

**CHAPTER 59****( SB 154 )**

AN ACT relating to home health care and declaring an emergency.

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

➔Section 1. 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 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, ~~an~~ ~~or~~ advanced practice registered nurse, *or a physician assistant*;
  - (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; ~~and~~
- (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 2. KRS 304.17-312 is amended to read as follows:

As used in KRS 304.17-313, 304.18-037, 304.32-280, and 304.38-210:

- (1) "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 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;~~;~~
- (2) "Home health care" means the care and treatment provided by a home health agency which is prescribed and supervised by a physician, *an advanced practice registered nurse, or a physician assistant*. The care and treatment shall include but not be limited to one (1) or more of the following:
  - (a) Part-time or intermittent skilled nursing services provided by an advanced practice registered nurse, registered nurse, or licensed practical nurse;
  - (b) Physical, respiratory, occupational, or speech therapy;

- (c) Home health aide services;
  - (d) Medical appliances and equipment, drugs and medication, and laboratory services, to the extent that such items and services would have been covered under the policy if the covered person had been in a hospital; ~~and~~
- (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, 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, ***an advanced practice registered nurse, or a physician assistant***;
  - (f) Performing incidental household services as are essential to the patient's health care at home provided that such services would have been performed if the patient was in a hospital or skilled nursing facility; and
  - (g) Reporting to the professional nurse supervisor changes in the patient's condition or family situation.

➔Section 3. KRS 304.17-313 is amended to read as follows:

- (1) All insurers issuing individual health insurance policies in the Commonwealth providing coverage on an expense incurred basis shall make available and offer to the purchaser coverage for home health care. The coverage may contain a limitation on the number of home health care visits for which benefits are payable, but the number of such visits shall not be less than sixty (60) in any calendar year or in any continuous period of twelve (12) months for each person covered under the policy. Each visit by an authorized representative of a home health agency shall be considered as one (1) home health care visit, except that at least four (4) hours of home health aide service shall be considered as one (1) home health visit.
- (2) Home health care coverage shall be subject to the same deductible and coinsurance provisions as are other services covered by insurers issuing individual health insurance policies in the Commonwealth.
- (3) Home health care shall not be reimbursed unless an attending physician, ***an advanced practice registered nurse, or a physician assistant*** certifies that hospitalization or confinement in a skilled nursing facility as defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board would otherwise be required if home health care was not provided.
- (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits under an individual health insurance policy providing coverage on an expense incurred basis provided that the policy shall only pay for those home health care services which are not paid for by Medicare and do not exceed the maximum liability of the policy.
- (5) Pursuant to the provisions of this section, all insurers issuing individual health insurance policies in the Commonwealth on an expense incurred basis shall inform the beneficiaries of such policies, in writing, of the specific home health care benefits which are covered. Such written notification shall take place at the time of issuance or reissuance of the policy.

➔Section 4. KRS 304.18-037 is amended to read as follows:

- (1) All insurers issuing group or blanket health insurance policies and certificates issued thereunder in the Commonwealth providing coverage on an expense incurred basis shall make available and offer to the master policyholder coverage for home health care. The coverage may contain a limitation on the number of home health care visits for which benefits are payable, but the number of such visits shall not be less than sixty (60) in any calendar year or in any continuous period of twelve (12) months for each person covered under the policy. Each visit by an authorized representative of a home health agency shall be considered as one (1) home health care visit except that at least four (4) hours of home health aide service shall be considered as one (1) home health visit.

- (2) Home health care coverage shall be subject to the same deductible and coinsurance provisions as are other services covered by insurers issuing group or blanket health insurance policies in the Commonwealth.
- (3) Home health care shall not be reimbursed unless an attending physician, ***an advanced practice registered nurse, or a physician assistant*** certifies that hospitalization or confinement in a skilled nursing facility as defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board would otherwise be required if home health care was not provided.
- (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits under a group or blanket health insurance policy provided that the policy shall only pay for those home health care services which are not paid for by Medicare and do not exceed the maximum liability of the policy.
- (5) Pursuant to the provisions of this section, all insurers issuing group or blanket health insurance policies and certificates issued thereunder in the Commonwealth providing coverage on an expense incurred basis which include coverage for home health care shall inform the beneficiaries of such policies, in writing, of the specific home health care benefits which are covered. Such written notification shall take place at the time of issuance or reissuance of the policy.

➔Section 5. KRS 304.38-210 is amended to read as follows:

- (1) Health maintenance organizations issuing policies in the Commonwealth which provide hospital, medical, or surgical expense benefits shall make available and offer to include benefits for home health care. On group benefits the option for home health care benefits shall be made available and offered to the master policyholder. The coverage may contain a limitation on the number of home health care visits for which benefits are payable, but the number of such visits shall not be less than sixty (60) in any calendar year or in any continuous period of twelve (12) months for each person covered under the policy. Each visit by an authorized representative of a home health agency shall be considered as one (1) home health care visit except that at least four (4) hours of home health service shall be considered as one (1) home health visit.
- (2) Home health care coverage shall be subject to the same deductible and coinsurance provisions as are other services covered by health maintenance organizations which issue policies in the Commonwealth that provide hospital, medical, or surgical expense benefits.
- (3) Home health care shall not be reimbursed unless an attending physician, ***an advanced practice registered nurse, or a physician assistant*** certifies that hospitalization or confinement in a skilled nursing facility as defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board would otherwise be required if home health care was not provided.
- (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits under a policy, contract or plan entered into, issued, delivered, or amended in this state by a health maintenance organization which provides hospital, medical, or surgical expense benefits provided that the policy, contract or plan shall only pay for those home health care services which are not paid for by Medicare and do not exceed the maximum liability of the policy, contract or plan.
- (5) Pursuant to the provisions of this section, all health maintenance organizations issuing policies in the Commonwealth which provide hospital, medical, or surgical expense benefits or coverage for home health care shall inform the beneficiaries of such policies, in writing, of the specific home health care benefits which are covered. Such written notification shall take place at the time of issuance or reissuance of the policy.

➔Section 6. Whereas the rights of Kentucky citizens to have access to adequate health care is vital to an individual's health and well-being, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 22, 2021.**