CHAPTER 120

(HB 461)

AN ACT relating to the provider tax.

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

Section 1. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to *142.363*~~[142.359]~~:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Charitable provider" means any provider which does not charge its patients for health-care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health-care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health-care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health-care items or services if:

1. The employing or contracting provider receives revenue attributable to health-care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311*, 142.361, or 142.363 or Section 2, 3, or 4 of this Act* on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health-care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing-facility services;

(d) Services of intermediate-care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home-health-care-agency services;

(g) Outpatient prescription drugs;~~[and]~~

(h) HMO services;

(i) Regional community mental health and mental retardation services;

(j) Psychiatric residential treatment facility services;

(k) Medicaid managed care organization services; and

(l) Supports for community living waiver program services;

(7) "Health-maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "Health services secretary" means the secretary of the Cabinet for Health Services or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-facility services for the mentally retarded," "physician services," "licensed home-health-care-agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing-facility services" means services provided by a licensed skilled-care facility, nursing facility, nursing home, or intermediate-care facility, excluding intermediate-care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health-care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "Secretary" means the secretary of the Revenue Cabinet or that person's authorized representative.

(17) "Regional community mental health and mental retardation services programs" means programs created under the provisions of KRS 210.370 to 210.480;

(18) "Psychiatric residential treatment facility" has the same meaning as provided in KRS 216B.450; and

(19) "Supports for Community Living Waiver Program" has the same meaning as provided in KRS 205.6317.

SECTION 2. A NEW SECTION OF KRS 142.301 TO 142.363 IS CREATED TO READ AS FOLLOWS:

(1) A tax shall be imposed on regional community mental health and mental retardation services at a uniform rate of up to four percent (4%) on gross revenues received by each provider after July 1, 2005, for the provision of regional community mental health and mental retardation services.

(2) The Department for Medicaid Services shall promulgate administrative regulations to ensure that a portion of the revenues generated from the assessment levied under this section and federal matching funds shall be used for rate increases for regional community mental health and mental retardation services to recognize cost increases, including current wage and benefit levels in the industry.

(3) The remaining revenue generated from the assessment levied under this section and federal matching funds shall be used to supplement the medical-assistance-related general fund appropriations of the Department for Medicaid Services.

(4) On or before July 1, 2005, the Cabinet for Health Services, Department for Medicaid Services, shall submit an application to the Centers for Medicare and Medicaid Services to request any necessary waiver pursuant to 42 C.F.R. secs. 433.56 and 433.68.

(5) If an application to the Centers for Medicare and Medicaid Services for a waiver is denied, the Department for Medicaid Services may resubmit the application with appropriate changes to receive an approved waiver.

(6) The assessment imposed pursuant to this section shall begin on July 1, 2005, but is not due and payable until rates are increased pursuant to this provision.

(7) The provisions of this section shall be null and void if the waiver or plan amendment to increase rates is not approved by the Centers for Medicare and Medicaid Services.

(8) If the assessment provided for in this section is disallowed by the Centers for Medicare and Medicaid Services, all collections under this section shall cease.

SECTION 3. A NEW SECTION OF KRS 142.301 TO 142.363 IS CREATED TO READ AS FOLLOWS:

(1) A tax shall be imposed on psychiatric residential treatment facility services at a uniform rate of up to five and one-half percent (5.5%) on gross revenues received by each provider after July 1, 2005, for the provision of psychiatric residential treatment facility services.

(2) The Department for Medicaid Services shall promulgate administrative regulations to ensure that a portion of the revenues generated from the assessment levied under this section and federal matching funds shall be used for rate increases for psychiatric residential treatment facility services to recognize cost increases, including current wage and benefit levels in the industry.

(3) The remaining revenue generated from the assessment levied under this section and federal matching funds shall be used to supplement the medical-assistance-related general fund appropriations of the Department for Medicaid Services.

(4) On or before July 1, 2005, the Cabinet for Health Services, Department for Medicaid Services, shall submit an application to the Centers for Medicare and Medicaid Services to request any necessary waiver pursuant to 42 C.F.R. secs. 433.56 and 433.68.

(5) If an application to the Centers for Medicare and Medicaid Services for a waiver is denied, the Department for Medicaid Services may resubmit the application with appropriate changes to receive an approved waiver.

(6) The assessment imposed pursuant to this section shall begin on July 1, 2005, but is not due and payable until rates are increased pursuant to this provision.

(7) The provisions of this section shall be null and void if the waiver or plan amendment to increase rates is not approved by the Centers for Medicare and Medicaid Services.

(8) If the assessment provided for in this section is disallowed by the Centers for Medicare and Medicaid Services, all collections under this section shall cease.

SECTION 4. A NEW SECTION OF KRS 142.301 TO 142.363 IS CREATED TO READ AS FOLLOWS:

(1) A tax shall be imposed on Medicaid managed care organization services at a uniform rate of up to five and one-half percent (5.5%) on gross revenues received by each provider after July 1, 2005, for the provision of Medicaid managed care organization services.

(2) The Department for Medicaid Services shall promulgate administrative regulations to ensure that a portion of the revenues generated from the assessment levied under this section and federal matching funds shall be used for rate increases for Medicaid managed-care-organization services to recognize cost increases, including current wage and benefit levels in the industry.

(3) No Medicaid managed care organization shall be guaranteed a repayment of its assessment in respect to 42 CFR 433.68, provided, however, in each fiscal year in which an assessment is implemented, the Department for Medicaid Services shall use the assessment proceeds to maintain actuarially sound rates as defined in the contract for the Medicaid managed care organizations to the extent permissible under federal and state law or regulation and without creating a guarantee to hold harmless, as those terms are used in 42 CFR 433.68 related to permissible health care-related taxes after the transition period.

(4) The remaining revenue generated from the assessment levied under this section and federal matching funds shall be used to supplement the medical assistance related general fund appropriations of the Department for Medicaid Services.

(5) On or before July 1, 2005, the Cabinet for Health Services, Department for Medicaid Services, shall submit an application to the Centers for Medicare and Medicaid Services to request any necessary waiver pursuant to 42 C.F.R. secs. 433.56 and 433.68.

(6) If an application to the Centers for Medicare and Medicaid Services for a waiver is denied, the Department for Medicaid Services may resubmit the application with appropriate changes to receive an approved waiver.

(7) The assessment imposed pursuant to this section shall begin on July 1, 2005, but is not due and payable until rates are increased pursuant to this provision.

(8) The provisions of this section shall be null and void if the waiver or plan amendment to increase rates is not approved by the Centers for Medicare and Medicaid Services.

(9) If the assessment provided for in this section is disallowed by the Centers for Medicare and Medicaid Services, all collections under this section shall cease.

Section 5. KRS 142.313 is amended to read as follows:

For the purposes of the taxes imposed under KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act*:

(1) If two (2) or more providers provide health care items or services as an entity, and the entity is also a provider, then the entity shall be the taxable provider with regard to gross revenues received for health care items and services provided through the entity.

(2) If a provider who provides services through an entity receives gross revenues for the provision of health care items and services from a source other than the entity, the individual provider shall be the taxable provider with respect to that revenue.

Section 6. KRS 142.317 is amended to read as follows:

Charitable providers as defined in KRS 142.301 shall be exempt from the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act,* as well as the provisions of KRS 142.321, 142.333, 142.341, and 142.343 upon providing proper certification to the cabinet.

Section 7. KRS 142.321 is amended to read as follows:

(1) Every provider subject to the taxes imposed by KRS 142.303, 142.307, 142.309, ~~[and]~~142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* that is not registered with the cabinet pursuant to the provisions of KRS 142.221 shall, on July 15, 1994, file an application for a certificate of registration with the cabinet. A certificate of registration filed in accordance with the provisions of KRS 142.221 shall remain valid for purposes of KRS 142.301 to *142.363*~~[142.359]~~. Every provider seeking to provide health care items or services in Kentucky for the first time after July 15, 1994, shall, prior to providing these items or services, file an application for a certificate of registration with the cabinet. The application shall be in the form prescribed by the cabinet. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* shall, upon request by the cabinet, provide any information available to the licensing board necessary for the administration of the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act*. The information shall be in the form required by the cabinet and shall be used by the cabinet for the sole purpose of administering the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act*.

(3) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* shall, upon request by the cabinet, include the application for certificate of registration required by subsection (1) of this section with any new license issued. Application forms shall be provided by the cabinet to the licensing board.

Section 8. KRS 142.323 is amended to read as follows:

The taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* are due and payable to the cabinet monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 9. KRS 142.327 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in the form prescribed by the cabinet, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly-authorized agent.

(3) The return shall show the gross revenues of the provider during the preceding reporting period. The return shall also show the amount of taxes for the period covered by the return and other information as the cabinet deems necessary for the proper administration of KRS 142.301 to *142.363*~~[142.359]~~.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of the tax due, to the cabinet.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act*, the cabinet may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section, except the cabinet shall not require or permit returns or payments to be filed or remitted more frequently than monthly.

Section 10. KRS 142.347 is amended to read as follows:

(1) Except when the health services secretary has been granted specific authority in KRS 142.301 to *142.363*~~[142.359]~~, the cabinet shall administer the provisions of KRS 142.301 to *142.363*~~[142.359]~~, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Health Services shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act*.

(3) The Cabinet for Health Services shall fully cooperate with the cabinet and shall provide the cabinet with any information requested to carry out the provisions of KRS 142.301 to *142.363*~~[142.359]~~.

Section 11. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* shall be provided on a quarterly basis by the cabinet to the health services secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* to register with the cabinet, and comply with the tax and reporting provisions of KRS 142.301 to *142.363*~~[142.359]~~.

Section 12. KRS 142.353 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with the provisions of KRS 142.301 to *142.363*~~[142.359]~~, the cabinet may require any person subject to the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* to place security with it. The amount of the security shall be fixed by the cabinet but shall not be greater than three (3) times the estimated average liability of the provider or all providers in the same class as the provider, whichever is greater. This limitation shall apply regardless of the type of security placed with the cabinet.

(2) The amount of the security may be increased or decreased by the cabinet, subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the cabinet may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the cabinet at a private sale at a price not lower than the prevailing market price.

(b) 1. The cabinet shall provide notice by certified mail, sent to the last known address as reflected in the records of the cabinet, or by delivery, to the person who placed the security with the cabinet of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the cabinet after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the provider.

Section 13. KRS 142.357 is amended to read as follows:

Notwithstanding any other provisions of KRS 142.301 to *142.363*~~[142.359]~~, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 142.301 to *142.363*~~[142.359]~~ shall be personally and individually liable jointly and severally, for the taxes imposed under KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act*. Neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the liability imposed by this section. The personal and individual liability shall apply to each and every person holding a corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section if that person did not have authority in the management of the business or financial affairs of the corporation at the time the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, *142.361, and 142.363 and Sections 2, 3, and 4 of this Act* become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.010(6) and all applicable penalties and fees imposed under the provisions of KRS 142.301 to *142.363*~~[142.359]~~ and KRS 131.180, 131.440, and 131.990.

Section 14. KRS 205.640 is amended to read as follows:

(1) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to *142.363*~~[142.359]~~ shall be deposited in the State Treasury and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to *142.363*~~[142.359]~~ shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter, provider tax revenues and state and federal matching funds shall be used to fund the disproportionate share program established by the commissioner of Medicaid services. Disproportionate share funds shall be divided into three (3) pools for distribution as follows:

1. Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;

2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals; and

3. Nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget.

If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

(b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, and university hospitals qualifying for the disproportionate share program for uncompensated service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health Services in accordance with this section.

(c) An individual hospital shall receive distributions for indigent care provided by that hospital that meets the guidelines established in paragraph (a) of this subsection.

(d) Distributions to acute care and private psychiatric hospitals shall be made as follows:

1. The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee-for-service Medicaid program for the hospital's total reported indigent care.

2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.

a. Hospitals shall report uncompensated care provided to qualified individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health Services on a quarterly basis. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year.

b. The department shall use indigent care data for services delivered from October 1, 1998, through September 30, 1999, as reported by hospitals to calculate each hospital's indigent care factor for state fiscal year 2000-2001. For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment.

c. By September 1 of each year, the department shall calculate a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation. The notice shall contain a listing of each hospital's indigent care costs, their indigent care factor, and the estimated annual payment amount. Hospitals shall notify the department by September 15 of any adjustments in the department's preliminary calculations. The department shall make adjustments identified by hospitals and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1.

(e) For fiscal year 2000-2001 and continuing annually thereafter, the department shall issue to each hospital one (1) lump-sum payment on October 15, or later as soon as federal financial participation becomes available, for the disproportionate share funds available during the corresponding federal fiscal year.

(4) Notwithstanding any other provision to contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments shall be subject to the availability of adequate state matching funds and shall not exceed total uncompensated costs.

(5) Hospitals receiving reimbursement shall not bill patients for services submitted for reimbursement under this section and KRS 205.641. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and KRS 205.641. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and KRS 205.641 shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(6) The secretary of the Cabinet for Health Services shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(7) All hospitals receiving reimbursement under this section and KRS 205.641 shall display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay."

Approved March 18, 2005.