



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL



1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
Room 083, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Co-Chairs:

After consideration of the issues raised by 40 KAR 9:010, the Office of the Attorney General proposed the attached suggested substitute to this regulation.

Best Regards,

Jessica Bowman
Executive Advisor
Office of the Kentucky Attorney General
1024 Capital Center Drive
Frankfort, KY 40601

REVISED:
5/5/2025 8:09 AM

SUGGESTED SUBSTITUTE

**OFFICE OF ATTORNEY GENERAL
Opioid Abatement Advisory Commission
(Amendment)**

40 KAR 9:010. General application procedure.

RELATES TO: KRS 15.291, 15.293

STATUTORY AUTHORITY: KRS 15.291(6)~~[-15.293]~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.291(6) requires the Kentucky Opioid Abatement Advisory Commission~~[-(the "commission" or "KYOAAC"))]~~ to promulgate administrative regulations to administer funds received by the commission. This administrative regulation establishes the application procedure for funding requests under KRS 15.291 and 15.293, the duties required of the commission, the duties required of those that receive commission funds, and other related issues.

Section 1. Definitions.

(1) "Entity" is defined by KRS 14A.1-070(7).

(2) "Governmental agency" is defined by KRS 65.940(5).

(3) **"KYOAAC" or "commission" means the Kentucky Opioid Abatement Advisory Commission.**

~~(4)~~ "Member" means a commission member as established in KRS 15.291(2), whether voting or non-voting.

Section 2. Eligible Applicants. An entity or governmental agency shall be eligible for opioid abatement funding if the entity or governmental agency:

(1) Submits an application through the online KYOAAC Grant Portal, which shall be available at or linked to from [] at <https://ag.ky.gov/Resources/Opioid-Commission/Pages/default.aspx>~~<https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>~~;

(2) Complies with the requirements established in this administrative regulation;

(3) Meets the criteria in KRS 15.291(5); and

(4) Is not debarred or suspended from contracting with the Commonwealth.

Section 3. Application.

(1) To submit an application using the KYOAAC Grant Portal, an applicant shall be required to become an approved state vendor.

(2) Non-conforming or incomplete applications shall not be considered.

Section 4. Review of Applications.

- (1) The commission shall review applications and distribute funds at least once per year~~[on a continuous basis]~~.
- (2) If the commission requests supplementation of an application, or otherwise inquires about an application, the point of contact shall acknowledge receipt within seven (7) calendar days and subsequently respond to the commission **within thirty (30) calendar days**~~[in a timely manner]~~. Failure to do so shall result in the application being deemed withdrawn.
- (3) Contingent upon available funding, the commission shall fund a successful~~[an]~~ application in whole or in part, if the funding does not exceed the sum requested in the application.
- (4) In awarding funds, the commission shall consider:
 - (a) Compliance with applicable law;
 - (b) The entity or governmental agency's record and responsibility in utilizing effectively any funds received previously from the commission or from the counties, consolidated local governments, urban county governments, and cities of the Commonwealth, as established in KRS 15.293(4);
 - (c) The geographic reach of the application;
 - (d) Amounts received by an entity or governmental agency from the commission or from the counties, consolidated local governments, urban county governments, and cities of the Commonwealth, as established in KRS 15.293(4);
 - (e) **The utility and effectiveness of any part of the application;**~~(f)~~ The extent to which Kentucky residents are served by the application;
 - (f)**~~(g)~~ The extent to which prior allocations from the commission have served similar purposes;
 - (g)**~~(h)~~ The extent to which the application proposes to serve a portion of the population that otherwise would not receive similar services;
 - (h)**~~(i)~~ The extent to which the application proposes to incorporate relevant partnerships that are likely to increase the efficiency and effectiveness of programming;
 - (i)**~~(j)~~ The extent to which the application aligns with the funding priorities set annually and published by the commission~~[proposes, among other things, to educate the public about opioid misuse and opioid use disorder, reduce the occurrence of opioid misuse and opioid use disorder, promote resistance to opioid misuse and opioid use disorder, promote the effective treatment of opioid use disorder, or combat the effects of opioid misuse, including co-occurring mental health issues]~~;
 - (j)**~~(k)~~ The extent to which the application activities align with accepted evidence-based practices; or
 - (k)**~~(l)~~ The sufficiency of records to validate the requested amounts.

Section 5. Recipients' Duties.

- ~~[(4)]~~ Entities and governmental agencies that receive funding shall submit regular financial reports through the KYOAAC grant portal as required by contract~~[notarized quarterly certifications to the commission due by:]~~

- ~~[(a)] [March 31;]~~
- ~~[(b)] [June 30;]~~
- ~~[(c)] [September 30; and]~~
- ~~[(d)] [December 31.]~~
- ~~[(2)] [Entities and governmental agencies shall submit certifications using the KYOACC Certification Form.]~~
- ~~[(3)] [Certifications shall be required until the recipient exhausts all funds received from the commission and until the recipient has submitted a certification stating that all funds have been exhausted.]~~
- ~~[(4)] [Separate certifications shall be required for each funding award.]~~

Section 6. Noncompliance.

- (1) Noncompliance shall include:
 - (a) Materially falsified information in any certifications filed pursuant to or required by KRS 15.291, KRS 15.293, or 40 KAR Chapter 9;
 - (b) Failure to meet grant reporting~~[certification submission]~~ deadlines; and
 - (c) Failure to expend funds in conformity with the enumerated purposes established in KRS 15.291, pursuant to KRS 15.293(5).
- (2) The commission shall require entities or governmental agencies to reimburse the commission for any funds expended in a noncompliant manner.
- (3) The commission shall require noncompliant entities or governmental agencies to forfeit any remaining funds received from the commission.
- (4) The commission shall bar noncompliant entities or governmental agencies from receiving funds from the commission.
- (5) The commission shall report noncompliance to the Department of Law for appropriation determination as to if further action is necessary to ensure compliance with opioid-related agreements.

Section 7. Commission Appointments. The term of a member appointed pursuant to KRS 15.291(3)(b) shall begin upon the commission's first meeting after the member's appointment.

Section 8. Incorporation by Reference.

- (1) ~~[The following material is incorporated by reference:]~~
 - ~~[(a)]~~ "KYOAAC Grant Portal," available at or linked to from
<https://ag.ky.gov/Resources/Opioid-Commission/Pages/default.aspx>
<https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission.aspx>, is incorporated by reference~~[- and]~~
 - ~~[(b)] [KYOACC Certification Form, December 2022].~~
- (2) This material shall be inspected, copied, or obtained, subject to copyright law, at the Office of the Attorney General Capital Complex East, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

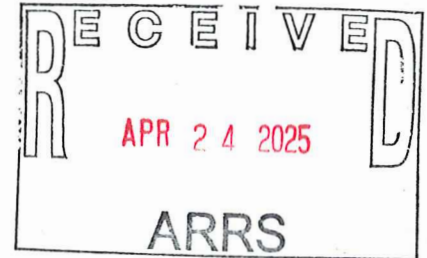
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



April 21, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 701 KAR 5:055. Removal hearing procedures.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 701 KAR 5:055, the Kentucky Board of Education proposes the attached amendment to 701 KAR 5:055.

Sincerely,

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

**Staff-suggested Amendment
4/21/2025**

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

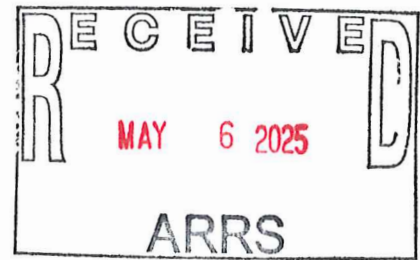
701 KAR 5:055. Removal hearing procedures.

Page 1

STATUTORY AUTHORITY paragraph

Line 7

After "KRS 156.070", insert "156.132".



Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

Kentucky Office of Claims and Appeals

Board of Tax Appeals

500 Mero Street, 2SC1

Frankfort, KY 40601

Phone: (502) 782-8255

Fax: (502) 573-4817

Ray A. Perry
SECRETARY
John Hardesty
EXECUTIVE DIRECTOR
Frederick Higdon
BOARD CHAIRPERSON

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by 802 KAR 1:010, the Office of Claims and Appeals, Board of Tax Appeals proposes the attached suggested substitute to Ordinary Regulation 802 KAR 1:010.

Sincerely,

Linda Roberts Horsman, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
Board of Tax Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET
Office of Claims and Appeals
Board of Tax Appeals
(Amendment)

802 KAR 1:010. Tax appeal procedures.

RELATES TO: KRS ~~[12.027,]~~Chapter 13B, 49.220, 49.230, 49.240, 49.250~~[-EO 2020-708]~~

STATUTORY AUTHORITY: KRS 49.010, 49.020, 49.220(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 49.010(4)(b) and KRS 49.020(7)(a) authorize[authorizes] the Office of Claims and Appeals to promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the office's statutory authority.~~[KRS 49.020(7)(a) grants the board the authority to promulgate, amend and repeal administrative regulations to carry out the provisions and purposes of the boards' statutory authority.]~~[Executive Order 2020-708 ("Order") requires that the Kentucky Claims Commission be abolished and the Office of Claims and Appeals be immediately established within the Public Protection Cabinet, and to include the Board of Tax Appeals. The Order also sets forth the powers and duties of the Board of Tax Appeals, and authorizes the board to promulgate regulations necessary to immediately carry out the provisions and purposes of the Order and the board's statutory authority. KRS 49.020(5) authorizes the board to promulgate administrative regulations that are necessary to carry out the provisions and purposes of the board's statutory authority.] KRS 49.220(1) authorizes the board, with exclusive jurisdiction, to hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation **and requires that board hearings be conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board**. This administrative regulation establishes the procedures governing the processing of appeals of taxes imposed by governmental entities[tax appeals].

Section 1. Definitions.

- (1) "Board" means the Board of Tax Appeals.
- (2) "Office" means the Office of Claims and Appeals.

Section 2. Rules for Filing Tax Appeals with the board.

- (1) Initiation of tax appeal. A party wishing to appeal a final ruling, order, or determination of any agency of state or county government affecting revenue or taxation shall file a petition with the board for a formal hearing in accordance with KRS Chapter 13B.

(2) Timing. The initial petition of appeal shall be received by the board within thirty (30) days of the date of mailing of the final ruling, order, or determination of the agency of state or county government that is the subject of the appeal. If the determination is not mailed, then the initial petition shall be considered timely~~[as received]~~ if received by the board within thirty (30) days of the date of issuance.

(a) An untimely appeal shall be dismissed.

(b) To dispute a finding by the board or its staff that a petition was untimely filed, a party may:

1. Provide evidence of when the envelope containing the mailing was entered into the postal service by providing the cancelled postmarked envelope or may provide information from the postal service concerning the date of the introduction of the envelope containing the mailing into the system; or

2. Provide any other evidence concerning when the final ruling, order, or determination was issued.

(c)~~[(b)]~~ If the appeal is timely filed, but is otherwise deficient, the board, office, or hearing officer shall notify the petitioner of deficiencies and allow fifteen (15) business days to amend the petition.

(3) Format and content. A petition of appeal shall be legibly written, typed, or printed and contain:

(a) A statement of all relevant issues of fact and law;

(b) A statement certifying that the information contained in the petition of appeal is true and correct to the best knowledge of the petitioner or counsel, if represented by an attorney;

(c) The signature of the petitioner or the signature of counsel, if represented by an attorney;

(d) The petitioner's mailing address, telephone number, and email address;

(e) If represented by an attorney, the petitioner's attorney's name, mailing address, telephone number, and email address; and

(f) A copy of the final ruling, order, or determination to be reviewed.

(4) Upon receiving a petition of appeal, the board shall provide notice to:

(a) The appellee that an action has been filed;

(b) The petitioner that the petition of appeal has been received; and

(c) The petitioner's counsel, if represented by an attorney.

(5) Upon receiving a Petition of Appeal, the appellee or the appellee's attorney shall file an entry of appearance within thirty (30) days of the date of the notice of appeal provided by the board. The entry of appearance shall contain the mailing address, telephone number, and email address of the appellee and the appellee's attorney, if applicable.

Section 3. Rules Applicable to All Filings.

(1) Filings. All documents shall~~[may]~~ be filed either:

(a) In person or by private delivery to Board of Tax Appeals, 500 Mero Street, 2 SC1, Frankfort, Kentucky 40601;

(b) By mail to the address listed above; or

(c) By electronic mail to taxappeals@ky.gov if the document can be sent in one (1) electronic message.

(2) Service.

(a) Any party who files a pleading or motion with the board and~~[or]~~ hearing officer shall notify all other parties to the appeal by serving upon each party a copy of the pleading or motion filed. A filed pleading or motion shall be accompanied by a certification stating:

1. That a copy has been served on each party, or if the party is represented by counsel, on the party's counsel; and
2. The method of service used.

(b) Service upon a party shall be made by delivering a copy to the attorney or party, by electronic mail, or by mailing it to the attorney or party at the last known address. Service is complete upon mailing, unless the serving party learns or has reason to know that it did not reach the person to be served. Service by electronic mail shall be considered complete when sent if properly addressed. Documents filed by electronic mail shall be considered received when sent if properly addressed.

Section 4. Representation in Proceedings before the board.

- (1) If the appeal is by an individual, the individual may proceed without an attorney or engage counsel to provide representation.
- (2) An individual who is not an attorney shall not be permitted to represent any other individual or legal entity who is a party to an appeal.
- (3) In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, joint venture, partnership, LLC, estate, or any entity other than an individual as identified in subsection (1) of this section, the entity shall be represented by an attorney on all matters before the board, including the filing of the appeal.
- (4) An attorney licensed to practice in another state, but not the Commonwealth of Kentucky, shall be permitted to represent a party before the board if the attorney complies with Supreme Court Rule 3.030(2).

Section 5. Discovery.

- (1) Discovery may be obtained without prior order of the board or hearing officer. Except to the extent the provisions of this section differ, the Kentucky Rules of Civil Procedure (CR) governing depositions and discovery shall apply.
- (2) In addition to the provisions of CR 26 addressing opinions and use of expert witnesses:
 - (a) Absent a stipulation between the parties or an order issued by the board or hearing officer providing otherwise, and at least ninety (90) days before the date set for the hearing, a party shall disclose to the other party or parties the identity of any witness qualified as an expert by knowledge, skill, experience, training, or education the party may use at the hearing to provide expert testimony; or
 - (b) If the evidence is intended solely to contradict or rebut evidence on the same subject matter of a witness identified by another party, within thirty (30) days after the other party's disclosure.
- (3) The board or hearing officer may deny, limit, or require discovery.

(4) If a party fails to comply with an order regarding discovery, the board or hearing officer may order that the:

- (a) Matters that the requesting party was seeking to establish through discovery shall be taken as having been established for the purposes of the hearing;
- (b) Noncomplying party shall be prohibited from introducing related documents or testimony at the hearing;
- (c) Appeal be dismissed or relief be granted as requested by the opposing party;
- (d) Appeal be stayed until the order is obeyed; or
- (e) Noncomplying party, the advising attorney, or both pay the reasonable costs, including attorney's fees, caused by the failure to comply.

(5) A response to discovery under subsection (1) of this section shall not be filed with the board unless required by order of the board or hearing officer.

Section 6. Prehearing or Status Conference and Hearing Schedule.

(1) In any appeal assigned to a board member or hearing officer, the board or hearing officer may schedule a prehearing or status conference. The prehearing or status conference may be conducted by telephone or other electronic means upon reasonable notice to all parties, which consists of prior notice of not less than five (5) days, unless otherwise agreed to by the parties.

(2) A prehearing or status conference may be used to set a hearing date, discuss jurisdictional matters, settlement possibilities, discovery, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas, mediation, and other matters that will promote the orderly and prompt conduct of the hearing.

(3) If the board member or hearing officer and parties cannot agree upon a hearing date, the board member or hearing officer shall set the matter for hearing no later than six (6) months from the date of the conference.

(4) Upon conclusion of the prehearing or status conference, the board member or hearing officer shall issue an order including all matters determined at the prehearing or status conference.

Section 7. Prehearing Filings.

(1) At least thirty (30) days prior to the hearing, a party shall file with the board or hearing officer a:

(a) Prehearing summary that contains a:

- 1. Summary of the party's position on any issue of fact in dispute;
- 2. Summary of the party's position on any issue of law raised by the appeal; and
- 3. Written statement of facts to which the party agrees and any facts which a party does not dispute;

(b) List of the names, addresses, and phone numbers, ~~if known,~~ of all witnesses the party expects to call to testify as a witness at the hearing;

(c) Copy of all exhibits that the party intends to introduce at the hearing;

(d) Proposed findings of fact and conclusions of law; and

(e) Proposed final order if the appeal is heard by the board, or a proposed recommended order if the appeal is heard by a hearing officer.

(2) The prehearing filings required by this section shall satisfy the requirements under KRS 13B.090(3) establishing a party's right to inspect a list of witnesses and documentary or tangible evidence at least five (5) days prior to the hearing. The board may issue a prehearing order modifying discovery procedures or deadlines, or mandating additional requirements for prehearing filings.

(3) The parties may file proposed findings of fact and conclusions of law.

Section 8. Motion Practice.

(1) Any party may file a motion. Any party affected by a motion or pleading may file a response to the motion or pleading within twenty (20)~~thirty (30)~~ days from the date on which the motion or pleading was served.

(2) A moving party may file a reply to another party's response. The reply shall be filed within fifteen (15) days from the date the response was served. Other replies or responses shall not be filed, unless prior approval is granted by the board or hearing officer.

Section 9. Briefs.

(1) A party shall file with the board and~~or~~ hearing officer any brief required by order of the board or hearing officer.

(2) The board or hearing officer may require a party to file a post-hearing brief or to supplement at any time a brief already filed to assist in adjudicating the hearing. A brief shall include the signature of the party, or the party's counsel.

Section 10. Summary Disposition.

(1) At any time after the commencement of an appeal, a party may move for a summary disposition of the whole or a part of the appeal by filing a motion that:

(a) Asserts that there are no disputed material facts as to one (1) or more of the issues before the board or hearing officer;

(b) Includes a statement specifying which material facts are undisputed. Assertions of a material undisputed fact or facts may be submitted to the board or hearing officer through affidavits or responses made by another party to any discovery request, including answers to interrogatories, admissions, and depositions. Facts stated in the petition of appeal, including exhibits attached to the petition, may be relied upon as undisputed material facts by the appellee; and

(c) States that any issue before the board or hearing officer for which summary disposition is sought is a matter of legal, and not factual, interpretation.

(2) Response.

(a) Within twenty (20) days after a party moves for summary disposition, any other party may file a response presenting the party's position on issues of law and fact, which shall include any affidavit, written response to discovery requests, deposition testimony, or statements in

the Petition of Appeal, demonstrating the party's assertion that a material fact or facts are disputed.

(b) Failure of a nonmoving party to respond within twenty (20) days to the motion for summary disposition or to request additional time to respond to the motion may result in the board or hearing officer finding there are no disputed factual issues to be considered in deciding the legal issues.

(3) If the nonmoving party files a response to the motion for summary disposition, the moving party shall have ten (10) days to file a reply to the response.

(4) The board or hearing officer may grant a motion for summary disposition in whole or in part. If the board or hearing officer grants a summary disposition as to one (1) or more issues, but not all issues, then the remaining issues shall be heard by the board or hearing officer in accordance with this administrative regulation and KRS Chapter 13B.

(5) When a hearing officer rules on a dispositive motion but ~~the[such]~~ ruling does not dispose of the appeal, a party aggrieved by the determination of the hearing officer may request the board review the ruling within twenty (20) days of the issuance of the determination by the hearing officer. The non-moving party shall have a right to respond to the motion for board review and such shall be filed no later than fifteen (15) days following the filing of the motion for board review. The moving party shall have no right to reply.

Section 11. Other. Except as otherwise stated in KRS Chapter 49 or this administrative regulation, the conduct of hearings shall be governed by the procedures established in KRS Chapter 13B.

Section 12. The Certified Record of Proceedings. The official record of a matter before the board shall be forwarded by the clerk of the board to the Circuit Court, or other reviewing court, within twenty (20) days of the filing of a petition for judicial review, as provided in KRS 13B.140(3) and KRS 49.250. The record may be filed with the clerk of the court on an electronic storage device, including CD or USB flash drive.

Section 13. Subpoenas. The board, hearing officers, and parties shall use the form adopted by the board for the issuance of subpoenas, both in personam and duces tecum, and ~~this[said]~~ form is~~[-herein]~~ incorporated by reference.

(1) Subpoenas may be issued by any person over the age of eighteen (18) and execution of service shall be attested to by completion of the "Proof of Service" portion of the form.

(2) Copies of any documents received in response to the issuance of a subpoena shall be furnished to all parties to the action.

(3) Prior to the issuance of a subpoena by a party or its counsel, ~~the[such]~~ party shall request approval of the board or hearing officer for ~~the[such]~~ issuance. The party shall not issue or serve the subpoena until ~~approved[approve]~~ by the board or hearing officer.

Section 14. Incorporation by Reference.

(1) "Subpoena", January 2025, is incorporated by reference;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Claims and Appeals, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. and is available online at:
<https://kycc.ky.gov/Documents/802%20KAR%201-010-BTA.pdf>
[\[https://kycc.ky.gov/Newstatic-info.aspx?static-id=161\]](https://kycc.ky.gov/Newstatic-info.aspx?static-id=161).



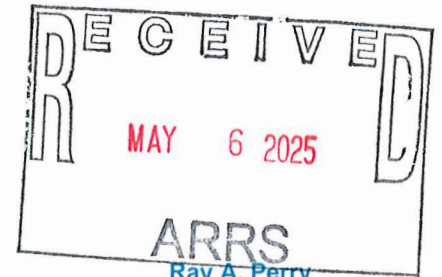
Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

**Kentucky Office of Claims and
Appeals**

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817



Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

John Hardesty
EXECUTIVE DIRECTOR

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After reviewing the Legislative Research Commission's Staff Suggestions in **802 KAR 2:010**, the Office of Claims and Appeals, Board of Claims approved and accepted the suggestions. The Board proposes the attached suggested substitute to Ordinary Regulation 802 KAR 2:010.

Sincerely,

Shelby Bevins-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

REVISED SUGGESTED SUBSTITUTE

4/30/2025 8:59 AM

PUBLIC PROTECTION CABINET

Office of Claims and Appeals

Board of Claims

(Amendment)

802 KAR 2:010. Negligence claims before the Board of Claims.

RELATES TO: KRS ~~[12.027,]~~ 49.020, 49.040, 49.090, 49.120 ~~[, EO 2020-708]~~

STATUTORY AUTHORITY: KRS 49.010(4)(b), KRS 49.020(7)(a)[(5)]

NECESSITY, FUNCTION, AND CONFORMITY: ~~[Executive Order 2020-708 ("Order") requires that the Kentucky Claims Commission be abolished and that the Board of Claims, and the Office of Claims and Appeals be established. The Order also sets forth the powers and duties of the Board of Claims and the Office of Claims and Appeals and authorizes the board to promulgate emergency regulations necessary to carry out the provisions and purposes of the Order and the board's statutory authority.]~~ KRS **49.010(4)(b) and KRS 49.020(7)(a)[(5)]** **authorize[authorizes]** the board to promulgate administrative regulations that are necessary to carry out the provisions and purposes of the board's statutory authority. KRS 49.020(5)[220(4)] authorizes the board, with exclusive jurisdiction, to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies. This administrative regulation establishes the procedures governing these claims.

Section 1. Definition.

- (1) "Board" means the Board of Claims.
- (2) "Office" means the Office of Claims and Appeals.

Section 2. Filing Claims. Form and content. A claim shall be legibly written, typed, or printed on the Board of Claims claim form, or submitted through the online portal, and contain:

- (1) The name, address, telephone number, and email address of the claimant;
- (2) The amount of the claim; and
- (3) A statement of the facts that:
 - (a) Show the claimant may be entitled to relief pursuant to KRS 49.010 through 49.180;and

- (b) Enables the agency against which a claim is made to investigate the claim and prepare its defense; ~~and~~
- (4) The signature of the claimant and counsel for claimant, if any, and;[-]
- (5) Additional documents and attachments, if necessary for a full statement of the claim.

Section 3. Rules Applicable to All Filings.

- (1) Filings. All claims shall be filed either; ~~[All documents may be filed:]~~
 - (a) In person or by private delivery to the Board of Claims, 500 Mero Street, 2 SC1, Frankfort, Kentucky 40601;
 - (b) By mail to the address listed above; or
 - (c) By electronic mail to <mailto:negligenceclaims@ky.gov>, if the document can be sent in one (1) electronic message; or[-]
 - (d) Through the Board's online claim filing portal: <https://kycc.ky.gov/NegClaim/>.
- (2) Service.
 - (a) Any party who files a pleading or motion with the board or hearing officer shall notify all other parties to the claim by serving upon each party a copy of the pleading or motion filed. A filed pleading or motion shall be accompanied by a certification stating:
 - 1. That a copy has been served on each party, or if the party is represented by counsel, on the party's counsel; and
 - 2. The method of service used.
 - (b) Service upon a party shall be made by delivering a copy to the attorney or party, electronic mail, or by mailing it to the attorney or party at the last known address. Service is complete upon mailing[-] unless the serving party learns or has reason to know that it did not reach the person to be served. Service by electronic mail shall be considered complete when sent if properly addressed. Documents filed by electronic mail shall be considered received when sent if properly addressed.
- (3) Extension of time. An extension of time to file a response, motion, other pleading, brief, proposed finding of fact, or conclusion of law shall be granted:
 - (a) On agreement of the parties; or
 - (b) Upon a showing of good cause.

Section 4. Representation in Proceedings before the Board.

- (1) If the claim is by an individual, the individual may proceed without an attorney or engage counsel to provide representation.
- (2) An individual who is not an attorney shall not be permitted to represent any other individual or legal entity who is a party to the claim.
- (3) In accordance with Supreme Court Rule 3.020, if the claimant is a corporation, joint venture, partnership, LLC, estate, or any entity other than an individual as identified in subsection (1), the entity shall be represented by an attorney on all matters before the board, including filing the claim.

(4) An attorney admitted to practice in another state, but not the Commonwealth of Kentucky, shall be permitted to represent a party before the board if the attorney complies with Supreme Court Rule 3.030(2).

(5) If an attorney is not identified in the claim form or is later retained to represent a claimant after the filing of the claim form, the attorney shall enter an appearance in the record within ten (10) days of being retained.

Section 5. Response to Claims.

(1) Upon receipt of a completed claim, the board shall submit a copy of each claim to the head of the agency against which the claim is filed, or the attorney representing the agency against which the claim is filed.

(2) The agency against which a claim has been filed shall respond to the board and the claimant within thirty (30) days of receiving the claim.

(3) If the agency against which a claim is filed admits liability in its response, a final order shall be entered.

Section 6. Claims Not Requiring a Hearing Under KRS 49.090(3).

(1) If the agency against which a claim is filed fails to respond within thirty (30) days, the board or a board member assigned by the chair shall:

(a) Enter a show cause order;

(b) Recommend an order of dismissal; or

(c) Deem the facts contained in the claim admitted and render an award.

(2) If the response filed by the agency denies negligence in a claim not requiring a hearing pursuant to KRS 49.090(3), the board or board member shall decide the claim and render a decision.

(3) Within fourteen (14) days of the decision, any party may request a full board review by written notice to the board.

Section 7. Claims Requiring a Hearing under KRS 49.090(3).

(1) If the agency fails to respond within thirty (30) days, the board shall issue a show cause order or the matter shall be assigned to a hearing officer.

(2) If the response filed by the agency denies negligence in a claim requiring a hearing pursuant to KRS 49.090(3), a hearing officer shall be assigned, and notice of the assignment shall be provided to the parties.

Section 8. Prehearing or Status Conference and Hearing Schedule.

(1) The hearing officer shall schedule a prehearing or status conference, which may be conducted by telephone or other electronic means:

(a) Within thirty (30) days of the assignment of the claim; and

(b) Upon reasonable notice to all parties, which consists of prior notice of not less than five (5) days, unless agreed to otherwise by the parties.

(2) The hearing officer may convene the prehearing or status conference or order the affected state agency to convene the conference.

(3) A prehearing or status conference may be used to discuss jurisdictional matters, settlement possibilities, discovery, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas, mediation, and other matters that will promote the orderly and prompt conduct of the hearing.

(4) The hearing officer and the parties shall set an agreed date for the hearing at the prehearing or status conference. If the hearing officer and parties cannot agree upon a hearing date, the hearing officer shall set the matter for hearing no later than six (6) months from the date of the conference, unless the parties have otherwise agreed to hold the claim in abeyance.

(5) Upon conclusion of the prehearing or status conference, the hearing officer shall issue an order including all matters determined at the prehearing or status conference.

(6) The hearing officer shall notify the board of the date and time for the hearing. The office shall:

(a) Reserve a place within the proper venue to conduct the hearing;

(b) Select a method by which to record the proceedings, which may include court reporter, audio recording, or audiovisual recording~~[a court reporter to be present at the hearing to record the proceedings];~~ and

(c) Notify the parties and the court reporter, if applicable, of the date, time, and place of the hearing.

Section 9. Motion Practice.

(1) Any party may file a motion.

(2) Any party affected by a motion or pleading may file a response to the motion or pleading within twenty (20)~~[thirty (30)]~~ days from the date on which the motion or pleading was served.

(3) A moving party may file a reply to another party's response. The reply shall be filed within ten (10)~~[fifteen (15)]~~ days from the date the response was served. Other replies or responses shall not be filed~~[,]~~ unless prior approval is granted by the board or hearing officer.

(4) If a response is not filed within twenty (20)~~[thirty (30)]~~ days, the board or hearing officer shall issue an order on the motion within sixty (60) days of the date the response was due.

Section 10. Discovery.

(1) Discovery may be obtained without prior order of the board or hearing officer. Except to the extent the provisions of this section~~[Section]~~ differ, the Kentucky Rules of Civil Procedure (CR) governing depositions and discovery shall apply.

(2) In addition to the provisions of CR 26 addressing opinions and use of expert witnesses:

- (a) Absent a stipulation between the parties or an order issued by the board providing otherwise, and at least ninety (90) days before the date set for the hearing, a party shall disclose to the other party or parties the identity of any witness qualified as an expert by knowledge, skill, experience, training, or education the party may use at the hearing to provide expert testimony; or
- (b) If the evidence is intended solely to contradict or rebut evidence on the same subject matter of a witness identified by another party, within thirty (30) days after the other party's disclosure.
- (3) The board or hearing officer may deny, limit, or require discovery.
- (4) If a party fails to comply with an order regarding discovery, the board or hearing officer may order that the:
 - (a) Matters that the requesting party was seeking to establish through discovery shall be taken as having been established for the purposes of the hearing;
 - (b) Noncomplying party shall be prohibited from introducing related documents or testimony at the hearing;
 - (c) Claim be dismissed or relief be granted as requested by the opposing party;
 - (d) Claim be stayed until the order is obeyed; or
 - (e) Noncomplying party, the advising attorney, or both pay the reasonable costs, including attorney's fees, caused by the failure to comply.
- (5) A response to discovery under subsection (1) of this section shall not be filed with the board unless required by order of the board or hearing officer.

Section 11. Briefs. A party shall file with the board and~~or~~ hearing officer any brief required by order of the board or hearing officer. The board or hearing officer may require a party to file a post-hearing brief or to supplement at any time a brief already filed to assist in adjudicating the hearing. A brief shall include the signature of the party, or the party's counsel.

Section 12. Summary Disposition. At any time after the commencement of the claim, a party may move for a summary disposition of the whole or a part of the claim by filing a motion that:

- (1) Asserts that there are no disputed material facts as to one (1) or more of the issues before the board or hearing officer;
- (2) Includes a statement specifying which material facts are undisputed. Assertions of a material undisputed fact or facts may be submitted to the board or hearing officer through affidavits or responses made by another party to any discovery request, including answers to interrogatories, admissions, and depositions. Facts stated in the claim, including exhibits, may be relied upon as undisputed material facts by the appellee; and
- (3) States that any issue before the board or hearing officer for which summary disposition is sought is a matter of legal, and not factual, interpretation.

(4) Within twenty (20) days after a party moves for summary disposition, any other party may file a response presenting the party's position on issues of law and fact, which shall include any affidavit, written response to discovery requests, deposition testimony, or statements in the claim, demonstrating the party's assertion that a material fact or facts are disputed.

(5) If the nonmoving party files a response to the motion for summary disposition, the moving party shall have ten (10) days to file a reply to the response.

(6) The board or hearing officer may grant a motion for summary disposition in whole or in part. If the board or hearing officer grants a summary disposition as to one (1) or more issues, but not all issues, then the remaining issues shall be heard by the board or hearing officer in accordance with this administrative regulation and KRS Chapter 13B.

Section 13. Conduct of Hearing.

(1) Except as otherwise established in KRS Chapter 49, [Ø] this administrative regulation, or an order from the board or hearing officer, the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence **shall** apply to board proceedings.~~[the conduct of hearings shall be governed by the procedures established in KRS Chapter 13B.]~~

(2) For purposes of discovery and motion practice, the Kentucky Rules of Civil Procedure shall apply to proceedings before the board.

(3) The board or hearing officer may~~[, at its discretion,]~~ waive application of the Kentucky Rules of Evidence **if:**

(a) The parties agree to the waiver; or

(b) It is reasonable to grant the waiver because the rules are inappropriate for the claim~~[as justice so requires].~~

Section 14. Admission of Hearsay. Notwithstanding Section 13 of this administrative regulation, during a final hearing, the board or the hearing officer may admit hearsay evidence if it is the type that a reasonable and prudent person would rely upon in daily affairs. However, this evidence shall not be sufficient in itself to support the board or hearing officer's findings of fact unless it would be otherwise admissible over objections in a civil action.

Section 15.~~[Section 14.]~~ Board Decision.

(1)

(a) Each contested claim requiring a hearing pursuant to KRS 49.090(2) shall be submitted to the board at its next meeting following the submission of the recommended order, except for Agreed Orders.

(b) The board shall issue its final order in accordance with KRS 49.080.

(c) The stated deadlines within which the board shall render a final order shall commence upon the last filing of any exceptions to the recommendation.

(2) The board, or a majority of its members, shall render a decision on each contested claim requiring a hearing pursuant to KRS 49.090(3) and each request for a full board review of a claim decided by an individual member.

(3) In rendering the final order, the board shall consider the record including the recommended order and any exceptions duly filed to the recommended order.

(4) The board may accept the recommended order of the hearing officer and adopt it as the final order of the board, or it may reject or modify, in whole or in part, the recommended order, or it may remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.

(5) If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The final order shall also include the date the board rendered the order, the date it was served on the parties, and to whom it was served, and a statement advising the parties fully of available appeal rights.

(6) Unless waived by the party, a copy of the final order shall be transmitted to each party or to his attorney of record.

(7) The matter shall be deemed finally adjudicated if:

(a) In a claim under \$2,500, no full board review has been requested; [øø]

(b) The claim has been the subject of full board review; or

(c) No judicial appeal has been filed.

Section 16.~~[Section 15.]~~ Payment of Awards. Within thirty (30) days after an order of the Board of Claims making an award has become final, the agency making payment of the award shall furnish to the Board of Claims a copy of any check reflecting the payments.

Section 17. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Board of Claims claim form", January 2025;

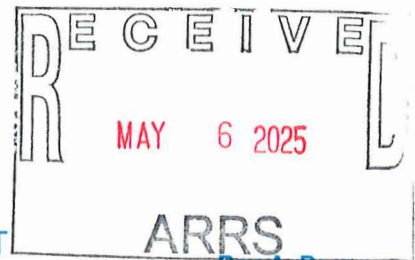
(b) "Board of Claims subpoena form", January 2025; and~~[;]~~

(c) "Agency's Answer to the Claimant and Board of Claims form", January 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Claims and Appeals, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. and is available online at:

<https://kycc.ky.gov/newstatic Info.aspx?static ID=678>

[\[https://kycc.ky.gov/Newstatic info.aspx?static id=160\]](https://kycc.ky.gov/Newstatic info.aspx?static id=160)



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

**Kentucky Office of Claims and
Appeals**

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817

Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

John Hardesty
EXECUTIVE DIRECTOR

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After reviewing the Legislative Research Commission's Staff Suggestions in 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060, the Office of Claims and Appeals, Crime Victims Compensation Board approved and accepted each of the Staff Suggestions. The Board proposes the attached suggested substitutes to Ordinary Regulations 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060.

Sincerely,

Shelby Bevins-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

Subcommittee Substitute

PUBLIC PROTECTION CABINET **Office of Claims and Appeals** **Crime Victims Compensation Board** **(As Amended at ARRS)**

802 KAR 3:010. Crime victims compensation.

RELATES TO: KRS~~[12.027,]~~ 13B.100, 49.010, 49.020, 49.260 - 49.490, 216B.015, 216B.400~~[, EO 2020-708]~~

STATUTORY AUTHORITY: KRS 49.010(4)(b), 49.020(7)(a), 49.300(1), 49.370(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY:~~[Executive Order 2020-708 ("Order") requires that the Kentucky Claims Commission be abolished and the Office of Claims and Appeals be established to include the Crime Victims Compensation Board. The Order also sets forth the powers and duties of the Crime Victims Compensation Board and authorizes the board to promulgate regulations necessary to immediately carry out the provisions and purposes of the Order and the board's statutory authority.]~~ KRS 49.020(7)(a)(1) and 49.300(1) ~~authorize~~authorizes the Crime Victims Compensation Board to promulgate administrative regulations that are necessary to carry out the provisions of KRS 49.270 through 49.490. During the 2024 Regular Session, the General Assembly passed Senate Bill 319, which amended KRS 49.280, 49.310, 49.340 - 49.370, 49.400, and 216B.400. This administrative regulation establishes procedures for crime victims to file claims for compensation and further expounds on the requirements and provisions of the Crime Victims Compensation Board statutes.

Section 1. ~~Definitions.~~~~[Definition.]~~ (1) "Board" means the Crime Victims Compensation Board.

(2) "Reckless" means a state of mind where the offender fails to perceive a substantial and unjustifiable risk that a particular result would occur.

(3) "Second degree of consanguinity" means individuals who are biologically related within two (2) degrees to the victim, either ascending or descending.

(4) "Sexual relationship" means a relationship in which the claimant and victim maintained a repeated and ongoing course of intimacy for an extended period.

(5) "Stepchild" means the biological or legally adopted offspring of the victim's legally-married spouse.

(6) "Stepparent" means the legal spouse of the victim's parent.~~:/~~

(7) "Stepsibling" means the biological or legally adopted offspring of the victim's stepparent.

(8) "Wanton" means a state of mind wherein the offender is aware of and consciously disregards a risk that a reasonable person in the same situation would not have disregarded.

Section 2. Claims Arising from Motor Vehicle Collisions. For purposes of a Crime Victims Compensation claim arising from injuries sustained in a vehicle accident, as established in KRS 49.280(3), the Board may find the vehicle operator acted recklessly or wantonly if:

(1) The vehicle operator is charged with or convicted of an offense related to the operation of the vehicle involving an element of recklessness or wantonness, including offenses under KRS

189A.010; or

(2) The vehicle operator was found to have, or admitted to having, operated a vehicle recklessly or wantonly in a criminal or civil action arising from the injury-causing incident.

Section 3. Eligible Claimants. (1) The following individuals fall within the second degree of consanguinity:

(a) Parents of the victim;

(b) Children of the victim;

(c) Siblings and half-siblings of the victim;

(d) Grandparents of the victim; **[and]**

(e) Grandchildren of the victim; **and**

(f) Stepchild, stepparent, or stepsibling of the victim.

(2) For purposes of KRS 49.310(1)(b), a surviving personal representative of the victim shall be a person appointed as the executor or administrator of the victim's estate by a competent court **of jurisdiction** or a person legally authorized to act on the victim's behalf or on behalf of the victim's estate.

(3) To be eligible for an award due to maintaining a sexual relationship with the victim, the claimant shall demonstrate that:

(a) The claimant and victim engaged in consensual sexual intercourse more than once; and

(b) The sexual relationship was ongoing at the time the crime occurred.

(4) **Pursuant to KRS 49.310(1)(e), [No]** more than two **(2)** primary caregivers of the victim shall **not** be eligible for an award **[pursuant to KRS 49.310(1)(e)].**

Section 4.~~[Section 2:]~~ Filing Claims. (1) A claim shall be:

(a) Legibly written, typed, or printed on the Crime Victims~~[Victim]~~ Compensation Form; **and**

(b) Signed by the claimant and the counsel representing the claimant, if any.

(2) A claim shall be filed~~[by]~~:

(a) In person or by private delivery to the Crime Victims Compensation Board, 500 Mero Street, 2 SC1, Frankfort, Kentucky 40601;

(b) ~~By~~~~[By]~~ mail to the address listed above; **[or]**

(c) ~~By~~~~[By]~~ electronic mail to crimevictims@ky.gov, if the document can be sent in one (1) electronic message; **or**[:]

(d) Through the online claims portal at: <https://kycc.ky.gov/CVOnline/home>.

(3) If applying for lost wages or loss of support, a claim shall be supplemented by:

(a) A notarized Employment Verification form; and

(b) If requested by~~[the]~~Board staff:

1. A Physician Statement form; or

2. A Mental Health Counselor's Report form.

Section 5. Claim Tracking Portal. (1) The tracking portal shall allow claimants to obtain status updates regarding their claim and progress of the claim's investigation.

(2) A claimant shall have access to the tracking portal within one (1) week of the filing of the claim.

(3) A claimant or victim's personally identifiable information shall remain secure and confidential.

(4)[No] Information that may be used to determine whether an individual filed a claim with the

Board shall **not** be disclosed to unauthorized individuals.

Section 6. Timeframe for Processing Claims. (1) A claim shall be considered filed on the date it is received by the Board either through the mail, personal delivery to the Board, the online claim portal, or the Board's official email.

(2) For claims filed after July 1, 2025, the claims investigator shall complete an investigative report on the claim within 120 days after it is assigned by the Board Clerk to the claims investigator.

(3) For claims filed after July 1, 2026, the claims investigator shall complete an investigative report on the claim within **ninety (90) [90]** days after it is assigned by the Board Clerk to the claims investigator.

Section 7. ~~[Section 3.]~~ Kentucky Medical Assistance Program. (1) The Board shall cross-reference every claim with those claims that appear in the Kentucky Medical Assistance Program (KMAP) database maintained by the Cabinet for Health and Family Services.

(2) If a crime victim is covered by Medicare or Medicaid, the Board's staff **shall [will]** provide the Board a list of:

(a) All itemized medical charges for which the victim seeks compensation; and

(b) The victim's services covered by medical assistance as reported in KMAP.

(3) Upon making an award to a Medicaid-eligible crime victim, the Board shall not consider any medical bills submitted by or on behalf of the victim for any KMAP-covered services.

(4) If the Board makes an award to a victim who received medical assistance for a KMAP-covered service, the KMAP as final payor shall not be responsible for the payment of any portion of the claim awarded by the Board.

Section 8. Lump Sum Payments to Survivors of Sexual Abuse. (1) For purposes of KRS 49.370(7), a claimant seeking an award under this provision shall submit **[the following]**:

(a) Proof **that** the crime occurred more than ten (10) years prior to the date of filing of the claim;

(b) Proof that the sexual assault kit was collected;

(c) Proof of the collection date of the biological material;

(d) Proof **that** the biological material went untested for an extended period; and

(e) Anecdotal proof of the damages incurred as a result of the crime.

(2) The victim shall not be required to provide proof of actual expenses incurred.

Section 9. Incarcerated and Confined Persons. (1) Pursuant to KRS 49.330(4), a victim of criminally injurious conduct incarcerated in a correctional facility or confined in an institution maintained and operated by the Cabinet for Health and Family Services may apply for compensation upon release from the facility. This provision applies regardless if the criminally injurious conduct occurred during or prior to the individual's incarceration.

(2) A victim of criminally injurious conduct shall not apply for compensation during incarceration or confinement.

Section 10. Default Claims and Leave to Refile. (1) If a claimant or victim fails to submit all required documentation within ninety (90) days of submitting the initial application, or within ninety (90) days after such a requirement is made by the Board, the claimant or victim shall be deemed in

default.

(2) If the claimant or victim defaults on the claim, the Board may dismiss the claim with leave to refile.

(3) The claimant or victim may revive the claim by:

(a) Submitting a request to the Board Clerk **by [via]** letter or email; and

(b) Providing copies of the previously required documents and information that were not submitted within the initial ninety~~[-day]~~ (90) **day** period; or

(c) Indicating to the Board Clerk that no such documents exist.

(4) The claimant or victim shall not be required to submit a new application or any documentation previously submitted to the Board.

Section 11. Appeals of Board Decisions. (1) Following the issuance of a recommended order by a board member or the executive director, the claimant, victim, or offender shall have fifteen (15) days from the date the recommended order is served within which to file with the board exceptions to the recommended order.

(2) The claimant, victim, or offender shall have the right and opportunity to attend the board meeting at which the recommended order will be considered and shall have the opportunity to be heard prior to the Board issuing a final order on the matter.

(3) Pursuant to KRS 49.340(8), the claimant, victim, or offender aggrieved by a final order of the Board may appeal by filing a petition for judicial review in the county where the claim accrued or in Franklin Circuit Court~~[,]~~ in accordance with KRS 13B.140.

Section 12. Decisions Based on Contributory Conduct. (1) Denials, reductions, and reconsiderations of claims made pursuant to KRS 49.390(2) shall be based on a preponderance of the evidence. This standard of review **[also]** shall apply to the Board's analysis and deliberations regarding whether to apply contributory conduct in a claim under consideration. The Board shall consider the totality of the circumstances when assessing whether it is appropriate to consider contributory conduct to reduce or deny a victim or claimant's claim.

(2) In denying, reconsidering, or reducing an award in accordance with KRS 49.390(2), the Board may consider **[the following]**:

(a) The victim's ability to have reasonably avoided the situation;

(b) The extent and nature of the victim's injuries;

(c) Exhibition or use of a deadly weapon;

(d) The proportionate responsibility between the victim and the alleged offender(s);

(e) The opinions and conclusions of law enforcement investigators assigned to the criminal case, if any;

(f) The legal opinions and conclusions from prosecutorial agencies regarding the presentation of criminal charges and assessment of affirmative defenses, if any;

(g) Whether there is a causal relationship between the victim's conduct and their injuries;

(h) Whether the results of the victim's conduct were reasonably foreseeable to the victim; and

(i) The degree of harm that occurred as a result of the criminally injurious conduct and whether future harm may occur if compensation is denied.

(3) Once the investigator completes his or her investigation and submits the investigation report to the assigned Board member, the Board member may review, among other available evidence,

the opinions of law enforcement investigating officers and the prosecuting agency's assessment of evidence and application of affirmative defenses to determine whether there is a causal relationship between the criminally injurious conduct and the victim's conduct, and, if so, determine the proportionate responsibility of the victim and offender(s). Upon review, the Board member shall issue a recommended order, which shall include details regarding the assessment of contributory conduct, or remand the claim to the claims investigator if additional information is required to make a fully informed decision.

Section 13. Right to Counsel. (1) A claimant shall have the right to retain counsel of their choosing. (2)~~[No]~~ Counsel shall **not** be appointed or provided by the Board to represent claimants.

Section 14.~~[Section 4.]~~ Attorney's Fees. If a claimant is represented by an attorney and the attorney so requests, the board, may, as a part of any award or by separate order subsequent to the award, allow a reasonable attorney's fee for the filing of a claim and any subsequent proceedings. **The attorney's**~~[Such]~~[the] fee shall not exceed fifteen (15) percent of the amount of the award, and shall be paid out of the award and not in addition to the award. **An** ~~[No]~~[An] attorney, representing a claimant, shall not contract for or receive as a fee any sum larger than fifteen (15) percent of the amount of the award. Any fee contract in violation of this provision shall be void.

Section 15.~~[Section 5.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Crime Victim Compensation Form", January 2025;~~[August 2020;]~~
- (b) "Employment Verification", August 2020;
- (c) "Physician's~~[Physician]~~ Statement", August 2020;~~[and]~~
- (d) "Mental Health Counselor's Report", August 2020;~~and,[:]~~
- (e) "Subpoena form", January 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Claims and Appeals, 500 Mero ~~Street~~[St] 2SC1, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at https://kycc.ky.gov/newstatic/info.aspx?static_id=158.~~[http://cveb.ky.gov/Pages/default.aspx.]~~

CONTACT PERSON: Shelby Bevins-Sullivan, Staff Attorney, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601. Phone: (502) 782-3556. Fax: (502) 573-4817. Email: sbevinssullivan@ky.gov.

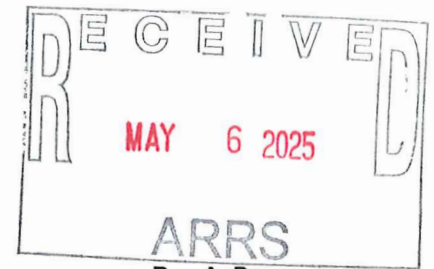


PUBLIC PROTECTION CABINET
Kentucky Office of Claims and
Appeals

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR



Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

John Hardesty
EXECUTIVE DIRECTOR

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After reviewing the Legislative Research Commission's Staff Suggestions in 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060, the Office of Claims and Appeals, Crime Victims Compensation Board approved and accepted each of the Staff Suggestions. The Board proposes the attached suggested substitutes to Ordinary Regulations 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060.

Sincerely,

Shelby Bevins-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

Subcommittee Substitute

PUBLIC PROTECTION CABINET

Office of Claims and Appeals[Kentucky Claims Commission]

Crime Victims Compensation Board

(As Amended at ARRS)

802 KAR 3:020. Payment schedule for sexual assault examinations.

RELATES TO: KRS 49.020, 49.490, 216B.015, 216B.400, 403.707

STATUTORY AUTHORITY: KRS 49.010, 49.020, 49.300(1), 49.490, 216B.400(8), 216B.400(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 49.010(4)(b), 49.020 **(7)(a) [(5)]**, and 49.300(1) authorize[authorizes] the Crime Victims Compensation Board[commission] to promulgate administrative regulations to carry out the provisions and purposes of the Board[commission]. KRS 49.490 and 216B.400(8) require the Board[commission] to administer the sexual assault victim assistance fund and pay the cost of a sexual assault examination. This administrative regulation establishes the reimbursement schedule for performing a sexual assault forensic medical examination. The General Assembly passed Senate Bill 319 in its 2024 Regular Session, which amended KRS 216B.400 to expand the types of services for which hospitals and healthcare providers are prohibited from charging sexual assault victims~~/;~~ when the victims receive such services related to the sexual assault. Instead, KRS 216B.400 requires the Crime Victims Compensation Board, through its Sexual Assault Examination Program, to directly pay healthcare providers for such services at rates not exceeding the Medicaid reimbursement rate for the same or similar services. KRS 216B.400 requires the board to pay for such services at a rate to be determined by administrative regulations promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee.

Section 1. Sexual Assault Examination Program.

(1) Reimbursement for performing a sexual assault forensic-medical examination pursuant to 502 KAR 12:010 shall be for the actual amount billed and shall not exceed:

(a) The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing[\$200] for a physician, sexual assault nurse examiner, or other qualified medical professional performing the examination;

(b) The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing[\$250] for an examination facility for use of an emergency or examination room;

(c) The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing[\$100] for an examination facility or laboratory that performed diagnostic laboratory testing; and

(d) The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing[\$100] for an examination facility where administered medications and pharmaceuticals were prescribed as a result of the examination and as part of basic treatment.

(2) Reimbursement for additional services related to a sexual assault forensic-medical examination requiring HIV post-exposure prophylaxis shall be for the actual amount billed and shall not exceed [the following limitations]:

(a) The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing ~~[\$150]~~ for three (3) follow-up examinations ~~;~~ ~~[,]~~ ~~[not to exceed a total of fifty (50) dollars per examination];~~

(b) Laboratory testing:

1. The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing ~~[\$150]~~ for initial testing conducted during the sexual assault examination in the examination facility; and

2. The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing ~~[\$215]~~ for follow-up testing conducted during the three (3) follow-up examinations ~~;~~ ~~[,]~~ ~~[not to exceed];~~

a. ~~Fifty (50) dollars for testing conducted during day five (5) to day seven (7) of prophylactic treatment;~~

b. ~~Ninety (90) dollars for testing conducted after day twelve (12) of prophylactic treatment; and~~

c. ~~Seventy-five (75) dollars for testing conducted near or at the end of prophylactic treatment; and]~~

(c) Medications:

1. The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing ~~[\$800]~~ for a twenty-eight (28) day supply of HIV prophylaxis medication ~~;~~ ~~[,]~~ ~~[not to exceed];~~

a. ~~\$200 for the first seven (7) day supply; and~~

b. ~~\$600 for the remaining twenty-one (21) day supply; and]~~

2. The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing ~~[Thirty (30) dollars]~~ for a twenty-eight (28) day supply of anti-nausea medication; ~~and~~ ~~[,]~~

3. The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing for all other forms of prophylactic or medically necessary medication administered as a result of the exam.

~~(3)~~ ~~(d)~~ Strangulation Assessments: The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing for strangulation assessments for a physician, sexual assault nurse examiner, or other qualified medical professional performing the assessment.

~~(4)~~ ~~(e)~~ Other Tests and Services: The Medicaid reimbursement rate set by the Department for Medicaid Services on the date of filing for all other tests and services related to the assault, exam, or treatment performed on the date of the initial exam or within twelve (12) hours before or after the exam if treatment does not occur on calendar date of the exam.

~~(5)~~ ~~(f)~~ Children's Advocacy Centers: Exams performed by Children's Advocacy Centers, pursuant to 907 KAR 3:160, shall be reimbursed at a rate not to exceed the Medicaid reimbursement rate for such exams set by the Department for Medicaid Services on the date of filing.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "SAFE Exam/Treatment Billing Form", January 2025;

(b) "SAFE Evidentiary Report", January 2025;

(c) "Comprehensive Child Sexual Assault Medical Exam/Treatment Billing Form", January 2025;

(d) "HIV Post-Exposure Exam/Treatment Voucher", January 2025;

(e) "HIV Post-Exposure Initial Exam/Treatment Billing Form", January 2025;

(f) "HIV Post-Exposure First Follow-Up Exam/Treatment Billing Form", January 2025;

(g) "HIV Post-Exposure Second Follow-Up Exam/Treatment Billing Form," January 2025; and

(h) "HIV Post-Exposure Third Follow-Up Exam/Treatment Billing Form," January 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Claims and Appeals, 500 Mero St 2SC1, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at: <https://kycc.ky.gov/Newstaticinfo.aspx?staticid=159>.

CONTACT PERSON: Shelby Bevin-Sullivan, Staff Attorney, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601. Phone: (502) 782-3556. Fax: (502) 573-4817. Email: sbevinssullivan@ky.gov.

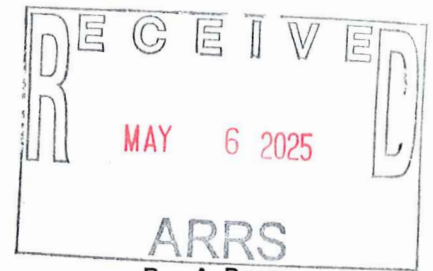


PUBLIC PROTECTION CABINET
Kentucky Office of Claims and
Appeals

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR



Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

John Hardesty
EXECUTIVE DIRECTOR

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After reviewing the Legislative Research Commission's Staff Suggestions in 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060, the Office of Claims and Appeals, Crime Victims Compensation Board approved and accepted each of the Staff Suggestions. The Board proposes the attached suggested substitutes to Ordinary Regulations 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060.

Sincerely,

Shelby Bevens-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

Subcommittee Substitute
PUBLIC PROTECTION CABINET
Office of Claims and Appeals
Crime Victims Compensation Board
(As Amended at ARRS)

802 KAR 3:030. Crime victims compensation awards.

RELATES TO: KRS 49.260 - 49.490, 216B.015, 216B.400

STATUTORY AUTHORITY: KRS 49.010(4)(b), 49.020(7)(a), 49.300(1), 49.370(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: During the 2024 Regular Session, the General Assembly passed Senate Bill 319, which amended KRS 49.370 by expanding the types of expenses the Crime Victims Compensation Board is authorized to award to crime victims. KRS 49.010(4)(b) and 49.020(7)(a) authorize the board and office to promulgate administrative regulations ~~[regulation]~~ to carry out ~~its~~ ~~[their]~~ statutory authority. KRS 49.300(1) authorizes the Crime Victims Compensation Board to promulgate administrative regulations to carry out the provisions and purposes of the Board's enabling statutes. KRS 49.370(2)(b) authorizes the Board to promulgate administrative regulations to establish additional guidelines for awards. This administrative regulation promotes efficiency in processing certain claim types by establishing eligibility criteria, subsets of eligible expenses, and providing guidelines for which forms of documentation crime victims need to substantiate claims.

Section 1. Relocation. (1) For purposes of a claim for relocation expenses pursuant to KRS 49.370(2)(a)(1), a minor is a victim's dependent if:

- (a) ~~[The minor is a victim's dependent if:]~~ The minor is the victim's biological child;
 - (b) The minor is the victim's adopted child as adjudicated by a court with competent jurisdiction;
 - or
 - (c) The victim has legal custody over the minor pursuant to an order of a court with competent jurisdiction.
- (2) A victim or their dependent shall ~~[must]~~ provide written proof of relocation from one (1) primary residence to another that occurred within six (6) months of the crime, which resulted from the victim or dependent's concern for the safety of themselves or other persons living at the residence as a result of the crime.
- (3) A claimant may recover the following types of expenses related to their relocation:
- (a) Moving and travel expenses;
 - (b) Security deposit;
 - (c) Application fee;
 - (d) First and last month's rent;
 - (e) Utility deposit;
 - (f) First month's utilities;
 - (g) Down payment on the purchase of a residence;
 - (h) Closing costs;
 - (i) First month's mortgage payment; and

(j) Any other relocation-related expenses the Board deems should be paid in the interests of justice.

Section 2. Temporary Housing. (1) For purposes of a claim for relocation expenses pursuant to KRS 49.370(2)(a)(1), a minor is a victim's dependent if:

(a) The minor is the victim's biological child;
(b) The minor is the victim's adopted child as adjudicated by a court with competent jurisdiction;
or

(c) The victim has legal custody over the minor pursuant to an order of a court with competent jurisdiction.

(2) A victim or their dependent ***shall [must]*** provide written proof of temporary housing costs incurred within thirty (30) days of the crime, which resulted from the victim or dependent's inability to stay in their primary residence due to the crime.

(3) A claimant may recover the following types of expenses related to their temporary housing:

(a) Lodging expenses, including at hotels, homestays, or similar accommodations;
(b) Travel expenses between the temporary housing and primary residence;
(c) Meal expenses;
(d) Expenses incurred for products necessary to maintain basic hygiene and health, which arose due to the victim's inability to stay at their primary residence; and
(e) Any other temporary housing-related expenses the Board deems should be paid in the interests of justice.

Section 3. Rehabilitative or Wellness Practices. (1) For purposes of a claim for rehabilitative and wellness practices pursuant to KRS 49.370(2)(a)(6), a minor is a victim's dependent if:

(a) The minor is the victim's biological child;
(b) The minor is the victim's adopted child as adjudicated by a court with competent jurisdiction;
or

(c) The victim has legal custody over the minor pursuant to an order of a court with competent jurisdiction.

(2) If a claimant engages in rehabilitative or wellness practices as the result of the crime, the Board may reimburse for expenses incurred for ***the [such]*** practices only if a licensed healthcare provider prescribed or ordered the treatment as a result of the crime.

Section 4. Court Proceedings Related to the Crime. A victim and the victim's caregiver, if applicable, may recover the following types of expenses incurred for purposes of attending criminal court proceedings related to the crime:

(1) Travel;
(2) Parking;
(3) Lodging;
(4) Meals; and
(5) Any other expenses related to attending crime-related criminal court proceedings that the Board deems should be paid in the interests of justice.

Section 5. Tattoo Removal for Victims of Human Trafficking. (1) Victims of human trafficking

submitting claims for expenses for removal of tattoos received as a result of or related to the human trafficking crime shall submit **[the following]**:

- (a) A police report or other documentation verifying the individual was trafficked;
 - (b) Documentation or evidence that the tattoo(s) resulted from being trafficked; and
 - (c) Receipts or invoices for removal of the tattoo(s).
- (2) An award under this section shall only be made for tattoos that have been completely removed.

Section 6. Reimbursement for Replacement of Items Seized as Evidence. (1) For purposes of a claim for replacement of items seized as evidence pursuant to KRS 49.370(2)(d), a minor is a victim's dependent if:

- (a) The minor is the victim's biological child;
- (b) The minor is the victim's adopted child as adjudicated by a court with competent jurisdiction; or
- (c) The victim has legal custody over the minor pursuant to an order of a court with competent jurisdiction.

(2) Claimants requesting reimbursement for replacement of items seized as evidence shall submit **[the following]**:

- (a) **A court** order ~~[from a court]~~, inventory list, or evidence sheet itemizing the seized items; and
- (b) Receipts, invoices, or estimates for the replaced items.

Section 7. Replacement of Windows and Locks. Claimants requesting reimbursement or payment for replacement or repair of windows and locks damaged as a result of the crime shall submit **[the following]**:

- (1) **A** police report or other documentation that the windows and locks were damaged during the commission of the crime;
- (2) Documentation or proof that the property where the damage occurred was the victim's primary residence or primary place of business; and
- (3) Receipts, invoices, or estimates for the repairs or replacement windows or locks.

Section 8. Medical Expenses. Claimants requesting reimbursement or payment for medical expenses incurred as a result of the crime shall submit the following documentation as proof of the eligible expenses:

- (1) Copies of itemized medical billing statements for medical treatment provided to the claimant as a direct result of the crime.
- (2) If itemized billing statements are not available, non-itemized medical billing statements shall be accepted if:
 - (a) The medical records from the visit are submitted along with the non-itemized medical billing statements; or
 - (b) The service provider submits a letter on its letterhead attesting that the services provided on the non-itemized billing statements are for medical treatment the claimant or victim required as a direct result of the victimization.

Section 9. Mental Health Counseling Expenses. (1) Claimants requesting reimbursement or payment of mental health counseling expenses shall submit the following documentation as proof

of the eligible expenses:

- (a) Mental Health Counselor's Report completed by the claimant's or victim's therapist or mental health clinician;
- (b) Treatment plan devised by the claimant or victim's therapist or mental health clinician; and
- (c) Copies of itemized billing statements for mental health treatment provided to the claimant or victim as a direct result of the crime.

(d) If [1. In the event] itemized billing statements are not available, non-itemized billing statements shall be accepted if:

1.[2.] The therapist or clinician notes from the visit are submitted along with the non-itemized medical billing statements; or

2.[3.] The service provider submits a letter on its letterhead attesting that the services provided on the non-itemized billing statements are for mental health treatment the claimant or victim required as a direct result of victimization.

(2) The two **(2)[-]**year limitation on mental health counseling shall begin upon initial mental health counseling treatment and expire upon the passage of two **(2)** years, subject to the following provisions:

- (a) If the claimant or victim pauses mental health counseling treatment recommended pursuant to the provider's treatment plan, the two **(2)[-]**year period shall also pause; and
- (b) If and when the claimant or victim resumes regular mental health counseling treatment pursuant to the provider's treatment plan, the running of the two **(2)[-]**year period shall resume.

Section 10. Lost Earnings. (1) Claimants requesting reimbursement of lost earnings shall provide the following documentation as proof of the loss of income arising from the crime:

(a) Employment Verification Form completed by the claimant or victim's employer. If the claimant or victim is unable to obtain a completed Employment Verification Form, the Board may accept paystubs, tax returns, bank statements, or other documentary evidence to substantiate lost earnings. Bank statements shall clearly delineate direct deposit of earnings into the claimant or victim's bank account.

(b) If the lost earnings resulted from physical injury sustained during the crime, a Physician's Statement Form.**[- and]**

(c) If the lost earnings resulted from psychological injury or trauma sustained during the crime, a Mental Health Counselor's Report.

(d) If the claimant or victim is unable to obtain a completed Physician's Statement or Mental Health Counselor's Report, the Board may accept the following alternate documentation to substantiate the medical necessity of the lost earnings:

1. Medical records from a hospital, physician's office, counselor's office, or other legally registered medical service provider that provides medical or mental health treatment to the claimant or victim; and

2. Return to work statements provided by the claimant or victim's treating physician or mental health clinician on provider letterhead.

(2) Family members of deceased victims may seek lost earnings constituting bereavement leave for any time missed from work during the four (4) weeks immediately following the victim's death.

(a) Claimants requesting reimbursement of lost earnings constituting bereavement leave shall provide an Employment Verification Form completed by the claimant's employer as proof of the

loss of income arising from the crime. If the claimant is unable to obtain a completed Employment Verification Form, the Board may accept paystubs, tax returns, bank statements, or other documentary evidence to substantiate lost earnings. Bank statements shall clearly delineate direct deposit of earnings into the claimant or victim's bank account.

(b) A Physician's Statement or Mental Health Counselor's Report shall not be required for the Board to award a claimant lost earnings for time missed from work during the four (4) weeks immediately following the victim's death.

(c) If the claimant seeks lost earnings for time missed from work beyond the four (4) week period immediately following the victim's death, the Board shall require a Physician's Statement or Mental Health Counselor's Report.

Section 11. Loss of Support. Claimants requesting reimbursement for loss of support as a result of the crime shall provide documentation as proof of the loss of support, which may include **[but not limited to]** documents or records outlining the amount of financial support provided by the victim or offender that was lost as a direct result of the crime, **including [such as]**:

(1) Paystubs, tax returns, or bank statements clearly delineating direct deposit of earnings into the offender or victim's bank account; or

(2) Utility, rent, or mortgage bills or receipts for living or other expenses previously paid for by the victim or offender prior to the crime.

Section 12. Funeral and Burial Expenses. Claimants requesting reimbursement or payment of funeral and burial expenses shall submit the following documentation as proof of the eligible expenses:

(1) **A** copy of the signed service contract from the funeral home, crematory, mortuary, cemetery, monument company, or other funeral or burial service provider for the victim's expenses; and

(2) Invoices or receipts evidencing payments made to the service provider, if applicable. Unsigned service contracts shall be accepted as proof of the expense when the claimant otherwise meets the eligibility criteria for receiving compensation benefits from the Board pursuant to KRS 49.280(4) and 49.310(1).

Section 13.

(1) For purposes of awards of claims submitted by a victim's caregiver or caregivers pursuant to KRS 49.310(1)(e), **[no]** more than two (2) primary caregivers of a victim shall **not** receive awards under that subsection related to the same crime.

(2) In addition to all other required documentation, victim caregivers submitting claims pursuant to KRS 49.310(1)(e) shall provide documentation or proof substantiating that the individual is the victim's primary caregiver.

Section 14. Crime Scene Cleanup. (1) Claimants or victims seeking reimbursement for crime scene cleanup shall submit the following documentation:

(a) Proof the crime occurred at the claimant or victim's primary residence or business;

(b) Proof of a need for crime scene cleanup services, including photos of the crime scene or other substantiating documentation;

(c) Invoices or receipts for the cost of the cleanup; and

- (d) Proof that the cleanup services occurred within thirty (30) days of the crime.
- (2) The Board may only award crime scene cleanup expenses sufficient to return the residence or business to its pre-crime condition.

Section 15. Collateral Source Offsets. Monetary amounts collected through crowd funding sources or websites shall not be considered a collateral source offset to an award to a claimant unless:

- (1) The crowdfunding fundraiser, when created, specifically identified the types of expenses the collected funds would cover;
- (2) The identified expense types are the same as expenses the claimant has requested and is eligible to receive in their crime victims compensation claim; and
- (3) The Board obtains or receives proof the collected funds were remitted to or on behalf of the claimant.

Section 16. Payment of Claim. When the Board awards a claim, the awarded expenses shall be paid as follows:

- (1) If the claimant paid the expense in full, the Board shall issue payment directly to the claimant.
- (2) If the claimant has incurred the indebtedness but not paid the expense, the Board shall issue payment directly to the service provider.
- (3) If the claimant has partially paid the expense and a balance remains due to the provider, the Board shall issue payment to the claimant in the amount he or she paid and a separate payment to the service provider for the unpaid balance.
- (4) If the eligible expenses exceed the applicable award maximum, the Board shall first award and issue payment to the claimant for amounts he or she paid out-of-pocket, then award and issue payment to the provider for as much of the outstanding balance as may be paid within the applicable award maximum.
- (5) If the Board awards a claim that includes outstanding balances owed to multiple service providers, and the total of the outstanding balances exceeds the overall award maximum, the Board shall award expenses, and issue payment, to the eligible service providers on a pro rata basis.

CONTACT PERSON: Shelby Bevins-Sullivan, Staff Attorney, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601. Phone: 502-782-3556. Fax: 502-573-4817. Email: sbevinssullivan@ky.gov.



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Kentucky Office of Claims and
Appeals

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817



DJ Wasson
DEPUTY SECRETARY

John Hardesty
EXECUTIVE DIRECTOR

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After reviewing the Legislative Research Commission's Staff Suggestions in 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060, the Office of Claims and Appeals, Crime Victims Compensation Board approved and accepted each of the Staff Suggestions. The Board proposes the attached suggested substitutes to Ordinary Regulations 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060.

Sincerely,

Shelby Bevins-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

Subcommittee Substitute

**PUBLIC PROTECTION CABINET
Office of Claims and Appeals
Crime Victims Compensation Board
(As Amended at ARRS)**

802 KAR 3:040. Additional award requests.

RELATES TO: KRS 49.260 - 49.490, 216B.015, 216B.400

STATUTORY AUTHORITY: KRS 49.010(4)(b), 49.020(7)(a), 49.300(1) and (2), and 49.370(2)(b).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 49.020~~(7)(a)~~~~(1)~~ and 49.300(1) authorize the Crime Victims Compensation Board to promulgate administrative regulations that are necessary to carry out the provisions of KRS 49.270 through 49.490. ~~[The language of]~~ KRS 49.370 ~~[implicitly]~~ authorizes the Crime Victims Compensation Board to award additional awards to claimants or victims, or on their behalf, if the claimant or victim has additional eligible crime-related out-of-pocket expenses that arise after the board grants an initial award. This administrative regulation establishes procedures for crime victims to file additional award requests when new compensable expenses arise after the board awarded the victim's initial claim.

Section 1. Additional Award Requests. Pursuant to KRS 49.370, the board may grant additional awards to or on behalf of claimants or victims after the board has granted an initial award ~~if~~ ~~[in the event]~~ the claimant or victim incurs, or obtains proof of, additional eligible expenses after the grant of the initial award.

Section 2. Process for Additional Awards. (1) Claimants and victims may file additional award requests by mail, email, fax, or through the online claim filing portal.

(2) As part of an additional award request, the claimant or victim shall submit ~~[the following]~~:

(a) ~~A~~ written request for an additional award; and

(b) Copies of the expenses that constitute the additional award request, along with supporting documentation.

(3) A new claim form shall not be required for an additional award request.

(4) To the extent practicable, any ancillary documentation required to substantiate the additional award request, which was submitted in the originating claim, shall be taken from the originating claim. The claimant or victim shall be notified by board staff if any additional ancillary documentation is required to substantiate the request.

(5) All additional award requests shall be assigned a new claim number in the board's claim processing system.

(6) The aggregate award totals from the originating claim and any additional awards shall not exceed the monetary award maximums established in KRS 49.370(5).

CONTACT PERSON: Shelby Bevins-Sullivan, Staff Attorney, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601. Phone: 502-782-3556. Fax: 502-573-4817. Email: sbevinssullivan@ky.gov.



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Kentucky Office of Claims and Appeals

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817



Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

John Hardesty
EXECUTIVE DIRECTOR

May 6, 2025

Senator Stephen West
Representative Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After reviewing the Legislative Research Commission's Staff Suggestions in 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060, the Office of Claims and Appeals, Crime Victims Compensation Board approved and accepted each of the Staff Suggestions. The Board proposes the attached suggested substitutes to Ordinary Regulations 802 KAR 3:010, 802 KAR 3:020, 802 KAR 3:030, 802 KAR 3:040, 802 KAR 3:050, and 802 KAR 3:060.

Sincerely,

Shelby Bevins-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

Subcommittee Substitute
PUBLIC PROTECTION CABINET
Office of Claims and Appeals
Crime Victims Compensation Board
(As Amended at ARRS)

802 KAR 3:050. Emergency awards.

RELATES TO: KRS 49.260 - 49.490, 216B.015, 216B.400

STATUTORY AUTHORITY: KRS 49.010(4)(b), ~~[KRS]~~ 49.020(7)(a), ~~[KRS]~~ 49.300, ~~[KRS]~~ 49.360

NECESSITY, FUNCTION, AND CONFORMITY: During the 2024 Regular Session, the General Assembly passed Senate Bill 319, which amends KRS 49.360 to increase the amount a claimant may receive if granted an emergency award and requires the board to decide whether to grant or deny the emergency award request within two (2) weeks of receiving the request. KRS 49.010(4)(b), 49.020(7)(a), and ~~[KRS]~~49.300(1) authorize ~~[authorizes]~~ the Crime Victims Compensation Board and Office of Claims and Appeals to promulgate administrative regulations necessary to implement the provisions of KRS 49.270 through ~~[KRS]~~ 49.490. This administrative regulation establishes the procedure for submitting a request for an emergency award and outlines the process and timeline for deciding an emergency award request.

Section 1. Emergency Award Requests. A claimant or victim submitting a request for an emergency award shall submit a ~~[the following documentation]~~:

- (1) Completed claim form; and
- (2) Written request for emergency assistance on the Emergency Award Request form, which shall [outline the following]:
 - (a) Outline the details and amount of the request for emergency assistance; and
 - (b) Provide an explanation as to why the emergency assistance is needed, including how the claimant or victim will incur undue hardship if emergency assistance is not awarded.

Section 2. Processing of Emergency Award Requests. (1) When the board receives an emergency award request, the claims investigator shall conduct a preliminary investigation to determine suitability for emergency assistance pursuant to KRS 49.360(1)(a) and (b). The preliminary investigation shall include~~[, but not be limited to]~~:

- (a) Review of the emergency request, including its veracity;
 - (b) Review of the incident report, police report, or other documentation confirming the crime's occurrence;
 - (c) Verification of any applicable expenses that were submitted at, or before, the time when the emergency request was received; and
 - (d) Assessment regarding whether the claimant or victim will experience undue hardship if emergency assistance is not granted.
- (2) Upon completion of the preliminary investigation, the claims investigator shall draft an investigative report outlining the findings of the preliminary investigation.
- (3) Board staff shall then assign the claim to a board member to review the preliminary

investigative report and complete ***[the following]***:

- (a) A draft order; and
- (b) A vote sheet on which the board member shall register their decision on the emergency award.
- (4) The board member's decision and order shall be issued no later than two (2) weeks after receipt by the board of the emergency request.
- (5) Following the decision on the emergency award request, board staff shall:
 - (a) Serve the order on the claimant; and
 - (b) If the request was awarded, provide payment to or on behalf of the claimant as soon as practicable.

Section 3. Incorporation by Reference. (1) "Emergency Award Form", January 2025, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Claims and Appeals, 500 Mero St 2SC1, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at: https://kycc.ky.gov/newstatic_info.aspx?static_id=158.

CONTACT PERSON: Shelby Bevin-Sullivan, Staff Attorney, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601. Phone: 502-782-3556. Fax: 502-573-4817. Email: sbevinssullivan@ky.gov.



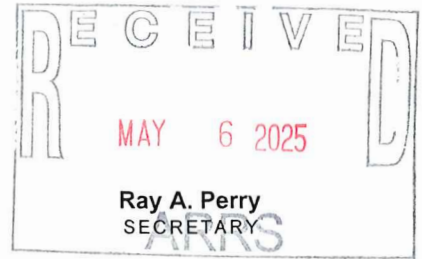
PUBLIC PROTECTION CABINET

Kentucky Office of Claims and
Appeals

500 Mero Street, 2SC1
Frankfort, KY 40601
Phone: (502) 782-8255
Fax: (502) 573-4817

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Sincerely,

Shelby Bevins-Sullivan, Staff Attorney III
Public Protection Cabinet
Office of Claims and Appeals
500 Mero Street, 2 SC 1
Frankfort, Kentucky 40601

Subcommittee Substitute

**PUBLIC PROTECTION CABINET
Office of Claims and Appeals
Crime Victims Compensation Board
(As Amended at ARRS)**

802 KAR 3:060. Crime victim compensation offender debt collections.

RELATES TO: KRS 13B.100, 49.010, 49.020, 49.260 - 49.490, 216B.015, 216B.400

STATUTORY AUTHORITY: KRS **44.030, 45.237, 45.238, 45.241,** 49.010(4)(b), 49.020(7)(a), 49.300(1), 49.470~~**[, KRS 44.030, KRS 45.237, KRS 45.238, KRS 45.241]**~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 49.010, 49.020, and 49.300 **authorize** ~~**[authorizes]**~~ the board to promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the board's statutory authority.~~**[; per]**~~ KRS 49.470 **establishes that[,]** payment of claims by the board creates a debt owed to the state by a person found to have committed a criminal act for any payment of benefits to ~~**[on]**~~ or on behalf of a victim under KRS 49.270 to 49.490. This administrative regulation establishes the procedures for collection of payments from offenders after awards have been made by the board to the victims of their crimes.

Section 1. Notice of Debt. (1) If the offender is known, the board staff shall first determine whether the criminal matter has yet been reduced to judgment.

(a) If the matter remains pending, the board shall communicate with the prosecutorial agency handling the criminal prosecution and request that the board be listed as a recipient of a restitution order as part of the final judgment entered by the court.

(b) If the matter has already been prosecuted to judgment, the board shall contact the prosecutorial agency to explore if a restitution order could be entered or the judgment amended to allow for the inclusion of the board as a recipient of restitution in the amount paid by the board to the victim or the claimant.

(c) If the board is listed as a recipient of restitution in a final judgment or court order, the board shall notify the court, the prosecutorial agency, the Department of Corrections, or the Division of Probation and Parole ~~**if [in the event]**~~ the offender fails to remit payments to the board as ordered by the court.

(d) ~~**[Such]**~~ Notice shall also be provided to the offender and ~~**[or]**~~ his counsel of record in the criminal action wherein the court-imposed restitution.

(2) After locating the offender, a first notice of debt letter shall be sent to the offender,~~**;**~~ notifying the offender concerning the indebtedness to the board. **The letter shall include[, and including]** language about appeal rights.

(a) If the offender appeals the debt after receiving the notice of debt letter, the executive director of the Office of Claims and Appeals shall review the offender's appeal and the documentation for the underlying claim and issue a recommended order to the board recommending adjudication of the offender's appeal. The board shall render a decision on the offender's appeal at its next meeting, at which the offender shall have the opportunity to appear and be heard.

(b) Following consideration of the appeal, the board shall issue a final order adjudicating the offender's appeal. If the board denies the appeal, it shall resume efforts to collect the debt.

Section 2. Payment Agreements. (1) The offender may be offered the option to enter into a payment agreement to pay the indebtedness on a monthly basis.

(a) Offenders who are incarcerated may enter into a payment agreement. The minimum payment shall be \$10.00 per month.

(b) If an incarcerated offender refuses to enter into a payment agreement, a Notice of Intercept **shall[will]** be sent to the Department of Corrections, which shall remit to the board fifty (50) percent of all state wages earned by the inmate on a monthly basis until the debt is paid in full.

(c) If an incarcerated offender enters into a payment agreement and subsequently fails to make monthly payments, the board shall issue a Notice of Intercept to the Department of Corrections, which shall remit to the board fifty (50) percent of all state wages earned by the inmate on a monthly basis until the debt is paid in full.

(2) Offenders who have been released or who were not subject to incarceration may enter into a payment agreement.

(a) The minimum monthly payment shall be **twenty-five (25) dollars [\$25.00]**.

(b) If a released offender refuses to enter into a payment agreement, the debt shall be referred to the Department of Revenue for collection as described in Section 3 **of this administrative regulation**.

(3) If an offender, whether or not incarcerated, fails to make payments as required in the payment agreement and is intercepted or has a collection action initiated, the offender may only revive the monthly payment agreement upon a showing of good cause why the offender failed to make the previous required payments.

(a) Good cause shall be determined by the executive director of the Office of Claims and Appeals.

(b) The executive director in determining whether good cause exists to allow a monthly payment agreement to be revived shall consider:

1. Any extenuating circumstances articulated by the offender related to the offender's failure to make required payments;
2. Any changes in the offender's employment or wages;
3. Any modification of the offender's risk assessment or housing level by the correctional facility that could impact their ability to make payments on the debt; and
4. Any evidence of the offender's failure to receive notice of the debt owed.

Section 3. Forced Collection.

(1) If an offender who is not incarcerated fails to make monthly payments after establishment of a payment agreement, the debt shall be referred to the Department of Revenue for collection.

(2) Payments received shall be credited to the offender's account. The debt shall remain collectable until paid in full or the offender is determined to be deceased.

(a) If an offender dies while the debt is in collections or the offender is in default on a payment agreement, or otherwise is indebted to the board, the board may seek payment for the amount due from the estate of the offender.

(b) A subrogation lien in favor of the board may be filed in an offender's probate case or in a civil action if **it [such]** has been filed against the offender by the claimant.

(c) The board may employ any legal means to collect the debt from an offender, including initiating a civil action against the offender.

CONTACT PERSON: Shelby Bevin-Sullivan, Staff Attorney, 500 Mero Street, 2 SC 1, Frankfort, Kentucky 40601. Phone: 502-782-3556. Fax: 502-573-4817. Email: sbevinssullivan@ky.gov.



PUBLIC PROTECTION CABINET
Kentucky Department of Alcoholic Beverage
Control

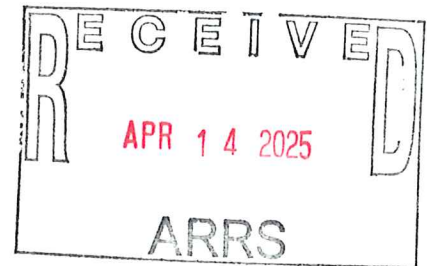
500 Mero Street, 2NE33
Frankfort, KY 40601
Phone: (502) 564-4850
Fax: (502) 564-1442

Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

Ray A. Perry
SECRETARY
Allyson Taylor
COMMISSIONER

April 14, 2025


Sen. Stephen West
Rep. Derek Lewis
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601



Dear Co-Chairs:

After consideration of the issues raised by 804 KAR 4:415, the Department of Alcoholic Beverage Control proposes the attached amendment to this ordinary regulation.

Sincerely,


Joshua Newton
General Counsel

Subcommittee Substitute
PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS)

804 KAR 4:415. Direct shipper license.

RELATES TO: KRS ~~241.060(1)~~, 243.027[, ~~241.060(1)~~][~~243.028, 243.029~~]

STATUTORY AUTHORITY: KRS 241.060, 243.027

NECESSITY, FUNCTION, AND CONFORMITY: KRS 243.027(4) requires the Department of Alcoholic Beverage Control to **establish [set forth]** ~~[the requirements and]~~ the form for a direct shipper license application. In relation to the direct shipper license, KRS 241.060(1) authorizes the Department only to promulgate an administrative regulation to establish the license application. This administrative regulation establishes the direct shipper license application.

Section 1. Qualifications. To qualify for a direct shipper license, the applicant shall:

- (1) Hold a current license, permit, or other authorization to manufacture alcoholic beverages in the state where it is located or a current license in this state under KRS 243.212 or 243.215 to supply alcoholic beverages;
- (2) Submit to the department their~~[Provide a]~~ current license, permit, or other authorization to manufacture, store, or supply alcoholic beverages in the state where the applicant is located **through [via]** the department's online portal at <https://abcportal.ky.gov/BELLEExternal>;
- (3) Complete the online New~~[direct shipper]~~ License Application **through [via]** the department's online~~[licensing]~~ portal at <https://abcportal.ky.gov/BELLEExternal>; **and**
- (4) ~~[Provide the address of the applicant's premises; and~~
- (5) ~~]Pay the annual license fee established in KRS 243.030(33).~~

Section 2. Incorporation by Reference.

- (1) "Online Direct Shipper License Application", October 2021, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Department of Alcoholic Beverage Control, 500 Mero Street, 2 NE 33, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

CONTACT PERSON: Joshua Newton, Title: General Counsel, Department of Alcoholic Beverage Control Address: 500 Mero Street, 2 NE #226, Frankfort, KY 40601, Phone: (502) 782-0770, Fax: (502) 564-4850, Email: Joshua.Newton@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091



May 12, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

907 KAR 10:840E. Hospital Rate Improvement Program.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 10:840E, the Department for Medicaid Services proposes the attached suggested substitutes to 907 KAR 10:840E.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Krista Quarles
Office of Legislative and Regulatory Affairs
Cabinet for Health and Family Services

Final Version: 5/8/2025, 9:30 a.m.

SUGGESTED SUBSTITUTE

**STATEMENT OF EMERGENCY
907 KAR 10:840E.**

This emergency administrative regulation is being promulgated to implement Senate Bill 280 from the 2024 Regular Session and introduce a new hospital rate improvement program for specific qualifying rural hospitals with trauma level emergency department systems. This emergency administrative regulation will establish the Kentucky Trauma Hospital Rate Improvement (K-THRI) as an additional add-on payment for certain hospitals that treat a high percentage of Medicaid patients. The U.S. Center for Medicare and Medicaid Services approved this proposal for the additional add-on payment on January 15, 2025. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to preserve state and federal funding and ensure the most efficient use of funds. In addition, this emergency amendment is necessary for the Department for Medicaid Services (DMS) pursuant to KRS 13A.190(1)(a)1. to preserve the welfare of Medicaid recipients in need of continued access to high quality services in specific rural hospital markets.

This emergency administrative regulation to an existing administrative regulation shall be replaced by an ordinary amendment to the same existing administrative regulation. The ordinary amendment is identical to this emergency amendment.

ERIC C. FRIEDLANDER, Secretary
ANDY BESHEAR, Governor

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Fiscal Management
(Emergency Amendment)**

907 KAR 10:840E. Hospital Rate Improvement Program.

EFFECTIVE: February 24, 2025

RELATES TO: KRS 45.229, 142.303, 205.565, 205.637, 205.638, 205.639, 205.640, 205.6405, 205.6406, 205.6407, 205.6408, 216.380, 42 C.F.R. 413.17, 433.51, 438.340, 438.6, 440.140, 447.271, 447.272, 42 U.S.C. 1396a, 1395ww

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.6406(13), 205.6411, 205.6412, 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law to qualify for federal funds. KRS 205.6406(13) requires the department to promulgate an administrative regulation to implement the Hospital Rate Improvement Program, KRS 205.6405 to 205.6408. This administrative regulation establishes the requirements for implementing the Hospital Rate Improvement Program for qualifying hospitals.

Section 1. Definitions.

- (1) "Assessment" is defined by KRS 205.6405(1).
- (2) "Department" means the Department for Medicaid Services or its designee.
- (3) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (4) "Program year" is defined by KRS 205.6405(14).
- (5) "Qualifying hospital" is defined by KRS 205.6405(16).
- (6) "Received date" means the date a claim is accepted and approved into the Medicaid Management Information System and does not mean the date a claim is actually paid.
- (7) "Upper payment limit" or "UPL" is defined by KRS 205.6405(19).

Section 2. Hospital Rate Improvement Program.

- (1) Prior to the start of each program year and in accordance with the payment methodology required by KRS 205.6406(2), the department shall calculate for each qualifying hospital:
 - (a) A per-discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid fee-for-service discharges; and
 - (b) A per discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid managed care discharges.
- (2) With the exception of the initial implementation year, no less than thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital written notice of the total per-discharge uniform add-on amounts for both Medicaid fee-for-service and Medicaid managed care discharges. The notice shall include the data sources and methodologies used to arrive at the value for each variable upon which the qualifying hospital's per-discharge uniform add-on amounts shall be calculated for the program year.
- (3) For each quarter in a program year, the department shall:
 - (a) Calculate each qualifying hospital's supplemental payments for Medicaid fee-for-service and Medicaid managed care in accordance with KRS 205.6406(3) through (11) by:
 1. Excluding all inpatient claims with discharge dates preceding October 1, 2018 from enhanced payment calculations;
 2. Reducing the number of inpatient claims eligible for enhanced reimbursement by the number of previously enhanced claims that have been voided in the Medicaid Management Information System; and
 3. Excluding from enhanced payment calculations partial or adjusted inpatient claims that have previously received an enhanced payment;
 - (b) Make a quarterly Medicaid fee-for-service supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(a) and (c); and
 - (c) Make a quarterly Medicaid managed care supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(b), (d), and (e).
- (4) Payment of the quarterly Medicaid managed care supplemental payment shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.
- (5) The department shall submit with, or prior to, the quarterly supplemental capitation payment directions to the Medicaid managed care organization for the payment of the quarterly Medicaid managed care supplemental payments to qualifying hospitals.

(6) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the quarterly Medicaid managed care supplemental payment within five (5) business days of receipt of the quarterly supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(7) In accordance with KRS 205.6406(9), a qualifying hospital may seek review by the department of any quarterly supplemental payment that the qualifying hospital suspects is in error.

(a) The qualifying hospital shall submit a detailed listing of any disputed claim or claims for department consideration and potential updates to the Medicaid Management Information System.

(b) Once each claim is received and validated in the Medicaid Management Information System, the department shall adjust the qualifying hospital's future quarterly supplemental payment to account for any warranted correction.

(c) If the department determines that a correction is not warranted, the hospital may request an administrative appeal pursuant to 907 KAR 1:671.

(8) In order to receive a supplemental payment and to pay the assessment for that quarter, an entity shall be a qualifying hospital each day of a quarter for the program year.

(9) Medicaid Management Information System (MMIS) fee-for-service and managed care encounter data, queried by the claim received date, shall be utilized to calculate the quarterly payments.

(10) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's per-discharge hospital assessment in accordance with the methodology in KRS 205.6406(3)(g) and (h); and

(b) Provide notice to each qualifying hospital in accordance with KRS 205.6406(3)(i).

(11) A qualifying hospital's per-discharge hospital assessment shall be calculated using the Medicare cost report period ending in the calendar year that is two (2) calendar years prior to the first day of a program year. For example, for the program year beginning July 1, 2019, cost report periods ending in calendar year 2017 shall be utilized.

(a) If a qualifying hospital's cost report period referenced in this subsection is greater than or less than a normal calendar year of 365 days, the total discharges used in accordance with KRS 205.6406(3)(g) shall be annualized to a 365-day period.

(b) If a qualifying hospital is newly enrolled in the Medicaid program and does not have cost report information available for the period established in this subsection, the department may utilize the cost report information of a comparable hospital to approximate the newly enrolled hospital's utilization.

(12) A qualifying hospital shall pay its calculated per-discharge hospital assessment in accordance with KRS 205.6406(7).

(13) If a hospital assessment is not received in a timely manner, the department may deny or withhold future quarterly supplemental payments until the assessment is submitted.

(14) A qualifying hospital may authorize a third-party entity to serve as a fiscal intermediary to facilitate the implementation of this administrative regulation by providing letter notice to the department.

Section 3. Reporting Requirements.

(1) Throughout a program year, a qualifying hospital shall submit any documentation or information to the department that the department requests in a timely manner as designated by the department. This request may include any documentation pertaining to:

(a) Resolution of a quarterly supplemental payment that the qualifying hospital suspects is in error; or

(b) Quality metrics set forth in the department's Quality Strategy filed with the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.340.

(2) If a qualifying hospital fails to provide the department with any requested documentation in a timely manner, the department may deny or withhold future quarterly supplemental payments, until the documentation is submitted.

Section 4. Kentucky Trauma Hospital Rate Improvement (K-THRI).

(1) If consistent with federal approval, the department shall operate K-THRI as a supplemental payment arrangement that provides an average commercial rate reimbursement for inpatient hospital services, outpatient hospital services, and professional services.

(a) The methodology for determining a rate increase shall be applied equally to all providers within K-THRI.

(b) Adjustments to payments shall be made as necessary to ensure that aggregate hospital rate improvement program payments and K-THRI payments do not exceed the statewide average commercial rate limit.

(c) K-THRI payments shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(d) The department shall submit with, or prior to, the K-THRI payment directions to the Medicaid managed care organization for the payment of the quarterly K-THRI payment to qualifying hospitals.

(e) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the K-THRI supplemental payment within five (5) business days of receipt of the quarterly K-THRI supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(f) The payments received by the K-THRI providers shall be reconciled to actual utilization on a quarterly basis after a reasonable claims runout period. Future payments shall be withheld or increased in order to reconcile K-THRI hospitals to the amount of the enhanced payment.

(2)

(a) Twenty (20) percent of the amount calculated shall be determined by the department and withheld by the managed care organization.

(b) The amount withheld shall be subject to the qualifying hospital meeting the requirements established pursuant to ***the separate university directed hospital rate improvement program established pursuant to 42 C.F.R. 438.6[an annual listing of twenty-one (21) performance quality measures established by the department]***. The quality measures shall be identical to the performance measures that academic hospitals meet under the separate hospital rate improvement program for academic hospitals.

(c) In order to be eligible for a quality performance payment, a K-THRI provider shall meet the performance target on ***the[at least seven (7) of the twenty-one (21)]*** annual metrics listed pursuant to paragraph (b) of this section.

(d) If less than ***the established performance target[seven (7) of the twenty-one (21)]*** metrics are met, there shall be no partial payment of the quality performance payment.***[For illustrative purposes only, a K-THRI provider meeting criteria for five (5) of the twenty-one (21) metrics would not receive any partial or pro-rated quality withhold payment.]***

(e) The initial performance targets shall be a two (2) percent improvement over the most recent program year's established targets.

(f) In order to qualify for evaluation pursuant to this subsection a measure shall have at least twenty (20) cases in the K-THRI hospital during the evaluation period. A measure that does not meet the

twenty (20) case threshold shall be considered as a reporting-only measure and shall not be included in determining the value-based payments.

(3) Consistent with KRS 205.6412, in order to be eligible for the K-THRI portion of the HRIP program, a provider shall:

(a) Have a trauma center that has received a designation as of Level II, III, or IV;

(b) Be located in a county with a higher proportion of residents enrolled in Medicaid than the statewide median; and

(c) Have an agreement with a university affiliated graduate medical education program or a pediatric teaching hospital to host and provide clinical rotations at that facility to train providers.

(4) The methodology for determining a rate increase under this Section shall be applied to all qualifying hospitals equally as a uniform dollar increase.

Section 5. Upper Payment Limit. A supplemental payment referenced in this administrative regulation is not intended to cause aggregate Medicaid hospital reimbursement to exceed the aggregate statewide upper payment limit for privately-owned and non-state government-owned hospitals established in:

(1) 42 C.F.R. 447.271;

(2) 42 C.F.R. 447.272; or

(3) Any other applicable statute or administrative regulation.

Section 6.~~[Section 5.]~~ Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091

May 12, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 922 KAR 1:360

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 922 KAR 1:360, the Cabinet for Health and Family Services proposes the attached amendments to 922 KAR 1:360.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Attachments

Final, 5-5-2025

SUGGESTED AMENDMENT – To the Ordinary Version

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency**

922 KAR 1:360. Private child care placement, levels of care, and payment.

Page 1

RELATES TO

Line 7

After "675", insert "675a".

Page 3

Section 1(11)

Lines 11-12

After "922 KAR 1:350, Section", insert "6".

Delete "4".

Page 10

Section 5(1)(a)

Lines 4-5

After "upon the", delete the opening quotation marks.

After "cost analysis", delete the closing quotation marks, and the following:
defined by KRS 199.641(1)(c)

Page 22

Section 18(1)(f)

Line 15

After "Schedule", insert "04/25".

Delete "01/25".

MATERIAL INCORPORATED BY REFERENCE

At the time that it files this staff suggested amendment, the agency needs to file one (1) clean copy of the "DPP-114, Child Caring and Child Placing Level of Care Schedule" form that makes changes to the latest version of the form with the 9/23 edition date and:

- Includes an updated edition date of 4/25
- Includes 922 KAR 1:360 at the top of the form
- Retains the same rate changes made to Therapeutic Foster Care Levels II and III that were initially filed with the administrative regulation that included changing the following rates:
 - Therapeutic Foster Care Level II increased from \$99.50 to \$108.55
 - Therapeutic Foster Care Level III increased from \$139.96 to \$156.34

COMMONWEALTH OF KENTUCKY
Cabinet for Health and Family Services
Department for Community Based Services
Division of Protection and Permanency

Child Caring and Child Placing Level of Care Schedule

TWIST Case Number:

TWIST Case Name:

Name of Private Agency:

Agency Address:

Name of Child:

Social Security Number:

Race:

Gender:

Date of Birth:

County:

Region:

Daily Base Rate Schedule	Daily Rate	Supervisory Level of Approval
Emergency Shelter w/ Treatment License	\$220.59	FSOS/Designee
Emergency Shelter no Treatment License	\$165.44	FSOS/Designee
QRTP Residential	\$336.00	FSOS/Designee
Non QRTP Residential	\$193.50	FSOS/Designee
Therapeutic Foster Care Level I & Basic	\$51.33	SRA/Designee
Therapeutic Foster Care Level II	\$108.55	SRA/Designee
Therapeutic Foster Care Level III	\$156.34	SRA/Designee
Independent Living Placement Level I and II	\$99.50	SRA/Designee
Independent Living Placement Level III	\$139.96	SRA/Designee

The payment rate for this child shall be \$_____ per day for service covered by the Private Child Care Contract between the agency and the cabinet. Daily rates include costs or services unless expressly authorized by provisions of the Private Child Care Contract between the agency and the Cabinet for Health and Family Services.

Effective Date: _____ Admission Date: _____

_____ Next Utilization Review Date: _____

Approval Signature/Title (See above approval levels for appropriate signature.)

NOTE: Submission date of review materials will affect date of rates.

Distribution: Original, Regional Billing Clerk

Copy: PCC/PCP Agency, Children's Benefit Worker, Case Record, Gatekeeper