

DEPARTMENT OF LAW
Department of Criminal Litigation
Office of Trafficking and Abuse Prevention and Prosecution
(Amendment)

40 KAR 6:020. Funding assistance from the child victims' trust fund [~~for child sexual abuse medical examinations~~].

RELATES TO: KRS 15.900, 15.920, 15.935[~~(1)(b)~~], 41.400

STATUTORY AUTHORITY: KRS 15.180, 15.935

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.935(1) authorizes the Child Sexual Abuse and Exploitation Prevention Board to disburse available money from the child victims' trust fund, upon legislative appropriations, for the purposes, listed in the order of preference, stated in KRS 15.935(1)(a) through (g). This administrative regulation establishes standards and criteria governing the Board's disbursement of money from the fund[~~KRS 15.935(1)(b) authorizes the Child Sexual Abuse and Exploitation Prevention Board to fund, from the Child Victims' Trust Fund created pursuant to KRS 41.400, the cost of child sexual abuse medical examinations to the extent the fee for an examination is a service not eligible to be paid for by Medicaid or private insurance. The function of this administrative regulation is to establish standards and criteria governing the allocation of funding assistance for the case management aspects of child sexual abuse medical examinations in accordance with KRS 15.935~~].

Section 1. Definitions. (1) [~~"Applicant" means an eligible provider applying for child sexual abuse medical examination funding assistance.~~

(2) [~~"Case management" means the administrative aspects of the child sexual abuse medical examination and includes the following:~~

(a) [~~Transcription of records;~~

(b) [~~Scheduling appointments;~~

(c) [~~Coordination of services;~~

(d) [~~Making referrals for services; and~~

(e) [~~Consultation with multidisciplinary teams, court personnel, officers of the court, parents or guardians, social workers, law enforcement and any other party involved in the treatment or protection of the child.~~

(3) [~~"Child" is defined by KRS 15.900(1).~~

(2)[~~(4)] "Child sexual abuse medical examination" means a complete physical examination of a child with a special focus on the anal or genital area or oral cavity, and the case management associated with the physical examination.~~

(3)[~~(5)] "Eligible provider" means a private, nonprofit agency, designated as a Children's Advocacy Center by the Cabinet for Health and Family Services under KRS 620.045, whose primary purpose is to provide, either directly or through contract, prevention, intervention, and treatment services to sexually abused children and their families, employing a child-focused multidisciplinary team approach.~~

(4) [~~"Office" is the Office of Trafficking and Abuse Prevention and Prosecution.~~

(5) [~~"State board"]Board" is defined by KRS 15.900(4).~~

Section 2. Funding Criteria. (1) Disbursement of available money from the child victims' trust fund shall be at the discretion of the Board for the purposes of and subject to the order of preference for expenditure stated in KRS 15.935.

(2) The Board shall only disburse available money from the child victims' trust fund to applicants that are private nonprofits or public organizations and that have completed the application that is incorporated by reference in this administrative regulation.

(3) An applicant:

(a) Shall complete and submit the appropriate application that is incorporated by reference in this administrative regulation no later than February 28 preceding the beginning of the fiscal year in which disbursement of available money is sought. The Board may grant an extension of time for good cause shown. Applications shall be submitted by:

1. Mail to 1024 Capital Center Drive, Frankfort, Kentucky 40601; or

2. Email to ICareAboutKids@ky.gov.

(b) Seeking funding to:

1. Develop or operate a prevention program under KRS 15.935(1)(a) shall demonstrate ability to comply with the requirements of KRS 15.935(1)(a)1., 2., and 3.;

2. Develop or operate a statewide public education and awareness campaign on child sexual abuse under KRS 15.935(1)(e) shall demonstrate ability to comply with the requirements of KRS 15.935(1)(a) 2. and 3.;

3. Fund, under KRS 15.935(1)(b), the cost of medical examinations of victims of suspected child sexual abuse to the extent the fee for an examination is a service not eligible to be paid for by Medicaid or private insurance shall also comply with Section 3 of this administrative regulation.

(c) Shall demonstrate need for financial assistance;

(d) To whom funds are disbursed, agrees to:

1. Provide program models and consultation to organizations and communities regarding program development and maintenance;

2. Execute a memorandum of agreement with the office.

(4) Disbursement of money from the child victims' trust fund shall occur during the state fiscal year following the approval of funding by the board.

Section 3. Disbursement of money for child sexual abuse medical examinations. (1) Disbursement of money from the child victims' trust fund for child sexual abuse medical examinations shall be on a reimbursement basis.

(2) Reimbursement for child sexual abuse medical examinations shall not exceed \$150 per case.

(3) An applicant for child sexual abuse medical examination funding shall certify that:

(a) Funds granted will:

1. Be used solely for the purpose of reimbursing the cost of child sexual abuse medical examinations on a per-exam basis;

2. Supplement and not replace existing funds received by the applicant from other sources for child sexual abuse medical examinations;

3. Not be used to reimburse services to the extent those services are covered by private health insurance or Medicaid, or if a third party has a legal obligation to pay; and

(b) Every person performing a child sexual abuse medical examination service will comply with applicable state and federal licensing or certification requirements;

(c) the Applicant has ability to provide access to child sexual abuse medical examinations in the geographic region served by the applicant; and

(d) The applicant is an eligible provider as defined in Section 1 of this administrative regulation.~~[Child Sexual Abuse Medical Examination Funding Assistance. (1) An eligible provider may apply annually for funding assistance from the Child Victims' Trust Fund Funding shall be~~

~~used to pay for the case-management aspects of a child sexual abuse medical examination. The term of the financial assistance shall be the state fiscal year.~~

~~(2) Application for child sexual abuse medical examination funding assistance shall be made by submission of a completed:~~

- ~~(a) "Application for Child Sexual Abuse Medical Examination Funding Assistance" form; or~~
- ~~(b) Electronic application, if the applicant has that capability.~~

~~Section 3. Funding Requirements. (1) The total funds awarded annually by the state board to each applicant shall be limited by:~~

- ~~(a) Availability of funds; and~~
- ~~(b) Board approval.~~

~~(2) Reimbursement for the case management aspects of an examination shall not exceed \$150 per case.~~

~~(3) An applicant shall provide assurances to the state board that:~~

~~(a) Funds granted will:~~

~~1. Be used solely for the purpose of reimbursing the case management aspects of child sexual abuse medical examinations;~~

~~2. Supplement and not replace existing funds received by the applicant from other sources for child sexual abuse medical examinations; and~~

~~3. Not be used to reimburse services for which there is private health insurance coverage, or if a third party has a legal obligation to pay; and~~

~~(b) Every person performing a child sexual abuse medical examination service will comply with applicable state and federal licensing or certification requirements.~~

~~Section 4. Funding Criteria. Allocation of funding assistance for child sexual abuse medical examinations shall be based on funds available in the Child Victims' Trust Fund and whether the applicant:~~

~~(1) Is currently providing, or plans to provide, child sexual abuse medical examinations:~~

~~(a) Directly; or~~

~~(b) By contract with medical providers;~~

~~(2) Demonstrates a need for financial assistance to be used to provide medical examinations in the geographic area served by the applicant; and~~

~~(3) Has demonstrated the ability to provide access to child sexual abuse medical examinations in the geographic region served by the applicant.~~

~~Section 5. Reporting Requirements. Within ninety (90) days from the end of the state fiscal year, an applicant receiving financial assistance under this administrative regulation shall submit a final report to the state board containing the following information:~~

~~(1) The applicant's total child sexual abuse medical examination budget for the period funded, including:~~

~~(a) The amount and sources of revenue for the examinations; and~~

~~(b) The total amount expended on the examinations; and~~

~~(2) The number of child sexual abuse medical examinations conducted for the period funded.~~

~~Section 6. Appeals. An applicant denied available funding under this administrative regulation shall have a right to appeal pursuant to KRS Chapter 13B.]~~

Section 4.~~[Section 7.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) “[Application for] Child Sexual Abuse Medical Examination Funding Application [Assistance], August 2021[December 2000]”~~;~~ is incorporated by reference.; and

(b) “Child Victims’ Trust Fund Prevention and Public Education and Awareness Program Funding Application, August 2021”.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Trafficking and Abuse Prevention and Prosecution~~[Victims Advocacy Division]~~, Office of Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available at icareaboutkids.ky.gov.

DANIEL CAMERON, Attorney General

APPROVED BY AGENCY: August 13, 2021

FILED WITH LRC: August 13, 2021 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 22, 2021, at the hour of 9:30 am Eastern Time at 1024 Capital Center Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Theresa Gargan, Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601; phone 502-696-5436; fax 502-573-1009; email Theresa.gargan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Theresa Gargan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policies and procedures for funding child sexual abuse medical exams, regional prevention programs, and statewide public education and awareness campaigns on child sexual abuse from the Child Victims’ Trust Fund.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the procedures for funding child sexual abuse medical exams, regional prevention programs, and statewide public education and awareness campaigns on child sexual abuse in accordance with KRS 15.935.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes because it establishes the policies and procedures for funding child sexual abuse medical exams, regional prevention programs, and statewide public education and awareness campaigns on child sexual abuse from the Child Victims’ Trust Fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the policies and procedures for funding child sexual abuse medical exams, regional prevention programs, and statewide public education and awareness campaigns on child sexual abuse from the Child Victims' Trust Fund.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the Child Sexual Abuse Medical Examination Funding Application and clarifies the procedures for application. The amendment also formalizes the procedure, already in place, to fund regional prevention programs and statewide public education and awareness campaigns on child sexual abuse. The amendment incorporates the Prevention and Public Education and Awareness Program Funding Application.

(b) The necessity of the amendment to this administrative regulation: This amendment updates the Application for Child Sexual Abuse Medical Examination Funding Assistance and clarifies how and when to submit the application. The amendment also formalizes the procedure, already in place, to fund regional prevention programs and statewide public education and awareness campaigns on child sexual abuse. The amendment incorporates the Prevention and Public Education and Awareness Program Funding Application.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statute permits the Child Sexual Abuse and Exploitation Prevention Board to fund child sexual abuse medical exams, as well as, prevention programs and statewide public education and awareness campaigns on child sexual abuse.

(d) How the amendment will assist in the effective administration of the statutes: This amendment updates the Application for Child Sexual Abuse Medical Examination Funding Assistance and clarifies how and when to submit the application. The amendment also formalizes the procedure, already in place, to fund regional prevention programs and statewide public education and awareness campaigns on child sexual abuse. The amendment incorporates the Prevention and Public Education and Awareness Program Funding Application.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Currently, there are fifteen child advocacy centers performing child sexual abuse medical exams that will be affected by this administrative regulation. These child advocacy centers received funding for 1066 exams in fiscal years 2020 and 2021. In fiscal years 2020 and 2021, \$297,502.90 was funded for 9 statewide and regional programs, all of which matched at least that amount.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: To receive funding from the Child Victims' Trust Fund, an applicant must comply with the requirements of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No agencies will incur additional costs as a result of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): To receive funding from the Child Victims' Trust Fund, an applicant must comply with the requirements of this administrative regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

- (a) Initially: No increase in funding is anticipated.
- (b) On a continuing basis: No increase in funding is anticipated.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Child Victims' Trust Fund.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is anticipated to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
- (9) Tiering: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all entities that would seek funding from the Child Victims' Trust Fund.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect the Office of the Attorney General and quasigovernmental agencies, including child advocacy centers.
2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15.180, 15.900, 15.920, 15.935, and 41.400.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional revenue for state or local governments during the first year of implementation.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional revenue for state or local governments during subsequent years of implementation.
 - (c) How much will it cost to administer this program for the first year? The Office of the Attorney General does not anticipate any significant additional costs to administer this program for the first year.
 - (d) How much will it cost to administer this program for subsequent years? The Office of the Attorney General does not anticipate any significant additional costs to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation: Not applicable.