

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of Data Analytics**  
**(Amendment)**

**900 KAR 7:040. Release of public data sets for health facility and services~~care~~  
~~discharge~~ data.**

RELATES TO: KRS 61.870-61.884, 216.2920, 216.2927, 216.2929

STATUTORY AUTHORITY: KRS 194A.050(1), 216.2923(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2923(2)(b) requires the Cabinet for Health and Family Services to promulgate administrative regulations for its transactions related to KRS 216.2920 to 216.2929. KRS 216.2927 mandates that personally identifying data collected by the Cabinet for Health and Family Services from health care providers not be released to the general public nor be allowed public inspection under KRS 61.870 to 61.884. This administrative regulation establishes the guidelines for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030, while maintaining patient confidentiality and further protecting personally identifying information.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 216.2920(2).
- (2) "Data" means the information collected pursuant to 900 KAR 7:030.
- (3) "Encounter-level" means the data record of a single instance of hospitalization, outpatient service, ambulatory surgery, emergency department, or observation stay billing record contained in a data file.
- (4) "Health care provider" is defined by KRS 216.2920(5).
- (5) "Public" means a person or group not directly responsible for the collection, maintenance, custody, or dissemination of data for purposes of this administrative regulation.
- (6) "Report" means a summary or compilation of data disseminated to the public.

Section 2. Encounter-Level Data. Encounter-level data shall be released in an electronic text file and shall include the following data elements:

Encounter-Level Data

Provider ID

Quarter and Year of Discharge

Patient Gender

Patient Age Group

Patient Race or Ethnicity

Patient Resident County

Type of Admission

Source of Admission

All Diagnoses Available for Each Individual Record

All Procedures Available for Each Individual Record

Patient Zip Code

Length of Stay

Total Charges

Discharge Status

Payer 1 (Primary)  
Payer 2  
Payer 3  
Do not resuscitate indicator  
Diagnosis present on admission indicator

### Section 3. Summary Data.

- (1) The cabinet shall not release data if KRS 216.2927 prohibits its release.
- (2) The cabinet may include the following data elements, in any combination thereof, for encounter-level, aggregate, and summary report formats:
  - (a) Diagnoses and procedures, primary, and any other level;
  - (b) Diagnosis and procedure groupings, including diagnostic related groups, major diagnostic categories, and agency for health care policy and research clinical classification system;
  - (c) Patient gender;
  - (d) Age or age grouping;
  - (e) Discharge status;
  - (f) Payor category, all levels;
  - (g) Charge information, total and ancillary;
  - (h) County of patient residence;
  - (i) County of provider;
  - (j) Ancillary department information;
  - (k) Length of stay, total, and average;
  - (l) External cause of injury;
  - (m) Race or ethnicity; or
  - (n) Mortality rate. Reports including mortality rates shall be adjusted by severity of illness by reputable grouping software, either on a contract basis or by the cabinet.
- (3) Data shall not be withheld from the public or another interested party based solely on an unfavorable profile of a provider or group of providers, if the data is deemed reliable, accurate, and sufficiently free of error, as determined by the cabinet and pursuant to 900 KAR 7:030.

### Section 4. Release of Data.

- (1) A person or agency shall, as a condition for receiving data from the cabinet, sign an Agreement for Use of Kentucky Health Facility and Services~~Claims~~ Data. A person or agency receiving data shall agree to adhere to the confidentiality requirements established in subsection (2) of this section and KRS 216.2927.
- (2) To protect patient confidentiality:
  - (a) A report or summary of data that contains a record value of one (1) through ten (10) ~~{consists of five (5) or fewer records}~~ shall not be released or made public if the cell's original size can be determined by subtraction from the total.
  - (b) If the circumstances described in subsection (a) occurs then:
    1. totals shall also be removed from the table, or
    2. the exact number of the next smallest cell shall be withheld;
  - (c) ~~{(b)}~~ A person or agency receiving data shall not redistribute or sell data in the original format;
  - (d) ~~{(c)}~~ A person or agency receiving data shall not redistribute or sell a subset of the data or an aggregate product of the data;
  - (e) ~~{(d)}~~ Distribution of data received by the cabinet shall be approved by the custodial agency prior to receipt of the data;

- (f) ~~((e))~~ The data collected pursuant to 900 KAR 7:030 shall be used only for the purpose of health statistical reporting and analysis or as specified in the user's written request for the data; and
- (g) ~~((f))~~ A user shall not attempt to link the public use data set with an individually identifiable record from another data set.

Section 5. Fees.

- (1) The cabinet shall charge a fee not to exceed \$1,500 for the purchase of a single copy of an annual, public-use data set.
- (2) A public-use data set shall be available for purchase no later than sixty (60) days after the end of the facility reporting period as established in 900 KAR 7:030. Special requests for data shall be prioritized and completed at the discretion of the custodial agency.

Section 6. Incorporation by Reference.

- (1) "Agreement for Use of Kentucky Health Facility and Services~~[Claims]~~ Data", May ~~2023~~~~[2017]~~, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Office of Data Analytics~~[Health Policy]~~, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

*JILNAR MASRI, Executive Director*  
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: November 9, 2023

FILED WITH LRC: November 13, 2023 at 1:25 p.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on January 22, 2024 at 9 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 January 12, 2024, 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 January 31, 2024. 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 Advisor, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Krista Quarles**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the guidelines for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030, while maintaining patient confidentiality and further protecting personally identifying information. This is in accordance with KRS 216.2923(2)(b).

**(b) The necessity of this administrative regulation:**

KRS 216.2923(2)(b) requires there to be an administrative regulation for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929 regarding the release and distribution of public data sets for health care discharge data collected by the cabinet. This administrative regulation provides the format, restrictions, and requirements for the release of these data sets.

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

KRS 216.2923(2)(b) requires the office to promulgate administrative regulations necessary to carry out the provisions of KRS 216.2920 to 216.2929. This administrative regulation provides the format, restrictions, and requirements for the release of these data sets.

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

This administrative regulation provides format, restrictions, and requirements for the release of public data sets for health care discharge from the office.

**(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 will update the name of the entity responsible for releasing these data sets to reflect the 2022 CHFS re-organization which changed the Office of Health Data and Analytics (OHDA) to the Office of Data Analytics (ODA). This amendment also provides updated editions of the data use agreement form for this data and updates language regarding cell suppression.

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

This amendment is needed to avoid confusion regarding the CHFS Office which oversees the release of these data sets and to include update data use agreement form language.

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

216.2923(2)(b) requires the office to promulgate administrative regulations necessary to carry out the provisions of KRS 216.2920 to 216.2929. This amendment does not alter the existing process. The amendment updates names and existing forms.

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

The amendment will allow the administrative regulation to reflect ODA's new name and bring the public data use agreement form into alignment with other data use agreements utilized by the cabinet.

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

Individuals, businesses, or organizations who wish to receive public data sets for health care discharge data.

**(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:**

The individuals, businesses, organizations will need to use the updated form when submitting their requests for data to the office.

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

no additional cost is anticipated.

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

Confusion will be avoided regarding the name of the office responsible for releasing this data and additional safeguards surrounding the data will be put into place.

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

**(a) Initially:**

Initial costs are estimated to be under \$1,000 and include existing staff time and the updating the public data use agreement form, and uploading the form to a page on the ODA Web site.

**(b) On a continuing basis:**

ODA will need to maintain and check the e-mail box for these data requests. Staff will fulfill valid requests for this data. Existing state staff is already handling these tasks, which take approximately thirty (30) hours or less per month. Total estimated cost should be less than \$1000 per month.

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

ODA funds will continue to be used.

**(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:**

No increase in fees is expected to implement this amendment to an existing administrative regulation.

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

This revision to the administrative regulation does not establish or change any fees. The previously approved charge of a fee not to exceed \$1,500 for the purchase of a single copy of an annual, public-use data set remains in place.

**(9) TIERING: Is tiering applied?**

Yes, tiering is applied because the fee for non-profits is \$500 while it is \$1,500 for all others.

## 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 Cabinet for Health and Family Services, Office of Data and Analytics (ODA) is required to implement this administrative regulation.

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

This administrative regulation is required and authorized by KRS 216.2920 to 216.2929.

**(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.**

Based on this administrative regulation amendment there will be no additional cost.

**(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 create new 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?**

The amendment to this administrative regulation will not create new revenue.

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

Approximately \$6,000 in existing staff time and resources.

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

Approximately \$6,000 in existing staff time and resources.

**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?**

No savings will be generated by this amendment.

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

No savings are anticipated from this amendment.

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

There is no cost to affected entities in the first year.

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

There are no ongoing costs to affected entities.

**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)]. No major economic impact is anticipated.