

CHAPTER 159

(SB 173)

AN ACT relating to legislative oversight of the Medicaid state plan and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"CMS" means the federal Centers for Medicare and Medicaid Services;*
- (b) *"Department" means the Department for Medicaid Services;*
- (c) *"KCHIP state plan" means the federally approved, legally binding contract between the Commonwealth and CMS that outlines how the Commonwealth administers the Kentucky Children's Health Insurance Program, commonly known as KCHIP;*
- (d) *"Medicaid state plan" means the federally approved, legally binding contract between the Commonwealth and CMS that outlines how the Commonwealth administers the state's medical assistance program, commonly known as Medicaid; and*
- (e) *"SPA" means a Medicaid state plan or KCHIP state plan amendment or a request for a state plan amendment that has been submitted to CMS.*

(2) (a) *The Commonwealth's Medicaid state plan and KCHIP state plan shall be subject to an annual legislative review in accordance with this section.*

(b) *The department shall, by July 1 of each year, submit to the Legislative Research Commission, for referral to the Interim Joint Committee on Health Services and the Medicaid Oversight and Advisory Board established in KRS 7A.273:*

- 1. *A copy of the current Medicaid state plan;*
- 2. *A copy of the current KCHIP state plan; and*
- 3. *A copy and summary of each Medicaid and KCHIP SPA that has been:*
 - a. *Approved by CMS;*
 - b. *Denied or rejected by CMS; and*
 - c. *Submitted to, but not yet approved or denied by, CMS;*

since July 1 of the preceding calendar year.

(c) *The Medicaid Oversight and Advisory Board shall, by August 31 of each year, on a date determined by the co-chairs, review the Medicaid state plan, KCHIP state plan, and all Medicaid and KCHIP SPAs submitted in accordance with paragraph (b) of this subsection, at which time representatives from the department shall appear before, provide testimony to, and answer questions from the board concerning the Medicaid state plan, the KCHIP state plan, and all Medicaid and KCHIP SPAs submitted in accordance with paragraph (b) of this subsection.*

(d) *The Interim Joint Committee on Health Services shall, by October 31 of each year, on a date determined by the co-chairs, review the Medicaid state plan, KCHIP state plan, and all Medicaid and KCHIP SPAs submitted in accordance with paragraph (b) of this subsection, at which time representatives from the department shall appear before, provide testimony to, and answer questions from the committee concerning the Medicaid state plan, KCHIP state plan, all Medicaid and KCHIP SPAs submitted in accordance with paragraph (b) of this subsection, and the department's response to any recommendations made by the Medicaid Oversight and Advisory Board in accordance with subsection (4) of this section.*

(3) *When submitting a copy and summary of a SPA to the Legislative Research Commission in accordance with subsection (2)(b) of this section, the department shall include:*

- (a) *A copy of all materials submitted to CMS related to the SPA;*

- (b) *A summary of the change or changes sought by the SPA;*
 - (c) *A summary of how the SPA will improve the administration of the Medicaid or KCHIP program, access to services, or the overall health of the Medicaid or KCHIP population;*
 - (d) *An explanation of the necessity of the SPA;*
 - (e) *A determination of whether or not the SPA was subject to the authorization requirements established in KRS 205.5372 and an explanation of that determination; and*
 - (f) *An analysis of the anticipated fiscal and budgetary impacts of the SPA which shall include an analysis of costs over a one (1), two (2), and five (5) year timeframe.*
- (4) *Following a review conducted pursuant to subsection (2)(c) of this section, the Medicaid Oversight and Advisory Board may, by a vote of a majority of the voting members appointed to the board under KRS 7A.276, make recommendations for changes to a state plan or SPA. If the board elects to make recommendations for changes to a state plan or SPA, the board shall submit those recommendations in writing to the Governor, the secretary of the cabinet, and the commissioner of the department within thirty (30) calendar days from the date on which the review was conducted.*
- (5) (a) *As part of a review conducted under subsection (2)(d) of this section of the Medicaid state plan, KCHIP state plan, and all Medicaid and KCHIP SPAs submitted in accordance with subsection (2)(b) of this section, the Interim Joint Committee on Health Services may, by a vote of a majority of the members appointed to the committee, find a state plan to be, in part or in whole, deficient because it:*
- 1. *Appears to be in conflict with an existing state statute governing the Medicaid or KCHIP program, including but not limited to the requirements imposed under KRS 205.525;*
 - 2. *Appears to be in conflict with federal law governing the Medicaid or CHIP program;*
 - 3. *Appears to exceed the cabinet's or department's statutory authority, including but not limited to restrictions imposed under KRS 205.5372;*
 - 4. *Appears to impose an unreasonable burden on state government, Medicaid-participating providers, or Medicaid beneficiaries;*
 - 5. *Was submitted for review in a manner that does not fully comply with subsection (3) of this section;*
 - 6. *Fails to fully incorporate recommendations made by the Medicaid Oversight and Advisory Board under subsection (4) of this section; or*
 - 7. *Appears to be deficient in any other manner, except that the committee shall not find a state plan to be deficient on the basis of a SPA that was:*
 - a. *Denied or rejected by CMS; or*
 - b. *Submitted to, but not yet approved or denied by, CMS.*
- (b) *Notwithstanding paragraph (a)7. of this subsection, the Interim Joint Committee on Health Services may make recommendations to the Governor, secretary of the cabinet, commissioner of the department, or the General Assembly related to a SPA that was denied or rejected by CMS or that has been submitted to, but not yet approved by, CMS.*
- (c) *If the Interim Joint Committee on Health Services finds the Medicaid state plan to be, in part or in whole, deficient, the committee shall transmit to the Governor, the secretary of the cabinet, and the commissioner of the department:*
- 1. *A copy of the finding of deficiency and other relevant findings, recommendations, or comments; and*
 - 2. *A request that the Governor determine whether the Medicaid or KCHIP state plan shall:*
 - a. *Be amended to resolve concerns identified by the committee that lead to its finding of deficiency; or*
 - b. *Remain in effect notwithstanding the finding of deficiency.*

- (6) *The Governor shall transmit his or her determination on any request made under subsection (5)(c)2. of this section to the Legislative Research Commission for referral to the Interim Joint Committee on Health Services and the Medicaid Oversight and Advisory Board within thirty (30) calendar days of the date on which the Interim Joint Committee on Health Services found the Medicaid or KCHIP state plan, in part or in whole, to be deficient.*
- (7) *The department shall, within thirty (30) days after the effective date of this Act, publish to its website, in an easily accessible manner:*
 - (a) *A copy of the current, in effect Medicaid and KCHIP state plans, including a clear notation of the date of the most recent approved SPA to each plan; and*
 - (b) *A copy of each Medicaid and KCHIP SPA that has been submitted to CMS and the Legislative Research Commission, as required under KRS 205.525, including a copy of the summary and statement of benefits as required under KRS 205.525.*
- (8) *Notwithstanding provisions of this section to the contrary:*
 - (a) *When conducting the initial legislative review of the Medicaid and KCHIP state plans in 2026, the Medicaid Oversight and Advisory Board and the Interim Joint Committee on Health Services shall review the Medicaid state plan and the KCHIP state plan in their entirety and may, by June 1, 2026, request a summary, to be prepared in accordance with subsection (3) of this section, for any part of the Medicaid state plan; and*
 - (b) *The department shall, within five (5) calendar days after the effective date of this Act, provide the Legislative Research Commission with a copy of the current, in effect Medicaid and KCHIP state plans for referral to the Interim Joint Committee on Health Services and the Medicaid Oversight and Advisory Board.*

➔Section 2. Whereas recently enacted federal changes to the Medicaid program and significant increases in the Commonwealth's Medicaid budget over the last decade create an urgent need to bolster legislative oversight of the Medicaid program, take immediate steps to comply with new federal requirements, and ensure that Medicaid expenditures support the healthcare needs of only those individuals the program is intended to serve, 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 April 14, 2026.