

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amendment)

922 KAR 1:530. Post-adoption placement stabilization services.

RELATES TO: KRS 199.011, 200.575, 600.020, 605.100, 605.130, 620.170, 45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472, 605.100(1), 605.130(7), 605.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the cabinet to promulgate, administer, and enforce those administrative regulations necessary to qualify for the receipt of federal funds. To maintain eligibility for full funding under Title IV-E and IV-B of the Social Security Act, under 45 C.F.R. 1355.34(b) and (c), the cabinet shall design services to help children achieve permanency, to include post-legal adoption services. KRS 199.472 mandates that the cabinet establish criteria for the adoption of children by administrative regulation. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(7), which requires the cabinet to perform other services necessary for the protection of children, and KRS 605.100(1), which requires the cabinet to arrange for a program of care, treatment, and rehabilitation of the children committed to it. This administrative regulation establishes post-adoption placement stabilization services for children who were adopted from the custody of the cabinet, to the extent funds are available.

Section 1. Definitions.

- (1) "Aftercare plan" means a plan of care for a child upon the discontinuance of post-adoption placement stabilization services, which:
 - (a) Recommends services for the continued care of the child;
 - (b) Identifies community resources that have been arranged for the child or parent; and
 - (c) Includes actions that the parent agrees to take.
- (2) "Child-caring facility" is defined by KRS 199.011(5).
- (3) "Commitment" is defined by KRS 600.020(13).
- (4) "Family team meeting" means a meeting convened to develop services to avoid the dissolution of an adoption in accordance with Section 2(2)(b)4. of this administrative regulation.
- (5) "Post-adoption placement stabilization services" or "PAPSS" means coordination, payment, and provision of care and treatment of an adopted child by the cabinet to prevent dissolution of the adoption.

Section 2. Eligibility Requirements for Services.

- (1) The cabinet shall consider a request for PAPSS made on behalf of an adopted child if:
 - (a) The adoptive parent receives adoption assistance for the child in accordance with 922 KAR 1:050 or 922 KAR 1:060; and
 - (b) Cabinet staff determines that after the provision of other prevention services, such as services provided in subparagraph (2)(b)2. of this section, the adoption of the child remains in jeopardy of dissolution.
- (2) If the threshold criteria of subsection (1) of this section are met, the cabinet shall consider a child eligible for PAPSS if:
 - (a) Upon a child's placement with a child-caring facility or a decision to extend PAPSS, the child is assessed:

1. Prior to July 1, 2022, a level of care by the cabinet or its agent and determined to meet criteria for:
 - a. Level IV; or
 - b. Level V; or
 2. On or after July 1, 2022, as a Level III as established in 922 KAR 1:360, Section 4(3); and
- (b) The adoptive parent:
1. Receives adoption assistance for the child in accordance with 922 KAR 1:050 or 922 KAR 1:060;
 2. Has cooperated with other services to prevent the adoption's dissolution, such as:
 - a. Targeted Case Management and other behavioral health services through Community Mental Health Centers and other Kentucky Medicaid Program behavioral health services providers;
 - b. Family Preservation Services in accordance with KRS 200.575; or
 - c. Crisis stabilization through the Kentucky Medicaid Program;
 3. Authorizes the cabinet to:
 - a. Coordinate PAPSS for the child;
 - b. Make a referral on behalf of the child to a child-caring facility for the child's placement; and
 - c. Access confidential medical and treatment information about the child; and
 4. Agrees to:
 - a. Participate in a family team meeting:
 - (i) To include designated regional cabinet staff, family members, staff of the child-caring facility providing services to the child, or other individuals requested by the family or cabinet staff;
 - (ii) Within the first thirty (30) days of a child's receipt of PAPSS; and
 - (iii) As established in Section 4(4) of this administrative regulation;
 - b. Cooperate with an assessment of the child to determine the child's needs and eligibility for PAPSS as required by paragraph (a) of this subsection;
 - c. Place the child with:
 - (i) A child-caring facility operating in accordance with 922 KAR 1:360, for which the commissioner or designee shall approve the placement of a child age ten (10) or younger; or
 - (ii) An out-of-state, licensed child care institution upon authorization by the cabinet for payment to the child care institution in accordance with Section 3(1) of this administrative regulation;
 - d. Participate in the child's treatment to support reunification with the child; and
 - e. A renegotiation of the child's adoption assistance to one (1) dollar, provided in accordance with 922 KAR 1:050 or 922 KAR 1:060, during the period of time the child receives PAPSS.

Section 3. Payment.

- (1) To the extent funds are available, the cabinet shall pay a reimbursement rate for PAPSS consistent with the child's assessed level of care or as established in Section 2(2) (a) of this administrative regulation unless:
 - (a) The child's child care institution does not have an agreement with the cabinet in accordance with 922 KAR 1:360; and
 - (b) Approval for a different rate is obtained from the commissioner or designee.
- (2) During the time period in which a child receives PAPSS, the cabinet shall temporarily reimburse for the renegotiated adoption assistance in accordance with:
 - (a) Section 2(2)(b)4.e. of this administrative regulation; and
 - (b) 922 KAR 1:050 or 922 KAR 1:060.

Section 4. Timeframes for PAPSS.

- (1) The cabinet shall discontinue payment for PAPSS after the child has received PAPSS for sixty (60) calendar days, unless an additional time period of PAPSS has been approved in accordance with subsections (2) and (3) of this section.
- (2) After the child has received PAPSS for sixty (60) calendar days, to the extent funds are available, the:
 - (a) Commissioner or designee may approve the child for an additional thirty (30) calendar days, for a total of ninety (90) calendar days of PAPSS, if the:
 1. Child continues to meet the requirements specified in Section 2(2)(a) of this administrative regulation; and
 2. Adoptive parent continues to meet the requirements specified in Section 2(2)(b) of this administrative regulation; or
 - (b) Cabinet may continue PAPSS to a child if the:
 1. Child continues to meet the criteria established in Section 2(2)(a) of this administrative regulation;
 2. Child's assessed needs require PAPSS beyond an additional thirty (30) calendar days; and
 3. Adoptive parent:
 - a. Voluntarily commits the child to the cabinet in accordance with KRS 620.170 and 45 C.F.R. 1356.22; and
 - b. Continues to meet the criteria established in Section 2(2)(b) of this administrative regulation.
- (3) To the extent funds are available, the cabinet may provide PAPSS to a child beyond ninety (90) calendar days in a twelve (12) month period, if the:
 - (a) Child continues to meet the criteria established in Section 2(2)(a) of this administrative regulation; and
 - (b) Adoptive parent meets the requirements of subsection (2)(b)3. of this section.
- (4) If a child receives PAPSS, the cabinet shall call at least one (1) family team meeting for the child. The meeting may be called:
 - (a) At thirty (30) calendar day intervals; or
 - (b) More frequently than one (1) time in a thirty (30) day period with the consent of the adoptive parent.

Section 5. Continuation of PAPSS Through Voluntary Commitment.

- (1) If an adoptive parent voluntarily commits a child to the cabinet for the child's continued benefit of PAPSS and continues to meet criteria established in Section 2(2)(b) of this administrative regulation, the cabinet shall seek no child support from the adoptive parent.
- (2) Any extension to the voluntary commitment of the child to the cabinet shall be in accordance with KRS 620.170 and 45 C.F.R. 1356.22.

Section 6. Discontinuation and Aftercare. The cabinet may develop an aftercare plan for the adoptive parent and child, if the:

- (1) Cabinet discontinues PAPSS; and
- (2) Adoptive parent assists in the aftercare plan's development.

Section 7. Appeals.

- (1) An adoptive parent shall be granted an administrative hearing in accordance with 922 KAR 1:320 if the cabinet fails to:
 - (a) Use reasonable promptness in its:
 1. Response to a request for PAPSS; or
 2. Referral of an eligible child to a child-caring facility for approved PAPSS; or
 - (b) Call a family team meeting for a child during the:

1. Sixty (60) calendar days a child receives PAPSS; or
 2. Period of time a child receives an extension to PAPSS in accordance with Section 4(2) and (3) of this administrative regulation.
- (2) Private child-caring facilities shall have appeal rights in accordance with 922 KAR 1:360, Sections 16 and 17 .
- (3) An adoptive parent may request a review by the commissioner if criteria of 922 KAR 1:320, Section 4(5) or 10(2) are met.

Section 8. Out-of-State Request for PAPSS. The cabinet shall consider out-of-state requests for a child adopted from the custody of the cabinet on a case-by-case basis, to include considerations regarding the:

- (1) Needs of the child;
- (2) Consent of the parent; and
- (3) Extent of funds available.

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 21, 2021

FILED WITH LRC: December 28, 2021 at 8:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until March 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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