**CHAPTER 110**

**( HB 695 )**

AN ACT relating to the Medicaid program and declaring an emergency.

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

➔Section 1. KRS 205.5372 is amended to read as follows:

***(1)*** Notwithstanding any provision of law to the contrary, ***including but not limited to Sections 2 and 3 of this Act,*** the cabinet shall not***, unless required by federal law,*** exercise the state's option to develop a basic health program as permitted under 42 U.S.C. sec. 18051 ***or make any change to eligibility, coverage, or benefits in the Medicaid program, including by pursuing or applying for a waiver of federal Medicaid law under Title 42 of the United States Code, seeking to amend or renew an existing waiver granted under Title 42 of the United States Code, or pursuing a state plan amendment,*** without first obtaining specific authorization from the General Assembly to do so.

***(2) If the cabinet seeks authorization from the General Assembly to establish a basic health program, apply for a waiver under Title 42 of the United States Code, amend an existing waiver granted under Title 42 of the United States Code, submit a state plan amendment, or make any other change to eligibility, coverage, or benefits in the Medicaid program, the cabinet shall submit a detailed assessment of the potential fiscal impact of the change for which it is seeking authorization to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review. The fiscal impact assessment required by this subsection shall include a review of any anticipated expenditures related to the change and any projected savings that may be generated by the change for at least two (2) consecutive state fiscal years.***

***(3) If the cabinet seeks authorization from the General Assembly to renew an existing waiver granted under Title 42 of the United States Code, the cabinet shall be required to submit a fiscal impact assessment as described in subsection (2) of this section and an assessment of the efficacy and necessity of the existing waiver. The assessments required by this subsection shall be submitted to the Legislative Research Commission for referral to the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review at least twelve (12) calendar months prior to the date on which the existing waiver is set to expire.***

***(4) (a) This section shall not be interpreted as limiting the General Assembly's ability to direct the cabinet to make changes to the Medicaid program, including but not limited to changes to existing waivers, eligibility, coverage, or benefits.***

***(b) Any act of the General Assembly directing the Cabinet for Health and Family Services or the Department for Medicaid Services to make a change to the Medicaid program shall constitute authorization for that change as required by subsection (1) of this section.***

***(5) (a) This section shall not be interpreted as limiting the cabinet's ability to make changes to the Medicaid program that it determines are necessary:***

***1. To comply with any requirements that may be imposed by federal law or by the federal Centers for Medicare and Medicaid Services;***

***2. In response to a national emergency declaration issued by the President of the United States;***

***3. In response to a federal disaster declaration issued by the President of the United States; or***

***4. In response to a state of emergency declared by the Governor of the Commonwealth.***

***(b) If the cabinet determines that a change to the Medicaid program is necessary to comply with requirements imposed by federal law, the cabinet shall, at least ninety (90) days prior to implementing the necessary changes, submit an assessment of the potential fiscal impact, as described in subsection (2) of this section, of those changes to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on***

***Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review.***

***(c) If the cabinet determines that a change to the Medicaid program is necessary to respond to a national emergency declaration or federal disaster declaration issued by the President of the United States or a state of emergency declared by the Governor of the Commonwealth, any such change shall be temporary in nature and shall only be in effect for the duration of the emergency or disaster declaration.***

***(6) Subsection (1) of this section shall not apply to:***

***(a) Medicaid directed or supplemental payment programs initially approved by the federal Centers for Medicare and Medicaid Services prior to the effective date of this Act, including but not limited to:***

***1. Those payment programs established in KRS 205.5601 to 205.5603, 205.6405 to 205.6408, 205.6411, and 205.6412, and 907 KAR 10:015 and 907 KAR 10:830; and***

***2. Any other payment program for a university hospital as defined in KRS 205.639; or***

***(b) The Medicaid preferred drug list established by the Department for Medicaid Services as required under KRS 205.5514.***

***(7) As used in this section, the term "Medicaid program" includes the Kentucky Medical Assistance Program established in KRS 205.510 to 205.5630 and the Kentucky Children's Health Insurance Program established in KRS 205.6483.***

➔Section 2. KRS 205.460 is amended to read as follows:

(1) The cabinet shall fund, directly or through a contracting entity or entities, in each district, a program of essential services which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons. The cabinet may use funds appropriated under this section to contract with public and private agencies, long-term care facilities, local governments, and other providers to provide core and essential services. The cabinet may provide core and essential services when such services cannot otherwise be purchased.

(2) In providing essential services, all existing community resources available to functionally impaired elderly persons shall be utilized. Additional services may be provided, but shall not be funded from funds appropriated under this section. Volunteers may be used where practicable to provide essential services to functionally impaired elderly persons. The cabinet or contracting entity shall provide or arrange for the provision of training and supervision of volunteers to ensure the delivery of quality services. The cabinet or contracting entity shall provide or arrange for appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer duties. In providing essential services under this section, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.

(3) Entities contracting with the cabinet to provide essential services under KRS 205.455 and this section shall provide a minimum of fifteen percent (15%) of the funding necessary for the support of program operations. No local match is required for assessment and case management. Local contributions, whether materials, commodities, transportation, office space, personal services, or other types of facilities services, or funds may be evaluated and counted toward the fifteen percent (15%) local funding requirements.

(4) When possible, funding for core services may be obtained under:

(a) The Comprehensive Annual Social Services Program plan under Title XX of the Social Security Act;

(b) The Medical Assistance Plan under Titles XVIII and XIX of the Social Security Act;

(c) The State Plan on Aging under the Older Americans Act; or

(d) Veteran's benefit programs under the provisions of 38 U.S.C. ***sec.***~~[secs.]~~ 1 et seq., as amended.

The cabinet may***, except as provided in Section 1 of this Act,*** seek federal waivers if necessary to enable the use of funds provided through Titles XVIII and XIX of the Social Security Act for the provision of essential services.

(5) Providers contracting with the cabinet to provide essential services shall be responsible for the collection of fees and contributions for services in accordance with administrative regulations promulgated by the cabinet. Providers are authorized to assess and collect fees for services rendered in accordance with those

administrative regulations. To help pay for essential services received, a functionally impaired elderly person shall pay an amount of money based on an overall ability to pay in accordance with a schedule of fees established by the cabinet. Fees shall reflect the degree to which the cabinet or contracting entity uses volunteers in the provision of services. Where essential services are provided by volunteers, fees shall only be assessed in an amount that will cover the cost of materials and other goods used in the provision of services. The cost of materials and other goods used by volunteers shall be reasonably similar to the cost of goods when paid personnel are used. Fees shall not be required of any person who is "needy aged" as defined in KRS 205.010; however, voluntary contributions may be encouraged. This subsection shall not apply to programs utilizing federal funds when administrative regulations require contributions to revert to the original funding source.

➔Section 3. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

(2) The General Assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty, and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of ~~[all ]~~federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may***, except as provided in Section 1 of this Act,*** by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.

(4) It is the intention of the General Assembly to comply with the provisions of Title XIX of the Social Security Act which require that the Kentucky Medical Assistance Program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky Medical Assistance Program.

(5) The Kentucky Medical Assistance Program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

➔Section 4. KRS 205.5371 is amended to read as follows:

(1) The cabinet, to the extent permitted under federal law, shall~~[ no later than April 15, 2023,]~~ implement a ***mandatory*** community engagement ***waiver*** program for able-bodied adults without dependents who have been enrolled in the state's medical assistance program for more than twelve (12) months.

(2) If the federal Centers for Medicare and Medicaid Services approves the implementation of a ***mandatory*** community engagement ***waiver*** program pursuant to subsection (1) of this section:

(a) The program may, for the purpose of defining qualifying community engagement activities, utilize the same requirements established in 7 C.F.R. sec. 273.24;

(b) Participation in the job placement assistance program established in KRS 151B.420 shall constitute qualifying community engagement activities; and

(c) The cabinet shall, on a monthly basis, provide the Education and Labor Cabinet with the name and contact information of each individual participating in the community engagement program.

(3) ***(a) The cabinet is hereby authorized, as is required under Section 1 of this Act, and is directed to submit a waiver application to the Centers for Medicare and Medicaid Services requesting approval to establish the mandatory community engagement waiver program for able-bodied adults without dependents described in subsections (1) and (2) of this section within ninety (90) days after the effective date of this Act.***

***(b) As required in Section 6 of this Act, the cabinet shall provide a copy and summary of the waiver application submitted pursuant to this section to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health Services concurrent with submitting the application to the Centers for Medicare and Medicaid Services and shall provide an update on the status of the application at least quarterly.***

***(4)*** As used in this section, "able-bodied adult without dependents" means an individual who is:

(a) Over eighteen (18) years of age but under sixty (60) years of age;

(b) Physically and mentally able to work as determined by the cabinet; and

(c) Not primarily responsible for the care of a dependent child under the age of eighteen (18) or a dependent disabled adult relative.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established within the Cabinet for Health and Family Services a restricted fund to be known as the Kentucky Medicaid pharmaceutical rebate fund. All moneys received by the Cabinet for Health and Family Services or the Department for Medicaid Services as compensation or rebate, including supplemental rebates, from a pharmaceutical drug manufacturer, the state pharmacy benefit manager contracted by the department pursuant to KRS 205.5512, or any other third-party entity contracted to administer or assist in administering any aspect of the Medicaid program, minus any remittance that may be owed to the federal government, shall be deposited into the fund.***

***(2) Moneys deposited into the fund shall be expended by the Department for Medicaid Services in accordance with federal law.***

***(3) Notwithstanding KRS 45.229, moneys in the Kentucky Medicaid pharmaceutical rebate fund at the close of state fiscal year 2024-2025 and state fiscal year 2025-2026 shall not lapse but shall be carried forward into the next fiscal year.***

➔Section 6. KRS 205.525 is amended to read as follows:

(1) Concurrent with submitting an application for a waiver,~~[ or]~~ waiver amendment***, waiver renewal,*** or a request for a ***state*** plan amendment to any federal agency that approves waivers, waiver amendments, ***waiver renewals, or***~~[ and]~~ ***state*** plan amendments, the cabinet shall provide to the ***Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the*** Interim Joint Committee on Health Services, and ~~[to]~~ the Interim Joint Committee on Appropriations and Revenue a copy, summary, and statement of benefits of the application for a waiver,~~[ or]~~ waiver amendment***, waiver renewal,*** or request for a ***state*** plan amendment.

(2) The cabinet shall provide an update on the status of the application for a waiver,~~[ or]~~ waiver amendment***, waiver renewal,*** or request for a ***state*** plan amendment to the Legislative Research Commission upon request.

(3) If the cabinet is expressly directed by the General Assembly to submit an application for a waiver,~~[ or]~~ waiver amendment***, waiver renewal,*** or a request for a ***state*** plan amendment to any federal agency that approves waivers, waiver amendments, ***waiver renewals,*** or ***state*** plan amendments for public assistance programs administered under this chapter and that application or request is denied by the federal agency, the cabinet shall notify the Legislative Research Commission of the reasons for the denial. If instructed by the General Assembly through legislative action during the next legislative session, the cabinet shall resubmit, with or without modifications based on instructions from the General Assembly, the application for a waiver,~~[ or]~~ waiver amendment***, waiver renewal,*** or request for a ***state*** plan amendment.

➔Section 7. KRS 205.6328 is repealed, reenacted, and amended to read as follows:

(1) ***(a) A Medicaid managed care contract entered into by the Department for Medicaid Services on or after the effective date of this Act, shall not be valid, and a payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Cabinet for Health and Family Services shall not be made, unless the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures and offsets, recoupments and clawbacks, and disproportionate share hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review upon request.***

***(b) Medicaid expenditure data required to be collected and reported pursuant to paragraph (a) of this subsection shall include expenditures made by any third-party administrator contracted by a managed care organization to assist in providing services and benefits to Medicaid beneficiaries, including but not limited to any dental benefit administrator, vision benefit administrator, hearing benefit administrator, or transportation benefit administrator.***

***(2) The Department for Medicaid Services shall submit a quarterly budget analysis report to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review no later than seventy-five (75) days after the end of each quarter. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing twelve (12) month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as supplemental medical insurance premiums, Kentucky patient access to care, nonemergency transportation, drug rebates, cost settlements, and disproportionate share hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.***

***(3) (a) Except as provided in KRS 61.878, all records and correspondence relating to Kentucky Medicaid, revenues derived from Kentucky Medicaid funds, and expenditures utilizing Kentucky Medicaid funds of a Medicaid managed care company operating within the Commonwealth shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. This subsection shall not apply to any records and correspondence relating to Medicaid specifically prohibited from disclosure by the federal Health Insurance Portability and Accountability Act privacy rules.***

***(b) No later than sixty (60) days after the end of each quarter, each Medicaid managed care company operating within the Commonwealth shall prepare and submit to the Department for Medicaid Services sufficient information to allow the department to meet the following requirements ninety (90) days after the end of each quarter. The department shall forward to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review a quarterly report detailing monthly actual expenditures by service category, monthly eligibles, and average monthly cost per eligible for Medicaid and the Kentucky Children's Health Insurance Program along with current trailing twelve (12) month averages for each of these figures. The report shall also provide actual figures for other categories such as pharmacy rebates and reinsurance. Finally, the department shall include in this report the most recent information or report available regarding the amount withheld to meet Department of Insurance reserve requirements, and any distribution of moneys received or retained in excess of these reserve requirements.***

***(4) The Cabinet for Health and Family Services shall submit a quarterly enrollee demographics report to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review no later than seventy-five (75) days after the end of each quarter. The enrollee demographics report shall provide a summary of enrollee demographics and shall include data on at least the following demographic characteristics for enrollees by county:***

***(a) The total number of individuals enrolled in the Medicaid program during each month of the previous quarter by eligibility category;***

***(b) The number of individuals enrolled in the Medicaid program by employment status, including full-time employment, part-time employment, and unemployed;***

***(c) The number of individuals enrolled in the Medicaid program by race and ethnicity;***

***(d) The number of individuals enrolled in the Medicaid program by citizenship status, refugee status, legal immigration status, illegal or undocumented immigration status, or other status under which an individual is present in the United States;***

***(e) The number of beneficiaries enrolled in the Medicaid program with dependents;***

***(f) The total number of dependents enrolled in the Medicaid program; and***

***(g) Any other information or data related to Medicaid beneficiaries requested by the Legislative Research Commission.***

***(5) The Department for Medicaid Services shall submit a quarterly health care provider tax and assessment report to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review no later than seventy-five (75) days after the end of each quarter. The health care provider tax report shall include the total amount of revenue generated during the previous quarter and the corresponding federal funding match generated during the previous quarter under:***

***(a) KRS 142.303;***

***(b) KRS 142.307;***

***(c) KRS 142.314;***

***(d) KRS 142.315;***

***(e) KRS 142.316;***

***(f) KRS 142.318;***

***(g) KRS 142.361;***

***(h) KRS 142.363;***

***(i) KRS 205.6406(3)(h);***

***(j) KRS 205.6406(3)(j);***

***(k) KRS 205.6412; and***

***(l) Any other provider tax or assessment on healthcare providers.***

***(6) All reports required to be submitted to the Legislative Research Commission under this section shall be submitted in a form and manner prescribed by the Legislative Research Commission.***

***(7) As used in this section, the term "Medicaid program" includes the Kentucky Medical Assistance Program established in KRS 205.510 to 205.5630 and the Kentucky Children's Health Insurance Program established in KRS 205.6483***~~[~~

~~The Cabinet for Human Resources shall establish a system for the reporting to the General Assembly, on a quarterly basis, through December 31, 1996, as to the progress in implementing the provisions of KRS 205.6310 to 205.6332, the findings of any reports or studies authorized by KRS 205.6310 to 205.6332, and recommendations regarding the reports or studies.~~

~~(2) As each item identified in subsection (1) of this section has been completed, that item shall not be included on the next quarterly report, but shall be identified as having been completed.~~

~~(3) This section expires on January 1, 1997]~~.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding 42 C.F.R. sec. 431.17(c), all records required to be retained by 42 C.F.R. sec. 431.17(b) shall be retained by the Department for Medicaid Services for a period of not less than seven (7) years following the beneficiary's most recent disenrollment from the Medicaid program.***

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***The Department for Medicaid Services shall monitor utilization rates and expenditures for all Medicaid-covered behavioral health and substance use disorder services and shall submit an annual report to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health Services identifying each Medicaid-covered behavioral health or substance use disorder service for which utilization rates or expenditures have increased by more than ten percent (10%) over the previous twelve (12) months.***

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) The Department for Medicaid Services shall administer the state's Medicaid program under a fee-for-service model, Medicaid managed care model, or other Medicaid delivery system model as permitted under federal law.***

***(2) This section does not prohibit the administration of the Medicaid program under more than one (1) delivery system model.***

***(3) Nothing in this section shall be interpreted as infringing upon or impairing any contract between the Department for Medicaid Services and any managed care organization in effect on the effective date of this Act.***

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

***(1) If the Cabinet for Health and Family Services believes there to be any barrier to implementing a Medicaid-related bill or resolution under consideration by the General Assembly, the cabinet shall notify the Legislative Research Commission in writing of any anticipated implementation barriers within seven (7) calendar days following a standing committee's report that the bill or resolution should pass.***

***(2) When the Legislative Research Commission receives written notification from the Cabinet for Health and Family Services as required by subsection (1) of this section, the written notification shall be referred to the sponsor of the bill or resolution, the committee that considered the bill or resolution, and the corresponding standing committee in the other chamber of the General Assembly.***

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***As used in Sections 12 to 19 of this Act:***

***(1) "Board" means the Medicaid Oversight and Advisory Board;***

***(2) "Cabinet" means the Cabinet for Health and Family Services;***

***(3) "Commission" means the Legislative Research Commission;***

***(4) "Department" means the Department for Medicaid Services; and***

***(5) "Medicaid program" means the Kentucky Medical Assistance Program established in KRS 205.510 to 205.630 and the Kentucky Children's Health Insurance Program established in KRS 205.6483.***

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***The Medicaid Oversight and Advisory Board of the Kentucky General Assembly is hereby established. The purpose of the board is to optimize delivery of health services for continually improving health outcomes and doing so in a cost efficient and effective manner. The board shall review, analyze, study, evaluate, provide legislative oversight, and make recommendations to the General Assembly regarding any aspect of the Kentucky Medicaid program, including but not limited to benefits and coverage policies, access to services and network adequacy, health outcomes and equity, reimbursement rates, payment methodologies, delivery system models, financing and funding, and administrative regulations.***

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***(1) The board shall be composed of the following members:***

***(a) Ten (10) legislative members, as follows:***

***1. Four (4) members of the House of Representatives appointed by the Speaker of the House of Representatives, each of whom shall serve while a member of the House for the term for which he or she has been elected, one (1) of whom shall be the chair or vice chair of the House Standing Committee on Health Services, and one (1) of whom shall be the chair or vice chair of the House Standing Committee on Families and Children;***

***2. One (1) member of the House of Representatives appointed by the Minority Floor Leader of the House of Representatives, who shall serve while a member of the House for the term for which he or she has been elected;***

***3. Four (4) members of the Senate appointed by the President of the Senate, each of whom shall serve a term of two (2) years, one (1) of whom shall be the chair or vice chair of the Senate Standing Committee on Health Services, and one (1) of whom shall be the chair or vice chair of the Senate Standing Committee on Families and Children; and***

***4. One (1) member of the Senate appointed by the Minority Floor Leader of the Senate, who shall serve a term of two (2) years;***

***(b) Eleven (11) nonlegislative, nonvoting members, as follows:***

***1. The commissioner of the department or his or her designee;***

***2. The chief medical officer of the Commonwealth or his or her designee;***

***3. The chair of the Advisory Council for Medical Assistance established in KRS 205.540 or his or her designee;***

***4. The state budget director or his or her designee;***

***5. The Auditor of Public Accounts or his or her designee;***

***6. The executive director of the Kentucky Association of Health Plans, or its successor organization, or his or her designee;***

***7. The director of the Center of Excellence in Rural Health established in KRS 164.937 or his or her designee;***

***8. Two (2) members appointed by the Speaker of the House of Representatives, of which:***

***a. One (1) shall have significant Medicaid-specific experience in healthcare administration, financing, policy, or research; and***

***b. One (1) shall be a licensed healthcare provider who is a participating Medicaid provider and who serves on one (1) of the technical advisory committees to the Advisory Council for Medical Assistance established in KRS 205.590; and***

***9. Two (2) members appointed by the President of the Senate, of which:***

***a. One (1) shall have significant Medicaid-specific experience in healthcare administration, financing, policy, or research; and***

***b. One (1) shall be a licensed healthcare provider who is a participating Medicaid provider and who serves on one (1) of the technical advisory committees to the Advisory Council for Medical Assistance established in KRS 205.590; and***

***(c) Two (2) nonvoting ex officio members, as follows:***

***1. The chair of the House Standing Committee on Appropriations and Revenue; and***

***2. The chair of the Senate Standing Committee on Appropriations and Revenue.***

***(2) (a) Of the members appointed pursuant to subsection (1)(a)1. of this section, the Speaker of the House of Representatives shall designate one (1) as co-chair of the board.***

***(b) Of the members appointed pursuant to subsection(1)(a)3. of this section, the President of the Senate shall designate one (1) as co-chair of the board.***

***(c) In order to be eligible for appointment under subsection (1)(b)8. and 9. of this section an individual shall not:***

***1. Be a member of the General Assembly;***

***2. Be employed by a state agency of the Commonwealth of Kentucky; or***

***3. Receive contractual compensation for services rendered to a state agency of the Commonwealth of Kentucky that would conflict with his or her service on the board.***

***(d) For the purpose of appointing members described in subsection (1)(b)8.a. and 9.a. of this section, "significant Medicaid-specific experience in healthcare administration, financing, policy, or research" means:***

***1. Experience in administering the Kentucky Medical Assistance Program;***

***2. A hospital administrator with relevant experience in Medicaid billing or regulatory compliance;***

***3. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in healthcare law;***

***4. A consumer or patient advocate with relevant experience in the area of Medicaid policy; or***

***5. A current or former university professor whose primary area of emphasis is healthcare economics or financing, health equity, healthcare disparities, or Medicaid policy.***

***(e) Individuals appointed to the board under subsection (1)(b)8. and 9. of this section shall:***

***1. Serve for a term of two (2) years; and***

***2. Not serve more than one (1) consecutive term after which time he or she shall not be reappointed to the board for a period of at least two (2) years.***

***(f) If an individual appointed to the board pursuant to subsection (1)(b)8.b. or 9.b. of this section ceases to participate in the Medicaid program or ceases to serve on a technical advisory committee to the Advisory Council for Medical Assistance established in KRS 205.590, he or she may continue to serve on the board until his or her replacement has been appointed.***

***(3) (a) Any vacancy which may occur in the membership of the board shall be filled in the same manner as the original appointment.***

***(b) A member of the board whose term has expired may continue to serve until such time as his or her replacement has been appointed.***

***(4) Members of the board shall be entitled to reimbursement for expenses incurred in the performance of their duties on the board.***

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***(1) The board shall meet at least six (6) times during each calendar year.***

***(2) The co-chairs of the board shall have joint responsibilities for board meeting agendas and presiding at board meetings.***

***(3) (a) On an alternating basis, each co-chair shall have the first option to set a meeting date.***

***(b) A scheduled meeting may be canceled by agreement of both co-chairs.***

***(4) A majority of the entire voting membership of the board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire voting membership.***

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***The board, consistent with its purpose as established in Section 13 of this Act, shall have the authority to:***

***(1) Require any of the following entities to provide any and all information necessary to carry out the board's duties, including any contracts entered into by the department, the cabinet, or any other state agency related to the administration of any aspect of the Medicaid program or the delivery of Medicaid benefits or services:***

***(a) The cabinet;***

***(b) The department;***

***(c) Any other state agency;***

***(d) Any Medicaid managed care organization with whom the department has contracted for the delivery of Medicaid services;***

***(e) The state pharmacy benefit manager contracted by the department pursuant to KRS 205.5512; and***

***(f) Any other entity contracted by a state agency to administer or assist in administering any aspect of the Medicaid program or the delivery of Medicaid benefits or services;***

***(2) Establish a uniform format for reports and data submitted to the board and the frequency, which may be monthly, quarterly, semiannually, annually, or biannually, and the due date for the reports and data;***

***(3) Conduct public hearings in furtherance of its general duties, at which it may request the appearance of officials of any state agency and solicit the testimony of interested groups and the general public;***

***(4) Establish any advisory committees or subcommittees of the board that the board deems necessary to carry out its duties;***

***(5) Recommend that the Auditor of Public Accounts perform a financial or special audit of the Medicaid program or any aspect thereof; and***

***(6) Subject to selection and approval by the Legislative Research Commission, utilize the services of consultants, analysts, actuaries, legal counsel, and auditors to render professional, managerial, and technical assistance, as needed.***

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***(1) The board, consistent with its purpose as established in Section 13 of this Act, shall:***

***(a) On an ongoing basis, conduct an impartial review of all state laws and regulations governing the Medicaid program and recommend to the General Assembly any changes it finds desirable with respect to program administration including delivery system models, program financing, benefits and coverage policies, reimbursement rates, payment methodologies, provider participation, or any other aspect of the program;***

***(b) On an ongoing basis, review any change or proposed change in federal laws and regulations governing the Medicaid program and report to the Legislative Research Commission on the probable costs, possible budgetary implications, potential effect on healthcare outcomes, and the overall desirability of any change or proposed change in federal laws or regulations governing the Medicaid program;***

***(c) At the request of the Speaker of the House of Representatives or the President of the Senate, evaluate proposed changes to state laws affecting the Medicaid program and report to the Speaker or the President on the probable costs, possible budgetary implications, potential effect on healthcare outcomes, and overall desirability as a matter of public policy;***

***(d) At the request of the Legislative Research Commission, research issues related to the Medicaid program;***

***(e) Beginning in 2026 and at least once every five (5) years thereafter, cause a review to be made of the administrative expenses and operational cost of the Medicaid program. The review shall include but not be limited to evaluating the level and growth of administrative costs, the potential for legislative changes to reduce administrative costs, and administrative changes the department may make to reduce administrative costs or staffing needs. At the discretion of the Legislative Research Commission, the review may be conducted by a consultant retained by the board;***

***(f) Beginning in 2027 and at least once every five (5) years thereafter, cause a program evaluation to be conducted of the Medicaid program. In any instance in which a program evaluation indicates inadequate operating or administrative system controls or procedures, inaccuracies, inefficiencies, waste, extravagance, unauthorized or unintended activities, or other deficiencies, the board shall report its findings to the Legislative Research Commission. The program evaluation shall be performed by a consultant retained by the board;***

***(g) Beginning in 2028 and at least once every five (5) years thereafter, cause an actuarial analysis to be performed of the Medicaid program, to evaluate the sufficiency and appropriateness of Medicaid reimbursement rates established by the department and those paid by any managed care organization contracted by the department for the delivery of Medicaid services. The actuarial analysis shall be performed by an actuary retained by the board;***

***(h) Beginning in 2029 and at least once every five (5) years thereafter, cause the overall health of the Medicaid population to be assessed. The assessment shall include but not be limited to a review of health outcomes, healthcare disparities among program beneficiaries and as compared to the general population, and the effect of the overall health of the Medicaid population on program expenses. The assessment shall be performed by a consultant retained by the board; and***

***(i) Beginning in 2026 and annually thereafter, publish a report covering the board's evaluations and recommendations with respect to the Medicaid program. The report shall be submitted to the Legislative Research Commission no later than December 1 of each year, and shall include at a minimum a summary of the board's current evaluation of the program and any legislative recommendations made by the board.***

***(2) The board, consistent with its purpose as established in Section 13 of this Act, may:***

***(a) Review all new or amended administrative regulations related to the Medicaid program and provide comments to the Administrative Regulation Review Subcommittee established in KRS 13A.020;***

***(b) Make recommendations to the General Assembly, the Governor, the secretary of the cabinet, and the commissioner of the department regarding program administration including benefits and coverage policies, access to services and provider network adequacy, healthcare outcomes and disparities, reimbursement rates, payment methodologies, delivery system models, funding, and administrative regulations. Recommendations made pursuant to this section shall be nonbinding and shall not have the force of law; and***

***(c) On or before December 1 of each calendar year, adopt an annual research agenda. The annual research agenda may include studies, research, and investigations considered by the board to be significant. Board staff shall prepare a list of study and research topics related to the Medicaid program for consideration by the board in the adoption of the annual research agenda. An annual research agenda adopted by the board may be amended by the Legislative Research Commission to include any studies or reports mandated by the General Assembly during the next succeeding regular session.***

***(3) At the discretion of the Legislative Research Commission, studies and research projects included in an annual research agenda adopted by the board pursuant to subsection (2)(c) of this section may be conducted by outside consultants, analysts, or researchers to ensure the timely completion of the research agenda.***

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***The Legislative Research Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of Sections 12 to 19 of this Act. Staff and operating costs of the board shall be provided from the budget of the Legislative Research Commission.***

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

***The officers and personnel of any state agency and any other person may serve at the request of the board upon any advisory committees that the board may create. State officers and personnel may serve upon these advisory committees without forfeiture of office or employment and with no loss or diminution in the compensation statute, rights, and privileges which they otherwise enjoy.***

➔Section 20. (1) The Cabinet for Health and Family Services, Department for Medicaid Services is hereby directed to, within 90 days after the effective date of this Act, reinstate all prior authorization requirements for behavioral health services in the Medicaid program that were in place and required for behavioral health services on January 1, 2020. The Cabinet for Health and Family Services shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to comply with this section.

(2) If the Cabinet for Health and Family Services or the Department for Medicaid Services determines that a state plan amendment is necessary prior to implementing this section, the cabinet is hereby authorized, as is required under Section 1 of this Act, to submit a state plan amendment application to the federal Centers for Medicare and Medicaid Services to implement this section and may only delay implementation of this section until any necessary state plan amendment is approved by the federal Centers for Medicare and Medicaid Services.

➔Section 21. (1) Notwithstanding any provision of law to the contrary, the Cabinet for Health and Family Services, Department for Medicaid Services shall procure new Medicaid managed care contracts in accordance with KRS Chapter 45A and Sections 7(1)(a) and 10 of this Act. Medicaid managed care contracts procured under this section shall have an effective date of no later than January 1, 2027.

(2) Any managed care organization subject to the reporting requirements established in 2024 Ky Acts ch. 175, Part I, G., 3., a., (2) and b., (7) who failed to comply with 2024 Ky Acts ch. 175, Part I, G., 3., a., (2) or b., (7) during state fiscal year 2025-2026 shall be ineligible for a contract awarded under subsection (1) of this section.

➔Section 22. The Cabinet for Health and Family Services is hereby directed to develop a scorecard for behavioral health and substance use disorder treatment services and providers to be used by all managed care organizations with whom the Department for Medicaid Services has contracted for the delivery of Medicaid services. The cabinet may collaborate with Medicaid managed care organizations on the development of the behavioral health

and substance use disorder treatment services scorecard. The scorecard shall be publicly available on each managed care organization's website no later than December 31, 2025.

➔Section 23. 2024 Ky. Acts ch. 173, sec. 1(186) and 2024 Ky Acts ch. 175, Part I, G., 3., b. shall serve as authorization, as required under Section 1 of this Act, for any change to eligibility, coverage, or benefits in the Medicaid program provided for in 2024 Ky. Acts ch. 173, sec. 1(186) and 2024 Ky Acts ch. 175, Part I, G., 3., b.

➔Section 24. Whereas ongoing budget negotiations at the federal level, including over federal financial support for the Medicaid program, combined with significant expansion of the Commonwealth's Medicaid budget over the last decade creates an urgent need to bolster legislative oversight of the program, 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.

**Veto Overridden March 27, 2025.**