal funders, DRC may be able to provide advocacy for the following cases:

- Abuse, Neglect and Exploitation
- Guardianship
- Healthcare
- Community Integration
- Accessibility
- Employment
- Fair Housing
- Technology
- Special Education

For more information contact the:

Disability Rights Center of Kansas
635 SW Harrison, Suite 100
Topeka, KS 66603-3726
Toll-free (Voice) at (877) 776-1541
TDD (877) 335-3725
Topeka (Voice) at (785) 273-9661,
Fax: (785)273-9414
Website: www.drckansas.org

Age Discrimination on the Job Is Against The Law

Workers age 40 and over have protection against job discrimination based solely on age. If you think you may have been the victim of some form of age discrimination in employment, whether in hiring, wages, promotion, training, layoffs, harassment or any other working condition, you should know about the protection you have under the federal Age Discrimination in Employment Act. The act applies to employers of 15 employees or more, and it covers private businesses, units of government, unions and employment agencies.

In certain situations, courts have recognized that age can be a “bona fide occupation qualification.” This means that in certain occupations, usually involving public safety, age can be used as a reason for disqualification.

There are also certain federal occupations not covered by the Act and a number of exceptions to the general rule against discrimination. Because of the technical nature of this Act, it is best to consult an attorney to be sure you do not lose any of your rights.

Does Kansas have an Act Against Discrimination in Employment?

The Kansas Age Discrimination in Employment Act applies to employers with four or more employees and protects those persons ages 18 and older from age discrimination. Employers with fewer than four employees do not fall under Kansas or federal law. The Kansas Human Rights Commission investigates all complaints. Further information is available by calling or writing the Commission at:

Kansas Human Rights Commission
Landon Office Building
900 SW Jackson, Suite 568-S
Topeka, KS 66612-1285
Phone: (785) 296-3206
Website: www.khrc.net

How do I report age discrimination?

If you believe you have a valid complaint, you should take the following steps:

- Follow your company’s grievance procedure.
- File a grievance with your union, if you have one.
- Contact the Equal Employment Opportunity Commission (EEOC) at (913) 551-5655 or (800) 669-4000 and the Kansas Human Rights Commission (KHRC) at (785) 296-3206 for assistance.

Can I sue my employer?

Before an individual can file a civil action, that person must file a charge of discrimination with the EEOC and/or KHRC. This must be done within six months from the last day of the incidence. The charge will be investigated, and the investigation agency will try to negotiate a solution. If this fails, the individual may sue in civil court.

Federal Programs Cannot Discriminate on the Basis of Age

The Age Discrimination Act prohibits age discrimination in programs and activities receiving federal financial assistance. The Act would apply, for example, to hospitals, nursing homes, day care centers and other social service providers. It is illegal for persons to be excluded from participation in, to be denied the benefits of, or to be subjected to discrimination in these programs and activities because of age.

The Age Discrimination Act applies to all ages. If a program is by law specifically designed for a particular age group, then those age restrictions would not be prohibited.

How do I report discrimination of this type?

If you believe a program has discriminated against you based on age, you should file a complaint with the program, the Department of Health and Human Services (HHS) and the Attorney General. This notice must state what violation occurred, when it occurred and what remedy you would like. No money damages are available.

Do I have a right to sue?

Yes, but you may not file a lawsuit until the Attorney General, Department of HHS and the program itself have determined whether age discrimination occurred, or until 180 days have passed without any decision.

Where can I get more information?

U.S Dept. of Health & Human Services
Office of Civil Rights
601 E. 12th St., Room 248
Kansas City, MO 64106
Phone: (816) 329-2965
TTY: (816) 426-7065

Victims' Rights

According to the Kansas Constitution, victims of crime, as defined by law, are entitled to certain basic rights, including the right to be informed and to be present at public hearings of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional or statutory rights of the accused.

For more information about victims' rights, contact your County District Attorney's office, the Crime Victims Informational Referral hotline at **(800) 828-9745**, or read the Victims' Bill of Rights, K.S.A. 74-7333.

Nursing Home Residents

Residents of nursing homes continue to have their entire constitutional, civil and contractual rights guaranteed. In fact, there are federal and state regulations that require all nursing homes to guarantee and communicate certain resident rights in order to be licensed to operate or to receive Medicare and Medicaid payments. Nursing homes are required to list resident rights and must provide all new residents a copy of these rights. Generally resident rights include:

- **Respect:** You should have the right to be treated with dignity and respect.
- **Services and Fees:** You must be informed in writing about services and fees before you enter the nursing home.
- **Money:** You have the right to manage your own money or to choose someone else you trust to do this for you.
- **Privacy:** You have the right to privacy, and keep and use your personal belongings and property as long as it does not interfere with the rights, health, or safety of others.
- **Medical Care:** You have the right to be informed about your medical condition, medications, and to see your own doctor. You also have the right to refuse medications and treatments.

If you, your family or friends have a complaint about the health, safety, sanitation, nutrition or care of a resident in a nursing home call **(800) 842-0078** or write the Complaint Coordinator at:

Kansas Department on Aging
503 S. Kansas Avenue
Topeka, KS 66603-3535

For questions about resident rights, administrative or agency actions that negatively impact a resident of a nursing home, call the Long-Term Care Ombudsman; the toll-free number is **(877) 662-8362**. In Topeka, call **(785) 296-3017**.

Financial Assistance

Social Security

Social Security (SS) has become a general term for a number of related programs involving retirement, disability, and survivor benefits. All of these programs are designed to operate together to provide you or your family with some income when your normal flow of income shrinks due to retirement, disability, or death. While the Social Security system does provide a supplement to income, savings and other assets, it does not provide, nor was ever intended to provide, enough benefits to support retirement completely.

General questions about Social Security, claims or benefits can be answered over the telephone. The Social Security Administration has toll-free numbers, **(800) 772-1213** and TTY **(800) 325-0778**, which you may call in addition to your area Social Security office. Social Security publications are also available on the internet, at <http://www.ssa.gov>.

Social Security Retirement Benefits

Can I get a calculation of my Social Security retirement benefits?

Contact the Social Security Administration and request a “Personal Earnings and Benefit Estimate Statement.” This statement will list your retirement benefits for early and full retirement.

What types of claims or services are available online?

- Apply for benefits
- Find out what benefits you can apply for
- Estimate your future benefits
- Access to the “Benefits Eligibility Screening Tool”
- Field Office Locator
- The ability to update or request information if you are receiving benefits

Can I apply for benefits online?

You can apply for benefits online if you:

- Are 61 years and 9 months or older and plan to start receiving retirement or spouse’s benefits within four months; or
- Have a disability or illness that is expected to keep you from working for at least 12 months or will result in death.

How do I qualify for Social Security retirement benefits?

You qualify for receiving retirement benefits by earning Social Security credits. These credits are earned throughout your working career by paying Social Security taxes and contributing to the Social Security trust fund.

What is the maximum credit I can earn in a year?

Four is the maximum number of credits you can receive in a year. Most people need 40 credits (10 years of work, not necessarily consecutively) to qualify for benefits.

Can I inspect my work credit record at Social Security before I retire?

Yes. It’s a good idea to check your official work record every two or three years. You may obtain your work credit record by contacting either the Social Security Administration or your area Social Security office and request a “Request for Social Security Statement of Earnings” form. You may also submit an online request.

At what age am I eligible to receive Social Security benefits?

You are eligible to receive Social Security retirement benefits as early as age 62. However, early retirement at age 62 will reduce your monthly benefits. The reduction in monthly benefit is permanent; it will not increase when you reach your full retirement age. Early retirement will give you

about the same total benefits over your lifetime, but in smaller amounts due to the longer period you will receive benefits.

Will working beyond retirement age affect my benefits?

Working beyond your full retirement age may increase your Social Security benefits in two ways. First, the extra income may increase your average earnings and ultimately increase your benefits. Second, your benefits will be increased by a certain percentage that is added automatically from the time you reach your full retirement age until you start to collect benefits or you reach age 70.

Can I work after I start receiving Social Security retirement benefits?

Yes, but your benefits may be reduced. If you are under your full retirement age and are collecting benefits, your benefits will be reduced if your earnings exceed certain limits during the months before you reach your full retirement age. After you reach your full retirement age you can work without any reduction in the benefits you receive, regardless of how much you earn.

What if I have to retire early because of my health?

If you cannot continue to work because of a health condition, you may want to consider applying for Social Security Disability to avoid having permanently reduced benefits. When you reach your full retirement age, if you're receiving disability benefits, your disability benefits will be converted to retirement benefits.

Social Security Disability Benefits

If you suffer a physical or mental impairment that prevents you from holding a job, you may qualify for a disability benefit from Social Security. Just as with other Social Security benefits, the disability is paid to you and your family only when you have

enough credits to qualify. Work credits for disability are figured the same way as retirement benefits. The number of work credits you need to qualify for disability benefits depends on your age when you become disabled. However, there are special rules for disability due to blindness and younger disabled workers.

How do I qualify for disability benefits?

Disability means that you are so severely impaired, mentally or physically, that you cannot perform any substantial gainful work. The disability must be expected to last at least 12 months from onset of disability or result in an earlier death. You must have a determination of disability based on medical evidence.

How do I prove that I have a qualifying disability?

When you file your disability claim, you should bring letters from your doctor, hospital or clinic that describe your medical condition. These letters should also state that your disability is either expected to last, or has lasted 12 months, or that it will result in death.

After I am disabled when can I apply and how long must I wait to receive benefits?

Even though the disability must be expected to last at least 12 months, you don't have to wait for 12 months before applying. If you qualify, disability benefits begin after a waiting period of five full calendar months from the onset of the disability. There are special situations in which this five-month period will not be necessary. If you qualify for Supplemental Security Income, you may receive that benefit during the waiting period.

How much will my benefit be?

The amount of your monthly disability benefit is determined by your age and earnings record. If you receive only a small disability benefit, and you do not have a large amount of savings or other assets,

you may be eligible for Supplemental Security Income (SSI) benefits in addition to Social Security disability benefits.

As a disabled person, do I also qualify for Medicare benefits?

After collecting disability benefits for 24 months, you become eligible for Medicare coverage, even though you may not be old enough to be covered under the regular Medicare rules. You will automatically receive information about this several months before coverage starts. It is very important that you read this information so you don't miss important dates.

What happens if my condition improves?

If your medical condition improves, and you go back to work, your disability eligibility will end. Even if you do not go back to work voluntarily, Social Security will review your case periodically to determine whether your condition has improved enough for you to go back to work.

Will I get a chance to test my ability to go back to work?

Notify your local Social Security Office if you go back to work while receiving disability payments. You will be allowed a Trial Work Period (TWP) to test your ability to work for at least nine months. During the TWP you may earn any amount and still receive disability benefits. At the end of the TWP, the Social Security Office will determine if full benefits will continue.

Dependent or Survivor Benefits

When a person who has worked and paid Social Security taxes dies, his/her family may be eligible for survivor's benefits. Up to 10 years of work is needed to be eligible for benefits, depending on the person's age at time of death.

Who is eligible for survivor benefits?

- Surviving spouse - full benefits at full retirement age, or reduced benefits as early as age 60.
- A disabled spouse - as early as age 50.
- A surviving spouse at any age if he or she takes care of the deceased's child who is under age 16 or disabled, and receiving Social Security benefits.
- Unmarried children under 18, or up to age 19 if they are attending high school full time. Under certain circumstances, benefits can be paid to stepchildren, grandchildren, or adopted children.
- Children at any age who were disabled before age 22 and remains disabled.
- Dependent parents age 62 or older.

When receiving survivor benefits, other things may affect your benefits, such as: if you work; if you remarry; if you are eligible for retirement benefits on your own record.

Does Social Security also cover funeral costs?

If you die, whether you were still working or retired, a lump sum of \$255 is payable to a spouse or children under 18 or disabled adult children.

Supplemental Security Income

Supplemental Security Income (SSI) provides monthly assistance to individuals who are aged, disabled or blind and who do not have substantial income or assets. Monthly benefits can also be paid to disabled or blind children. Unlike Social Security, you can get SSI benefits even if you have never worked or do not qualify for Social Security. You can even receive SSI benefits in addition to the Social Security benefit. There are certain rules you must meet to be eligible for SSI.

What determines if I am eligible to receive SSI benefits?

To receive SSI benefits you must meet certain income and asset limits, you must be at least 65 years of age and/or you must be blind or disabled. Disabled means that you have a physical or mental condition that keeps you from working and is expected to last at least a year or until you die. Children from birth to age 18 may receive monthly benefits based on disability or blindness if certain guidelines are met. If eligible, you may begin to receive benefits immediately.

How to Apply for Benefits

Always make a formal written claim for every benefit to which you think you may be entitled. The only way to fully protect your rights to claim a particular benefit or to appeal the denial of a benefit is to make a written claim and receive a written decision.

When you apply for benefits you may need your Social Security card, proof of age, citizenship or alien status records, proof of income and resources, proof of living arrangements, and doctors' names and addresses if applying for disability benefits.

When you submit documents to the Social Security office, always attach your claim number to each document and always keep a copy of every form or document you submit. The Social Security Administration needs to see original documents.

If I am unable to handle my financial affairs, can I have someone do it for me?

Yes. If you are unable to handle your financial affairs, a relative, friend or nursing home can request that your benefit payment be made to them, as a representative payee. This request must be accompanied by positive evidence of your inability to manage your funds, usually in the form of a doctor's statement.

Can I appeal a decision made by Social Security?

Social Security will notify you in writing whether or not your application or claim is approved, how much you will receive, and when you will get your first check. If your claim has been denied or if your claim has been accepted for lower benefits than you think you are entitled to, you have a right to appeal the decision.

How do I appeal if my claim for benefits is denied?

There are four levels in the appeals process.

Step one: The first formal step is to file a written report for reconsideration of the initial determination of your claim. At this stage there is no formal hearing or opportunity to make an appeal in person to Social Security.

Step two: If you disagree with the reconsideration decisions, you may file a written request for a formal administrative hearing; the request must be made within 60 days. Also, you have the right to examine your file at the Social Security office to see that all the papers you have filed are in the file. An administrative law judge will preside, and everything that is said or done in the hearing will be recorded. You may present any evidence you would like the judge to consider.

Step three: If your appeal is denied by the administrative law judge, your next step is to file a written appeal for a Social Security Administration Appeal Council review.

Step four: The last step available after exhausting all of the Social Security appeals procedures is to bring a civil lawsuit against the Social Security Administration in Federal District Court.

Railroad Retirement

The Railroad Retirement system provides retirement, disability, and survivors' benefits under rules approximately the same as for Social Security.

How do I qualify for benefits?

You must have a minimum of 10 years employment on the jobs covered by the Railroad Retirement system to be eligible for retirement benefits. If you do, you may claim retirement at age 65. You may also take early retirement at any time between age 62 and 65. However, early retirement means permanently reduced benefits. If you have 30 or more years employment, you are eligible for benefits at age 60.

What are the disability benefits under Railroad Retirement?

There are two types of disability benefits under the Railroad Retirement Act, occupational disability and total disability. Both require a five-month waiting period before the benefits will begin.

- **Occupational disability** benefits are available at age 60, if you have at least 10 years of railroad service, or at any age, if you have at least 20 years of service. An occupational disability is one that prevents you from performing your job with the railroad. It does not necessarily prevent you from working at some other kind of job.
- **Total disability** benefits are available at any age if you have been permanently disabled and meet the Railroad service requirements. Total disability means that you must be unable to perform any kind of substantial gainful employment.

Can my spouse also qualify for benefits?

Yes. If you are receiving benefits due to retirement, your spouse may also be eligible for an annuity. The age at which your spouse can begin receiving

benefits depends on your age, date of retirement and number of years of railroad service. An annuity may also be payable to your divorced spouse if the marriage lasted at least 10 years, both of you are 62 or older and your ex-spouse has not remarried at the time the application is made for benefits.

Can my survivors also collect on my benefits?

Annuities are also payable to widows, widowers and unmarried minor children. In certain cases, benefits are also payable to parents, remarried widow(er)s, grandchildren and surviving divorced spouses. With the exception of a lump-sum residual death benefit, eligibility depends on whether the worker was "insured" under the Railroad Retirement Act at the time of death.

A worker with at least 10 years railroad service, and who worked in at least 12 of the last 30 months preceding death, is "insured." If you do not meet these qualifications, your work records are transferred to the Social Security Administration for determining survivor benefits under that program.

How do I apply for Railroad Retirement benefits?

Application for benefits may be made at the local office of the U.S. Railroad Retirement Board. Call toll free **(877) 772-5772** for your local office location. Visit the website <http://www.rrb.gov>.

What do I do if I don't agree with the board's decision?

If you want to challenge the decision, you must ask for reconsideration. If you are not satisfied with the decision on the reconsideration, you may appeal to the Bureau of Hearings on Appeals. If you do not agree with the decision of the appeals referee, you may appeal to the three-person Board.

Company Pensions

The Employee Retirement Income Security Act (ERISA) allows some workers protection in regard to pension plans offered by companies in the private work force. ERISA sets minimum standards for pension plans, guaranteeing that pension rights can't be unfairly denied or taken from the worker. ERISA also provides some protection for workers in the event certain types of pension plans cannot pay all the benefits to which you are entitled.

Do I have a right to know how my pension plans works?

You have a right to know how your pension plan works and the benefits to which you are entitled.

The employer must provide you with a Summary Plan Description (SPD). The SPD is a description of the plan's terms and should provide accurate and understandable information regarding the plan's benefits, provisions, funding source and any changes to this information.

You may also get an updated Summary Plan Description at any time at the personnel or pension office where you work. You have a right to:

- Obtain a copy of the benefit plan
- Receive a Summary Plan Description
- Obtain a copy of the plan's current annual statement

Can I review my personal pension benefit account?

Yes. In addition to the SPD, you are entitled to a statement of your "personal benefit account" which explains how many benefits you have and what benefits you are vested in.

Vesting means that you have a legal right to collect the pension when you retire. It cannot be taken from you because you change jobs, quit work, get fired or the pension plan changes. You may have to make a written request for your personal benefit

account since ERISA does not require the company to provide it unless you make a request.

How do I claim my pension benefit?

ERISA also established some rules which must be followed when you retire and want to claim your benefits. All pension plans must have an established claim procedure. Check your pension plan for the specific steps you must take.

How can ERISA protect me if I have been unfairly treated?

If you think you have been unfairly denied benefits, have been denied information about the plan, are adversely affected by a change in the plan, or are concerned the plan has been improperly managed, the rules of ERISA may help you. It is even possible to file a federal court lawsuit to enforce any provision of ERISA not being followed by your company's pension plan.

Kansas Veterans Benefits

The U.S. Department of Veterans Affairs (VA) is charged with administering benefit programs for veterans and their families.

Eligibility for VA benefits is determined by when you served in the military, and the length of that service. Eligibility for benefits in most cases requires that you complete your military service with a discharge that is not dishonorable.

The Kansas Commission on Veterans Affairs offers many services for Kansas veterans. Some of these benefits are:

- **The Kansas Soldiers Home** - The historic Fort Dodge Facility offers three levels of care to eligible residents; private rooms for assisted living, cottages for independent living and a skilled nursing facility. (Veterans benefit financially when they choose a Veterans Home for long term care.) Information on application, eligibility and admission to the

Kansas Soldiers Home can be obtained by contacting:

Kansas Veterans Affairs
P. O Box 87
Fort Dodge, KS 67843
(620) 227-2121

- **The Kansas Veterans Home** - The facility in Winfield offers three levels of care to eligible residents: assisted living, skilled nursing and special care for residents with Alzheimer's Disease or related dementia. Information on application eligibility and admission can be obtained by contacting the:

Home's Clinical Director
1220 World War II Memorial Drive
Winfield, KS 67156
(620) 221-9479, ext. 250

- **Compensation and Pension Benefits** - Compensation is available for injuries or illness contracted while on active duty, either as active military or reservist. A pension may be available for Wartime Veterans for total disability not the result of active service.
- **Educational and Training Programs** - These benefits are available under the G.I Bill. There are several Chapters under which veterans and reservists can use their benefits. These are in the areas of colleges, vocational schools and on-the-job training or apprenticeship.
- **Life Insurance** - Programs are now available for veterans who have been adjudicated as having a service-connected disability. Time restrictions apply.
- **Guaranteed Home Mortgage Loans** - Loans are available to service members, veterans, reservists, and some unremarried surviving spouses for the purchase or refinancing of homes, condominiums or manufactured homes.

- **Vocational Counseling, Training and Job Assistance** - These benefits are available to veterans who have at least a 20% service-connected disability, and who need training to overcome an employment disability caused by a service-connected disability.
- **Health Care Including Long Term Care** - Several categories of health care are available depending on eligibility for specific benefits.
- **Burial** - Eligibility for burial in VA National Cemeteries include veterans, service members, dependents and some reservists.

Spouses, widows/widowers, mothers, fathers and dependent children may also be eligible for VA benefits. For additional information, contact:

Kansas Commission on Veterans Affairs
700 SW Jackson, Room 701
Topeka, KS 66603
(785) 296-3976

See page A-1 for other Kansas Veterans Affairs Offices.

General Assistance

General Assistance (GA) is a state funded program for persons in need who are not eligible for any other public benefits. To qualify, your non-exempt income and other resources must be insufficient to meet your financial needs.

Who may qualify for GA?

Assistance is limited to persons with severe physical disabilities that are expected to last 12 months or longer, prevent gainful employment, and are not controlled within the 12 month period by medication, surgery, or other treatments. (A complete listing of qualifying disabilities can be obtained at your area SRS service center or on the SRS website at www.srskansas.org). Persons who stay at home to care for another family member who meets the disability criteria above and where

such condition does not permit self-care may also qualify for GA. Benefits are limited to 24 months in a lifetime.

Will the amount of my income and resources affect my eligibility?

Yes. There are limits on both the amount of income and amount of resources you may own. Gross income cannot exceed 185% of an established need standard. Resources not included in your eligibility determination include your home; \$ 1,000 of assets; all motor vehicles; household equipment and furnishings, personal effects and tools.

Once I qualify, how is the amount of my GA benefit determined?

Cash payments are based on a predetermined allowance for basic needs and shelter. The number of persons eligible for assistance in your household is used to determine the cash payment you will receive.

Further information and assistance in applying for benefits can be obtained from your area Social and Rehabilitation Services (SRS) service center or Area Agency on Aging (AAA). You can find the location of the nearest SRS Service Center on the internet at www.srskansas.org . You may also apply online or call (888) 369-4777 to have an application mailed to your home.

Food Assistance

As food costs continue to rise, many older citizens on fixed incomes have difficulty obtaining the food necessary for a proper diet. The Food Assistance Program (now known nationally as the Supplemental Nutrition Assistance Program (SNAP)) is a federal program administered by the state Social and Rehabilitation Services (SRS) offices. It may help you stretch your food budget. Food Assistance benefits in Kansas are provided electronically. You will be issued a Vision card that must be used to get your benefits each month.

How do I qualify for food assistance benefits?

You may qualify for food assistance benefits if you:

- Work for low wages;
- Are unemployed or work part time;
- Receive welfare or other assistance payment; or
- Are elderly or disabled and live on a small income.

Are there income and resource requirements that I must also meet?

As with all financial assistance programs, you must meet certain income and resource requirements. **Income** is the money you receive on a regular basis, such as wages, Social Security, and SSI. But not all of this income is counted toward the income limits. Deductions are taken for 20% of your earned income, actual cost for care of your dependents, and shelter costs (including utility costs) that exceed certain limits.

If your household contains at least one person who is either 60 or older or disabled, there may be additional deductions for medical expenses.

What items are regarded as resources that must be taken into account?

The term **resources** includes money and other assets that you own, such as savings and checking accounts, stocks, property and cash-on-hand.

What items are exempt and are not counted as resources?

The following items are exempt: your home and surrounding lot, household goods, and personal belongings, life insurance policies, burial plots, all vehicles, and all retirement and educational savings accounts.

Your household may have up to \$2,000 of countable resources. If there is one member of the household

at least 60, you may have \$3,000 of countable resources.

There are special provisions for recipients of Supplemental Security Income (SSI) benefits. The resources of SSI recipients will not be used in calculating their eligibility for the food stamp program. In addition, the gross and net income limits do not apply to households in which all members receive SSI benefits.

How do I apply for food assistance benefits?

To apply for food assistance benefits, contact the SRS service center nearest you. You can find the nearest SRS service center on the internet and apply online at www.srskansas.org or call (888) 369-4777 to have an application mailed to your home. If you are applying for or receiving Supplemental Security Income (SSI), you may apply for food assistance at your Social Security District Office.

The SRS service center will give you an application the same day you come in, or will mail an application to you. If you are at least 60 years of age or disabled and cannot go to the office or find someone to go for you, let the office know. The worker may be able to interview you by telephone.

How long must I wait to receive food assistance?

If you qualify, you will receive food assistance no later than thirty days from the date your application was received. You may be able to get food assistance within seven days if you have little or no income, your rent and utilities are more than your income and resources or you are a migrant or seasonal farm worker.

What determines the amount of food assistance benefits that I may receive?

The amount is determined by the Department of Agriculture's estimate of how much it costs to provide your household with nutritious but

inexpensive meals. Taken into consideration are the number of people in your household and the amount of monthly income left after deductions.

How do I appeal if my food assistance application is denied?

If you think your application has been wrongly denied or that you haven't received the correct amount of benefits, you should notify your worker. If the decision is not in your favor, you may request your case be reviewed by a fair hearing official. Your request may be made in writing, by phone or in person to the SRS Service Center.

What are my rights under the food assistance rule?

You have the right to examine your own case file and a copy of the food assistance program rules. And, you have the right to be notified in advance if the SRS service center is going to reduce or end your benefits.

In some cases you can continue to receive food assistance without change while you are waiting for the hearing decision. If the decision is not in your favor, you will be asked to repay the value of any assistance you were not entitled to receive.

Emergency Food Assistance (Commodity Program)

Am I eligible to receive commodities?

The maximum income limit to receive commodities under The Emergency Food Assistance Program (TEFAP) is 130% of the federal poverty level (the same as for food assistance). This income test takes into consideration the number of people in your household and the amount of gross monthly income.

What commodities are available to recipients?

TEFAP commodities include a variety of canned products, such as fruits, vegetables, juice, peanut butter, and meat as well as other products, such as nonfat dry milk, instant potatoes, trail mix, and dried fruit. Products vary depending on availability in the agriculture market.

Where can I apply for and pick up commodities?

The location of participating organizations and commodity distribution dates may be obtained from local helping agencies. If you do not know where the commodities are distributed in your community, contact the area Social and Rehabilitation Services (SRS) service center or visit the SRS website at www.srskansas.org. You can find the location of the nearest service center on the internet or call **(888) 369-4777**.

How often are commodities available?

TEFAP commodities are shipped approximately four times a year to local nonprofit organizations and food banks which notify the public regarding the time and place the commodities will be distributed.

Low Income Energy Assistance Program (LIEAP)

LIEAP is a federally-funded program that helps eligible households pay a portion of their home energy costs.

How do I qualify for assistance?

In order to qualify, applicants must meet the following requirements:

- An adult at the address must be personally responsible for purchasing heating costs incurred at the residence, payable either to the landlord or the fuel vendor.

- Applicants must demonstrate a recent history of payments toward purchase of the primary heating energy.
- The combined gross income (before deductions) of all persons living at the address must not exceed 130% of the federal poverty level.

How much assistance can I receive?

Benefit levels vary according to household income, number of persons living at the address, type of dwelling, type of heating fuel, utility rates, and the amount of federal funds available.

How do I apply?

The application period is from mid-January to the end of March each year. To request an application or more information about LIEAP, contact your local helping agency, participating vendor, area Social and Rehabilitation Services (SRS) service center, or call the toll-free hotline at **(800) 432-0043**. You may also get information online at www.srskansas.org.

What is the Kansas Weatherization Assistance Program (KWAP) and how can I apply?

The Weatherization Program assists low-income households with home repairs that will help lower their energy bills. To request an application or additional information, please call the Housing Information Line at **(800) 752-4422**.

Where can I find current income guidelines information regarding LIEAP and KWAP?

<http://www.srskansas.org/ISD/ees/lieap.htm>

Health Care

Medicare Meets Some Hospital and Medical Costs

Medicare is a three-part health insurance program administered by the Centers for Medicare and Medicaid Services (CMS). It is designed to meet some of the hospital, medical, and prescription costs of senior citizens (age 65 or older) and some disabled persons under age 65.

It is not a comprehensive insurance, and there are some health needs that Medicare does not cover, or only partially covers. For example, Medicare doesn't pay for long-term nursing home care. Medicare will cover short-term, skilled nursing care following a hospital stay. A consumer who relies on Medicare alone is exposed to substantial risk when certain kinds of health problems occur.

The Kansas Foundation for Medical Care provides oversight of quality of care under Medicare. Contact them at **(800) 432-0407** with questions or complaints about the care you received in the hospital.

Who is eligible for Part A (Hospital Insurance), and how much does it cost?

You may be eligible if you fit into one of the following three categories:

- You are 65 or older and qualify for Social Security or Railroad Retirement benefits; or
- You are disabled and have met the Social Security disability requirements for two years; or
- You are a kidney patient with end-stage renal disease
- Part A enrollment is automatic for those under 65 and disabled or for kidney patients with end-stage renal disease.

If you are not automatically eligible, then you should apply for Part A coverage three months before your 65th birthday. For most people who are eligible, Part A is premium-free.

How do I become eligible for Part B (Medical Insurance)?

You are eligible for Part B if you are 65 or older; under 65 and disabled; or are a kidney patient with end-stage renal disease, AND are a citizen of the United States or a legal resident for five consecutive years. There is a monthly premium for all enrolled people with Medicare.

If you are automatically eligible for Part A coverage, you will be enrolled in the Part B coverage unless you notify the Social Security office you do not want it.

How do I become eligible for Part D (Medicare Prescription Drug Coverage)?

Everyone with Medicare is eligible for this coverage, regardless of income, resources, health status, or current prescription expenses.

Private companies offer Medicare prescription drug coverage which started January 1, 2006. The decisions you make depend on what kind of health care coverage you have now.

You may have Original Medicare only or Original Medicare with a Medigap Policy without drug coverage. You may be a retiree and have drug coverage through your (or your spouse's) former employer or union. You may be a Veteran with VA benefits or retired Military with TRICARE benefits. You may have a Medicare Advantage Plan (like an HMO or PPO) or other Medicare Health Plan. And finally, you may have Medicare and Medicaid and get your prescription drug coverage from a Medicare stand-alone prescription drug plan. You may have a combination of several of these, but whatever the situation, you have something to consider.

If you have limited income and resources, extra help may be available to help you pay for your coverage.

Joining a Medicare plan that helps cover prescription drugs is voluntary. If you want coverage, you must choose to join a plan to receive it. **Just like any other insurance, if you choose not to join when you are first eligible and later change your mind, you may have to pay a late enrollment penalty.**

If you have any questions, call **1-800-medicare** or visit www.medicare.gov. You can also call the Senior Health Insurance Counseling for Kansas program (SHICK) by dialing **(800) 860-5260** for the name and phone number of a counselor in your area.

Can I choose to sign up for Part B, if I am not automatically enrolled?

Yes. If you sign up for Part B in three months before the month in which you turn 65, your coverage will be effective the first of the month in which you turn 65. If you enroll in the month you turn 65, your coverage will be effective the first of the next month. You may still enroll in the three months after the month of your birthday, but your Part B benefits will be delayed 2, 3 or 4 months after your birth month. This seven month enrollment period is called the Initial Enrollment Period.

As an example, if your 65th birthday is in April, you may enroll in Part B during January, February or March and have Part B benefits effective April 1. If you enroll in April, your benefits will be available May 1. If you wait until May, June or July, your Part B coverage could be delayed until September 1.

If you wait until after the seven-month Initial Enrollment Period, you must wait for a General Enrollment Period, January 1 to March 31 each year. Coverage will not start until the following July 1. The monthly premium could be 10% higher for each 12 month period you wait to sign up for the rest of your life.

What hospital costs does Medicare Part A cover?

Medicare will help pay for the following kinds of health care:

- Inpatient hospital care
- Inpatient care in a skilled nursing facility following a 3 day hospital stay
- Home health care
- Hospice care

How does the inpatient hospital coverage work?

You must pay a deductible before Medicare will pay. The deductible is subject to change each year. Each time you enter the hospital, you must pay a new deductible unless you are still in the same “benefit period.” A benefit period starts the day you are admitted to the hospital and ends when you have been out of the hospital or a skilled nursing facility for 60 consecutive days.

Besides the deductible, how much will I owe the hospital after an inpatient stay?

Once the deductible is met, you will not be charged for any Medicare covered services for the first 60 days you are in the hospital. Medicare will require that you pay a per day co-payment for hospital days 61-90. If you are hospitalized over 90 days, you must pay 100% of the costs, unless you choose to use “lifetime reserve days.” Co-payment for hospital inpatient days 91-150 (lifetime reserve days) is double the amount for days 61-90.

What expenses are included for payment under Part A?

Basically, Medicare pays every service the hospital bills for except personal and convenience items. Included in the billing from the hospital will be all charges for coronary care, intensive care, surgical room charges, lab services, drugs administered in the hospital, and room charges. Medicare will pay the room charges of a semi-private room unless a private room is medically necessary, such as

for a contagious patient or for intensive care. It is important to note that since the doctors do not bill through the hospital, they are not covered under Medicare Part A. Doctors are paid under Part B of Medicare no matter where you receive their services.

Can I use Medicare Part A to cover a stay in a nursing facility?

Medicare will not pay for long-term nursing facility care, but does provide for short-term recuperative stays. After you have been an inpatient in a hospital for three consecutive days, you may qualify to be moved to a Medicare approved skilled nursing facility bed. This bed is often a “swing bed” in a hospital, although it may be in a separate facility or a part of a nursing facility. While you are a patient receiving daily skilled medical care, Medicare will pay 100% of the facility charges for the first 20 days and all but a set co-payment for days 21-100. After 100 days, or if you stop receiving daily skilled medical care, Medicare will not provide coverage.

What home health care needs does Medicare Part A cover? How do I qualify?

If you need part-time skilled care in your home, Medicare will pay for a limited number of home health visits. Medicare pays for home health visits only if **all** of the following conditions are met:

- The care you need includes part-time skilled nursing care, physical therapy, speech-language therapy;
- You are confined to your home (homebound);
- You are under the care of a physician who determines you need home health care and sets up a home health plan for you; and
- The home health agency providing services participates in Medicare.
- Covered services include part-time nursing care, therapy, and medical supplies and equipment.

How does the hospice care benefit work?

- Patients with terminal illnesses may now choose to receive medical care outside an institution. There are no deductibles or co-payments, except for part of the cost of outpatient drugs and inpatient respite care.
- Respite care is short-term, inpatient stay that gives temporary relief to the person who is regularly assisting with home care.

What are some of the items not covered by Medicare Part A?

It will never pay for personal convenience items such as telephones and televisions in your room; private duty nurses; or a private room, unless medically necessary.

What is covered by Medicare Part B medical insurance?

Part B medical insurance will help pay for:

- Doctors’ services
- Outpatient hospital care
- Outpatient physical and occupational therapy including speech-language therapy
- Home health care
- Many other medical services not covered by Part A
- Preventative Services

How much will Medicare pay for items covered under Part B?

Medicare pays 80 percent of the “allowed charge.” The approved charge is generally less than the doctor’s bill. You must pay a co-payment of 20 percent of the approved charge **plus** up to an additional 15% of the approved charge, that is, unless your doctor accepts assignment. For example, if your physician does not accept assignment and bills you \$150 for a service for which the Medicare-approved charge is \$100, Medicare will pay \$80 of the approved charge and you must pay a \$20 co-payment plus \$15 of the amount over the approved charge of \$100, for a total responsibility of \$35.

What is assignment?

- If a doctor accepts assignment, the Medicare-approved fee is the maximum amount that the doctor can be paid. You will be responsible only for the deductible, 20% co-insurance, and 100% of any service not covered by Part B.
- **You should always ask in advance whether a doctor or supplier will accept assignment.** If not, you may want to go elsewhere. Whether or not a doctor or supplier accepts assignment, they are required by law to submit the claim to Medicare whenever they perform a service that might be covered by Medicare.

What services are not covered under Medicare Part B?

Even though the Medicare program has broad coverage, there are many services and supplies that are not paid for. These include custodial care, services not approved by Medicare; services for which the patient has no legal obligation to pay; services paid for by a government agency; personal comfort items; routine checkups; full-time home nursing care; hearing aids and eyeglasses and the examinations for prescribing or fitting them. Medicare also does not generally pay for chiropractic services, cosmetic surgery, dental care, private rooms, orthopedic shoes, or routine foot care.

What do I do if Medicare won't pay?

When you disagree with a decision about your Medicare eligibility or claim, you have a right to a review. Appeals regarding eligibility should be made to the Social Security office. Appeals regarding health care claims should be made to the Medicare Administrative Contractor (MAC) whose name appears on the Medicare Summary Notice. Call the appropriate office for the appeals procedure. Follow the initial appeals process as instructed on the back of the Medicare Summary Notice.

How do I appeal a Part A hospital insurance claim?

These are initially reviewed by the MAC who made the decision. If you are still dissatisfied after the review and the amount Medicare refuses to pay is at least \$100, you can ask for a formal hearing. Depending on the type of hearing and the disputed amount, you can eventually appeal to a federal court.

How do I appeal a Part B medical insurance claim?

If your claim is denied, you should first request a review by the MAC. If the claim is still denied and the amount in question is \$100 or more, you can request a hearing before a carrier hearing officer. If you disagree with the hearing officer's decision and the amount in question is \$500 or more, you may request a hearing before an Administrative Law Judge. Cases involving \$1,000 or more can eventually be appealed to a Federal Court.

Where can I get help in appealing a claim?

If you need assistance in appealing a claim that has been reduced or denied, you can contact an attorney or the Senior Law Project (see page A-2) in your area. More information about Medicare coverage is available from your Area Agency on Aging or from Medicare **(800) 633-4227**. Counselors at the Senior Health Insurance Counseling for Kansas (SHICK) program may also be available. These counselors have been trained to help with Medicare and other senior health insurance matters. For more information, call **(800) 860-5260**.

Qualified Medicare Beneficiary (QMB) Program

For people who cannot afford to buy a Medicare Supplemental Insurance policy, the Qualified Medicare Beneficiary program exists to "fill in the gaps" in Medicare. To be eligible, there are income

and resource criteria that must be met. Resources could include checking and savings accounts, certificates of deposit, land, and the cash value of most life insurance. The home, car, personal items and keepsakes, and household furnishings are not counted as resources.

In 1993, a new version of the QMB program, the Low-income Medicare Beneficiary Program (LMB) began with higher eligibility limits and reduced benefits.

People can apply for QMB or LMB at any SRS office, or request the brochure, “Medicare Savings Programs.” When you become eligible for QMB or Medicaid, you can “freeze” your Medicare supplemental policy by calling your insurance company within 90 days of your eligibility for QMB or Medicaid. Your company will hold your policy for up to 24 months, during which you won’t pay any premium, and they won’t pay any claims. This allows you time to determine if QMB or Medicaid will do what you want without dropping your private Medicare Supplemental Insurance.

Medicaid Provides Health Care To Limited-Income Persons

Medicaid is a program designed by the federal government to pay the costs of some health care for individuals with limited income and resources. Unlike Medicare, Medicaid provides health coverage to all eligible ages. It also pays for some important services, such as custodial nursing home care that are a big concern for older persons. In Kansas, the Medicaid program is administered by the Kansas Department of Social & Rehabilitation Services (SRS), Kansas Health Policy Authority (KHPA) and Kansas Department on Aging (KDOA).

How do I qualify for Medicaid coverage?

Kansas provides three basic categories of eligibility for Medicaid for Kansas seniors. You may be eligible if any one of the following applies to you:

- You are eligible if you get Supplemental Security Income (SSI); or
- You are eligible if you have an adjusted income of less than the limit established by SRS; or you may have a spenddown if your income is over the limit, but you have high medical bills.
- You are eligible for limited coverage under a Medicare Savings Program if your income does not exceed 100% (for QMB) or 135% (for LMB) of the Federal Poverty Income Guidelines. (See discussion of QMB and LMB.)

Where do I apply for Medicaid?

If you fit into one of the three categories, you can apply for Medicaid at your area SRS office.

What is the income limit for Medicaid?

- Generally, SRS measures the amount of income you have over and above “protected income.” Protected income is income necessary to meet basic living expenses. Income above the protected income is considered available to meet allowable medical costs. Eligibility is determined by figuring your income for a six-month period.
- For the Medicare Savings Program, your income is compared against the poverty level on a monthly basis. If it falls below the poverty level, you are eligible for that coverage.

Is all income received counted?

For the most part you will count all income you have received. However, some income is excluded, such as some veteran income; income and property tax rebates; in-kind income (such as free shelter) and most interest income.

Besides the income limit, what is the resource limit?

The limit in cash and cashable assets for one person is \$2,000. For two persons, it is \$3,000. Resources include checking and savings accounts, savings bonds, stock, jewelry, and other valuables.

What resources are not counted that I may keep?

You may keep household equipment and furnishings, property used solely at a home, one vehicle (plus one more if it is needed for employment, or to obtain medical care, or is specially equipped for a person with a disability), life insurance having a face value of no more than \$1,500 per person, and resources designated for burial as approved by SRS.

Note: Any non-exempt resource that is transferred for less than fair market value can result in ineligibility for long-term care services for a penalty period.

What if I live in a long-term care facility?

Your income is figured on a monthly, rather than six-month basis. You are allowed to keep \$62 per month as a personal needs allowance, and the remainder of your income is used to meet your cost of care.

If I am over the income limit, can I still be eligible?

You may be eligible for Medicaid under the **spenddown** provision. Eligibility is determined on a six-month basis. The difference between your actual income and the limit set by SRS is the spenddown amount. If medical expenses incurred during that time equal or exceed the spenddown amount, Medicaid will be available to you. This is like an insurance deductible.

If my spouse resides in a nursing home, must I spend assets before my spouse can qualify for Medicaid?

- No. You are protected by the Spousal Impoverishment Law, which is sometimes referred to as Division of Assets. Under this law you divide and treat as separate, for eligibility purposes, the income and resources shared by you and your spouse.
- A booklet, “Questions and Answers on Spousal Impoverishment,” is available from the Kansas Department on Aging, **(800) 432-3535** or on the KDOA website www.agingkansas.org.

What services are covered by Medicaid?

They include physician’s services, prescription drugs (unless the Medicaid recipient is also eligible for Medicare, then most prescription drugs come through the Medicare Part D program), some ambulance services, lab tests, X-rays, home health services, inpatient or outpatient services, skilled intermediate nursing home care, and eye and hearing examinations. Any services not covered by Medicaid must be paid by you. For people on Medicare, prescriptions will be paid by Medicare Part D.

How do I handle a Medicaid claim?

If you are eligible for both Medicare and Medicaid, the provider of the service must “take assignment” of Medicare benefits or Medicaid will not pay. The claim must first be submitted to Medicare for payment under that program.

Do all doctors accept Medicaid payment for services?

No. Providers of medical services cannot be forced to accept payment from Medicaid. Only those providers enrolled by Medicaid are certified to be part of this program.

What if my doctor does not accept Medicaid?

You have two options - change doctors or pay with your own funds. Also, if your doctor prescribes a drug that is not covered by Medicaid, ask if there is something else that can be prescribed that is covered - either an alternative drug or the same drug under a different trade mark name.

What if I am denied eligibility?

- You may wish to appeal if you have been denied Medicaid eligibility. This is your right. First, request a hearing. This must be done within 30 days of the denial of your application. Second, if the hearing results are unsatisfactory, you may want legal advice. If you desire the aid of legal counsel at any point in an appeal, contact the Senior Citizen Law Project in your area (see page A-2).
- More information on Medicaid is available from the Kansas Department of Social and Rehabilitation Services office, Kansas Health Policy Authority or the Area Agency on Aging in your area.

Private Insurance: Gaps in Medicare Coverage

Medicare provides a strong base of medical insurance, but it was never designed to pay all of your medical expenses. Basically, Part A pays the hospital cost after a deductible, for the first 60 days you are an inpatient in a hospital. Medicare Part B pays 80% of the Medicare-allowed charges for doctor's fees and outpatient treatment at a hospital after a deductible is met. The deductible is subject to change each year. A deductible is an amount you are responsible for before Medicare will pay, co-insurance means that both you and Medicare are responsible for a portion of the bill. As a result, you will be responsible for Part A and B deductibles and the co-insurance, as well as any amount over the Medicare allowance if your doctor does not accept the Medicare-allowed charge. These "gaps" become

your responsibility. There are also a number of medical services that Medicare does not cover - like dental services and most optometry services.

What help is available to pay the amounts left after Medicare pays?

- For the services covered by Medicare, the deductibles and co-insurance can be paid three ways. A Medicare beneficiary can pay with his or her own funds, a private insurance can pay or, for those eligible, Medicaid may pay.
- Because the balances after Medicare payment may be substantial following a serious illness, many people purchase insurance from a private company. This insurance is called Medicare Supplemental Insurance or Medigap Insurance and is designed to work hand-in-hand with Medicare to limit the amount you will have to pay on the medical bills.
- Kansas Insurance laws allow Medicare Standardized Supplemental or Medigap plans to be sold in the state, Plans A through N. Four plans were eliminated effective June 2010 and two new ones were added. These plans range from the basic benefits (Plan A) to those offering more benefits, such as payment of the deductibles and co-insurance of both Parts A and B of Medicare.
- Shopping for a Medicare Supplemental can be difficult, but you should remember that Plan A from one company has the same benefits as Plan A from any other company (the same is true for Plans B through N).

Do Medicare Medigap policies cover non-Medicare expenses?

A few of the services not covered under Medicare are covered by some of the Medicare Supplemental policies. Limited benefits are available for foreign travel emergency, at-home recovery, and preventive medical care. This additional coverage adds to the price of the policy, so before you buy this additional coverage be sure that the benefits you receive are greater than the additional cost of the coverage.

What about other health insurance policies, such as those that specify a specific illness?

Policies such as cancer policies cover only specific costs of specific illnesses. Often Medicare will offer benefits for the same services. In some policies, the benefits are limited by waiting periods, diagnostic methods, and coverage only for the treatment of the specific illness and not for related illnesses. Before you purchase any specific illness insurance, be sure to understand all the limits of coverage. Special illness insurance should never be purchased instead of a comprehensive medical insurance program.

What are indemnity policies?

An indemnity is an agreement to pay so much per day under certain circumstances. Most indemnity policies are for hospital stays. These policies pay a set amount per day, week or month while you are hospitalized. A waiting period clause may require hospitalization for a set amount of days before payment begins and other limits may apply. Because of these limitations, a hospital indemnity policy should not be purchased instead of a comprehensive medical insurance program.

What are Medicare Advantage plans?

Medicare Advantage Plans are health plan options that are part of the Medicare Program. If you join one of these plans, you generally get all your Medicare-covered health care through that plan. This coverage can include prescription drug coverage. Medicare pays a set amount of money for your care every month to these private health plans whether or not you use services. In most of these plans, generally there are extra benefits and lower co-payments than in the Original Medicare Plan. However, you may have to see doctors that belong to the plan or go to certain hospitals to get services.

Medicare Advantage Plans include Medicare Health Maintenance Organizations (HMOs), Medicare Preferred Provider Organizations (PPOs), Medicare Special Needs Plans (SNPs) and Medicare Private Fee-for-Service plans.

Things to Remember When Selecting a Medigap Policy

- During the Medigap Open Enrollment (6 months from the effective date of your Medicare Part B coverage) every company that sells Medicare Supplemental Insurance in Kansas must accept you for insurance, regardless of how sick you have been. Sick people pay the same rates as healthy people; there legally can be no discrimination in pricing based on health.
- **Do not buy more than one Medicare Supplemental Insurance policy.** Since all policies called “Plan A” offer exactly the same benefits as all other policies called “Plan A” (and the same for Plans B through N), you would be duplicating coverage. It is illegal in Kansas to knowingly sell a duplicate Medicare Supplemental Insurance policy.
- **Remember, the government does not sell Medicare Supplemental Insurance policies.** If you receive an advertisement that has a “government” look to it, it could just be an advertisement trying to fool people into thinking it is associated with the government.
- **Do not let an agent force you into a decision.** As in any purchase, shopping around will often result in a better value than yielding to high pressure or scare tactics. Ask any agent who wishes to sell you insurance to give you a signed outline of benefits. This will allow you a chance to compare policies at your convenience, or ask someone you trust to look over your options.
- **Do not pay cash, or make checks payable to the agent.**
- You have 30 days from the date the policy is delivered to you to return the policy to the company for a full refund of any premiums paid. You do not have to give a reason for returning the policy, just a written notice that you do not want the policy and that you want your money back. Always look over any policy when you receive it to make sure it offers the benefits you expected and desire, and also to make you aware of any exclusions or waiting periods.

- When completing the application do not withhold medical information. If the agency completes an application for you, be sure before you sign that the information is accurate. Inaccurate medical statements can result in denial of benefits later.

Do I need to buy a Long-Term Care Policy?

Long-Term Care policies are not for everyone. If you cannot afford the premium, you should not be considering a long-term care policy. Before buying a long-term care policy, ask yourself:

- Do I have substantial assets to protect? Only people with a real need to protect assets should consider insuring against using those assets to pay for long-term care. For those who qualify, Medicaid benefits may be available to help pay for long-term care.
- How much does it cost to receive the type of services I will want? To get an idea of the costs of nursing homes visit, or call a facility to get rates. Remember, the cost will go up over the next several years. Before you seriously consider any policy, be sure it will deliver the benefits you desire.
- Do I really understand the benefits of this policy? Long-Term Care policies offer a wide variety of options and prices, and a comparison of policies can be difficult. However, if a Long-Term Care Policy is right for you, shopping around is a great idea. Prices for similar policies can vary greatly.
- Will I be able to pay the premium after my spouse dies? The need for long-term care may not occur until age 85 or older.

Is there anywhere I can go for help making insurance decisions?

- The Senior Health Insurance Counseling of Kansas (SHICK) program is available for helping with Medicare, Medicare Supplemental Insurance, Long-Term Care and other insurance concerns for older Kansans.

The SHICK program has counselors available to help you understand how Medicare and other senior health insurance matters work, and what to do when it doesn't work. SHICK counselors offer free, unbiased, confidential help from someone in your area of the state. SHICK counselors do not represent any insurance company. Their job is to show you all the options so you can make an informed decision. For the name of the nearest agency offering this counseling service, contact the SHICK office at **(800) 860-5260**.

- The SHICK program is funded by a grant from the Centers for Medicare and Medicaid Services (CMS) to the Kansas Department on Aging.

Helpful Insurance Booklets

The Kansas Insurance Department produces several publications on health insurance. These are available from the Consumer Assistance Division of the Kansas Insurance Department. Call them at **(800) 432-2484**. The booklets include:

- *Medicare Supplemental Shoppers Guide*
- *Long Term Care Insurance Shoppers Guide*

Housing

Renters Have Important Legal Rights

A rental contract between a tenant and a landlord is called a lease. Whether the contract is written or oral, it is still enforceable. Lease periods of more than one year must be in writing. It is always a good idea to have your lease in writing so that the agreement is clearly outlined in case of a dispute.

Read your lease before you sign it. If there are terms in the lease you do not like, change them before you sign. Kansas law prohibits certain terms in a lease agreement. A lease cannot:

- waive your legal rights as a tenant; or
- require you to pay for landlord's attorney fees if the landlord sues you.

Note: These clauses cannot be enforced by the landlord even if they are included in the lease you sign.

By law, both you and the landlord must conduct an inventory of the apartment within five days of your taking possession. The inventory should list the condition of the apartment, furniture and appliances at the time you move in.

Take as much time as you need to thoroughly inspect and write down the condition of all areas of the apartment. You and the landlord should sign and date the inventory and both should keep a copy.

Is there a limit to the size of the security deposit that can be required?

The landlord may ask for a security deposit to protect against damage to the property. Kansas law limits the amount of security deposit to one month's rent for an unfurnished apartment, one and one-half times the monthly rent for a furnished apartment or two times the monthly rent if you have a pet.

How soon after I vacate must the landlord return my deposit?

When you move out, the landlord must return the security deposit, minus any amount to cover damages other than normal wear and tear, within 14 days after determining what deductions, if any, should be made. The landlord must provide a written list of deductions. In no event can the return of the security deposit be more than 30 days after the lease is terminated.

Can I simply use my security deposit to pay my last month's rent?

No. If you do this, you cannot have any of the security deposit back, and the landlord may still collect the unpaid rent.

What duties does the landlord have under the law?

The landlord has a number of responsibilities to you as the tenant. The landlord must:

- provide reasonable heat, running water, and hot running water;
- maintain common areas (such as halls, laundry rooms and clubhouses);
- maintain all major plumbing and electrical systems;
- provide adequate waste receptacles; and comply with building and housing codes regarding health and safety.

Can a landlord tear up the lease?

No. The landlord cannot evict you, raise your rent, or decrease any service if you complain about housing code violations. It is also illegal to raise your rent during the term of your lease without giving adequate notice of the intent to increase rent.

What are tenant's duties?

Besides paying the rent on time, a tenant also has other duties imposed by law. They include:

- keeping the property clean and safe;
- being responsible for any damages done by the tenant or guests;
- allowing the landlord to enter the apartment during reasonable hours after notice of the need to enter;
- not disturbing the peace of the other residents; and
- giving the landlord written notice of intent to end the lease. The length of time needed for proper notice varies with the type of lease, but is at least 30 days.

Remember that nonpayment of rent can be grounds for eviction. If you pay in cash, always obtain a receipt to protect against a claim of nonpayment. If you pay by check keep proof of your security deposits.

Do I have any rights as a resident of a mobile home park?

Yes. The Mobile Home Park Residential Landlord and Tenant Act governs the rental of mobile home space in mobile home parks. If a park resident rents both his mobile home and its space in the park, then the regular Residential Landlord and Tenant Act applies.

Subsidized Housing

Finding appropriate housing at affordable prices is a real problem for many senior citizens. The federal government has established several programs to assist in housing needs.

One type is public housing that is built and operated by a government agency. The public housing program is administered by the U.S. Department of Housing and Urban Development, also known as HUD. Local Public Housing Authorities, called PHAs, acquire and operate housing projects.

There is also private subsidized housing that is built and operated by nongovernmental groups that have received federal assistance.

Subsidized rent in both public and private programs means the amount of rent you are required to pay is based on your ability to pay.

How do I qualify for the public subsidized housing?

Income guidelines must be met in order to qualify. Income includes wages, dividends and retirement benefits. Contact your local Housing Authority for more information.

How do I apply?

Fill out an application at your local housing office. Check your city government listings in the telephone book for the local housing authority. You will be notified if you do or don't qualify. If eligible, you will be informed of the approximate date a housing unit will be available. If not eligible you must be told why and given the opportunity for an informal hearing to appeal the decision.

What are some of the factors that affect my rent?

Rent is based on a percentage of your family income. Changes in your income, family size, or employment status can affect the amount of your rent. An evaluation is made each year to determine if your rent should be changed.

What are my rights as a tenant of public subsidized housing?

Your lease will contain many of the same rights and duties as outlined under the landlord-tenant section. You will also have a grievance procedure to challenge any decision regarding rent increases, charges for damages and termination of the tenancy. The procedure includes filing a written complaint, an informational conference, a formal hearing and court action.

How does the private subsidized housing program work?

Various types of subsidized private housing may be available in your area. Some federal programs assist you in paying the rent. Others lend money to organizations to help them build and rehabilitate housing.

How will my rent be calculated in the private program?

Under the Section 8 Voucher Program, the tenant may pay more or less than a set percentage of his income for rent, depending upon whether the rent for the unit is greater or lesser than the HUD-determined rent standards.

Are there other low-income housing options?

You should also check in your area for HUD's Section 202 housing program. It makes direct loans to private organizations for building or rehabilitating housing for the elderly and disabled. These units are then offered at lower rents. Special services may also be provided to assist tenants, including homemaker, health and transportation services.

In rural areas, the United States Department of Agriculture (USDA) Rural Housing Services provides affordable housing options to rural communities throughout Kansas.

Where can I get information about subsidized housing in my area?

For more details about subsidized housing available in your area contact the Public Housing Authority, your Area Agency on Aging, your local city hall or the Kansas Housing Hotline at **(800) 752-4422**.

Housing Discrimination

Federal law prohibits housing discrimination based on your race, color, national origin, religion, sex, family status, or disability. If you believe you have been discriminated against while trying to rent or purchase housing, you have the right to file a fair housing complaint. Call the Office of Fair Housing and Equal Opportunity Department of Housing and Urban Development at **(800) 669-9777** or **(800) 743-5323**, for information on how to file a complaint.

Housing Counseling

Housing counseling agencies provide counseling to renters, first-time buyers, and homeowners. Housing Counseling Agencies can provide advice on buying, renting, resolving landlord/tenant disputes, defaults and foreclosures, and reverse mortgages.

For a referral to the HUD-approved housing counseling agency nearest you, contact the Housing Counseling Clearinghouse (HCC) at **(800) 569-4287**.

Reverse Mortgage

A reverse mortgage is a special type of home loan that allows the homeowner to convert home equity into cash. Unlike traditional home equity loans or second mortgages, there is no payment due on the loan until the borrower no longer lives in the home.

To be eligible for a reverse mortgage you must be at least 62 years of age, own your home free and clear, or have a very low outstanding mortgage balance.

Many seniors use the reverse mortgage to pay for repairs, to pay for unexpected expenses, or to supplement their retirement income. You can obtain free information about Reverse Mortgage by calling Fanni Mae at **(800) 732-6643** or, by calling HUD toll-free at **(888) 466-3487**.

Continuing Care Retirement

Continuing Care Retirement Communities, (CCRCs), provide independent living units such as apartments or cottages. Various social, recreational, maintenance and health care services are offered usually on the premises.

The terms of a CCRC contract typically last more than one year. The facility agrees to provide housing, health care and other services in exchange for your advance payment to help cover these costs. The fees cover the cost of housing but do not give you ownership rights in the property. Most facilities additionally require an entrance fee and monthly service charge. Always seek advice from an attorney before signing a contract or paying the often substantial entrance fee.

Because of the complicated financing required to develop and operate such a facility, the potential for financial mismanagement does exist. Kansas law requires these facilities to provide a copy of their annual audit to residents on request.

Client Assessment, Referral and Evaluation (CARE)

The CARE assessment program is operated by the Kansas Department on Aging in conjunction with your local Area Agency on Aging (AAA). The CARE program was authorized by the 1994 Kansas Legislature. A section of the CARE assessment is required by federal law. This section is referred to as the PreAdmission, Screening and Resident Review (PASRR).

Everyone seeking admission to a nursing home must receive a CARE assessment by a certified CARE assessor before they can enter a nursing home. The CARE assessment takes about one hour and can be ordered through your local AAA. The assessment is designed to evaluate your basic care needs and abilities to perform daily activities such as dressing, shopping, laundry, etc. Visiting with a CARE assessor will give you a chance to discuss your available long term care options. The CARE

assessor has information about services in your community. After the assessment, you may decide to remain in your home at which time (with your permission) the CARE assessor can make referrals for the community-based services or you may choose to enter a nursing home.

Once the assessment is complete, the assessor will provide you with a certificate that shows you have been assessed. If you decide a nursing facility is your best choice, you must take a copy of the certificate (and may take a copy of your assessment) to the nursing home.

For more information about the CARE program or community based services, you may contact your Area Agency on Aging, local SRS office, or the State CARE program office in Topeka at **(800) 432-3535**. It should be noted that a CARE assessment is not Medicaid Eligibility; if you believe you will need Medicaid assistance you will need to apply through your Kansas Department of Social and Rehabilitation Services (SRS) service center.

How to Select a Nursing Home

The Licensure, Certification and Evaluation Commission of the Kansas Department on Aging licenses all adult care homes and certifies nursing facilities, nursing facilities for mental health and intermediate care facilities for the mentally retarded in Kansas. Programs exist to assure quality care through two primary means – establishing licensing standards and inspecting facilities to assure state and federal regulatory standards are being met.

A written report is given to the facility after every inspection. The facility must make the report available for examination in a place readily accessible to residents and must post a notice of their availability.

Other resources that may be helpful are:

www.medicare.gov/NHcompare/Home.asp

Kansas Long Term Care Ombudsman at:
www.da.state.ks.us/care (877) 662-8362
Kansas Advocates for Better Care at:
www.kabc.org (800) 525-1782

Associations to which some adult care homes belong include:

Kansas Adult Care Executives at:
www.k-a-c-e.org (785) 273-4393

Kansas Association of Homes and Services for the Aging at: www.kahsa.org (785) 233-7443

Kansas Health Care Association at:
www.khca.org (785) 267-6003

What should I consider when selecting a nursing home?

Determine your physical, mental and social needs before selecting a nursing home. Sometimes these needs can be met in your own home, an assisted living facility, a board and care home, an adult family home, or a residential care facility.

Kansas law requires that any person seeking entry to a Medicaid certified nursing home must have a CARE assessment prior to admission. You should contact your local area agency on aging for this service.

When there is a need for nursing home care, start with those near your home or close by for easy visitation by friends, family and physician. When you have narrowed the selection to a few homes, visit them to determine the quality of care received by the residents and the quality of life they are experiencing in the home. Ask for the survey (inspection report). Check to see if the residents are well groomed and are involved in daily activities that appear meaningful to them. When possible schedule your visit at meal time to evaluate the appearance and taste of meals and to determine if there is sufficient staff to provide residents with assistance in eating when needed. Determine if they are involved in the care planning sessions.

When visiting a home, chat with the residents to see if they are allowed to make decisions about their day, i.e. choosing the time to get up in the morning or going to bed at night and are satisfied with the services provided. Talk to staff to determine if they enjoy their work at the home. Rely upon your impressions of staff attitudes and your reactions to the nursing home.

What should I look for when signing a nursing home contract?

Nursing home residents have a number of rights and safeguards secured by federal and state law, including the right to an admissions contract.

The contract should indicate which services are included in the daily rate and which are not, as well as the additional costs for other services. Nursing homes participating in the Medicaid program may not require a period of “private pay” prior to conversion to Medicaid nor any sort of donation for the promise or privilege of securing a bed. Rarely is a deposit required at admission from private paying residents, and it is unlawful to request one from Medicaid residents. Take a close look at how money is refunded when care is terminated due to a move or death, and look for any language regarding late charges.

What happens to nursing home residents who run out of money?

Many people who enter a nursing home as private pay residents eventually run out of money and turn to Medicaid to pay for their care. Nursing homes that are Medicaid certified must continue to provide nursing care when a person becomes Medicaid eligible.

How much does nursing home care cost?

Extended nursing home stays can be quite expensive, and the daily rates vary from one home to another. Generally, the average rate is more than \$130 a day. It is recommended that you call several homes and ask for their daily rates.

Are all homes Medicare and Medicaid certified?

Most, but not all homes are certified for Medicaid in Kansas and many are certified for Medicare. Ask your hospital discharge planner or call the facility to determine its types of certification. As explained in the Medicare section, up to 100 days in a skilled nursing facility may be covered if the eligibility criteria is met. You will be responsible for a co-payment for days 21 through 100.

What does Medicaid pay for?

Medicaid will pay for nursing home care for those physically and financially eligible. A nursing home accepting a Medicaid payment cannot bill you any covered costs in excess of the reimbursement rate authorized. You will be required to apply your monthly income toward the cost of care, minus a \$62 personal needs allowance.

Alternatives to Nursing Home Placement

Like most people, you probably want to remain in your home during your later years, or at least as long as possible. But an illness or chronic condition may require you to make adjustments in your lifestyle. Sometimes with a little special assistance, you can stay in your own home and postpone or avoid costly nursing home care.

The following services may be just what you need to help you maintain your independence.

- **Home-delivered meals:** Nutritious meals may be brought to your home once and sometimes twice a day if you are unable to cook for yourself.
- **Transportation:** If you are unable to transport yourself to the doctor's office, grocery store or other needed service, there may be various programs to assist you. Bus or taxi cab companies may offer special services, volunteers may drive you, or specially equipped vans may operate in your area.

- **Attendant care:** Aides may provide in-home care such as bathing, dressing and eating.
- **Homemaker:** Aides may come to your home and assist with light housekeeping duties, which might include meal preparation.
- **Home health care:** Health professionals may come to your home on an intermittent basis. Skilled nursing care, occupational or physical therapy, and assistance in taking medications may be among the services offered.
- **Companion/Sitter:** Individuals may come to your home to stay with you. This service is often used to relieve your full-time caretaker for a limited number of hours.
- **Adult day care:** These facilities provide professional supervision in a social setting. Many of the day care centers offer social and recreational programs, nutritious meals and limited medical treatment. If you are unable to stay alone during the day, or if your family works, this option could be beneficial.
- **Hospice:** This offers a comprehensive and coordinated program of services to terminally ill patients and their families in both home and inpatient settings. Physical, psychological, social, and spiritual care are available from a medically directed interdisciplinary team consisting of physician, nurse, home health aid, social worker, pastoral counselor and volunteer. The goal is to decrease pain and discomfort while making life as meaningful as possible for the terminally ill patient.

Services may not be available in all areas of the state. Coordinating the various services and the agencies providing the services can be difficult. Case management and care planning can assist you and your family in coordinating these services. A resource guide called *Explore Your Options* is available to assist you. Contact your local Area Agency on Aging, Home Health Agency or local SRS service center for further information.

In-Home Services

If you are receiving in-home services, you have the right:

- To be fully informed in advance about each in-home service provided and about any change in such service that may affect your well-being.
- To participate in planning and changing an in-home service provided, unless you are deemed by the court to be incompetent.
- To voice a grievance with respect to a service, without discrimination or reprisal.
- To confidentiality of records relating to you.
- To have your property treated with respect.
- To be fully informed verbally and in writing of your rights and obligations.

These rights apply to Older Americans Act programs.

Legal Assistance

Selecting an Attorney

Laws can be complex and many occasions may arise where you need the legal advice or representation offered by an attorney. These situations could range from denial of benefits to estate planning. Knowing when you need assistance and where to turn is important.

Kansas Elderlaw Hotline

Kansas Legal Services, Inc., operates the Kansas Elderlaw Hotline, **(888) 353-5337** for the benefit of all Kansas seniors. The Hotline provides access to attorneys who provide advice at no charge about civil legal issues. The Hotline also provides referrals to private attorneys or connects you with your area Senior Citizen Law Project attorney (see page A-2).

If you have a question about a legal issue listed in this guide or any other questions involving civil law, you can contact the Hotline for assistance. Even if you are unsure about whether you have a legal problem, staff with the Hotline will be able to talk with you about your issue or problem. Attorneys who work with the Hotline are Senior Citizen Law Project Attorneys or private attorneys who handle elder law issues.

Private Attorneys

The Senior Citizen Law Project is not able to help every Kansan with every type of legal matter. You may access a private attorney by calling the Hotline and requesting referral to a private attorney in your area. These attorneys will charge you for their services.

In selecting and using a private attorney, there are several steps to take:

- Decide what kind of assistance you need

- Ask friends and relatives for the name of their attorney
- Talk with each possible attorney if a free consultation is offered
- Ask about experience, fee, billing, and how you will be updated about your case
- Compare their answers, fees, professional and personal qualities
- Have a written agreement about the work to be done and the cost

Senior Citizen Law Projects

Each Area Agency on Aging contracts with an attorney or attorneys to provide legal assistance to senior citizens in their service area. The funding for this program is mainly through the Older Americans Act. Services are provided, regarding civil issues, to persons age 60 and over at no charge. Donations are accepted and appreciated. Persons with poverty level income and/or frail and disabled are given priority.

Even if you are not frail and disabled, or do not meet the income guidelines, Senior Citizen Law Project attorneys will consult with you about your problem. If you cannot go to the attorney's office, visits at a senior center, meal site, or your home can be arranged. You can contact the Senior Citizen Law Project near you. See listing on page A-2.

Small Claims Court

The District Court of each county in Kansas has a small claims court to handle money or property disputes of less than \$4,000 (2005). Usually, neither party in a small claims case is represented by an attorney. If one party is an attorney or is represented by an attorney, that party must let the other side know and that side may also use an attorney. You each explain your side of the dispute to the judge in your own words and or present any witnesses. After hearing the evidence and asking some questions, the judge makes a decision.

Because the court procedure is simple and informal and because lawyers are usually not involved, settlement of a dispute may be achieved more

cheaply and quickly than in other actions. The judge's decision has the same legal effect as a decision in any other form of lawsuit.

Before you file a small claim

- Call the person or business you have a complaint against and attempt to resolve the problem. Write down the date and time of your call and who talked to you. This information may be useful if you must eventually file suit in small claims court.
- Write to the person or business, describe your complaint, and state what settlement you think is fair. Include copies of receipts, warranties, contracts, correspondence or other papers that support your position (always keep the originals). Keep a copy of your letters.
- If your complaint is against a local business, contact the local Chamber of Commerce, the Better Business Bureau and, if there is one, your local consumer protection agency. In many cases, they will be able to persuade the business to satisfy the complaint.

Even if you win in small claims court, enforcing the judgment may prove difficult and time-consuming because the judgment debtor may not have assets with which to satisfy your judgment (money you get from them). So before you file a small claim, exhaust all of the nonlegal remedies available.

How do I file a claim?

To file a suit, go to the county courthouse in the county where you live. If the transaction occurred in another county, you should file your suit in that county. The clerk of the small claims division of the district court will provide you with a simple form to fill out and will answer your questions regarding the procedure.

Forms are also available at www.kscourts.org/rules-procedures-forms/small-claims-information/4th-district.asp#forms. You can prepare the forms ahead of time and take them to the clerk of the court at the county courthouse to file.

You should have the exact name and address of the person you are suing when you fill out the form to file the case. List him or her as the Defendant on your papers. If you are suing a corporation, list the business as the Defendant, but check with the Secretary of State's office for the "resident agent" of the corporation and list that person for service of the papers by the Sheriff. You must also pay a filing fee. Before you leave, check to see that you know the docket number of your case, the time and date that your case will be heard, and the location of the courtroom where you will appear.

Preparing for your hearing

- **Collect and organize documents** relevant to your complaint so that you can make a complete and orderly presentation of your case. Take all relevant materials to the hearing to show the judge.
- **Think over and note what you want to say** so that you can make a complete, but brief, statement of your argument.
- **Determine what witnesses, if any, you need** to have at the hearing. Witnesses may be subpoenaed (ordered by the judge to attend) if they refuse to appear voluntarily and are important to the case. You must request subpoenas several days before the hearing.
- **Check with the clerk before the hearing** to find out whether or not the defendant has been served successfully with the summons to appear. If not, the clerk can advise you of your options, and you may be able to obtain a postponement of the hearing. Your case cannot be heard until the defendant is served with the Petition.

Can I appeal a small claims decision?

Court judgements are often difficult to enforce. Either side in the small claims court judgment may appeal the decision to the District Court. If you are dissatisfied with the outcome in small claims court and wish to pursue an appeal, it would be advisable to seek the assistance of an attorney.

You may have the assistance of an attorney when the small claims decision is appealed to District Court. If you appeal a small claims decision and lose the appeal, the court will order you to pay the attorney fees of the prevailing party. This is one reason why you should appeal only if you stand a good chance of winning. If you win a judgment, contact the court clerk for assistance regarding enforcement of your judgment. Small claims court judgments are often difficult to enforce.

What if I am being sued in small claims court?

If you are sued and you do not settle the claim against you before the trial date, you must appear in court at the scheduled time. If you do not appear, the judge can rule against you. If the judge rules against you, you will have a legal obligation to pay what the judge orders you to pay. If you settle the claim before the trial date, you will not have to appear in court. Also notify the court in writing regarding the settlement.

If you have a claim against the plaintiff in connection with the same matter, you may file a counterclaim. You may do this by filling out the "defendant's claim" form that comes with the summons and return it to the office of the Clerk of the District Court as soon as possible. You may be responsible for additional court costs if your claim is more than the amount authorized for the original filing fee.

Court Terms:

Answer- a statement of the defendant's response to the claim made in plaintiff's petition

Appeal- a legal proceeding in which a party asks a higher court to review the action taken by a lower court

Counterclaim- a legal claim made by the defendant against the plaintiff

Defendant- a person who is being sued or held on behalf of the judgment debtor by a third party

Judgment- the official decision of a court determining the rights of the parties involved in a legal action. This is usually set out in a document entitled “Journal Entry of Judgment.”

Judgment Creditor- the person that money is owed to as a result of a judgment in court

Judgment Debtor- the person who owes money as a result of a judgment in court

Petition- a written form filed by the plaintiff to begin legal action that contains the basis for the claim and the request for payment of money or return of property

Plaintiff- a person who brings a legal action; the party who complains or sues

Service- the presentation of a summons to the defendant in a legal action

Summons- an order directing a sheriff or other process server to notify the person named that a legal action has been commenced against him or her and that he/she is required to appear within a certain time to answer the petition

Subpoena- an order requiring a witness to appear and testify at a certain time and place

Power of Attorney

A Power of Attorney is a document by which one person (the “principal”) gives legal authority to another (the “agent” or “attorney-in-fact”) to act on behalf of the principal. The authority the principal gives the agent can be very broad or limited to one or two specific acts.

The **Durable Power of Attorney** provides authority to handle financial affairs. It can be either broad or limited and is not affected by subsequent disability or incapacity of the principal. It is called **durable** because it continues to be effective even after the principal has lost capacity due to illness or injury. A Durable Power of Attorney has specific language that makes the power continue after the

principal has lost capacity. This language makes the Durable Power of Attorney a useful document for persons who wish to pre-plan for a future illness or incapacity.

Kansas law authorizes two additional types of powers of attorney designed for use by persons who wish to appoint someone of their own choosing to handle affairs, to make good personal medical treatment decisions, or both, when they can no longer do so themselves. See information on Durable Powers of Attorney for Health Care Decisions.

Normally, the agent or attorney-in-fact is a friend or relative rather than a lawyer. Since a power of attorney can be used to your disadvantage, it is vital the person you selected be trustworthy, conscientious and willing to study your financial affairs. Your Senior Citizens Law Project may be able to help draft a Durable Power of Attorney.

When the Court Appoints a Guardian or Conservator

Sometimes, due to a chronic health condition or disease, an older person becomes impaired and cannot manage his or her financial resources or physical health and safety. Such an individual may become the subject of a guardianship or conservatorship action.

The powers of guardianship and conservatorship can be granted only by the court. They are not to be confused with other legal powers, such as Durable Power of Attorney, which one individual may grant to another. The individual appointed to be guardian or conservator assumes most of the adjudicated person’s civil and legal rights and is subject to the direction of the court. Kansas Guardianship Program provides guardianship services to eligible wards. They publish *A Guide to Kansas Laws on Guardianship and Conservatorship*, which is very helpful. Contact them at **(800) 672-0086**. This publication is also available online at www.ksprog.org.

What is the role of the guardian?

A **guardian** is appointed to make personal care decisions for the individual, or “ward,” including medical treatment and other decisions promoting comfort, safety and health. The guardian must file an annual report with the court on the ward’s condition.

What is the role of a conservator?

A **conservator** manages the conservatee’s financial resources for his or her support. Each year an accounting must be filed with the court detailing income or funds received and how the funds were spent on behalf of the adult with an impairment (conservatee).

As guardian or conservator, do I have personal financial responsibility?

A guardian and/or conservator has no personal financial responsibility for the ward or conservatee. Under direction of the court, the conservator uses the conservatee’s funds to pay expenses.

How does the court determine impairment?

There must be a court proceeding to determine whether a person meets the legal definition of “An adult with impairment” and is in need of a guardian and/or conservator. The person who is alleged to be an adult with an impairment is entitled to a notice that a petition has been filed, and a trial will be held. They are also entitled to be present at the hearing, if possible, as well as to have **a court appointed attorney and a jury trial if requested**. The person may call witnesses to testify in their behalf.

If you wish to become a guardian and/or conservator over someone else, remember you may have to:

- 1) pay the court cost,
- 2) hire a lawyer, and
- 3) post a bond.

When do guardianship and conservatorship powers end?

A guardianship or conservatorship can be ended by the court in one of several ways. 1) Upon the death of the ward or conservatee, 2) upon the death of the guardian or conservator, 3) the conservatee’s property may be exhausted, or 4) the adult with an impairment (ward or conservatee) may request a hearing so the Court can determine if the person’s rights should be restored. Any changes in guardianship and conservatorship usually require court action.

Future Planning

Estate Planning

Planning your estate can prevent headaches for your heirs. Your estate consists of everything you own: your home, personal property, car, land, stocks and bonds, life insurance and any other property in which you have an ownership interest. Estate planning is a plan for how you will acquire property, use it, conserve it and, perhaps most importantly, how it will be transferred upon your death.

There is no way to determine your wishes regarding distribution of your property after your death unless you take appropriate steps prior to your death. Estate planning can be beneficial no matter what the size of the estate.

What is probate?

Probate is legal procedure for settling the decedent's estate. It is a process by which the court validates the will if there is one, grants authority to the executor or appoints an administrator if there is no will, assures payment of taxes, oversees distribution of the property, and provides for legal transfer of ownership of the property.

What property is exempt from probate?

All property is subject to probate proceedings, whether or not there is a will, except for property owned in joint tenancy with another, any property placed in a trust, property subject to a transfer on death deed (real estate or vehicles may be titled in transfer on death titles), payable on death accounts or life insurance proceeds designated for a named beneficiary. The property in these categories automatically passes to the joint tenant, designated beneficiary or trust beneficiary, although it may be subject to inheritance and estate taxes.

How long does probate take?

A regular probate proceeding takes a minimum of six months from the date they receive notice to file their claims against the estate. There are some simplified, less time-consuming proceedings that may be used in certain cases.

Does probate cost the estate money?

The expense of the probate proceeding depends upon the complexity and value of the estate. In Kansas, fees average from 1 percent to 5 percent of the estate. Fees for the attorney and executor or administrator are also charged to the estate.

A will

A will is a legal document that dictates how your property is to be distributed after your death.

What constitutes a valid will?

In Kansas, a valid will must comply with these requirements:

- The maker, called the testator, must be at least 18 years old.
- The testator must be of sound mind at the time the will is prepared.
- The will must be properly prepared and signed by the testator.
- The will must be witnessed by at least two people who will not receive any property under the will.
- A notary public can also sign, making a "self-proving" will; however, the witnesses are still required, and the notary public must make a special certification if the will is to meet requirements.

Who will make sure my will is carried out?

A will should name an executor who will administer and settle the estate. The job includes paying all debts and taxes out of the estate assets, as well as

distributing the estate according to your wishes. It is always best to name an alternate executor to serve in the event that your first choice cannot serve.

What rules govern distribution of property?

Generally, Kansas law allows you to distribute property as you desire. One major restriction is that a spouse has an absolute right to at least half of the estate. If the will is written to give a spouse less than half, then that spouse must have agreed to the smaller share of the estate in the manner provided by law for the will to be valid as written.

How can I change or revoke my will?

A will that meets all of the requirements of Kansas law is good until it is changed or revoked by the maker. This may be done by writing a new will or by writing an amendment (a codicil) to your current will. The document must be signed with all the formalities of the original will. You may revoke your will by burning, tearing, destroying or marking through it with the intent of revoking it. Marriage, divorce and birth or adoption of a child also have an effect on your will. You should review your will every few years to make sure it still reflects your wishes.

What if I die without a will?

If you die without a valid will, which is called dying intestate, all of your property, other than what is held jointly, will be distributed among the surviving relatives according to Kansas laws. Your estate will be divided into various portions depending on whether a spouse, child (ren), parent(s) or other categories of relatives survive.

Will my heirs have to pay taxes on property I leave them?

An **estate tax** is imposed by the federal government on the value of all property owned at death over an amount set by the federal government. Various deductions are subtracted from your gross estate in

order to determine the amount of your estate that is subject to federal estate tax.

The state of Kansas imposes an estate tax only on estates subject to federal estate tax. The amount of such tax is equal to the amount of the maximum credit allowed by section 2011 of the Internal Revenue Code against the tax imposed by that section.

Trusts

A trust is a legal arrangement made during your life where property is held by one person for the benefit of another. The person creating the trust is called the **grantor**. The person who manages the trust property is called **trustee**, and the person who receives benefits from the trust is called the **beneficiary**. The terms of the trust are written out in a legal document known as a **trust instrument**. It looks a lot like a will and contains your written instructions for what you want to happen to the trust property if you become disabled or die.

What is a living trust?

A **living trust** takes effect during the grantor's lifetime. The grantor usually serves as the trustee. Because title to the property is transferred from the grantor to the trust, the property does not pass through probate. However, the establishment of a living trust does not deprive the grantor of control of his or her property. Upon the grantor's death the property automatically passes to the beneficiary.

What are the advantages of the living trust?

The primary advantage of the living trust is that the trust is not subject to probate on the death of the grantor. The living trust also offers protection if the grantor becomes disabled. Because the property is titled in the trust, someone else called the successor trustee can step in and take over without delay. Some people are attracted to the living trust because it is private. Unlike a will, your trust is not required to be filed with the probate court on your death.

Therefore, the assets of your estate plan remain private.

What are the disadvantages of a living trust?

Living trusts are often set up to avoid probate and for tax purposes. If the grantor needs Medicaid due to nursing home costs, many trust documents will prevent the grantor from receiving Medicaid. Changes in federal law severely restrict the use of trusts for Medicaid beneficiaries. Transfers of funds from a trust are now subject to a 60-month “look-back” period. Also, assets of a Medicaid beneficiary put into a trust for the benefit of an individual or the spouse are considered available regardless of trust purposes or discretion. Both the cost and complexity of living trusts may make them undesirable.

Is a living trust for everyone?

Many people find that the expenses of setting up a living trust, including attorneys’ fees and asset transfer charges, are much less than the expense of probate. However, there are people whose estate can be handled through one of the simplified small estate proceedings and who can find disability protection through a durable power of attorney. This decision, as to whether a trust is for you, can best be made in consultation with your attorney.

What is a payable at death account?

This type of account may be established at various financial institutions. It provides for the balance of your account to be transferred to a named beneficiary upon your death. It is like a joint account in that the funds will not be subject to probate. It is preferable to a joint account as a probate avoidance tool because the beneficiary cannot withdraw funds from the account until your death, nor can the beneficiary change the beneficiary designation. You may withdraw funds from the account and change the designation of the beneficiary at any time. Payable at death accounts will come under the provisions of estate recovery by Medicaid services.

What is a Transfer on Death Deed? Is it only for real estate?

In 1997 the Kansas Legislature made it possible to transfer title to real estate or vehicles, upon the death of the owner, by a process similar to payable-on-death bank accounts. The owner of real estate or a vehicle may record a Deed to real estate which specifies a beneficiary of the title upon the death of the owner. The Deed should have a notation that the transfer is only for purposes of designating a beneficiary upon death, so that there is no tax due at the time of filing. It should be filed with the Recorder of Deeds in the county where the real estate is located. There is a small fee for recording the Deed.

Similarly, the owner of a motor vehicle may record a title transfer with the Division of Motor Vehicles designating a beneficiary upon the death of the titleholder. The transfer can be recorded by taking the title to the County Treasurer in the owner’s county of residence and paying a fee.

Designating a beneficiary on death allows the property to pass to the ownership of the beneficiary without any involvement of Probate Court, but the ownership doesn’t take effect until the present owner dies. That means that the present owner can change his or her mind and change the beneficiary without anyone else consenting. It also means that the present owner can sell or trade the property or give it away to someone else before death without needing any other person’s permission.

Is joint tenancy a good way to avoid probate?

Joint tenancy does avoid probate, because title to the property automatically passes to the surviving joint tenants upon your death.

Adding a joint tenant to property makes that joint tenant an owner of the property; therefore, you should carefully consider the effects before using joint tenancy as an estate planning tool.

- If you add a name to the deed as a joint tenant, you will not be able to sell the property without that person's permission. If the joint tenant is married, you will need his or her spouse's permission as well.
- If the joint tenant is married and becomes involved in a divorce action, the property could be considered marital property to be assigned to one party or the other by the divorce court.
- If you add a name to the deed and that person is later sued and loses, the winner might place a lien on the property.
- If you use joint tenancy as an estate planning tool, you could unintentionally disinherit your family members. For example, if you add two children to your deed and one of the children predeceases you, on your death all the property passes to your surviving child. If the child who predeceased you had children, you will have disinherited your grandchildren.
- If you use joint tenancy as a way to avoid probate and one of the joint tenants files for bankruptcy, the property may be considered an asset of the bankruptcy estate and creditors would have a claim or lien upon it.
- If you give your property away, you no longer have ownership rights in that property. If you give away your house, you could be forced to move out by the new owner.
- If you give away your property or sell it for less than it is worth, you could become ineligible for some public benefit programs, including state Medicaid assistance with the cost of long-term care. The ineligibility can be a significant problem if you no longer have any assets with which you can support yourself or pay your bills.
- If you give away or sell your property, you might owe capital gains or gift taxes.

Planning for the Time You Can't Make Health Decisions for Yourself

A Durable Power of Attorney for Health Care Decisions is a written document that allows you, the principal, to designate another person to make health care decisions when you are unable to do so. This designated person is called the agent. The document must contain language expressing that the agent's granted power is effective even if you become incapacitated. Other powers may be granted into the document, such as the power to make financial decisions.

To make the document valid, it must be dated and signed in the presence of a notary public or in the presence of two witnesses who are at least 18 years old. If two witnesses are used to validate the document, then these witnesses cannot be your agent. Your agent cannot be your treating health care provider, any employee of your health care provider or any employee, owner, officer or director of a hospital, psychiatric hospital or treatment facility, hospice, nursing home or similar facility. However, if your treating health care provider or an owner, officer or employee of one of these institutions is related to you by blood, marriage or adoption, they are allowed to serve as your agent. This just means that your doctor, nursing home director or anyone else who has a professional or financial interest in your case should not be making these decisions on your behalf unless they are also your spouse, son or daughter or close relative,

Property held in joint tenancy with anyone other than your spouse will not be considered as an available resource if you apply for Medicaid. If you decide to put someone other than your spouse on a joint tenancy deed and then apply for Medicaid, SRS will look back 60 months to see if you have given away any valuable property. Adding a joint tenant (other than a spouse) less than 60 months before you apply for Medicaid will make you ineligible for a "penalty period" based on the value of the proportion of the ownership held by the joint tenant.

Should I transfer property before my death?

You may decide to sell or give away your property for various reasons for extra income or to help your family avoid paying inheritance or estate taxes. But you should consider the effects of such transfers:

persons who would be expected to have your own wishes paramount in their decision-making.

What authority does the agent in a Durable Power of Attorney for Health Care Decisions have?

The agent has broad authority; in fact, it has broader powers than those granted in a guardianship. The agent in a Durable Power of Attorney for Health Care Decisions has the power to do the following:

- Consent, refuse consent, or withdraw consent to any care, treatment or procedure to maintain, diagnose or treat a physical or mental condition;
- Make decisions about organ donations, autopsy and disposition of the body;
- Make all necessary arrangements for the principal at any hospital, psychiatric hospital or psychiatric treatment facility, hospice, nursing home or similar institution;
- Employ and discharge health care personnel, including physicians, psychiatrists, psychologists, dentists, nurses, therapists, or any other person who is licensed or otherwise authorized or permitted by the laws of Kansas to administer health care;
- Request, receive and review any information, oral or written, regarding the principal's personal affairs or physical or mental health, including medical and hospital records, and;
- Execute any releases or other documents that may be required in order to obtain such information.

Does the law limit an agent's authority?

The law has only one limitation of an agent's authority. An agent cannot be granted the authority to revoke a previously existing "Living Will," which is a declaration made under the Natural Death Act.

If you want, you may include other limitations. The statute recognizes that an agent may have broad powers, but it does not require you to grant all of these powers in the document. Because the principal

has the power to determine what authority the agent has, it is important that the document is reviewed carefully and changes are made to tailor it to your desires.

When do the agent's powers become effective?

Unless the document specifically states otherwise, the agent's powers become effective when the principal becomes incapacitated, which the attending physician determines, unless the power of attorney document states another test for determining when the power becomes effective.

Can the agent act contrary to the wishes of the principal?

The agent is obligated to act consistently with any desires that you have expressed.

Can I revoke the power if I change my mind?

Yes. Any durable power of attorney can be revoked at any time by the principal or by a court-appointed guardian. However, an agent, without knowledge of the revocation, can act in good faith under the power.

Does the agent have the authority to make organ donations upon my death?

Yes. Unless otherwise stated in the document, an agent can make decisions regarding organ donation, autopsy and the disposition of the body.

Who may be named the agent?

In general, you may choose anyone to be your agent, but there are some exceptions. You may not designate a health care provider or the employee of a treating health care provider, unless that person is related to you by blood, by marriage or by adoption. In some cases, you may not designate a person who is a member of your community and is bound by religious vows.

Is there a special form that must be used?

The Kansas Statute contains a simple form that can be used (see page A-3), but you can also have an attorney draft a document that meets your special needs. If you have questions, you should contact an attorney or the Senior Citizen Law Project in your area (see page A-2).

Living Wills

Kansas law allows you to make a written declaration instructing your physician to withhold or withdraw life-prolonging measures in the event of a terminal condition (see page A-4). This document is often called a “Living Will.” The Kansas Statute lists certain provisions that must be in the document.

What is the procedure for signing a “Living Will”?

You can sign a declaration at any time so long as you are competent and at least 18 years old, but it will not become effective until your attending physician diagnoses a terminal condition. The doctor must either comply with your wishes or transfer you to another physician.

When making a “Living Will,” you must have it witnessed by two adults who are not related to you, not entitled to any part of your estate by will or otherwise, and not financially responsible for your medical care. Also, two medical doctors, one of whom must be your attending physician, must provide written diagnoses of a terminal condition.

Can I revoke my “Living Will”?

You can revoke it by destroying it or defacing it, by signing a document revoking the Living Will, or by saying that you intend to revoke it in front of witnesses who sign and date a written confirmation of the revocation. Notify everyone who has a copy, destroy the original and all copies.

Taxes

Many Older Americans Qualify for Tax Refunds

Many older Kansans may not know that they qualify for partial refunds of residential property taxes and food sales taxes. Both these programs are administered by the Kansas Department of Revenue.

As a Kansas resident for the entire year, you are eligible if you:

- Were at least 55 years old on January 1. Homestead applicants must be at least 55 for the entire tax year being claimed. Food sales tax applicants are eligible to apply if they turn 55 anytime during the tax year being claimed; OR
- Were totally and permanently disabled or blind the entire year; OR
- Have a dependent child who was born before January 1, was under the age of 18, and lived with you the entire year, AND
- Meet the income guidelines.

What are the income guidelines?

For current guidelines for Homestead and Food Sales Tax contact the Kansas Department of Revenue call **(785) 368-8222**. Information is also available online at www.ksrevenue.org

How do you claim the homestead refund?

Complete the “Kansas Homestead Claim” form, K-40H, and file it with the Kansas Department of Revenue anytime between January 1 and April 15. The Homestead Claim Booklet is available at the Topeka office of the Kansas Department of Revenue as well as at most county courthouses, driver’s license exam stations, and other places where income tax forms are available.

If you receive a homestead refund and you are a homeowner, you will automatically get an “advancement letter” from the Kansas Department of Revenue in the fall. You have the option of taking the letter to your county clerk’s office by December 20 and using it to help pay your property taxes for the coming year. If you use this option, you will still need to file a homestead and food sales tax claim after January 1.

How do you claim the food sales tax refund?

Complete the “Kansas Individual Income Tax and/or Food Sales Tax Refund” form K-40, and file it with the Kansas Department of Revenue between January 1 and April 15.

Specific Federal Tax Benefits for Older Americans

While generally the federal income tax laws apply equally to all taxpayers regardless of age, certain provisions give special treatment to older persons. All taxpayers 65 years of age or older benefit from a higher gross income threshold for filing a federal tax return. Qualifying taxpayers who are at least 65 years old may also benefit from the:

- Credit for the elderly or disabled, or
- Exclusion of gain on the sale of their house, or
- Increased standard deduction.

How can I get additional information about elderly tax issues?

Internal Revenue Service publication No. 554, *Tax Information for Older Americans*, and publication No. 503, *Child and Dependent Care Expenses*, are available annually. They, as well as other IRS publications and forms, can be obtained by calling **(800) TAX-FORM** or **(800) 829-3676**. Information and publications are also available online at www.irs.gov

How can I get help filling out my tax return?

Two tax preparation assistance programs are available in many areas. The Tax Counseling for the Elderly (TCE) program is for persons 60 and over while the Volunteer Income Tax Assistance (VITA) program is for persons of all ages. Telephone numbers for such programs are included in the tax form instructions, or you may call your local Area Agency on Aging.

Senior Citizens May be Exempt from Intangibles Taxes

The Kansas intangibles tax is a local tax on gross earnings from intangible property such as savings accounts, stocks, bonds, etc. The Kansas Individual Income Tax Booklet sent to you annually indicates which areas of the state have such tax and what the tax rate is.

If you are subject to the intangible tax, you may be eligible for a \$5,000 income exemption if:

- You have household income of \$15,000 or less; and either
- You are at least 60 years old during the year for which you are filing the return; or
- You have been disabled or blind during all of the tax year.

If your income is above \$15,000, the \$5,000 income exemption is reduced by the amount that your income exceeds \$15,000. Although intangibles tax returns are filed by April 15 with the Kansas Department of Revenue, your county clerk computes the tax owed and your County Treasurer bills you for it.

Contact Information & Forms

Kansas Commission on Veterans Affairs

Veterans Administration National

Toll-Free 800-827-1000

www.kcva.org or www.va.gov

Field Office	Address	Telephone
Colby	990 S. Range, Suite 3, Colby, KS 67701	785-462-3572
Emporia	702 Commercial St., Kress Center Suite 1D, Emporia, KS 66801	620-342-3347
Ft. Dodge	714 Sheridan, Unit 87, Ft. Dodge, KS 67843	620-225-4041
Garden City	116 E. Chestnut, Ste. 105, Garden City, KS 67846	620-276-3102
Hays	205 East 7 th Street, Ste. 110, Hays, KS 67601	785-625-8532
Hutchinson	27 W. 2nd Ave., Hutchinson, KS 67501	620-662-7131
Independence	200 Arco Place, Rm. 421, Independence, KS 67301	620-331-0540
Junction City	Municipal Building, Box 311, Junction City, KS 66441	785-238-4522
Kansas City	National Guard Armory, 100 S 20 th Street Kansas City, KS 66102	913-371-5968
Lawrence	745 Vermont Street, Lawrence, KS 66044	785-843-5233
Leavenworth	Dwight D. Eisenhower VA Medical Center 4101 S. 4th Street, Leavenworth, KS 66048	913-758-4296 x2597
	(American Legion)	800-574-8387
	(VFW)	800-952-8387 x2596
Salina	1410 East Iron, Ste 1, Salina, KS 67401	785-823-2862
Topeka	700 SW Jackson, Suite 701, Topeka, KS 66603	785-296-3976
	Colmery-O'Neil VA Medical Center	785-350-3111
	2200 Gage, Topeka, KS 66622	785-350-4489
	(American Legion)	800-574-8387x54489
	(VFW)	785-350-4491
		800-574-8387 x54491
Wichita	VA Medical and Regional Office 5500 East Kellogg, Wichita, KS 67218	316-688-6869
	(American Legion)	888-878-6881 x6814
	(VFW)	316-688-6801
		888-878-6881 x56801
Winfield	Kansas Veterans Home 1220 WWII Memorial Drive, Winfield, KS 66156	620-221-9021

Senior Citizen Law Projects & Counties Served

Elder Law Hotline - 888-353-5337

PSA 1 - Kansas City, KS

(913) 621-0200

Counties: Leavenworth, Wyandotte

PSA 2 - Wichita, KS

(316) 265-9681

Counties: Butler, Harvey, Sedgwick

PSA 3 - Hays, KS

(785) 625-4514

Counties: Cheyenne, Decatur, Ellis, Gove, Graham, Logan, Norton, Osborne, Phillips, Rawlins, Rooks, Russell, Sherman, Sheridan, Smith, Thomas, Trego, Wallace

PSA 4 - Topeka, KS

(785) 354-8531

Counties: Douglas, Jefferson, Shawnee

PSA 5 - Pittsburg, KS

(620) 232-1330

Counties: Allen, Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho, Wilson, Woodson

PSA 6 - Dodge City, KS

(620) 227-7349

Counties: Barber, Barton, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Pratt, Rush, Scott, Seward, Stafford, Stanton, Stevens, Wichita

PSA 7 - *(This office located in Kansas City)*

(913) 621-0200

Counties: Anderson, Coffey, Franklin, Linn, Miami, Osage

PSA 8 - Manhattan, KS

(785) 537-2943

Counties: Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Jewell, Lincoln, Lyon, Marion, Morris, Mitchell, Ottawa, Pottawatomie, Republic, Riley, Saline, Wabaunsee

PSA 9 - Seneca, KS

(785) 336-6016

Counties: Atchison, Brown, Doniphan, Jackson, Marshall, Nemaha, Washington

PSA 10 - *(This office located in Wichita)*

(316) 265-9681

Counties: Chautauqua, Cowley, Elk, Harper, Kingman, McPherson, Reno, Rice, Sumner

Emporia, KS

(620) 343-7589

County: Greenwood

PSA 11 - *(This office located in Kansas City)*

(913) 621-0200

County: Johnson

Durable Power of Attorney for Health Care Decisions

General Statement of Authority Granted

I, _____ designate and appoint:

Name _____

Address _____

Telephone Number _____

to be my agent for health care decisions and pursuant to the language stated below, on my behalf to:

(1) Consent, refuse consent, or withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition, and to make decisions about organ donation, autopsy and disposition of the body;

(2) make all necessary arrangements at any hospital, psychiatric hospital or psychiatric treatment facility, hospice, nursing home or similar institution; to employ or discharge health care personnel to include physicians, psychiatrists, psychologists, dentists, nurses, therapists or any other person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care as the agent shall deem necessary for my physical, mental and emotional well being; and

(3) request, receive and review any information, verbal or written, regarding my personal affairs or physical or mental health including medical and hospital records and to execute any releases of other documents that may be required in order to obtain such information.

In exercising the grant of authority set forth above my agent for health care decisions shall:

(Here may be inserted any special instructions or statement of the principal's desires to be followed by the agent in exercising the authority granted.)

Limitations of Authority

(1) The powers of the agent herein shall be limited to the extent set out in writing in this durable power of attorney for health care decisions, and shall not include the power to revoke or invalidate any previously existing declaration made in accordance with the natural death act.

(2) The agent shall be prohibited from authorizing consent for the following items:

(3) This durable power of attorney for health care decisions shall be subject to the additional following limitations:

(continued from previous page)

Effective Time

This durable power of attorney for health care decisions shall become effective (*immediately and shall not be affected by my subsequent disability or incapacity or upon the occurrence of my disability or incapacity*).

Revocation

Any durable power of attorney for health care decisions I have previously made is hereby revoked. (This durable power of attorney for health care decisions shall be revoked by an instrument in writing executed, witnessed or acknowledged in the same manner as required herein or set out another manner of revocation, if desired.)

Execution

Executed this _____, at _____, Kansas

(Principal)

This document must be: (1) Witnessed by two individuals of lawful age who are not the agent, not related to the principal by blood, marriage or adoption, not entitled to any portion of principal's estate and not financially responsible for principal's health care; OR (2) acknowledged by a notary public.

_____ Witness	_____ Witness
_____ Address	_____ Address

(OR)

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____
(Date)

by _____
(Name of Person)

(Seal, if any)

(Signature of Notary Public)

My appointment expires _____

This declaration may be revoked or changed by declarant at any time.

Living Will Declaration

Declaration made this _____ day of _____ (Month, Year).

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

My additional instructions, if any, are listed on the reverse side.

Signed _____
(Declarant)

City, County and State of Residence _____

The declarant has been personally known to me and I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am 18 or older, not related to the declarant by blood or marriage, not entitled to any portion of the estate of the declarant according to the laws of intestate succession or under any will of the declarant or codicil thereto, and not directly financially responsible for declarant's medical care.

Witness

Witness

Address

Address

(OR)

STATE OF _____ COUNTY OF _____

This instrument was acknowledged before me on _____ by _____

(Signature of Notary Public)

(Seal, if any)

My appointment expires _____

This declaration and optional additional instructions may be revoked or changed by declarant at any time.

(continued from previous page)

Optional Additional Instructions

I make these optional additional instructions to my living will to exercise my right to determine the course of my health care and to provide clear and convincing proof of my treatment decisions **when I lack the capacity to make or communicate my decisions.**

If there is a phrase, statement or section below with which you do not agree, draw a line through it and add your initials.

- I direct all life-prolonging procedures be withheld or withdrawn when there is no hope of significant recovery, and I have:
 - a terminal condition; or
 - a condition, disease or injury without hope of significant recovery and there is no reasonable expectation that I will regain an acceptable quality of life; or
 - substantial brain damage or brain disease which cannot be significantly reversed; or
 - other _____
- I choose to have withheld or withdrawn the following life-prolonging procedures, when the above conditions exist:
 - surgery
 - heart-lung resuscitation (CPR)
 - antibiotics
 - mechanical ventilator (respirator)
 - dialysis
 - tube feedings (food and water delivered through a tube in the vein, nose or stomach)
 - other _____
- If my physician believes that a certain life-prolonging procedure or other health care treatment may provide me with comfort, relieve pain or lead to a significant recovery, I direct my physician to try the treatment for a reasonable period of time. However, if such treatment proves to be ineffective, I direct the treatment be withdrawn even if so doing shortens my life.
- I direct I be given health care treatment to relieve pain or to provide comfort even if such treatment might shorten my life, suppress my appetite or my breathing, or be habit-forming.
- I make other instructions as follows: (you may want to describe what an acceptable quality of life is)

- I have discussed my wishes with the following person(s) and authorize my physician to discuss my treatment and this document with them: **(if you have used a Medical Durable Power of Attorney to appoint an agent, initial here _____ and include that person on the first line below.)**

Name (Agent)	Address	Telephone
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Name	Address	Telephone
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I have read these instructions and have given them careful consideration. As I have indicated, they are in accordance with my wishes.

Date _____ Signed _____

Witness

Witness

Do Not Resuscitate

Prehospital DNR Request Form

An Advanced Request to Limit the Scope of Emergency Medical Care

I, _____ request limited emergency care as herein described.
 (Name)

I understand DNR means that if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will *not* prevent me from obtaining other emergency medical care by prehospital care providers or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the prehospital care providers, doctors, nurses, or other health care personnel as necessary to implement this directive.

I hereby agree to the "Do Not Resuscitate" (DNR) directive.

 Signature Date

Witness:*

 Witness Date

 Address

*Must be 18 or older, not related to the declarant by blood or marriage, not entitled to any portion of the declarant's estate according to Kansas laws of intestate succession or under any will of the declarant or codicil thereto, and not directly financially responsible for the declarant's medical care expenses.

Attending Physician:* I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT'S PERMANENT MEDICAL RECORD.

In the event of an acute cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

 Attending Physician's Signature* Date

 Address Facility or Agency Name

*Signature of physician is not required if the above-named is a member of a church or religion which, in lieu of medical care and treatment, provides treatment by spiritual means through prayer alone and care consistent therewith in accordance with the tenets and practices of such church or religion.

Revocation Provision

I hereby revoke the above declaration.

 Signature Date

Where Personal and Property Records are Kept

Record	Where Kept
Marriage Records/Divorce Papers	
Birth Certificates/Adoption Papers	
Wills/Advance Directives/Durable Powers of Attorney	
Baptismal Records	
Death Certificates	
Citizenship Papers/Tribal Enrollment Record	
Social Security	
Military Service Records (including military discharge and service number)	
Passports	
Immunization Records	
Deeds to Property	
Where is Deed Recorded?	
Deed to Cemetery Lot	
Abstract to Title of Property/Title Insurance	
Mortgage Papers	
Automobile Title and Bill of Sale	
Household Inventory	

Where Business Records are Kept

Record	Where Kept
Insurance Policies	
Income and Property Records	
Important Receipts	
Savings Books	
Pension Plan Records	
Safe Deposit Box	
Safe Deposit Box Keys	
Other Important Keys	
Contract Papers	
Guarantees and Warranties	
Stock and Bond Certificates	
Personal Debts	
Loans to Others	
List of Credit Cards & Account Numbers	
Notes:	

Toll-Free Numbers

Adult Abuse

•Community.....	(800) 922-5330
•Nursing Homes.....	(800) 842-0078
•Kansas Crisis Hotline.....	(888) 363-2287
<i>(Provides crisis intervention to victims of domestic violence and sexual assault)</i>	
Alzheimer’s Helpline.....	(800) 432-3535
Arthritis Foundation.....	(800) 362-1108
Audio Reader.....	(800) 772-8898
Better Business Bureau.....	(800) 856-2417
Consumer Credit Counseling.....	(800) 388-2227
Disability Rights Center of Kansas.....	(877) 776-1541
Eldercare Locator.....	(800) 677-1116
ElderLaw Hotline.....	(888) 353-5337
Fraud Hotline (Medicare).....	(800) 876-3160
Fraud Hotline (Medicaid).....	(800) 432-3913
Governor’s Office.....	(800) 748-4408
Home Health Care Complaints.....	(800) 842-0078
Hospice Association of Kansas.....	(800) 767-4965
Immigration & Naturalization Service Information.....	(800) 755-0777
•TTY.....	(800) 767-1833
•Forms.....	(800) 870-3676
KS Advocates for Better Care.....	(800) 525-1780
KS Attorney General’s Office.....	(800) 432-2310
•Consumer Information Line.....	(785)296-2424
•Crime Victim.....	(800) 828-9745
KS Commission Deaf & Hard of Hearing	(800) 432-0698
KS Commission on Disability Concerns.....	(800) 295-5232
KS Corporation Commission.....	(800) 662-0027
<i>(For reports of problems with utilities)</i>	
KS Dept. on Aging.....	(800) 432-3535
•TTY	(785) 291-3167
KS Foundation for Medical Care.....	(800) 432-0407
<i>(Reviews written complaints concerning the quality of care received in a Medicare-certified agency including home health agencies.)</i>	
KS Guardianship Program.....	(800) 672-0086
Kansas Housing Resources.....	(800) 752-4422
KS Insurance Dept.....	(800) 432-2484
KS Legislative Hotline.....	(800) 432-3924
KS Long-Term Care Ombudsman.....	(877) 662-8362
KS Secretary of State.....	(785) 296-4564
KS State Library.....	(800) 432-3919
KS Relay Center.....	(800) 766-3777
Mail – Zip Code Information.....	(800) 275-8777
Make a Difference Network.....	(800) 332-6262
<i>(A resource and referral line for all people with a disability, their family members, and for professionals serving people with disabilities)</i>	
Medicare.....	(800) 633-4227
Postal Crime Hotline.....	(800) 654-8896
Senior Health Insurance Counseling for Kansas (SHICK).....	(800) 860-5260
Social Security Admin.....	(800) 772-1213
Veterans Affairs	(800) 827-1000
<i>For the Kansas Commission on Veterans Affairs call</i>	<i>(785) 296-3976</i>



DEPARTMENT ON AGING

New England Building

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Topeka, KS 66603

1-800-432-3535

www.agingkansas.org