

735 KAR 1:010. Eligibility requirements, application and certification procedures to receive specialized telecommunications equipment for the deaf, hard of hearing, and speech impaired.

RELATES TO: KRS 12.290, Chapter 45A, 61.878, 163.525-163.527, 334.010(9), 334.020, 29 U.S.C. 794, 42 U.S.C. 12101

STATUTORY AUTHORITY: KRS 12.290, 163.525(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.290 requires each administrative body of state government to promulgate administrative regulations in compliance with federal mandates to provide accessibility to services by persons who are deaf or hard-of-hearing. KRS 163.525(5) requires the Commission on the Deaf and Hard of Hearing to promulgate administrative regulations to establish procedures for application for, and distribution of, specialized telecommunications equipment. This administrative regulation establishes eligibility criteria, requirements for application, and certification procedures.

Section 1. Definitions. (1) "Applicant" means a person who applies to receive specialized telecommunications equipment under the auspices of the KCDHH Telecommunications Access Program.

(2) "Application" means the current KCDHH Telecommunications Access Program application entitled "Telecommunications Access Program Application and Certification" available in both hardcopy and electronic format.

(3) "Approved date" means the date that all supporting documentation for the application is received and verified by the KCDHH as complete.

(4) "APRN" means Advanced Practice Registered Nurse licensed by the Kentucky Board of Nursing as defined by 314.011(7).

(5) "Audiologist" is defined by KRS 334A.020(5), and is limited to a person licensed by the board, as defined by KRS 334A.020(1).

(6) "Certification" means professional verification of the extent and permanence of the applicant's disability.

(7) "Deaf" and "hard of hearing" are defined by KRS 163.500.

(8) "Deaf-blind" means an individual whose primary disability is deafness and secondary disability is vision impairment.

(9) "ENT" or Otolaryngologist" means a medical professional trained in the medical and surgical management of patients with diseases and disorders of the ear, nose, and throat.

(10) "Fiscal constraint" means when seventy-five (75) percent of annual program funds have been disbursed or encumbered.

(11) "Hearing instrument specialist" means "specialist in hearing instruments" as defined by KRS 334.010(9).

(12) "KCDHH" means the Kentucky Commission on the Deaf and Hard of Hearing, as described at KRS 163.506.

(13) "Physician" means a person:

(a) With a medical degree;

(b) Licensed by the state in which he or she practices medicine; and

(c) Recognized, by the state Board of Medical Licensure in the state in which the physician practices, as a specialist in:

1. Family practice;

2. General practice;

3. Otolaryngology; or

4. Internal Medicine.

(14) "Physician Assistant Certified" (PAC) means a person licensed under KRS 311.840 to 311.862.

(15) "Recipient" means a person who receives specialized telecommunications equipment under the auspices of the KCDHH Telecommunications Access Program.

(16) "Specialized telecommunications equipment" or "STE" is defined by KRS 163.525(1)(a)

(17) "Speech-impaired" means a person with a communication disorder such as stuttering, impaired articulation, impaired language, or impaired voice that adversely affects the use of telecommunications access lines.

(18) "Speech-language pathologist" is defined by KRS 334A.020(3), and is limited to a person licensed by the board, as defined by KRS 334A.020(1).

(19) "Telecommunications Access Line" means the transmission of auditory, visual, and typed communication via electronic airwaves or hard-wired methods.

(20) "Telecommunications Access Program" is defined by KRS 163.525(1)(b).

Section 2. General Applicant Criteria. (1) An applicant shall be:

(a) A person who has resided in Kentucky for one (1) year prior to the date of application, as demonstrated by one (1) or more of the following. The person:

1. Is in possession of a valid driver's license or photo ID issued by the state of Kentucky;
2. Is currently registered to vote in Kentucky;
3. Owns an automobile registered in Kentucky;
4. Filed a Kentucky income tax return for the calendar year preceding the date of application;
5. Is stationed in Kentucky on active military orders for at least one (1) year as a member of the Armed Forces, or is a dependent of the Armed Forces member;
6. Is currently enrolled as a student at an institution of higher learning located in Kentucky and meets the residency requirements of 13 KAR 2:045; or
7. If none of the above is attainable, the person shall provide alternate verification of residency as approved by the KCDHH Executive Director;

(b) At least five (5) years of age and if the applicant is between five (5) and eighteen (18) years of age, the applicant's parents or guardians shall:

1. Apply on behalf of the child; and
2. Assume full responsibility for the equipment; and

(c) Deaf, hard of hearing, or speech impaired such that the applicant cannot use a telecommunications access line independently for communication without adaptive specialized telecommunications equipment.

(2) In addition to requirements listed in subsection (1) of this section, an applicant for a wireless STE shall be at least thirteen (13) years of age.

(3) An application shall be:

(a) Made on a "Telecommunications Access Program Application and Certification" form, using either hardcopy or electronic format;

(b) Signed, with an electronic signature if on the electronic form, and submitted in person, by facsimile, electronic mail, or by mail; and

(c) Accompanied by:

1. An electronic or hardcopy of a telephone or internet bill showing telephone number and name and address of the person being billed for residential telephone service, unless the applicant is applying under the conditions of Section 2(6) of this administrative regulation;
2. An electronic or hardcopy of the applicant's proof of residence; and
3. Document of certification, as required by subsection (5) of this section.

(4) An applicant shall provide additional supporting documentation to verify information provided on the application, if requested by KCDHH.

(5) An applicant shall provide professional certification of the extent and permanence of the applicant's disability.

(a) Certification shall be at the applicant's expense.

(b) Certification shall be performed and provided by:

1. A licensed physician, licensed PAC, or licensed APRN;

2. A licensed audiologist;

3. A licensed speech-language pathologist, which verifies that the applicant has the ability to access telecommunications independently;

4. A licensed hearing instrument specialist; or

5. With prior approval by KCDHH, a licensed or certified individual that works for a public or private agency providing direct services to deaf, hard of hearing, or speech-impaired individuals.

(6) Except for an individual receiving assistance from a program providing telephone services to persons normally unable to afford the services, or an applicant for a wireless device, an applicant shall subscribe to or have currently applied for telecommunications service, including:

(a) Installation of a telecommunications line in the applicant's home, at the applicant's expense; and

(b) Payment of monthly telecommunications bills.

(7) Eligible applicants shall be awarded program participation on a first-come, first-serve basis, in accordance with the approved date, as determined by the dated signature of the Telecommunications Access Program staff. Eligible applicants shall be placed on a waiting list during times of fiscal constraint.

(8) KCDHH shall distribute the STE in compliance with:

(a) The Model Procurement Code, KRS Chapter 45A; and

(b) 735 KAR 1:020.

(9) Not more than two (2) STEs, one (1) of which shall be a visual, auditory, or tactile signaler package, shall be distributed to a deaf, hard of hearing, or speech-impaired individual per telecommunications access line.

Section 3. Application Process. (1) The KCDHH staff shall provide assistance in completing forms if requested by an applicant.

(2) The Telecommunications Access Program staff shall review each application in the order the KCDHH office receives them, in order to determine if:

(a) All the necessary information is completed on the application;

(b) All required documentation is included; and

(c) All eligibility requirements are met.

(3) If the criteria in subsection 2 of this section are met, the application shall be approved, dated, and signed by the Telecommunications Access Program staff. The approved date shall determine the first-come, first-served roster.

(4) The KCDHH shall, within sixty (60) days of receipt of the application, notify an applicant if the application has been approved or rejected.

(5) The KCDHH shall, within sixty (60) days of receipt of the application, provide to an ineligible applicant, written reasons for the determination of ineligibility. An applicant denied participation may reapply if, due to a change in conditions, the eligibility requirements as delineated in Section 2 of this administrative regulation are met.

(6) Training to properly use the STE shall be provided to applicants upon request.

Section 4. An application shall be denied if:

(1) The applicant does not meet the eligibility requirements as established in KRS 163.525, this administrative regulation or 735 KAR 1:020;

(2) The applicant has received STE from the Telecommunications Access Program within the preceding four (4) years;

(3) The applicant is an active consumer of the Office of Vocational Rehabilitation and receives STE as part of an individual plan of employment, also known as an "IPE";

(4) The applicant has negligently or willfully damaged a STE previously received from the KCDHH's Telecommunications Access Program, or has violated another provision of the law governing the Telecommunications Access Program; or

(5) The applicant has the STE stolen, without a police report, or has lost or sold the STE.

Section 5. Replacing the Specialized Telecommunications Equipment. During times of fiscal constraint a reapplication shall be accepted and held pending until funds become available. An applicant shall provide verification of eligibility when the reapplication is processed. (1) A recipient may apply to replace the original STE if:

(a) The STE is damaged as a result of a natural disaster;

(b) There is a change in status, such as deteriorating vision or hearing;

(c) A new device has become available through the Telecommunications Access Program that is more appropriate to the recipient's disability than a device previously received through the program; or

(d) It has been four (4) years since the applicant last received STE.

(2) As funds are available, new STE to replace existing STE shall be issued to applicants who:

(a) Demonstrate eligibility; and

(b) Comply with the provisions of the administrative regulations governing the Telecommunications Access Program established in this administrative regulation and 735 KAR 1:020.

(3) Priority shall be given in the distribution of STE to first-time recipients during times of fiscal constraint.

(4)(a) If a replacement is requested because the STE is damaged as a result of a natural disaster, the recipient shall send the damaged equipment directly to the vendor as directed by Telecommunications Access Program staff.

(b)

If the vendor certifies that the equipment provided to the recipient is irreparable due to natural disaster, a replacement shall be issued to the recipient, upon reapplication, subject to:

1. Equipment availability;

2. Compliance with eligibility criteria established in this administrative regulation;

3. The first-come, first-served provision; and

4. Availability of funds.

(5) If the recipient obtains certification from an approved physician, PAC, audiologist, hearing instrument specialist, APRN, or speech-language pathologist stating that the recipient will benefit from another device available through the KCDHH Telecommunications Access Program due to a change in disability status or a new device becoming available, then a replacement shall be issued to the applicant based on eligibility criteria, first-come, first-served basis and availability of funds.

Section 6. Fraud. If a recipient obtained STE under false premises or through misrepresentation of facts on the application, or sold or gave away the STE, and the violation is documented, the recipient shall be ineligible to participate in the KCDHH Telecommunications Access Program thereafter.

Section 7. Confidentiality. All applicant and recipient information shall be kept confidential in compliance with the Open Records Law, KRS 61.878.

Section 8. Incorporation by Reference. (1) "Telecommunications Access Program Application and Certification", July 2018, is incorporated by reference and mirrors the electronic application.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the offices of the Kentucky Commission on the Deaf and Hard of Hearing, 632 Versailles Road, Frankfort, Kentucky 40601, phone 800-372-2907, V/TDD or (502) 573-2604 V/TDD, or 502-416-0607 VP, Monday through Friday, 8 a.m. to 4:30 p.m. (21 Ky.R. 2866; Am. 22 Ky.R. 48; eff. 7-6-95; 23 Ky.R. 1443; eff. 11-7-96; 25 Ky.R. 1146; eff. 1-19-99; 28 Ky.R. 698; 1126; eff. 11-5-2001; 33 Ky.R. 1706; 2296; eff. 3-9-07; 35 Ky.R. 2565; 36 Ky.R. 65; eff. 7-13-2009; 38 Ky.R. 1223; 1447; eff. 3-2-2012 – Amd 44 Ky.R. 2388; 45 Ky.R. 34; eff. 8-6-2018.)