

CHAPTER 86**(SB 168)**

AN ACT relating to human service delivery program and declaring an emergency.

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

Section 1. KRS 281.873 is amended to read as follows:

- (1) As used in this section and KRS 281.874, unless the context otherwise requires:
 - (a) "Certificate Type 01" means a private automobile;
 - (b) "Certificate Type 02" means a taxicab service;
 - (c) "Certificate Type 03" means a bus service;
 - (d) "Certificate Type 04" means a nonprofit transit system;
 - (e) "Certificate Type 07" means a specialty carrier certified to transport nonemergency, ambulatory disoriented persons;
 - (f) "Certificate Type 08" means a specialty carrier, using lift-equipped vehicles in compliance with the Americans with Disabilities Act, certified to transport nonemergency, nonambulatory persons;~~and~~
 - (g) "Level of eligibility" means the specialty transport classification a person is designated based upon the written recommendation of the person's personal physician, *physician assistant, advanced registered nurse practitioner, or qualified mental health professional* that is used to establish the type of specialty transport needed for the person; *and*
 - (h) *"Qualified mental health professional" shall have the same meaning as in KRS 202A.011.*
- (2) Except for members of the general public, the level of eligibility shall dictate both the necessity and the type of special carrier transport for a person participating in the human service transportation delivery program and shall ensure the person shall be transported in the appropriate vehicle designed to accommodate the person's level of eligibility. The broker shall, upon request by a recipient, provide specialty carrier transportation for a period up to thirty (30) days without written recommendation of the recipient's personal physician, *physician assistant, advanced registered nurse practitioner, or qualified mental health professional*. A broker shall be prohibited from changing or altering a person's level of eligibility and the accompanying certificate type. A broker shall report questionable specialty classifications to the cabinet.
- (3) *A parent, guardian, or designee of the parent or guardian shall accompany any minor under the age of thirteen (13) who is receiving human service transportation delivery program services. A parent, guardian, or designee of the parent or guardian may accompany a minor between the ages of thirteen (13) and seventeen (17) who is receiving human service transportation delivery program services.*
- (4) *An escort shall not be required for any person aged thirteen (13) or older, unless the person's physician, physician assistant, advanced registered nurse practitioner, or qualified mental health professional has recommended that the person be transported with an escort based upon one (1) of the following criteria:*

- (a) *A history of a behavior that has resulted in harm to the person or to others while receiving human service transportation delivery program services;*
 - (b) *A medical history of a behavior that indicates that the person may be a danger to himself or herself or others; or*
 - (c) *Information that the person may become violent in a transportation setting from the person's support coordinator, who is providing services under 907 KAR 1:145 or any other Medicaid program, and also from the person's parent or guardian.*
- (5) *A requirement for an escort under subsection (4) of this section shall be removed upon the recommendation of the physician, physician assistant, advanced registered nurse practitioner, or qualified mental health professional.*
- (6) *If an escort is required under subsection (4) of this section, the transportation provider shall provide one (1) escort per vehicle to pick up each individual at his or her designated location, remain with the person during transport, and escort the person to the designated health care provider or other covered service.*
- (7) *If a person receiving transportation delivery services under a Certificate Type 07 or 08 is not required to have an escort under the provisions of subsection (4) of this section, but needs assistance to and from the transportation vehicle, the transportation provider shall provide that service if the following conditions exist:*
 - (a) *It would take less than five (5) minutes to accompany the person to and from the transportation vehicle; and*
 - (b) *The transportation provider can maintain visual contact with his or her vehicle if there are other persons receiving transportation delivery services remaining in the vehicle.*
- (8) *Any transportation provider that leaves a vehicle to accompany a person to or from the transportation vehicle shall:*
 - (a) *Turn off the vehicle engine and retain the key in his or her possession; or*
 - (b) *Enable a transmission locking device that prohibits unauthorized use of the vehicle and retain the key in his or her possession.*
- (9) *If a person receiving human service transportation services does not require an escort under the provisions of subsection (4) of this section, but needs assistance to and from the vehicle, the transportation provider shall provide one (1) escort per vehicle if the conditions of paragraphs (a) and (b) of subsection (7) of this section do not exist.*
- (10) *If a state agency has been appointed as the guardian of a person receiving human service transportation program services, the state shall ensure that the transportation provider provides an escort when the person meets the criteria under subsection (4) of this section.*
- (11) *A parent, guardian, or designee of the parent or guardian accompanying a minor shall not be charged a fare.*

Section 2. Whereas recent policy changes established by the Transportation Cabinet to require an escort for all persons with a level of eligibility for transportation under a Certificate Type 07 has created a hardship for families, Medicaid providers, and transportation providers which could result in the denial of transportation for disabled Medicaid recipients to necessary medical services, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved March 18, 2003