

**39-1807. Failure of community service provider to comply with requirements, standards or laws; inspection and review of operations by secretary; mediation; written plan of correction; civil penalties; emergency orders.** Whenever the secretary finds a community service provider has failed to comply with the requirements, standards or rules and regulations established pursuant to this act or any other provision of law, the secretary shall have the power to inspect and review the operations of the community service provider and identify deficiencies. The secretary and such community service provider shall choose an independent entity to mediate any dispute regarding the secretary's finding that such community service provider has failed to comply with such requirements, standards or rules and regulations and the secretary's identified deficiencies. If such mediation is not able to resolve any such dispute and the secretary finds that the community service provider has still failed to comply with such requirements, standards or rules and regulations, the secretary shall require a written plan of correction. If, after notice and an opportunity for hearing pursuant to the Kansas administrative procedure act, the secretary finds the community service provider has failed to carry out the plan of correction within 30 days of the submission of the plan of correction, the secretary may assess a civil penalty in an amount not to exceed \$125 per day for each day the provider has failed to carry out the plan of correction. The secretary may extend the time in which the provider has to comply with the plan of correction for good cause. The secretary may require the community service provider to maintain consumers in place until alternative community services can be secured with reasonable compensation for actual costs and to remove the designation as community service provider, except that in the event the secretary makes written findings of fact that there appears to be a situation involving imminent danger to the health, safety or welfare of the person with a developmental disability unless immediate action is taken, the secretary may issue an emergency order. Such emergency order shall be subject to the same procedures under K.S.A. 77-536 and amendments thereto. Upon entry of such an emergency order, the secretary shall promptly notify the community service provider subject to the order: (1) The content of the order; (2) the reasons therefor; and (3) that upon written request within 15 days after service of the order, the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the secretary, the order will remain in effect until it is modified or vacated by the secretary. If a hearing is requested or ordered, the secretary, after notice of and opportunity for hearing to the community service provider subject to the order, by written findings of fact and conclusions of law, shall vacate, modify or make permanent the order.

**History:** L. 1995, ch. 234, § 7; Jan. 1, 1996.