

**CHAPTER 112****( SB 96 )**

AN ACT relating to operations within the Cabinet for Health and Family Services.

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

➔Section 1. KRS 79.080 is amended to read as follows:

- (1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been ~~licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and~~ issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare, except as provided in subsection (4) of this section.
- (2) Cities of all classes, counties, and urban-county governments and the agencies of cities, counties, charter county, and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employees and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employees and elected officers. The plan may require employees to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, charter county, urban-county government, or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employees and elected officers and by the city, county, charter county, urban-county government, or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, charter county, urban-county government, or agency. Each city, county, charter county, urban-county government, or agency may make rules and regulations and do all other things necessary in the establishment and operation of the plan.
- (3) Cities of all classes, counties, charter counties, urban-county governments, the agencies of cities, counties, charter counties, and urban-county governments, and all other political subdivisions of the state may provide disability, hospitalization, or other health or medical care coverage to their officers and employees, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase the coverages.
- (4) Any city, county, charter county, or urban-county government which is a contributing member to any one (1) of the retirement systems administered by the state may participate in the state health insurance coverage program for state employees as defined in KRS 18A.225 to 18A.229. Should any city, county, charter county, or urban-county government opt at any time to participate in the state health insurance coverage program, it shall do so for a minimum of three (3) consecutive years. If after the three (3) year participation period, the city, county, charter county, or urban-county government chooses to terminate participation in the state health insurance coverage program, it will be excluded from further participation for a period of three (3) consecutive years. If a city, county, charter county, or urban-county government, or one (1) of its agencies, terminates participation of its active employees in the state health insurance coverage program and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the unit of government, or its agency, nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program. The three (3) year participation and exclusion cycles shall take effect each time a city, county, charter county, or urban-county government changes its participation status.
- (5) Any city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employees and elected officers, shall annually give its employees an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside; except that if any city, county, charter county, urban-county government, or agencies of any city, county, charter county, urban-county government, or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the city, county, charter county, urban-county government, or agencies of the city, county, charter

county, urban-county government, or any other political subdivision of the state may annually give its employees an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been ~~licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and~~ issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons for any other hospitalization benefit shall be paid by the employee.

- (6) If an employee moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.
- (7) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if the member passed an entrance physical examination and was found to be in good health as required.
- (8) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.
- (9) After August 1, 1988, except as permitted by KRS 65.156, no new retirement plan shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city, county, charter county, urban-county, or agency thereof which provided a retirement plan for its employees, pursuant to this section, on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The city, county, charter county, urban-county, or agency thereof shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

➔Section 2. KRS 199.8941 is amended to read as follows:

- (1) ***To the extent that funds are available, the Cabinet for Health and Family Services, in consultation with the*** ~~The~~ Early Childhood Advisory Council, shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under KRS 199.8943.
- (2) The monetary incentive program shall be reviewed annually by ***the cabinet, in consultation with*** the council, for the purpose of determining future opportunities to provide incentives.
- (3) Participation in the program of monetary incentives and in the quality rating system by public-funded child-care centers and certified family child-care homes is mandatory.
- (4) The Cabinet for Health and Family Services shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under KRS 164.518.

➔Section 3. KRS 199.8943 is amended to read as follows:

- (1) As used in this section:
  - (a) "Federally funded time-limited employee" has the same meaning as in KRS 18A.005;
  - (b) "Primary school program" has the same meaning as in KRS 158.031(1); and
  - (c) "Public-funded" means a program which receives local, state, or federal funding.

- (2) The Early Childhood Advisory Council shall, in consultation with early care and education providers, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, Head Start agencies, and the Kentucky Department of Education, develop a quality-based graduated early care and education program rating system for public-funded licensed child-care and certified family child-care homes, public-funded preschool, and Head Start, based on but not limited to:
- (a) Classroom and instructional quality;
  - (b) Administrative and leadership practices;
  - (c) Staff qualifications and professional development; and
  - (d) Family and community engagement.
- (3) (a) The Cabinet for Health and Family Services shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement ~~the~~:
- ~~(a) The~~ quality-based graduated early childhood rating system for public-funded child-care and certified family child-care homes, ~~public-funded preschool, and Head Start~~ developed under subsection (2) of this section. ~~;~~
  - (b) *The Kentucky Department of Education shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement the quality-based graduated early childhood rating system, developed under subsection (2) of this section, for public-funded preschool.*
  - (c) *The administrative regulations promulgated in accordance with paragraphs (a) and (b) of this subsection shall include:*
    1. Agency time frames of reviews for rating;
    2. ~~(c)~~ An appellate process under KRS Chapter 13B; and
    3. ~~(d)~~ The ability of providers to request reevaluation for rating.
- (4) The quality-based early childhood rating system shall not be used for enforcement of compliance or in any punitive manner.
- (5) The Early Childhood Advisory Council, in consultation with the Kentucky Center for Education and Workforce Statistics, *the Kentucky Department of Education, and the Cabinet for Health and Family Services*, shall report by October 1 of each year to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on the implementation of the quality-based graduated early childhood rating system. The report shall include the following quantitative performance measures as data becomes available:
- (a) Program participation in the rating system;
  - (b) Ratings of programs by program type;
  - (c) Changes in student school-readiness measures;
  - (d) Longitudinal student cohort performance data tracked through student completion of the primary school program; and
  - (e) Long-term viability recommendations for sustainability at the end of the Race to the Top-Early Learning Challenge grant.
- (6) By November 1, 2017, the Early Childhood Advisory Council and the Cabinet for Health and Family Services shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on recommendations and plans for sustaining program quality after the depletion of federal Race to the Top-Early Learning Challenge grant funds.
- (7) Any federally funded time-limited employee personnel positions created as a result of the federal Race to the Top-Early Learning Challenge grant shall be eliminated upon depletion of the grant funds.

➔Section 4. KRS 199.990 is amended to read as follows:

- (1) ~~[Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.~~
- ~~(2)~~ Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570, 199.572, and 199.590 except subsection (2), or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.
- ~~(2)~~~~(3)~~ Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections~~[or in subsection (1) of this section]~~, or in any other applicable statute, shall be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned for not more than thirty (30) days, or both.
- ~~(3)~~~~(4)~~ Any violation of the regulations, standards, or requirements of the cabinet under the provisions of KRS 199.896 that poses an immediate threat to the health, safety, or welfare of any child served by the child-care center shall be subject to a civil penalty of no more than one thousand dollars (\$1,000) for each occurrence. Treble penalties shall be assessed for two (2) or more violations within twelve (12) months. All money collected as a result of civil penalties assessed under the provisions of KRS 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of the Early Childhood Scholarship Program created in accordance with KRS 164.518. The balance of the fund shall not lapse to the general fund at the end of each biennium.
- ~~(4)~~~~(5)~~ A person who commits a violation of the regulations, standards, or requirements of the cabinet under the provisions of KRS 199.896 shall be fined not less than one thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.
- ~~(5)~~~~(6)~~ Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.

➔ Section 5. KRS 200.480 is amended to read as follows:

The Commission for Children with Special Health Care Needs shall~~[make a biennial] report[ to the Governor showing] the amount of money received and expended and a detailed statement of its activities~~ **to the Governor and General Assembly upon request**~~[for such period. A copy of such report shall be furnished each member of the General Assembly at its first session following the filing of such report with the Governor].~~

➔ SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding the provisions of KRS Chapter 13A, the Cabinet for Health and Family Services may amend material that had been previously incorporated by reference in an administrative regulation governing the Supplemental Nutrition Assistance Program, formerly known as the federal food stamp program, through technical amendment if the amendment is prescribed by the United States Department of Agriculture.***

➔ Section 7. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:
- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

- (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
- (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include products for the treatment of inborn errors of metabolism or genetic, gastrointestinal, and food allergic conditions, consisting of therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products that are medically indicated for therapeutic treatment and are administered under the direction of a physician, and include but are not limited to the following conditions:
  - 1. Phenylketonuria;
  - 2. Hyperphenylalaninemia;
  - 3. Tyrosinemia (types I, II, and III);
  - 4. Maple syrup urine disease;
  - 5. A-ketoacid dehydrogenase deficiency;
  - 6. Isovaleryl-CoA dehydrogenase deficiency;
  - 7. 3-methylcrotonyl-CoA carboxylase deficiency;
  - 8. 3-methylglutaconyl-CoA hydratase deficiency;
  - 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
  - 10. B-ketothiolase deficiency;
  - 11. Homocystinuria;
  - 12. Glutaric aciduria (types I and II);
  - 13. Lysinuric protein intolerance;
  - 14. Non-ketotic hyperglycinemia;
  - 15. Propionic acidemia;
  - 16. Gyrate atrophy;
  - 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
  - 18. Carbamoyl phosphate synthetase deficiency;
  - 19. Ornithine carbamoyl transferase deficiency;
  - 20. Citrullinemia;
  - 21. Arginosuccinic aciduria;
  - 22. Methylmalonic acidemia;
  - 23. Argininemia;
  - 24. Food protein allergies;
  - 25. Food protein-induced enterocolitis syndrome;
  - 26. Eosinophilic disorders; and
  - 27. Short bowel syndrome;
- (d) Physician, podiatric, and dental services;
- (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

- (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
  - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
  - (h) Services provided by health-care delivery networks as defined in KRS 216.900; *and*
  - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900; ~~and~~
  - ~~(j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced practice registered nurse, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over the counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation.~~
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
  - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
  - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
  - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
  - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
  - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the

type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice registered nurse licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the intellectually disabled exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the intellectually disabled through community mental health centers.
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) (a) The Medical Assistance Program shall use the appropriate form and guidelines for enrolling those providers applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. A Medicaid managed care organization shall use the forms and guidelines established under KRS 304.17A-545(5) to credential a provider. For any provider who contracts with and is credentialed by a Medicaid managed care organization prior to enrollment, the cabinet shall complete the enrollment process and deny, or approve and issue a Provider Identification Number (PID) within

fifteen (15) business days from the time all necessary completed enrollment forms have been submitted and all outstanding accounts receivable have been satisfied.

- (b) Within forty-five (45) days of receiving a correct and complete provider application, the Department for Medicaid Services shall complete the enrollment process by either denying or approving and issuing a Provider Identification Number (PID) for a behavioral health provider who provides substance use disorder services, unless the department notifies the provider that additional time is needed to render a decision for resolution of an issue or dispute.
  - (c) Within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services, a Medicaid managed care organization shall complete its contracting and credentialing process, unless the Medicaid managed care organization notifies the provider that additional time is needed to render a decision. If additional time is needed, the Medicaid managed care organization shall not take any longer than ninety (90) days from receipt of the credentialing application to deny or approve and contract with the provider.
  - (d) A Medicaid managed care organization shall adjudicate any clean claims submitted for a substance use disorder service from an enrolled and credentialed behavioral health provider who provides substance use disorder services in accordance with KRS 304.17A-700 to 304.17A-730.
  - (e) The Department of Insurance may impose a civil penalty of one hundred dollars (\$100) per violation when a Medicaid managed care organization fails to comply with this section. Each day that a Medicaid managed care organization fails to pay a claim may count as a separate violation.
- (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔Section 8. KRS 205.561 is amended to read as follows:

- (1) The cabinet shall submit a report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560 *upon request*, ~~on or before October 31, 2003, and every third year thereafter~~. The report shall also include current data on the most utilized and abused drugs in the Kentucky Medicaid program, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, and the effectiveness of the drug formulary and prior authorization process in managing drug costs. The report shall be reviewed by the Drug Management Review Advisory Board created under KRS 205.5636.
- (2) A reasonable fee for dispensing prescription medications shall be determined by the Department for Medicaid Services.

➔Section 9. KRS 205.690 is amended to read as follows:

The secretary shall submit a written report to the General Assembly ~~during each regular session thereof and shall~~ upon written request ~~submit a written report to~~ or appear in person before any joint interim committee of the General Assembly within thirty (30) days of a ~~such~~ request. ~~;~~ The following information related to the implementation of KRS 205.2003 *shall be provided*:

- (1) The number of recipients placed in public and private work experience programs;
- (2) The number of recipients placed in regular full-time employment; and
- (3) The costs to the Commonwealth and participating local agencies or organizations of the implementation of the work program required under KRS 205.2003.

➔Section 10. KRS 205.712 is amended to read as follows:

- (1) The Department for Income Support, Child Support Enforcement, is established in the Cabinet for Health and Family Services.
- (2) The duties of the Department for Income Support, Child Support Enforcement, or its designee, shall include:
  - (a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;
  - (b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;



- (c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;
  - (d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;
  - (e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;
  - (f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;
  - (g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;
  - (h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;
  - (i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;
  - (j) Administratively establish child support orders which shall have the same force and effect of law;
  - (k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;
  - (l) Impose a penalty for failure to comply with an administrative subpoena;
  - (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided; **and**
  - (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides. ~~;~~ ~~and~~
- (3)~~(3)~~ ***The Department for Income Support, Child Support Enforcement, or its designee*** may promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas, ***and may amend forms by technical amendment that are mandated by the federal Office of Child Support Enforcement and incorporated by reference in administrative regulation.***
- (4)~~(3)~~ Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.
- (5)~~(4)~~ The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.
- (6)~~(5)~~ After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.
- (7)~~(6)~~ Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The

cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

- ~~(8)~~~~(7)~~ Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.
- ~~(9)~~~~(8)~~ The cabinet shall determine the name of each obligor who owes an arrearage of at least two thousand five hundred dollars (\$2,500). After notification to the obligor owing an arrearage amount of two thousand five hundred dollars (\$2,500), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.
- ~~(10)~~~~(9)~~ The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after six (6) months of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).
- ~~(11)~~~~(10)~~ The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
- ~~(12)~~~~(11)~~ The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.
- ~~(13)~~~~(12)~~ Except for cases administered by the cabinet under 42 U.S.C. secs. 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.
- ~~(14)~~~~(13)~~ A dispute hearing shall be conducted by the cabinet in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.
- ~~(15)~~~~(14)~~ The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system as required by KRS 205.772 to 205.778.
- ~~(16)~~~~(15)~~ The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- ~~(17)~~~~(16)~~ The Cabinet for Health and Family Services shall forward to the Office of the Attorney General a list of names of delinquent obligors and, in cooperation with the Office of the Attorney General, shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 15.055.
- ~~(18)~~~~(17)~~ The cabinet shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

~~(19)~~~~(18)~~ The cabinet shall prepare and distribute to the cabinet's designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:

- (a) Established;
- (b) Modified;
- (c) Enforced;
- (d) Collected; and
- (e) Distributed.

~~(20)~~~~(19)~~ The cabinet's designee for the administration of the child support program shall distribute, when appropriate, the following:

- (a) Information on child support collections and enforcement; and
- (b) Job listings posted by employment services.

➔Section 11. KRS 216.577 is amended to read as follows:

Upon a finding that conditions in a long-term care facility constitute a Type A violation, and the licensee fails to correct the violation within the time specified for correction by the cabinet, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation, or the assessment of a civil penalty therefor:

- (1) Institute proceedings to obtain an order compelling compliance with the regulations, standards, or requirements as set forth by the *Cabinet for Health and Family Services*~~[Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board]~~, the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act;
- (2) Institute injunctive proceedings in Circuit Court to terminate the operation of the facility; or
- (3) Selectively transfer residents whose care needs are not being adequately met by the long-term care facility.

➔Section 12. KRS 216.935 is amended to read as follows:

As used in KRS 216.935 to 216.939, unless the context requires otherwise:

- (1) "Home health aide" means an individual who is hired to perform home health aide services.
- (2) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the *Cabinet for Health and Family Services*~~[Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board]~~ and is certified to participate as a home health agency under Title XVIII of the Social Security Act.
- (3) "Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include, but not be limited to, the following:
  - (a) Helping the patient with bath and care of mouth, skin, and hair;
  - (b) Helping the patient to the bathroom or in using a bedpan;
  - (c) Helping the patient in and out of bed and assisting with ambulation;
  - (d) Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;
  - (e) Assisting with medication ordinarily self-administered that has been specifically ordered by a physician or advanced practice registered nurse;
  - (f) Performing incidental household services as are essential to the patient's health care at home, if these services would have been performed if the patient was in a hospital or skilled nursing facility; and
  - (g) Reporting changes in the patient's condition or family situation to the professional nurse supervisor.

- (4) "Nurse aide" means an individual, including a nursing student, medication aide, and a person employed through a nursing pool, who provides nursing or nursing related services to a resident in a nursing facility or home health agency, excluding:
- (a) An individual who is a licensed health professional;
  - (b) A volunteer who provides the nursing or nursing-related services without monetary compensation; and
  - (c) A person who is hired by the resident or family to sit with the resident and who does not perform nursing or nursing-related services.

➔Section 13. KRS 205.713 is amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit Court, District Court, or family court that require entry into the state case registry under KRS 205.712 ~~(4)(3)~~ shall be entered on forms adopted by the Administrative Office of the Courts after consultation with the Cabinet for Health and Family Services. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

➔Section 14. KRS 205.802 is amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit, District, or Family Court that require entry into the state case registry pursuant to KRS 205.712 ~~(4)(3)~~ shall be entered on forms adopted by the Administrative Office of the Courts in coordination with the Cabinet for Health and Family Services. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

➔Section 15. KRS 211.670 is amended to read as follows:

- (1) All lists and medical records maintained by hospitals and medical laboratories pursuant to KRS 211.660 shall be confidential. All information collected and analyzed pursuant to KRS 211.660 ~~and 211.665~~ shall be held confidential as to the identity of the individual patient. Staff of the cabinet, the department, or its designee may use the information to notify parents of available medical care and other services available for the child and family. Further disclosure shall be made only pursuant to the written consent of the child's parent or legal guardian.
- (2) Access to information assembled by the Kentucky birth surveillance registry shall be limited to the cabinet, the department, or its designee and to qualified persons or organizations engaged in demographic, epidemiological or other similar studies related to health and health care provision. A written agreement to maintain confidentiality shall be required if access is approved for persons other than representatives of the cabinet.
- (3) The department shall maintain a record of all persons given access to the information in the Kentucky birth surveillance registry. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of person given access; dates of access; and the specific purpose for which information is to be used. This record of access shall be open to public inspection during normal operating hours of the department.
- (4) Information assembled by the Kentucky birth surveillance registry may be disclosed in summary, statistical, or other form which does not identify particular individuals or individual sources of information.
- (5) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under KRS 211.660 ~~and 211.665~~ may be denied further access to confidential information maintained by the department.

➔Section 16. KRS 405.411 is amended to read as follows:

- (1) The Cabinet for Health and Family Services' designee under KRS 205.712 ~~(7)(6)~~ for the administration of child support may compile a list of the names of persons under its jurisdiction who have a child support arrearage that equals or exceeds six (6) months without payment, or fail, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16). The cabinet may furnish this list to the newspaper of general circulation in that county for publication.
- (2) The Department for Income Support, Child Support Enforcement, in the Cabinet for Health and Family Services shall determine uniform standards for publication. The cabinet is authorized to promulgate the necessary administrative regulations under KRS Chapter 13A to implement the provisions of this section.

- (3) For purposes of this section, "newspaper of general circulation" means a publication bearing a title or name, regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one (1) year period, which is published for the dissemination of news of general interest, and is circulated generally in the political subdivision in which it is published and in which notice is to be given. In any county where a publication fully complying with this definition does not exist, the Cabinet for Health and Family Services may publish this list in the publication utilized by the Circuit Court Clerk of the county for publication of other legal notices in the county. A newspaper that is not engaged in the distribution of news of general interest to the public, but that is primarily engaged in the distribution of news of interest to a particular group of citizens, is not a newspaper of general circulation.

➔Section 17. KRS 199.430 is amended to read as follows:

- (1) In the discharge of the duties imposed by KRS ~~199.420~~~~[199.410]~~ to 199.670 the secretary or his duly authorized representative may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda and other records considered necessary and relevant as evidence in connection with the administration of the cabinet. Such subpoena shall be served in the same manner as a subpoena issued out of a circuit court. Witnesses subpoenaed shall be allowed mileage allowance according to KRS 421.015 for each day their attendance is actually required at a hearing.
- (2) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda or other records in response to such subpoena on the grounds that the evidence required of him may tend to incriminate him or subject him to a penalty for forfeiture. No person shall be prosecuted or subjected to any suit, penalty, or forfeiture on account of any transaction, matter, or thing concerning which he or his agent or worker is compelled, after having claimed privilege against self-incrimination, to give evidence, except that such witness so testifying shall not be exempt from punishment for perjury.
- (3) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employees, or to any board or official functioning under KRS ~~199.420~~~~[199.410]~~ to 199.670, which have been written, sent, or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury. Information obtained shall not be published or be open for public inspection, except to public employees in the performance of their duties, but any interested party at a hearing before the secretary or his duly authorized representative shall be supplied with information from such records to the extent necessary for the proper presentation of his case.

➔Section 18. KRS 211.670 is amended to read as follows:

- (1) All lists and medical records maintained by hospitals and medical laboratories pursuant to KRS 211.660 shall be confidential. All information collected and analyzed pursuant to KRS 211.660 ~~and 211.665~~ shall be held confidential as to the identity of the individual patient. Staff of the cabinet, the department, or its designee may use the information to notify parents of available medical care and other services available for the child and family. Further disclosure shall be made only pursuant to the written consent of the child's parent or legal guardian.
- (2) Access to information assembled by the Kentucky birth surveillance registry shall be limited to the cabinet, the department, or its designee and to qualified persons or organizations engaged in demographic, epidemiological or other similar studies related to health and health care provision. A written agreement to maintain confidentiality shall be required if access is approved for persons other than representatives of the cabinet.
- (3) The department shall maintain a record of all persons given access to the information in the Kentucky birth surveillance registry. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of person given access; dates of access; and the specific purpose for which information is to be used. This record of access shall be open to public inspection during normal operating hours of the department.
- (4) Information assembled by the Kentucky birth surveillance registry may be disclosed in summary, statistical, or other form which does not identify particular individuals or individual sources of information.

- (5) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under KRS 211.660 ~~and 211.665~~ may be denied further access to confidential information maintained by the department.

➔Section 19. The following KRS sections are repealed:

- 194A.090 Citizen advisory bodies -- Public Health Services Advisory Council -- Institute for Aging.
- 199.380 Boarding and lodging homes for children under age sixteen -- Authority to operate -- Investigation -- Revocation of authority.
- 199.390 Record book of boarding or lodging home.
- 199.400 Security for care and custody of nonresident child accepted for boarding or lodging in this state.
- 199.410 Exceptions from KRS 199.380 to 199.400 -- Application only to counties containing city with population of 20,000 or more.
- 209.400 Legislative intent.
- 209.410 Definitions.
- 209.420 Senior and Physically Disabled Adult Discount Program for retail goods and services.
- 211.665 Advisory committee -- Duties.
- 211.674 Perinatal Advisory Committee -- Membership -- Meetings -- Report.
- 213.143 Commemorative copy of birth or marriage certificate -- Fee.
- 218A.150 License required to manufacture controlled substances.
- 218A.160 Criteria for issuance of license -- Appeal.

**Signed by Governor April 10, 2018.**