

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Prevention and Quality Improvement
(Amendment)

902 KAR 21:020. Kentucky Colon Cancer Screening Program.

RELATES TO: KRS 205.520,~~[211.090(3), 211.180(1),]~~ 214.540, 214.542, 214.543, 304.17A-257, 42 U.S.C. 9902(2)~~[-214.544, Chapter 304.17A]~~

STATUTORY AUTHORITY: KRS 194A.050(1), 214.542(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 214.542(6) requires the Department for Public Health~~[cabinet]~~ to promulgate administrative regulations to implement the Kentucky Colon Cancer Screening Program. This administrative regulation establishes the eligibility criteria, services, and requirements for participation in the colon cancer screening program.

Section 1. Definitions. (1) "Applicant" means an individual desiring services paid in part by the screening program.

(2) "Contractor" means a person or facility that agrees to the terms of participation of the screening program in contract and ensures services are delivered pursuant to the screening program terms.

(3) "Department" is defined by KRS 214.540(1)(a).

(4) "Program" is defined by KRS 214.540(1)(b)~~[means the Department for Public Health or its designated representative.~~

~~(4) "Screening program" means the Kentucky Colon Cancer Screening Program administered by the department].~~

Section 2. Eligibility Criteria. (1) In order to receive a service established in Section 3 of this administrative regulation, an applicant shall:

(a) Meet the eligibility for screening pursuant to American Cancer Society Colorectal Cancer Screening Guidelines;

(b) Be a legal resident of Kentucky;

(c) Have an individual income at or below 300 percent of the federal poverty level, established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2); and

(d) If covered by health insurance, have an out-of-pocket maximum that is five (5) percent or more of the individual's annual income.

(2) A service received without prior authorization from the screening program shall~~is not eligible to~~ be covered.

Section 3. Services. If funding is available, the services to be paid in part by the~~screening~~ program shall include colon cancer screening tests and may include:

(1) Referral, examination, and rescreening for individuals for whom further examination or treatment is indicated by the colon cancer screening;

(2) Surveillance; and

(3) Treatment.

Section 4. Contractor Responsibility. A contractor shall:

- (1) Complete a KCCSP 101~~[form]~~, Kentucky Colon Cancer Screening Program Eligibility and Enrollment, with the applicant;
- (2) Review the completed KCCSP 102~~[form]~~, Kentucky Colon Cancer Screening Program Affidavit;
- (3) Determine applicant eligibility pursuant to Section 2 of this administrative regulation;
- (4) If the applicant is eligible, provide service or referral for service; and
- (5) Report program data into the data collection system pursuant to Section 5 of this administrative regulation.

Section 5. Fees. (1) A nominal fee up to five (5) dollars may be charged for colon cancer screening services as specified by the Department for Public Health.

(2) A contractor shall have approval of the department before charging an applicant fee.

Section 6. Data Collection System. The contractor shall submit to the department:

(1) The total number of colon cancer screening services specified in Section 3 conducted;
and

(2) The applicant demographic information as documented on the KCCSP 101 form~~[The department shall establish a data collection system in accordance with KRS 214.542(5)].~~

Section ~~7~~[6]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form~~["]~~KCCSP 101, "Kentucky Colon Cancer Screening Program Eligibility and Enrollment", ~~11/2018~~[2/2017]; and

(b) Form~~["]~~KCCSP 102, "Kentucky Colon Cancer Screening Program Affidavit", ~~11/2018~~[2/2017].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, First Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: June 27, 2019

FILED WITH LRC: July 11, 2019 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on August 26, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by August 19, 2019, five (5) 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 attends 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 this proposed administrative regulation until August 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legisla-

tive and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov.; or Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the eligibility criteria, services, and requirements for participation in the colon cancer screening program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the Colon Cancer Screening Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 214.540 establishes the colon cancer screening program and KRS 214.542 requires the department to promulgate administrative regulations for the implementation of the colon cancer screening program including eligibility criteria and data collection methodology.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the process for enrolling individuals in the colon cancer screening program and provides the data collection information necessary to monitor the number of individuals screened, including demographic information, the types of screening tests performed, examinations, surveillance, treatments, and rescreening services.

(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: The amendment to this administrative regulation updates the material incorporated by reference. The previous target age to start colon cancer screening was fifty (50). It is now recommended the target age to start colon cancer screening be lowered to forty-five (45) when a person is shown to be at an increased or high risk for colon cancer.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure providers enrolling in the Colon Cancer Screening Program are using the most up to date version of the Kentucky Colon Cancer Screening Program Eligibility and Enrollment form (KCCSP 101).

(c) How the amendment conforms to the content of the authorizing statutes: KRS 214.542(6) requires the department to collect data regarding the colon cancer screening program. The updated version of the KCCSP 101 allows for accurate and up to date data collection.

(d) How the amendment will assist in the effective administration of the statutes: By updating the KCCSP 101 to reflect current recommendations for colon cancer screening, this amendment will assist the cabinet in ensuring all data collected conforms to the requirements of KRS 214.542(6).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Uninsured or underinsured individuals age 45 to 50 who are identified as being at increased or high risk for colon cancer will be impacted by this administrative regulation. Currently enrolled healthcare providers, and those seeking enrollment will also be impacted by this administrative regulation.

(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 questions (3) will have to take to comply with this administrative regulation or amendment: Enrolled healthcare providers will need to be aware of the changes to the KCCSP 101 form to ensure they are using the most up to date version. In addition, they will need to be aware that individuals who are age 45 to 50 who and are identified to be at an increased or high risk for colon cancer can now be enrolled in the screening program.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): Participation in the colon cancer screening program is voluntary. Costs are variable and depend upon number of enrolled healthcare providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Kentucky Colon Cancer Screening Program works to increase the number of colon cancer screenings. Increased screenings can lead to lowered morbidity and mortality from colon cancer, and reduce the costs associated with colon cancer treatments.

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

(a) Initially: This is an ongoing program. The legislature awarded a total of \$500,000 for FY '19 and another \$500,000 for FY '20. Those funds are used to contract with medical providers who can offer the low or no cost screening colonoscopy.

(b) On a continuing basis: Continued funding in the amount of \$500,000 will be needed to sustain the low or no cost colon cancer screening program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and any funding received from public or private awards are used to fund this program.

(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: An increase in fees is not necessary to implement this administrative regulation. Continued funding in the amount of \$500,000 is necessary to continue operating the colon cancer screening program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. A nominal fee not to exceed five (5) dollars is established in this administrative regulation. A contractor shall have approval from the department before charging an applicant a fee.

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation is applicable to all healthcare providers enrolled in the Kentucky Colon Cancer Screening Program and individuals meeting the eligibility requirements.

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? The Kentucky Colon Cancer Screening Program within the Department for Public Health will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, KRS 214.540, and KRS 214.542.

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 gov-

ernment (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(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 does not generate revenue.

(c) How much will it cost to administer this program for the first year? A total of \$1 Million was awarded by the legislature for fiscal years 2019 and 2020. Continued yearly funding in the amount of \$500,000 is needed to sustain this program.

(d) How much will it cost to administer this program for subsequent years? Continued funding in the amount of \$500,000 is needed to sustain this program.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: