

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. [1.] Level IV~~[as established in 922 KAR 1:360, Section 4(4)]~~; or

b. [2.] Level V~~[as established in 922 KAR 1:360, Section 4(5)]~~; 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~~requirements specified~~ 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~~requirements specified~~ 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~~requirements specified~~ 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~~^{14 and 15}.
- (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.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation provides assistance to adoptive families by allowing a child adopted from foster care to receive residential treatment post-adoption for a limited amount of time to prevent an adoption dissolution.

(b) The necessity of this administrative regulation:

This regulation provides needed services and supports to adoptive families and children post-adoption.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the authorized statutes by allowing the cabinet to qualify for federal funds and establishing procedures for the implementation of post-adoption placement stabilization services (PAPSS).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the statutes by establishing PAPSS in a manner that is consistent with federal and state requirements, available funding, and the interests of families and children being served.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment aligns this administrative regulation with changes to the level of care structure taking place in the simultaneous amendment to 922 KAR 1:360. Children deemed a level of care III under the new structure will qualify for PAPSS services. Additionally, for children ten (10) years of age and younger, the Department for Community Based Services Commissioner or designee will approve the placement of a child in a child-caring facility. This will ensure that young children are placed in the most appropriate placement setting to meet their needs.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to align with the simultaneous amendment filed to 922 KAR 1:360 and to ensure young children are placed in the most appropriate placement settings to meet their needs.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment conforms to the content of the authorizing statutes by better aligning with the needs of adopted children and overarching federal requirements that necessitated the amendment to 922 KAR 1:360.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will assist in the effective administration of the statutes through its refinement of PAPSS in accordance with federal standards and the interests of adoptive families and children.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Adoptive families and children adopted from foster care will be impacted by this regulation. In 2019, 18 children received PAPSS and in 2020, 25 children received this assistance.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Children who are assigned a level III level of care will be eligible for PAPSS rather than the previous level of care IV or V as this is being restructured in 922 KAR 1:360.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no cost to affected entities, children and families who receive post-adoptive supports.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Adoptive families and children adopted from foster care will still be able to access needed services post-adoption in order to prevent an adoption dissolution.

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

(a) Initially:

There is no cost associated with this amendment.

(b) On a continuing basis:

There is no cost associated with this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

General Fund dollars are utilized in the implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There is no increase in fees or funding associated with this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

This administrative regulation does not establish or increase fees.

(9) TIERING: Is tiering applied?

Tiering is not applied. PAPSS is implemented in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

(2) State compliance standards.

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

(3) Minimum or uniform standards contained in the federal mandate.

45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Cabinet for Health and Family Services, Department for Community Based Services, will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.050(1), 199.472, 605.100(1), 605.130(7), 605.150, 45 C.F.R. 1355.34(b), (c), 1356.22

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The amendment to this administrative regulation will not generate any revenue for the first year. Providing additional supports to adoptive families in order to prevent children from re-entering foster care supports the overall well-being of that child and decreases the public cost of caring for the child if the child reenters foster care or if the adoption dissolves.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate any new revenue in subsequent years.

(c) How much will it cost to administer this program for the first year?

The administration of this program is projected to fall within available state appropriations.

(d) How much will it cost to administer this program for subsequent years?

In SFY 2021, the cabinet spent approximately \$5 million on adoption assistance, not including post-adoption subsidy payments.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: