

921 KAR 2:016. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

RELATES TO: KRS 205.200, 205.210, 205.2001, 205.211, 45 C.F.R. 233.20(a)(13), Parts 260-265, 400.66(d), 8 U.S.C. 1183a, 20 U.S.C. 1088(b)(1), 2302(3), (13), 25 U.S.C. 459, 1261, 1401, 26 U.S.C. 6409, 29 U.S.C. 723(a)(5), 2801, 2931(a)(2), 38 U.S.C. 1833, 42 U.S.C. 7(xviii), (D)(4), 1381-1384, 1771, 1775, 3001, 4950-5084, 8621, 10602(c)

STATUTORY AUTHORITY: KRS 194A.050(1), 205.200(2), 205.210(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 205.200(2) requires the cabinet to prescribe, by administrative regulation, the conditions of eligibility for public assistance, in conformity with the Social Security Act, 42 U.S.C. 601 to 619 and federal regulations. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Kentucky Transitional Assistance Program (K-TAP), the block grant program funded by 42 U.S.C. 601 to 619. This administrative regulation sets forth the standards of need for and the amount of a Kentucky Transitional Assistance Program payment.

Section 1. Definitions.

- (1) "Assistance" is defined by 45 C.F.R. 260.31.
- (2) "Benefit group" means a group composed of one (1) or more children and may include as specified relative a person pursuant to 921 KAR 2:006, Section 11.
- (3) "Change in a circumstance" means a change in income or dependent care expense affecting the ongoing K-TAP payment that includes:
 - (a) Beginning or ending employment;
 - (b) Change in an employer or obtaining additional employment;
 - (c) Increase or decrease in the number of work hours;
 - (d) Increase or decrease in the rate of pay;
 - (e) Increase or decrease in the dependent care expense due to a change in:
 1. Provider;
 2. Number of hours of care;
 3. Number of individuals for whom care is given; or
 4. Amount charged; or
 - (f) Change in farm cropping arrangement or type of self-employment activity.
- (4) "Claimant" means the individual responsible for the repayment of an overpayment.
- (5) "Countable income" means income that remains after excluded income and appropriate deductions are removed from gross income.
- (6) "Deduction" means an amount subtracted from gross income to determine countable income.
- (7) "Electronic benefit transfer" or "EBT" means a computer-based electronic benefit transfer system in which an eligible household's benefit authorization is received from a central computer through a point of sale terminal or automated transfer machine.
- (8) "Employed" means a person performs a physical or mental activity in exchange for direct monetary compensation.
- (9) "Excluded income" means income that is received but not counted in the gross income test.
- (10) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

- (11) "Full-time school attendance" means a workload of at least:
- (a) The number of hours required by the individual program for participation in:
 1. An adult basic education program;
 2. A general educational development program; or
 3. A literacy program;
 - (b) The number of hours required by the individual program for participation in a college or university; or
 - (c) The number of hours required by the individual high school or vocational school to fulfill the high school or vocational school's definition of full time.
- (12) "Gross income limitation standard" means 185 percent of the assistance standard, as set forth in Section 9 of this administrative regulation.
- (13) "Kentucky Transitional Assistance Program" or "K-TAP" means a money payment program for a child who is deprived of parental support or care pursuant to 921 KAR 2:006, Section 1.
- (14) "Kentucky Works" means a program that assists a:
- (a) Recipient of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or
 - (b) Former K-TAP recipient with job retention service.
- (15) "Lump sum income" means income that does not:
- (a) Occur on a regular basis; or
 - (b) Represent accumulated monthly income received in a single sum.
- (16) "Minor" means a person who is under the age of eighteen (18).
- (17) "Minor 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.
- (18) "Part-time employment" means employment of:
- (a) Less than thirty (30) hours per week; or
 - (b) Less than 130 hours per month.
- (19) "Part-time school attendance" means a workload that is less than full-time school attendance as determined by the educational institution.
- (20) "Penalized individual" means a person who is required to be included in the benefit group but fails to fulfill an eligibility requirement, causing a reduction in benefits of the benefit group. If otherwise eligible, a penalized individual remains a member of the benefit group.
- (21) "Recoupment" means recovery of an overpayment of an assistance payment.
- (22) "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.
- (23) "Self-employment income" means income from a business enterprise if taxes are not withheld prior to receipt of the income by the individual.
- (24) "Supplemental security income" or "SSI" means a monthly cash payment made pursuant to 42 U.S.C. 1381 to 1384 to the aged, blind and disabled.
- (25) "Unavailable" means that the income is not accessible to the K-TAP benefit group for use toward basic food, clothing, shelter, and utilities.
- (26) "Workforce Investment Act" or "WIA" means a program to assist adults, dislocated workers, and youth with entering, retraining, and advancing within employment, as established by 29 U.S.C. 2801.
- (27) "Work expense standard deduction" means a deduction from earned income intended to cover mandatory pay check deductions, union dues, and tools.

Section 2. Technical Eligibility.

- (1) A benefit group shall include:
 - (a) A dependent child;
 - (b) A child's parent living in the home with the dependent child who is:
 1. Eligible for K-TAP; or
 2. Ineligible for K-TAP due to benefit time limitations pursuant to 921 KAR 2:006, Section 21;
 - (c) An eligible sibling living in the home with a dependent child, except for a sibling who is an applicant or recipient of the Kinship Care Program pursuant to 922 KAR 1:130; or
 - (d) An eligible child who is:
 1. In full-time school attendance or part-time school attendance; and
 2.
 - a. Sixteen (16) through eighteen (18) years of age; or
 - b. A minor parent.
- (2) If the K-TAP benefits to a household would be greater by excluding an otherwise eligible child related by subsidized adoption to the other members, the child shall not be included in the benefit group.
- (3) If a dependent child's parent is a minor living in the home with an eligible parent, the minor's parent shall also be included in the benefit group if the minor's parent applied for assistance.
- (4) An incapacitated or unemployed natural or adoptive parent of the child who is living in the home shall be included as second parent if the technical eligibility factors of 921 KAR 2:006 are met.

Section 3. Resource Limitations.

- (1) A liquid asset shall be considered a countable resource if it is:
 - (a) Available to the benefit group; and
 - (b) Owned in whole or in part by:
 1. An applicant or recipient;
 2. A sanctioned or penalized individual; or
 3. The parent of a dependent child, even if the parent is not an applicant or recipient, if the dependent child is living in the home of the parent.
- (2) The total amount of resources reserved by a benefit group shall not be in excess of \$2,000 in liquid assets, excluding an asset listed in subsection (3) of this section.
- (3) Excluded resources.
 - (a) Resources from the following individuals shall be excluded from consideration:
 1. A recipient of SSI or the state supplementation program living in the home;
 2. A child excluded from the K-TAP grant; or
 3. An individual not receiving assistance but living in the home including:
 - a. The stepparent;
 - b. The parent or legal guardian of a minor parent;
 - c. The spouse of a nonresponsible specified relative; or
 - d. The spouse of a minor dependent child.
 - (b) The following resources shall not be included in the \$2,000 resource limit:
 1. Proceeds (sale price less indebtedness) from the sale of a home, including initial or down payment from land contract sale, for six (6) months if client plans to invest in another home;
 2. Funds in an individual retirement account, retirement or deferred compensation account during the period of unavailability;
 3. An excluded income payment, pursuant to Section 5 of this administrative regulation;

4. Principal and accrued interest of an irrevocable trust during a period of unavailability;
5. Prepaid burial funds;
6. Cash surrender value of all burial insurance policies per family member;
7. Principal of a verified loan;
8. Up to \$12,000 to Aleutians and \$20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for hardship experienced during World War II;
9. Payment made from the Agent Orange Settlement Fund issued by Aetna Life and Casualty to a veteran or veteran's survivor;
10.
 - a. Any federal tax refund or advance payment of a refundable federal tax credit for a period of twelve (12) months from receipt in accordance with 26 U.S.C. 6409; or
 - b. After December 31, 2012, earned income tax credit payment in the month of receipt and the following month;
11. A payment received from the Radiation Exposure Compensation Trust Fund;
12. A nonrecurring lump sum SSI retroactive payment that is made to a K-TAP recipient who is not ongoing eligible for SSI, in the month paid and the next following month;
13. Up to a total of \$5,000 in individual development accounts, excluding interest accruing, pursuant to subsection (7) of this section; and
14. A payment received from the National Tobacco Growers Settlement Trust.

(4) Disposition of resources.

- (a) An applicant or recipient shall not have transferred or otherwise disposed of a liquid asset in order to qualify for assistance.
- (b) The household's application shall be denied, or assistance discontinued if:
 1. The transfer was made expressly for the purpose of qualifying for assistance; and
 2. The amount of the transfer, when added to total resources, exceeds the resource limit.
- (c) The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer.
- (d)
 1. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month.
 2. The period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

(5) Lifetime care agreement.

- (a) The existence of a valid agreement between the applicant or recipient and another individual or organization that the applicant or recipient surrendered resources in exchange for lifetime care shall make the case ineligible.
- (b) The agreement shall be considered invalid if the individual or organization with whom the agreement was made provides a written statement that the resources have been exhausted.

(6) Resources held jointly by more than one (1) person.

- (a)
 1. For a bank account requiring one (1) signature for withdrawal, the total balance of the account shall be considered available to the K-TAP applicant or recipient, unless the other owner is a recipient of SSI.
 2. If the other owner receives SSI, the:
 - a. Balance shall be divided evenly by the number of owners; and
 - b. K-TAP applicant or recipient's share shall be considered available.

(b) For a bank account that requires more than one (1) signature for withdrawal, the K-TAP applicant or recipient's share shall be determined by obtaining a written statement from the other owners as to the division.

(c) If there is no predetermined allocation of shares from a business enterprise, the applicant or recipient's available share shall be determined by dividing the value of the business enterprise by the number of owners.

(d) If a resource is held jointly, other than a resource pursuant to paragraphs (a) through (c) of this subsection, the applicant or recipient's share shall be determined by dividing the value of the resource by the number of owners.

(e) Rebuttal of ownership shall be accomplished if the applicant or recipient asserts no contribution to or benefits from a jointly held resource and provides:

1. A written statement regarding ownership, who may deposit and withdraw;
2. A written statement from each of the other owners that corroborates the applicant's or recipient's statement, unless the account holder is a minor or is incompetent; and
3. Verification that the applicant's or recipient's name has been removed from the resource.

(7)

(a) To be considered an exempt resource, the individual development account shall have been:

1. Established on or after May 1, 1997; and
2. Funded through periodic contributions by a member of the benefit group using funds derived from earned income that was earned after May 1, 1997, for a qualified purpose.

(b) A qualified purpose to establish an individual development account shall be for:

1. Postsecondary educational expense that shall include:
 - a. Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution;
 - b. Fees, books, supplies, and equipment required for a course of instruction at an eligible educational institution; and
 - c. An eligible educational institution that shall be an:
 - (i) Institution pursuant to 20 U.S.C. 1088(b)(1); or
 - (ii) Area vocational education school pursuant to 20 U.S.C. 2302(3) or (13);
2. First home purchase that includes:
 - a. Costs of acquiring, constructing, or reconstructing a residence; and
 - b. Usual or reasonable settlement, financing, or other closing costs;
3. A business capitalization expenditure for a business that does not contravene a law or public policy, as determined by the cabinet, pursuant to a qualified plan which shall:
 - a. Include capital, plant, equipment, working capital, and inventory expenses;
 - b. Be approved by a financial institution; and
 - c. Include a description of a service or a good to be sold, a marketing plan, and projected financial statement. An applicant may use the assistance of an experienced entrepreneurial advisor if needed; or
4. Other purpose allowed by a federal regulation or clarification.

(c) Funds held in an individual development account shall not be withdrawn except for one (1) or more of the qualified purposes pursuant to paragraph (b) of this subsection.

(d) To be considered an exempt resource, an individual development account shall be matched by funds from a:

1. Nonprofit organization; or
2. State or local government agency, funding permitted, acting in cooperation with an organization pursuant to subparagraph 1 of this paragraph.

Section 4. Income Limitations. In determining eligibility for K-TAP, the following shall apply:

- (1) Gross income test:
 - (a) The total gross non-K-TAP income shall not exceed the gross income limitation standard and shall include:
 1. Income of the benefit group;
 2. Income of a parent who does not receive SSI or state supplementation pursuant to 921 KAR 2:015;
 3. Income of a sanctioned or penalized individual; and
 4. An amount deemed available from:
 - a. The parent of a minor parent living in the home with the benefit group;
 - b. A stepparent living in the home; or
 - c. An alien's sponsor and sponsor's spouse if living with the sponsor;
 - (b) Excluded income types pursuant to Section 5(1) of this administrative regulation shall apply; and
 - (c) If total gross income exceeds the gross income limitation standard, the benefit group shall be ineligible.
- (2) Benefit calculation:
 - (a) If the benefit group meets the criteria pursuant to subsection (1) of this section, benefits shall be determined by subtracting excluded income and applicable deductions pursuant to Section 5(1), (2), and (3) of this administrative regulation;
 - (b) If the benefit group's income, after subtracting excluded income and applicable deductions, exceeds the standard of need for the appropriate benefit group size pursuant to Section 9 of this administrative regulation, the benefit group shall be ineligible; and
 - (c) Amount of assistance shall be determined prospectively.
- (3) Ineligibility period:
 - (a) A period of ineligibility shall be established for a benefit group whose income in the month of application or during a month the assistance is paid exceeds a limit pursuant to subsection (2) of this section due to receipt of lump sum income;
 - (b) The ineligibility period shall be:
 1. The number of months that equals the quotient of the division of total countable income by the standard of need pursuant to Section 9 of this administrative regulation for the appropriate benefit group size; and
 2. Effective with the month of receipt of the nonrecurring lump sum amount; and
 - (c) The ineligibility period shall be recalculated if:
 1. The standard of need pursuant to Section 9 of this administrative regulation increases and the amount of grant the benefit group would have received also changes;
 2. Income, that caused the calculation of the ineligibility period, has become unavailable for a reason that was beyond the control of the benefit group;
 3. The benefit group incurs and pays a necessary medical expense not reimbursable by a third party;
 4. An individual, who is required to be a member of the benefit group, joins the K-TAP household during an established ineligibility period; or
 5. The benefit group reapplies during an established ineligibility period and the cabinet determines that policy has changed to exclude the criteria originally used to establish the ineligibility period.

Section 5. Excluded Income and Deductions.

- (1) Gross non-K-TAP income received or anticipated to be received shall be considered with the application of excluded income and deduction policy:

(a) By the:

1. Benefit group;
2. Sanctioned or penalized individual;
3. Natural parent;
4. Spouse of a dependent child;
5. Parent of a minor parent living in the home with the benefit group; or
6. Stepparent living in the home; and

(b) Pursuant to subsections (2) to (4) of this section.

(2) Gross income test. An income listed in this subsection shall be excluded:

(a) A deduction applicable to stepparent income, income of the spouse of a minor dependent child, or income of the parent of a minor parent in the home with the benefit group, pursuant to Section 7 of this administrative regulation;

(b) A deduction applicable to an alien sponsor's income, pursuant to Section 8 of this administrative regulation;

(c) A deduction applicable to self-employment income;

(d) Allowances, earnings, and payments received under WIA programs in accordance with 29 U.S.C. 2931(a)(2);

(e) Value of United States Department of Agriculture program benefits including:

1. Donated food;
2. Supplemental food assistance received pursuant to 42 U.S.C. 1771;
3. Special food service program for a child pursuant to 42 U.S.C. 1775;
4. Nutrition program for the elderly pursuant to 42 U.S.C. 3001; and
5. The monthly Supplemental Nutrition Assistance Program allotment;

(f) Reimbursement for transportation in performance of an employment duty, if identifiable;

(g) The value of Kentucky Works supportive services payment pursuant to 921 KAR 2:017;

(h) Nonemergency medical transportation payment;

(i) Payment from complementary program if no duplication exists between the other assistance and the assistance provided by the K-TAP program;

(j) Educational grant, loan, scholarship, and work study income;

(k) Highway relocation assistance;

(l) Urban renewal assistance;

(m) Federal disaster assistance and state disaster grant;

(n) Home produce utilized for household consumption;

(o) Housing subsidy received from federal, state or local governments;

(p) Funds distributed to a member of certain Indian tribes by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;

(q) Funds distributed per capita to or held in trust for a member of an Indian tribe by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;

(r) Payment for supporting services or reimbursement of out-of-pocket expense made to an individual volunteering as a:

1. Senior health aide; or
2. Member of the:
 - a. Service Corps of Retired Executives; or
 - b. Active Corps of Executives;

(s) Payment made to an individual from a program pursuant to 42 U.S.C. 4950 to 5084 if less than the minimum wage under state or federal law, whichever is greater including:

1. Volunteers in Service to America (VISTA);
2. Foster Grandparents;
3. Retired and Senior Volunteer Program; or

- 4. Senior Companion;
- (t) Payment from the cabinet for:
 - 1. Child foster care; or
 - 2. Adult foster care;
- (u) Energy assistance payment made under:
 - 1. The Low Income Home Energy Assistance Program pursuant to 42 U.S.C. 8621; or
 - 2. Other energy assistance payment made to an energy provider or provided in-kind;
- (v) The first fifty (50) dollars of child support payment;
- (w) Earnings of an individual attending school who is age nineteen (19) or under;
- (x) Earnings of a dependent child under eighteen (18) who is a high school graduate;
- (y) Nonrecurring monetary gifts totaling thirty (30) dollars or less per month per individual;
- (z) The principal of a verified loan;
- (aa) Up to \$12,000 to Aleuts and \$20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for a hardship experienced during World War II;
- (bb) Income of an individual receiving SSI, including monthly SSI benefits and any retrospective SSI benefits;
- (cc) The essential person's portion of the SSI check;
- (dd) Income of an individual receiving mandatory or optional state supplementary payment pursuant to 921 KAR 2:015;
- (ee)
 - 1. Any federal tax refund or advance payment of a refundable federal tax credit; or
 - 2. After December 31, 2012, the advance payment or refund of earned income tax credit;
- (ff) Payment made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;
- (gg) Interest and dividend income unless derived from a corporate business;
- (hh) In-kind income;
- (ii) Income of a technically ineligible child;
- (jj) Payment made from the Agent Orange Settlement Fund;
- (kk) K-TAP payment including back payment;
- (ll) Income of legal guardian of a minor parent, unless the guardian meets the degree of relationship pursuant to 921 KAR 2:006, Section 11;
- (mm) Payment made from the Radiation Exposure Compensation Trust Fund;
- (nn) Up to \$2,000 per year of income received by individual Indians denied from a lease or other use of individually-owned trust or restricted lands;
- (oo) Payment made to an individual because of the individual's status as a victim of Nazi persecution;
- (pp) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census;
- (qq) A payment received from the National Tobacco Growers Settlement Trust;
- (rr) A payment received from a crime victim compensation program according to the Antiterrorism and Effective Death Penalty Act of 1996 pursuant to 42 U.S.C. 10602(c);
- (ss) A payment received from the Kinship Care Program, pursuant to 922 KAR 1:130, including back payment;
- (tt) A payment made to children of Vietnam veterans and certain other veterans, pursuant to 38 U.S.C. 1833;
- (uu) A discount or subsidy provided to Medicare beneficiaries pursuant to Section 1860D-31(g)(6) of the Social Security Act, 42 U.S.C. 7(xviii) and (D)(4);

- (vv) Any cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement Programs pursuant to 45 C.F.R. 400.66(d); and
 - (ww) Reimbursement payment for a vocational rehabilitation individual participating in Preparing Adults for Competitive Employment pursuant to 29 U.S.C. 723(a)(5).
- (3) Benefit calculation. Excluded income pursuant to subsection (2) of this section and an applicable deduction listed in this subsection shall be applied:
- (a) Work expense standard deduction of ninety (90) dollars for full-time and part-time employment;
 - (b) If the caregiver is not the parent, legal guardian, or a member of the benefit group, the dependent care disregard shall:
 - 1. Be allowed as a work expense for:
 - a. An able bodied child age thirteen (13) or over and not under court supervision;
 - b. An incapacitated adult living in the home and receiving K-TAP;
 - c. A K-TAP case that is otherwise ineligible for K-TAP without the benefit of the disregard for child care, at the option of the recipient; or
 - d. The month of application for K-TAP benefits; and
 - 2. Not exceed:
 - a. \$175 per month per individual for full-time employment;
 - b. \$150 per month per individual for part-time employment; or
 - c. \$200 per month per individual for child under age two (2);
 - (c) Child support payment received and retained until notification of eligibility for K-TAP is received;
 - (d) Child support payment assigned and actually forwarded or paid to the cabinet;
 - (e) First thirty (30) dollars and one-third (1/3) of the remainder of earned income not already deducted for each member of the benefit group calculated as follows:
 - 1. The one-third (1/3) portion of this deduction shall be applied to each member's earned income for four (4) months;
 - 2. The thirty (30) dollar portion of this deduction shall be applied concurrently with the one-third (1/3) deduction and for an additional eight (8) consecutive months following the expiration of the concurrent period; and
 - 3. Until the individual has earnings, reported timely, from new employment, the deductions shall not be available to the individual after expiration of the time limits; and
 - (f) For new employment, or increased wages, acquired after approval and reported timely, a one (1) time only disregard per employed adult member of the benefit group, the amount of two (2) full calendar months earnings calculated as follows:
 - 1. The two (2) months earnings disregard shall be consecutive, and at the option of the recipient; and
 - 2. If otherwise eligible, a sanctioned or penalized member of the benefit group may receive the two (2) months earnings disregard.
- (4) Deductions from earnings pursuant to subsection (3)(a), (b) and (e) of this section shall not apply for a month the individual:
- (a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists pursuant to 921 KAR 2:370, Section 6(1); or
 - (b) Fails to report an increase in earnings, that impacts eligibility, within ten (10) days of the change, unless good cause exists as follows:
 - 1. The benefit group has been directly affected by a natural disaster;
 - 2. An immediate family member living in the home was institutionalized or died during the ten (10) day report period; or

3. The responsible relative in the case and the member employed, if different, is out of town for the entire ten (10) day report period.

Section 6. Child Care Expense. With the exception of those circumstances pursuant to Section 5(3)(b) of this administrative regulation, a child care expense incurred as a result of employment shall be paid pursuant to 922 KAR 2:160.

Section 7. Income and Resources of an Individual Not Included in the Benefit Group.

(1) The income provisions of this section shall apply to the following individuals, living in the home but not included in the benefit group, pursuant to subsection (2) of this section:

- (a) A stepparent;
- (b) The spouse of a minor dependent child;
- (c) The spouse of a specified relative other than a parent; and
- (d) A parent of a minor parent.

(2) The gross income of the individual shall be considered available to the benefit group, subject to the following deductions:

(a) The first ninety (90) dollars of the gross earned income; and

(b)

1. An amount equal to the K-TAP standard of need for the appropriate family size, pursuant to Section 9 of this administrative regulation for:

- a. The support of the individual; and
- b. A person living in the home if:

(i) The needs of the person are not included in the K-TAP eligibility determination; and

(ii) The person is or may be claimed as a dependent for the purpose of determining his federal personal income tax liability by the individual;

2. An amount actually paid to a person not living in the home who is or may be claimed by him as a dependent for the purpose of determining his personal income tax liability by the individual; or

3. Payment for alimony or child support to a person not living in the home by the individual.

(3) A resource shall not be considered in determining eligibility of the parent, minor dependent child, or specified relative other than a parent or the benefit group that belongs solely to the:

- (a) Stepparent;
- (b) Spouse of a minor dependent child;
- (c) Spouse of a specified relative other than a parent; or
- (d) Parent of a minor parent.

Section 8. Alien Sponsor Income and Resources.

(1)

(a) For the purpose of this section, the alien's sponsor and sponsor's spouse, if living with the sponsor, shall be referred to as sponsor.

(b) This subsection and subsections (2) through (6) of this section shall apply to an immigrant who has an agreement executed other than an agreement pursuant to 8 U.S.C. 1183a.

(2) The gross non-K-TAP income and resources of an alien's sponsor shall be deemed available to the alien, subject to a deduction set forth in this section, for a period of three (3) years following entry into the United States.

(3) If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens.

(4) If adequate information on the sponsor or sponsor's spouse is not provided, a sponsored alien shall be ineligible for a month.

(5) If an alien is sponsored by an agency or organization, that has executed an affidavit of support, the alien shall be ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization:

(a) Is no longer in existence; or

(b) Does not have the financial ability to meet the alien's needs.

(6) The provisions of this subsection shall not apply to an alien pursuant to subsection (5) or (7) of this section.

(a) The gross income of the sponsor shall be considered available to the benefit group subject to the following deductions:

1. Twenty (20) percent of the total monthly gross earned income, not to exceed \$175;

2. An amount equal to the K-TAP standard of need for the appropriate family size pursuant to Section 9 of this administrative regulation of:

a. The sponsor; and

b. Other person living in the household:

(i) Who is or may be claimed by the sponsor as a dependent in determining the sponsor's federal personal income tax liability; and

(ii) Whose needs are not considered in making a determination of eligibility for K-TAP;

3. An amount paid by the sponsor to a nonhousehold member who is or may be claimed as a dependent in determining the sponsor's federal personal tax liability;

4. Actual payment of alimony or child support paid to a nonhousehold member; and

5. Income of a sponsor receiving SSI or K-TAP.

(b) Resources deemed available to the alien shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if the sponsor were a K-TAP applicant in this state, less \$1,500.

(7)

(a) For a sponsored alien who enters the United States on or after December 19, 1997, who is required to complete a sponsorship agreement pursuant to 8 U.S.C. 1183a, the total gross income and resources of an alien's sponsor and sponsor's spouse shall be deemed available to the alien.

(b) The sponsor's obligation shall be available until the:

1. Immigrant:

a. Becomes a United States citizen;

b. Is credited with forty (40) quarters of work; or

c. Ceases to hold the status of an alien lawfully admitted for permanent residence; or

2. Sponsor dies.

(c) The immigrant shall provide the sponsorship agreement pursuant to 8 U.S.C. 1183a.

(8)

(a) The actual amount provided by the sponsor shall be considered for a period up to twelve (12) months from the date of determination, if an:

1. Amount less than the amount in the sponsorship agreement is made available to the immigrant; and

2. Alien is determined indigent.

(b) An alien shall be determined indigent if:

1. The amount of the sponsor's income and resources given to the alien is less than the amount in the agreement; and

2. Without K-TAP assistance and after consideration of the alien's own income, cash, food, housing or assistance provided by an individual including the sponsor, the alien is unable to obtain food and shelter.

(9) Deeming of the sponsor's income shall not apply for twelve (12) months if the:

(a) Alien or alien's child has been subjected to extreme cruelty or battery while living in the United States and the individual committing the battery or extreme cruelty does not live with the child or parent if committed by a:

1. Spouse or parent; or
2. Spouse or parent's family living with the alien or alien's child and the spouse or parent allows the cruelty or battery; or

(b) Alien is a child who lives with a parent who has been subjected to extreme cruelty or battery while living in the United States, and the individual committing the battery or extreme cruelty does not live with the child or parent if committed by a:

1. Spouse; or
2. Member of the spouse's family living in the same household and the spouse allows the cruelty or battery.

Section 9. Payment Maximum.

(1) The K-TAP payment maximum includes an amount for food, clothing, shelter, and utilities.

(2)

(a) Countable income, pursuant to Section 10 of this administrative regulation, shall be subtracted in determining eligibility for and the amount of the K-TAP assistance payment as follows:

Number of Eligible Persons	Payment Maximum	Standard of Need
1 person	\$186	\$401
2 persons	\$225	\$460
3 persons	\$262	\$526
4 persons	\$328	\$592
5 persons	\$383	\$658
6 persons	\$432	\$724
7 or more persons	\$482	\$790

(b) The gross income limit shall be as follows for the appropriate family size:

Number of Eligible Persons	Maximum Gross Income Limits
1 Person	\$742
2 Persons	\$851
3 Persons	\$974
4 Persons	\$1,096
5 Persons	\$1,218
6 Persons	\$1,340
7 or more Persons	\$1,462

(3) Since the payment maximum does not meet full need, effective July 1, 1989, a forty-five (45) percent ratable reduction shall be applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(4)

- (a) The assistance payment shall be the lesser amount of either:
 - 1. Fifty-five (55) percent of the deficit pursuant to subsection (3) of this section; or
 - 2. The payment maximum pursuant to subsection (2)(a) of this section.
- (b) As a result of applying the forty-five (45) percent ratable reduction pursuant to subsection (3) of this section, an eligible payment to an otherwise eligible family with no income shall be calculated pursuant to KRS 205.200(2).
- (5) If a benefit group's assistance payment equals zero (0), the benefit group shall be ineligible for K-TAP.

Section 10. Best Estimate.

- (1) The benefit shall be computed by using a best estimate of income that may exist in the payment month.
- (2) The following method shall be used to calculate a best estimate:
 - (a) For a case with earned income, other than self-employment earned income, a monthly amount shall be determined as follows:
 - 1. Cents shall:
 - a. Not be rounded to the nearest dollar before adding or multiplying hourly or daily earnings; and
 - b. Be rounded to the nearest dollar before adding or multiplying weekly, biweekly, semimonthly, monthly, quarterly, or annual amounts.
 - 2. Unless it does not represent the ongoing situation, income from all pay periods in the preceding calendar month shall be used.
 - 3. A monthly amount shall be determined by:
 - a. Adding gross income from each pay period;
 - b. Dividing by the total number of pay periods considered;
 - c. Converting the pay period figure to a monthly figure by multiplying a:
 - (i) Weekly amount by four and one-third ($4 \frac{1}{3}$);
 - (ii) Biweekly amount by two and one-sixth ($2 \frac{1}{6}$); or
 - (iii) Semimonthly amount by two (2); and
 - d. Rounding to the nearest dollar.
 - 4. If income has recently begun, and the applicant or recipient has not received a calendar month of earned income, the anticipated monthly income shall be computed by:
 - a. Multiplying the hourly rate by the estimated number of hours to be worked in a pay period; or
 - b.
 - (i) Multiplying the daily rate by the estimated number of days to be worked in the pay period; and
 - (ii) Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3c of this paragraph and rounding to the nearest dollar.
 - (b) For a case with unearned income, other than unearned self-employment income, a monthly amount shall be determined by:
 - 1. Rounding cents to the nearest dollar;
 - 2. Using the gross monthly amount of continuing, stable unearned income received on a monthly basis; and
 - 3. Averaging the amount of unstable unearned income received in the three (3) prior calendar months, unless it does not represent the ongoing situation.
 - (c) For a case with self-employment income, a monthly amount shall be determined as follows:
 - 1. If the self-employment enterprise has been in operation for at least a year, the income shall be prorated by dividing the income from the last calendar year by twelve (12);

2. If the self-employment enterprise has been in operation for less than a year, the income shall be prorated by dividing by the number of months the business has been in existence; and
 3. Profit shall be determined by:
 - a. Rounding the total gross income to the nearest dollar;
 - b. Rounding the total amount of allowable expenses to the nearest dollar;
 - c. Dividing each by twelve (12), or the appropriate number of months, and rounding to the nearest dollar; and
 - d. Subtracting the rounded monthly expense from the rounded monthly income.
- (3) The best estimate shall be recalculated:
- (a) At six (6) month intervals for a case with earned, unearned, or self-employment income;
 - (b) If the agency becomes aware of a change in a circumstance; or
 - (c) To reflect a mass change in the standard of need or payment maximum standard pursuant to Section 9 of this administrative regulation.

Section 11. K-TAP Recoupment. The following provisions shall apply for recoupment of a K-TAP overpayment.

- (1) Necessary action will be taken promptly to correct and recoup an overpayment.
- (2) An overpayment shall be recovered:
 - (a) From an adult claimant, whether currently receiving K-TAP benefits:
 1. After notice and an opportunity for a fair hearing pursuant to 921 KAR 2:055 is given;
 2. After administrative and judicial remedies have been exhausted or abandoned; and
 3. Including assistance paid:
 - a. Pending the hearing decision; or
 - b. Due to cabinet error; and
 - (b) Through:
 1. Repayment by the claimant to the cabinet;
 2. Reduction of future K-TAP benefits, that shall result in the benefit group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income pursuant to Section 9 of this administrative regulation;
 3. Civil action in the court of appropriate jurisdiction; or
 4. If the cabinet becomes aware of expunged electronic benefits transfer (EBT) payments, reduction of the overpayment balance by an amount equal to the expunged benefits.
- (3) In a case that has both an overpayment and an underpayment, the overpayment and underpayment shall be offset one against the other in correcting the payment to a current recipient.

Section 12. Aid to Families with Dependent Children Recoupment.

- (1) The cabinet shall recoup an Aid to Families with Dependent Children overpayment discovered on or after April 1, 1982, pursuant to 45 C.F.R. 233.20(a)(13).
- (2) An Aid to Families with Dependent Children overpayment shall be recovered from an adult or child member of the benefit group:
 - (a) Pursuant to 45 C.F.R. 233.20(a)(13); and
 - (b) In accordance with the recoupment process specified in Section 11 of this administrative regulation.

Section 13. Avoiding an Overpayment.

- (1) A K-TAP recipient may voluntarily:

- (a) Return a benefit payment; or
- (b) Give permission to the cabinet to use EBT benefits by completing and returning a written statement requesting a written statement requesting this option to avoid an overpayment if the case:
 - 1. Is totally ineligible for the month the payment is issued; and
 - 2. Has not been reduced for recoupment of a previous overpayment.
- (2) If a payment is voluntarily returned, the cabinet shall determine whether the recipient is due a refund as described in Section 14 of this administrative regulation.

Section 14. Refund. A recipient shall be due a refund in the following situations:

- (1) An amount in excess of the actual overpayment is recouped;
- (2) An overpayment and an underpayment is offset and a balance is owed to the recipient;
- or
- (3) A K-TAP payment that is voluntarily returned to avoid an overpayment is compared to the current month obligation of child support collected by the cabinet during the month the K-TAP check was intended to cover, leaving a balance owed to the recipient.

Section 15. Correction of Underpayments. The following provisions shall apply to a K-TAP payment:

- (1) An underpayment shall be promptly corrected to:
 - (a) A current K-TAP recipient; or
 - (b) One (1) who would be a current recipient if the error causing the underpayment had not occurred.
- (2) The difference between the payment received by the recipient and the actual entitlement amount shall be issued to the underpaid assistance group.
- (3) In a determination of ongoing eligibility, the corrective payment to the assistance group shall not be considered as income or a resource in the:
 - (a) Month the payment is paid; or
 - (b) Next following month.

(8 Ky.R. 1228; eff. 6-25-1982; Am. 9 Ky.R. 271; eff. 9-8-1982; 10 Ky.R. 945; eff. 2-1-1984; 1101; eff. 5-1-1984; 11 Ky.R. 82; eff. 8-7-1984; 80; eff. 12-11-1984; 12 Ky.R. 1931; eff. 7-2-1986; 13 Ky.R. 973; eff. 12-2-1986; 14 Ky.R. 512; eff. 10-2-1987; 1160; 1562; eff. 1-4-1988; 1904; eff. 4-14-1988; 15 Ky.R. 869; eff. 11-4-1988; 2308; eff. 6-21-1989; 16 Ky.R. 1033; eff. 1-12-1990; 2562; 17 Ky.R. 46; eff. 6-27-1990; 1616; eff. 12-9-1990; 2901; 3132; eff. 5-3-1991; 3548; 18 Ky.R. 297; eff. 7-17-1991; 1245; eff. 11-25-1991; 1245; 3255; 19 Ky.R. 68; eff. 6-24-1992; 1217; 1560; eff. 12-16-1992; 20 Ky.R. 2238; eff. 3-14-1994; 21 Ky.R. 633; eff. 9-21-1994; 2537; eff. 5-17-1995; 22 Ky.R. 2146; eff. 7-5-1996; 24 Ky.R. 1409; 1724; eff. 3-16-1998; 25 Ky.R. 1997; 2613; eff. 6-16-1999; Recodified from 904 KAR 2:016, 7-8-1999; 26 Ky.R. 1717; 1971; eff. 6-12-2000; 28 Ky.R. 177; eff. 9-10-2001; 31 Ky.R. 1022; 1282; eff. 1-19-2005; 34 Ky.R. 657; 989; eff. 11-19-2007; 35 Ky.R. 1334; eff. 2-6-2009; 37 Ky.R. 1893; 2202; eff. 4-1-2011; 42 Ky.R. 581; eff. 11-18-2015.)