



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

June 22, 1976

ATTORNEY GENERAL OPINION NO. 76- 184

Ms. Constance M. Achterberg  
Assistant County Attorney  
116 South Seventh Street  
Post Office Box 1604  
Salina, Kansas 67401

Re: Counties--Health Departments--Family Planning Services

Synopsis: The qualifications governing eligibility for family planning services prescribed by K.S.A. 23-501 apply only to services offered by family planning centers established and maintained by the State Department of Health and Environment, and not to services and programs offered by county health departments, other public agencies, or under private auspices.

\* \* \*

Dear Ms. Achterberg:

We have your letter of June 9, 1976, enclosing a copy of a memorandum dated June 3, 1976, addressed by Lowell M. Wiese, M.D., Director of Health, Bureau of Maternal and Child Health, Kansas Department of Health and Environment, to all county health officers which states in part thus:

"This is to advise you that the Department of Health and Environment will discontinue the direct operation of family planning centers established under K.S.A. 23-501 and 502 on June 30, 1976. This action brings to conclusion our seven year plan of demonstrating family planning services in areas of the state where such services were not available, then

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phasing out the state operated centers as local communities developed their own integrated services. We believe that quality family planning services can best be provided at the community level as a component of a comprehensive maternal and child health service."

You write to seek confirmation of Dr. Wiese's further statement in the memorandum concerning persons eligible for services provided other than through centers operated by the State Department of Health and Environment:

"The Kansas statutory qualifications for eligibility for family planning centers, concerning age, residence and marital status, as discussed by the Attorney General in Opinion No. 75-450, of December 9, 1975, apply only to State Department of Health and Environment centers established under K.S.A. 23-501, and not to those operated by local health departments or under private auspices or through other public agencies."

You write to seek confirmation of that advice, and that the statutory eligibility qualifications of K.S.A. 23-501, as discussed in Opinion No. 75-450 issued by this office under date of December 9, 1975, do not in fact apply to services offered by the Salina-Saline County Health Department.

Dr. Wiese is entirely correct. K.S.A. 1975 Supp. 23-501 states in pertinent part thus:

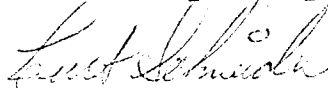
"The secretary of health and environment shall establish and maintain family planning centers in cooperation with state social welfare offices and county health departments. *Such family planning centers*, upon request of any person who is over eighteen (18) years of age and who is married or who has been referred to *said center* by a licensed physician and who resides in this state, may furnish and disseminate information concerning, and means and methods of planned parenthood . . . ." [Emphasis supplied.]

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The qualifications governing eligibility for services of the centers applies, clearly, only to services furnished by "[s]uch family centers" as are established and maintained by the Secretary of Health and Environment under this act. These qualifications manifestly do not apply to services and programs offered by county health departments, by other public agencies, or under private auspices.

To recapitulate, if and when the Secretary of Health and Environment should reestablish and maintain family planning centers at any time in the future, so long as K.S.A. 23-501 is in effect, eligibility for the services of such centers is governed by the restrictions of that provision, as discussed earlier in Opinion No. 75-450. However, that provision, and the cited opinion, apply only to family planning centers established and operated by the Secretary of Health and Environment, and not to other providers of such services, including county health departments. Accordingly, I agree fully with the advise of Dr. Wiese in the referenced memorandum.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: Mr. Dwight Metlzer  
Secretary  
Department of Health and Environment  
Building 740 - Forbes AFB  
Topeka, Kansas

Lowell M. Wiese, M.D.  
Director of Health  
Department of Health and Environment  
Building 740 - Forbes AFB  
Topeka, Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT  
Bureau of Maternal and Child Health

June 3, 1976

M E M O R A N D U M

To: County Health Officers  
From: Lowell M. Wiese, M.D., Director of Health  
Subject: Family Planning Services

*Lowell M. Wiese, MD*

This is to advise you that the Department of Health and Environment will discontinue the direct operation of family planning centers established under K.S.A. 23-501 and 502 on June 30, 1976. This action brings to conclusion our seven year plan of demonstrating family planning services in areas of the state where such services were not available, then phasing out the state operated centers as local communities developed their own integrated services. We believe that quality family planning services can best be provided at the community level as a component of a comprehensive maternal and child health service.

The Department has received approval from the regional HEW office to allocate Title X funds to county health departments through the aid-to-county grant program for integrated maternal and child health services. The Kansas statutory qualifications for eligibility for family planning centers, concerning age, residence and marital status, as discussed by the Attorney General in Opinion No. 75-450, of December 9, 1975, apply only to State Department of Health and Environment centers established under K.S.A. 23-501, and not to those operated by local health departments or under private auspices or through other public agencies. County Health Departments will therefore be able to extend a full program of maternal and child health services, including family planning services, to all persons, and thus remain in compliance with Title X regulations.