



March 25, 2021

OVERVIEW OF EXECUTIVE REORGANIZATION ORDER NO. 47

Executive Reorganization Order (ERO) 47 renames the Department for Children and Families (DCF) as the Kansas Department of Human Services (DHS), and transfers all jurisdiction, powers, functions, and duties for the Kansas Department for Aging and Disability Services (KDADS) to DHS, effective July 1, 2021. The ERO specifies that whenever DCF or KDADS or predecessor agencies—the Department of Social and Rehabilitation Services and the Department on Aging—or the Secretary for Children and Families or the Secretary for Aging and Disability Services are referred to or designated by any statute, rule and regulation, contract, or other document, such reference should be deemed to apply to DHS or the Secretary of Human Services.

Kansas Department for Children and Families

Beginning on July 1, 2021, all the jurisdiction, powers, functions, and duties of DCF and KDADS, for which the agencies are serving as the operating agency or grants manager for another agency, are transferred to and imposed upon DHS and the Secretary of Human Services. DHS will be the successor to the powers, duties, and functions of DCF, KDADS, and any potential remaining rights, titles, or interest belonging to the Department of Social and Rehabilitation Services and Department on Aging in real property. Actions performed by DHS will have the same force and effect as if performed by the above entities, in which the same powers, duties, and functions were vested prior to July 1, 2021.

DCF's rules and regulations authority; fees, funds, and account balances; and property and property rights, in addition to any liability regarding the agency, will become those of DHS.

Kansas Department for Aging and Disability Services

The ERO abolishes KDADS and transfers its rules and regulations authority; fees, funds, grant funds, loan repayment funds, and account balances; property and property rights; and liability for accrued compensation or salaries of personnel to DHS. All current policies, procedures, orders, and directives will continue to be effective until revised, amended, or nullified pursuant to law. The Secretary of Human Services shall appoint officers and employees as needed to carry out necessary powers and duties for former KDADS programs and will determine the manner in which the following offices and programs are organized within DHS:

- Office of the Secretary for Aging and Disability Services;

- The Financial and Information Services Commission, within KDADS;
- Aging, Disability, and Behavioral Health programs;
- Oversight of the state hospitals; and
- The Survey, Certification, and Credentialing program.

KDADS personnel performing duties prior to the ERO will retain all retirement benefits and leave balances upon being transferred to DHS, however the Secretary of Human Services may eliminate positions upon a determination that individuals are not performing necessary services. Classified employees will remain classified, however the Secretary of Human Services has discretion to convert vacant positions from classified to unclassified.

The ERO will transfer the following programs from KDADS to DHS and directs the Secretary of Human Services to determine the manner in which these programs are organized:

- The Aging and Disability Community Services and Programs Commission, including the following subprograms:
 - Serious Emotional Disturbance, Intellectual and Developmental Disability, Physical Disability, Brain Injury, Autism, Technology Assisted, and Frail and Elderly Medicaid Home and Community Based Services waivers and programs;
 - Regulation of community developmental disability organizations;
 - Licensure and regulation of facilities and providers of residential and day services;
 - Licensure and regulation of providers of services and administration for the Senior Care Act; the federal Older Americans Act; and Medicare programs including the Senior Health Insurance Counseling for Kansas; the Senior Medicare Patrol; the federal Medicare Improvements for Patients and Providers Act; the Client Assessment, Referral and Evaluation program; the respite for caregivers program; and the Program for All-Inclusive Care for the Elderly;
- The Behavioral Health Services Commission, including the following subprograms:
 - Mental Health and Substance Abuse;
 - Licensure and regulation of community mental health centers;
 - Licensure of private psychiatric hospitals;
 - Licensure of psychiatric residential treatment facilities;
 - Licensure and regulation of providers of addiction and prevention services;

- The State Hospital Commission, including oversight of the state hospitals;
- The Survey, Certification, and Credentialing Commission, including the following subprograms:
 - Licensure of dietitians and adult care home administrators;
 - Certification of residential care facility operators, activity directors, social service designees, nurse aides, medication aides, and home health aides; maintenance of the Kansas nurse aide registry; and the related Criminal History Record Check program; and
 - Receivership of facilities;
- The Financial and Information Services Commission, within the Office of the Secretary of KDADS; and
- Any other programs and related grants not specifically named, but administered by these commissions prior to the effective date of the ERO.

Custodian of Records

DHS will succeed to the records of DCF and KDADS used for the performance of powers, duties, and functions transferred to it by this order.

Conflicts and Legal Actions

Any conflict that arises regarding the transfers described above will be resolved by the Governor, whose decision will be final. The ERO states the status of lawsuits, or other proceedings commenced or that could have commenced, and the status of criminal actions commenced or that could have been commenced against agencies referenced above will not abate due to the ERO.

Background

The Governor transmitted ERO 47 to the House of Representatives and the Senate on January 26, 2021. It was referred to the Senate Committee on Public Health and Welfare and House Committee on Appropriations on January 27, 2021.

An informational hearing was held in the House Social Services Budget Committee on February 8, 2021. At the hearing, the Secretary for Children and Families and Secretary for Aging and Disability Services provided proponent testimony that combining the agencies is necessary to best serve Kansans; merging will allow for more efficient services; and these efficiencies will allow for prevention earlier in the stream of service.

On February 10, 2021, the House Committee on Appropriations heard a report from the House Social Service Budget Committee regarding its information hearing. Following the report the House Committee voted to disapprove ERO 47.

On February 11, 2021, The House Committee introduced HR 6009, disapproving ERO 47.

Fiscal Information

No fiscal note was prepared for ERO 47. The Governor's recommendation, which was included in *The FY 2022 Governor's Budget Report*, includes the transfer of funding associated with ERO 47 from KDADS to the newly created DHS, which also incorporates the recommended budget of DCF.

History of Executive Reorganization of Agencies

Since 1973, several EROs adjusted or would have adjusted the organization of the agencies involved in ERO 47, including:

- ERO 1 (1973) created the State Department of Social and Rehabilitation Services headed by an appointed Secretary;
- ERO 3 (1974) created the State Department of Health and Environment headed by an appointed Secretary;
- Disapproved ERO 16 (1977) would have established the Division of Services to the Aging within the State Department of Social and Rehabilitation Services;
- ERO 17 (1980) reorganized and clarified various functions within the State Department of Social and Rehabilitation Services;
- ERO 20 (1982) established Juvenile Offender Services within the State Department of Social and Rehabilitation Services;
- Disapproved ERO 33 (2005) would have established the Kansas Health Policy Authority (*Note: KSA 75-7401 established the Health Policy Authority through enactment of authorizing legislation during the 2005 Legislative Session*);
- ERO 38 (2011) reorganized the Kansas Health Policy Authority into the Division of Health Care Finance within the Department of Health and Environment;
- ERO 41 (2012) consolidated the financing arm of Medicaid in the Kansas Department of Health and Environment Division of Health Care Finance, renamed the former Department on Aging as KDADS, consolidated all disability waiver and mental health services from SRS into the newly created KDADS, and renamed SRS as DCF; and

- Disapproved ERO 44 would have transferred all jurisdiction, powers, functions, and duties of KDADS and Juvenile Services from the Department of Corrections and oversight of the Kansas Juvenile Correctional Complex to DCF and would have renamed DCF as DHS, effective July 1, 2020.