

Bill Draft Summary  
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Create a new section of KRS Chapter 205 to require Medicaid coverage for palliative care services; establish eligibility criteria and service requirements; require the Department for Medicaid Services to promulgate administrative regulations; require the Cabinet for Health and Family Services or the Department for Medicaid Services to seek federal approval if it is determined that such approval is necessary; provide authorization from the General Assembly to make changes to the Medicaid program as required under KRS 205.5372(1).

1 AN ACT relating to Medicaid coverage for palliative care.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO  
4 READ AS FOLLOWS:

5 *The Department for Medicaid Services and any managed care organization with which*  
6 *the department has contracted for the delivery of Medicaid services shall provide*  
7 *coverage for palliative care in accordance with the following:*

8 *(1) In order to be eligible for Medicaid-covered palliative care services, an individual*  
9 *shall be:*

10 *(a) Eligible for and enrolled in the Medicaid program;*

11 *(b) In the professional opinion of the individual's care team, in the last two (2)*  
12 *years of life;*

13 *(c) At risk for significant healthcare utilization; and*

14 *(d) Except as provided in subsection (2) of this section, diagnosed with one (1)*  
15 *or more of the following qualifying conditions:*

16 *1. Stage IV cancer of any type;*

17 *2. Certain stage III cancers, as determined by the Department for*  
18 *Medicaid Services in accordance with subsection (4) of this section;*

19 *3. NYHA class III or IV advanced heart failure;*

20 *4. Stage III or IV chronic obstructive pulmonary disease;*

21 *5. End-stage renal disease;*

22 *6. End-stage liver disease;*

23 *7. Advanced neurological disease;*

24 *8. Advanced dementia; or*

25 *9. Any other condition identified as a qualifying condition by the*  
26 *Department for Medicaid Services through the promulgation of an*  
27 *administrative regulation, including conditions for pediatric patients*

1 that comply with the requirements of subsection (2)(b)2. of this  
 2 section.

3 (2) (a) An individual shall not be eligible for Medicaid-covered palliative care  
 4 services under this section if he or she has a primary diagnosis of substance  
 5 use disorder.

6 (b) An individual who is less than eighteen (18) years of age shall be eligible  
 7 for Medicaid-covered palliative care services under this section if he or she:

8 1. Meets the requirements established in subsection (1)(a), (b), and (c) of  
 9 this section; and

10 2. Has been diagnosed with an advanced illness or medical condition  
 11 that is expected to result in early mortality, complex healthcare needs,  
 12 or significant suffering.

13 (3) Palliative care services covered under this section shall:

14 (a) Include:

15 1. Physician oversight;

16 2. An interdisciplinary team approach;

17 3. Access to care twenty-four (24) hours a day, seven (7) days a week;  
 18 and

19 4. Regularly scheduled in-person visits by members of the individual's  
 20 care team. Telehealth may only be utilized to augment or supplement  
 21 in-person care visits; and

22 (b) Be provided under the scope of current licensure by organizations that hold  
 23 a valid and operational hospice license and by providers that are enrolled  
 24 Medicare and Medicaid providers. The Department for Medicaid Services  
 25 shall not require a separate license to provide palliative care services under  
 26 this section.

27 (4) The Department for Medicaid Services shall promulgate administrative

regulations in accordance with KRS Chapter 13A to implement this section, including:

(a) Establishing reimbursement rates and a payment methodology for palliative care services covered under this section;

(b) Identifying certain stage III cancers that may qualify an individual for palliative care services covered under this section; and

(c) Quality control measures and reporting requirements to be utilized by the Department for Medicaid Services to evaluate the cost effectiveness of palliative care services covered under this section, which shall include:

1. Hospitalization rates;

2. Emergency department utilization rates;

3. Transitions to hospice care;

4. Completion of advanced care planning by individuals receiving Medicaid-covered palliative care services; and

5. Patient experience.

➔Section 2. If the Cabinet for Health and Family Services or the Department for Medicaid Services determines that a state plan amendment, waiver, or any other form of authorization or approval from any federal agency to implement Section 1 of this Act is necessary to prevent the loss of federal funds or to comply with federal law, the cabinet or department:

(1) Shall, within 90 days after the effective date of this Act, request the necessary federal authorization or approval to implement Section 1 of this Act; and

(2) May only delay implementation of the provisions of Section 1 of this Act for which federal authorization or approval was deemed necessary until the federal authorization or approval is granted.

➔Section 3. Sections 1 and 2 of this Act shall constitute the specific authorization required under KRS 205.5372(1).