

**PERSONNEL CABINET
(Amendment)**

101 KAR 2:140. Workers' Compensation Fund and Program.

RELATES TO: KRS ~~18A.110~~~~[18A.110(7)(i)]~~, 18A.370, 18A.375, 18A.380, Chapter 342~~[342.640]~~

STATUTORY AUTHORITY: KRS 18A.110(7)(h)~~[18A.030(2)(i), 18A.110(7)(i)]~~, 18A.380

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(h)~~[18A.110(7)(i)]~~ requires the Secretary of Personnel to promulgate administrative regulations to implement programs to provide for the safety, health and welfare of state employees. KRS 18A.380 requires the cabinet to promulgate administrative regulations for the administration of the state employee workers' compensation fund established by KRS 18A.375. This administrative regulation establishes requirements for the workers' compensation fund and program for state employees.

Section 1. Workers' Compensation Fund. The self-insured workers' compensation fund and program established by KRS 18A.375(1) shall cover all eligible employees.

Section 2. Eligibles.

- (1) A state employee, as defined by KRS 18A.370, shall be eligible to participate in the program.
- (2) Other state related groups shall be included upon written agreement with the Personnel Cabinet.

Section 3. Assessments. The assessment for an individual agency shall be based on the claims history for the past three (3) years and on the number of employees in the agency. Premiums shall be calculated each budgetary biennium. Premiums shall be assessed at the beginning of each fiscal year.

- (1) A biennial actuarial study shall be carried out to insure the fund's fiscal soundness.
- (2) A fund deficit shall be recouped through an interim billing or additional assessment if deemed necessary by an actuarial study.

Section 4. Benefits.

(1) Benefits shall be provided in accordance with Kentucky Workers' Compensation law, including KRS Chapter 342.

~~[(a)] [The required medical expense for a service rendered by a hospital or doctor, or for a prescribed medication, shall be paid subject to approval of the claim.]~~

~~[(b)] [A percentage of the employee's average weekly wage shall be paid if the employee is unable to work for an extended period due to a job-related injury or illness.]~~

~~[(c)]~~

~~[1.] [Except as provided in subparagraph 2 of this paragraph, compensation shall not be payable for the first seven (7) days of disability.]~~

~~[2.] [If the disability continues over two (2) weeks, compensation shall be allowed from the first day of disability.]~~

(2)

(a) For an absence due to illness or injury for which workers' compensation benefits are received, if the employee elects to accept the workers' compensation benefits, accumulated leave may be used in order to maintain regular full salary.

(b) An employee electing to utilize accumulated leave shall complete and submit a Workers' Compensation Request to Use Accumulated Leave, Form WCF-2, to the

employee's personnel unit.

(c) If paid accumulated leave is used, workers' compensation income benefits shall be remitted to the employee's agency for whatever period of time an employee received paid leave.

(d) An employee shall not receive and retain the benefit of paid leave and workers' compensation income benefits for the same period of time.

(e) The employee's accumulated leave shall be reinstated to the employee's leave balance to the extent that workers' compensation benefits are remitted to the employee's agency.

(f) An agency shall not restore accumulated leave until the workers' compensation check or payment, endorsed or approved by the employee, is received by the agency.

(g) If an employee does not return the endorsed or approved workers' compensation check or payment, but retains the full benefit of paid leave, the agency may deduct a sum equal to unremitted workers' compensation income benefits from the employee's regular payroll check.

(h)

1. The employee may revoke this authority at any time by providing written notification to the agency.

2. Revocation shall not apply to any workers' compensation income benefits for those periods of time for which the employee received paid leave.

Section 5. Notification Procedures.

(1) Employee requirements. An employee shall inform the supervisor of an injury or illness as soon as physically able to do so.

(2) Supervisor requirements.

(a) The supervisor shall:

1. Complete the employer's First Report of Injury or Illness, Form IA-1, which is incorporated by reference in 803 KAR 25:170. The supervisor shall give specific information about the injury or illness on the form; and

2. Submit the form to the designated office in the agency within three (3) working days after the supervisor is notified of an injury or illness to insure timely payments to the employee.

(b) A Lost Time and Return to Work Form, Form WCF-1, shall be submitted by the employee's supervisor or personnel representative if an employee is losing time from work due to a work-related injury or illness. The supervisor or personnel representative shall notify the employee's personnel unit when the employee returns. The personnel unit shall submit Form WCF-1 to the Personnel Cabinet.

(c) All documentation received by agency relating to the workers' compensation claim including, but not limited to, medical bills, medical records, and injury reports shall be submitted to the Personnel Cabinet as soon as possible. ~~[Each medical bill, or medical information regarding treatment of a job-related injury or illness of the employee, shall be submitted in the same manner as an injury report. An injury report shall be submitted as soon as possible.]~~

(d) A safety representative in each agency shall be notified of each accident so that the representative may review accident causes and provide safety training. A supervisor shall promote safety with employees.

Section 6. Recordkeeping. All records maintained by the Personnel Cabinet and by an agency with respect to an employee claim under this administrative regulation shall be confidentially maintained.

Section 7. Agency Withdrawal and Readmission to Program.

(1) If an agency included in the fund as a result of the employment of persons defined in KRS 18A.370 desires to withdraw from the program, the agency shall provide the Personnel Cabinet with written notice of its intent to withdraw no later than thirty (30) calendar days prior to the end of the current fiscal year. If the notice is timely submitted, the agency may elect to withdraw at the end of the current fiscal year.

(2) An agency which withdraws from the program may be readmitted to the program at the discretion of the Personnel Cabinet, based on compliance with the provisions in subsections (3), (4), and (5) of this section.

(3) As a condition of withdrawal, the agency shall reimburse the Commonwealth for all claims incurred by its employees, but not reported to the fund prior to the effective date of withdrawal, without regard to the length of time after the withdrawal date that the claims are actually received by the Personnel Cabinet.

(a) The Commonwealth shall bill the agency on a quarterly basis for the cost of claims that were incurred but not reported as of the date of withdrawal until all claims have been submitted and processed.

(b) The agency shall reimburse the Commonwealth within thirty (30) calendar days of receipt of the itemized statement of payments made on the agency's behalf.

(4) If an agency that has withdrawn from the program desires to seek readmission to the fund, the Personnel Cabinet may restore the agency to the fund upon review and evaluation of the agency's claims and payment history.

(5) If the Personnel Cabinet approves the agency's restoration to the fund, the Personnel Cabinet shall assess a premium based on:

(a) Claims experience over the preceding three (3) years; and

(b) The current number of employees in the agency.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Lost Time and Return to Work Form", Form WCF-1, January 2025~~[May 2012]~~; and

(b) "Workers' Compensation Request to Use Accumulated Leave", Form WCF-2, January 2025~~[May 2012]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's website at: <https://personnel.ky.gov/Pages/mir.aspx>.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

In accordance with 18A.110(6), the Personnel Board reviewed the above proposed regulations presented by the Personnel Cabinet. The Board unanimously approved the changes as submitted during its July 11, 2025 Board Meeting.

MARY ELIZABETH BAILEY, Secretary

APPROVED BY AGENCY: August 13, 2025

FILED WITH LRC: August 13, 2025 at 10:05 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2025, at 10:00 a.m. at 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 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 cancelled. This hearing is open to the public. Any person who wishes to be heard 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 the proposed administrative regulation. Written comments shall be accepted through October 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Rosemary Holbrook

Subject Headings:Personnel, State Employees, Workers' Claims and Compensation

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation details the administration of the state employee workers' compensation fund and program established by KRS 18A.375.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to administer the workers' compensation fund established by KRS 18A.375.

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

Pursuant to KRS 18A.110(7)(h), the Personnel Cabinet Secretary is required to promulgate administrative regulations to implement programs to provide for the safety, health and welfare of state employees. KRS 18A.380 requires the Personnel Cabinet to promulgate administrative regulations for the administration of the state employee workers' compensation fund established by KRS 18A.375.

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

This regulation assists in the consistent application and treatment for state employees with respect to matters relating to workers' compensation benefits. This administrative regulation establishes requirements for the workers' compensation fund and program for state employees.

(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:

The amendments clarify and update exiting provisions. Specifically, the assessments section is amended to mandate calculation of premiums each budgetary biennium. The benefits section is amended to defer to Kentucky workers' compensation law for provision of benefits. Further, new paragraphs are added to the benefits section to clarify the process for use of accumulated paid leave to maintain a regular full salary. The notification procedures section is amended to clarify that agencies are required to submit all documentation to the Personnel Cabinet. Finally, minor edits are made to forms incorporated by reference to include the form numbers in the document headers.

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

The amendments clarify and update exiting provisions.

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

Pursuant to KRS 18A.110(7)(h), the Personnel Cabinet Secretary is required to promulgate administrative regulations to implement programs to provide for the safety, health and welfare of state employees. KRS 18A.380 requires the Personnel Cabinet to promulgate administrative regulations for the administration of the state employee workers' compensation fund established by KRS 18A.375.

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

This amendment assists in the consistent application and treatment for state employees with respect to matters relating to workers' compensation benefits.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?: No.

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

All state employees, as defined by KRS 18A.370, their employing agencies, and individuals subject to the provisions of 101 KAR 2:140 will be affected.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:

The amendment will not require additional action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

This regulation, as amended, is not anticipated to generate any new or additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

No additional benefits will accrue.

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

(a) Initially:

This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis:

This regulation, as amended, is not anticipated to generate any new or additional costs.

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

This regulation, as amended, is not anticipated to generate any new or additional costs.

(8) 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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

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

This administrative regulation does not establish any new or additional fees.

(10) TIERING: Is tiering applied?

No. This administrative regulation treats all impacted entities the same.

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 18A.110(7)(h), KRS 18A.380

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

The most recent act that expressly authorizes the Personnel Cabinet Secretary in KRS 18A.110 to promulgate comprehensive administrative regulations for the KRS Chapter 18A Classified Service is 2023 KY. Acts ch. 35, sec 6; prior acts related to KRS 18A.110 date back to 1960.

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

The Personnel Cabinet is the promulgating agency. State executive branch agencies are subject to provisions of this regulation.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:There are no estimated additional costs to administer the amendments within this regulation.

For subsequent years:There are no estimated additional costs to administer the amendments within this regulation.

2. Revenues:

For the first year:None.

For subsequent years:None.

3. Cost Savings:

For the first year:Cost savings are not anticipated.

For subsequent years:Cost savings are not anticipated.

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

All state agencies with "state employees" as established by KRS 18A.370.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:Not applicable for this amendment.

For subsequent years:Not applicable for this amendment.

2. Revenues:

For the first year:Not applicable for this amendment.

For subsequent years:Not applicable for this amendment.

3. Cost Savings:

For the first year:Not applicable for this amendment.

For subsequent years:Not applicable for this amendment.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:Not applicable

For subsequent years:Not applicable

2. Revenues:

For the first year:Not applicable

For subsequent years:Not applicable

3. Cost Savings:

For the first year:Not applicable

For subsequent years:Not applicable

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to reach this conclusion:

The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

An overall negative or adverse major economic impact is not anticipated.

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

The provisions of the administrative regulation were reviewed, and a significant fiscal impact was not identified.