

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support
(Amendment)

921 KAR 2:040. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS ~~Chapter 205[205.010, 205.200, 205.245]~~, 42 U.S.C. 601-619

STATUTORY AUTHORITY: KRS 194A.050(1), 205.200(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law 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 Chapter 205 requires the Cabinet for Health and Family Services to administer the Kentucky Transitional Assistance Program (KTAP)[~~(K-TAP)~~] and the State Supplementation Program (SSP). KRS 205.200(2) requires the cabinet to prescribe, by administrative regulation, the conditions of eligibility for public assistance, in conformity with Title IV-A of the Social Security Act, 42 U.S.C. 601-619, and federal regulations. This administrative regulation establishes the procedures used to determine initial and continuing eligibility for assistance under these programs.

Section 1. Eligibility Determination Process.

(1) A household shall, for the month payment is intended to cover the household, meet the eligibility criteria in:

- (a) 921 KAR 2:006 and 921 KAR 2:016 for KTAP[~~K-TAP~~]; or
- (b) 921 KAR 2:015 for SSP.

(2) A household shall not receive assistance until approval of the application for benefits.

(3) Each decision regarding eligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record.

(4) The applicant or recipient shall be the primary source of information and shall be required to:

- (a) Furnish verification of:
 - 1. Income;
 - 2. Resources; and
 - 3. Technical eligibility; and
- (b) Give written consent to contacts necessary to verify or clarify a factor pertinent to the decision of eligibility.

(5) If informed in writing of the appointment or necessary information to be provided, failure of the applicant or recipient to appear for a scheduled interview or present required information when requested shall be considered a failure to present adequate proof of eligibility.

(6)

(a) An application shall be considered filed if a "PA-77, Intent to Apply for KTAP[~~K-TAP~~], Medicaid, State Supplementation, or Child Care Assistance", or a "PA-100, Application/Recertification for KTAP or[~~K-TAP and~~] Kinship Care", containing the name, address, and signature of the applicant, is received by an office of the Department for Community Based Services (DCBS).

(b) An application shall be processed after the:

- 1. Applicant or representative is interviewed;
- 2. Required information and verification for the application is provided to the DCBS office; and

3. Application and related documents, pursuant to subsection (4) of this section, are received by the DCBS office.

(c) If an electronic form is not used, the cabinet shall record information for recertification to determine continuing eligibility for ~~KTAP~~~~[K-TAP]~~ by using form PA-100.

Section 2. Continuing Eligibility.

(1) The recipient shall be responsible for reporting, within ten (10) calendar days, any change in circumstances that may affect eligibility or the amount of payment.

(2) Eligibility shall be redetermined:

(a) If a report is received or information is obtained about a change in a circumstance;

(b) Every twelve (12) months for SSP cases; and

(c) Every twelve (12) months for ~~KTAP~~~~[K-TAP]~~ cases.

Section 3. Child Care Assistance Program. Procedures used to determine initial and continued eligibility for the Child Care Assistance Program shall be in accordance with 922 KAR 2:160.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "PA-77, Intent to Apply for ~~KTAP~~~~[K-TAP]~~, Medicaid, State Supplementation, or Child Care Assistance", ~~09/22~~~~[10/17]~~; and

(b) "PA-100, Application/Recertification for ~~KTAP~~ or ~~[K-TAP and]~~ Kinship Care", ~~09/22~~~~[10/17]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dCBS/Pages/default.aspx>.

(PA-52.3, 54, 70; 1 Ky.R. 1283; eff. 7-2-1975; Am. 7 Ky.R. 71; 569; 650; eff. 2-3-1981; 8 Ky.R. 1190; eff. 6-25-1982; 16 Ky.R. 243; eff. 9-20-1989; 2569; eff. 6-27-1990; 18 Ky.R. 3262; eff. 6-24-1992; 21 Ky.R. 136; eff. 9-21-1994; 981; 1529; 1682; eff. 2-17-1998; Recodified from 904 KAR 2:040, 10-30-1998; 29 Ky.R. 1415; 1824; eff. 1-15-2003; 37 Ky.R. 866; Am. 1213; eff. 11-17-2010; 38 Ky.R. 411; eff. 10-19-2011; 40 Ky.R. 466; 849; eff. 10-16-2013; 44 Ky.R. 1150; eff. 3-15-2018; 49 Ky.R. 924; eff. 2-16-2023.)

MARTA MIRANDA-STRAUB, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 6, 2022

FILED WITH LRC: September 12, 2022 at 12:50 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 28, 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 November 17, 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 November 30, 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, Staff Assistant

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the procedures used to determine initial and continuing eligibility for assistance provided through Kentucky's Temporary Assistance for Needy Families (TANF) program, the Kentucky Transitional Assistance Program (KTAP), and State Supplementation Program (SSP).

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the eligibility procedures for KTAP and SSP.

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

This administrative regulation conforms to KRS 194A.050, which requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to qualify for federal funds and to cooperate with other state and federal agencies. This cabinet is required to implement state TANF programs pursuant to 45 C.F.R. 260-265.

(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 eligibility criteria for KTAP and SSP, required by statute.

(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 changes the existing administrative regulation by updating program names and making form revisions. Material incorporated by reference is being amended to update program names and language, clarify instructions, update state and federal contact information, collect additional education and financial resource information, include requirements around cooperating with Child Support Enforcement and registering for work, and to include prohibitions around utilizing an electronic benefits transfer (EBT) card at specific retailers outlined in House Bill 7 (Regular Session 2022) and authorizing state laws.

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

The amendment is necessary in order to make program and language updates consistent with other administrative regulations and to include references relating to Child Support Enforcement and EBT card utilization prohibitions consistent with other authorizing statutes.

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

The amendment conforms to the authorizing statutes by maintaining standards for determining initial and continuing eligibility for Kentucky's TANF program, KTAP, and SSP.

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

The amendment establishes procedures for programs required by statute and includes amendments consistent with recently passed legislation.

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

The Department for Community Based Services (DCBS) administers this program. As of April 2022, there were approximately 10,422 KTAP cases throughout Kentucky.

(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:

Applicants applying or reapplying for KTAP or kinship care will have to provide additional information relating to financial resources, agree to cooperate with Child Support Enforcement, and agree to EBT card utilization prohibitions.

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

There are no costs associated with this amendment.

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

Language in incorporated material being updated and clarified will improve accuracies in the eligibility determination process reducing the possibility for fraud, error, or claim.

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

(a) Initially:

There are no costs associated.

(b) On a continuing basis:

There are no costs associated with this amendment, but the implementation and enforcement of this administrative regulation is funded by the federal TANF Block Grant.

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

The implementation and enforcement of this administrative regulation is funded by the TANF Block Grant.

(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 required by this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied because this administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

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

45 C.F.R. 260-265, 42 U.S.C. 601-619

(2) State compliance standards.

KRS 194A.050(1), 205.200(2)

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

Operating a state program consistent with the rules of the Temporary Assistance for Needy Families Block Grant. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and Encourage the formation and maintenance of two-parent families.

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

The amendment does not impose stricter requirements than those required by the federal mandate.

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

N/A

FISCAL NOTE

(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 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.

45 C.F.R. 260-265, 42 U.S.C. 601-619, KRS 194A.050(1), 205.200(2)

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

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

This administrative regulation does not generate revenue.

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

This administrative regulation does not generate revenue.

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

There are no costs associated with this amendment. The cabinet will utilize the administrative funds available under the TANF Block Grant to administer these programs.

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

The cabinet will utilize the administrative funds available under the TANF Block Grant to administer these programs.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

Cost savings are not generated by this administrative regulation, but it also does not require costs from regulated entities.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

There are no cost savings associated with this amendment.

(c) How much will it cost the regulated entities for the first year?

There are no costs to regulated entities associated with this amendment.

(d) How much will it cost the regulated entities for subsequent years?

There are no costs to regulated entities associated with this amendment.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact.