

Technical Amendment
October 31, 2022
EDUCATION AND LABOR CABINET
(Technical Amendment)

803 KAR 25:120. Training or education programs eligible for retraining incentive benefits.

RELATES TO: KRS 342.040(3), 342.732

STATUTORY AUTHORITY: KRS 342.732(1)(a)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.732 requires the Commissioner of the Department~~[Executive Director of the Office]~~ of Workers' Claims to promulgate administrative regulations to approve bona fide training or education programs eligible to receive a maximum of \$5,000 for standard instruction, tuition, material costs, and any fees necessary for the completion of the program. It also provides for attainment of GED and bonuses for completion of bona fide training and education programs. This administrative regulation establishes requirements for training or education programs eligible for retraining incentive benefits and bonuses.

Section 1. Definitions.

- (1) "Bona Fide Training or Education Program" means:
 - (a) Postsecondary education or training program including a postsecondary program registered with the Kentucky Higher Education Assistance Authority, which:
 1. Can be completed within the period benefits are payable under KRS 342.732; and
 2. If successfully completed, will qualify the person for a trade, occupation, or profession; or
 - (b) A program certified by the commissioner~~[executive director]~~ pursuant to Section 2 of this administrative regulation.
- (2) "RIB" means retraining incentive benefits.
- (3) "RIB student" means a student receiving retraining incentive benefits and meeting the requirements established in KRS 342.732(1).

Section 2. Certification by Commissioner~~[Executive Director]~~.

- (1) Any training institution or education program seeking certification from the Commissioner of the Department~~[executive director of the Office]~~ of Workers' Claims as a "bona fide training or education program" shall apply by letter to the following address: Commissioner~~[Executive Director]~~/Retraining Incentive Benefit Education Program Certification, Department of Workers' Claims, 500 Mero Street, Third Floor~~[Office of Workers' Claims, Prevention Park, 657 To Be Announced Avenue]~~, Frankfort, Kentucky 40601.
- (2) Each application shall:
 - (a) Provide proof of licensure and accreditation;
 - (b) Provide evidence that:
 1. The successful completion of the training or education program shall qualify a student for gainful employment; and
 2. The program may be completed within the period benefits are payable under KRS 342.732(1)(a)1;
 - (c) Include a catalog, brochure, or other descriptive material pertaining to education or training program and the cost of the program;
 - (d) Provide any available job placement rates for students who have completed the education or training program.

Section 3. Each program certified by the commissioner~~[executive director]~~ shall:

- (1) Apply funds paid to the program under this administrative regulation only to instruction, tuition, material costs, and any fees necessary for the completion of the program;
- (2) Notify an insurance carrier or self-insured employer, Coal Workers' Pneumoconiosis Fund, and the Department~~[Office]~~ of Workers' Claims in writing within ten (10) days of the date that a RIB student ceases to participate in the program or graduates;
- (3) Send bills directly and promptly to the Coal Workers' Pneumoconiosis Fund, self-insured employer or insurance carrier for standard instruction, tuition, material costs, and any fees necessary for the completion of the program; and
- (4) Notify the Department~~[Office]~~ of Workers' Claims in writing within ten (10) days of the date a student reverts from full-time to part-time status or leaves the program for any reason.

Section 4. Continuing Eligibility.

- (1) The Commissioner of the Department~~[Executive Director of the Office]~~ of Workers' Claims shall certify the eligibility of a training or education program for RIB students following receipt of an application from the program adequate to assure that the criteria outlined in this administrative regulation have been met.
- (2) If at any time thereafter the commissioner~~[executive director]~~ has reason to believe that certification of the program should be terminated, the program shall:
 - (a) Be given notice of the termination of certification thirty (30) days in advance; and
 - (b) Have the opportunity to challenge the termination by requesting a hearing before the commissioner~~[executive director]~~ within the thirty (30) day notice period.

Section 5. Requirements for RIB Students for Successful Participation and Completion of a Bona Fide Training or Education Program and Awarding of Bonuses Paid Pursuant to KRS 342.732(1)(a)6.

- (1)
 - (a) Unless good cause is shown to the commissioner~~[executive director]~~, an RIB student shall attend a minimum of ninety (90) percent of classes scheduled in each academic quarter, semester, or other term.
 - (b) If good cause is shown to the commissioner~~[executive director]~~, the commissioner~~[executive director]~~ may allow attendance of a minimum of eighty (80) percent of classes scheduled in each academic quarter, semester, or other term.
- (2) Completion of a bona fide training or education program shall be signified by the RIB student's receipt of a completion document such as certificate, diploma, or degree awarded by the training or education institution.
- (3) An RIB student who is suspended by a training or education institution for academic or disciplinary reasons shall not be eligible for RIB benefits after the date of suspension.
- (4) RIB benefits shall be reinstated after a suspension if the student:
 - (a) Is readmitted to the training or education program; and
 - (b) Is eligible under KRS 342.732 and this administrative regulation.
- (5) An RIB student shall not be eligible to receive RIB benefits if two (2) consecutive monthly reports submitted by the instructor indicate that the student has failed:
 - (a) To meet attendance requirements set forth in subsections (1) and (2) of this section; or
 - (b) To maintain a satisfactory level of performance and progress.
- (6) To qualify for the completion bonuses provided in KRS 342.732(1)(a)6, the RIB student shall submit the following:
 - (a) An affidavit from the student which includes:
 1. A statement that the course was completed;
 2. A statement of the number of months needed to complete the course; and

3. A certification from the student that the statements and document attached are true and accurate;
 - (b) Appropriate completion document from the training or education institution; and
 - (c) A statement from the institution listing the number of months required for completion of the course of study.
- (7) Any period of study pursuant to KRS 342.732(1)(a)3 shall not be considered a part of the length of study for the completion of the program or be considered a part of the monthly requirements necessary for the receipt of a completion bonus.

Section 6. Requirements for Receipt of Income Benefits for Successful Completion of GED Program Pursuant to KRS 342.732(1)(a)3.

- (1)
 - (a) Unless good cause is shown to the commissioner~~[executive director]~~, an RIB student shall attend a minimum of ninety (90) percent of classes in an individualized class schedule developed for the RIB student by the GED instructor.
 - (b) If good cause is shown to the executive director, the commissioner~~[executive director]~~ may allow attendance of a minimum of eighty (80) percent of classes in an individualized class schedule developed for the RIB student by the GED instructor.
- (2) The RIB student shall demonstrate a level of performance and progress acceptable to the GED instructor.
- (3) The GED instructor shall submit monthly reports to the department~~[office]~~ and insurance carrier or self-insured employer which shall include:
 - (a) The RIB student's attendance; and
 - (b) A rating of satisfactory or unsatisfactory level of performance and progress.
- (4) An RIB student shall not be eligible to receive RIB benefits if two (2) consecutive monthly reports submitted by the GED instructor indicates that the student:
 - (a) Fails to meet attendance standards; or
 - (b) Has an unsatisfactory level of performance and progress.
- (5) An employee with a GED or high school diploma who has been awarded RIB benefits but who scores at less than acceptable academic levels on admission tests required by a training or education institution shall be eligible for income benefits pursuant to KRS 342.732(1)(a)3.

Section 7. RIB Student Responsibilities.

- (1) The RIB student shall notify the self-insured employer or the insurance carrier, Coal Workers' Pneumoconiosis Fund, and the Commissioner of the Department~~[Executive Director of the Office]~~ of Workers' Claims in writing within seven (7) days of one (1) of the following events:
 - (a) Application for admission to a training or education program;
 - (b) Enrollment and participation date in a training or education program;
 - (c) Withdrawal from a class or program for reasons other than completion;
 - (d) Graduation; or
 - (e) Return to work, including name and address of employer, job title, and earnings.
- (2) Copies of the following documents shall be submitted to the self-insured employer or insurance carrier, the Coal Workers' Pneumoconiosis Fund, and the Commissioner of the Department~~[Executive Director of the Office]~~ of Workers' Claims within seven (7) days of receipt:
 - (a) All final grades; or
 - (b) Notice of academic or disciplinary probation or expulsion.
- (3) Within ten (10) days of the end of each month, the RIB student shall submit a monthly report to the department~~[office]~~, insurance carrier, or self-insured employer, and Coal Workers' Pneumoconiosis Fund listing:
 - (a) Number of classes missed;

- (b) The dates the classes were missed;
 - (c) The reason for each absence; and
 - (d) Academic progress in each class.
- (4) The RIB student shall sign a release for the Department~~[Office]~~ of Workers' Claims to obtain copies of grades and attendance records for bona fide training and education programs, GED programs, or remedial classes.
- (5) The RIB student shall inform the Department~~[Office]~~ of Workers' Claims, the insurance carrier or self-insured employer, and Coal Workers' Pneumoconiosis Fund if the student converts from full-time status to part-time status.

Section 8. Suspension of RIB Benefits.

- (1) The insurance carrier, self-insured employer, or Coal Workers' Pneumoconiosis Fund may suspend weekly RIB benefits if one (1) of the following occurs:
- (a) Academic or disciplinary suspension;
 - (b) Failure to comply with the attendance requirements in Section 5 or 6 of this administrative regulation;
 - (c) Termination of the training program by the student;
 - (d) Completion of the program by the student;
 - (e) A finding in two (2) consecutive monthly reports by an instructor of unsatisfactory performance of the student;
 - (f) Failure of the student to file required attendance and progress reports for two (2) consecutive months absent good cause shown to the commissioner~~[executive director]~~;
 - or
 - (g) Included in an administrative law judge order.
- (2) If RIB benefits are suspended for more than 365 days following the finality of the award, the number of weeks the individual is eligible for RIB benefits pursuant to KRS 342.732(1)(a) shall not be extended.

Section 9. Any training or education program participating in a student financial aid program administered by the Kentucky Higher Education Assistance Authority shall be exempt from submitting an application for certification by the commissioner~~[executive director]~~.

(803 KAR 025:120. 21 Ky.R. 1608; eff. 2-9-1995; 24 Ky.R. 1395; 1705; eff. 3-16-1998; 29 Ky.R. 1095; 1612; eff. 12-18-2002; TAm eff. 8-9-2007; Crt eff. 3-29-2019; TAm eff. 10-31-2022; Crt eff. 3-5-2026; Recodified to 120 KAR 001:120; eff. 6-29-2026.)

FILED WITH LRC: October 31, 2022