

2021 Kansas Statutes

75-4265. **Intergovernmental transfer program; administration of program; intergovernmental transfer fund, transfers to certain funds; senior services fund; long-term care loan and grant fund; powers and duties of secretary for aging and disability services concerning loan agreements.** (a) The secretary of health and environment and the secretary for aging and disability services shall take necessary actions to establish an intergovernmental transfer program as a part of the nursing facility services payment program within the medicaid state plan.

(b) In implementing the intergovernmental transfer program, the secretary for aging and disability services shall disburse moneys received from the federal government for the intergovernmental transfer program and moneys transferred from the state general fund to the intergovernmental transfer fund for the program to units of government which have entered into participation agreements with the secretary for aging and disability services and the secretary of health and environment. The amount of moneys disbursed to the units of government from moneys transferred from the state general fund to the intergovernmental transfer fund for the program shall not exceed the amount necessary to match federal funds available to the state under the intergovernmental transfer program. The secretary for aging and disability services shall periodically calculate the amount of federal funds available under the program according to the methodology prescribed for the intergovernmental transfer program in the medicaid state plan.

(c) The secretary of health and environment and the secretary for aging and disability services are authorized to enter into intergovernmental transfer program participation agreements with units of government which own and operate nursing facilities. The participation agreements may permit the units of government to retain a participation fee specified by the secretary for aging and disability services from moneys received under the intergovernmental transfer program which are otherwise required to be transferred back to the secretary for aging and disability services.

(d) (1) There is hereby established the intergovernmental transfer fund in the state treasury which shall be administered by the secretary for aging and disability services in accordance with this act. All expenditures from the intergovernmental transfer fund shall be to disburse the state match amount under the intergovernmental transfer program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee. Subject to the provisions of appropriation acts, when the secretary for aging and disability services determines that an amount of federal medicaid moneys is available for the intergovernmental transfer program, the secretary for aging and disability services shall determine the amount required as the state match and shall certify that amount to the director of accounts and reports. Upon receipt of each such state match certification, the director of accounts and reports shall transfer the amount certified by revenue transfer from the state general fund to the intergovernmental transfer fund. Upon the crediting of such state match amount in the intergovernmental transfer fund, the secretary for aging and disability services shall disburse the amount of federal moneys and the state match amount to the units of government that have entered into participation agreements under the program.

(2) Each unit of government receiving a disbursement under the intergovernmental transfer program shall reimburse the amount of money received, less the amount of the participation fee, to the secretary for aging and disability services. Upon receipt of each amount of moneys from participating units of government under the intergovernmental transfer program, the secretary for aging and disability services shall deposit the entire

amount in the state treasury to the credit of the intergovernmental transfer fund. The secretary for aging and disability services shall determine the amount of each such deposit that was transferred from the state general fund to match medicaid federal funds under the intergovernmental transfer program and shall certify such amount to the director of accounts and reports. Upon receipt of each such certification, the director of accounts and reports shall retransfer the amount certified from the intergovernmental transfer fund to the state general fund.

(e) There is hereby established the intergovernmental transfer administration fund in the state treasury which shall be administered by the secretary for aging and disability services in accordance with this act. All expenditures from the intergovernmental transfer administration fund shall be to pay the costs of administering the intergovernmental transfer program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee. The secretary for aging and disability services shall recover the costs of administering the intergovernmental transfer program from the intergovernmental transfer fund by certifying the amount of such costs to the director of accounts and reports each calendar quarter. Upon receipt of each certification of costs from the secretary for aging and disability services under this subsection, the director of accounts and reports shall transfer the amount certified from the intergovernmental transfer fund to the intergovernmental transfer administration fund.

(f) After each amount of moneys is credited to the intergovernmental transfer fund and the amount of the state match that had been transferred from the state general fund has been transferred back to the state general fund pursuant to subsection (d)(2), and after the transfer of the amount certified by the secretary for aging and disability services to the intergovernmental transfer administration fund pursuant to subsection (e), if any, the director of accounts and reports shall transfer the remaining amount in the intergovernmental transfer fund as follows:

Seventy percent of such amount shall be transferred to the senior services trust fund, 5% of such amount shall be transferred to the long-term care loan and grant fund and 25% of such amount shall be transferred to the following special revenue funds in an amount specified by appropriation acts of the legislature for each such fund: State medicaid match – fund – Kansas department for aging and disability services and the state medicaid match fund – department of health and environment.

(g) There is hereby established the senior services fund in the state treasury which shall be administered by the secretary for aging and disability services in accordance with this act. All expenditures from the senior services fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee. Moneys in the senior services fund shall be used by the secretary for aging and disability services only for projects intended: (1) To reduce future medicaid costs to the state; (2) to help seniors avoid premature institutionalization; (3) to improve the quality of care or the quality of life of seniors who are customers of long-term care programs; (4) to satisfy state matching requirements for senior service programs authorized by federal law; or (5) to provide financial assistance under the senior pharmacy assistance program. Moneys credited to the senior services fund from income of investments of the moneys in the senior services trust fund shall not be used to create or fund any entitlement program not in existence on the effective date of this act.

(h) There is hereby established the long-term care loan and grant fund in the state treasury which shall be administered by the secretary for aging and disability services in accordance with this act. All expenditures from the long-term care loan and grant fund shall

be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee. Moneys in the long-term care loan and grant fund shall be used to make loans under the long-term care loan program developed by the secretary for aging and disability services in accordance with this section and grants under the long-term grant program developed by the secretary for aging and disability services in accordance with this section.

(i) The secretary for aging and disability services is hereby authorized to develop and implement a long-term care loan program in accordance with this section. Subject to the provisions of this section and the provisions of appropriation acts, the secretary for aging and disability services may enter into loan agreements for market-rate, low-interest or no-interest, fully or partially secured or unsecured loans with repayment provisions and other terms and conditions as may be prescribed by the secretary under such program. Loans under the long-term care loan program may be made for the following:

- (1) Converting all or parts of some types of licensed adult care homes from their existing licensure types to different licensure types to meet demonstrated changing service demands in their communities;
- (2) converting private residences to licensed homes plus facilities, as defined by K.S.A. 39-923, and amendments thereto;
- (3) converting space in rural hospitals to hospital-based long-term care facilities;
- (4) improving quality in some types of licensed adult care homes;
- (5) rural hospitals contracting for physician, physician assistant or licensed professional nurse services; or
- (6) building congregate housing for seniors in Kansas cities with populations of 2,500 or less.

(j) The secretary for aging and disability services may consider the following factors to prioritize and select loans under the long-term care loan program, grants under the long-term care grant program and projects financed from the senior services fund:

- (1) Type of loan – higher interest is preferable to lower interest and more secured is preferable to less secured;
- (2) size of facility – facilities having less than 60 beds are preferable to facilities having 60 beds or more;
- (3) availability and utilization of the same type of facilities or services in the proposed loan or project area;
- (4) type of facility owner or borrower – unit of government, not-for-profit organizations, for-profit organizations, and individuals, in that order of preference; and
- (5) type of research project organization – geriatric schools or programs in Kansas colleges or universities, Kansas colleges or universities, educational foundations, foreign colleges or universities, Kansas not-for-profit organizations, Kansas for-profit organizations, foreign not-for-profit organizations, foreign for-profit organizations, and individuals, in that order of preference.

(k) All moneys received from repayments of principal and interest of any loan made under this act shall be deposited in the state treasury and credited to the long-term care loan and grant fund within the state treasury and used to make new loans or grants under this section. The repayment of a loan or of a senior services fund project contract or grant may not be forgiven, in whole or in part, except as authorized by law.

(l) The secretary for aging and disability services is hereby authorized to develop and implement a long-term care grant program in accordance with this section. Subject to the provisions of this section and the provisions of appropriation acts, the secretary for aging and disability services may make competitive matching grants under such terms and

conditions as may be prescribed by the secretary under such program. Grants under the long-term care grant program may be made only from the amount of moneys received for interest payments under loan agreements under the long-term care loan program and credited to the long-term care loan and grant fund. Grants under the long-term care grant program may be made for the following:

(1) Grants for improvements in the quality of case management services under home and community-based services (HCBS) programs and for improvements for adult care homes; and

(2) financial assurance grants for community service providers under home and community-based services (HCBS) programs.

(m) For purposes of this section, "units of government" and "units of government which own and operate nursing facilities" which are eligible to enter into intergovernmental transfer program participation agreements shall be limited to cities of the first class, cities of the second class, counties, hospital districts, or health care facilities and services hospital districts which hold legal title to and are actively involved in the day-to-day operations of any of the following:

(1) Medicaid-certified nursing facilities and nursing facilities for mental health, as defined in K.S.A. 39-923, and amendments thereto;

(2) medicaid-certified long-term care facilities which are operated in connection with city hospitals established under K.S.A. 13-14b01 et seq., and amendments thereto or K.S.A. 14-601 et seq., and amendments thereto, county hospitals established under K.S.A. 19-4601 et seq., and amendments thereto, or district hospitals established under K.S.A. 80-2501 et seq., and amendments thereto; or

(3) medicaid-certified long-term care facilities operated under authority of K.S.A. 80-2550 et seq., and amendments thereto.

(n) Entities eligible to apply for loans under the long-term care loan program under this section shall be limited to the owners of:

(1) Licensed adult care homes, excluding nursing facilities for mental health and intermediate care facilities for people with intellectual disability, as defined in K.S.A. 39-923, and amendments thereto;

(2) medicaid-certified licensed hospitals and medicaid-certified long-term care facilities based in or operated in connection with licensed hospitals as defined in K.S.A. 65-425, and amendments thereto;

(3) private residences which the owners will contract to convert into licensed homes plus facilities, as defined in K.S.A. 39-923, and amendments thereto, and in which the owners will reside after the conversion and licensure; or

(4) congregate senior housing projects being built with loans in Kansas cities with a population of 2,500 or less.

(o) There is hereby established the state medicaid match fund – Kansas department for aging and disability services in the state treasury which shall be administered by the secretary for aging and disability services in accordance with this act. All expenditures from the state medicaid match fund – Kansas department for aging and disability services shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee. Moneys in the state medicaid match fund – Kansas department for aging and disability services shall be used to match moneys for federal medicaid programs which are the most cost efficient in providing services.

(p) There is hereby established the HCBS programs fund in the state treasury which shall be administered by the secretary for aging and disability services. All moneys in the HCBS programs fund shall be used for programs and services under the home and community-

based services (HCBS) programs and as otherwise provided by law. All expenditures from the HCBS programs fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee.

History: L. 2000, ch. 105, § 2; L. 2012, ch. 91, § 59; L. 2014, ch. 115, § 338; July 1.