

CHAPTER 33**(SB 69)**

AN ACT relating to Medicaid.

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

Section 1. KRS 205.564 is amended to read as follows:

- (1) The Pharmacy and Therapeutics Advisory Committee is established and attached to the Department for Medicaid Services for administrative purposes.
- (2) The committee shall have **fifteen (15)**~~fourteen (14)~~ members, as follows:
 - (a) **Thirteen (13)**~~Twelve (12)~~ voting members who shall be physicians currently participating in the Medicaid program who may legally prescribe a broad range of scheduled and nonscheduled drugs, as categorized by the U.S. Drug Enforcement Administration, or pharmacists who dispense prescriptions to Medicaid recipients, as follows:
 1. Three (3) licensed, practicing family practice physicians;
 2. Two (2) licensed, practicing physicians who are pediatricians;
 3. One (1) licensed, practicing physician who is an obstetrician/gynecologist or gynecologist;
 4. One (1) licensed, practicing internal medicine physician who is a primary care provider;
 5. One (1) licensed, practicing physician from any medical specialty;
 6. **Two (2) licensed, practicing physicians who are psychiatrists, one (1) who is a practicing psychiatrist in a community mental health center and one (1) from either the School of Medicine, University of Louisville or the College of Medicine, University of Kentucky**~~One (1) licensed, practicing physician who is a psychiatrist~~; and
 7. Three (3) licensed, practicing pharmacists; and
 - (b) Two (2) nonvoting members, as follows:
 1. The medical director of the department; and
 2. A representative of the department's pharmacy program, as designated by the commissioner.
- (3) One (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the President of the Senate, and one (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the Speaker of the House of Representatives. The remaining **eleven (11)**~~ten (10)~~ voting committee members shall be appointed, and may be reappointed, by the Governor from a list of nominees submitted by the department. Terms of the voting committee members shall be three (3) years with no members serving more than two (2) consecutive terms.
- (4) The Pharmacy and Therapeutics Advisory Committee shall:
 - (a) Act in an advisory capacity to the Governor, the secretary of the Cabinet for Health and Family Services, and the Medicaid commissioner on the development and administration of an outpatient drug formulary;
 - (b) Perform drug reviews and make recommendations to the secretary regarding specific drugs or drug classes to be placed on prior authorization or otherwise restricted, as determined through a process established by the cabinet;
 - (c) Provide for an appeals process to be utilized by a person or entity that disagrees with recommendations of the committee;
 - (d) Establish bylaws or rules for the conduct of committee meetings; and
 - (e) Function in accordance with the Kentucky Open Meetings Law and the Kentucky Open Records Law.
- (5) Voting members of the committee shall elect a chair and vice chair by majority vote. A quorum shall consist of **eight (8)**~~seven (7)~~ voting members of the committee.

- (6) The committee shall meet every other month for a total of at least six (6) times per year or upon the call of the chair, the secretary of the Cabinet for Health and Family Services, or the Governor. The Department for Medicaid Services shall post the agenda on its Web site no later than fourteen (14) days prior to the date of a regularly scheduled meeting and no later than seventy-two (72) hours prior to the date of a specially called meeting. Options, including any recommendations, by the department for drug review or drug review placement shall be posted on the department's Web site no later than seven (7) days prior to the date of the next regularly scheduled meeting and as soon as practicable prior to the date of the next specially called meeting.
- (7) Members of the committee shall receive no compensation for service, but shall receive necessary and actual travel expenses associated with attending meetings.
- (8) Any recommendation of the committee to the secretary of the Cabinet for Health and Family Services shall be posted to the Web site of the Department for Medicaid Services within seven (7) days of the date of the meeting at which the recommendation was made.
- (9) A recommendation of the committee shall be submitted to the secretary for a final determination. If the secretary does not accept the recommendation of the committee, the secretary shall present the basis for the final determination at the next scheduled meeting of the committee. The secretary shall act on the committee's recommendation within thirty (30) days of the date that the recommendation was posted on the Web site.
- (10) Any interested party may request and may be permitted to make a presentation to the board on any item under consideration by the board. The Cabinet for Health and Family Services shall, by administrative regulation promulgated under KRS Chapter 13A, establish requirements for any presentation made to the board.
- (11) The secretary's final determination shall be posted on the Web site of the Department for Medicaid Services.
- (12) Any appeal from a decision of the secretary shall be made in accordance with KRS Chapter 13B, except that the time for filing an appeal shall be within thirty (30) days of the date of the posting of the secretary's final determination on the Web site of the Department for Medicaid Services.
- (13) The Cabinet for Health and Family Services shall promulgate an administrative regulation in accordance with KRS Chapter 13A to implement the provisions of this section.

Approved March 21, 2007.