921 KAR 2:006. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

RELATES TO: KRS 205.010, 205.2005, 205.703, 205.720(1), 45 C.F.R. Parts 260-265, 7 U.S.C. 2011-2036, 8 U.S.C. 1101-1524,, 21 U.S.C. 802(6), 22 U.S.C. 7102(8), 7105, 38 U.S.C. 101, 107, 1101, 1301, 1304, 5303A(d), 42 U.S.C. 416, 601-619, 1381-1384, 1396, Pub. L. 111-118

STATUTORY AUTHORITY: KRS 194A.050(1), 205.200(2), (3), 205.2003(1), 42 U.S.C. 601-619

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate all administrative regulations authorized by applicable state laws necessary to operate the programs and fulfill the responsibilities vested in the cabinet or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 205.2003(1) requires the secretary to promulgate administrative regulations to develop a work program for recipients of public assistance under Title IV-A of the Federal Social Security Act, 42 U.S.C. 601 to 619. KRS 205.200(2) requires the secretary to promulgate administrative regulations prescribing the conditions of eligibility for public assistance in conformity with 42 U.S.C. 602 and federal regulations. KRS 205.200(3) authorizes the secretary to promulgate administrative regulations prescribing as a condition of eligibility that a needy child regularly attend school, and the degree of relationship of the person or persons in whose home the needy child must reside. This administrative regulation establishes the technical requirements of school attendance, residence, citizenship, deprivation, living with a relative, age, one (1) category of assistance, cooperation in child support activities, strikers, minor teenage parent provisions, time limits and potential entitlement for other programs for eligibility for benefits from the Kentucky Transitional Assistance Program (K-TAP).

Section 1. Definitions.

(1) "Assistance" is defined by 45 C.F.R. 260.31.

(2) "Barriers" means a limitation in an individual's ability to become employed and self sufficient or to comply with K-TAP requirements.

(3) "Battered or subjected to extreme cruelty" means an individual who has been subjected to:

(a) A physical act that resulted in, or threatened to result in, physical injury to the individual;

(b) Sexual abuse;

(c) Sexual activity involving a dependent child;

(d) Being forced as the caretaker relative of a dependent child to engage in a nonconsensual sexual act or activity;

(e) Threat of, or an attempt at, physical or sexual abuse;

(f) Mental abuse; or

(g) Neglect or deprivation of medical care.

(4) "Benefit group" means a group composed of one (1) or more children and may include as a specified relative a person pursuant to Section 11 of this administrative regulation.

(5) "Child" means an individual:

(a) Age fifteen (15) or under;

(b) Age sixteen (16), seventeen (17), or eighteen (18) in regular full-time attendance in elementary, junior high, or high school or equivalent level of vocational or technical school; or

(c) Under age eighteen (18) and a high school graduate.

(6) "Domestic violence" means the same as the definition for "battered or subjected to extreme cruelty" pursuant to subsection (3) of this section.
(7) "Employed" means a person who performs a physical or mental activity in exchange for direct monetary compensation.
(8) "Family member" means an individual:
(a) Related by blood, marriage, or adoption to a child or a work-eligible individual, as defined by 45 C.F.R. 261.2(n), in the benefit group; or
(b) Who is a member of an unmarried couple and has a child in the benefit group in common with the work-eligible individual, as defined by 45 C.F.R. 261.2(n).
(9) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families (TANF) money payment program for a child who is deprived of parental support or care due to:
(a) Death of one (1) parent;
(b) Continued voluntary or involuntary absence of one (1) parent; or
(c) If both parents are in the home:
1. Physical or mental incapacity of one (1) parent; or
2. Unemployment of at least one (1) parent.
(10) "Kentucky Works Program" or "KWP" means a program that assists in obtaining education, training, experience and employment necessary to leave public assistance.
(11) "Minor teenage parent" means an individual who:
(a) Has not attained eighteen (18) years of age;
(b) Is not married, or is married and not living with the spouse; and
(c) Has a minor child in the applicant's or recipient's care.
(12) "Penalized individual" means a person who is required to be included in the benefit group, but fails to fulfill an eligibility requirement that causes a reduction in benefits of the benefit group. If otherwise eligible, a penalized individual remains a member of the benefit group.
(13) "Prior labor market attachment" or "PLMA" means the parent has earned not less than $1,000 during the twenty-four (24) months prior to the application for K-TAP benefits based on the deprivation of unemployment pursuant to Section 10 of this administrative regulation.
(14) "Qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive K-TAP, is:
(a) Lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101 to 1524;
(b) Granted asylum pursuant to 8 U.S.C. 1158;
(c) A refugee who is admitted to the United States pursuant to 8 U.S.C. 1157;
(d) Paroled into the United States pursuant to 8 U.S.C. 1182(d)(5) for a period of at least one (1) year;
(e) An alien whose deportation is being withheld pursuant to:
1. 8 U.S.C. 1253, as in effect prior to April 1, 1997; or
2. 8 U.S.C. 1231(b)(3);
(f) Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7) as in effect prior to April 1, 1980;
(g) An alien who is granted status as a Cuban or Haitian entrant pursuant to 8 U.S.C. 1522;
(h) Battered or subjected to extreme cruelty in the United States:
1. By a:
a. Spouse or parent; or
b. Member of the spouse or parent's family residing in the same household as the alien, and the spouse or parent consented to, or acquiesced in, the battery or cruelty; and
2. If:

a. The alien no longer resides in the household with the individual responsible for the battery or cruelty;

b. There is a substantial connection between the battery or cruelty and the need for the benefit; and

c. The alien has been approved or has a petition pending for:

(i) Status as a spouse or child of a United States citizen pursuant to 8 U.S.C. 1154(a)(1)(A)(ii), (iii), or (iv);

(ii) Classification pursuant to 8 U.S.C. 1154(a)(1)(B)(ii) or (iii); or

(iii) Suspension of deportation and adjustment of status pursuant to 8 U.S.C. 1254(a)(3);

(i) A child of an alien or a child who is an alien who has been battered or subjected to extreme cruelty in the United States:

1. By a:

a. Spouse or parent of the alien without the active participation of the alien in the battery or cruelty; or

b. Member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to the battery or cruelty; and

2. If:

a. The alien no longer resides in the household with the individual responsible for the battery or cruelty;

b. There is a substantial connection between the battery or cruelty and the need for the benefit; and

c. The alien has been approved or has a petition pending for:

(i) Status as a spouse or child of a United States citizen pursuant to of 8 U.S.C. 1154(a)(1)(A)(ii), (iii), or (iv);

(ii) Classification pursuant to 8 U.S.C. 1154(a)(1)(B)(ii) or (iii); or

(iii) Suspension of deportation and adjustment of status pursuant to 8 U.S.C. 1254(a)(3);

(j) An alien who is lawfully residing in Kentucky and is:

1. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

2. On active duty other than active duty for training in the Armed Forces of the United States and who fulfils the minimum active duty service requirements pursuant to 38 U.S.C. 5303A(d);

3. The spouse or surviving spouse who is not remarried if the marriage fulfils the requirements in 38 U.S.C. 1304, or unmarried dependent child of an individual pursuant to subparagraph 1 or 2 of this paragraph;

4. A victim, a child of a victim, or spouse of a victim of a severe form of trafficking who is admitted to the United States pursuant to 22 U.S.C. 7105; or

5. A parent or a sibling of a victim of a severe form of trafficking who is admitted to the United States pursuant to 22 U.S.C. 7105 and is under eighteen (18) years of age;

(k) An alien who is admitted to the United States as an Amerasian immigrant pursuant to 8 U.S.C. 1101; or

(l) An alien admitted to the United States as an Afghan or Iraqi special immigrant on or after December 19, 2009, in accordance with Pub. L. 111-118, Section 8120.

(15) "Qualifying parent" means the parent who meets PLMA.

(16) "Recipient" means an individual receiving K-TAP including a specified relative or a specified relative receiving on behalf of a child.

(17) "Sanctioned individual" means a person who is required to be included in the benefit group, but who is excluded from the benefit group due to failure to fulfill an eligibility

requirement.

(18) "Second chance home" means an entity that:

(a) Provides a minor teenage parent a supportive and supervised living arrangement; and

(b) Requires a minor teenage parent to learn:

1. Parenting skills, including child development;

2. Family budgeting;

3. Health and nutrition; and

4. Other skills to promote long-term economic independence and the well-being of the child of the minor teenage parent.

(19) "Severe form of trafficking in persons" is defined by 22 U.S.C. 7102(8).

(20) "Striker" means an employed individual who is participating in:

(a) A work stoppage;

(b) A concerted slowdown of work; or

(c) An interruption of operations at his or her place of employment.

(21) "Supplemental Security Income" or "SSI" means a monthly cash payment made pursuant to:

(a) 42 U.S.C. 1381 to 1384 to the aged, blind and persons with a disability;

(b) 42 U.S.C. 1382e; or

(c) 42 U.S.C. 1382.

(22) "Unemployed parent case" or "UP case" means K-TAP benefits paid to a family if both parents are in the home and at least one (1) parent is unemployed.

(23) "Work" means participation in a KWP activity pursuant to 921 KAR 2:370, Section 2(1)(c).

Section 2. Eligible Parent.

(1) An eligible parent shall include the natural, adopted, or adjudicated parent of the child.

(2) An adjudicated parent shall include an administrative establishment of the relationship.

(3) A stepparent shall not be an eligible parent.

Section 3. Age and School Attendance.

(1) The definition of a "child", pursuant to Section 1(5) of this administrative regulation, shall be met for at least one (1) person in the home.

(2) Verification of school attendance shall be required for a:

(a) Child who is sixteen (16), seventeen (17), or eighteen (18) years of age, in order to determine his continuing eligibility; or

(b) Minor teenage parent pursuant to Section 20(1) of this administrative regulation.

(3) Unless the parent states the child shall not reenter school, a child shall be considered in regular attendance in a month he or she is not attending because of:

(a) Official school or training program vacation;

(b) Illness;

(c) Convalescence; or

(d) Family emergency.

(4) Verification of a high school diploma for a child under age eighteen (18) who is a high school graduate shall be required.

Section 4. Enumeration.

(1) A person included in the K-TAP case shall furnish his or her Social Security number or apply for a number if one (1) has not been issued.

(2) Refusal to furnish the Social Security number or apply for a number shall result in the ineligibility of the person whose Social Security number is not furnished.

(3) The cabinet shall assist an individual in making application for a Social Security number, if needed.

Section 5. Residence and Citizenship.

(1) Residence. A resident shall be an individual who:

(a) Is living in the state voluntarily and not for a temporary purpose; or

(b)

1. Entered the state with a job commitment or seeking employment; and
2. Is not receiving assistance funded by a block grant program pursuant to 42 U.S.C. 601 to 619 from another state.

(2) Citizenship.

(a) Except as provided in paragraphs (b) and (c) of this subsection, K-TAP shall be provided only to a United States citizen.

(b) A qualified alien, pursuant to Section 1(14) of this administrative regulation, who entered the United States before August 22, 1996, who is otherwise eligible for K-TAP, shall be eligible for assistance.

(c) A qualified alien, pursuant to Section 1(14) of this administrative regulation, who entered the United States on or after August 22, 1996, shall not be eligible for K-TAP for a period of five (5) years beginning on the date of the alien's entry into the United States. The following exceptions shall apply to this provision:

1. An alien who is admitted to the United States as a refugee pursuant to 8 U.S.C. 1157;
2. An alien who is granted asylum pursuant to 8 U.S.C. 1158;
3. An alien whose deportation is being withheld pursuant to:
   a. 8 U.S.C. 1253, as in effect prior to April 1, 1997; or
   b. 8 U.S.C. 1231(b);
4. An alien who is lawfully residing in Kentucky and is:
   a. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;
   b. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements pursuant to 38 U.S.C. 5303A(d);
   c. The spouse or unremarried surviving spouse if the marriage fulfills the requirements in 38 U.S.C. 1304, or unmarried dependent child of an individual described in clause a or b of this subparagraph;
   d. A victim, a child of a victim, or spouse of a victim of a severe form of trafficking in persons who is admitted to the United States pursuant to 22 U.S.C. 7105; or
   e. A parent or a sibling of a victim of a severe form of trafficking in persons who is admitted to the United States pursuant to 22 U.S.C. 7105 and is under eighteen (18) years of age;
5. An alien who is a Cuban or Haitian entrant pursuant to 8 U.S.C. 1522;
6. An alien who is admitted to the United States as an Amerasian immigrant pursuant to 8 U.S.C. 1101; or
7. An alien admitted to the United States as an Afghan or Iraqi special immigrant on or after December 19, 2009, in accordance with Pub. L. 111-118, Section 8120.

(d) Failure of the parent or other adult applying for or receiving benefits to verify citizenship or alien status shall cause the needs of the parent or other adult to be removed from the case.

Section 6. Deprivation.

(1) To be eligible for K-TAP, a child shall be in need and shall be deprived of parental support or care pursuant to Section 1(9) of this administrative regulation.

(2) A specific deprivation factor under Section 7, 8, 9, or 10 of this administrative regulation shall be verified for a child for whom assistance is approved.

Section 7. Deprivation Due to Death. The death of either parent shall qualify a child as deprived due to death.

Section 8. Deprivation Due to Absence.

(1) To be considered deprived due to absence, a needy child shall be physically separated from the parent.

(2) Absence may be voluntary or involuntary.

(a) Voluntary absence shall include:

1. Divorce;
2. Legal separation;
3. Marriage annulment;
4. Desertion of:
   a. Thirty (30) days or more if the parent:
      (i) Voluntarily leaves; or
      (ii) Refuses to accept the child into his or her home; or
   b. Less than thirty (30) days if:
      (i) The child leaves the parent because the parent was requiring the child to live under a circumstance hazardous to the health or morals of the child;
      (ii) One (1) of the parents in the home is required by the court to leave the home because that parent was requiring the child to live under a circumstance hazardous to the health or morals of the child;
      (iii) The child is voluntarily placed with a relative following a finding by the cabinet that the home is unsuitable;
      (iv) The child is placed by the court with a specified relative other than the parent;
      (v) The child is eligible and receiving benefits based on the unemployment or the incapacity of a parent and one (1) of the parents subsequently leaves the home; or
      (vi) Both parents are absent from the home;
5. Forced separation; or
6. Birth out-of-wedlock.

(b) Involuntary absence shall include:

1. Commitment to a penal institution for thirty (30) days or more;
2. Long-term hospitalization;
3. Deportation; or
4. Single parent adoption.

(3) A parent who is a convicted offender, but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday shall be considered absent from the home.

Section 9. Deprivation Due to Incapacity.

(1) A determination of a deprivation of incapacity shall be based on a full consideration and assessment of the following factors affecting the claimant:

(a) Medical;
(b) Social; and
(c) Economic.

(2) If a verified medical condition exists, then all relevant social and economic factors shall be considered to determine whether the parent's condition is the cause of and results in the parent's inability to support or care for the child.

(3) Incapacity shall exist in a case if the following criteria are met:

(a) A medical determination is made that one (1) parent has a physical or mental disability, illness, or impairment that:

1. Was present at the time of application; and
2. Has continued or is expected to last for a period of at least thirty (30) calendar days. The thirty (30) day period may include a period the claimant is undergoing:
   a. Planned diagnostic study; or
   b. Evaluation of rehabilitation potential; and

(b) A nonmedical evaluation determines that the disability, illness, or impairment is debilitating to the extent of reducing substantially or eliminating the parent's ability to support or care for an otherwise eligible child.

(4) A determination regarding incapacity shall be made by:

(a) Field staff if the following criteria are met:

1. The parent declares physical inability to work;
2. The worker observes some physical or mental limitation; and
3. The parent:
   a. Is receiving SSI;
   b. Is age sixty-five (65) or over;
   c. Has been determined to meet the definition of blindness pursuant to 42 U.S.C. 1382c or 42 U.S.C. 416 by the Social Security Administration;
   d. Has been determined to meet the definition of permanent and total disability pursuant to 42 U.S.C. 1382c or 42 U.S.C. 416 by either the:
      (i) Social Security Administration; or
      (ii) Medical review team of the cabinet;
   e. Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction with no reexamination requested, and there is no visible improvement in condition;
   f. Is receiving Retirement, Survivors and Disability Insurance, federal black lung benefits, or railroad retirement benefits based on disability as evidenced by an award letter;
   g. Is receiving Veterans Administration benefits based on 100 percent disability, as verified by an award letter;
   h. Is currently hospitalized and a statement from the attending physician indicates that incapacity will continue for at least thirty (30) days. If application was made prior to the admission, a statement from the physician shall be requested to indicate if incapacity existed as of the application date;
   i. Is recovering from surgery, illness, or injury that requires a period of time for recovery, up to six (6) weeks, as specified by a physician statement. A period longer than six (6) weeks shall be determined through the medical review team;
   j. Is on approved sick leave recovering from surgery, illness, or injury for the duration of the approved sick leave if the employer is holding the job for the individual's return, as verified by the employer; or
   k. Is a woman in a high risk pregnancy, during the duration of the pregnancy, as verified by physician statement; or

(b) The medical review team, consisting of a licensed physician and a social worker employed by the cabinet, if a determination by field staff is precluded.

(5) The factors to be considered by the medical review team in making the medical determination shall include:

(a) The claimant's medical history and subjective complaint regarding an alleged physical or mental disability, illness, or impairment; and

(b) Competent medical testimony relevant to whether:

1. A physical or mental disability, illness, or impairment exists; and

2. The disability, illness, or impairment is:
a. Sufficient to reduce the parent's ability to support or care for a child; and
b. Likely to last thirty (30) days.

(6) The factors to be considered in making the nonmedical evaluation shall include:
(a) The claimant's:
1. Age;
2. Employment history;
3. Vocational training;
4. Educational background; and
5. Subjective complaint regarding the alleged effect of the physical or mental condition on the claimant's ability to support or care for the child; and
(b) The extent and accessibility of employment opportunity available in the claimant's area of residence.

(7) A written report shall be made of the determination under this section.

(8) A claimant shall be provided timely and adequate notice of and an opportunity for a fair hearing pursuant to 921 KAR 2:055.

Section 10. Deprivation Due to Unemployment.

(1) The determination that a child is deprived of parental support due to the unemployment of a parent if both parents are in the home shall be based on the determination that the qualifying parent meets the criteria of unemployment pursuant to subsection (3) of this section and has a PLMA, pursuant to Section 1(13) of this administrative regulation.

(2) The qualifying parent designation shall remain with the same parent as long as assistance is received on the basis of the same application.

(3) A parent shall be considered to be unemployed if employed:
(a) Less than 100 hours in a calendar month; or
(b) In excess of 100 hours in a particular month if the employment is intermittent and the excess is of a temporary nature, if the parent:
1. Was under the 100 hour standard in the prior two (2) months, from the month of application for K-TAP; and
2. Is expected to be under the 100 hour standard in the following month of application for K-TAP.

(4) The 100 hour requirement for unemployment in subsection (3) of this section shall apply to a K-TAP applicant.

(5) PLMA shall be established if the parent:
(a) Attests to the amount of earnings pursuant to Section 1(13) of this administrative regulation with the following requirements:
1. Gross income from self-employment and farming shall qualify as earned income in determining PLMA; and
2. The self-employed individual shall not have to realize a profit to meet this requirement;
(b) Within twelve (12) months prior to application, received unemployment compensation; or
(c) Is currently receiving unemployment compensation or if potentially eligible, has made application for and complies with the requirements to receive unemployment insurance benefits.

(6) In determining whether or not criteria in subsection (5) of this section are met, two (2) semesters of full-time school attendance, as defined by the school or institution, may be substituted for $500 of the $1,000 earnings.

(7) Unemployment shall not exist if the qualifying parent:
(a) Is on strike;

(b) Is temporarily unemployed:
1. Due to weather condition or lack of work;
2. If there is a job to return to; and
3. Return can be anticipated within thirty (30) days or at the end of a normal vacation period;
(c) Is unavailable for full-time employment;
(d) Is under contract for employment, unless a written statement from the employer verifies that the individual is subject to release from the contract if full-time employment is secured;
(e) Has not met the criteria of unemployment for at least thirty (30) days;
(f) Is not:
1. Registered for work pursuant to 921 KAR 2:370, Section 4(3); or
2. Subject to KWP, pursuant to 921 KAR 2:370;
(g) Has refused a bona fide offer of employment or training for employment without good cause, pursuant to 921 KAR 2:370, Section 6(1), in the thirty (30) days prior to UP eligibility or during the course of receipt of UP benefits; or
(h) Has been discontinued in accordance with 921 KAR 2:370, Section 7(2)(a)2, for less than thirty (30) days.

Section 11. Living with a Specified Relative.
(1) To be eligible for K-TAP, a needy child shall be living in the home of a relative as follows:
(a) A blood relative, including a relative of the half-blood;
(b) A person listed in paragraph (a) of this subsection if the alleged father has had relationship established through the administrative determination process pursuant to Section 12 of this administrative regulation;
(c) An adoptive parent, the natural and other legally adopted child and other relative of the adoptive parent; or
(d) A relative by marriage, even if the marriage may have terminated, if termination occurred after the birth of the child, as follows:
1. A couple that has been considered married by a state with a common-law marriage provision shall be considered married in Kentucky for K-TAP eligibility purposes; and
2. The statement of the applicant or recipient that the couple's marriage is recognized from another state as a common-law marriage shall be accepted as verification by the cabinet.
(2) Cash assistance shall not be provided for a child who is absent, or expected to be absent, from the home for a period of thirty (30) consecutive days or more unless good cause exists. Good cause for absence, or expected absence, of the child from the home for a period of thirty (30) consecutive days or more shall exist if the parent continues to exercise care and control of the child and the child is absent due to:
(a) Medical care;
(b) Attendance at school including boarding school;
(c) College or vocational school;
(d) Foster care, as verified by the cabinet; or
(e) A short visit with a friend or relative if it is intended that the child will return to the home and the parent or specified relative maintains parental control of the child.
(3)
(a) A child shall be removed from the benefit group the first administratively feasible month following thirty (30) consecutive days from the date the child is placed in foster care.

(b) If the only eligible child in the benefit group is absent due to foster care, the otherwise eligible parent or parents in the benefit group shall:

1. Remain eligible for sixty (60) days from the date the child is placed in foster care; and

2. Be discontinued the first administratively feasible month following sixty (60) days from the date the child is placed in foster care if no other eligible child is in the benefit group.

(4)

(a) If a specified relative fails to notify the cabinet of a thirty (30) consecutive day or more absence of the child for a reason other than one (1) of the good cause reasons listed in subsection (2) of this section, the specified relative shall not be eligible for his or her share of K-TAP benefits during the period of the child's unreported absence of thirty (30) consecutive days or more.

(b) Ineligible benefits received by the specified relative and child during the period of the child's unreported absence of thirty (30) consecutive days or more shall be recouped pursuant to 921 KAR 2:016, Section 11.

Section 12. Administrative Establishment of Relationship.

(1) An administrative determination of relationship as established in this administrative regulation shall be used only to establish relationship for K-TAP eligibility if the following type of evidence is present:

(a) A birth certificate listing the alleged parent;

(b) Legal document which shall include:

1. Hospital record;

2. Juvenile court record;

3. Will; or

4. Other court record that clearly indicates the relationship of the alleged parent or relative;

(c) Receipt of statutory benefits as a result of the alleged parent's circumstance;

(d) Documents declaring voluntary paternity as specified in 901 KAR 5:070, Section 1; or

(e) A sworn statement or affidavit of either parent acknowledging relationship plus one (1) of the following:

1. School record;

2. Bible record;

3. Immigration record;

4. Naturalization record;

5. Church document, such as baptismal certificate;

6. Passport;

7. Military record;

8. U.S. Census record; or

9. Notarized statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.

(2) Rebuttal of administrative relationship shall occur if the parent or, in the absence of the parent, the caretaker relative:

(a) Alleges the evidence pursuant to subsection (1)(a) or (b) of this section is erroneous;

(b) Provides substantiation of the erroneous information; and

(c) Provides a notarized statement or affidavit:

1. Acknowledging the erroneous information; and

2. Containing the correct information on the actual alleged parent.

(3) Presence of the notarized statement or affidavit pursuant to subsection (2)(c) of this section shall serve as rebuttal to the evidence present in subsection (1)(a) or (b) of this section and a determination of relationship shall not be acknowledged.

Section 13. One

(1) Category of Assistance. (1) A child or adult relative shall not be eligible for K-TAP if receiving SSI.

(2) If a child who receives SSI meets the K-TAP requirements of age, deprivation, and living in the home of a specified relative, the specified relative shall be approved for K-TAP if all other eligibility factors are met.

(3) If a child who receives foster care benefits meets the K-TAP requirements of age, deprivation, and living in the home of a specified relative, the specified relative shall be approved for K-TAP if all other eligibility factors are met.

Section 14. Strikers.

(1) A family shall be ineligible for benefits for a month the parent, with whom the child is living on the last day of the month, is participating in a strike.

(2) A specified relative other than the parent shall be ineligible for benefits for a month if, on the last day of the month, the relative is participating in a strike.

Section 15. Work Registration. An adult applicant or recipient of the K-TAP benefit group shall register for work pursuant to 921 KAR 2:370, Section 4(3).

Section 16. Assessment. A work-eligible individual, as defined by 45 C.F.R. 261.2(n), shall complete an assessment pursuant to 921 KAR 2:370.

Section 17. Kentucky Works Program. The technical requirements for participation in KWP shall be pursuant to 921 KAR 2:370.

Section 18. Cooperation in Child Support Activities.

(1) In cooperation with the Department for Income Support, the Department for Community Based Services shall attempt to secure parental support, and if necessary establish paternity, for a child receiving assistance pursuant to Section 1(1) of this administrative regulation, who has a parent absent from the home due to:

(a) Divorce;

(b) Desertion;

(c) Birth out-of-wedlock;

(d) Legal separation;

(e) Forced separation; or

(f) Marriage annulment.

(2) With the exception of a good cause reason, pursuant to subsections (4) and (5) of this section, avoidance of the twenty-five (25) percent reduction of the amount of the payment maximum in K-TAP benefits pursuant to subsection (7) of this section shall be dependent upon the applicant's or recipient's cooperation in child support activities that shall include:

(a) Identifying the noncustodial parent or obligor;

(b) Providing information to assist in the:

1. Location of the noncustodial parent or obligor;

2. Enforcement of a child support order; or

3. Review or modification of a child support order;

(c) Establishing paternity, if required;

(d) Establishing, modifying or enforcing a child support order; and

(e) Forwarding a child support payment received to the state's centralized collection agency.

(3) The cabinet shall inform the applicant or recipient of the individual's right to file a good cause claim for refusing to cooperate in a child support activity.
(4) The applicant or recipient shall be excused from penalty for failure to cooperate with a child support activity, pursuant to subsection (2) of this section, if one (1) of the following criteria is met:
(a) Cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the:
1. Child; or
2. Caretaker relative to an extent that it would reduce the capacity to care for the child adequately;
(b) The child was conceived as a result of incest or forcible rape and the cabinet believes it would be detrimental to the child to require the applicant's or recipient's cooperation;
(c) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction and the cabinet believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or
(d) The applicant or recipient is being assisted by a public or licensed private social service agency to resolve whether to keep the child or release the child for adoption if:
1. Discussion has not gone on for more than three (3) months; and
2. The cabinet believes it would be detrimental to the child to require the applicant's or recipient's cooperation.
(5) Unless an extension is granted, the applicant or recipient shall have thirty (30) days from the date the good cause claim is made to provide evidence to substantiate the claim.
(a) Evidence used to determine good cause shall include:
1. Birth certificate, medical information, or law enforcement record indicating that the child was conceived as a result of incest or forcible rape;
2. Court document or other record indicating legal proceedings for adoption of the child by a specific family is pending before a court of competent jurisdiction;
3. Record or other evidence indicating the noncustodial parent, or obligor, or the alleged parent might inflict physical or emotional harm on the child or caretaker relative;
4. A written statement from a public or licensed private social service agency that assistance is being given to the applicant or recipient to resolve the issue of whether to keep the child or relinquish the child for adoption, and the issue has not been pending more than three (3) months; or
5. Notarized statement from an individual, other than the applicant or recipient, with knowledge of the circumstance that provides the basis for the good cause claim.
(b) In each good cause determination based upon anticipation of serious emotional harm to the child or caretaker relative, the following shall be considered:
1. The present emotional state of the individual subject to emotional harm;
2. The emotional health history of the individual;
3. The extent and probable duration of the individual's emotional impairment; and
4. The extent of involvement required by the individual in establishing paternity or enforcing a support obligation.
(c) If the good cause claim is based on the anticipation of physical harm to the child or caretaker relative, and corroborative evidence is not submitted, the cabinet shall conduct an investigation if it is believed that:
1. Corroborative evidence is not available; and
2. The claim is credible without corroborative evidence.
(d) If the cabinet conducts an investigation of a good cause claim, it shall not contact the noncustodial parent or obligor, or the alleged parent regarding support, unless the contact is necessary to establish the good cause claim.

(e) If it is necessary for the cabinet to contact the noncustodial parent, or obligor, or the alleged parent during the investigation of a good cause claim, the worker shall notify the applicant or recipient of the proposed contact to either:

1. Obtain permission for the contact; or
2. Enable the applicant or recipient to:
   a. Present additional evidence or information so that the contact shall be unnecessary;
   b. Withdraw the application for assistance or request discontinuance of K-TAP; or
   c. Have the good cause claim denied.

(6) After receipt of evidence to substantiate the good cause claim or conducting an investigation, the cabinet shall:

(a) Document the case;

(b) Determine that good cause:

1. Exists and a support activity cannot be initiated without endangering the:
   a. Best interests of the child; or
   b. Physical or emotional health of the child or the relative; or
2. Does not exist;

(c) Advise the applicant or recipient of the result of the good cause claim determination; and

(d) Identify each case that good cause is established, but may be subject to change, for subsequent review.

(7) If the specified relative refuses to cooperate without good cause criteria being claimed, or claimed but not considered to be met by the cabinet, K-TAP benefits shall be reduced by twenty-five (25) percent of the amount of the maximum payment for the appropriate family size pursuant to Section 9 of 921 KAR 2:016.

(8) If, after the reduction of the K-TAP payment for failure to cooperate, the specified relative states he or she will cooperate, the cabinet shall:

(a) Remove the twenty-five (25) percent reduction in benefits effective the first administratively feasible month if the individual states he or she will cooperate and verification of cooperation is provided timely; and

(b) Not authorize a back payment for the period the individual did not cooperate.

(9) As a condition of eligibility for assistance, each applicant for, or recipient of, K-TAP shall make an assignment of rights to the state for support that the applicant or recipient may have from any other person in accordance with KRS 205.720(1). The assignment shall:

(a) Include all members of the case for whom support rights apply; and

(b) Be completed at the time of application for K-TAP benefits.

Section 19. Potential Entitlement for Other Programs.

(1) An applicant or recipient shall apply for and comply with the requirements to receive another benefit if potential entitlement exists.

(2) Failure to apply for another benefit or comply with its requirements shall result in ineligibility for K-TAP.

(3) If an applicant or recipient voluntarily reduces the amount of benefits received from another source, other than for the purpose of reimbursing the source for a previous overpayment, this action shall result in ineligibility.

Section 20. Minor Teenage Parents.

(1) A minor teenage parent shall participate in an educational activity directed toward the attainment of a high school diploma, or its equivalent, or a cabinet approved alternate education or training program if the individual has:

(a) A minor child at least twelve (12) weeks of age in his or her care; and

(b) Not completed a high school education (or its equivalent).

(2) Except pursuant to subsection (4) of this section, a minor teenage parent and his or her minor child shall reside in:

(a) A place of residence maintained by:

1. A parent;

2. A legal guardian; or

3. An adult relative pursuant to Section 11 of this administrative regulation; or

(b) An appropriate adult supervised supportive living arrangement, that includes a second chance home or maternity home, taking into consideration the needs and barriers of the minor teenage parent.

(3) The cabinet shall provide or assist the minor teenage parent in locating a second chance home, maternity home, or other appropriate adult supervised supportive living arrangement if the:

(a) Minor teenage parent does not have a:

1. Parent, legal guardian, or appropriate adult relative pursuant to Section 11 of this administrative regulation who is living or whose whereabouts is known; or

2. Living parent, legal guardian, or other appropriate adult relative pursuant to Section 11 of this administrative regulation who:

a. Otherwise meets applicable state criteria to act as the legal guardian of the minor teenage parent; and

b. Would allow the minor teenage parent to live in the home of the parent, guardian, or relative pursuant to Section 11 of this administrative regulation; or

(b) Cabinet determines:

1. The minor teenage parent or the minor child of the teenage parent is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the minor teenage parent's own parent or legal guardian; or

2. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the minor teenage parent and the minor child lived in the same residence with the minor teenage parent's own parent or legal guardian.

(4) The requirement in subsection (2) of this section shall be waived if the cabinet determines:

(a) Living in the place of residence maintained by the parent, legal guardian, or adult relative pursuant to Section 11 of this administrative regulation is not in the best interest of the minor child taking into consideration the needs of the minor child; or

(b) The minor teenage parent's current living arrangement is appropriate.

(5) If a circumstance changes and the current arrangement ceases to be appropriate based on the needs and barriers of the minor teenage parent, the cabinet shall assist the minor teenage parent in finding an alternate appropriate arrangement.

(6) If the minor teenage parent is determined to be ineligible for K-TAP as a result of not complying with a provision found in this section, payment shall continue for the eligible child of the minor teenage parent.

(7) Even if exemption criteria are met and the cabinet determines the minor teenage parent's current living arrangement is appropriate, a minor teenage parent and the child, who do not reside in a place of residence maintained by a parent, legal guardian, other adult relative pursuant to Section 11 of this administrative regulation, second chance home, or maternity home, shall be considered an adult regarding benefit time limitations pursuant to Section 21 of this administrative regulation.

Section 21. Benefit Time Limits.

(1) K-TAP, or any other assistance from a federally-funded program pursuant to 42 U.S.C. 601 to 619, shall not be provided for more than sixty (60) cumulative months to a benefit group that includes:

(a) An adult;

(b) A minor teenage parent who is head of household; or

(c) A fugitive or drug felon not eligible pursuant to Section 23 or 24 of this administrative regulation.

(2) After assistance has been received for sixty (60) months, an otherwise eligible benefit group containing one (1) of the following individuals shall be allowed an extension of the sixty (60) month time limit, during the period the individual:

(a) Is battered or subjected to extreme cruelty. During the extension period the individual shall have an individual service plan pursuant to Section 25(1)(b) of this administrative regulation;

(b) Is a work-eligible individual in the benefit group, who the cabinet determines has a physical or mental disability, as established in Section 9(3) of this administrative regulation. During the extension period, the individual shall comply with:

1. Treatment or other activity recommended by the referral source and approved by the cabinet, as required by the Kentucky Works Program pursuant to 921 KAR 2:370, Sections 2(1)(c)12 and 4(2); and

2. Child support cooperation requirements pursuant to Section 18 of this administrative regulation;

(c) In accordance with 45 C.F.R. 261.2(n)(2)(i), is a parent providing care for a disabled family member living in the home as verified pursuant to 921 KAR 2:370, Section 3(5). During the extension period, the individual shall comply with child support cooperation requirements pursuant to Section 18 of this administrative regulation;

(d) Is a grandparent or other relative, except for a parent, caring for an eligible child who would otherwise be placed in foster care. The caretaker relative shall continue to comply with:

1. Child support cooperation requirements pursuant to Section 18 of this administrative regulation; and

2. Except for a caretaker relative age sixty (60) or over, KWP requirements pursuant to 921 KAR 2:370 if the caretaker relative is included in the benefit group;

(e) Is an adult with insufficient employment opportunities, who:

1. Has complied with:

a. KWP requirements pursuant to 921 KAR 2:370; and

b. Child support cooperation requirements pursuant to Section 18 of this administrative regulation;

2. During the extension period, shall:

a. Comply with:

(i) KWP requirements pursuant to 921 KAR 2:370;

(ii) Child support cooperation requirements pursuant to Section 18 of this administrative regulation;

(iii) Employment opportunities and activities listed on the KW-202, Transitional Assistance Agreement, incorporated by reference in and pursuant to 921 KAR 2:370, Section 4(2); and

(iv) Work registration requirements pursuant to 921 KAR 2:370, Section 4(3); and

b. Not quit or refuse a job without good cause pursuant to 921 KAR 2:370, Section 6; and

3. Shall be limited to an extension period of six (6) consecutive months; or

(f)

1. Received a domestic violence exemption pursuant to Section 25(2) of this administrative regulation, up to the number of months the individual received K-TAP during the domestic violence exemption.

2. During the extension period, the individual shall comply with:

a. Child support cooperation requirements pursuant to Section 18 of this administrative regulation; and

b. KWP requirements pursuant to 921 KAR 2:370.

(3) If otherwise eligible, a benefit group containing a member who has lost a job, through no fault of the recipient, within thirty (30) days of reaching the sixty (60) month time limit shall receive a three (3) consecutive month extension of the time limitation.

(4) A benefit group that receives an extension to the sixty (60) months' time limit shall be reviewed:

(a) Every six (6) months for an extension pursuant to subsection (2)(a), (c), or (f) of this section;

(b) Every three (3) months for an extension pursuant to subsection (2)(e) of this section;

(c) Every three (3) months or the medical review team review period for an extension pursuant to subsection (2)(b) of this section; or

(d) Annually for an extension pursuant to subsection (2)(d) of this section.

(5) The cabinet shall send a notice containing a list of the hardship extensions, pursuant to subsection (2) of this section, to a benefit group nearing the sixty (60) month time limit.

(6) A benefit group discontinued from K-TAP due to reaching the sixty (60) month time limitation shall receive a notice pursuant to 921 KAR 2:046, Section 4.

(7) The cabinet shall conduct a review at least two (2) months prior to the expiration of the sixty (60) month time limit to:

(a) Determine if the benefit group meets criteria established for a hardship extension pursuant to subsection (2) of this section; and

(b) Inform the benefit group of Safety Net Services, pursuant to 922 KAR 1:400, Section 5.

(8)

(a) K-TAP shall not be provided to a benefit group, pursuant to Section 2(1) of 921 KAR 2:016, that includes an adult, or minor teenage parent pursuant to Section 20(7) of this administrative regulation, who has:

1. Received six (6) cumulative months of assistance from a federally funded program pursuant to 42 U.S.C. 601 to 619; and

2. Been penalized for failure to cooperate in KWP, pursuant to 921 KAR 2:370, for a period of three (3) cumulative months.

(b) An adult or minor teenage parent in paragraph (a) of this subsection shall receive assistance if the individual:

1. Demonstrates cooperation in KWP pursuant to 921 KAR 2:370;

2. Meets the technical requirements established in this administrative regulation; and

3. Meets the standard of need in accordance with 921 KAR 2:016.

(9) Time limitations shall apply to a:

(a) Sanctioned individual; or

(b) Penalized individual.

Section 22. Receiving Assistance in Two (2) or More States.

(1) K-TAP assistance shall be denied for ten (10) years to a person who has been convicted in federal or state court of having made a fraudulent statement or representation committed after August 22, 1996, with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states for:

(a) A program pursuant to:

1. 42 U.S.C. 601 to 619;

2. 42 U.S.C. 1396; or

3. 7 U.S.C. 2011 to 2036; or

(b) Benefits received under SSI.

(2) The requirement in subsection (1) of this section shall not apply to a conviction for a month beginning after the granting of a pardon by the President of the United States with respect to the conduct that was the subject of the conviction.

(3) An individual in subsection (1) of this section living with a child receiving assistance shall be required to cooperate in KWP in accordance with 921 KAR 2:370.

Section 23. Fugitive Felons.

(1) K-TAP assistance shall not be provided to an individual:

(a) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or an attempt to commit a crime, committed or attempted to be committed after August 22, 1996, that is a felony; or

(b) Violating a condition of probation or parole imposed under federal or state law.

(2) Subsection (1) of this section shall not apply with respect to conduct of an individual for a month beginning after the President of the United States grants a pardon with respect to the conduct.

(3) An individual in subsection (1) of this section living with a child receiving assistance shall be required to cooperate in KWP in accordance with 921 KAR 2:370.

Section 24. Denial of Assistance for a Drug Felon.

(1) An individual convicted under federal or state law of an offense committed after August 22, 1996, classified as a felony by the law of the jurisdiction involved and that has as an element the possession, use or distribution of a controlled substance pursuant to 21 U.S.C. 802(6), shall not be eligible for K-TAP benefits, except pursuant to KRS 205.2005.

(2) An individual applying for K-TAP benefits shall be required to state in writing whether the individual or a member of the household has been convicted of a crime pursuant to subsection (1) of this section.

(3) An individual in subsection (1) of this section living with a child receiving assistance shall be required to cooperate in KWP in accordance with 921 KAR 2:370.

Section 25. Domestic Violence.

(1)

(a) A K-TAP applicant or recipient shall be screened for a history of domestic violence.

(b) If the applicant or recipient is identified as a victim of domestic violence or with a history of domestic violence, an appropriate services plan shall be required for the individual. The plan shall:

1. Be developed by a person trained in domestic violence;

2. Reflect the individualized assessment and a revision made by a redetermination;

3. Include appropriate referral to counseling and supportive services based on the needs and barriers identified in the individualized assessment, as determined by the cabinet;

4. Be designed to lead safely to employment; and

5. Be completed no less often that every six (6) months.

(2) If compliance with the following K-TAP requirements would make it more difficult for an individual receiving K-TAP to escape domestic violence or unfairly penalize the individual who is or has been victimized by domestic violence, the individual shall not be required to meet:

(a) Residency requirements pursuant to Section 5 of this administrative regulation;

(b) Child support cooperation requirements pursuant to Section 18 of this administrative regulation;

(c) Time limitations, for so long as necessary and otherwise eligible, pursuant to Section 21 of this administrative regulation; or

(d) Participation in KWP requirements pursuant to 921 KAR 2:370.

(8 Ky.R. 616; eff. 2-1-1982; Am. 1187; eff. 6-25-1982; 9 Ky.R. 504; eff. 11-3-1982; 10 Ky.R. 181; eff. 11-2-1983; 943; 1164; eff. 6-1-1984; 11 Ky.R. 858; eff. 12-11-1984; 1942; eff. 7-9-1985; 12 Ky.R. 453; eff. 11-12-1985; 13 Ky.R. 800; eff. 11-11-1986; 2145; eff. 7-2-1987; 14 Ky.R. 1001; 1286; eff. 1-4-1988; 15 Ky.R. 2304; eff. 6-21-1989; 16 Ky.R. 238; eff. 9-20-1989; 17 Ky.R. 1608; eff. 12-9-1990; 2520; eff. 3-12-1991; 18 Ky.R. 500; 1047; eff. 10-6-1991; 3056; 3414; eff. 5-18-1992; 19 Ky.R. 520; 10-8-1992; 2130; 2442; eff. 4-21-1993; 20 Ky.R. 2229; 2643; eff. 3-14-1994; 21 Ky.R. 628; eff. 9-21-1994; 22 Ky.R. 388; 741; eff. 9-20-1995; 24 Ky.R. 1400; 1715; 1884; eff. 3-16-1998; 25 Ky.R. 1989; 2605; 2904; eff. 6-16-1999; Recodified from 904 KAR 2:006, 7-8-1999; 26 Ky.R. 1709; 1963; eff. 5-10-2000; 28 Ky.R. 169; 642; 892; eff. 9-25-2001; 31 Ky.R. 1610; 1996; 32 Ky.R. 88; eff. 7-25-2005; 33 Ky.R. 1446; 1823; eff. 2-2-2007; 35 Ky.R. 1324; 2062; eff. 3-11-2009; 37 Ky.R.1885; eff. 4-1-2011; 42 Ky.R. 572; eff. 11-18-2015.)