

59-2006. Duty to support patients; recovery; demand; time limitation; voluntary payments; compromise and settlement; bar to future recovery, when; contracts with attorneys or with debt collection agencies for collection services authorized, requirements; "state institution" defined; minor patient support rights assigned to institution.

(a) A person's spouse and the parents of a person who is a minor shall be bound by law to support the person if the person is committed to, admitted to, transferred to or received as a patient at a state institution. Payment for the maintenance, care and treatment of any patient in a state institution irrespective of the manner of such patient's admission shall be paid by the patient, by the conservator of such patient's estate or by any person bound by law to support such patient. The secretary for aging and disability services may recover the basic maximum charge established as provided for in subsection (a) of K.S.A. 59-2006b, and amendments thereto, or the actual per patient costs established as provided in subsection (b) of K.S.A. 59-2006b, and amendments thereto, as compensation for the maintenance, care and treatment of a patient from such patient when no legal disability exists, or from the estate of such patient or from any person bound by law to support such patient.

(b) The secretary for aging and disability services shall periodically and not less than once during each fiscal year make written demand upon the patient or person liable for the amount claimed by the secretary to have accrued since the last demand was made, and no action shall be commenced by the secretary against such patient or such patient's responsible relatives for the recovery thereof unless such action is commenced within three years after the date of such written demand. When any part of the amount claimed to be due has been paid or any acknowledgment of an existing liability, debt or claim, or any promise to pay the same has been made by the obligor, an action may be brought in such case within three years after such payment, acknowledgment or promise, but such acknowledgment or promise must be in writing signed by the party to be charged thereby. If there are two or more joint debtors, no one of whom is entitled to act as the agent of the others, no such joint debtor shall lose the benefit of the statute of limitations so as to be chargeable by reason of any acknowledgment, promise or payment made by any other or others of them, unless done with the knowledge and consent of, or ratified by, the joint debtor sought to be charged. The secretary may accept voluntary payments from patients or relatives or from any source, even though the payments are in excess of required amounts and shall deposit the same as provided by law.

(c) The secretary for aging and disability services shall have the power to compromise and settle any claim due or claimed to be due from such patient or such patient's relatives who are liable for the patient's care, maintenance and treatment and upon payment of a valuable consideration by the patient or the persons bound by law to support such patient, may discharge and release the patient or relative of any or all past liability herein. Whenever the secretary shall negotiate a compromise agreement to settle any claim due or claimed to be due from a patient or such patient's relatives responsible under this act to support the patient, no action shall thereafter be brought or claim made for any amounts due for the care, maintenance and treatment of such patient incurred prior to the effective date of the agreement entered into, except for the amounts provided for in the agreement if the provisions of such compromise agreement are faithfully performed. In the event the terms and conditions of such compromise agreement are not complied with, such failure to comply shall serve to revive and reinstate the original amount of the claim due before negotiation of such compromise agreement, less amounts paid on the claim.

(d) The secretary for aging and disability services may contract with an attorney admitted to practice in this state or with any debt collection agency doing business within or without this state to assist in the collection of amounts claimed to be due under the provisions of this section. The fee for services of such attorney or debt collection agency shall be based on the amount of moneys actually collected. No fee shall be in excess of 50% of the total amount of moneys actually collected. All funds collected less the fee for services as provided in the contract shall be remitted to the secretary for aging and disability services within 45 days from the date of collection.

Contracts entered pursuant to this section may be negotiated by the secretary for aging and disability services and shall not be subject to the competitive bid requirements of K.S.A. 75-3739 through 75-3741, and amendments thereto.

(e) Before entering into a contract with a debt collection agency under subsection (d), the secretary for aging and disability services shall require a bond from the debt collection agency in an amount not in excess of \$100,000 guaranteeing compliance with the terms of the contract.

(f) A debt collection agency entering into a contract with the secretary for aging and disability services for the collection of amounts claimed to be due under this section shall agree that it is receiving income from sources within the state or doing business in the state for purposes of the Kansas income tax act.

(g) As used in this section, "state institution" has the meaning provided by K.S.A. 59-2006b, and amendments thereto.

(h) When a minor becomes a patient of a state institution, an assignment of all past, present and future support rights of the minor which are possessed by either parent or any other person entitled to receive support payments for the minor is conveyed by operation of law to the secretary for aging and disability services. The assignment of support rights shall be effective upon the minor's admission as a patient of any state institution, regardless of the manner of admission, without the requirement that any written assignment or similar document be signed by the parent or other person entitled to receive support payments for the minor. When a minor becomes a patient of a state institution, the parent or other person entitled to receive support payments for the minor is also deemed to have appointed the secretary for aging and disability services or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments on behalf of the minor. This limited power of attorney shall remain in effect until the assignment of support rights has been terminated in full. For any minor who is a patient of a state institution on the effective date of this act and whose past, present and future support rights are not assigned to the secretary for aging and disability services, the assignment of support rights and limited power of attorney shall be effective on the effective date of this act if notice of the assignment is sent to the person otherwise entitled to receive support payments for the minor.

The assignment of support rights provided in this section shall remain in full force and effect until the minor is no longer a patient of a state institution. When the minor is no longer a patient of a state institution, the assignment shall remain in effect as to unpaid support obligations due and owing as of the last day of the month in which the minor ceases to be a patient, until the claim of the secretary for aging and disability services for the maintenance, care and treatment of the minor is satisfied. Nothing in this section shall affect or limit the rights of the secretary for aging and disability services under any assignment pursuant to K.S.A. 39-709, and amendments thereto.

History: L. 1939, ch. 180, § 170; L. 1941, ch. 284, § 18; L. 1951, ch. 340, § 2; L. 1958, ch. 52, § 1 (Budget Session); L. 1965, ch. 349, § 1; L. 1967, ch. 474, § 1; L. 1969, ch. 281, § 1; L. 1974, ch. 237, § 1; L. 1984, ch. 209, § 1; L. 1992, ch. 312, § 29; L. 2014, ch. 115, § 198; July 1.