

2021 Kansas Statutes

40-3410. Negotiation of amount of claim to be paid from fund; settlement; procedure for court approval.

When the insurer of a health care provider or inactive health care provider covered by the fund has agreed to settle its liability on a claim against its insured or when the self-insurer has agreed to settle liability on a claim and the claimant's demand is in an amount in excess of such settlement, or where a claim is against an inactive health care provider covered by the fund who does not have liability insurance in effect which is applicable to the claim, or where it would otherwise be in the best interest of the fund, the claimant and the board of governors may negotiate on an amount to be paid from the fund. The board of governors may employ independent counsel to represent the interest of the fund in any such negotiations. In the event the claimant and the board of governors agree upon an amount the following procedure shall be followed:

- (a) A petition shall be filed by the claimant with the court in which the action is pending against the health care provider or the inactive health care provider, or if none is pending, in a court of appropriate jurisdiction, for approval of the agreement between the claimant and the board of governors.
- (b) The court shall set such petition for hearing as soon as the court's calendar permits, and notice of the time, date and place of hearing shall be given to the claimant, the health care provider or inactive health care provider, and to the board of governors.
- (c) At such hearing the court shall approve the proposed settlement if the court finds it to be valid, just and equitable.
- (d) In the event the settlement is not approved, the procedure set forth in K.S.A. 40-3411 and amendments thereto shall be followed.

History: L. 1976, ch. 231, § 10; L. 1994, ch. 155, § 7; Jan. 1, 1995.