

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Aging and Independent Living**  
**Division of Quality Living**  
**(Amended After Comments)**

**910 KAR 1:270. Hart-Supported Living grant program.**

RELATES TO: KRS 17.165, 194A.060, 209.030, 210.770-210.795, 45 C.F.R. 164.502-164.514, 164.530

STATUTORY AUTHORITY: KRS 210.780(3), 210.795(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 210.780(3) authorizes the Hart-Supported Living Council to recommend necessary administrative regulations to carry out the purposes of KRS 210.770 to 210.795. KRS 210.795(3) requires the cabinet in concert with the Hart-Supported Living Council to promulgate administrative regulations to establish the methods of awarding Hart-Supported Living grants, monitoring the quality of service delivery, and providing for administrative appeals of decisions. This administrative regulation establishes the Hart-Supported Living grant program application and award procedures, the standards to monitor the quality of service delivery, and the appellate procedure.

Section 1. Definitions.

- (1) "Adaptive and therapeutic equipment" means an item recommended by a physician, physician assistant, advanced practice registered nurse, or licensed therapist that is necessary for the recipient's independent functioning and communication.
- (2) "Applicant" means a person who may be eligible for a Hart-Supported Living grant and submits a completed DAIL-HSL-01 Application to the regional Hart-Supported Living grant program coordinator by the deadline established by Section 3 of this administrative regulation.
- (3) "Application" means a DAIL-HSL-01 Application that is completed and submitted in accordance with Section 3 of this administrative regulation to the regional Hart-Supported Living grant program coordinator.
- (4) "Budget narrative" means a justification and explanation of the amount requested in each budget category.
- (5) "Community resource developer" means an employee of a recipient who coordinates and assists a recipient to:
  - (a) Participate in the community with persons who are members of the general citizenry; and
  - (b) Learn and enhance skills and competencies in living in the community.
- (6) "Council" means the Hart-Supported Living Council that oversees the Hart-Supported Living grant program as described by KRS 210.775 and 210.780.
- (7) "Department" or "DAIL" means the Department for Aging and Independent Living.
- (8) "Designated Representative" means an uncompensated individual designated by the consumer to assist in managing the consumer's Hart Supported Living plan and needed services and be chosen ~~chosed~~ by the recipient, family, or legal guardian.
- (9) ~~(8)~~ "Duplicative service" means a support or service received through the Hart-Supported Living grant program which an individual is eligible to receive from another agency or program and is offered or available at the same time.
- (10) ~~(9)~~ "Eligibility" means meeting the financial eligibility criteria established in:
  - (a) Section 2 of this administrative regulation; and
  - (b) KRS 210.790.
- (11) ~~(10)~~ "Extraordinary out of pocket expenses" means medical expenses of the recipient or applicant not covered by insurance including:

- (a) Co-pays;
  - (b) Deductibles;
  - (c) Prescriptions;
  - (d) Premiums for medical insurance;
  - (e) Other medical, dental, or vision cost incurred as a result of medically necessary treatments or procedures; or
  - (f) Other services or supports related to the person's disability.
- (12) ~~[(11)]~~ "Family" means the recipient's parent, stepparent, adoptive parent, foster parent, grandparent, siblings, spouse, or legal guardian.
- (13) ~~[(12)]~~ "Family responsibility" means:
- (a) Activities or provisions that a family or legal guardian performs naturally until the recipient reaches eighteen (18) years of age including:
    - 1. Educational activities;
    - 2. Housing;
    - 3. Food;
    - 4. Clothing;
    - 5. Child care; and
    - 6. Medical care; and
  - (b) Personal care activities or provisions that a family performs naturally until the recipient reaches twelve (12) years of age.
- (14) ~~[(13)]~~ "Federal poverty guidelines" means the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).
- (15) ~~[(14)]~~ "Hart-Supported Living grant" means an award of funds for a fiscal year to a recipient and is defined by KRS 210.770(5) and (6).
- (16) ~~[(15)]~~ "Hart-Supported Living grant program" or "HSL" is defined by KRS 210.770(5) and (6).
- (17) ~~[(16)]~~ "Hart-Supported Living plan" means the DAIL-HSL-02 Plan document developed with the recipient to account for the services to be provided and the costs as outlined in DAIL-HSL-01 and DAIL-HSL-04.
- (18) ~~[(17)]~~ "Hart-Supported Living plan amendment" means the DAIL-HSL-03 Plan Amendment document that is a written request for any change in the currently approved ~~[a]~~ Hart-supported living plan in the same fiscal year.
- (19) ~~[(18)]~~ "Hart-Supported Living services" means services that are:
- (a) Provided to a person with a disability; and
  - (b) Directed to the recipient toward integrated community living and include:
    - 1. ~~[A community resource developer:]~~
      - ~~[a.] [As authorized by KRS 210.770(8)(a);]~~
      - ~~[b.] [Who coordinates and assists a recipient to meet requirements pursuant to KRS 210.770(5)(a)-(e); and]~~
      - ~~[c.] [Who ensures compliance with KRS 210.770(6);]~~
    - 2. ~~[2.]~~ Homemaker services:
      - a. As authorized by KRS 210.770(8)(b); and
      - b. That include:
        - (i) Cooking;
        - (ii) Cleaning;
        - (iii) Shopping;
        - (iv) Laundry; or
        - (v) Housekeeping;
    - 3. ~~[3.]~~ Personal care services:
      - a. As authorized by KRS 205.900(3); or

- b. For recipients twelve (12) years of age or older, as authorized by KRS 210.770(8)(c);
- 3. ~~4.~~ In-home training and home management assistance:
  - a. As authorized by KRS 210.770(8)(d); and
  - b. That include services to individuals over the age of ~~eighteen (18)~~ **twelve (12)** ~~twelve (12)~~ to assist with one-on-one instruction in the home, including:
    - (i) Property maintenance;
    - (ii) Financial planning;
    - (iii) Housekeeping such as laundering, meal preparation, vacuuming, storing purchased items, washing dishes, and changing bed linens; and
    - (iv) Shopping;
- 4. ~~5.~~ Start-up grants:
  - a. As authorized by KRS 210.770(8)(e); ~~and~~
  - b. That include a grant for one (1) time expenses if the expenses support the recipient's independent living and are for:
    - (i) A security deposit, not to exceed one month's rent;
    - (ii) Utility deposits, submitted with documentation and shall not include past due amounts owed by consumer; or
    - (iii) Purchases of furniture, and appliances ~~and equipment~~ up to \$2,500 ~~\$2,000~~; and
  - c. Limited to one start up grant per lifetime, per applicant.
- 5. ~~6.~~ Transportation:
  - a. As authorized by KRS 210.770(8)(f); and
  - b. That includes mileage reimbursement if it:
    - (i) Is for a person or provider who transports the recipient to work, ~~or~~ community activities, medical appointments, or other destinations in the community as specified in the recipients Hart Supported Living plan ~~that are not customarily a family responsibility~~; and
    - (ii) Does not exceed the state reimbursement rate for individual provider and as specified in DAIL-HSL-01 or DAIL-HSL-04;
    - (iii) Does not exceed the vendor specified budget amount in DAIL-HSL-02.
- 6. ~~7.~~ Home modifications that:
  - a. Are authorized by KRS 210.770(8)(g);
  - b. Include:
    - (i) An architectural change;
    - (ii) A ramp;
    - (iii) A widening of doors; or
    - (iv) Other adaptation if it is requested for the recipient's primary residence to directly accommodate the recipient's disability; and
  - c. Do not exceed the \$45,000 per recipient lifetime limit;
- 7. ~~8.~~ Adaptive and therapeutic equipment:
  - a. As authorized by KRS 210.770(8)(h); and
  - b. That includes an item which promotes the recipient's independent functioning and is recommended by a:
    - (i) Physician;
    - (ii) Physician assistant;
    - (iii) Advanced practice registered nurse; or
    - (iv) Licensed therapist; and
- 8. ~~9.~~ Individualized life planning authorized by KRS 210.770(8)(i).
- 9. Respite care.
  - a. Skilled or unskilled service provided to a recipient on a short-term basis if there is an absence or need for relief of a recipient's caregiver; and

~~b. [Be provided by someone who does not reside in the same household as the recipient; and]~~

~~c. [As defined in DAIL-HSL-02 Plan]~~

~~(20) [(19)] "Operating agency" means the department or its designee that administers Hart-Supported Living.~~

~~(21) [(20)] "Person with a disability" is defined by KRS 210.770(2).~~

~~(22) [(21)] "Primary residence" means a dwelling where the recipient permanently resides and is owned or leased by the recipient or recipient's family as documented on the deed or lease agreement.~~

~~(23) [(22)] "Recipient" means a person who has applied, [and] been approved for a Hart-Supported Living grant, and signed a DAIL-HSL-02 Plan.~~

~~(24) [(23)] "Recoupment" means a return of funds for any payment that was made in an incorrect amount including overpayments and underpayments under statutory, contractual, administrative, or other legally applicable requirements.~~

~~(25) [(24)] "Regional Hart-Supported Living grant program coordinator" means a person or entity designated by the DAIL who is responsible for fiscal and programmatic oversight of Hart-Supported Living grants and plans.~~

~~(26) [(25)] "Request for informal dispute resolution" means the process to be followed if a recipient disagrees with a decision made by the department [regional supported living coordinator], review team, or council.~~

~~(27) [(26)] "Review team" means a team designated by the department to perform the functions established in Section 5 of this administrative regulation.~~

## Section 2. Eligibility.

~~(1) [Eligibility shall be determined in accordance with KRS 210.790(1).]~~

~~[(2)] [Upon the effective date of this administrative regulation,] [An applicant who is eligible for services through Medicaid or a Medicaid Waiver shall not be eligible for on-going services through a Hart-Supported Living grant unless the applicant is:~~

~~(a) Considered inappropriate for participant directed services due to:~~

~~1. An inability to manage his own services; and~~

~~2. A lack of availability of a person to act as his representative; or~~

~~(b) Unable to access the Medicaid program through a traditional provider.~~

~~(2) [(3)] Medicaid eligible individuals requesting services that are not available or exceed program limits through Medicaid may apply for a Hart-Supported Living grant for those services not covered through Medicaid.~~

~~(3) [(4)] Applicants shall submit a copy of the following for each member of the applicant's household:~~

~~(a) The most recent year's income tax returns disclosing the adjusted gross income;~~

~~(b) The past three (3) months' pay stubs; or~~

~~(c) Other verification of income for the past year.~~

~~(4) [(5)] An individual receiving Social Security Insurance shall be considered a household of one (1).~~

~~(5) [(6)] Applicants with an annual household adjusted gross income at or below 300 percent of the federal poverty guidelines shall be considered an eligible applicant.~~

~~(6) [(7)] Applicants with a household adjusted gross income above 300 percent of the federal poverty guidelines shall not be considered an eligible applicant unless the deduction of allowable extraordinary out of pocket expenses adjusts the household income to 300 percent of the federal poverty guidelines or lower.~~

~~[(8)] [Recipients of a Hart Supported Living grant prior to the effective date of this administrative regulation shall meet the requirements of this section by July 1, 2018.]~~

~~[(9)] [An individual shall be limited to one (1) startup grant.]~~

## Section 3. Applicant Responsibilities.

- (1) To be considered for a Hart-Supported Living grant, the applicant shall submit a completed DAIL-HSL-01 or DAIL-HSL-04 Application ~~[on or before the annual deadline]~~ to the regional Hart-Supported Living grant program coordinator where the applicant resides on or before ~~[by]~~ the annual deadline of:
- (a) February 1 for all on-going recipients submitting a DAIL-HSL-04 Request For Renewal; or
  - (b) April 1 for new applications or on-going recipients requesting a new item or service submitting a DAIL-HSL-01 Application.
- (2) The DAIL-HSL-01 or DAIL-HSL-04 Application shall be submitted:
- (a) With all sections and attachments completed; and
  - (b) Via:
    1. The US postal service postmarked by annual deadline;
    2. Hand delivered to the HSL staff ~~[office]~~; ~~[or]~~
    3. Electronically through email or Web site submission; ~~[or]~~
    4. By facsimile to program staff.
- (3) An applicant shall disclose any relationship with:
- (a) ~~[A person employed by the contract agency;]~~
  - ~~[(b)]~~ The regional Hart Supported-Living coordinator;
  - ~~[(c)]~~ A council member; or
  - ~~[(d)]~~ A department staff member.
- (4) A Hart-Supported Living grant program application shall not be used or approved to pay for the following:
- (a) Rent or mortgage payments;
  - (b) Payment of a recipient's or employee's insurance premium regardless of insurance type or medical bills;
  - (c) Supplementation of wages or employer related expenses for staff in other publicly-funded programs;
  - (d) Modifications costing over \$2,500 to rental property;
  - (e) Modifications of rental property without written permission from the property owner;
  - (f) A home improvement not related to a person's disability, including roofing, foundation, and regular home maintenance;
  - (g) Rental of a vehicle ~~[for more than thirty (30) days in a fiscal year]~~;
  - (h) Purchase of a vehicle;
  - (i) Supports or services for individuals in accordance with KRS 210.770(6)(a)-(e);
  - (j) Equipment or service that is duplicative or obtainable from another program or funding source for which the applicant qualifies;
  - (k) Tuition and associated costs to any educational institution;
  - (l) Transportation, costs, or fees for a program or activity in which the majority of participants are persons with a disability;**
  - (m) Furniture not related to a start-up grant;**
  - ~~[(l)] [Transportation, costs, or fees for a program or activity in which the majority of participants are persons with a disability;]~~
  - ~~[(m)] [Furniture not related to a start-up grant;]~~
  - (n) [(m)] [(n)] Household items;**
  - (o) [(n)] [(o)] Utility bills including:**
    1. Mobile phones;
    2. Land line phones;
    3. Internet access;
    4. Cable;
    5. Satellite dish;
    6. Gas;

7. Electric;
8. Water;
9. Sewer; or
10. Other home related costs that may be considered utility and ongoing;

(p) ~~[(o)] [(p)]~~ Vacations;

(q) ~~[(p)] [(q)]~~ Camps that are segregated;

(r) ~~[(q)] [(r)]~~ Payment of medical treatments including:

1. Medical costs;
2. Prescriptions;
3. Vitamins and supplements;
4. Nutritional supplements; or
5. Medical supplies;

(s) ~~[(r)] [(s)]~~ Groceries, meals, or dining out;

(t) ~~[(s)] [(t)]~~ Fees and expenses for anyone other than the recipient and one (1) attendant; or

(u) ~~[(t)] [(u)]~~ Studies or research projects.

(5) Community activity fees shall:

(a) Be limited to pay for the recipient and one (1) attendant to accompany the recipient to an activity that promotes participation in the community with members of the general citizenry;

(b) Not be provided for activities that are a family responsibility; and

(c) Not exceed \$1,000~~[\$750]~~ per grant year per recipient.

(6) Community activity fees, membership fees, and services funded through a Hart-Supported Living grant shall be provided and purchased in Kentucky unless they are not available in Kentucky.

#### Section 4. Application Evaluation and Funding Criteria.

(1) The review team shall recommend funding for a Hart-Supported Living grant based on the DAIL-HSL-01 Application which shall:

(a) Be received or postmarked on or before the due date;

(b) Be filled out in its entirety;

(c) Clearly identify the applicant's need for services requested;

(d) Clearly identify and justify the cost for requested services;

(e) Clearly identify how the services will be provided;

(f) Clearly identify who will provide the services;

(g) Include a budget sheet and budget narrative for the funding requested for each service and provider;

(h) Identify personal resources that will be utilized to provide identified services; and

(i) Adhere to the core principles and definitions of the Hart-Supported Living grant program in accordance with KRS 210.770(5) and (6) and 210.795.

(2) Funding for the application shall be dependent upon:

(a) Meeting the eligibility criteria established in Section 2 of this administrative regulation;

(b) Completeness;

(c) Submission on or before the deadline;

(d) Evaluation by the review team; and

(e) Availability of funding.

(3) Once the allocation of funds have been obligated to applications based on the review criteria, other applications shall not be approved for funding unless additional funding becomes available.

#### Section 5. Review Teams.

(1) A review team shall:

- (a) Evaluate applications in accordance with the criteria in Section 4 of this administrative regulation;
  - (b) Make recommendations for applications to be funded in accordance with subsection (2) of this section;
  - (c) Review requests for plan amendments utilizing the DAIL-HSL-03 Plan Amendment;
  - (d) Not authorize a plan amendment to increase the grant award; and
  - (e) Reallocate grant awards that are underspent to fund individuals in the following priority order:
    - 1. Applicants approved through the informal dispute or appeals process for the current fiscal year or, if no funding is available, these individuals shall be the first funded in the next fiscal year; and
    - 2. Applicants in the current fiscal year based on priority order according to subsection (1)(a-d) and (2)(a-b) of this section that funding was not available prior to the reallocation of grant awards.
- (2) Funding recommendations shall be made in the following order:
- (a) Current recipients requesting the same amount or less for on-going supports;
  - (b) Current recipients requesting additional funding in order to ensure the continuation of their current plan. Additional funding may be granted for the following:
    - 1. An increase in the pay rate of a provider, agency, or vendor for services currently in the plan;
    - 2. An increase in employer taxes for services currently in the plan;
    - 3. An increase in worker's compensation rates; or
    - 4. Payment to a provider to compute required employer taxes and withholdings;
  - (c) Applicants denied funding from the previous fiscal year and approved for funding by the informal dispute resolution or administrative hearing process as outlined in Section 14 of this administrative regulation; and
  - (d) New applicants and current recipients requesting additions to their plans.
- (3) Multiple review teams may be established based upon the number of applications received annually and shall be designated by the department and made up of a minimum of three (3) individuals consisting of:
- (a) One (1) employee of the department;
  - (b) One (1) council member; and
  - (c) One (1) representative of a community or advocacy organization that serves those with disabilities.
- (4) If needed and available, technical assistance may be provided for educational purposes to the review team by a subject matter expert.

#### Section 6. Recipient Responsibilities.

- (1) A recipient of a Hart-Supported Living grant shall:
  - (a) Meet the eligibility requirements established in Section 2 of this administrative regulation;
  - (b) Participate in the development of a DAIL-HSL-02 Plan with the regional Hart-Supported Living grant program coordinator;
  - (c) Adhere to the Hart-Supported Living plan and request a plan amendment for a necessary change;
  - (d) Negotiate the grant funded services to be provided by:
    - 1. A service providing agency; or
    - 2. An individual who provides services, as an employee or independent contractor;
 and
  - (e) Be responsible for the recoupment of funds when used for any purpose other than the approved plan or approved amended plan.

- (2) A recipient of a Hart-Supported Living grant who is an employer shall:
- (a) Be responsible for the computation, payment, and reporting of employee payroll, withholdings, workers' compensation, unemployment, and taxes;
  - (b) Establish terms of employment for an employee to:
    1. Include time, duties, and responsibilities;~~[-and]~~
    2. Be in the form of a signed agreement; and
    3. Retain a copy of the valid driver's license and car insurance for any employee providing transportation.
  - (c) Establish terms for an independent contractor to include:
    1. Proof of licensure or certification and insurance;
    2. Services to be provided and compensation; and
    3. A signed agreement.
- (3) A recipient shall not sell or donate equipment or another item purchased with Hart-Supported Living grant funds without the written consent of the council.
- (4) A recipient of a Hart-Supported Living grant shall comply with standards as set forth in KRS 210.795.
- (5) A recipient shall immediately notify the regional Hart-Supported Living coordinator upon the receipt of additional supports or services.
- (6) A recipient shall submit:
- (a) Documentation with a request for payment that shows a support or service approved on a DAIL-HSL-02 Plan has been provided; and
  - (b) A timesheet that shall be signed and dated by an employee and employer.
- (7) A recipient of grant funds shall submit an application to request an increase of services or funding by April 1 to be considered with all applicants for a Hart-Supported Living grant for the fiscal year beginning July 1.
- (8) Recipients of grant funding ~~[prior to the effective date of this administrative regulation]~~ shall:
- (a) Receive priority for funding of existing services listed on the individuals Hart-Supported Living plan, if the application is complete and submitted in compliance with Section 3 of this administrative regulation; and
  - (b) Not receive priority funding for:
    1. New services;
    2. Expanded services; or
    3. Requesting additional funding for existing services.

#### Section 7. Recipient's Employee Responsibilities.

- (1) An employee shall:
- (a) Be selected by the recipient;
  - (b) Be eighteen (18) years of age or older;
  - (c) Enter into and comply with the written agreement for terms of work required by the recipient's DAIL-HSL-02 Plan or DAIL-HSL-03 Plan Amendment;
  - (d) Be a citizen of the United States with a valid Social Security number or possess a valid work permit if not a U.S. citizen;
  - (e) Be able to communicate effectively with the recipient, recipient's representative, or family;
  - (f) Be able to understand and carry out instructions;
  - (g) Keep records as required by the recipient;
  - (h) Report to work as scheduled;
  - (i) Maintain the privacy and confidentiality of the recipient;
  - (j) Complete training on the reporting of abuse, neglect, or exploitation in accordance with KRS 209.030 and on the needs of the recipient;
  - (k) Maintain and submit timesheets documenting hours worked and services provided;

(l) Provide proof of the following background checks, completed no more than sixty (60) days prior to hire and submitted prior to the first day of employment:

1. A criminal background check from the Administrative Office of the Courts or Justice and Public Safety Cabinet that shows the employee has not plead guilty to or been convicted of:

- a. Committing a sex crime or violent crime as defined in KRS 17.165(1)-(3); and
- b. A felony offense related to theft, abuse of a person, or drugs;

2. A check of the nurse aid abuse registry maintained in accordance with 906 KAR 1:100 that shows the employee was not found on the registry;

3. A check of the central registry maintained in accordance with 922 KAR 1:470 that shows the employee was not found on the registry; and

4. A check of the Adult Protective Services Caregiver Misconduct Registry maintained in accordance with 922 KAR 5:120 that shows the employee was not found on the registry; and

(m) Notify the regional Hart Supported-Living coordinator of conditions which seriously threaten the health or safety of the recipient or employee.

(n) Provide employer with proof of valid driver's license and insurance if providing transportation.

(2) An individual shall not be hired as an employee if the individual:

(a) Has not submitted proof of the background checks specified in subsection (1) (l)1.-4. of this section;

(b) Is on the Central Registry, Nurse Aid Abuse Registry, or Adult Protective Services Caregiver Misconduct Registry;

(c) Has pled guilty to or been convicted of committing a crime as specified in subsection (1)(l)1.a.or b. of this section; or

(d) Is not able to understand or carry out a recipient's instructions or services as listed on the DAIL-HSL-02 Plan or DAIL-HSL-03 Plan Amendment.

**(3) An employee shall not work more than forty (40) hours in a calendar week (Sunday through Saturday).** ~~[An employee(s) are restricted from working over forty (40) hours in a Sunday to Saturday work week through all publicly funded programs.] [An employee shall not work more than forty (40) hours in a calendar week (Sunday through Saturday)] [-]~~

Section 8. Operating Agency Responsibilities. The operating agency for Hart-Supported Living grant program funds shall:

(1) Implement the Hart-Supported Living grant program in accordance with KRS 210.770, 210.790, and 210.795;

(2) Assume fiscal accountability for the state funds designated for the program;

(3) Provide necessary personnel within the operating agency office that shall:

(a) Meet qualifications for the position held that include at a minimum:

1. A bachelor's degree in human services or a related field;

2. One (1) year of experience working in a social service field; and

3. Documentation of completion of six (6) hours of annual training related to the position or population;

(b) Not have a conflict of interest; and

(c) Disclose any relationship with any applicant or recipient of a Hart-Supported Living grant to the department;

(4) Establish a cost center and record staff costs for administering the Hart-Supported Living grant Program;

(5) Maintain files and records for cabinet audit, including participant records, and statistical reports in accordance with 725 KAR 1:061. ~~[ten (10) years after the last date~~

~~funding is no longer received as required by the DAIL records retention schedule that include:]~~

- ~~[(a)] [Applications funded;]~~
  - ~~[(b)] [Applications that were not funded;]~~
  - ~~[(c)] [Names of recipients whose funding was terminated;]~~
  - ~~[(d)] [Names of currently funded recipients;]~~
  - ~~[(e)] [Recipient plans;]~~
  - ~~[(f)] [Amendments to plans;]~~
  - ~~[(g)] [Financial records; and]~~
  - ~~[(h)] [Recipient monitoring reports.]~~
- (6) Issue payment of recoupment to DAIL if:
- (a) The department's~~[operating agency's]~~ documentation is not sufficient to determine that HSL funds were used according to this administrative regulation; or
  - (b) The recipient used his or her plan inappropriately; and
- (7) Not request the recouped funds back from the recipient unless:
- (a) The department~~[agency]~~ demonstrates~~[to the department]~~ by compelling evidence that the recipient used his or her plan inappropriately; and
  - (b) The department provides written approval to recoup the funds from the recipient.

#### Section 9. Council Responsibilities.

- (1) A council member shall:
- (a) Adhere to the:
    - 1. Cabinet's confidentiality of records and reports requirements in accordance with KRS 194A.060; and
    - 2. Confidentiality requirements for an applicant's or recipient's health information pursuant to 45 C.F.R. 164.502 - 164.514;
  - (b) Disclose any relationship with any person receiving a Hart-Supported Living grant, including themselves; and
  - (c) Adhere to the council's bylaws, KRS 210.770 through 210.795, and this administrative regulation.
- (2) If a council member fails to act in accordance with this section, the chair or any council member may:
- (a) Call for a vote of the council to recommend the dismissal of the council member; and
  - (b) Upon a majority vote for dismissal, recommend to the governor that the member be dismissed.
- (3) A council member shall not:
- (a) Influence, discuss, deliberate, or vote on a decision if the member has a conflict of interest that is:
    - 1. Personal;
    - 2. Professional; or
    - 3. Financial;
  - (b) Be physically present in a meeting or portion of a meeting during which the subject matter of the conflict of interest is discussed or voted on; or
  - (c) Assist another individual, regardless of where the person resides, to complete an application for Hart-Supported Living grant funds or services except as provided in subsection (4) of this section.
- (4) A council member may assist in the completion of an application for himself, if eligible, or an eligible family member.
- (5) A council member shall assist in the review of applications in accordance with Section 5 of this administrative regulation.

#### Section 10. Department Responsibilities. The Department shall:

- (1) In cooperation with the council, establish deadlines, budgets, and priorities for Hart-Supported Living grant program funds;
- (2) Maintain aggregate financial and programmatic data;
- (3) Provide staff support, technical assistance, and training for the Hart-Supported Living grant Program;
- (4) Provide monitoring of the Hart-Supported Living grant Program[;]
- ~~[(5)] [Issue recoupment notices to the provider agency if Hart-Supported Living grant program funds were not used in accordance with this administrative regulation; and]~~
- ~~[(6)] [Not allow the provider agency to request the recouped funds back from the recipient unless the agency can demonstrate by compelling evidence that the recipient purposely used plan funding inappropriately].~~

Section 11. Regional Hart-Supported Living Grant Program Coordinator Responsibilities. The regional Hart-Supported Living grant program coordinator shall:

- (1) Disseminate applications for the Hart-Supported Living grant program~~[ that include the evaluation criteria]~~;
- (2) Provide assistance in the completion of the DAIL-HSL-01 Application upon request by an eligible applicant or individual on the applicant's behalf;
- (3) Receive the DAIL-HSL-01 Application, document the date received, and send notice of receipt of application to the applicant;
- (4) Prescreen applications to determine completeness, compliance with the instructions, and conformity with KRS 210.770(5) and (6);
- (5) Maintain a database by fiscal year of applicants and recipients that shall include the individual's:
  - (a) Name;
  - (b) Address;
  - (c) Phone Number;
  - (d) Birth date;
  - (e) County of residence;
  - (f) Services or supports requested;
  - (g) Cost of each service or support;
  - (h) Contact person phone number; and
  - (i) Amount of allocated funding;
- (6) Notify all applicants of the status of their applications:
  - (a) By June 15 for the fiscal year beginning July 1; or
  - (b) Within fifteen (15) days of the state budget allocation being received;
- (7) Within thirty (30) days of the recommendation for funding of an applicant, conduct a face-to-face visit to finalize the Hart-Supported Living grant program plan and budget;
- (8) Conduct a home visit to verify the need for home modifications;
- (9) Educate a recipient on the recipient's responsibilities as outlined in Section 6 of this administrative regulation;
- (10) Approve payments for funded Hart-Supported Living plans by:
  - (a) Receiving bills or other documentation that a service has been provided;
  - (b) Verifying the service as a part of the established plan; and
  - (c) Keeping a record of each payment;
- (11) Arrange for the billing and payment directly to a vendor for one (1) time expenditures or to an agency as requested by a grant recipient;
- (12) Ensure compliance with this administrative regulation and the successful implementation of the Hart-Supported Living plans through monitoring which shall include:
  - (a) Conducting a home visit or site visit at the location where the services are received;
  - (b) Visiting the home when home modifications are requested and completed;

(c) Completing a monitoring report that shall be completed for each recipient as follows:

1. Within ~~six (6)~~~~[three (3)]~~ months of completion of the service for one (1) time services received by a recipient; and

2. Within the first three (3) months of the initiation of the Hart-Supported Living plan and for services received by a recipient; and

(d) Maintaining monitoring reports as a permanent part of the recipient's record;

(13) Attend trainings and meetings as required by the council;

(14) Submit database information as outlined in this section to the department; and

(15) Disclose any relationship with an applicant or recipient of a Hart-Supported Living grant including:

(a) Family member;

(b) Friend;

(c) Co-worker;

(d) Co-worker family member; or

(e) Co-worker friend.

#### Section 12. Reduction of a Hart-Supported Living Grant.

(1) The regional Hart-Supported Living grant program coordinator shall recommend a reduction in Hart-Supported Living grant funding by the amount that duplicates a support or service on the Hart-Supported Living plan to the Hart-Supported Living council.

(2) The Hart-Supported Living grant shall be reduced if:

(a) The support does not comply with the principles and definition of the Hart-Supported Living grant program in KRS 210.770 through 210.795;

(b) The recipient no longer needs a support or service in whole or in part; or

(c) The recipient does not utilize funds in accordance with the approved DAIL-HSL-02 Plan.

#### Section 13. Termination of a Hart-Supported Living Plan.

(1) The regional Hart-Supported Living grant program coordinator shall recommend to the council that a recipient's grant be terminated if the recipient:

(a) Does not use the funds in accordance with the principles and definition of Hart-Supported Living found in KRS 210.770, 210.795, and this administrative regulation;

(b) Does not comply with employer responsibilities, if applicable;

(c) Takes up residence outside of Kentucky;

(d) Requests termination of the Hart-Supported Living grant;

(e) Does not utilize funds in accordance with the approved DAIL-HSL-02 Plan;

(f) Does not notify the Hart-Supported Living grant program coordinator upon receipt of additional supports or services as required in Section 6(5) of this administrative regulation; or

(g) Passes away.

(2) The regional Hart-Supported Living grant program coordinator shall recommend termination of the program if a council member or program staff is threatened, harassed, or intimidated by a recipient's:

(a) Caregiver;

(b) Family member;~~[-or]~~

(c) Employee; or

(d) Designated representative.

(3) A termination shall be appealable in accordance with Section 14 of this administrative regulation.

#### Section 14. Request for Informal Dispute Resolution or Administrative Hearing.

(1) A recipient may request an informal dispute resolution.

- (2) A dispute resolution shall be limited to:
  - (a) The denial, reduction, or termination of a:
    1. Hart-Supported Living plan; or
    2. Hart-Supported Living plan amendment;
  - (b) The reduction of Hart-Supported Living grant program funding as requested in the plan; or
  - (c) The reduction or termination of Hart-Supported Living grant program funding, unless due to state budget cuts.
- (3) A request for an informal dispute resolution shall:
  - (a) Be submitted to the department's HSL program coordinator within thirty (30) days following the notification by the Hart-Supported Living grant program coordinator of a decision in subsection (2) of this section; and
  - (b) Contain the following information:
    1. Name, address, and telephone number of the recipient;
    2. Decision being disputed;
    3. Justification for the dispute;
    4. Documentation supporting the dispute; and
    5. Signature of person requesting the dispute resolution.
- (4) The dispute resolution shall be heard by:
  - (a) Three (3) members of the council, one (1) of whom shall be the chairman or the chairman's designee;
  - (b) One (1) member of ~~the~~ review team; and
  - (c) The Hart-Supported Living grant program coordinator.
- (5) The recipient shall be provided an opportunity to appear before the dispute resolution team to present facts or concerns about the denial, reduction, or termination of the grant.
- (6) The dispute resolution team shall inform a recipient, in writing, of the decision resulting from the dispute resolution within ten (10) business days of the review.
- (7) A recipient dissatisfied with the result of the dispute resolution may appeal to the Division of Administrative Hearings of the Office of Communications and Administrative Review.
- (8) The appeal shall be submitted:
  - (a) Within fifteen (15) business days from the date on the letter providing the decision of the dispute resolution team;
  - (b) In writing; and
  - (c) To the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.
- (9) The department shall request the Division of Administrative Hearings of the Office of Communications and Administrative Review to conduct a hearing pursuant to KRS Chapter 13B.

Section 15. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "DAIL-HSL-01 Application", January 2024~~[April 2015]~~;
  - (b) "DAIL-HSL-02 Plan", January 2024~~[April 2015]~~;
  - (c) "DAIL-HSL-03 Plan Amendment", January 2024~~[August 2015]~~; and
  - (d) "DAIL-HSL-04 Request for Renewal", January 2024~~[April 2015]~~.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. through 4:30 p.m., or at <https://www.chfs.ky.gov/agencies/dail/Pages/hslp.aspx>.

*VICTORIA ELRIDGE, Commissioner*

*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: June 7, 2024

FILED WITH LRC: June 12, 2024 at 12:15 p.m.

CONTACT PERSON: Krista Quarles, Policy Specialist, 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](mailto:CHFSregs@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Krista Quarles and Phyllis Sosa**

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

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

This amended administrative regulation provides the guidelines and operations of the Hart-Supported Living grant program. Based on the comments received, the amended after comments administrative regulation reverts language to the original language to not allow funding for segregated programs and to limit the number of hours for employees to 40 per week in the Hart Supported Living grant program only.

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

The necessity of this amended administrative regulation is to allow the Hart-Supported Living Council to establish the methods of awarding Hart-Supported Living grants, monitoring the quality of service delivery, and providing for administrative appeals of decisions.

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

This amended administrative regulation conforms to KRS 210.770 to 210.795 by establishing the Hart-Supported Living program service requirements. This amended administrative regulation sets out the eligibility services and responsibilities of the participants, support and service providers.

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

This amended administrative regulation assists in the effective administration of the statutes KRS 210.780(3) authorizes the Hart-Supported Living Council to recommend necessary administrative regulations to carry out the purposes of KRS 210.770 to 210.795. KRS 210.795(3) by establishing the method of award, monitoring the quality of service delivery, and providing administrative appeals of decisions. This amended administrative regulation provides updates to the materials incorporated, terminology, applicant and provider responsibilities, some award amounts, retention requirements, department responsibilities, and monitoring requirements.

**(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 updated terminology to include Designated Representative to provide guidance for participants. Throughout this amended regulation the term therapist is updated to be licensed therapist, and the term regional supported living coordinator and contract agency has been updated to department because the coordinators are now department staff and the program is administered by the department. Section 1: This amendment will update the definition for Hart Supported Living services to remove community resource developer because it has a standalone definition, update the in-home training for participants to over eighteen, several updates to the startup grants including the increase the amount from \$2,000 to \$2,500, updates the transportation guidelines to ensure the reimbursements are accurate, and added a definition for respite care. The proof of disability requirements was added to the definition of person with a disability. Section 2: The term

eligibility is previously defined so the definition is removed from this section. There is a cleanup that was no longer relevant after 2018, removed language as clean up measure. The startup grant definition was mentioned in Section 1, so it was removed from the eligibility section. Section 3: The applicant responsibilities section the postmarked date is now the deadline, and added fax as a form of submission. There were items added to what the program shall not approve, employer related expenses for staff in other publicly funded programs, roofing, foundation, regular home maintenance, and rental of a vehicle. The transportation specifications were removed because the restriction did not allow person centered decision making. The activity fees limit was raised from \$750 to \$1000/year. Section 6 & 7: The recipient responsibilities added to retain a copy of a valid license and car insurance for any employee providing transportation. The employee responsibilities updated to provide a valid drivers license and car insurance if providing transportation. The employee responsibilities regulations were updated to An employee(s) are restricted from working over forty (40) hours in a Sunday to Saturday work week through all publicly funded programs. Section 8: The detail for retention records were removed because they are outlined in 725 KAR 1:061 Section 10: The recoupment process was removed because it was only valid when the program was contracted. The timeline for monitoring was updated from three to six months following the initial service plan completion. This was extended to allow regional coordinators to provide a more in depth monitoring. Section 13: The termination section added the term harassed to protect the coordinators. The term designated representative was also added to the list.

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

The Hart Supported living has had several changes since the previous amendment. The necessity of these changes is to ensure the department shall administer the grant program efficiently and equal. The regulation amendments are all suggestions of the council and direct program workers.

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

This amended administrative regulation conforms to KRS 210.770 to 210.795 by establishing the Hart-Supported Living program service provisions and requirements for eligibility. KRS 210.780(3) authorizes the Hart- Supported Living Council to recommend necessary administrative regulations. The council has approved and voted to submit the amended regulation for public comment and administrative review.

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

The amended regulation is necessary for effective administration by updating terminology to ensure the Hart Supported Living program is administered using all of the original principles of the grant.

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

The number of individuals served each fiscal year is 300-500 depending on the type and amount of the funding requested. This amendment will not affect any businesses, organizations or government.

**(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:**

In accordance with this administrative regulation, this action should not have any effect on regulated entities outside of the Hart Supported Living program and the participants.

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

This amended administrative regulation has no cost to any entity.

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

This amended regulation will ensure the efficiency, equity and accountability of the Hart Supported Living program. This grant program is very broad based on what services and supports are funded. The amendments are to confirm that all applicants and participants are utilizing the program properly.

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

**(a) Initially:**

There are no anticipated costs to implement this administrative regulation.

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

There are no anticipated continuing costs to this regulation.

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

The funding for the Hart Supported Living program is a state funded grant program.

**(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:**

This administrative regulation as amended does not increase fees or funding necessary to administer the Hart Supported Living program. The number of services and supports provided annually is based on the amount of state funds received.

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

This administrative regulation as amended does not increase fees to administer the Hart Supported Living program.

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

Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated.

## FISCAL IMPACT STATEMENT

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

KRS 210.780(3) authorizes the Hart-Supported Living Council to recommend necessary administrative regulations to carry out the purposes of KRS 210.770 to 210.795. KRS 210.795(3) requires the cabinet in concert with the Hart-Supported Living Council to promulgate administrative regulations.

**(2) Identify the promulgating agency and any other affected state units, parts, or divisions:**

This administrative regulation does impact the Cabinet for Health and Family Services, Department for Aging and Independent Living

**(a) Estimate the following for the first year:**

**Expenditures:**The department's budget for Hart Supported Living is \$6.28 million. All of the allocated funds are expended annually. There are no additional costs for the Department for Aging and Independent Living for implementation of this amended regulation.

**Revenues:**This amended after comment administrative regulation does not generate any revenue, there is no increase in revenue.

**Cost Savings:**This amended after comment administrative regulation does not generate any cost savings.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

There are no additional or different expenditures, revenues, or cost savings for the Department for Aging and Independent Living for this amended after comments regulation in subsequent years.

**(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):**

This amended after comment administrative regulation does not impact local entities.

**(a) Estimate the following for the first year:**

**Expenditures:**This amended after comment administrative regulation does not have an impact to local entities.

**Revenues:**This amended after comment administrative regulation does not have additional revenues and does not impact local entities.

**Cost Savings:**This amended after comment administrative regulation does not have any cost savings, and there is no impact to local entities.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

This amended after comment administrative regulation does not have any additional expenditures, revenues, or cost savings in subsequent years and does not impact local entities.

**(4) Identify additional regulated entities not listed in questions (2) or (3):**

This amended after comment administrative regulation does not effect or impact any other regulated entity.

**(a) Estimate the following for the first year:**

**Expenditures:**This amended after comment administrative regulation does not have an impact to local entities

**Revenues:**This amended after comment administrative regulation does not have additional revenues and does not impact local entities

**Cost Savings:**This amended after comment administrative regulation does not have any cost savings, and there is no impact to local entities

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

This amended after comment administrative regulation does not have different expenditures, revenues, or cost savings in subsequent years.

**(5) Provide a narrative to explain the:**

**(a) Fiscal impact of this administrative regulation:**

This amended after comment administrative regulation does not have a fiscal impact on any regulated entity. There are no fees or revenues collected in the operation of the Hart Supported Living Program. The expenditures fund needed services and supports for disabled individuals that are eligible, approved and the funding is available within the departments allocated budget for the program.

**(b) Methodology and resources used to determine the fiscal impact:**

The requirements for program funding and the departments line item budget for the program are utilized to allocate program grants for services. When the departments funding has been exhausted no additional grants are approved.

**(6) Explain:**

**(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)**

. This amended after comment administrative regulation will not have a negative or adverse major economic impact.

**(b) The methodology and resources used to reach this conclusion:**

The Hart Supported Living grant program has a set budget for the program to fund needed services and supports for disabled individuals. Individuals submit application for funding based on their individualized needs and costs. All applications are reviewed and scored, and funding is appropriated to those meeting the scoring minimum, with priority to the highest rated applications. Funding of applications is approved until the department's budgeted allocation has been exhausted. There is no economic impact to other regulated entities.