

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

(Amended at ARRS Committee)

907 KAR 3:320. Beneficiary Advisory Council and modifications to the Advisory Council for Medical Assistance to establish the Kentucky Medicaid Advisory Committee.

RELATES TO: KRS 61.800 - 884, 205.540, 42 C.F.R. 431.12

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 4331.12

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, is required to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. KRS 205.540 created the Advisory Council for Medical Assistance in 1960 to meet a federal requirement for an advisory council to assist the state Medicaid program. KRS 205.540 now conflicts with changes to federal regulations that take effect July 9, 2025. Therefore, it is the department's intention that the Advisory Council for Medical Assistance established in KRS 205.540 shall be modified in this administrative regulation to meet the requirements of 42 CFR 431.12 and function as Kentucky's Medicaid Advisory Committee. This administrative regulation establishes the Beneficiary Advisory Council and implements additional requirements for the Advisory Council for Medical Assistance, referred to federally as the Medicaid Advisory Committee, following changes to federal law.

Section 1. Beneficiary Advisory Council Membership.

(1) The Department for Medicaid Services shall establish a Beneficiary Advisory Council consistent with 42 C.F.R. 431.12.

(2) Members of the Beneficiary Advisory Council shall be appointed by the commissioner of the Department for Medicaid Services.

(3)

(a) The Beneficiary Advisory Council shall consist of fifteen (15) members as follows:

1. Ten (10) current or former Medicaid beneficiaries; and
2. Five (5) individuals who are parents, guardians, or paid or unpaid caregivers of a Medicaid beneficiary.

(b) To the extent possible, the three (3) medical assistance recipients serving as of July 8, 2025 on the Advisory Council for Medical Assistance pursuant to KRS 205.540, shall be appointed for a term that aligns the remainder of their term to a new term in subsection (4) of this section.

(c) Appointments shall ensure representation of member experience with Medicaid managed care, the foster care system, 1915(c) home and community based waivers, or maternal, child, or behavioral health services.

(4) Members of the Beneficiary Advisory Council shall hold office for a term of four (4) years, except that the terms for members appointed upon council creation shall be as follows:

(a) One-third (1/3) of the members shall be appointed for two (2) years;

(b) One-third (1/3) of the members shall be appointed for three (3) years;

(c) One-third (1/3) of the members shall be appointed for four (4) years; and

(d) The respective terms of the members first appointed shall be designated by the commissioner of the Department for Medicaid Services at the time of their

appointments.

(5) The following requirements shall apply to the terms of members of the Beneficiary Advisory Council:

(a) A member shall not serve a consecutive term but may be reappointed after a period of at least four (4) years following the end of their term;

(b) A vacancy shall be filled for an unexpired term in the same manner as the original appointment; and

(c) Members whose term has expired may serve until their successor is appointed.

(6) The Beneficiary Advisory Council shall elect a chair, vice-chair, and secretary from among its members at its first regular meeting and annually thereafter.

(7)

(a) Upon appointment to the Beneficiary Advisory Council and to comply with 42 C.F.R. 431.12, members shall indicate to the commissioner their interest in appointment to the Medicaid Advisory Committee pursuant to Section 4(3)(c) of this administrative regulation.

(b) The current chair of the Beneficiary Advisory Council shall serve as one (1) of the appointments to the Medicaid Advisory Committee.

(c) The three (3) medical assistance recipients serving as of July 8, 2025 on the Advisory Council for Medical Assistance pursuant to KRS 205.540 shall be appointed pursuant to subsection (3)(b) of this section.

(8) Members of the Beneficiary Advisory Council, including members who also serve on the Medicaid Advisory Committee, may receive, if requested:

(a) Compensation for time and council or committee-related expenses in an amount consistent with similar services reimbursed by Medicaid or as reimbursed by other boards and commissions; and

(b) Reasonable accommodations including language services, personal assistance, communication supports, and any other supports or resources based on the individual member's needs.

Section 2. Confidentiality and Privacy Applicable to Members of the Beneficiary Advisory Council.

(1) To the extent that a conflict exists between 42 C.F.R. 431.12 and the Kentucky Open Meetings and Kentucky Open Records statutes, KRS 61.800 - 884, members of the Beneficiary Advisory Council may participate in the work of the Beneficiary Advisory Council if consistent with this section.

(2) A member of the Beneficiary Advisory Council shall have the option to exclude their name from documents published or posted by the Department for Medicaid Services that include a list of members of the Beneficiary Advisory Council, the Medicaid Advisory Committee, or the actions of members recorded in publicly published or posted meeting minutes.

(3) Meetings of the Beneficiary Advisory Council are not required to be open to the public unless a majority of the members decide otherwise.

(4) A member of the Beneficiary Advisory Council may opt-in to participate and vote by telephone.

Section 3. Beneficiary Advisory Council Duties and Authority.

(1) The Beneficiary Advisory Council shall advise the Department for Medicaid Services on:

(a) Their experiences with the program;

(b) Matters related to policy development and effective administration of the program; and

(c) Other issues that impact the provision or outcomes of health and medical care services in the program.

- (2) The Beneficiary Advisory Council shall:
 - (a) Be separate from the Medicaid Advisory Committee pursuant to 42 CFR 431.12;
 - (b) Meet separately from the Medicaid Advisory Committee;
 - (c) Meet at least once per quarter; and
 - (d) Meet in advance of each Medicaid Advisory Committee meeting to prepare Beneficiary Advisory Council members.
- (3) The Beneficiary Advisory Council shall adhere to bylaws developed and published by the department for governance.

Section 4. Advisory Council for Medical Assistance. Medicaid Advisory Committee.

- (1) On or after July 9, 2025, the Medicaid Advisory Committee shall consist of members appointed by the commissioner of the Department for Medicaid Services.
- (2) The membership appointed to the Advisory Council for Medical Assistance pursuant to KRS 205.540 as of July 8, 2025 shall be appointed by the commissioner for the Department for Medicaid Services to the new Medicaid Advisory Committee pursuant to 42 CFR 431.12 as follows:
 - (a) For a member with an unexpired term, for a term that aligns the remainder of the member's term with a new term in subsection (4)(b) of this section, to the extent possible;
 - (b) For a member serving as a medical assistance recipient, to both the Medicaid Advisory Committee and the Beneficiary Advisory Council for the same term that aligns the remainder of their term with a new term in subsection (4)(b) of this section, to the extent possible;
 - (c) For a member serving in an expired term, that member's term shall end on July 8, 2025, and appointment shall follow the nomination process of KRS 205.540; and
 - (d) For a vacancy, appointment shall follow the nomination process of KRS 205.540.
- (3) The Medicaid Advisory Committee shall consist of the following members:
 - (a) Members appointed by the commissioner of the Department for Medicaid Services according to the membership established in KRS 205.540;
 - (b) Ex-officio, non-voting members as follows:
 - 1. The commissioner of the Department for Medicaid Services, or his or her designee;
 - 2. The commissioner of the Department for Community Based Services, or his or her designee;
 - 3. The commissioner of the Department for Public Health, or his or her designee; and
 - 4. The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, or his or her designee;
 - (c) The appointment by the commissioner of the Department for Medicaid Services of a sufficient number of members of the Beneficiary Advisory Council so that at least twenty-five (25) percent of the Medicaid Advisory Committee consists of members serving on the Beneficiary Advisory Council; and
 - (d) A member appointed by the commissioner for the Department for Medicaid Services from a list of three (3) nominees submitted by the Kentucky Association of Health Plans, or its successor organization, to represent a current contracted Medicaid Managed Care Organization, if beneficiaries are enrolled in managed care.
- (4) A member shall have a non-consecutive term of four (4) years except that:
 - (a) The member appointed pursuant to subsection (3)(d) of this section shall serve a term of one (1) year;
 - (b) The other members first appointed according to subsections (1), (2), and (3) of this section shall serve as follows:
 - 1. One-third (1/3) of the members shall be appointed for a term of two (2) years;

2. One-third (1/3) of the members shall be appointed for a term of three (3) years; and
 3. One-third (1/3) of the members shall be appointed for a term of four (4) years;
- (c) A member may be reappointed after a period of at least four (4) years following the end of their term;
 - (d) A vacancy shall be filled for an unexpired term in the same manner as the original appointment; and
 - (e) At the first meeting after July 9, 2025, the new Medicaid Advisory Committee shall elect a chair, vice-chair and secretary from among its members and annually thereafter.
- (5) The Medicaid Advisory Committee shall adhere to bylaws developed and published by the department for governance.
- (6) On or after July 9, 2027, the Medicaid Advisory Committee shall submit an annual report to be published on the Medicaid Advisory Committee's website, with support from the Department for Medicaid Services, as follows:
- (a) Describes the activities, topics discussed, and recommendations of the Medicaid Advisory Committee and the Beneficiary Advisory Council;
 - (b) Includes the department's review and responses to recommended actions; and
 - (c) Is published to the department's website not later than thirty (30) days after it is final.

Section 5. Duties of the Department for Medicaid Services. The department shall comply with the requirements in 42 CFR 431.12 as follows:

- (1) Provide staff who attend and facilitate meetings and member engagement for the Medicaid Advisory Committee and Beneficiary Advisory Council;
- (2) Develop and publish on the department's website a process for Medicaid Advisory Committee and Beneficiary Advisory Council member recruitment and selection;
- (3) Develop and publish on the department's website bylaws for the governance of the Medicaid Advisory Committee and Beneficiary Advisory Council;
- (4) Develop and publish on the department's website a meeting schedule that maximizes member attendance and an agenda with a thirty (30) calendar day notice of a meeting date, location, and time of each public meeting of the Medicaid Advisory Committee Beneficiary Advisory Council;
- (5) Publish on the department's website past meeting minutes and list of meeting attendees within thirty (30) calendar days following a meeting of the Medicaid Advisory Committee and Beneficiary Advisory Council, except that members of the Beneficiary Advisory Council shall have the option to exclude their names;
- (6) Offer a variety of meeting options including in-person, virtual, and hybrid (in-person and virtual), and at a minimum a telephone dial-in option for members and the public, if the meeting is open to the public;
- (7) Ensure meetings are accessible to people with disabilities and provide financial support and reasonable accommodations to members of the Beneficiary Advisory Council to support participation; and
- (8) Support the Medicaid Advisory Committee with the development of an annual report, and publish it on the department's website.

FILED WITH LRC: February 9, 2026

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