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LEGISLATIVE RESEARCH COMMISSION  
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MEETING NOTICE: For information concerning the next meeting of the Administrative Regulation Review Subcommittee, call toll-free 1-800-372-7613, or 502-564-8100, ext. 535.

This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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Title	Chapter	Regulation
806      KAR      50      :	155	
Cabinet Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

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# Public Hearings Scheduled

## CABINET FOR HUMAN RESOURCES

A public hearing has been scheduled on September 13, 1983, at 9 a.m. in the Vital Statistics Conference Room, CHR Building, Frankfort, Kentucky, on the following regulation:

**904 KAR 1:045.** Payments for mental health center services. [10 Ky.R. 322]

A public hearing has been scheduled on September 13, 1983, at 10 a.m., in the Vital Statistics Conference Room, CHR Building, Frankfort, Kentucky, on the following regulation:

**904 KAR 1:036.** Amounts payable for skilled nursing and intermediate care facility services. [10 Ky.R. 317]

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

A public hearing has been scheduled on September 20, 1983, at 7 p.m. at the Harley Hotel, 2143 North Broadway, Lexington, Kentucky; and on September 22, 1983, at 7 p.m. at the Executive Inn, Owensboro, Kentucky, on the following regulation:

**401 KAR 5:090.** Control of water pollution from oil and gas facilities. [10 Ky.R. 345]

# Emergency Regulation Now In Effect

(NOTE: Emergency regulations expire upon being repealed or replaced.)

**JOHN Y. BROWN, JR., GOVERNOR**

Executive Order 83-695

August 5, 1983

## EMERGENCY REGULATION Department of Fish and Wildlife Resources

WHEREAS, the U. S. Fish and Wildlife Service, Department of the Interior, has jurisdiction in the regulation of hunting throughout the several states; and

WHEREAS, all regulation of season framework, daily bag and possession limits, and shooting hours for migratory species, by the Kentucky Department of Fish and Wildlife Resources, must comply with federal regulations; and

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with normal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources has determined in a letter dated August 1, 1983, that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.088(1), become effective upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.088(1) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Fish and Wildlife Resources that an emergency exists and, therefore, direct that the attached regulation become effective immediately upon being filed in the office of the Legislative Research Commission as provided under KRS 13.088(1).

JOHN Y. BROWN, JR., Governor  
FRANCES JONES MILLS, Secretary of State

## COMMERCE CABINET

Department of Fish and Wildlife Resources

**301 KAR 2:044E.** Taking of migratory wildlife.

RELATES TO: KRS 150.010, 150.300, 150.305, 150.320, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

EFFECTIVE: August 8, 1983

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply.

Section 1. Seasons. (1) Doves: September 1 through October 31 [16]; December 3 [1] through December 11 [24].

(2) Woodcock: October 1 [2] through December 4 [5].

(3) Common snipe: October 1 [2] through December 4 [5].

(4) Experimental September duck: September 7 [8] through September 11 [12].

## Section 2. Limits.

Species	Bag Limits	Possession Limits
Doves	12	24
Woodcock	5	10
Common snipe	8	16
Experimental September duck, wood duck, teal and other ducks	*4	*8

\*Daily bag limit is four (4) ducks, no more than one (1) of which may be a species other than teal or wood duck, and the possession limit is double the daily bag limit.

Section 3. Bag and Possession Limits. (1) After two (2) or more days of shooting, possession limits apply to transporting, but do not permit a double bag limit in the field.

(2) The above species (except doves) dressed in the field, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes. For further information on the above species, consult Title 50, Code of Federal Regulations, Part 20.

Section 4. Shooting Hours. (1) Doves: from *eleven (11) o'clock a.m.* [twelve (12) o'clock noon] until [one-half (½) hour before] sunset [prevailing time].

(2) Common snipe and woodcock: from one-half (½) hour before sunrise to sunset [prevailing time].

(3) Experimental September duck: sunrise to sunset [prevailing time].

Section 5. Free Permit for Experimental September Duck Season. Persons hunting during the experimental September duck season should obtain a free permit from any conservation officer or other authorized agents before hunting. The free permit contains a request for harvest information to be furnished on a self-addressed, stamped post card.

Section 6. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession limits apply to falconry hunting.

Section 7. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

(1) Ballard Wildlife Management Area, located in Ballard County:

(a) Doves: September 1 through October 14 *only*. No firearms permitted on this area except during shooting hours.

(b) Woodcock and snipe: Seasons closed.

(2) West Kentucky Wildlife Management Area, located in McCracken County:

(a) Doves: September 1 through October 16 *only*.

(b) Woodcock and snipe: *Hunting permitted on tracts 2, 3, 6, and 7 only.*

(3) Central Kentucky Wildlife Management Area, located in Madison County:

(a) Doves: September 1 through October 16 *only*.

(b) Woodcock and snipe: Seasons closed.

[(4) Curtis Gates Lloyd Wildlife Management Area, located in Grant County: Doves: September 1 through October 14.]

(4) [(5)] Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties:

(a) Doves: September 1 through September 30 and [;] December 3 [1] through December 11 *only* [24].

(b) Woodcock and snipe: December 1 through December 4 *only* [5].

(5) [(6)] Fort Campbell Wildlife Management Area, located in Christian and Trigg Counties:

(a) Doves: *September 1 through September 23, September 24 through October 30, and December 3 through December 11 only. Hunting permitted during these periods in designated areas only.* [September 1 through September 24; September 25 through October 16 in designated areas only; December 1 through December 3; December 4 through December 24 in designated areas only.]

(b) Shooting hours for doves: from twelve (12) o'clock noon until sunset [prevailing time].

(c) Woodcock and snipe: November 24 [25] through December 2 *only* [3].

(6) [(7)] Closed areas: The hunting of doves, woodcock, common snipe, and ducks is prohibited on the following wildlife management areas: Grayson Wildlife Management Area, located in Carter and Elliott Counties; Beaver Creek Wildlife Management Area, including all private inholdings, located in Pulaski and McCreary Counties; Robinson Forest Wildlife Management Area, located in Breathitt, Perry, and Knott Counties; Redbird Wildlife Management Area, including all private inholdings, located in Leslie and Clay Counties; Dewey Lake Wildlife Management Area, located in Floyd County; Cane Creek Wildlife Management Area, including all private inholdings, located in Laurel County; Mill Creek Wildlife Management Area, located in Jackson County.

CARL E. KAYS, Commissioner

ADOPTED: June 10, 1983

APPROVED: W. BRUCE LUNSFORD, Secretary

RECEIVED BY LRC: August 8, 1983 at 8:30 a.m.

## Amended Regulation Now in Effect

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division of Water  
As Amended

401 KAR 5:090. Control of water pollution from oil and gas facilities.

RELATES TO: KRS Chapters 151, 224

PURSUANT TO: KRS 13.082, 151.125, 224.033, 224.060

EFFECTIVE: August 3, 1983

NECESSITY AND FUNCTION: KRS 224.033 requires

that the cabinet promulgate regulations pertaining to the issuance of permits and the prevention, abatement and control of water pollution. This regulation provides for preventing, abating, and controlling water pollution from oil and gas facilities.

*Section 1. Applicability. The provisions of this regulation shall apply to the owner or operator of any facility which causes or is capable of causing produced water.*

*Section 2. [1.] Definitions. The following definitions describe terms used in this regulation. Terms not defined below shall have the meaning given to them by KRS Chapters 151 and 224 or the meaning attributed by common use.*



(1) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(2) "Director" means the secretary of the cabinet or an authorized representative. For purposes of permit issuance decisions, the director is the Director of the Division of Water.

(3) [(2)] "Disposal well" means a borehole drilled or proposed to be drilled, or a well converted to be used, for the sole purpose of disposing of any water, gas, produced water or other fluid by injection or other method into a subsurface zone.

(4) [(3)] "Division" means Division of Water, Natural Resources and Environmental Protection Cabinet.

(5) [(4)] "Facility" means any well, tank, pit, structure, appurtenance or improvement used in the exploration, drilling, or production of oil or gas or used for treating, storing or disposing of produced water.

(6) [(5)] "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined herein as oil.

(7) "Geologically isolated" means a zone separated from drinking water aquifers and free of known open faults or fractures and any unprotected wells within the area of review.

(8) [(6)] "Holding pit" means an earthen excavated depression [or continuous bermed area at least two (2) feet above ground level] designed to receive and hold produced water at a facility.

(9) [(7)] "Kentucky Pollutant Discharge Elimination System (KPDES)" means the Kentucky program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits to discharge and imposing and enforcing pretreatment requirements. The KPDES regulations are 401 KAR 5:050 to 5:085.

(10) [(8)] "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of specific gravity, which are produced at the well in liquid form and which are not the result of condensation of gas after it leaves the underground reservoir.

(11) [(9)] "Operate" means any act relating to the construction, operation or maintenance of any facility.

(12) [(10)] "Operator" means any person who operates any facility.

(13) [(11)] "Owner" means any person who possesses any interest in:

(a) The right to develop, operate, or produce oil or gas; or

(b) Any facility.

(14) [(12)] "Person" means as defined in KRS [Chapter] 224.005(12).

(15) [(13)] "Pollutant" means as defined in KRS [Chapter] 224.005(28).

(16) [(14)] "Produced water" means any and all water and pollutants and combination thereof resulting, obtained or produced from the exploration, drilling, or production of oil or gas.

(17) [(15)] "Register" means to file [the filing of] forms [provided by the division] with the division which contain information as to oil and gas well geographic location, production, produced water production, methods used for treating, storing or disposing of produced water, and other information deemed necessary by the division.

(18) [(16)] "Total dissolved solids" means the total dissolved (filtrable) solids as determined by use of the method specified in 40 CFR Part 136.

(19) [(17)] "Waters of the Commonwealth" means waters of the Commonwealth as defined in KRS [Chapter] 224.005(26).

(20) [(18)] "Well" means a borehole drilled, or proposed to be drilled for the purpose of producing gas or oil or one through which gas or oil is being produced, or a borehole drilled or proposed to be drilled for the purpose of injecting any water, gas, produced water or other fluid therein or one into which any water, gas, produced water or other fluid is being injected.

(21) [(19)] "Zone" means a layer or stratum capable of producing or receiving fluids.

Section 3. [2. General] Prohibition. No person shall construct, modify, or operate a facility in violation of state or federal water quality standards or other applicable standards in this regulation [such a manner as to cause water pollution or disposal of any pollutant].

[Section 3. Applicability. The provisions of this regulation shall apply to the owner or operator of any facility which produces or is reasonably capable of producing produced water.]

Section 4. Registration. (1) All [owners or] operators shall register their facilities with the division using a form approved by the director. All contiguous facilities operated or to be operated under a single lease [in a single geographical oil or gas field] by one (1) owner or operator may register as one (1) facility operation.

(2) [Owners or] Operators who previously registered their facilities with the division on the form entitled "Division of Water, Crude Oil Producers Brine Disposal Registration Form" shall not be required to register under this section unless there has been a change in operators or to the reported quantity of produced water or a modification to the facility has occurred which affects the operations used for treating, storing or disposing of produced water.

Section 5. Approval Requirements for Continuation for Operation of Existing Facilities. (1) Applicability. The provisions of this section shall apply to [owners or] operators of facilities in existence prior to the effective date of this regulation.

(2) Continuation requirements. [Owners or] Operators may continue to operate existing facilities for a period not to exceed one (1) year from the effective date of this regulation provided all the following provisions are met:

(a) A written request to continue operating existing facilities is submitted to the [Division] Director. This request shall include a detailed description of existing operations for treating, storing or disposing of produced water.

(b) A plan is submitted to the [Division] Director which [includes] proposes a schedule and outlines the procedures for meeting the requirements of this and other applicable regulations.

(c) Both the written request and plan shall be submitted to the [Division] Director within ninety (90) days of the effective date of this regulation.

(d) Approval for continuation of operation of existing facilities has been obtained from the [Division] Director pursuant to subsection (3) of this section and the [owner or] operator has on display at the facility the Division's approval identification number.

(3) Approval procedures. After receiving the written request and plan specified in subsection (2) of this section, the [division] director will:

(a) Review the plan and request any additional information from the [owner or] operator, if needed;

(b) Develop a compliance schedule for each facility or contiguous facility operation; and

(c) Issue a written approval to the [owner or] operator containing the compliance schedule and an identification number.

Section 6. Discharges of Produced Water. (1) Applicability. The provisions of this section apply to [owners or] operators of facilities discharging produced water into waters of the Commonwealth [as defined in KPDES regulation 401 KAR 5:050].

(2) General requirements. No *produced water shall be discharged* [owner or operator shall cause the discharge of produced water] from a facility *unless* [except as] authorized by and in accordance with the *KPDES regulations 401 KAR 5:050 through 401 KAR 5:085* [a KPDES permit]. A *KPDES permit is not required for the disposal of produced water through a permitted disposal well*. KPDES permits may be issued to [owners or] operators of facilities provided the [following conditions are met:

(a) The facility meets the criteria for inclusion within Subpart F—Stripper Subcategory of 40 CFR Part 435. [; and]

[(b) The produced water discharge from the facility meets the water quality standards of 401 KAR 5:031.]

[(c) Discharges of produced water from facilities included in Subpart B—Onshore Subcategory of 40 CFR Part 435 are prohibited.]

Section 7. Holding Pits. (1) Applicability. The provisions of this section apply to the [owners or] operators of holding pits *which are constructed after the effective date of this regulation, and to the operators of existing pits that are incapable of demonstrating pursuant to Section 5 of this regulation that those pits do not contaminate surface or groundwaters*.

(2) Exemption. *Spill Prevention Control and Countermeasure (SPCC) pits developed pursuant to Section 11 of this regulation are exempted from the requirements of this section*.

(3) [(2)] General requirements. [Owners or] Operators of holding pits shall supplement the registration form required under Section 4 of this regulation with information regarding the construction and operation of any holding pit and any other information deemed necessary by the [division] director. This information shall be submitted to the [division] director on forms provided by the division [director].

(4) [(3)] Permits. The [division] director will issue permits to [owners or] operators of holding pits to contain any condition [which he deems] necessary to satisfy any requirement of this regulation notwithstanding any less stringent provision of the law to the contrary.

(5) [(4)] Conditions applicable to [all] holding pits.

(a) Construction requirements.

1. *Holding pits shall be constructed in accordance with KRS Chapter 151 and Division of Waste Management regulation 401 KAR 34:200, Section 2, et seq.* [No holding pit shall be constructed within the 100-year floodplain of any stream or water course as defined in KRS 151.100 unless it is surrounded by a continuous impermeable wall to the elevation of the 100-year flood and has a permit issued pursuant to KRS 151.250.]

2. [All] Holding pits shall be constructed with an impermeable *synthetic liner having a minimum thickness of twenty (20) mils*.

3. *Holding pits shall be designed with a continuous bermed area at least two (2) feet above ground level*.

(b) Operating requirements.

1. No holding pit may be used for the final disposition of produced water.]

1. [2.] No holding pit may discharge produced water into waters of the Commonwealth [as defined in the KPDES regulation 401 KAR 5:050] except in accordance with a KPDES permit.

2. [3.] All surface water shall be diverted away from the holding pit [by berms] so that the holding pit shall have no additional drainage area.

3. [4.] All wastes shall be removed from the holding pit when the design storage volume has filled. Disposal of wastes shall be in accordance with Kentucky laws and regulations.

(c) Closure requirements.

1. *Except as provided in subsection (2) of this section, any holding pit no longer used for the purpose for which it was intended shall be backfilled, graded, and revegetated. The vegetative cover shall be capable of stabilizing the soil surface from erosion. This closure shall be conducted within the time period specified in the permit issued pursuant to subsection (3) of this section.*

2. A holding pit may remain as a permanent structure *or be used for other purposes* upon written approval from the [division] director.

3. Disposal of all wastes shall be in accordance with Kentucky laws and regulations.

(6) *A tank, of a size and type approved by the director, may be used in lieu of a holding pit.*

Section 8. Drilling Pits. *Facilities shall be constructed for the collection of fluids [, other than produced water,] associated with well construction, acidizing and chemically enhanced recovery in areas where waters of the Commonwealth may be affected. If the life of the facilities is longer than thirty (30) days or if the facilities receive produced water other than from exploration or drilling activities, they must meet all requirements of Section 7(5)(c) of this regulation.*

Section 9. [8.] Disposal Wells. (1) Applicability. The provisions of this section apply to [owners or] operators of disposal wells. *The provisions of this section will not apply to operators of disposal wells upon issuance of an individual Underground Injection Control (UIC) permit by the agency having jurisdiction under the Safe Drinking Water Act (42 USC 300f, et seq.).* [This section does not apply to wells used to inject water, gas, produced water, or other fluids into an oil producing zone to enhance the recovery of oil.]

(2) General requirements. [Owners or] Operators of disposal wells shall supplement [to] the registration form required under Section 4 of this regulation with information regarding the construction and operation of any disposal well, *a plan showing the location of all existing and abandoned wells within the zone of influence* and any other information deemed necessary by the [division] director. This information shall be submitted to the [division] director on forms provided by the division [director].

(3) Permits. The [division] director will issue permits to [owners or] operators of disposal wells to contain any condition necessary to satisfy any requirement of this regulation notwithstanding any less stringent provision of law to the contrary.

(4) Conditions applicable to all disposal wells. Disposal wells shall [be operated to] reinject all produced waters into *a formation which is geologically isolated and* [or below the level of a known production zone in that geographical

oil or gas field provided that the known production zone] contains more than 10,000 mg/l of total dissolved solids. Disposal well failure or shutdown shall be reported immediately to the director.

Section 10. [9.] Inspection and Enforcement. The cabinet may inspect any facility pursuant to KRS 224.033 and may provide written notification of any violation to the [owner or] operator. Following the determination of any violation of any applicable provision of law, the cabinet may initiate any enforcement action including an order to abate and alleviate such condition or activity pursuant to KRS 224.071 and any other applicable remedy including civil penalties pursuant to KRS 224.994. *Operators shall post waterproof signs, or a size and type approved by the director, at tank batteries and at disposal wells which shall identify the operator's name, address, permit or registration number, phone number and other information defined by the director. All plugging, casing, and opera-*

*tion of wells shall be done in accordance with Department of Mines and Minerals regulations 805 KAR 1:020, 1:060, and 1:070.*

Section 11. [10.] Spills and Leaks. (1) General provision. [Owners or] Operators of facilities shall develop and implement Spill Prevention Control and Countermeasure (SPCC) Plans when required under 40 CFR Part 112.

(2) Reporting.

(a) [Owners or] Operators shall report to the division all spills and bypasses of oil and produced water from facilities in accordance with 401 KAR 5:015.

(b) [Owners or] Operators shall report all spills, discharges and bypasses of oil from a facility in accordance with the procedures in 40 CFR Part 110.

JACKIE SWIGART, Secretary

ADOPTED: June 15, 1983

RECEIVED BY LRC: June 15, 1983 at 4:30 p.m.

## Amended After Hearing

(Republished prior to Subcommittee consideration as required by KRS 13.085(4).)

### CABINET FOR HUMAN RESOURCES

Department for Social Insurance  
Amended After Hearing

904 KAR 1:190. Payments for alternative birth center services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for alternative birth center services.

Section 1. General Requirements. The cabinet shall reimburse participating licensed alternative birth centers for covered services rendered eligible Title XIX recipients when such services are provided in accordance with the provisions of 902 KAR 20:150, Alternative birth centers.

Section 2. Payments. (1) Prenatal visits, standby services and postnatal visits may be paid for an employee of

the alternative birthing center only when such service is billed through the center. The rate paid to the medical professional (*physician, or nurse-midwife who is an advanced registered nurse practitioner who is appropriately licensed and certified*) shall be seventy-five (75) percent of the seventy-fifth percentile for the general practicing physician for the same services, or the actual billed charge if less.

(2) The delivery fee payable to the center shall be the facility's usual and customary rate not to exceed \$365 per delivery. This fee is inclusive of all costs associated with the delivery, including the professional fee for the delivery, necessary supplies and materials, and the post delivery examination.

(3) Program payment is to be considered payment in full for all services, supplies, and devices provided during the visit billed, and no additional amounts may be requested from the recipient, the medicaid program, or any other source. This shall not, however, preclude the collection of appropriate amounts from liable third party sources which shall serve to reduce the liability of the cabinet.

Section 3. Implementation. The provisions of Sections 1 and 2 of this regulation shall be effective July, 1983.

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

# Proposed Amendments

## Kentucky Higher Education Student Loan Corporation (Proposed Amendment)

### 15 KAR 1:020. Purchasing policies.

RELATES TO: KRS 164A.060(2), (8)

PURSUANT TO: KRS 13.082, 164A.060(8)

**NECESSITY AND FUNCTION:** To establish policies for the purchase of Guaranteed Student Loans. The Kentucky Higher Education Student Loan Corporation (Corporation) is authorized by statute to finance, make, and purchase Guaranteed Student Loans. The capability to finance such loans requires the adoption of reasonable purchase policies to minimize defaults and other losses of fund assets.

**Section 1. Purchase Conditions.** The Corporation will purchase eligible loans from participating lenders under the terms of the operative Corporation Loan Purchase Agreement until the occurrence of one (1) of the following conditions:

(1) Ten (10) percent of the originally disbursed principal amount of loans made by a single participating lender to borrowers for attendance at a single educational institution, and owned by the Corporation, have come due for repayment (matured paper) and the default rate (total dollar amount of default claims paid divided by matured paper) on those loans exceeds ten (10) percent.

(2) Ten (10) percent of the originally disbursed principal amount of all loans made by a single participating lender and owned by the Kentucky Higher Education Student Loan Corporation have come due for repayment (matured paper) and the default rate (total dollar amount of default claims paid divided by matured paper) on those loans exceeds ten (10) percent.

(3) Ten (10) percent of the original disbursed principal amount of all loans, purchased or made by the Corporation, to borrowers for attendance at a single educational institution have come due for repayment (matured paper) and the default rate (total dollar amount of default claims paid divided by matured paper) on those loans exceeds ten (10) percent.

(4) Ten (10) percent of the originally disbursed principal amount of all loans purchased, or made, by the Corporation to borrowers for attendance at a single educational institution have come due for repayment (matured paper) and the default rate (total dollar amount of default claims paid divided by matured paper) on those loans exceeds fifteen (15) percent.

**Section 2. Suspension of Purchases.** When a condition enumerated in Section 1 of this regulation occurs, as indicated by reports produced on the last day of December, March, June, or September, pursuant to Section 3(1) of this regulation, the Corporation will suspend making purchase commitments as follows:

(1) When a condition of Section 1(1) occurs, the Corporation will immediately suspend making purchase commitments to that lender for loans to borrowers for attendance at that educational institution.

(2) When a condition of Section 1(2) occurs, the Corporation will immediately suspend making purchase commitments to that lender.

(3) When a condition of Section 1(3) occurs, the Corporation will immediately suspend making purchase commitments to any lender for loans to borrowers for attendance at that educational institution, unless the loans are endorsed by a surety acceptable to the Corporation and disbursed in multiple disbursements in accordance with regulations, policies or procedures established by the Corporation, Kentucky Higher Education Assistance Authority or the federal government pertaining to such loans. (This does not preclude the Corporation from otherwise requiring endorsements or multiple disbursements based upon individual credit criteria.)

(4) When a condition of Section 1(4) occurs, the Corporation will immediately suspend making purchase commitments to all lenders for loans to borrowers for attendance at that educational institution.

**Section 3. Reports, Notification and Appeal.** (1) *Reports containing data on loan volumes, matured loans, default claims paid and current default rates will be produced by the Corporation effective the last business day of each month and forwarded to each participating lender and to each Kentucky educational institution by the tenth day of the following month.* [ Reports containing the necessary data on loan volumes, matured loans and current default rates will be produced by the Corporation effective the last business day of each month and forwarded to each participating lender and to each Kentucky educational institution by the 10th business day of the following month. When, on the basis of such reports, any of the conditions specified in Section 1 of this regulation occur and action is to be taken under Section 2 of this regulation, the affected lender(s) will be notified by letter enclosed with such reports, signed by the Corporation Executive Director. A copy of such letter and applicable parts of such reports will be provided to any educational institution whose students may be affected by such action. The suspension specified in Section 2 of this regulation will be effective sixty (60) days following the date the mailing is certified for delivery by the U.S. Postal Service, unless within such sixty (60) days, any interested party or parties petition the Corporation for a hearing to show cause why the suspension should not occur. Any interested party or parties may petition the Corporation by submitting a written request for a hearing to the Executive Director or to the Chairman of the Corporation Board. The Corporation Board will subsequently hear the matter at their next regularly scheduled meeting or will schedule a special meeting within thirty (30) days, whichever is earlier. In no event shall a suspension under this regulation occur prior to the holding of such hearing if a hearing is requested within the sixty (60) day period. When purchases are suspended under this regulation, they will be resumed only upon approval by the Corporation Board.]

(2) *When on the basis of reports produced under Section 3(1) of this regulation, conditions specified in Section 1(1) of this regulation occur and action is to be taken under Section 2(1) of this regulation, the affected lender(s) will be notified by letter ("the mailing"), signed by the Corporation's Executive Director, enclosed with such reports and placed with the U.S. Postal Service as certified mail, return receipt requested. A copy of such letter and applicable reports will be provided in the same manner to any educa-*

tional institution whose students may be affected by such action.

(3) When, on the basis of reports produced under Section 3(1) of this regulation, the conditions specified in Section 1(2) of this regulation occur and action is to be taken under Section 2(2) of this regulation, the affected lender(s) will be notified by letter ("the mailing"), signed by the Corporation's Executive Director, enclosed with such reports and placed with the U.S. Postal Service as certified mail, return receipt requested.

(4) When, on the basis of reports produced under Section 3(1) of this regulation, the conditions specified in Section 1(3) or (4) of this regulation occur and action is to be taken under Section 2(3) or (4) of this regulation, any educational institution(s) whose students may be affected by such action will be notified by letter ("the mailing"), signed by the Corporation's Executive Director, enclosed with such reports and placed with the U.S. Postal Service as certified mail, return receipt requested. In the absence of a request for a hearing pursuant to Section 3(5) of this regulation or in the event any action is to be taken respecting suspension of purchase commitments arising from the processes of Section 3(5) or (6) of this regulation, all participating lenders will be notified by letter, signed by the Corporation's Executive Director. Any lender(s) so notified may, within thirty (30) days following the date of the notice, petition the Corporation for a hearing to appeal the suspension of purchase commitments.

(5) The suspension specified in Section 2 of this regulation will be effective sixty (60) days following the date the mailing, specified in Section 3(2), (3) or (4) of this regulation, is placed with the U.S. Postal Service for delivery, unless, within such sixty (60) days, any interested party or parties petition the Corporation for a hearing to show cause why the suspension should not occur. Any interested party or parties may petition the Corporation by submitting a written request for a hearing to the Executive Director or to the Chairman of the Corporation Board. The Corporation Board will subsequently hear the matter at their next regular meeting scheduled for such purpose. Such meetings will be convened on the first Monday of January, April, July, and October, as necessary, (or the next following business day if Monday falls on a legal holiday). Any action, suspension, remedy, policy, procedure, or other matter resulting from application of this regulation shall remain in force and in effect until modified by the Corporation's Board of Directors.

(6) Upon sending notification to lenders and/or educational institutions, pursuant to Section 3(2), (3), or (4) of this regulation, the Executive Director may negotiate with any or all interested parties to accomplish the purposes of this regulation. Any agreed resolution so derived shall be effective upon ratification by the Corporation Board at the next quarterly meeting or any other regular or special meeting. In the absence of such ratification, the matter shall be placed on the agenda of the next regular meeting scheduled for such purpose pursuant to Section 3(5) of this regulation.

(7) The Chairman of the Corporation Board or a hearing officer appointed by the chairman shall conduct a hearing. The board shall make a determination upon the record of such hearing. For this purpose the Corporation shall cause to be made a transcript of all hearings and said transcript shall be made available to any interested party. Testimony, under oath or affirmation, may be presented to the board orally or by written statement, provided that any written testimony to which a party objects by reason of in-

ability to make inquiry or cross-examination shall not be considered in the board's determination. All parties to the hearing shall be afforded reasonable opportunity to make inquiry of any other party or any evidence offered for the record. Any documentary evidence offered may, at the discretion of the board, be read into the record or incorporated by reference in whole or in part. Unless authorized by the board at the hearing, no documentary evidence will be considered a part of the record when submitted after the close of the testimony. By a written stipulation or affirmation at the hearing, the parties may agree on any facts relevant to the hearing. The board may taken notice of any facts within its competence and may through its own experts or employees obtain such evidence as it considers necessary or desirable.

Section 4. Delay of Suspension of Purchases. The Corporation Executive Director may delay implementation of the administrative actions provided in Section 2(1) of this regulation when the applicable volume of matured paper is less than \$100,000 or Section 2(2), (3), or (4) of this regulation when the applicable volume of default claims paid is less than \$100,000. However, each instance in which this authority is exercised shall be brought to the attention of the board at its next regular meeting.

Section 5. Effective Date. This regulation shall become effective July 31, [March 1,] 1983, except that Section 2(4) of this regulation will become effective September 1, 1983. Prior to the effective date, lenders and educational institutions will be provided with a copy of this regulation [and a report showing applicable loan volumes, matured loans and current default rates].

PAUL P. BORDEN, Executive Director

ADOPTED: July 26, 1983

RECEIVED BY LRC: August 15, 1983 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: The Executive Director, Kentucky Higher Education  
Student Loan Corporation, 1050 U.S. 127 South,  
Frankfort, Kentucky 40601.

#### FINANCE AND ADMINISTRATION CABINET State Board of Examiners of Social Work (Proposed Amendment)

201 KAR 23:060. Licensed and certified social workers.

RELATES TO: KRS 335.010 to 335.160

PURSUANT TO: KRS 13.082, 335.070

NECESSITY AND FUNCTION: This regulation refines the use of descriptions prohibited from usage by unlicensed individuals.

Section 1. Any person who possesses a valid, unsuspended or unrevoked certificate as a licensed social worker, and who has received a license pursuant to KRS Chapter 335 has the right to:

(1) Practice the profession of social work within the constraints of KRS Chapter 335 and rules and regulations promulgated thereunder; and

(2) Use the title "Licensed Social Worker" or the abbreviation "LSW." No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed social worker.

Section 2. Any person who possesses a valid, unsuspended or unrevoked license as a "Certified Social Worker" has the right to:

(1) Practice his profession within the constraints of KRS Chapter 335; and

(2) To use the title "Certified Social Worker" or its abbreviation "CSW." No other person shall assume such title or use such abbreviation on any work or letter, sign, or figure, or device to indicate that the person using the same is a licensed certified social worker.

Section 3. Any person who possesses a valid, unsuspended or unrevoked certificate as a certified social worker for independent practice has the right to:

(1) Engage in the private practice of social work under the constraints of KRS Chapter 335 and rules and regulations promulgated thereunder; and

(2) To hold himself out to the public as providing service authorized in 201 KAR 23:070; and

(3) To use the title of:

(a) Clinical social worker,

(b) Community social worker,

(c) Social work researcher, or

(d) Social work administrator and manager.

(4) Employ a certified social worker under the conditions set forth in these regulations.

GWYNNE GOLDBERG, Chairman

ADOPTED: August 15, 1983

RECEIVED BY LRC: August 15, 1983 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Betty Sapp, P.O. Box 456, Frankfort, Kentucky  
40602.

#### FINANCE AND ADMINISTRATION CABINET State Board of Examiners of Social Work (Proposed Amendment)

201 KAR 23:070. Specialty certification.

RELATES TO: 335.080, 335.090, 335.100

PURSUANT TO: KRS 13.082, 335.070

NECESSITY AND FUNCTION: This regulation further clarifies descriptions of specialty certification and the functions evolving therefrom, in addition to clarifying terms used in KRS Chapter 335.

Section 1. Definitions. (1)(a) "Educational institution approved by the board" means graduate schools of social work accredited by the Council on Social Work Education except, that the board will evaluate credentials of foreign graduates on a case by case basis; and

(b) "A social work or social welfare program" not accredited by the Council on Social Work Education must demonstrate to the satisfaction of the board that they meet the Council on Social Work Education standards for accreditation of undergraduate programs.

(2) Supervision for independent practice of clinical social work shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual, and on helping with problems of living and activities designed to stimulate growth and development.

(3) Supervision for independent practice of community social work shall be defined as the educational process of

utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon skills including those necessary for social planning, program development, evaluation advocacy, ombudsmanship, facilitation, program budgeting, legislative activity, social organization and social mediation, among others.

(4) Supervision for independent practice of social work research shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon skills including those necessary for hypothesis formulation, sampling, data collection, data analysis, and interpretation of results, among others.

(5) Supervision for independent practice of social work administration and management shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon skills including those necessary for organizing, directing, supervising, staffing, evaluating, and consulting, among others.

Section 2. (1) For the purpose of the board, the private independent practice of social work for the specialty areas of community social work, social work research, and social work administration and management is defined as that practice in which an individual who, wholly or in part, practices social work outside of those settings specifically exempted by KRS 335.010, who has responsibility for his own practice and sets up his own conditions of exchange with his clients and identifies himself in any manner as a social work practitioner in offering services.

(2) For the purpose of the board, the private independent practice of clinical social work is defined as that practice in which an individual who, wholly or in part, practices social work outside of those settings specifically exempted by KRS 335.010, who has responsibility for his own practice and sets up his own conditions of exchange with his clients and identifies himself in any manner as a social work practitioner in offering services. In addition, a social work employee of any individual, institution or organization except those specifically exempted by KRS 335.010 providing clinical social work services and paid by such persons, institutions or organizations rather than by direct arrangement with the client is considered within the definition of a private practitioner. Furthermore, a certified social work employee of such persons, institutions or organizations shall contract, in writing, with a person who holds a valid Kentucky certification for clinical practice, who shall assume responsibility for the employee's practice and shall supervise in accordance with Section 5 of this regulation, and KRS 335.100(b), over the qualifying period of eligibility for taking the specialty exam. He shall not enter into such practice of social work until this contract has been approved by the board and shall cease such practice of social work immediately upon the termination of said contract. At the termination of the contract the employee shall apply for the specialty certification or request an extension of the contract from the board.

(3) The supervisory contract shall contain:

(a) The name and license number of the supervisee.

(b) The name and license number of the supervisor.

(c) The nature of such practice.

(d) The nature, duration and frequency of the supervision.

(e) The conditions or procedures for termination of the supervision.



(f) The explicit statement that the supervisor understands that he shall be held accountable to the board for the care given to the supervisee's clients.

(g) The explicit statement that the certified social worker is a bona fide employee, and as such has social security and income tax deducted from his salary.

(4) The criteria for a supervisor shall be:

(a) A person who has been in the practice of clinical social work for five (5) years following licensure for independent practice.

(b) A person who has no unresolved complaints filed before the board.

(c) A person who has no more than six (6) supervisees at one time, unless specifically approved by the board.

[Section 2. For the purpose of the board, the private independent practice of social work is defined as the professional delivery of social work services by certified social workers offered independently of:]

[(1) The auspices and supervision of federal, state, and local government agencies;]

[(2) The auspices and supervision of any nonprofit social service agency; or]

[(3) The auspices and supervision of any for profit social service agency.]

Section 3. Certification for Independent Practice. Certification is the process whereby the board recognizes a licensed certified social worker to have special training and/or competence to engage in autonomous and independent practice in specified areas of specialty.

Section 4. The areas of certification for private, independent practice are those of clinical social work, community social work, social work research, and social work administration and management.

Section 5. Clinical social work is defined as practice which focuses on the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual, and on helping with problems of living and activities designed to stimulate growth and development. Such practice is based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics. Practitioners have numerous skills including those necessary for individual, marital, family, and group psychotherapy, as well as other treatment modalities. To be certified for independent practice in clinical social work the licensee must have:

(1) Had the required number of hours of experience in clinical social work under supervision. Such supervision shall have been provided by an individual meeting the requirement set forth in subsection (4) of this section;

(2) Shall have spent at least sixty (60) percent of the required experience in a direct client-professional relationship;

(3) Shall have had direct responsibility for specific individual and/or groups of clients;

(4) Supervision shall be provided by one (1) of the following:

(a) An individual certified in the clinical specialty by this board;

(b) An individual listed at the time of supervision in either the National Association of Social Workers Registry of Clinical Social Workers or the National Registry of Health Care Providers in Clinical Social Work;

(c) A person who has demonstrated to the board's

satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection.

(5) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the clinical certificate;

(6) When supervision is being provided outside the agency in which the clinical experience is occurring, a contractual arrangement, including evidence of built-in accountability shall be provided;

(7) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;

(8) Such supervision shall be congruent with the board's code of ethical practice;

(9) Pass an examination developed by the board.

Section 6. Community social work is defined as practice which deals with intervention at the community level oriented at involving community institutions and solving community welfare problems. Such practice is based on knowledge of community organization and development, social planning, policy analysis and social action. Practitioners have numerous skills including those necessary for social planning, program development, evaluation, advocacy, ombudsmanship, facilitation, program budgeting, legislative activity, social organization and social mediation, among others. In order to be certified for the independent practice of community social work the licensee must have:

(1) Completed the required number of hours of supervised experience in community social work. Such supervision shall have been provided by an individual meeting the qualifications set forth in subsection (3) of this section;

(2) Shall have had direct responsibility for specific projects which would require the utilization and refinement of the knowledge and skills outlined above;

(3) Supervision shall be provided by one (1) of the following:

(a) An individual certified in the community specialty by this board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(4) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the community certificate;

(5) When supervision is being provided outside the agency in which the community experience is occurring, a contractual arrangement including evidence of built-in accountability shall be provided;

(6) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;

(7) Such supervision shall be congruent with the board's code of ethical practice;

(8) Pass an examination developed by the board.

Section 7. Social work research is defined as practice which focuses primarily on the scientific investigation of social and behavioral phenomena. Such practice is based on knowledge of statistics, research design, research methodology and basic computer methodology among other things. Practitioners have numerous skills, including those necessary for hypothesis formulation, sampling, data collection, data analysis, and interpretation of results,

among others. Licensees applying for certification in this specialty will be expected to have:

(1) Completed the required number of hours of supervised experience in the practice of this specialty. Such supervision shall have been provided by an individual meeting the qualifications set forth in subsection (2) of this section;

(2) Supervision shall be provided by one (1) of the following:

(a) An individual certified in the social research specialty by this board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(3) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for social work research;

(4) When supervision is being provided outside the agency in which the social work research experience is occurring, a contractual arrangement including evidence of built-in accountability shall be provided;

(5) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members.

(6) Such supervision shall be congruent with the board's code of ethical practice;

(7) Pass an examination developed by the board.

Section 8. Social work administration and management is defined as practice which focuses primarily on directing the development and/or management of social service delivery systems. Such practice is based on knowledge of policy development, program management, personnel management, fiscal management, public relations and organization development among other things. Practitioners have numerous skills including those necessary for organizing, directing, supervising, staffing, evaluating and consulting among others. Licensees applying for certification for the independent practice in this specialty shall be expected to have:

(1) Completed the required number of hours of supervised experience in the area of administration and management. Such supervision shall have been provided by an individual meeting the qualifications set forth in subsection (6) of this section;

(2) Affirmed that sixty (60) percent of such experience has been spent in management of a recognized unit or units which has a continuing function;

(3) Organizational responsibility for at least four (4) or more professional staff with the ability to hire or dismiss, or at least make recommendations on any change of status in such staff;

(4) Demonstrated the exercise of discretion and independent judgment which involves the comparison and evaluation of possible courses of conduct and subsequent action or making a decision after the various possibilities have been considered.

(5) Have demonstrated significant responsibility for program planning and budgeting for the organizational unit which he has managed.

(6) Supervision shall be provided by one (1) of the following:

(a) An individual certified in administration and management by the board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(7) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the administration and management certificate;

(8) When supervision is being provided outside the agency in which the administration and management experience is occurring, a contractual arrangement including evidence of built-in accountability shall be provided;

(9) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;

(10) Such supervision shall be congruent with the board's code of ethical practice;

(11) Pass an examination offered by the board.

GWYNNE GOLDBERG, Chairman

ADOPTED: August 15, 1983

RECEIVED BY LRC: August 15, 1983 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Betty Sapp, P.O. Box 456, Frankfort, Kentucky 40602.

### COMMERCE CABINET Department of Fish and Wildlife Resources (Proposed Amendment)

#### 301 KAR 2:044. Taking of migratory wildlife.

RELATES TO: KRS 150.010, 150.300, 150.305, 150.320, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply.

Section 1. Seasons. (1) Doves: September 1 through October 31 [16]; December 3 [1] through December 11 [24].

(2) Woodcock: October 1 [2] through December 4 [5].

(3) Common snipe: October 1 [2] through December 4 [5].

(4) Experimental September duck: September 7 [8] through September 11 [12].

#### Section 2. Limits.

Species	Bag Limits	Possession Limits
Doves	12	24
Woodcock	5	10
Common snipe	8	16
Experimental September duck, wood duck, teal and other ducks	*4	*8

\*Daily bag limit is four (4) ducks, no more than one (1) of which may be a species other than teal or wood duck, and the possession limit is double the daily bag limit.

Section 3. Bag and Possession Limits. (1) After two (2) or more days of shooting, possession limits apply to



transporting, but do not permit a double bag limit in the field.

(2) The above species (except doves) dressed in the field, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes. For further information on the above species, consult Title 50, Code of Federal Regulations, Part 20.

Section 4. Shooting Hours. (1) Doves: from *eleven (11) o'clock a.m.* [twelve (12) o'clock noon] until [one-half (½) hour before] sunset [prevailing time].

(2) Common snipe and woodcock: from one-half (½) hour before sunrise to sunset [prevailing time].

(3) Experimental September duck: sunrise to sunset [prevailing time].

Section 5. Free Permit for Experimental September Duck Season. Persons hunting during the experimental September duck season should obtain a free permit from any conservation officer or other authorized agents before hunting. The free permit contains a request for harvest information to be furnished on a self-addressed, stamped post card.

Section 6. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession limits apply to falconry hunting.

Section 7. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

(1) Ballard Wildlife Management Area, located in Ballard County:

(a) Doves: September 1 through October 14 *only*. No firearms permitted on this area except during shooting hours.

(b) Woodcock and snipe: Seasons closed.

(2) West Kentucky Wildlife Management Area, located in McCracken County:

(a) Doves: September 1 through October 16 *only*.

(b) Woodcock and snipe: *Hunting permitted on tracts 2, 3, 6, and 7 only.*

(3) Central Kentucky Wildlife Management Area, located in Madison County:

(a) Doves: September 1 through October 16 *only*.

(b) Woodcock and snipe: Seasons closed.

[(4) Curtis Gates Lloyd Wildlife Management Area, located in Grant County: Doves: September 1 through October 14.]

(4) [(5)] Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties:

(a) Doves: September 1 through September 30 and [;] December 3 [1] through December 11 *only* [24].

(b) Woodcock and snipe: December 1 through December 4 *only* [5].

(5) [(6)] Fort Campbell Wildlife Management Area, located in Christian and Trigg Counties:

(a) Doves: *September 1 through September 23, September 24 through October 30, and December 3 through December 11 only. Hunting permitted during these periods in designated areas only.* [September 1 through September 24; September 25 through October 16 in designated areas only; December 1 through December 3;

December 4 through December 24 in designated areas only.]

(b) Shooting hours for doves: from twelve (12) o'clock noon until sunset [prevailing time].

(c) Woodcock and snipe: November 24 [25] through December 2 *only* [3].

(6) [(7)] Closed areas: The hunting of doves, woodcock, common snipe, and ducks is prohibited on the following wildlife management areas: Grayson Wildlife Management Area, located in Carter and Elliott Counties; Beaver Creek Wildlife Management Area, including all private inholdings, located in Pulaski and McCreary Counties; Robinson Forest Wildlife Management Area, located in Breathitt, Perry, and Knott Counties; Redbird Wildlife Management Area, including all private inholdings, located in Leslie and Clay Counties; Dewey Lake Wildlife Management Area, located in Floyd County; Cane Creek Wildlife Management Area, including all private inholdings, located in Laurel County; Mill Creek Wildlife Management Area, located in Jackson County.

CARL E. KAYS, Commissioner

ADOPTED: June 10, 1983

APPROVED: W. BRUCE LUNSFORD, Secretary

RECEIVED BY LRC: August 1, 1983 at 12 noon.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Environmental Protection  
Division of Water  
(Proposed Amendment)

**401 KAR 5:090. Control of water pollution from oil and gas facilities.**

RELATES TO: KRS Chapters 151, 224

PURSUANT TO: KRS 13.082, 151.125, 224.033, 224.060

NECESSITY AND FUNCTION: KRS 224.033 requires that the cabinet promulgate regulations pertaining to the issuance of permits and the prevention, abatement and control of water pollution. This regulation provides for preventing, abating, and controlling water pollution from oil and gas facilities.

Section 1. Applicability. The provisions of this regulation shall apply to the owner or operator of any facility which causes or is capable of causing produced water.

Section 2. Definitions. The following definitions describe terms used in this regulation. Terms not defined below shall have the meaning given to them by KRS Chapters 151 and 224 or the meaning attributed by common use.

(1) "Area of review" means a fixed radius around the facility of one-fourth (¼) mile.

(2) "Barrel" means forty-two (42) gallons.

(3) [(1)] "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(4) "De minimus" means less than or equal to one (1) barrel per day.

(5) [(2)] "Director" means the secretary of the cabinet or an authorized representative. For purposes of permit issuance decisions, the director is the Director of the Division of Water.

(6) [(3)] "Disposal well" means a borehole drilled or proposed to be drilled, or a well converted to be used, for the sole purpose of disposing of any water, gas, produced water or other fluid by injection or other method into a subsurface zone.

(7) [(4)] "Division" means Division of Water, Natural Resources and Environmental Protection Cabinet.

(8) "Dry gas well" means a gas well producing de minimus amounts of produced water at maximum production conditions during a given twenty-four (24) hour period.

(9) "Emergency control pit" means any excavated depression utilized to retain an unexpected release of produced water.

(10) "Enhanced recovery well" means a well used for the injection of fluids to improve or maintain reservoir productivity.

(11) [(5)] "Facility" means any well, tank, pit, structure, appurtenance or improvement used in the exploration, drilling, or production of oil or gas or used for treating, storing or disposing of produced water.

(12) [(6)] "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined herein as oil.

(13) [(7)] "Geologically isolated" means a zone separated from drinking water aquifers and free of known open faults or fractures and any unprotected wells within the area of review.

(14) [(8)] "Holding pit" means an earthen excavated depression designed to receive and hold produced water at a facility.

(15) [(9)] "Kentucky Pollutant Discharge Elimination System (KPDES)" means the Kentucky program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits to discharge and imposing and enforcing pretreatment requirements. The KPDES regulations are 401 KAR 5:050 to 5:085.

(16) [(10)] "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of specific gravity, which are produced at the well in liquid form and which are not the result of condensation of gas after it leaves the underground reservoir.

(17) [(11)] "Operate" means any act relating to the construction, operation or maintenance of any facility.

(18) [(12)] "Operator" means any person who operates any facility.

(19) [(13)] "Owner" means any person who possesses any interest in:

(a) The right to develop, operate, or produce oil or gas; or

(b) Any facility.

(20) [(14)] "Person" means as defined in KRS 224.005(12).

(21) [(15)] "Pollutant" means as defined in KRS 224.005(28).

(22) [(16)] "Produced water" means any and all water and pollutants and combination thereof resulting, obtained or produced from the exploration, drilling, or production of oil or gas.

(23) [(17)] "Register" means to file forms with the division which contain information as to oil and gas well geographic location, production, produced water production, methods used for treating, storing or disposing of

produced water, and other information deemed necessary by the division.

(24) "Tank battery" means an installation where oil is collected from wellheads and separated from produced water.

(25) [(18)] "Total dissolved solids" means the total dissolved (filtrable) solids as determined by use of the method specified in 40 CFR Part 136.

(26) [(19)] "Waters of the Commonwealth" means waters of the Commonwealth as defined in KRS 224.005(26).

(27) [(20)] "Well" means a borehole drilled, or proposed to be drilled for the purpose of producing gas or oil or one through which gas or oil is being produced, or a borehole drilled or proposed to be drilled for the purpose of injecting any water, gas, produced water or other fluid therein or one into which any water, gas, produced water or other fluid is being injected.

(28) [(21)] "Zone" means a layer or stratum capable of producing or receiving fluids.

Section 3. Prohibition. No person shall construct, modify, or operate a facility in violation of state or federal water quality standards or other applicable standards in this regulation.

Section 4. Registration. (1) All operators shall register their facilities with the division using a form approved by the director containing name of operation, location of lease, oil and produced water production rates, method of produced water disposal, and other necessary information. The operator shall register each tank battery with associated wells, pits, and other similar structures as one (1) facility. [All contiguous facilities operated or to be operated under a single lease by one (1) owner or operator may register as one (1) facility operation.]

(2) Operators who previously registered their facilities with the division on the form entitled "Division of Water, Crude Oil Producers Brine Disposal Registration Form" shall not be required to register under this section unless there has been a change in operators or to the reported quantity of produced water or a modification to the facility has occurred which affects the operations used for treating, storing or disposing of produced water.

(3) Operators shall post waterproof signs, of a size and type approved by the director, at tank batteries and at disposal wells which shall identify the operator's name, address, permit or registration number, address, phone number, and other information required by the director.

Section 5. Produced Water Disposal. (1) Produced water shall be disposed of into a disposal well permitted under Section 11(3) of this regulation or an enhanced recovery well except when the director determines one (1) of the following occurs:

(a) A geological zone suitable to receive the produced water does not meet the criteria set forth in Section 11(4) of this regulation.

(b) The cost of constructing and operating disposal well system to meet the requirements of Section 11(4) of this regulation or the inability to use a non-owned disposal well exceeds the economic capabilities of the operator and would necessitate a shutdown of operations at that particular facility.

(c) De minimus amounts of produced water are produced, except for those facilities included in Subpart C—Onshore Subcategory of 40 CFR 435.

(2) *Surface discharges of produced water will only be allowed subject to the requirements of Section 8 of this regulation.*

**Section 6. Disposal of Produced Water Off the Facility.**

(1) *Transportation of produced water away from a tank battery to any location other than a cabinet-permitted disposal system or an individual Underground Injection Control (UIC) permitted site is prohibited.*

(2) *No operator shall authorize or allow the transportation of produced water away from a facility where it is produced unless such operator has first submitted the following information to the director and obtained approval:*

(a) *Operator's name, mailing address, and telephone number.*

(b) *Transporter's name, mailing address, telephone number.*

(c) *Name of disposer, mailing address, telephone number, disposal site, and permit number.*

(d) *Vehicle identification, information, including license number and vehicle description.*

(e) *Quantity of produced water to be transported.*

(3) *The operator of a disposal well may receive produced water from other facilities in accordance with the notification procedures of subsection (2) of this section.*

(4) *Spills during transfer of produced water shall be reported in accordance with 401 KAR 5:015.*

**Section 7. [5.] Approval Requirements for Continuation for Operation of Existing Facilities.** (1) *Applicability. The provisions of this section shall apply to operators of facilities in existence prior to the effective date of this regulation. These provisions will not apply to operators of dry gas wells.*

(2) *Continuation requirements. Operators may continue to operate existing facilities for a period not to exceed one (1) year from the date of the submittal of a compliance plan [effective date of this regulation] provided all the following provisions are met:*

(a) *A written request to continue operating existing facilities is submitted to the director. This request shall include a detailed description of existing operations for treating, storing or disposing of produced water.*

(b) *A plan is submitted to the director which proposes a schedule and outlines the procedures for meeting the requirements of this and other applicable regulations.*

(c) *Both the written request and plan shall be submitted to the director by March 1, 1984 [within ninety (90) days of the effective date of this regulation].*

(d) *Approval for continuation of operation of existing facilities has been obtained from the director pursuant to subsection (3) of this section and the operator has on display at the facility the Division's approval identification number.*

(3) *Approval procedures. After receiving the written request and plan specified in subsection (2) of this section, the director will:*

(a) *Review the plan and request any additional information from the operator, if needed, within twenty (20) working days of receipt of the plan;*

(b) *Develop a compliance schedule for each facility or contiguous facility operation; and*

(c) *Issue a written approval to the operator containing the compliance schedule and an identification number within forty (40) working days after the plan is deemed complete.*

**Section 8. [6.] Surface Discharges of Produced Water.**

(1) *Applicability. The provisions of this section apply to operators of facilities discharging produced water into surface waters of the Commonwealth. These provisions will not apply to operators of dry gas wells.*

(2) *No discharge of produced water from a facility shall cause an in-stream chloride concentration of more than 250 mg/l.*

(3) [(2)] *General requirements. No produced water shall be discharged from a facility unless one (1) of the requirements of Section 5(1) of this regulation is met and such discharge is authorized by and in accordance with the KPDES regulations 401 KAR 5:050 through 401 KAR 5:085. A KPDES permit is not required for the discharge [disposal] of produced water through a permitted disposal well. KPDES permits may be issued to operators of facilities provided the facility meets the criteria for inclusion within Subpart F—Stripper Subcategory of 40 CFR Part 435.*

**Section 9. [7.] Holding Pits and Emergency Control Pits.** (1) *Applicability. The provisions of this section apply to the operators of holding pits and emergency control pits which are constructed after the effective date of this regulation, and to the operators of existing pits that are incapable of demonstrating pursuant to Section 7 [5] of this regulation that those pits do not contaminate surface or groundwaters.*

(2) *Exemption. Spill Prevention Control and Countermeasure (SPCC) pits developed pursuant to Section 13 [11] of this regulation are exempted from the requirements of this section.*

(3) *General requirements. Operators of holding pits shall supplement the registration form required under Section 4 of this regulation with information regarding the construction and operation of any holding pit and any other information deemed necessary by the director. This information shall be submitted to the director on forms provided by the director.*

(4) *Permits. The director will issue permits to operators of holding pits to contain any condition necessary to satisfy any requirement of this regulation notwithstanding any less stringent provision of the law to the contrary.*

(5) *Conditions applicable to holding pits.*

(a) *Construction requirements.*

1. *Holding pits shall be constructed in accordance with KRS Chapter 151 and Division of Waste Management regulation 401 KAR 34:200, Section 2, et seq., and 401 KAR 30:030.*

2. *Holding pits shall be constructed with an impermeable synthetic liner having a minimum thickness of twenty (20) mils.*

3. *Holding pits shall be designed with a continuous bermed area at least two (2) feet above ground level.*

4. *Facility shall be constructed for the collection of fluids, other than produced water, associated with well construction, acidizing and chemically enhanced recovery in areas where the waters of the Commonwealth may be affected. An impermeable liner will not be required if the expected operational life of the holding pit is to be thirty (30) days or less. The closure requirement for the holding pit shall be as specified in subsection 5(c) of this section.*

(b) *Operating requirements.*

1. *No holding pit shall [may] discharge produced water into waters of the Commonwealth except in accordance with a KPDES permit.*

2. *All surface water shall be diverted away from the holding pit so that the holding pit shall have no additional drainage area.*

3. Waste shall be removed from the holding pit to maintain a one (1) foot minimum freeboard. [All wastes shall be removed from the holding pit when the design storage volume has filled.] Disposal of wastes shall be in accordance with Kentucky laws and regulations.

(c) Closure requirements.

1. Except as provided in subsection (2) of this section, any holding pit no longer used for the purpose for which it was intended shall be backfilled, graded, and revegetated. The vegetative cover shall be capable of stabilizing the soil surface from erosion. This closure shall be conducted within the time period specified in the permit issued pursuant to subsection (3) of this section.

2. A holding pit may remain as a permanent structure or be used for other purposes upon written approval from the director.

3. Disposal of all wastes shall be in accordance with Kentucky laws and regulations.

(6) A tank, of a size and type approved by the director, may be used in lieu of a holding pit.

(7) Conditions applicable to emergency control pits. General requirements.

(a) The capacity of the pit shall not exceed two (2) days production.

(b) The pit shall be kept empty and free of oil.

(c) The pit shall be kept separate from all oil spill control facilities as defined in the requirements of 40 CFR Part 112.

(d) The pit shall be located and constructed to prevent intrusion by surface, spring, or groundwater.

(e) Water tank overflow piping shall be installed to prevent any accumulated oil from entering the pit.

(f) Water tank piping shall extend from the tank into the pit and have an outlet accessible for measuring flow.

(g) Any use of the emergency pit shall be reported to the appropriate Division District Office within forty-eight (48) hours.

Section 10. [8.] Drilling Pits. Facilities shall be constructed for the collection of fluids associated with well construction, acidizing and chemically enhanced recovery in areas where waters of the Commonwealth may be affected. If the life of the facilities is longer than thirty (30) days following completion of exploration or drilling activities or if the facilities receive produced water other than from exploration or drilling activities, they shall [must] meet all requirements of Section 9 [7(5)(c)] of this regulation. Upon request, the director may, for good cause, extend the allowable life of a drilling pit to a maximum ninety (90) days if the extension will not cause or contribute to contamination of waters of the Commonwealth. The closure requirements for these drilling pits shall be as specified in Section 9(5)(c) of this regulation.

Section 11. [9.] Disposal Wells. (1) Applicability. The provisions of this section apply to operators of disposal wells. The provisions of this section will not apply to operators of disposal wells upon issuance of an individual Underground Injection Control (UIC) permit by the agency having jurisdiction under the Safe Drinking Water Act (42 USC 300f, et seq.).

(2) General requirements. Operators of disposal wells shall supplement the registration form required under Section 4 of this regulation with information regarding the construction and operation of any disposal well, a plan showing the location of all existing and abandoned wells within the area of review [zone of influence] and any other

information deemed necessary by the director. This information shall be submitted to the director on forms provided by the division.

(3) Permits. The director will issue permits to operators of disposal wells to contain any condition necessary to satisfy any requirement of this regulation notwithstanding any less stringent provision of law to the contrary.

(4) Conditions applicable to all disposal wells. Disposal wells shall reinject all produced waters into a formation which is geologically isolated and contains more than 10,000 mg/l of total dissolved solids or meets the criteria of an exempted aquifer as set forth in 40 CFR 146.04. Disposal well failure or shutdown shall be reported immediately to the director. All plugging, casing, and operation of wells shall be done in accordance with Department of Mines and Minerals regulations 805 KAR 1:020, 1:060, and 1:070.

Section 12. [10.] Inspection and Enforcement. The cabinet may inspect any facility pursuant to KRS 224.033 and may provide written notification of any violation to the operator. Following the determination of any violation of any applicable provision of law, the cabinet may initiate any enforcement action including an order to abate and alleviate such condition or activity pursuant to KRS 224.071 and any other applicable remedy including civil penalties pursuant to KRS 224.994. [Operators shall post waterproof signs, or a size and type approved by the director, at tank batteries and at disposal wells which shall identify the operator's name, address, permit or registration number, phone number and other information defined by the director. All plugging, casing, and operation of wells shall be done in accordance with Department of Mines and Minerals regulations 805 KAR 1:020, 1:060, and 1:070.]

Section 13. [11.] Spills and Leaks. (1) General provision. Operators of facilities shall develop and implement Spill Prevention Control and Countermeasure (SPCC) Plans when required under 40 CFR Part 112.

(2) Reporting.

(a) Operators shall report to the division all spills and bypasses of oil and produced water from facilities in accordance with 401 KAR 5:015.

(b) Operators shall report all spills, discharges and bypasses of oil from a facility in accordance with the procedures in 40 CFR Part 110.

Section 14. Permit Fees. (1) The provisions of this section shall apply to the operator of each facility required to have a permit by this regulation except for any facility permitted under a general permit.

(a) Every operator who is issued a permit under the provisions of this regulation shall be assessed a permit fee in accordance with the provisions set forth in subsection (2) of this section.

(b) Upon making the determination that a permit can be issued under this regulation, the director will notify upon receipt of the total amount of the permit fee. Failure by the applicant to pay the assessed permit fee on or before the due date may result in the denial of the permit.

(2) The fee for each type of permit is listed below:

Facility and Type of Permit	Permit Fee
Construction of "holding pit"	\$100
Operation of existing "disposal well"	\$125
Construction of "disposal well"	\$650

(3) In addition to the requirements of this regulation, facilities issued KPDES permits will be assessed a fee pursuant to 401 KAR 5:085.

(4) Duplicate permit fee. Upon application for the issuance of a duplicate permit for activities covered under this regulation, the duplicate permit shall be issued by the cabinet upon receipt of a fifteen dollar (\$15) permit fee.

(5) Terms of payment.

(a) Payment of a permit fee as provided for by this section will be made within thirty (30) days of the billing date.

(b) Certified checks or money orders, if used, shall be payable to the Kentucky State Treasurer.

JACKIE SWIGART, Secretary

ADOPTED: August 15, 1983

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: T. Michael Taimi, Commissioner, Department for Environmental Protection, 18 Reilly Road, Frankfort, Kentucky 40601.

### CABINET FOR HUMAN RESOURCES (Proposed Amendment)

900 KAR 2:010. Access and hours of visitation.

RELATES TO: KRS 216.537, 216.540

PURSUANT TO: KRS 194.050, 216.540, 216.545

NECESSITY AND FUNCTION: The Cabinet for Human Resources must set forth criteria pertaining to the ability of the administrator of a long term care facility to terminate visitation to that facility. This regulation is designed to give guidance to administrators under the provisions of KRS 216.540(4) and to comply with the requirements of KRS 216.537 concerning hours of visitation.

Section 1. Definitions. (1) "Administrator" means the administrator of a long term care facility subject to the provisions of the nursing home reform act, KRS 216.535 et seq.

(2) "Cabinet" means Cabinet for Human Resources.

(3) "Designated representative" means with respect to an administrator, a member of the long term care facility's existing staff who has been authorized in writing by the administrator to act in the absence of the administrator. In the case of the long term care ombudsman, "ombudsman's designee [designated representative]" means an individual, association or corporation authorized by contract [in writing] to act as agent for certain specified purposes in behalf of the long term care ombudsman [Cabinet for Human Resources].

(4) "Long term care facility" means those health care facilities in the Commonwealth which are defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes and intermediate care facilities for the mentally retarded and developmentally disabled.

(5) "Resident" means any person admitted to a long term care facility.

Section 2. The administrator of a long term care facility or his designated representative may request those groups or individuals assured access during visiting hours under the provisions of KRS 216.540(1)(a) through (c) and those

groups or individuals assured access under KRS 216.540(5) to terminate visitation upon the occurrence of any one (1) of the following:

(1) A resident of the facility is physically or verbally abused by the individual or group;

(2) Any individual carries a firearm or other deadly weapon into the facility who is not a peace officer. For the purpose of this regulation, "deadly weapon" is defined as including, but not limited to, any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, gravity knife, billy, blackjack, or metal knuckles;

(3) Any individual or group commits a felony or misdemeanor while on the facility's premises; or

(4) Any individual or group is visibly under the influence of alcohol or controlled substances.

Section 3. Those individuals assured access during visiting hours under the provisions of KRS 216.540(1)(b) and (c) have assured access to only the residents' dining area, living area, recreation area, lounge and areas open to the general public. Access to other areas within the facility may be gained after having received the permission of the administrator or his designated representative to enter the area in question.

Section 4. Those groups or individuals assured access during visiting hours under the provisions of KRS 216.540(1)(a) through (c), except for family and legal guardians, including employees of agencies within the Cabinet duly appointed legal guardian by a court of law, and KRS 216.540(5) are:

(1) Upon entering the facility, to promptly advise the administrator or his designated representative of their presence; and

(2) Not to enter the living area of any resident without identifying themselves to the resident.

Failure to comply with the requirements of this section may be grounds for requesting termination of visitation.

Section 5. In order to satisfy the requirements for licensure by the state, a long term care facility shall establish daily visiting hours which, at a minimum, shall consist of six (6) hours between the hours of 8:00 a.m. and 5:00 p.m. local time, and two (2) hours between the hours of 5:00 p.m. and 8:00 p.m. local time. All visiting hours are to be posted in a conspicuous place in the lobby, in the entrance way, or at the front door of the long term care facility.

Section 6. Administrators of long term care facilities may establish visiting hours in addition to those required pursuant to KRS 216.537.

Section 7. Representatives or employees of the Cabinet for Human Resources, including the long term care ombudsman or the long term care ombudsman's designee [his designated representative], any representative or employee of any local government entity having responsibility regarding residents of long term care facilities, and the family or legal guardian(s) of any individual resident shall have unrestricted access to and in all long term care facilities.

Section 8. Nothing in this regulation shall be deemed to prohibit or restrain the right of a resident of a long term care facility to deny visitation or to terminate a visit by any individual or group.

Section 9. Each administrator of a long term care facility shall appoint a member of the facility's existing staff to act as his designated representative present at the facility and authorized to act in the absence of the administrator.

Section 10. This regulation shall become part of the statement required by KRS 216.545(1) to be posted in the long term care facility.

BUDDY H. ADAMS, Secretary

ADOPTED: August 15, 1983

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, 275 East Main  
Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
(Proposed Amendment)

904 KAR 1:004. Resource and income standard of medically needy.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations of the Medically Needy: An applicant for or recipient of medical assistance is permitted to retain:

(1) A homestead, occupied or abandoned, household equipment, motor vehicles and farm equipment without limitation on value;

(2) Equity of \$6,000 in income-producing, non-homestead real property;

(3) Equity of \$3,000 in non-income producing, non-homestead real property;

(4) Savings, stocks, bonds, and other similar liquid assets totaling no more than \$1,500 for family size of one (1); \$3,000 for family size of two (2); and fifty dollars (\$50) for each additional member.

(5) Burial reserves in the form of pre-paid burial, trust fund or life insurance policies are exempt from consideration if the reserve does not exceed \$1,500 per individual. If burial reserves have a face value in excess of the above amount, the cash surrender value is determined and any excess of the allowable reserve added to total liquid assets in determining eligibility.

Section 2. Income and Resource Exemptions: Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty dollars (\$30) and one-third ( $\frac{1}{3}$ ) of the remainder) may not be allowed in

determining eligibility for medical assistance only. For individuals in long term care, amounts in excess of the resource maximums which are accumulated from the twenty-five dollar (\$25) personal needs allowance or the month of entry disregard, and which are maintained in separately identifiable accounts, shall be exempted from consideration.

Section 3. Income Limitations of the Medically Needy: Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	2,200	183
2	2,600	217
3	3,100	258
4	3,800	317
5	4,400	367
6	5,000	417

For each additional member, \$600 annually or fifty dollars (\$50) monthly is added to the scale.

Section 4. Additional Income Considerations: In comparing income with the scale as contained in Section 3, gross income is adjusted as follows in all cases with exceptions as contained in Section 5:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with full-time employment (defined as employment of thirty (30) hours per week or 130 hours per month or more) the standard work expense deduction is seventy-five dollars (\$75) per month. For those with part-time employment (defined as employment of twenty-nine (29) hours per week or 129 hours per month or less) the standard work expense deduction is forty dollars (\$40) per month. All earnings of an in-school child are disregarded.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1)) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1)). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions: For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections 2 and 3.

(2) Income protected for basic maintenance is twenty-five dollars (\$25) monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of twenty-five dollars (\$25) is applied to the cost of care except as follows:

(a) Available income in excess of twenty-five dollars (\$25) is first conserved as needed to provide for needs of



the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs. However, an individual entering a facility on the first day of the month, and who remains institutionalized for the remainder of the month, would not receive a disregard for home maintenance.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

**Section 6. Spend-Down Provisions:** No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

**Section 7. Consideration of State Supplementary Payments.** For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

**Section 8. Special Needs Contributions for Institutionalized Individuals.** Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the medical assistance program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

**Section 9. Pass-through Cases.** Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

**Section 10. Relative Responsibility.** For purposes of the medical assistance program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart, both of whom are concurrently applying for or receiving MA only, income is considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart. After the six (6) month period, each is considered as a single individual.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse who is not a recipient of MA only, the applicant or recipient is considered as a single individual in the month after separation and only that individual's income and resources are considered.

(5) For an individual whose case is being worked as if he were a single individual due to living apart from his spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his spouse, one-half (½) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18) living with his parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(8) Income and resources of parent(s) are not considered available to a child living apart from the parent(s) for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his income and resources are con-

sidered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five dollars (\$25) maintenance standard is not applicable since his needs are considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

[(10) When a mentally retarded individual under age eighteen (18) meets participation criteria and elects to participate in the program of alternative intermediate services for the mentally retarded, the income and resources of the parent(s) and/or spouse are not considered available to that individual.]

**Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the Assistance Group.** An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. When the stepparent living in the home is not being included in the family case on the basis of incapacity, the stepparent's gross income is considered available to the assistance group subject to the following exclusions/disregards:

(1) The first seventy-five dollars (\$75) of the gross earned income of the stepparent who is employed full time or the first forty dollars (\$40) of the gross earned income of the stepparent who is employed part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(2) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability.

(3) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(4) Payments by the stepparent for alimony or child support with respect to individuals not living in the household.

(5) Income of a stepparent receiving Supplemental Security Income.

(6) Verified medical expenses for the stepparent and his/her dependents in the home.

**Section 12. Companion Cases.** When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself on the basis of age, blindness, or disability (except as shown in subsection 3).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the

income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

**Section 13. Treatment of Lump-Sum Income.** Lump-sum income is prorated over a three (3) month period.

**Section 14. Transferred Resources.** When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by \$500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

**Section 15. Special Provisions for AIS/MR Recipients.** *Effective April 1, 1983, medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.*

(1) *The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.*

(2) *Income protected for basic maintenance of the*



*AIS/MR participant shall be the standard for the federal supplemental security income program.*

(3) *The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care of all participants divided by twelve (12) and rounded to the nearest dollar.*

(4) *Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.*

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
(Proposed Amendment)

**904 KAR 1:011. Technical eligibility requirements.**

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private non-profit child caring institutions dependent in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Pregnant women, when the unborn child is deprived of parental support due to death, absence, incapacity or unemployment of the father;

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment.

Section 2. The Medically Needy. Other individuals, meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource

standards prescribed by regulation of the Cabinet for Human Resources. Included within the medically needy eligible groups are pregnant women during the course of their pregnancy.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(2) Pregnant women are eligible only upon medical proof of pregnancy;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty dollars (\$50) during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR Section 233.100(a)(3)(ii); [.]

(f) *The unemployed parent must meet the requirements for independent employment search as specified herein. That is:*

1. *The unemployed parent must make not less than twenty-four (24) contacts with prospective employers in each three (3) month period following an approval, reinvestigation or reapproval.*

2. *The unemployed parent may not contact the same prospective employer more than once in each calendar month.*

3. *If the unemployed parent does not meet the requirement for the minimum number of employment contacts during the three (3) month period, the parent may, prior to or upon receipt of the advance notice of proposed discontinuance, meet the requirement for the number of contacts for the prior three (3) month period. These contacts shall not offset the requirement for employer contacts during the three (3) month period following the next approval, reinvestigation or reapproval.*

(4) Under the definition contained in subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) An aged individual must be at least sixty-five (65) years of age.

(6) A blind individual must meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(7) A disabled individual must meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(8) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) Parents may be included for assistance in the cases of families with children including natural and adoptive parents. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the Aid to Families with Dependent Children Program.

(10) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(11) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member.

(12) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. An alien must have been admitted for permanent residence. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(13) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of

eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(14) "Child" means a needy dependent child under the age of eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before the age nineteen (19)), who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) meeting the age requirement specified above, previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

(15) Benefits shall be denied to any family for any month in which any legally liable caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be considered in determining eligibility for medical assistance for the family if, on the last day of the month, such individual is participating in a strike. The definition of a strike includes a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 4. Institutional Status. No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19)) or is sixty-five (65) years of age or over.

Section 5. Application for Other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such

benefit when to do so would, in his opinion, act to his disadvantage.

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 11, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

## CABINET FOR HUMAN RESOURCES

Department for Social Insurance

(Proposed Amendment)

### 904 KAR 1:054. Primary care center services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The *Cabinet* [Department] for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the *cabinet* [department], by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of Medical Assistance to Kentucky's indigent citizenry. Primary care centers, as defined by the Health Certificate of Need and Licensure Board, represent an opportunity for the provision of comprehensive medical services to the indigent citizenry of Kentucky. This regulation, therefore, sets forth the provisions relating to primary care center services for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and medically needy.

Section 1. Requirement for Participation. Each primary care center shall be required to meet the standards set for certification by the Health Certificate of Need and Licensure Board, and shall not receive reimbursement for services as a primary care center provider until the *cabinet* [department] determines that such standards are met and that the provider complies with all requirements for program participation.

Section 2. Definitions. As used in this regulation, the following definitions apply:

(1) Basic services. Those services which must be provided by the facility for it to be considered a primary care center by the *cabinet* [department];

(2) Supplemental services. Those specified services which are in addition to the basic or required range of services, and for which the *cabinet* [department] will make payment when appropriately provided by the primary care center;

(3) Element. A specific sub-program within the Medical Assistance Program; for example, Primary Care Center Services is a sub-program or element of the Medical Assistance Program;

(4) Requirements for program participation. Those requirements of law or regulation generally applicable throughout the Medical Assistance Program and with which all medical services providers must comply in order to participate and receive reimbursement as a provider of services to eligible medical assistance recipients.

Section 3. Covered Services. Each primary care center shall provide directly to eligible program recipients on a regular, full-time basis the basic services, and may provide one or more of the supplemental services.

(1) Basic services:

(a) Medical diagnostic and treatment services for all age groups, as provided by a physician(s), nurse practitioner(s), or physician assistant(s) if licensed under state authority.

(b) Treatment of injuries and minor trauma;

(c) Prenatal and postnatal care;

(d) A program of preventive health services which must include well-baby care, well-child care, and immunization, and which may include other types of preventive care;

(e) Referral services designed to ensure the referral to and acceptance by an appropriate medical resource when services necessary to the health of the patient are not provided directly by the center;

(f) Health education services. These services must provide as a minimum appropriate personnel to present, on request, information on general health care to local school systems, civic organizations and other concerned local groups. Services are to include distribution of written material on pertinent health subjects.

(g) The services provided by the following professional practitioners must be provided directly:

1. Dentist;

2. Clinical pharmacist. A clinical pharmacist is a licensed pharmacist whose services include taking medication histories, monitoring drug use, contributing to drug therapy, drug selection, patient counseling, administering drug programs and surveillance for adverse reactions and drug interactions;

3. Optometrist.

(h) Any of the following services may substitute on a one for one basis for the services shown in paragraph (g), above, when provided directly by the center in the context of an identifiable program by appropriately trained personnel:

1. Family planning services. These services must be provided as a package which must include those services required under the family planning element of the Medical Assistance Program.

2. Home health services. These services must include the same services as provided under the home health element of the Medical Assistance Program.

3. Social services counseling. This must include, as a minimum, information and referral services. Intensive counseling is to be limited to crisis situations and health related problems. Individuals with other identified counseling needs are to be referred to appropriate social service agencies. These services must be performed by a licensed, graduate, or certified social worker.

4. Pharmacy services. These services must meet the standards of the pharmacy component of the Medical Assistance Program. Where clinical pharmacist is selected as a basic service in paragraph (g), pharmacy services may not be used as a substitute for one of the two (2) remaining required services in paragraph (g).

5. Nutritional services. These services must include as a minimum individual counseling relating to nutritional problems or nutritional education. Group nutritional services may also be provided. These services must be performed by a professional nutritionist.

6. Nurse midwifery services. These services must be provided as a program which is to include prenatal services to expectant mothers, as well as delivery and postnatal ser-

vices. These services must be performed by a certified nurse midwife.

(2) Supplemental services:

(a) Other services (excluding institutional care) within the scope of the Medical Assistance Program;

(b) Holding/observation accommodations;

(c) Any of the types of service in subsection (1)(h) above, which are not provided as basic services;

(d) Outreach services. These services must be provided as a package structured to identify health care needs in the service area.

Section 4. Limitations on Services. The following limitations are applicable to specified services:

(1) Pharmacy services are limited to those drugs covered through the pharmacy services element of the Medical Assistance Program;

(2) Other drugs and biologicals not covered under pharmacy services are limited to those necessary for the treatment of emergency cases;

(3) Laboratory services are limited to those procedures provided directly by the center, or if purchased, these services are limited to those covered under the independent laboratory element of the Medical Assistance Program;

(4) Dental services are limited to those procedures covered through the dental services element of the Medical Assistance Program;

(5) Vision care services are limited to those services covered through the vision care services element of the Medical Assistance Program;

(6) Audiology services are limited to those services covered through the hearing services element of the Medical Assistance Program;

(7) Abortion and/or sterilization services must be performed in accordance with guidelines specified by the *cabinet* [department];

(8) Durable medical goods and prosthetics are limited to those covered under the home health element of the Medical Assistance Program;

(9) Mental health services are limited to emergency services and appropriate referral;

(10) Holding/observation accommodations are covered for not more than twenty-four (24) hours when provided in accordance with the following:

(a) The patient's record shall document the appropriateness of such utilization;

(b) The physician shall make the decision that such utilization is necessary;

(c) A licensed nurse shall be on duty at the center during the time a patient is held in center accommodations beyond regular scheduled hours;

(d) A licensed physician shall be on call at all times when a patient is held beyond the regular scheduled hours of the center;

(e) A statement of conditions observed and treatment rendered during such holding time must be entered in the patient's medical record; and

(11) *Radiology procedures must be performed by either a licensed practitioner of the healing arts or an individual holding a valid certificate to operate sources of radiation.*

Section 5. Non-covered Services. The following services are specifically excluded from coverage as primary care center services:

(1) All institutional services;

(2) Housekeeping, babysitting, and other homemaker services of like nature;

(3) Services which are not provided in accordance with restrictions imposed by law or regulation.

JOHN CUBINE, Commissioner

ADOPTED: August 15, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
(Proposed Amendment)

904 KAR 2:046. Adverse action; conditions.

RELATES TO: KRS 205.200(2), 205.245

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The *Cabinet* [Department] for Human Resources has responsibility to administer public assistance programs under Title IV-A and XIX of the Social Security Act, namely Aid to Families with Dependent Children, hereinafter referred to as AFDC, and Medical Assistance, hereinafter referred to as MA. In addition, the *cabinet* [department] has responsibility to provide supplementation to certain aged, blind and disabled individuals as required by Title XVI, as amended, and by KRS 205.245. 45 CFR section 205.10(a)(4) and 45 CFR section 206.10(a)(4) require that applicants or recipients be provided adequate notice of adverse action in written form citing applicable state regulations. This regulation sets forth the conditions under which an application is denied or assistance is decreased or discontinued.

Section 1. Reasons for Adverse Action. An application is denied or assistance discontinued or decreased when:

(1) Income or resources exceed the standards for the specific assistance program, or when income of a recipient increases or deductions decrease resulting in reduced or discontinued benefits;

(2) The applicant or recipient does not meet technical eligibility criteria or has failed to comply with a technical requirement as set forth in 904 KAR Chapters 1 and 2;

(3) The applicant or recipient has failed to provide sufficient information or clarify conflicting information necessary for [a] determination of eligibility despite receipt of written notice detailing the additional information needed for a determination;

(4) The applicant/recipient has failed to keep the appointment for an interview;

(5) [Beginning July 1, 1982,] The *cabinet* [department] is recovering AFDC overpayments through recoupment; or

(6) Other reasons:

(a) Request of client, or voluntary written withdrawal of application;

(b) *Department* [Bureau] staff unable to locate applicant or recipient;

(c) Applicant or recipient no longer domiciled in Kentucky;

(d) Change in program policy has adversely affected the recipient.

Section 2. Denial of Applications. Whenever an application is denied, the applicant is given written notification of the denial including the reason for the denial and the right to a fair hearing.

Section 3. Decreases and Discontinuances. Whenever a change in circumstances indicates that a money payment should be reduced, suspended or discontinued, or that medical entitlement should be discontinued or curtailed to any or all members, the recipient is given ten (10) days advance notice of the proposed action in writing, explaining the reason for the proposed action, and extending the opportunity to confer with the worker or to request a fair hearing. Hearing requests received during the advance notice period may result in delay of the decrease or discontinuance pending the hearing officer's decision.

Section 4. Exceptions to the Advance Notice Requirement. An advance notice of proposed action is not required, but written notice is given, whenever the decrease or discontinuance results from:

(1) Information reported by the recipient and the recipient has signed a waiver of the notice requirement indicating understanding of the consequences;

(2) The *department* [bureau] has received a clear written statement, signed by the recipient, that he/she no longer wishes assistance;

(3) AFDC-FC is being discontinued during the period prior to July 1, 1982;]

(3) [(4)] The *department* [bureau] has received factual information that the [aged, blind or disabled] recipient or an AFDC payee, when there is no relative who can serve as a new payee, has died;

(4) [(5)] Whereabouts of the recipient are unknown and mail addressed to him/her has been returned indicating no known forwarding address, however a returned check will be made available to him/her if his/her whereabouts become known during the payment period covered by the returned check;

(5) [(6)] It has been established that assistance has been accepted in another state;

(6) [(7)] The AFDC child has been removed from the home by judicial order or voluntarily [and] placed in foster care by his/her legal guardian [during the period prior to July 1, 1982];

(7) [(8)] The aged, blind or disabled supplementation recipient has entered a chronic care facility resulting in vendor payment status;

(8) [(9)] The recipient has entered a penal institution or if under sixty-five (65) a tuberculosis hospital, or if between twenty-one (21) and sixty-five (65), a mental hospital;

(9) [(10)] The granting of a special allowance, or time limited assistance, which is terminated and when the recipient has been informed in writing at the time the allowance or assistance was granted of the automatic termination at the end of a specified period or under specific conditions; in these situations the notice may be provided at the time of approval, or subsequently;

(10) [(11)] For the period beginning July 1, 1982,] The AFDC recipient has failed to provide a completed mandatory monthly report form timely; or

(11) [(12)] For the period beginning July 1, 1982,] The

decrease, suspension or termination of benefits is due to changes reported on the mandatory monthly report form.

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, CHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

### CABINET FOR HUMAN RESOURCES Department for Social Insurance (Proposed Amendment)

904 KAR 2:050. Time and manner of payments.

RELATES TO: KRS 205.220(1)

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer money payment programs under Title IV-A of the Social Security Act and a state funded program of money payments to those aged, blind and disabled individuals disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. In addition KRS 205.245 provides for money payments to certain other aged, blind or disabled individuals. This regulation sets forth the time and the manner in which payments are made and the persons to whom payments may be made as required by KRS 205.220(1).

Section 1. Manner and Time of Payment: (1) All assistance payments are made by check issued monthly.

(2) The effective date of initial payment for Aid to Families with Dependent Children (AFDC) approvals shall be the date an application is filed if all eligibility factors were met as of that date. The effective date for State Supplementation Payments (SSP) approvals shall be the first day of the month in which an application is filed if all eligibility factors were met as of that month (i.e., on or after the date of application).

(3) Payment for both AFDC and SSP is made for an entire month during any part of which eligibility factors are met, except for the initial month's benefits for AFDC approvals which shall not be made for any period prior to the date of application.

(4) For AFDC, payments shall not be made to an individual for any month in which the amount of the benefit payment, prior to any recoupment, would be less than ten dollars (\$10). Any individual who is denied a payment for this reason shall be deemed a recipient of AFDC for all other purposes.

(5) Supplemental payments shall be made if, due to administrative deadlines, changes in circumstances cannot be recognized in the month such change is reported; or, for AFDC, cannot be recognized in the time frames required in retrospective budgeting.

(6) For SSP, supplemental payments to correct underpayments due to administrative errors shall be made for a period of up to twelve (12) months preceding the month of

error correction if the error existed in the preceding months.

**Section 2. Inalienability of Payment:** Money payments are unconditional and are exempt from any remedy for the collection of debts, liens and encumbrances; however, the cabinet may initiate recoupment to recover overpayment of AFDC benefits.

**Section 3. Eligible Payees:** Money payments are issued in the name of the eligible applicant, except that:

(1) In the Aid to Families with Dependent Children Program, a protective payment may be made to a third party payee when:

(a) A determination has been made that poor money management is contributing to the unsuitability of the home for a needy child; or

(b) The parent payee has refused without good cause to participate in the Work Incentive Program or the Child Support Program.

(2) In the State Supplementation Payments Program, the payee may in appropriate circumstances be:

(a) The legally appointed committee or guardian; or

(b) For individuals receiving other statutory benefits (such as SSI), the same as the representative payee for that benefit program.

(3) Payment for the month of death may be made to the parent or other specified relative of the deceased child, or the duly appointed administrator of the estate or other qualified executor of the will of the deceased.

JOHN CUBINE, Commissioner

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APPROVED: BUDDY H. ADAMS, Secretary

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SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
(Proposed Amendment)

**904 KAR 2:115. Eligibility, criteria for home energy assistance program.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility as prescribed by P.L. 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility and benefits criteria for each of *five (5)* [four (4)] components of energy assistance, regular, crisis, Project Warmup, [and] emergency reconnection and *emergency summer aid* under the Home Energy Assistance Program (HEAP).

**Section 1. Application.** Each household requesting assistance shall be required to complete an application and

provide such information as may be deemed necessary to determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet.

**Section 2. Definitions.** Terms used in HEAP are defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.

(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, that is used to sustain reasonable living conditions.

(3) "Household" means any individual or group of individuals who are living together as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(4) "Economic unit" is one (1) or more persons sharing common living arrangements.

(5) A "fully vulnerable household" is any household living in non-subsidized housing which pays all energy costs directly to the energy provider or any household which rents non-subsidized housing whose energy costs are included in the rent payment.

(6) "Regular component" is that portion of benefits reserved as energy assistance for heating for households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability.

(7) "Crisis component" is that portion of benefits reserved for use as emergency energy assistance after the regular component is terminated for eligible households in emergency or crisis situations.

(8) "Project Warmup" is that component of HEAP administered by local governments and other local organizations under contract with the cabinet to provide benefits to eligible households who are without adequate heat.

(9) "Emergency reconnection component" is that portion of benefits reserved as energy assistance for eligible households who use a utility service with a continuous billing cycle and whose service has been disconnected.

(10) "Emergency summer aid component" is that component administered by local organizations under contract with the cabinet to provide fans to eligible households in need due to extreme heat.

**Section 3. Eligibility Criteria.** (1) A household must meet the following conditions of eligibility for receipt of a HEAP payment under the regular, crisis, and emergency reconnection components:

(a) The household must be fully vulnerable for energy cost.

(b) For purposes of determining eligibility, the amount of continuing and non-continuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(c) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or



local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and CETA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Family Size	Income Scale	
	Monthly	Yearly
1	\$500	\$6,000
2	600	7,200
3	700	8,400
4 or more	800	9,600

(d) The household must have total liquid assets at the time of application of not more than \$5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, and prepaid burial policies.

(e) Applicants for the crisis and emergency reconnection components must attest that an immediate need for energy exists because the household is financially incapable of meeting their energy costs at the time of application or within fifteen (15) days. The thirty (30) day extension of service prior to energy cut-off granted by Public Service Commission regulations does not affect eligibility for the crisis component.

(f) Under the emergency reconnection component, the utility service for the principal residence of the household must be disconnected.

(2) A household must meet the following conditions of eligibility for receipt of a Project Warmup component benefit:

(a) The household must be without adequate heat.

(b) The household must meet the income and assets criteria contained in subsection (1)(b) through (d) of this section.

(c) The applicant for shelter cannot be, in the opinion of the contracting agency, a threat to the health and/or welfare of other Project Warmup recipients.

(3) Households are eligible to receive benefits under either the regular, crisis, or emergency reconnection component and Project Warmup. *Receipt of assistance under other HEAP components does not affect eligibility under the emergency summer aid component.*

(4) *For the emergency summer aid component, a household must meet the same income and assets criteria contained in subsection (1)(b) through (d) of this section. Households with members who have health/medical problems or who are aged, blind, disabled, or who have children shall receive priority.*

**Section 4. Benefit Levels.** (1) Payment amounts for the regular, crisis, and emergency reconnection components are set at a level to serve a maximum number of households while providing a reasonably adequate payment relative to energy costs. The highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(a) Payments to eligible households will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

#### Benefit Scales

##### Scale A.

Energy Sources: LP Gas (Propane), Fuel Oil, Electricity, Wood, Kerosene

Monthly Household Income	Payment Amount	
	Household Size 1 and 2	Household Size 3 or more
\$ 0-300	\$275	\$300
301-600	238	263
over 600	—	225

##### Scale B.

Energy Sources: Natural Gas, Coal

Monthly Household Income	Payment Amount	
	Household Size 1 and 2	Household Size 3 or more
\$ 0-300	\$225	\$250
301-600	188	213
over 600	—	175

(b) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the regular or crisis components may be reduced proportionately.

(2) Benefits to eligible households under the Project Warmup component shall be in the form of temporary shelter, blankets, space heater(s), short term fuel supplies, or the payment of utility reconnection fees and deposits if such payment will enable the household to obtain heat. Other benefits may be provided which directly or indirectly assist households in obtaining energy. Benefits will be available only in counties which contract with the cabinet for the provision of these services.

(3) *Benefits to eligible households under the emergency summer aid component shall be in the form of fans, not to exceed forty dollars (\$40) per fan, and not to exceed two (2) fans per household, unless special circumstances warrant a waiver of these provisions.*

**Section 5. Benefit Delivery Methods.** Benefits shall be provided to eligible households as follows:

(1) Payment authorization under the regular and crisis components is of two (2) types.

(a) If the recipient utilizes an energy provider who has a continuous billing cycle, payment is authorized by a two (2) party check made payable to the provider and the recipient, whenever feasible.

(b) When there is no continuous billing cycle or heating is included as an undesignated portion of rent, payment shall be made by a check payable to the recipient and the provider/landlord whenever feasible.

(c) When a two (2) party check is not feasible, the recipient shall sign an affidavit prior to receipt of funds stating that benefits received under HEAP shall be utilized solely for home energy.

(2) Payment authorization under the emergency reconnection component shall be made by a two-party check made payable to the provider and the recipient, whenever feasible.

(3) Under the regular, crisis, or emergency reconnection components, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the reci-

pliant heats with both a wood stove and electric space heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy for heating. The household will decide how to divide payment if more than one (1) provider is used.

(4) For Project Warmup and emergency summer aid component, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency as necessary.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 7. Time Standards. The cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) Applications for the regular component shall be accepted beginning January 3, 1983, and ending no later than January 14, 1983, at the close of business.

(2) Applications for the crisis component shall be accepted beginning January 17, 1983.

(3) Applications for the emergency reconnection component shall be accepted beginning February 14, 1983.

(4) Application shall be processed in the order taken until funds are expended. HEAP regular, crisis, and emergency reconnection components shall be terminated by the secretary when actual and projected component expenditures have resulted in utilization of available funds or March 31, 1983, whichever comes first.

(5) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

(6) Project Warmup may be implemented by contracting agencies on December 15, 1982. Benefits shall be provided until funds are exhausted or March 31, 1983, whichever comes first.

(7) *Emergency summer aid component may be implemented by the contracting agency on July 25, 1983. Benefits shall be provided until funds are exhausted or September 15, 1983, whichever comes first.*

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization assistance.

(2) Up to \$1.6 million shall be reserved for Project Warmup.

(3) Remaining benefit funds available under Public Law 97-35 shall be reserved for the regular and crisis components.

(4) Of the approximately \$2.57 million oil pricing settlement funds made available to Kentucky by the United States Department of Energy pursuant to the 1983 Further Continuing Appropriation Act, up to \$1.0 million shall be reserved for the emergency reconnection component with the remainder made available for use in the crisis component.

(5) *Up to \$275,000 shall be reserved for administration and implementation of the emergency summer aid component.*

Section 10. Energy Provider Responsibilities. Any pro-

vider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;

(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;

(3) HEAP recipients shall not be treated differently than households not receiving benefits; and

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided.

(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

### CABINET FOR HUMAN RESOURCES Department for Social Insurance (Proposed Amendment)

#### 904 KAR 3:020. Eligibility requirements.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service, of the United State Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and non-financial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Non-financial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) non-farm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3, including but not limited to:

(1) Wages earned by a household member, including all



wages received by a striker the month prior to the month of the strike, or the month of application, in accordance with 7 CFR Part 273.1(g).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements.

(4) Payments under Title I (Volunteers in Service to America, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 shall be considered earned income unless specifically excluded in 7 CFR Part 273.9(c)(10)(iii).

(5) The earned or unearned income of excluded household members as set forth in 904 KAR 3:035, Section 5(3).

(6) Assistance payments from federal or federally aided public assistance such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need.

(7) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

(8) Wages earned by a household member which are garnished or diverted by an employer and paid to a third party for a household expense.

(9) Support or alimony payments made directly to the household from nonhousehold members.

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

(11) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(12) Monies withdrawn or dividends which are or could be received from a trust fund considered to be excludable under 7 CFR Part 273.8(e)(8) by a household, unless otherwise exempt under the provisions set forth in 7 CFR Part 273.9(c).

(13) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien in accordance with 7 CFR Part 273.11(h).

**Section 3. Income Exclusions.** The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided the overpayment was not excludable in accordance with 7 CFR Part 273.9(c).

(2) Child support payments received by AFDC recipients which must be transferred to the division administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility.

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not payable directly to a household, but are paid to a third party for a household expense are excludable as a vendor payment.

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty dollars (\$30) in a quarter.

(6) Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

(7) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(8) Reimbursements for past or future expenses to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household.

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member.

(10) The earned income of children who are members of the household, who are students at least half-time and who have not attained their eighteenth birthday.

(11) Money received in the form of a non-recurring lump-sum payment.

(12) The cost of producing self-employment income.

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program.

(14) Any energy assistance payments made under federal, state, or local laws.

**Section 4. Income Eligibility Standards.** Participation in the Food Stamp Program is limited to those households whose incomes fall at or below the applicable standards as established by FNS and which are set forth below:

(1) Households which contain a member who is elderly or disabled as defined in 904 KAR 3:010, Section 1(10) shall have their net income compared 100 percent of the federal income poverty guidelines.

(2) All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

**Section 5. Income Deductions.** The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be periodically adjusted by FNS to reflect changes in the cost of living for a prior period of time as determined by FNS.

(2) Eighteen (18) percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept or continue employment or attend training or pursue education preparatory to employment. This deduction shall not exceed the standard established by FNS.

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deduc-

tions have been made. The shelter deduction alone or in combination with the dependent care deduction in subsection (3) of this section shall not exceed a fixed monthly amount established by FNS, except that households containing an elderly or disabled member shall not have a fixed monthly amount in regards to the shelter deduction. This fixed monthly amount shall be adjusted periodically by FNS to reflect changes in the cost of living for a prior period of time. Allowable monthly shelter expenses shall be those expenses outlined in 7 CFR Part 273.9(d). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling costs separate and apart from their rent or mortgage payments in accordance with 7 CFR Part 273.9(d)(6). If the household is not entitled to the standard or does not choose to use the standard, it may claim actual utility expenses for any utility which it does pay separately. The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

(5) Allowable medical expenses, excluding special diets, in excess of thirty-five dollars (\$35) per month incurred by any household member who meets the definition of elderly or disabled, as set forth in 7 CFR Part 271.2, are those meeting the criteria set forth in 7 CFR Part 273.9(d)(3) including, but not limited to:

- (a) Medical and dental care;
- (b) Hospitalization or outpatient treatment and nursing care;
- (c) Medication and medical supplies;
- (d) Health and hospitalization premiums; and
- (e) Dentures, hearing aids, eyeglasses and prosthetics.

Section 6. Resources. Uniform national resource standards of eligibility shall be utilized. Eligibility shall be denied or terminated if the total value of a household's liquid and non-liquid resources, not exempt under Section 7 of this regulation and in accordance with 7 CFR Part 273.8, exceed:

- (1) \$3000: for all households with two (2) or more members, when at least one (1) member is sixty (60) years or older; or
- (2) \$1500: for all other households.
- (3) Effective June 1, 1983, households in which all members receive AFDC benefits and whose gross income does not exceed 130 percent of the federal income poverty guidelines shall be considered as having met the food stamp resource requirement.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

- (1) The home and surrounding property which is not separated from the home by intervening property owned by others.
- (2) Household goods, personal effects including one (1) burial plot per household member, the cash value of life insurance policies and pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt), and prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds.
- (3) Licensed/unlicensed vehicles as specified in 7 CFR Part 273.8.
- (4) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.
- (5) Property which is essential to the employment or

self-employment of a household member, in accordance with 7 CFR Part 273.8(e)(5).

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

Section 8. Transfer of Resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

Section 9. Non-financial Criteria. Non-financial eligibility standards apply equally to all households and consist of:

(1) Residency. A household must live in the county in which they make application;

(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;

(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.

(6) Mandatory monthly reporting (MMR). Households in counties in which MMR is being implemented shall be required to file monthly reports as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.

(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements, specified in the Income Tax Reform Act of 1976, by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply shall be determined for each household member in accordance with 7 CFR Part 273.6(c).

(8) Work registration.

(a) All household members between the ages of eighteen (18) and sixty (60), except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registra-

tion requirements unless exempt for reasons other than employment at the time of application.

(b) Household members participating in a county operating a Work Registration and Job Search Demonstration Project shall be subject to requirements and sanctions as specified in 7 CFR Part 282.13(c). Household members required to register shall be assigned to either a treatment group or a control group based on their social security number. Individuals in the treatment group shall be subject to the ongoing job search requirements, in accordance with 7 CFR Part 273.7, and to the job finding club requirements specified in 7 CFR 282.13(f). Individuals assigned to the control group shall not be subject to work registration and job search requirements or sanctions during the operation of this demonstration project.

[Section 10. Provisions contained in this regulation shall become effective April 1, 1983, unless otherwise specified in this regulation.]

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, CHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
(Proposed Amendment)

**904 KAR 3:080. Contingency plan.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet [Department] for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the process used by the cabinet [department] in the administration of the contingency plan in the event a reduction, suspension, or cancellation of food stamp benefits is ordered by the Department of Agriculture, Food and Nutrition Service.

Section 1. Allotment Reduction. If a reduction, suspension, or cancellation of benefits is ordered by the Food and Nutrition Service (FNS), the following procedures will be applicable:

(1) If the action is a benefit reduction, the Thrifty Food Plan amounts [, as defined in 904 KAR 3:010,] for all household sizes shall be reduced by a percentage specified by FNS. FNS will specify whether minimum benefits are to be provided.

(2) If the action in effect is a suspension or cancellation, eligible households shall have their allotment levels calculated as usual. However, no allotments shall be issued for the month(s) the suspension or cancellation is in effect.

Section 2. Application and Certification Process. Applications shall [will] continue to be accepted and process-

ed in accordance with 7 CFR Part 273, [according to 904 KAR 3:030 and 3:035] except as provided below.

(1) Benefits shall [will] be reduced, suspended or cancelled as FNS orders for the affected month(s).

(2) During a cancellation, households eligible for expedited service shall be processed in accordance with time frames set forth in 7 CFR 273.2(i) [within two (2) days or the end of the month of application, whichever is later].

Section 3. Restoration of Benefits. (1) Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month shall not be reduced, suspended or cancelled, even though they are issued during an affected month.

(2) Households whose allotments are reduced or cancelled shall not be entitled to the restoration of lost benefits at a future date. However, restoration of benefits to affected households shall [will] be provided if FNS determines that a surplus of funds exists as a result of the reduction or cancellation.

Section 4. Fair Hearings. In accordance with 7 CFR 271.7(f), any household which has its allotment reduced, suspended, or cancelled as a result of an order issued by FNS may request a fair hearing if it disagrees with the action subject to the following conditions:

(1) Fair hearings will be held only when the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly under this regulation or that this regulation was misapplied or misinterpreted.

(2) Households who are merely disputing the fact that a reduction, suspension or cancellation was ordered shall be denied a fair hearing.

(3) Households shall not have the right to a continuation of benefits pending a fair hearing; however, retroactive benefits may be granted if it is determined that the household's benefits were reduced by more than the percentage ordered by FNS.

JOHN CUBINE, Commissioner

ADOPTED: August 15, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, CHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
(Proposed Amendment)

**905 KAR 3:030. Matching requirements.**

RELATES TO: KRS 199.420, 205.204, 209.030

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Omnibus Budget Reconciliation Act of 1981 substantially reduced the amount of federal funds the Commonwealth receives through the Title XX "Social Services Block Grant" and the "Community Services Block Grant" established under said Reconciliation Act of 1981. Matching requirements are being established to encourage and assure local support and sharing in service provision; and to reduce, to the extent possible, the full impact of federal reductions in funds.

Section 1. Definitions. As used in this regulation, the following terms shall have the meanings as set forth below:

(1) "Certified expenditures" means any cash expenditure incurred by the local provider of services through the Social Services or Community Services Block Grant funds when such expenditures are determined to be allowable, reasonable, and necessary under applicable laws and procedures of the Commonwealth and federal laws and regulations for the Block Grants. Such certified expenditures may be incurred by the provider of service whether public or private non-profit, or may be certified on behalf of the provider by a third party which may also be a public or private non-profit organization.

(2) "In-kind contributions" means property or services which directly benefit the service purchased; which are contributed by the provider or a non-federal third party without expenditure by the local provider; and would have been an allowable, reasonable and necessary cost in accordance with applicable laws and procedures of the Commonwealth and federal laws and regulations for the Block Grants if purchased by the provider.

(3) "Local matching funds" means any cash received from a local organization or individual, local taxes, state funds received by local agencies, or federal general revenue sharing funds received for use by local governments. No other federal funds shall be allowed as matching and no other funds identified in this regulation for match shall satisfy this requirement if used to match other state or federal funds.

Section 2. All contractors who provide social services funded by Title XX—Social Services Block Grant, P.L. 97-35, shall be required to provide matching on a seventy-five (75) percent/twenty-five (25) percent ratio. Local match shall be cash in the form of certified expenditures except that in-kind contributions are authorized for in-home services for the elderly and the State Department of Health Services may provide state fund cash match for mental health/mental retardation services. The local match shall consist of one (1) dollar for every three (3) dollars in federal funds expended for in-kind in the same ratio.

Section 3. Community Services Block Grant. Contractors utilizing Community Services Block Grant funds, P.L. 97-35, shall meet the same requirements set forth in Section 2, except that the matching ratio shall be eighty (80) percent federal and twenty (20) percent local matching funds, and in-kind contributions may be used for all CSBG contracts.

Section 4. (1) Certified expenditures for local match shall require documentation sufficient to determine that the requirements of this regulation are met by the provider and/or a third party when certified by a third party. Third party entities shall enter a contractual agreement with the provider as to the type of expenses and methods of documentation to be used for all the certified expenditures. The contractual agreement shall include at least a requirement to make records available for audit by the provider, Cabinet for Human Resources, and/or entities authorized by the Cabinet for Human Resources to audit said records. The provider may be subject to disallowances and reimbursement to the Commonwealth if such expenditures are not documented by the provider or the third party.

(2) In-kind contributions for local match shall require documentation sufficient to determine that the requirements of this regulation are met by the provider

and/or third party. Values placed on in-kind contributions shall be based on 45 CFR Part 74, Subpart G, Cost Sharing or Matching, as printed June 9, 1981 [1982] and as subsequently amended, except as otherwise authorized in this regulation.

(3) State fund cash match may be inter-accounted to the Cabinet for Human Resources' Department for Social Services for disbursement with the federal funds matched. Inter-accounted funds shall require documentation sufficient to determine that the requirements of this regulation are met.

JOSEPH E. SMITH, Acting Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Joseph E. Smith, Acting Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky 40621.

### CABINET FOR HUMAN RESOURCES Department for Social Services (Proposed Amendment)

#### 905 KAR 3:040. Allocation formula.

RELATES TO: KRS 273.446

PURSUANT TO: KRS 13.082, 194.050, 273.446(2)

NECESSITY AND FUNCTION: Pursuant to KRS 273.446(2), the Cabinet for Human Resources is to devise a formula for the allocation of community service block grant funds to applicant agencies to be set forth in the form of an administrative regulation. This regulation is designed to set forth the formula.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Service area" as used in this regulation means the land lying within the geographic boundary of the community action agency submitting an application.

Section 2. The formula for allocation of community service block grant funds for federal fiscal year 1984 [1983] shall be based upon the following:

(1) Twenty-five percent (25%) [Fifty percent (50%)] of funds shall be based upon the 1981 federal fiscal year federal community service grantee based allocation received by the applicant.

(2) The remaining seventy-five percent (75%) [fifty percent (50%)] of funds to be distributed based upon the incidence and severity of poverty, as determined by the cabinet to exist within the service area of the applicant agency.

JOSEPH E. SMITH, Acting Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Joseph E. Smith, Acting Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky 40621.

# Proposed Regulations

## FINANCE AND ADMINISTRATION CABINET State Investment Commission

### 200 KAR 14:050. Public depositories; priority.

RELATES TO: KRS Chapter 42

PURSUANT TO: KRS 13.082, 42.520

NECESSITY AND FUNCTION: KRS 42.520 requires the State Investment Commission to assign priority to public depositories on the basis of compliance with regulations promulgated pursuant to KRS Chapter 13.

Section 1. Definitions. For purposes of this regulation:

(1) "Commission" means the State Investment Commission; and

(2) "DIDM" means the Division of Investment and Debt Management.

Section 2. General. The purpose of this regulation is to provide a standard procedure by which the commission will assign priorities to public depositories to receive time deposits, as required by KRS 42.520. Priority must be based on their demonstrated effectiveness in serving the convenience and economic development need of the communities in which they are chartered to do business. This regulation does not affect the process by which bank transaction services are contracted. KRS 45A.475 provides that those services are to be selected on the basis of competitive bidding, as regulated by the Kentucky Model Procurement Code.

Section 3. Source of Data. (1) The commission shall advise all commercial banks chartered in Kentucky or by the United States with their main office in Kentucky, that wish to be considered as a depository for state certificates of deposit, or that wish to remain a depository for state certificates of deposit; that they must submit a copy of their quarterly Report of Condition, including all accompanying schedules, to the commission. A photostatic copy of this report and schedules, as prepared for the Federal Deposit Insurance Corporation, the Comptroller of the Currency, or the appropriate Federal Reserve Bank will be sufficient to meet this reporting requirement.

(2) The DIDM shall report the results of the scoring, based on the publicly available data, to the commission at the end of each quarter.

Section 4. Application of Methodology. The formula of the methodology is hereby incorporated by reference. Copies may be obtained by contacting:

James R. Ramsey, Director  
Division of Investment and Debt Management  
Finance and Administration Cabinet  
Room 201, Capitol Annex  
Frankfort, Kentucky 40601

Section 5. Frequency of Scoring. The DIDM shall update the scoring of potential depositories quarterly and submit the same to the commission quarterly. Any bank not submitting its report and schedules in a timely manner will not be considered eligible for the receipt of new funds or renewal of existing instruments until the most current

report and schedules are submitted by the bank and accepted by the commission. The scoring shall be kept as a moving average for each fiscal year. This moving average will be restarted with the September 30 Reports of Condition each year. Reports will be submitted to the DIDM no later than forty-five (45) days following the close of each calendar quarter.

Section 6. Appeal Process. Any bank shall have the opportunity to appeal the results of the prioritization process to the State Investment Commission.

Section 7. 200 KAR 14:040, if effective, is hereby repealed.

DREXELL R. DAVIS, Chairman

ADOPTED: July 26, 1983

RECEIVED BY LRC: August 15, 1983 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Dr. James Ramsey, Director, Office of Investment and Debt Management, 201 Capitol Annex Building, Frankfort, Kentucky 40601.

## CORRECTIONS CABINET Office of Community Services

### 501 KAR 4:010. Definitions.

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth definitions.

Section 1. Definitions. (1) "Jail" means county jails and correctional or detention facilities including correctional facilities, defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, city or urban county government. These regulations address those jails housing inmates for a maximum period of ninety-six (96) hours.

(2) "Jailer" means the duly elected or appointed official charged with the responsibility of administering the jail.

(3) "Jail staff" means deputy jailers, matrons, cooks, and other food service personnel involved in the supervision, custody, care, or treatment of prisoners in the jail.

(4) "Inmate" means any person confined in the jail pursuant to any code, ordinance, law or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any reason.

(5) "Cabinet" means the Corrections Cabinet.

(6) "Medical authority" means the person or persons licensed and certified to provide medical care to inmates in the jail.

(7) "Security area" means a defined space whose physical boundaries have controlled ingress and egress.

(8) "Inmate living area" means a group of rooms or cells which provide housing for the inmate population.

(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, discharge, or until they can be moved to general housing areas.

(10) "Detoxification area" means an area used to temporarily hold one (1) or more chemically impaired persons during the detoxification process until they can care for themselves.

(11) "Dormitory" is an area equipped for housing more than one (1) person.

(12) "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.

(13) "Safety vestibule" is a defined space that promotes security by the use of two (2) or more doors and can be used to observe those who pass.

(14) "Sallyport" is a drive-through made secure by electrically or manually operated doors for entrance and exit. It is generally located in close proximity to the jail intake area.

(15) "Special needs inmate" is any person with a notable physical, mental or emotional handicap who poses a threat to himself or other inmates; any person who requires maximum security or isolation; and juveniles who cannot be housed out of sight and sound.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

### **CORRECTIONS CABINET Office of Community Services**

#### **501 KAR 4:020. Administration; management.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to be followed for the administration and management of jails.

Section 1. Policy and Procedures—Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedures which has been adopted by the fiscal court and filed with the Corrections Cabinet.

(2) The written policy and procedures manual shall be made available to employees.

(3) The operations manual shall include but not be limited to the following aspects of the jail's operation:

- (a) Administration;
- (b) Fiscal management;
- (c) Personnel;
- (d) Security and control;
- (e) Sanitation and management;
- (f) Medical services;
- (g) Food services;
- (h) Emergency and safety procedures;
- (i) Classification;

- (j) Inmate programs;
  - (k) Inmate services; and
  - (l) Admission and release.
- (4) The operations manual shall be reviewed and updated at least annually.

Section 2. Legal Assistance. (1) The jailer shall be represented and advised by the county attorney as provided in KRS 69.210.

(2) The county attorney shall advise the fiscal court in writing when legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall provide funds for adequate legal representation for the jailer when the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The fiscal court shall be encouraged to carry liability insurance for the jail staff and other county officials.

Section 3. Public Information. (1) The jailer shall develop and implement a plan for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and inmates shall have access to:

- (a) The plan; and
- (b) Specific jail rules and procedures affected inmates as development in accordance with this plan.

(2) With the consent of the inmate, news media shall be permitted to interview any inmate as set forth in the jail's policy and procedure manual except when the safety and security of the jail is affected.

(3) Written policy and procedure shall set forth the time and length allowable for inmate interviews.

(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.

(5) Release of inmate information shall include the following:

- (a) All requests for information shall be addressed to the jailer;
  - (b) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the inmate; and
  - (c) Relatives and private citizens shall only be provided with information supplied to the media.
- (6) No information shall be released that is detrimental to another inmate.

Section 4. Information Systems. (1) The jailer shall establish and maintain an information system which shall comply with the requirements of this section.

(a) Jail information and inmate records shall be retained in written form or within computer records.

(b) Jail information and inmate records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time an inmate record shall be maintained after an inmate's release from custody and the conditions under which archives are maintained.

(c) A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder. Extraordinary or unusual occurrences shall include but not be limited to:

- 1. Death of an inmate;
- 2. Attempted suicide or suicide;
- 3. Serious injury, whether accidental or self-inflicted;
- 4. Attempted escape or escape from confinement;



5. Fire;
6. Riot;
7. Battery, whether by a staff member or inmate;
8. Sexual assaults;
9. Occurrence of contagious or infectious disease, or illness within the facility;

10. Violent acts or behavior by either mental inquest detainees held under KRS Chapter 202A or inmates known to be or suspected to be mentally ill or mentally retarded.

(d) All jails shall keep a log of daily activity within the jail.

(e) Each jail shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

Section 5. Inmate Records. (1) The information required by 501 KAR 4:120 for admission and release shall be retained for each inmate. Other information retained in each inmate's jail record shall include but not be limited to:

- (a) Court orders;
- (b) Personal property receipts;
- (c) Infraction reports;
- (d) Reports of disciplinary actions; and

(e) Unusual occurrences and in the case of death of an inmate, disposition of the inmate's property and remains.

(2) Medical records shall be maintained as required by 501 KAR 4:090.

(3) The jailer shall ensure that inmate records are safeguarded in accordance with relevant federal and state laws and regulations.

(4) The jailer shall require that inmates sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained in the inmate's record. This form shall include but not be limited to:

- (a) Name of person, agency or organization requesting information;
- (b) Name of facility release information;
- (c) Specific information to be disclosed;
- (d) Purpose of the information;
- (e) Date consent form is signed;
- (f) Signature of inmate; and
- (g) Signature of employee witnessing the inmate's signature.

(5) Juvenile jail records shall be kept separate from adult jail records and shall be made available for examination only as provided in KRS 208.340. Upon an order of expungement pursuant to KRS 208.275, the jailer shall seal the records and the juvenile's detention shall be deemed never to have occurred.

(6) All jail records maintained on mental inquest detainees held under KRS Chapter 202A shall be kept separate from any other jail records. Mental inquest records are confidential and shall be made available for examination only as provided in KRS 202A.091. Upon an order of expungement pursuant to KRS 202A.091(2), the jailer shall seal the records and the mental inquest detainee's stay at the jail shall be deemed never to have occurred.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet, Room 514, State Office Building, Frankfort, Kentucky 40601.

## CORRECTIONS CABINET Office of Community Services

### 501 KAR 4:030. Fiscal management.

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth fiscal management procedures to be followed in jails.

Section 1. Budgeting. (1) The jailer shall prepare and present a line item budget request to the fiscal court in accordance with KRS 441.008.

(2) The jailer shall use the format for budget development on forms prepared by the state and local finance office.

(3) The state and local finance office shall submit budget forms to the jailer by March 1 of each year.

Section 2. Accounting. (1) The county treasurer shall maintain fiscal records which clearly indicate the local cost for operating the jail in accordance with KRS 68.020 and 441.008.

(2) Fiscal records shall have an itemized breakdown of the total operating expenses including but not limited to wages, salaries, food, and operating supplies.

Section 3. Canteen. As provided in KRS 441.067, each jailer may establish a canteen to provide inmates with approved items not supplied by the jail.

Section 4. Audits. The county jail budget shall be audited in accordance with KRS 43.070.

Section 5. Payroll. Jail employees shall be paid on the same dates as county employees.

Section 6. Inventory. Each jailer shall implement and utilize the established inventory procedure of the county.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet, Room 514, State Office Building, Frankfort, Kentucky 40601.

## CORRECTIONS CABINET Office of Community Services

### 501 KAR 4:040. Personnel.

RELATED TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations

establishing minimum standards for jails. This regulation sets forth personnel procedures to be followed in jails.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all inmates.

(2) When female inmates are lodged in the jail, female staff will be made available as needed to perform sensitive procedures to include but not limited to:

- (a) Admission; and
- (b) Searches.

Section 2. Background Checks; Qualifications. (1) Prior to employment, all employees of the jail shall be subject to thorough background investigation to include criminal, medical, and employment history.

(2) All security employees of the jail shall be at least twenty-one (21) years of age.

Section 3. Compensation. All employees of the jail shall receive salaries at least equal to the State Minimum Wage Law except where Federal Minimum Wage Law has to be applied.

Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.017, the jailer shall receive a minimum of forty (40) hours annual inservice training certified by the Corrections Cabinet.

(a) Local Corrections training efforts shall be certified by the Corrections Cabinet.

(b) The Curriculum Advisory Committee shall advise the Corrections Cabinet on topics for training curriculum.

(c) Jailer training shall be delivered on a regional basis by the Corrections Cabinet.

(2) The jail staff shall receive a minimum of sixteen (16) hours annual inservice training delivered by the Corrections Cabinet in a regional or local basis.

Section 5. Policy and Procedures. The jailer shall ensure that all employees maintain a level of physical fitness that will allow the employees to satisfactorily perform their duties.

Section 6. Physical Fitness. The jailer shall ensure that all employees maintain a level of physical fitness that will allow the employees to satisfactorily perform their duties.

Section 7. Code of ethics. (1) The jailer shall make available a written code of ethics.

(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include but not be limited to the following:

- (a) Employees shall not:
  - 1. Exchange personal gifts or favors with inmates, their family, or friends;
  - 2. Accept any form of bribe or unlawful inducement;
  - 3. Perform duties under the influence of intoxicants or consume intoxicants while on duty;
  - 4. Violate or disobey established rules, regulations, or lawful orders from a superior;
  - 5. Discriminate against any inmates on the basis of race, religion, creed, gender, national origin, or other individual characteristics;
  - 6. Employ corporal punishment or unnecessary physical force;
  - 7. Subject inmates to any form of unwarranted physical or mental abuse;
  - 8. Intentionally demean or humiliate inmates;

9. Bring any type of weapon or item declared as contraband into the jail without proper authorization;

10. Engage in critical discussion of staff members or inmates in the presence of inmates;

11. Divulge confidential information without proper authorization;

12. Withhold information which, in so doing, threatens the security of the jail, its staff, visitors, or the community;

13. Through negligence, endanger the well-being of self or others;

14. Engage in any form of business or profitable enterprise with inmates; and

15. Inquire about, disclose, or discuss details of an inmate's crime other than as may be absolutely necessary in performing official duties.

(b) Employees shall:

1. Comply with all established rules, regulations, and lawful orders from superiors;

2. Treat all inmates in a fair, impartial manner; and

3. Report all violations of the code of ethics to the jailer.

(3) Any employee violation of this code of ethics shall be made a part of that employee's personnel file.

Section 8. Grievance Procedure. Jail employees shall have access to the established grievance procedure of their respective county.

Section 9. Hiring Procedures. (1) The jailer shall have a written personnel plan governing the selection, training, promotion, and retention of jail personnel.

(2) Personnel assignments shall be based on merit.

Section 10. Performance Evaluation. A written standardized performance evaluation shall be conducted at least annually by the jailer.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet, Room 514, State Office Building, Frankfort, Kentucky 40601.

## CORRECTIONS CABINET Office of Community Services

501 KAR 4:050. Physical plant.

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails.

Section 1. Purpose. The purpose of this chapter is to provide minimum standards for the renovation or construction of jail facilities and for measuring compliance of existing jails in accordance with KRS 441.012 and 441.013.

Section 2. Consultation. The Corrections Cabinet shall provide for any county government which wishes to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and opera-



tion of jails. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:

- (1) Site selection;
- (2) Probable need as it relates to capacity and types of inmates to be housed;
- (3) Sources of financing for construction;
- (4) Laws and regulations relating to treatment of inmates;
- (5) Laws and regulations relating to facilities for inmates;
- (6) Sources of revenue for operations of the jail;
- (7) Probable cost for operation of the jail; and
- (8) Potential for shared facilities with adjoining counties.

Section 3. Site Acceptance by the Corrections Cabinet. The following criteria shall be considered in site selection including but not limited to:

- (1) Size;
- (2) Proximity to courts;
- (3) Proximity to community resources;
- (4) Availability of public transportation;
- (5) Environmental health;
- (6) Adequate parking; and
- (7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the renovation or construction of any jail, plans and specifications shall be submitted to the Corrections Cabinet for review and acceptance as follows:

- (1) Schematic outline. This submission shall show:
  - (a) Control of the site;
  - (b) Acceptance of the site for a jail by the planning and zoning commission, if any, and all other interested government agencies;
  - (c) A list of all proposed rooms and areas and their dimensions;
  - (d) A circulation diagram;
  - (e) An estimate of cost of land, services, construction and financing;
  - (f) Sources of development funds; and
  - (g) Post assignment and staffing needs.
- (2) Preliminary drawings. This submission shall include:
  - (a) Scale drawings (1/8 inch to the foot or larger) of each floor plan;
  - (b) Scale drawings (one (1) inch equals fifty (50) feet or larger) of the site, locating the buildings, parking, and other facilities;
  - (c) Sections through the proposed structure indicating ceiling heights of all rooms, mechanical spaces, roof slopes, and other related information;
  - (d) Elevation drawings (1/8 inch to the foot or larger) of all exterior walls;
  - (e) A current estimate of the costs;
  - (f) A statement regarding the sources of the development funds; and
  - (g) A map of the community locating the proposed jail, the courts, community facilities, population centers, business districts, highways, roads, and police department.
- (3) Final construction drawings shall be submitted to the Corrections Cabinet, the Department for Housing, Buildings, and Construction, and any other applicable state agency for review and acceptance and shall include:
  - (a) All necessary construction drawings including construction details;
  - (b) Specifications for all materials and workmanship;

(c) A proposed contract with general conditions and special conditions;

(d) Engineering calculations for the foundations, structures, heating, ventilation, air conditioning, lighting, and plumbing, signed by licensed architects and engineers;

(e) Detailed estimates of the costs of land, land improvements, construction, financing, professional services, and building permits; and

(f) An updated statement in detail regarding the sources of development funds.

(4) Construction documents. This submission shall include:

(a) Construction drawings and specifications signed by the architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet;

(b) Signed copies of all contracts for construction, financing, and bonding revised as necessary to include all changes required by the Corrections Cabinet;

(c) Signed copies of all construction permits; and

(d) Documents will bear signed approvals from all other applicable state agencies.

(5) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of acceptance, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction documents as required in subsection (4) of this section have been accepted with required change by the Corrections Cabinet.

Section 5. Waiver of Compliance. (1) The Corrections Cabinet may grant a waiver of the implementation of the physical plant standards for an existing jail if the Cabinet determines:

(a) That strict compliance will cause unreasonable difficulties;

(b) That a waiver will not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operations of the jail; and

(c) That compliance is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of these standards.

(2) When a waiver from a standard is desired, the responsible local authority shall submit a written request to the Corrections Cabinet. The written request shall include the following information:

(a) Citation of the specific standard involved;

(b) Specification of the efforts made to bring the jail into strict compliance;

(c) Identification and description of the specific difficulties involved in meeting strict compliance;

(d) Description of the alternative proposed; and

(e) Provision of sufficient documentation which will demonstrate that the waiver, if granted, will not jeopardize the security, supervision of inmates, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the Corrections Cabinet, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the cabinet as conditions upon the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

Section 6. Facility Design. Depending upon its size and intended use, every jail shall include within its walls the following facilities and equipment:

(1) Entrances. Every jail shall have three (3) separate and distinct entrances; a public entrance, an adult inmate entrance, and a service entrance. The Corrections Cabinet may permit these entrances to be combined.

(a) Public entrance. The purpose of this entrance is to divert the general public from the security area of the jail and from contact with incoming inmates. This area will be the location for the general public to conduct their business at the jail. The following design features shall be incorporated:

1. Provide a clear view of this from the booking/control area; and

2. Meet the requirements for handicapped persons.

(b) Service entrance. The purpose of this entrance is to provide access to service vehicles and delivery trucks with minimum security risks. It may contain a loading dock and shall be located in close proximity to storage rooms and the kitchen area.

(c) Adult inmate entrance. The purpose of this entrance is to provide secure and private access to the jail for incoming inmates. This entrance may be serviced by a drive-in sallyport and shall incorporate the following design features:

1. Be located adjacent to the booking/control area;
2. Be monitored from the booking/control area;
3. Be free of steps or other obstacles;
4. Be protected from inclement weather; and
5. Have metal lockers to secure weapons separate from inmate ingress.

(2) Exits. No exits other than those entrances specified in subsection (1) of this section shall be permitted except for fire exits. Such fire exits, when possible, shall open into controlled, secure courts, and exercise areas only.

(3) Administrative areas. This area will provide space outside the secured area of the jail to house the administrative offices and to accommodate the public. The Corrections Cabinet may permit these areas to be combined. This shall contain the following:

(a) Waiting area. To provide space for the general public which is protected from inclement weather. This area may have toilet facilities and drinking fountains.

(b) Visiting area. This area shall provide for private communication with inmates and be located in close proximity to the waiting area. All furnishings of this area shall be of approved penal type and permanently attached.

(c) Entrance to security area. The purpose is to provide secure access to the security area of the facility and access shall be controlled from the security area.

(4) Security area. The area shall enclose all facilities and services required for or used by the inmates. It shall contain the following function areas:

(a) Booking/control area. The purpose is to provide an operational area to carry out admission and release procedures and to control all movement within the jail. Design features shall include:

1. Doors and windows shall be of approved penal type;
2. Walls, floors, and ceilings shall be approved masonry or steel construction;
3. Audio and video monitors shall be located in this area;
4. Gauges, indicators, and alarms shall be located in this area;
5. Central control panels shall be located in this area; and
6. This area shall permit visual observation of all corridors, entrances and exits under its supervision.

(b) When jail staff are not within normal hearing

distance of inmates, an audio communication system shall be installed to allow staff to communicate with inmates.

(c) A panic button may be installed in corridors and staff observation areas, which shall sound an alarm in the booking/control area in the event of an emergency situation.

(d) Detoxification area. The purpose is to provide an area to separate intoxicated inmates from the general inmate population. Design features shall include:

1. A minimum of fifty (50) square feet per inmate;
2. A minimum of eight (8) feet ceiling height;
3. One (1) slab or bench of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each inmate;
4. An approved penal commode and a flush floor drain controlled from outside the cell;
5. A bubble-type drinking fountain;
6. All fixtures and equipment shall be approved penal type;
7. All surfaces inside the area shall be smooth, flush, and free of sharp edges and protrusions;
8. All horizontal surfaces (the bench and the floor) shall be sloped (one-fourth ( $\frac{1}{4}$ ) of an inch to the foot) to a floor drain;
9. All corners (except at ceiling) shall be coved; and
10. Ceiling, walls, surfaces of the wall base, and floors shall be of approved masonry or steel construction.

(e) Multi-purpose room. The purpose of this area is to provide space for medical examinations and confidential conferences between inmates and lawyers, probation officers, clergy, etc. Design features shall include:

1. Doors, windows, and light fixtures shall be approved penal type; and
2. Walls, floor, and ceiling shall be of approved masonry construction.

(f) Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

1. Compliance with standards of the state Food Service Code;
2. Commercial type stoves and refrigeration units;
3. Doors and windows will be of approved penal type; and
4. Walls, floors, ceilings will be approved fire rated masonry construction.

(g) Food distribution area. If food is not prepared in the jail, only a distribution area is required. While a separate room may not be necessary, the area shall be partitioned to ensure sanitary conditions.

(5) Confinement areas. The purpose of these areas is to provide suitable living conditions for all types of inmates lodged in the jail. Design features for all living areas shall include:

- (a) Providing sufficient natural or artificial light to provide twenty-five (25) foot candles of light for reading purposes and twenty (20) foot candles for all other purposes;
- (b) Providing ventilation to meet air exchange as required in Kentucky Building Code;
- (c) Providing temperature ranges within comfort zones (sixty-five (65) degrees F to eighty-five (85) degrees F);
- (d) Shall be of approved masonry or steel construction;
- (e) All furnishings and equipment shall be approved penal type and permanently attached;
- (f) Each confinement area shall have approved floor drains outside the immediate living area;
- (g) Be equipped with an approved securable food pass; and

(h) Electrical outlets when provided shall have ground-fault circuit breakers.

(6) All cells and housing areas design features shall include:

(a) Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the inmate(s) housed in the area.

(b) Cells may open into a dayroom and no cell shall be less than seventy (70) square feet. No cell shall have more than two (2) penal type bunks. When two (2) persons are housed in a cell, they shall not be detained in the cells for longer periods than twelve (12) hours.

(c) Each cell shall contain:

1. An approved penal type commode, lavatory and drinking fountain, penal type bunks secured to floor and/or wall, penal type table with two (2) seats, and penal type storage shelf with breakaway hangers.

2. A light fixture of approved penal type with controls nonaccessible to inmates.

(d) Each dayroom area shall contain:

1. Thirty-five (35) square feet per inmate;
2. One (1) commode per eight (8) inmates;
3. One (1) lavatory per eight (8) inmates;
4. One (1) drinking fountain per fifteen (15) inmates;
5. One (1) shower per fifteen (15) inmates; and
6. Tables and benches with space twenty-four (24) inches wide and eighteen (18) inches deep per inmate.

(c) Multi-occupancy area. The jail shall provide living space for low security inmates. This area shall be either cells opening into a dayroom or a combination of this and multiple occupancy dorms. If dorms are used, they must include:

1. Fifty (50) feet per inmate;
2. One (1) commode/lavatory/drinking fountain per eight (8) inmates;
3. One (1) shower per fifteen (15) inmates;
4. Sufficient tables and benches to handle the number of inmates housed in the dorm;
5. One (1) penal type shelf with breakaway hangers per inmate; and
6. One (1) penal type bunk secured to the floor or wall per inmate.

GEORGE W. WILSON, Secretary

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TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

### **CORRECTIONS CABINET Office of Community Services**

**501 KAR 4:060. Security; control.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth security procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing all security aspects of the jail's operations.

(2) The Corrections Cabinet shall provide technical assistance to the jailer in his efforts to formulate such written policy and procedure.

(3) These policy and procedures shall include but not be limited to:

- (a) Inmate rules and regulations;
- (b) Staffing;
- (c) Searches of inmate and of secure areas;
- (d) Visitation;
- (e) Key and weapon control;
- (f) Inmate head counts;
- (g) Emergency situations;
- (h) Jail schedule.

Section 2. Inmate Supervision. (1) Jail personnel shall conduct direct, in-person surveillance of each inmate on an irregular schedule, no less than every sixty (60) minutes.

(2) Jail personnel shall conduct direct, in-person surveillance every twenty (20) minutes on the following classes of inmates:

- (a) Inmates in detox cell; and
- (b) Juveniles, if housed in the jail.

(3) When available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sallyports, perimeter security, points of egress, and common areas.

(4) There shall be at least three (3) documented inmate counts every twenty-four (24) hours during which each inmate's physical presence, movement or speech shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly.

(a) Isolated security spot checks shall be conducted daily.

(b) Items considered as contraband or items permitted in the jail shall be clearly defined in the jail rules.

(c) There shall be a written procedure for reporting security irregularities.

(2) No weapon, ammunition, chemical agent, related security equipment, or any object which represents the potential of being used as a weapon shall be permitted in the security area unless authorized by the jailer.

(3) All firearms, weapons, and chemical agents assigned to the jail shall be stored in an arsenal, vault, or other secure room under lock.

(a) This area shall be inaccessible to all unauthorized persons.

(b) There shall be a written procedure for issuing and accounting for all weapons.

(4) All security devices and safety equipment shall be inspected monthly to ensure that they are maintained in proper working order.

(5) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area.

(6) Tools, supplies and equipment which are hazardous shall be used by inmates only under the direct supervision of jail personnel.

(7) At no time shall any inmate be assigned to a position of authority over any other inmate or given the responsibility of providing inmate services such as commissary, telephone calls, or delivery of meals.

(8) Inmates shall never be permitted to perform or assist in any security duties.

(9) Inmates shall be thoroughly searched whenever entering or leaving the security perimeter.

(10) Written procedures shall be developed for transporting outside the jail.

(11) Each jailer shall develop written policies and procedures governing the use of physical restraints.

(12) No inmate placed in physical restraints shall be left unattended.

(13) All jails shall have key control procedures which shall include but not be limited to:

(a) A key control center which is secure and inaccessible to unauthorized persons at all times;

(b) An accounting procedure for issuing and returning keys;

(c) A procedure for immediate reporting and repairing of any broken or malfunctioning key or lock;

(d) A set of duplicate keys to be maintained in a separate, secure place;

(e) No inmate shall be permitted to handle keys used to operate jail security locks;

(f) Keys operating locks to outside doors or gates shall not be permitted in the confinement area;

(g) Emergency keys and keys to critical security areas shall only be issued in accordance with written procedures established by the jailer;

(h) Precautions similar to those outlined above shall be taken to ensure the security of all non-key operated locking devices such as electrical switches or levers;

(i) Locks to outside exits shall be keyed differently from interior locks.

Section 4. Daily Jail Log; Special Reports. (A detailed, written record shall be made of all significant activities occurring within the jail including but not limited to:

(1) Security and safety inspections;

(2) Inmate counts;

(3) Use of force;

(4) Disciplinary actions;

(5) Movement inside and outside the jail;

(6) Medical or mental health treatment;

(7) Feeding schedule and menus;

(8) Extraordinary occurrences:

(a) Fires;

(b) Assaults;

(c) Suicide or attempted suicide;

(d) Escape or attempted escape;

(9) Inmate vandalism:

(a) Destruction of jail property;

(b) Flooding of plumbing fixtures;

(10) Staff roster for each shift;

(11) Telephone log;

(12) Visitors' log;

(13) Fire drills.

GEORGE W. WILSON, Secretary

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TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

## CORRECTIONS CABINET Office of Community Services

### 501 KAR 4:070. Safety; emergency procedures.

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth safety and emergency procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure which specifies fire prevention regulations and practices to ensure the safety of inmates, visitors, and staff. These shall include but not be limited to:

(a) Provision for fire emergency drills for staff and inmates at least quarterly;

(b) Written documentation of fire drills;

(c) A fire safety inspection by the Corrections Cabinet at least semi-annually;

(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly;

(e) Smoking restrictions and regulations; and

(f) Written evacuation plan coordinated with local fire officials.

(2) Each jail shall have written policy and procedures for emergency situations including but not limited to:

(a) Escapes;

(b) Taking of hostages;

(c) Riots;

(d) Food poisoning;

(e) Civil disturbances in the community;

(f) Natural disasters;

(g) Suicides; and

(h) Other death and disorder.

Section 2. Physical Plant. (1) Each jail shall have exits which are distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.

(2) Each jail shall have equipment necessary to maintain essential lights and communications in an emergency situation.

(3) In all areas where an inmate may be confined each jail shall be provided with an emergency smoke evacuation system activated by smoke detectors.

(4) Each jail shall have an approved fire alarm and smoke detection system which meets the National Fire Safety Code (1981 edition, Chapters 14 and 15).

(5) Each jail shall comply with the National Fire Safety Code (1981 edition, Chapters 14 and 15).

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**CORRECTIONS CABINET**  
Office of Community Services

**501 KAR 4:080. Sanitation; hygiene.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper sanitation and hygiene in jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.

(2) The jail shall provide for both solid and liquid waste disposal.

(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:

(a) A cleaning schedule for various locations and items in the jail;

(b) A schedule for inspections by the jailer;

(c) A schedule for trash and garbage removal; and

(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.

(4) The jail shall have fresh and purified air circulating within inmate living and activity areas at least equivalent to ten (10) cubic feet per inmate per minute.

(5) Except in detox cells, the jail shall furnish clean, sanitized bedding to each inmate including but not limited to:

(a) One (1) mattress;

(b) One (1) mattress cover;

(c) One (1) blanket and sheet;

(d) One (1) pillow; and

(e) One (1) pillowcase.

(6) Each inmate shall be issued a clean towel upon admission to an inmate living area.

(7) All floor, toilets, bathtubs, and sinks in the jail shall be washed daily or more often as necessary.

(8) All showers shall be cleaned on at least a weekly basis.

(9) All inmates assigned to inmate living areas shall be issued or permitted to obtain the following hygienic items:

(a) Soap;

(b) Toothbrush;

(c) Toothpaste;

(d) Toilet paper; and

(e) Female sanitary supplies (where applicable).

Indigent inmates shall be furnished these items by the jail.

(10) All inmates shall be permitted to shave daily. If a communal razor is used, it shall be sanitized before each use. No inmate shall be forced to shave except for medical purposes and under the specific orders of the medical authority.

(11) Inmates shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.

(12) All inmates shall be provided shower and bathing facilities within twenty-four (24) hours of admission. Inmates shall be permitted to bathe or shower daily.

(13) All inmates in the jail shall be provided with hot and cold running water for bathing.

(14) As required in KRS 441.012, the jail shall be inspected by the Corrections Cabinet bi-annually.

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**CORRECTIONS CABINET**  
Office of Community Services

**501 KAR 4:090. Medical services.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper medical services in jails.

Section 1. Procedure Services. (1) The jail's medical services shall be provided by contracting with a Kentucky licensed physician or the county public health organization.

(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.

(3) The jailer shall prepare a quarterly report and an annual summary report addressing the jail's medical and mental health services.

(4) A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.

(5) Inmates shall not perform any medical functions within the jail.

(6) Inmates shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the jail.

(7) All medical procedures shall be performed according to written and standing orders issued by the responsible medical authority.

(8) Medical screening shall be performed by the receiving officer on all inmates upon their admission to the jail and before their placement in inmate living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;

(b) Medications taken and special health requirements;

(c) Screening of other health problems designated by the medical authority;

(d) Behavioral observation, state of consciousness and mental status;

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;

(f) Condition of skin and body orifices, including rashes and infestations; and

(g) Disposition and referral of inmates to qualified medical personnel on an emergency basis.

(9) Sick call conducted by the medical authority shall be available to each inmate.

(10) All jail security personnel shall have current training in basic first-aid equivalent to that defined by the American Red Cross.

(11) The jailer shall be trained and certified in CPR (Cardiopulmonary Resuscitation).

(12) Emergency medical, dental, and psychiatric care shall be available to all inmates commensurate with the level of such care available to the community.

(13) Medical research shall not be permitted on any inmate in the jail.

(14) Access to the inmate's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record is separate from custody and other administrative records of the jail.

(15) All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for inmate care. In the case of minors, the informed consent of the parent, guardian, or legal custodian shall apply when required by law.

(16) In accordance with KRS 72.025, a post-mortem examination shall be conducted on all inmates who die while in the custody of the jailer.

(17) The jailer shall have written delousing procedures.

(18) All jail staff who administer medications to inmates shall be trained by the medical authority.

(19) The jail shall have first-aid kits available at all times.

(20) An inmate who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility which can provide the treatment or may be moved to a hospital.

GEORGE W. WILSON, Secretary

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#### **CORRECTIONS CABINET Office of Community Services**

##### **501 KAR 4:100. Food services.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for the delivery of proper food services in jails.

Section 1. Procedures. (1) The jail shall comply with the Kentucky Food Services Establishment Act and State Food Service Code (KRS 219.019 through KRS 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 CFR Part 1910).

(2) The jailer shall provide adult inmates with a nutritionally adequate diet containing at least 2400 calories per day. Juvenile inmates shall be provided a nutritionally adequate diet containing at least 3800 calories per day.

(3) Inmates shall receive three (3) meals per day, two (2) of which shall be hot. Not more than fourteen (14) hours shall elapse between any two (2) meals.

(4) The jailer shall provide for religious diets.

(5) The jailer shall provide for medical diets where prescribed by a medical authority.

(6) The jailer shall maintain accurate records of all meals served.

(7) Food shall not be used for disciplinary or reward purposes.

(8) The jailer shall seek the assistance of a local diet specialist in preparing menus or utilize sample menus prepared by the Corrections Cabinet.

(9) A staff member shall directly supervise all food prepared within the jail.

(10) All food shall be served under the direct supervision of a staff member.

(11) The jail shall have sufficient cold and dry food storage facilities.

(12) The jailer or his designee shall inspect the food services area daily.

(13) Food shall not be prepared or stored in inmate living areas.

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#### **CORRECTIONS CABINET Office of Community Services**

##### **501 KAR 4:110. Classification.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth the procedure for the classification of inmates.

Section 1. Procedure. (1) Each jail shall develop an appropriate inmate classification system, which shall be included in the facility's written policy and procedure manual.

(2) The inmate classification system shall provide for the separation of the following categories of inmates:

(a) Male and female inmates; and

(b) Juvenile and adult inmates. If a juvenile is housed in the jail, he shall be housed as a juvenile regardless of his criminal status. Such offenders, as those confined for traffic offenses and those whose rights as a juvenile have been waived, will be housed as juveniles.

(3) The inmate classification system shall prohibit discrimination or segregation based upon race, color, creed, or national origin.

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**CORRECTIONS CABINET  
Office of Community Services**

**501 KAR 4:120. Admission; release.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedures. Each jail shall develop written admission, orientation, and release procedures to be included in the jail's policy and procedure manual. The policy shall address the identification of special needs of offenders and their immediate transfer to a full service jail.

Section 2. Admission. (1) Any seriously injured, seriously ill, or unconscious person (as determined by the jailer or his designee) shall not be admitted to the jail until a medical examination has been conducted by a licensed physician. A denial of admission form shall be completed which lists the reasons for the denial and shall be signed by the arresting officer and the jail staff member on duty.

(2) Special needs inmates shall not be housed in the facility, rather they shall be transported directly to a full service facility.

(3) The jail staff shall assure that each inmate is committed under proper legal authority by a duly authorized officer.

(4) An intake form shall be completed on every new inmate admission and shall include but not be limited to the following:

- (a) Time and date of commitment;
- (b) Name, alias, nickname;
- (c) Official charge—cite eight (8) digit KRS No.;
- (d) Authority ordering commitment;
- (e) Unit of government to be billed;
- (f) Signature and title of arresting or committing officer;
- (g) Date of birth;
- (h) Race;
- (i) Sex;
- (j) Height and weight;
- (k) Current or last known address;
- (l) Telephone number;
- (m) Marital status;
- (n) Spouse or next of kin;
- (o) Emergency contact (name, relation, address, telephone number);
- (p) Employer, place of employment, telephone number;
- (q) Social Security Number;
- (r) Health status (including current medications, known allergies, diets or other special medical needs);
- (s) Blood type, if known;
- (t) The name of any known person in the jail who might be a threat to the arrestee; and
- (u) Mental health history (including past hospitalizations, comprehensive care treatment, current treatment and medication).

(5) The jail staff shall conduct a search of inmates and their possessions.

(a) Each inmate shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow inmates, staff and institutional security. Such search shall be conducted in a

private area and in a manner which protects the inmate's dignity to such extent as possible in that particular jail.

(b) When a strip search is conducted, it shall be performed by a staffperson of the same sex as the inmate.

(c) When a strip search of an inmate is conducted it shall include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags" and body vermin. A less complete search shall include the same checks to the extent determined reasonably necessary.

(d) The probing of body cavities shall not be done except where there is reasonable suspicion to believe that the inmate is carrying contraband there and such search shall only be conducted by medically trained persons (physician, emergency medical technician, registered nurse, licensed practical nurse) in a private location and under sanitary conditions.

(6) Each jail shall develop written policies and procedures, specifying the personal property that inmates may retain in their possession.

(a) Any cash or personal property shall be taken from the inmate upon admission, listed by complete description on a receipt form in duplicate, and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate, the duplicate shall be stored with the inmate's personal property and the original kept for the jail record.

(b) If the inmate is in an inebriated state, there shall be at least one (1) witness to verify this transaction. As soon as the inmate is able to understand and account for his actions, he shall sign the receipt and his copy stored with his personal property.

(c) Personal property released to a third party must have the inmate's signature of approval and the signature receipt of the third party.

Section 3. Orientation. (1) As soon after assignment as possible, each inmate shall receive an oral and written orientation.

(2) The orientation shall provide the inmate with information regarding his confinement including but not limited to the following:

(a) Information pertaining to rising and retiring, meals, mail procedures, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the inmate's confinement;

(b) Rules of inmate conduct;

(c) Disciplinary procedures; and

(d) Procedures for making requests or registering complaints with the jail staff, judiciary, or Corrections Cabinet personnel.

(3) Special assistance shall be given to illiterate and non-English speaking inmates.

Section 4. Release. (1) Written legal authorization shall be required prior to the release or removal of any inmate from confinement.

(2) When an inmate is released or removed for any legal purpose to the custody of another, the identity of receiving authority shall be verified and the property transferred shall be properly receipted.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the inmate is released or removed.

(4) Prior to the release or removal of an inmate, the receiving authority shall sign an authorized release form.

(5) Before the jailer releases an inmate to an out-of-state

jurisdiction, he shall consult with the appropriate prosecutorial office in the county.

(6) Any property, not legally confiscated or retained, receipted from the inmate upon admission shall be returned to the inmate at the time of release from custody or to the receiving authority.

(7) Each inmate shall sign a receipt for property returned at the time of release.

(8) Any complaint regarding property returned must be submitted in writing with specific details within twenty-four (24) hours.

GEORGE W. WILSON, Secretary

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### **CORRECTIONS CABINET Office of Community Services**

#### **501 KAR 4:130. Inmate programs; services.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for inmate programs and services.

Section 1. Programs. Written policy and procedure shall provide that inmate programs and services are available and include, but are not limited to, religious services and leisure time activities.

Section 2. Religious Programs. Written policy and procedure shall ensure the constitutional rights of inmates to voluntarily practice their own religious activities, subject only to those limitations necessary to maintain the order and security of the jail.

Section 3. Leisure Time Programs. Leisure time programs shall be scheduled to permit inmates to participate in but not be limited to such activities as board games, arts and crafts, radio and television to relieve idleness and boredom.

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### **CORRECTIONS CABINET Office of Community Services**

#### **501 KAR 4:140. Inmate rights.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires

the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to ensure inmate rights.

Section 1. Policy and Procedure. (1) Each jail shall have a written statement of inmate rights which shall include but not be limited to:

- (a) Access to courts;
- (b) Access to attorney;
- (c) Mail;
- (d) Telephone;
- (e) Grievances;
- (f) Search and seizure;
- (g) Disciplinary procedure;
- (h) Racial segregation;
- (i) Mental health care (if possible); and
- (j) Religion.

The statement of inmate rights shall be posted in a conspicuous place in the booking areas of the jail and a copy shall be handed to the inmate upon admission.

(2) The jailer shall not prohibit an inmate's right of access to the judicial process.

(3) The jailer shall ensure the rights of inmates to have confidential access to their attorney and their authorized representative.

(4) The jailer shall have a written policy which defines the jail's visitation rules and regulations, which shall include but not be limited to:

(a) At least one (1) visit per inmate shall be allowed except when an inmate has been assessed a disciplinary penalty for an infraction of rules governing visitation.

(b) Visits shall not be less than fifteen (15) minutes.

(c) Two (2) or more persons permitted to visit at the same time shall count as a single visit.

(d) Children, when accompanied by an adult, shall be permitted to visit inmates.

(5) Attorneys, clergy, and medical personnel shall be permitted to visit inmates at reasonable hours other than during regularly scheduled visiting hours and shall not count as an allotted visit.

(6) Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search or for any violation.

(7) Inmates shall not be restricted in regard to whom they may have as a visitor unless the jailer determines that a visitor should be excluded due to the existence of one (1) or more of the following conditions:

(a) The visitor represents a clear and present danger to security;

(b) The visitor has a past history of disruptive conduct at the jail;

(c) The visitor is under the influence of alcohol or drugs;

(d) The visitor refuses to submit to search or show proper identification; or

(e) The inmate refuses the visit.

(8) The jailer shall not listen to visitor's conversations but may observe the visitation for security reasons.

Section 2. Mail (1) The jailer shall have written policy and procedure for receiving and sending mail that protects the inmate's personal rights and provides for reasonable security practices consistent with the operation of the jail.

(2) Inmates shall be allowed to correspond with anyone so long as such correspondence does not violate any state or federal law except that caution shall be taken to protect the inmate's rights in accordance with court decisions regarding correspondence.

(3) Incoming mail may be inspected for contraband

items, prior to delivery, unless such mail is received from the courts, attorney of record or public officials, then it may be opened and inspected in the presence of the inmate.

Section 3. Telephone. (1) Newly admitted inmates shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of their choice, or to a family member, as soon as practical, generally within one (1) hour after arrival, until one (1) call has been completed.

(2) The jailer or his designee shall maintain a log of all telephone calls made by an inmate during the admission procedure. The log shall document the date, time and party contacted.

(3) Written policy and procedure shall permit each inmate at least one (1) personal phone call during their stay in the jail. Any expense incurred for calls shall be borne by this inmate or the party called.

(4) A minimum of five (5) minutes shall be allotted for each phone call.

(5) Telephone calls shall not be routinely monitored. If calls are monitored, the inmate shall be notified.

(6) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) Inmates shall be granted the right to practice their religion within limits necessary to maintain institution order and security.

(2) Inmates shall be afforded an opportunity to participate in religious services and receive religious counsel within the jail.

(3) Inmates shall not be required to attend or participate in religious services or discussions.

Section 5. Access to Programs and Services. The jailer shall ensure equal access to programs and services for all inmates provided the security and order of the jail is not jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written inmate grievance procedure whereby an inmate may express his grievance to the jailer. These procedures shall include provisions for:

(1) Responses, within a reasonable time limit, to all grievance complaints;

(2) Equal access to all inmates;

(3) Guarantees against reprisal; and

(4) Resolving legitimate complaints.

Section 7. Searches. (1) Each search of an inmate for contraband shall be done in such a manner as the jailer determines is necessary to protect the safety of inmates, staff and jail security.

(2) Each search shall be conducted in a private area and in a professional manner which protects the inmate's dignity to the extent possible.

(3) All strip searches shall be performed by a staffperson of the same sex.

Section 8. Disciplinary Rights. Each jail shall have a written policy and procedure for maintaining discipline which is consistent with constitutional requirements for due process.

Section 9. Medical. Each inmate shall be afforded access to necessary medical care.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

## **CORRECTIONS CABINET** **Office of Community Services**

### **501 KAR 5:010. Definitions.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth definitions.

Section 1. Definitions. (1) "Jail" means county jails and correctional or detention facilities including correctional facilities, defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, city or urban county government. These regulations address those jails housing inmates for a maximum period of twelve (12) hours.

(2) "Jailer" means the duly elected or appointed official charged with the responsibility of administering the jail.

(3) "Jail staff" means deputy jailers, matrons, cooks, and other food service personnel involved in the supervision, custody, care, or treatment of prisoners in the jail.

(4) "Inmate" means any person confined in the jail pursuant to any code, ordinance, law or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any reason.

(5) "Cabinet" means the Corrections Cabinet.

(6) "Medical authority" means the person or persons licensed and certified to provide medical care to inmates in the jail.

(7) "Security area" means a defined space whose physical boundaries have controlled ingress and egress.

(8) "Inmate living area" means a group of rooms or cells which provide housing for the inmate population.

(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, discharge, or until they can be moved to general housing areas.

(10) "Detoxification area" means an area used to temporarily hold one (1) or more chemically impaired persons during the detoxification process until they can care for themselves.

(11) "Dormitory" is an area equipped for housing more than one (1) person.

(12) "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.

(13) "Safety vestibule" is a defined space that promotes security by the use of two (2) or more doors and can be used to observe those who pass.

(14) "Sallyport" is a drive-through made secure by electrically or manually operated doors for entrance and exit. It is generally located in close proximity to the jail intake area.

(15) "Special needs inmate" is any person with a notable physical, mental or emotional handicap who poses a threat to himself or other inmates; any person who requires maximum security or isolation; and juveniles who cannot be housed out of sight and sound.

GEORGE W. WILSON, Secretary

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### **CORRECTIONS CABINET Office of Community Services**

#### **501 KAR 5:020. Administration; management.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to be followed for the administration and management of jails.

Section 1. Policy and Procedures—Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedures which has been adopted by the fiscal court and filed with the Corrections Cabinet.

(2) The written policy and procedures manual shall be made available to employees.

(3) The operations manual shall include but not be limited to the following aspects of the jail's operation:

- (a) Administration;
- (b) Fiscal management;
- (c) Personnel;
- (d) Security and control;
- (e) Sanitation and management;
- (f) Medical services;
- (g) Food services;
- (h) Emergency and safety procedures;
- (i) Classification;
- (j) Inmate services;
- (k) Admission and release.

(4) The operations manual shall be reviewed and updated at least annually.

Section 2. Legal Assistance. (1) The jailer shall be represented and advised by the county attorney as provided in KRS 69.210.

(2) The county attorney shall advise the fiscal court in writing when legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall provide funds for adequate legal representation for the jailer when the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The fiscal court shall be encouraged to carry liability insurance for the jail staff and other county officials.

Section 3. Public Information. (1) The jailer shall develop and implement a plan for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and inmates shall have access to:

(a) The plan; and  
(b) Specific jail rules and procedures affected inmates as development in accordance with this plan.

(2) With the consent of the inmate, news media shall be permitted to interview any inmate as set forth in the jail's policy and procedure manual except when the safety and security of the jail is affected.

(3) Written policy and procedure shall set forth the time and length allowable for inmate interviews.

(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.

(5) Release of inmate information shall include the following:

(a) All requests for information shall be addressed to the jailer;

(b) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the inmate; and

(c) Relatives and private citizens shall only be provided with information supplied to the media.

(6) No information shall be released that is detrimental to another inmate.

Section 4. Information Systems. (1) The jailer shall establish and maintain an information system which shall comply with the requirements of this section.

(a) Jail information and inmate records shall be retained in written form or within computer records.

(b) Jail information and inmate records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time an inmate record shall be maintained after an inmate's release from custody and the conditions under which archives are maintained.

(c) A written report shall be made of all extraordinary or unusual occurrences within twelve (12) hours of the occurrence. This report shall be placed in the inmate's folder. Extraordinary or unusual occurrences shall include but not be limited to:

1. Death of an inmate;
2. Attempted suicide or suicide;
3. Serious injury, whether accidental or self-inflicted;
4. Attempted escape or escape from confinement;
5. Fire;
6. Riot;
7. Battery, whether by a staff member or inmate;
8. Sexual assaults; and
9. Occurrence of contagious or infectious disease, or illness within the facility.

(d) All jails shall keep a log of daily activity within the jail.

(e) Each jail shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

Section 5. Inmate Records. (1) The information required by 501 KAR 5:120 for admission and release shall be retained for each inmate. Other information retained in each inmate's jail record shall include but not be limited to:

- (a) Court orders;
- (b) Personal property receipts;
- (c) Infraction reports;
- (d) Reports of disciplinary actions; and
- (e) Unusual occurrences and in the case of death of an inmate, disposition of the inmate's property and remains.

(2) Medical records shall be maintained as required by 501 KAR 5:090.

(3) The jailer shall ensure that inmate records are safeguarded in accordance with relevant federal and state laws and regulations.

(4) The jailer shall require that inmates sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained in the inmate's record. This form shall include but not be limited to:

(a) Name of person, agency or organization requesting information;

(b) Name of facility release information;

(c) Specific information to be disclosed;

(d) Purpose of the information;

(e) Date consent form is signed;

(f) Signature of inmate; and

(g) Signature of employee witnessing the inmate's signature.

(5) Juvenile jail records shall be kept separate from adult jail records and shall be made available for examination only as provided in KRS 208.340. Upon an order of expungement pursuant to KRS 208.275, the jailer shall seal the records and the juvenile's detention shall be deemed never to have occurred.

GEORGE W. WILSON, Secretary

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TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
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#### **CORRECTIONS CABINET Office of Community Services**

##### **501 KAR 5:030. Fiscal management.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth fiscal management procedures to be followed in jails.

Section 1. Budgeting. (1) The jailer shall prepare and present a line item budget request to the fiscal court in accordance with KRS 441.008.

(2) The jailer shall use the format for budget development on forms prepared by the state and local finance office.

(3) The state and local finance office shall submit budget forms to the jailer by March 1 of each year.

Section 2. Accounting. (1) The county treasurer shall maintain fiscal records which clearly indicate the local cost

for operating the jail in accordance with KRS 68.020 and 441.008.

(2) Fiscal records shall have an itemized breakdown of the total operating expenses including but not limited to wages, salaries, food, and operating supplies.

Section 3. Canteen. As provided in KRS 441.067, each jailer may establish a canteen to provide inmates with approved items not supplied by the jail.

Section 4. Audits. The county jail budget shall be audited in accordance with KRS 43.070.

Section 5. Payroll. Jail employees shall be paid on the same dates as county employees.

Section 6. Inventory. Each jailer shall implement and utilize the established inventory procedure of the county.

GEORGE W. WILSON, Secretary

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#### **CORRECTIONS CABINET Office of Community Services**

##### **501 KAR 5:040. Personnel.**

RELATED TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth personnel procedures to be followed in jails.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all inmates.

(2) When female inmates are lodged in the jail, female staff will be made available as needed to perform sensitive procedures to include but not limited to:

(a) Admission; and

(b) Searches.

Section 2. Background Checks; Qualifications. (1) Prior to employment, all employees of the jail shall be subject to thorough background investigation to include criminal, medical, and employment history.

(2) All security employees of the jail shall be at least twenty-one (21) years of age.

Section 3. Compensation. All employees of the jail shall receive salaries at least equal to the State Minimum Wage Law except where Federal Minimum Wage Law has to be applied.

Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.017, the jailer shall receive a minimum of forty (40) hours annual inservice training certified by the Corrections Cabinet.

(a) Local Corrections training efforts shall be certified by the Corrections Cabinet.

(b) The Curriculum Advisory Committee shall advise the Corrections Cabinet on topics for training curriculum.

(c) Jailer training shall be delivered on a regional basis by the Corrections Cabinet.

(2) The jail staff shall receive a minimum of sixteen (16) hours annual inservice training delivered by the Corrections Cabinet in a regional or local basis.

Section 5. Policy and Procedures. Written policy shall specify that equal employment opportunities exist for all positions.

Section 6. Physical Fitness. The jailer shall ensure that all employees maintain a level of physical fitness that will allow the employees to satisfactorily perform their duties.

Section 7. Code of ethics. (1) The jailer shall make available a written code of ethics.

(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include but not be limited to the following:

(a) Employees shall not:

1. Exchange personal gifts or favors with inmates, their family, or friends;
2. Accept any form of bribe or unlawful inducement;
3. Perform duties under the influence of intoxicants or consume intoxicants while on duty;
4. Violate or disobey established rules, regulations, or lawful orders from a superior;
5. Discriminate against any inmates on the basis of race, religion, creed, gender, national origin, or other individual characteristics;
6. Employ corporal punishment or unnecessary physical force;
7. Subject inmates to any form of unwarranted physical or mental abuse;
8. Intentionally demean or humiliate inmates;
9. Bring any type of weapon or item declared as contraband into the jail without proper authorization;
10. Engage in critical discussion of staff members or inmates in the presence of inmates;
11. Divulge confidential information without proper authorization;
12. Withhold information which, in so doing, threatens the security of the jail, its staff, visitors, or the community;
13. Through negligence, endanger the well-being of self or others;
14. Engage in any form of business or profitable enterprise with inmates; and
15. Inquire about, disclose, or discuss details of an inmate's crime other than as may be absolutely necessary in performing official duties.

(b) Employees shall:

1. Comply with all established rules, regulations, and lawful orders from superiors;
2. Treat all inmates in a fair, impartial manner; and
3. Report all violations of the code of ethics to the jailer.

(3) Any employee violation of this code of ethics shall be made a part of that employee's personnel file.

Section 8. Grievance Procedure. Jail employees shall have access to the established grievance procedure of their respective county.

Section 9. Hiring Procedures. (1) The jailer shall have a written personnel plan governing the selection, training, promotion, and retention of jail personnel.

(2) Personnel assignments shall be based on merit.

Section 10. Performance Evaluation. A written standardized performance evaluation shall be conducted at least annually by the jailer.

GEORGE W. WILSON, Secretary

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### CORRECTIONS CABINET Office of Community Services

501 KAR 5:050. Physical plant.

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails.

Section 1. Purpose. The purpose of this chapter is to provide minimum standards for the renovation or construction of jail facilities and for measuring compliance of existing jails in accordance with KRS 441.012 and 441.013.

Section 2. Consultation. The Corrections Cabinet shall provide for any county government which wishes to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and operation of jails. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:

- (1) Site selection;
- (2) Probable need as it relates to capacity and types of inmates to be housed;
- (3) Sources of financing for construction;
- (4) Laws and regulations relating to treatment of inmates;
- (5) Laws and regulations relating to facilities for inmates;
- (6) Sources of revenue for operations of the jail;
- (7) Probable cost for operation of the jail; and
- (8) Potential for shared facilities with adjoining counties.

Section 3. Site Acceptance. No jail shall be built without site acceptance by the Corrections Cabinet. The following criteria shall be considered in site selection including but not limited to:

- (1) Size;
- (2) Proximity to courts;
- (3) Proximity to community resources;
- (4) Availability of public transportation;
- (5) Environmental health;
- (6) Adequate parking; and
- (7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the renovation or construction of any jail, plans and specifications shall be submitted to the Corrections Cabinet for review and acceptance as follows:

- (1) Schematic outline. This submission shall show:
  - (a) Control of the site;



(b) Acceptance of the site for a jail by the planning and zoning commission, if any, and all other interested government agencies;

(c) A list of all proposed rooms and areas and their dimensions;

(d) A circulation diagram;

(e) An estimate of cost of land, services, construction and financing;

(f) Sources of development funds; and

(g) Post assignment and staffing needs.

(2) Preliminary drawings. This submission shall include:

(a) Scale drawings (1/8 inch to the foot or larger) of each floor plan;

(b) Scale drawings (one (1) inch equals fifty (50) feet or larger) of the site, locating the buildings, parking, and other facilities;

(c) Sections through the proposed structure indicating ceiling heights of all rooms, mechanical spaces, roof slopes, and other related information;

(d) Elevation drawings (1/8 inch to the foot or larger) of all exterior walls;

(e) A current estimate of the costs;

(f) A statement regarding the sources of the development funds; and

(g) A map of the community locating the proposed jail, the courts, community facilities, population centers, business districts, highways, roads, and police department.

(3) Final construction drawings shall be submitted to the Corrections Cabinet, the Department for Housing, Buildings, and Construction, and any other applicable state agency for review and acceptance and shall include:

(a) All necessary construction drawings including construction details;

(b) Specifications for all materials and workmanship;

(c) A proposed contract with general conditions and special conditions;

(d) Engineering calculations for the foundations, structures, heating, ventilation, air conditioning, lighting, and plumbing, signed by licensed architects and engineers;

(e) Detailed estimates of the costs of land, land improvements, construction, financing, professional services, and building permits; and

(f) An updated statement in detail regarding the sources of development funds.

(4) Construction documents. This submission shall include:

(a) Construction drawings and specifications signed by the architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet;

(b) Signed copies of all contracts for construction, financing, and bonding revised as necessary to include all changes required by the Corrections Cabinet;

(c) Signed copies of all construction permits; and

(d) Documents will bear signed approvals from all other applicable state agencies.

(5) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of acceptance, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction documents as required in subsection (4) of this section have been accepted with required change by the Corrections Cabinet.

Section 5. Waiver of Compliance. (1) The Corrections Cabinet may grant a waiver of the implementation of the

physical plant standards for an existing jail if the Cabinet determines:

(a) That strict compliance will cause unreasonable difficulties;

(b) That a waiver will not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operations of the jail; and

(c) That compliance is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of these standards.

(2) When a waiver from a standard is desired, the responsible local authority shall submit a written request to the Corrections Cabinet. The written request shall include the following information:

(a) Citation of the specific standard involved;

(b) Specification of the efforts made to bring the jail into strict compliance;

(c) Identification and description of the specific difficulties involved in meeting strict compliance;

(d) Description of the alternative proposed; and

(e) Provision of sufficient documentation which will demonstrate that the waiver, if granted, will not jeopardize the security, supervision of inmates, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the Corrections Cabinet, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the cabinet as conditions upon the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

Section 6. Facility Design. Depending upon its size and intended use, every jail shall include within its walls the following facilities and equipment:

(1) Entrances. Every jail shall have three (3) separate and distinct entrances; a public entrance, an adult inmate entrance, and a service entrance. The Corrections Cabinet may permit these entrances to be combined.

(a) Public entrance. The purpose of this entrance is to divert the general public from the security area of the jail and from contact with incoming inmates. This area will be the location for the general public to conduct their business at the jail. The following design features shall be incorporated:

1. Provide a clear view of this from the booking/control area; and

2. Meet the requirements for handicapped persons.

(b) Service entrance. The purpose of this entrance is to provide access to service vehicles and delivery trucks with minimum security risks. It may contain a loading dock and shall be located in close proximity to storage rooms and the kitchen area.

(c) Adult inmate entrance. The purpose of this entrance is to provide secure and private access to the jail for incoming inmates. This entrance may be serviced by a drive-in Sallyport and shall incorporate the following design features:

1. Be located adjacent to the booking/control area;

2. Be monitored from the booking/control area;

3. Be free of steps or other obstacles;

4. Be protected from inclement weather; and

5. Have metal lockers to secure weapons separate from inmate ingress.

(2) Exits. No exits other than those entrances specified in subsection (1) of this section shall be permitted except for

fire exits. Such fire exits, when possible, shall open into controlled, secure courts, and exercise areas only.

(3) Administrative areas. This area will provide space outside the secured area of the jail to house the administrative offices and to accommodate the public. If space is not available within the confines of the jail, an area for medical examinations and confidential conferences between inmates and lawyers, probation officers, clergy, etc., must be made available within close proximity to the jail.

(4) Security area. The area shall enclose all facilities and services required for or used by the inmates. It shall contain the following function areas:

(a) Booking/control area. The purpose is to provide an operational area to carry out admission and release procedures and to control all movement within the jail. Design features shall include:

1. Doors and windows shall be of approved penal type;
2. Walls, floors, and ceilings shall be approved masonry or steel construction;
3. Audio and video monitors shall be located in this area;
4. Gauges, indicators, and alarms shall be located in this area;
5. Central control panels shall be located in this area; and
6. This area shall permit visual observation of all corridors, entrances and exits under its supervision.

(b) When jail staff are not within normal hearing distance of inmates, an audio communication system shall be installed to allow staff to communicate with inmates.

(c) A panic button may be installed in corridors and staff observation areas, which shall sound an alarm in the booking/control area in the event of an emergency situation.

(d) Detoxification area. The purpose is to provide an area to separate intoxicated inmates from the general inmate population. Design features shall include:

1. A minimum of fifty (50) square feet per inmate;
2. A minimum of eight (8) feet ceiling height;
3. One (1) slab or bench of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each inmate;
4. An approved penal commode and a flush floor drain controlled from outside the cell;
5. All fixtures and equipment shall be approved penal type;
6. All surfaces inside the area shall be smooth, flush, and free of sharp edges and protrusions;
7. All horizontal surfaces (the bench and the floor) shall be sloped (one-fourth (1/4) of an inch to the foot) to a floor drain;
8. All corners (except at ceiling) shall be coved; and
9. Ceiling, walls, surfaces of the wall base, and floors shall be of approved masonry or steel construction.

(e) Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

1. Compliance with standards of the state Food Service Code;
2. Commercial type stoves and refrigeration units;
3. Doors and windows will be of approved penal type; and
4. Walls, floors, ceilings will be approved fire rated masonry construction.

(f) Food distribution area. If food is not prepared in the

jail, only a distribution area is required. While a separate room may not be necessary, the area shall be partitioned to ensure sanitary conditions.

(5) Confinement areas. The purpose of these areas is to provide suitable living conditions for all types of inmates lodged in the jail. Design features for all living areas shall include:

- (a) Providing sufficient natural or artificial light to provide twenty-five (25) foot candles of light for reading purposes and twenty (20) foot candles for all other purposes;
- (b) Providing ventilation to meet air exchange as required in Kentucky Building Code;
- (c) Providing temperature ranges within comfort zones (sixty-five (65) degrees F to eighty-five (85) degrees F);
- (d) Shall be of approved masonry or steel construction;
- (e) All furnishings and equipment shall be approved penal type and permanently attached;
- (f) Each confinement area shall have approved floor drains outside the immediate living area;
- (g) Be equipped with an approved securable food pass; and
- (h) Electrical outlets when provided shall have ground-fault circuit breakers.

(6) All cells and housing areas design features shall include:

(a) Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the inmate(s) housed in the area.

(b) Cells may open into a dayroom and no cell shall be less than seventy (70) square feet. No cell shall have more than two (2) penal type bunks.

(c) Each cell shall contain:

1. An approved penal type commode, lavatory, drinking fountain, and penal type table with two (2) seats, and penal type storage shelf with breakaway hangers.
2. A light fixture of approved penal type with controls nonaccessible to inmates.

(d) Multi-occupancy area. The jail shall provide living space for low security inmates. This area shall be either cells opening into a dayroom or a combination of this and multiple occupancy dorms. If dorms are used, they must include:

1. Fifty (50) feet per inmate;
2. One (1) commode/lavatory/drinking fountain per eight (8) inmates;
3. Sufficient tables and benches to handle the number of inmates housed in the dorm;
4. One (1) penal type shelf with breakaway hangers per inmate; and
5. One (1) penal type bunk secured to the floor or wall per inmate.

GEORGE W. WILSON, Secretary

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SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

**CORRECTIONS CABINET  
Office of Community Services**

**501 KAR 5:060. Security; control.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth security procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing all security aspects of the jail's operations.

(2) The Corrections Cabinet shall provide technical assistance to the jailer in his efforts to formulate such written policy and procedure.

(3) These policy and procedures shall include but not be limited to:

- (a) Inmate rules and regulations;
- (b) Staffing;
- (c) Searches of inmate and of secure areas;
- (d) Key and weapon control;
- (e) Inmate head counts;
- (f) Emergency situations;
- (g) Jail schedule.

Section 2. Inmate Supervision. (1) Jail personnel shall conduct direct, in-person surveillance of each inmate on an irregular schedule, no less than every sixty (60) minutes.

(2) Jail personnel shall conduct direct, in-person surveillance every twenty (20) minutes on the following classes of inmates:

- (a) Inmates in detox cell; and
- (b) Juveniles, if housed in the jail.

(3) When available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sallyports, perimeter security, points of egress, and common areas.

(4) There shall be at least three (3) documented inmate counts every twenty-four (24) hours during which each inmate's physical presence, movement or speech shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly.

(a) Isolated security spot checks shall be conducted daily.

(b) Items considered as contraband or items permitted in the jail shall be clearly defined in the jail rules.

(c) There shall be a written procedure for reporting security irregularities.

(2) No weapon, ammunition, chemical agent, related security equipment, or any object which represents the potential of being used as a weapon shall be permitted in the security area unless authorized by the jailer.

(3) All firearms, weapons, and chemical agents assigned to the jail shall be stored in an arsenal, vault, or other secure room under lock.

(a) This area shall be inaccessible to all unauthorized persons.

(b) There shall be a written procedure for issuing and accounting for all weapons.

(4) All security devices and safety equipment shall be in-

spected monthly to ensure that they are maintained in proper working order.

(5) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area.

(6) Tools, supplies and equipment which are hazardous shall be used by inmates only under the direct supervision of jail personnel.

(7) At no time shall any inmate be assigned to a position of authority over any other inmate or given the responsibility of providing inmate services such as commissary, telephone calls, or delivery of meals.

(8) Inmates shall never be permitted to perform or assist in any security duties.

(9) Inmates shall be thoroughly searched whenever entering or leaving the security perimeter.

(10) Written procedures shall be developed for transporting outside the jail.

(11) Each jailer shall develop written policies and procedures governing the use of physical restraints.

(12) No inmate placed in physical restraints shall be left unattended.

(13) All jails shall have key control procedures which shall include but not be limited to:

(a) A key control center which is secure and inaccessible to unauthorized persons at all times;

(b) An accounting procedure for issuing and returning keys;

(c) A procedure for immediate reporting and repairing of any broken or malfunctioning key or lock;

(d) A set of duplicate keys to be maintained in a separate, secure place;

(e) No inmate shall be permitted to handle keys used to operate jail security locks;

(f) Keys operating locks to outside doors or gates shall not be permitted in the confinement area;

(g) Emergency keys and keys to critical security areas shall only be issued in accordance with written procedures established by the jailer;

(h) Precautions similar to those outlined above shall be taken to ensure the security of all non-key operated locking devices such as electrical switches or levers;

(i) Locks to outside exits shall be keyed differently from interior locks.

Section 4. Daily Jail Log; Special Reports. (A detailed, written record shall be made of all significant activities occurring within the jail including but not limited to:

- (1) Security and safety inspections;
- (2) Inmate counts;
- (3) Use of force;
- (4) Disciplinary actions;
- (5) Movement inside and outside the jail;
- (6) Medical or mental health treatment;
- (7) Feeding schedule and menus;
- (8) Extraordinary occurrences:
  - (a) Fires;
  - (b) Assaults;
  - (c) Suicide or attempted suicide;
  - (d) Escape or attempted escape;
  - (9) Inmate vandalism:
    - (a) Destruction of jail property;
    - (b) Flooding of plumbing fixtures;
  - (10) Staff roster for each shift;

- (11) Telephone log;
- (12) Fire drills.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

### **CORRECTIONS CABINET** **Office of Community Services**

#### **501 KAR 5:070. Safety; emergency procedures.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth safety and emergency procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure which specifies fire prevention regulations and practices to ensure the safety of inmates, visitors, and staff. These shall include but not be limited to:

- (a) Provision for fire emergency drills for staff and inmates at least quarterly;
- (b) Written documentation of fire drills;
- (c) A fire safety inspection by the Corrections Cabinet at least semi-annually;
- (d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly;
- (e) Smoking restrictions and regulations; and
- (f) Written evacuation plan coordinated with local fire officials.

(2) Each jail shall have written policy and procedures for emergency situations including but not limited to:

- (a) Escapes;
- (b) Taking of hostages;
- (c) Riots;
- (d) Food poisoning;
- (e) Civil disturbances in the community;
- (f) Natural disasters;
- (g) Suicides; and
- (h) Other death and disorder.

Section 2. Physical Plant. (1) Each jail shall have smoke detection and exits which are distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.

(2) Each jail shall have equipment necessary to maintain essential lights and communications in an emergency situation.

(3) In all areas where an inmate may be confined each jail shall be provided with an emergency smoke evacuation system activated by smoke detectors.

(4) Each jail shall have an approved fire alarm and smoke detection system which meets the National Fire Safety Code (1981 edition, Chapters 14 and 15).

(5) Each jail shall comply with the National Fire Safety Code (1981 edition, Chapters 14 and 15).

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

### **CORRECTIONS CABINET** **Office of Community Services**

#### **501 KAR 5:080. Sanitation; hygiene.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper sanitation and hygiene in jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.

(2) The jail shall provide for both solid and liquid waste disposal.

(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:

- (a) A cleaning schedule for various locations and items in the jail;
- (b) A schedule for inspections by the jailer;
- (c) A schedule for trash and garbage removal; and
- (d) A schedule for periodic inspection and maintenance of specific mechanical equipment.

(4) The jail shall have fresh and purified air circulating within inmate living and activity areas at least equivalent to ten (10) cubic feet per inmate per minute.

(5) Except in detox cells, the jail shall have available sanitized bedding.

- (a) One (1) mattress;
- (b) One (1) mattress cover;
- (c) One (1) blanket and sheet;
- (d) One (1) pillow; and
- (e) One (1) pillowcase.

(6) Each inmate shall be issued a clean towel upon admission to an inmate living area.

(7) All floor, toilets, bathtubs, and sinks in the jail shall be washed daily or more often as necessary.

(8) All inmates assigned to inmate living areas shall be issued or permitted to obtain the following hygienic items:

- (a) Soap;
- (b) Toilet paper; and
- (c) Female sanitary supplies (where applicable).

Indigent inmates shall be furnished these items by the jail.

(9) No inmate shall be forced to shave except for medical purposes and under the specific orders of the medical authority.

(10) Inmates shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.

(11) As required in KRS 441.012, the jail shall be inspected by the Corrections Cabinet bi-annually.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet, Room 514, State Office Building, Frankfort, Kentucky 40601

### **CORRECTIONS CABINET Office of Community Services**

#### **501 KAR 5:090. Medical services.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper medical services in jails.

Section 1. Procedure Services. (1) The jail's medical services shall be provided by contracting with a Kentucky licensed physician or the county public health organization.

(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.

(3) The jailer shall prepare a quarterly report and an annual summary report addressing the jail's medical and mental health services.

(4) A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.

(5) Inmates shall not perform any medical functions within the jail.

(6) Inmates shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the jail.

(7) All medical procedures shall be performed according to written and standing orders issued by the responsible medical authority.

(8) Medical screening shall be performed by the receiving officer on all inmates upon their admission to the jail and before their placement in inmate living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:

- (a) Current illnesses and health problems;
- (b) Medications taken and special health requirements;
- (c) Screening of other health problems designated by the medical authority;
- (d) Behavioral observation, state of consciousness and mental status;
- (e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;
- (f) Condition of skin and body orifices, including rashes and infestations; and
- (g) Disposition and referral of inmates to qualified medical personnel on an emergency basis.

(9) Sick call conducted by the medical authority shall be available to each inmate.

(10) All jail security personnel shall have current training in basic first-aid equivalent to that defined by the American Red Cross.

(11) The jailer shall be trained and certified in CPR (Cardiopulmonary Resuscitation).

(12) Emergency medical, dental, and psychiatric care shall be available to all inmates commensurate with the level of such care available to the community.

(13) Medical research shall not be permitted on any inmate in the jail.

(14) Access to the inmate's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record is separate from custody and other administrative records of the jail.

(15) All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for inmate care. In the case of minors, the informed consent of the parent, guardian, or legal custodian shall apply when required by law.

(16) In accordance with KRS 72.025, a post-mortem examination shall be conducted on all inmates who die while in the custody of the jailer.

(17) The jailer shall have written delousing procedures.

(18) All jail staff who administer medications to inmates shall be trained by the medical authority.

(19) The jail shall have first-aid kits available at all times.

(20) An inmate who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility which can provide the treatment or may be moved to a hospital.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet, Room 514, State Office Building, Frankfort, Kentucky 40601

### **CORRECTIONS CABINET Office of Community Services**

#### **501 KAR 5:100. Food services.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for the delivery of proper food services in jails.

Section 1. Procedures. (1) The jail shall comply with the Kentucky Food Services Establishment Act and State Food Service Code (KRS 219.019 through KRS 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 CFR Part 1910).

(2) At least three (3) meals a day shall be served.

(3) The jailer shall provide for religious diets.

(4) The jailer shall provide for medical diets where prescribed by a medical authority.

(5) The jailer shall maintain accurate records of all meals served.

(6) Food shall not be used for disciplinary or reward purposes.

(7) A staff member shall directly supervise all food prepared within the jail.

(8) All food shall be served under the direct supervision of a staff member.

(9) The jail shall have sufficient cold and dry food storage facilities.

(10) The jailer or his designee shall inspect the food services area daily.

(11) Food shall not be prepared or stored in inmate living areas.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

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40601

#### **CORRECTIONS CABINET Office of Community Services**

##### **501 KAR 5:110. Classification.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth the procedure for the classification of inmates.

Section 1. Procedure. (1) Each jail shall develop an appropriate inmate classification system, which shall be included in the facility's written policy and procedure manual.

(2) The inmate classification system shall provide for the separation of the following categories of inmates:

(a) Male and female inmates; and

(b) Juvenile and adult inmates. If a juvenile is housed in the jail, he shall be housed as a juvenile regardless of his criminal status. Such offenders, as those confined for traffic offenses and those whose rights as a juvenile have been waived, will be housed as juveniles.

(3) The inmate classification system shall prohibit discrimination or segregation based upon race, color, creed, or national origin.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

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#### **CORRECTIONS CABINET Office of Community Services**

##### **501 KAR 5:120. Admission; release.**

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedures. Each jail shall develop written admission, orientation, and release procedures to be included in the jail's policy and procedure manual. The policy shall address the identification of special needs of offenders and their immediate transfer to a full service jail.

Section 2. Admission. (1) Any seriously injured, seriously ill, or unconscious person (as determined by the jailer or his designee) shall not be admitted to the jail until a medical examination has been conducted by a licensed physician. A denial of admission form shall be completed which lists the reasons for the denial and shall be signed by the arresting officer and the jail staff member on duty.

(2) Special needs inmates shall not be housed in the facility, rather they shall be transported directly to a full service facility.

(3) The jail staff shall assure that each inmate is committed under proper legal authority by a duly authorized officer.

(4) An intake form shall be completed on every new inmate admission and shall include but not be limited to the following:

- (a) Time and date of commitment;
- (b) Name, alias, nickname;
- (c) Official charge—cite eight (8) digit KRS No.;
- (d) Authority ordering commitment;
- (e) Unit of government to be billed;
- (f) Signature and title of arresting or committing officer;
- (g) Date of birth;
- (h) Race;
- (i) Sex;
- (j) Height and weight;
- (k) Current or last known address;
- (l) Telephone number;
- (m) Marital status;
- (n) Spouse or next of kin;
- (o) Emergency contact (name, relation, address, telephone number);
- (p) Employer, place of employment, telephone number;
- (q) Social Security Number;
- (r) Health status (including current medications, known allergies, diets or other special medical needs);
- (s) Blood type, if known;
- (t) The name of any known person in the jail who might be a threat to the arrestee; and
- (u) Mental health history (including past hospitalizations, comprehensive care treatment, current treatment and medication).

(5) The jail staff shall conduct a search of inmates and their possessions.

(a) Each inmate shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow inmates, staff and



institutional security. Such search shall be conducted in a private area and in a manner which protects the inmate's dignity to such extent as possible in that particular jail.

(b) When a strip search is conducted, it shall be performed by a staffperson of the same sex as the inmate.

(c) When a strip search of an inmate is conducted it shall include a through visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags" and body vermin. A less complete search shall include the same checks to the extent determined reasonably necessary.

(d) The probing of body cavities shall not be done except where there is reasonable suspicion to believe that the inmate is carrying contraband there and such search shall only be conducted by medically trained persons (physician, emergency medical technician, registered nurse, licensed practical nurse) in a private location and under sanitary conditions.

(6) Each jail shall develop written policies and procedures, specifying the personal property that inmates may retain in their possession.

(a) Any cash or personal property shall be taken from the inmate upon admission, listed by complete description on a receipt form in duplicate, and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate, the duplicate shall be stored with the inmate's personal property and the original kept for the jail record.

(b) If the inmate is in an inebriated state, there shall be at least one (1) witness to verify this transaction. As soon as the inmate is able to understand and account for his actions, he shall sign the receipt and his copy stored with his personal property.

(c) Personal property released to a third party must have the inmate's signature of approval and the signature receipt of the third party.

Section 3. Release. (1) Written legal authorization shall be required prior to the release or removal of any inmate from confinement.

(2) When an inmate is released or removed for any legal purpose to the custody of another, the identity of receiving authority shall be verified and the property transferred shall be properly receipted.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the inmate is released or removed.

(4) Prior to the release or removal of an inmate, the receiving authority shall sign an authorized release form.

(5) Before the jailer releases an inmate to an out-of-state jurisdiction, he shall consult with the appropriate prosecutorial office in the county.

(6) Any property, not legally confiscated or retained, receipted from the inmate upon admission shall be returned to the inmate at the time of release from custody or to the receiving authority.

(7) Each inmate shall sign a receipt for property returned at the time of release.

(8) Any complaint regarding property returned must be submitted in writing with specific details within twenty-four (24) hours.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

## CORRECTIONS CABINET Office of Community Services

### 501 KAR 5:130. Inmate rights.

RELATES TO: KRS 441.011

PURSUANT TO: KRS 13.082, 441.011

NECESSITY AND FUNCTION: KRS 441.011 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to ensure inmate rights.

Section 1. Policy and Procedure. (1) Each jail shall have a written statement of inmate rights which shall include but not be limited to:

- (a) Access to courts;
- (b) Access to attorney;
- (c) Telephone;
- (d) Grievances;
- (e) Search and seizure;
- (f) Disciplinary procedure;
- (g) Racial segregation;
- (h) Medical care; and
- (i) Mental health care (if possible).

The statement of inmate rights shall be posted in a conspicuous place in the booking areas of the jail and a copy shall be handed to the inmate upon admission.

(2) The jailer shall not prohibit an inmate's right of access to the judicial process.

(3) The jailer shall ensure the rights of inmates to have confidential access to their attorney and their authorized representative.

(4) Attorneys, clergy, and medical personnel shall be permitted to visit inmates.

Section 2. Telephone. (1) Newly admitted inmates shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of their choice, or to a family member, as soon as practical, generally within one (1) hour after arrival, until one (1) call has been completed.

(2) The jailer or his designee shall maintain a log of all telephone calls made by an inmate during the admission procedure. The log shall document the date, time and party contacted.

(3) Telephone calls shall not be routinely monitored. If calls are monitored, the inmate shall be notified.

Section 3. Religion. (1) Inmates shall be granted the right to practice their religion within limits necessary to maintain institution order and security.

(2) Inmates shall be afforded an opportunity to participate in religious services and receive religious counseling within the jail.

(3) Inmates shall not be required to attend or participate in religious services or discussions.

Section 4. Access to Programs and Services. The jailer shall ensure equal access to programs and services for all inmates provided the security and order of the jail is not jeopardized.

Section 5. Grievance Procedure. The jailer shall have a written inmate grievance procedure whereby an inmate may express his grievance to the jailer. These procedures shall include provisions for:

- (1) Responses, within a reasonable time limit, to all grievance complaints;
- (2) Equal access to all inmates;
- (3) Guarantees against reprisal; and
- (4) Resolving legitimate complaints.

Section 6. Searches. (1) Each search of an inmate for contraband shall be done in such a manner as the jailer determines is necessary to protect the safety of inmates, staff and jail security.

(2) Each search shall be conducted in a private area and in a professional manner which protects the inmate's dignity to the extent possible.

(3) All strip searches shall be performed by a staffperson of the same sex.

Section 7. Disciplinary Rights. Each jail shall have a written policy and procedure for maintaining discipline which is consistent with constitutional requirements for due process.

Section 8. Medical. Each inmate shall be afforded access to necessary medical care.

GEORGE W. WILSON, Secretary

ADOPTED: June 28, 1983

RECEIVED BY LRC: August 15, 1983 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doug Sapp/Cheryl Roberts, Corrections Cabinet,  
Room 514, State Office Building, Frankfort, Kentucky  
40601

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

904 KAR 1:220. Terms and conditions of provider participation; provider appeals.

RELATES TO: KRS 205.510 to 205.990

PURSUANT TO: KRS 13.082, 194.050, 205.520

NECESSITY AND FUNCTION: Through KRS 205.520, the Secretary for Human Resources may establish regulations to comply with requirements imposed or opportunities presented by federal law to take advantage of funds available for medical assistance. Through an amendment to 42 U.S.C. 1395c and 1395j, Section 2175 of the Omnibus Budget Reconciliation Act of 1981 allows each state to restrict provider participation in its medical assistance program if it is determined the provider committed fraud or abused the program. To allow the state the ability to respond for good cause against a provider through an administrative action short of adjudication of criminal liability and thereby assuring the continued integrity of the Medical Assistance Program, this regulation is enacted. This provision reiterates the authority of the cabinet to determine the terms and conditions of vendor participation in the Kentucky Medical Assistance Program, and sets forth the procedure by which an aggrieved provider may appeal the termination, suspension, denial or nonrenewal of his or her provider agreement.

Section 1. The Cabinet for Human Resources may determine the terms and conditions for participation of vendors in the Kentucky Medical Assistance Program. The cabinet may suspend, terminate, deny or not renew a vendor's provider agreement for good cause. For purposes of this regulation, "good cause" is defined as:

(1) Misrepresenting or concealing facts in order to receive or to enable others to receive benefits;

(2) Furnishing or ordering services under Medicaid that are substantially in excess of the recipient's needs or that fail to meet professionally recognized health care standards;

(3) Misrepresenting factors concerning a facility's qualifications as a provider;

(4) Failure to comply with the terms and conditions for vendor participation in the program and to effectively render service to recipients;

(5) Submitting false or questionable charges to the agency.

Section 2. Upon notice of a decision to suspend, terminate, deny or not renew a provider agreement by the cabinet, any individual provider aggrieved thereby may file an appeal. The following procedure will govern the appeal of any such individual provider who has received said notice from the cabinet of termination, suspension, denial or nonrenewal of his or her provider agreement or of his or her suspension from the Kentucky Medical Assistance Program, except in the case of an adverse action taken under Title XVIII (Medicare), binding upon the Medical Assistance Program. Adverse action taken against an individual provider under Medicaid must be appealed through the mechanism set forth in 42 CFR, Part 405 Subpart O.

Section 3. Notification. The Kentucky Medical Assistance Program shall notify a provider in writing at least fifteen (15) days prior to the effective date of any decision to terminate, suspend, deny or not renew a provider agreement. The notice will state:

(1) The reasons for the decision;

(2) The effective date;

(3) The extent of its applicability to participation in the Medical Assistance Program;

(4) The earliest date on which the cabinet will accept a request for reinstatement;

(5) The requirements and procedures for reinstatement; and

(6) The appeal rights available to the excluded party.

Section 4. Evidentiary Hearing. Any provider aggrieved by a decision by the cabinet to suspend, terminate, deny or not renew a provider agreement pursuant to Section 1 of this regulation may, upon written request made within five (5) days from receipt of the written consideration decision, request an evidentiary hearing. Such hearing shall be held within thirty (30) days of receipt of the written request, and a decision shall be rendered within thirty (30) days from the date all evidence and testimony is submitted. Technical rules of evidence shall not apply. The hearing shall be held before an impartial decision-maker appointed by the Secretary for Human Resources. When an evidentiary hearing is held under this section, a provider shall be entitled to the following:

(1) Timely written notice as to the basis of the adverse decision and disclosure of the evidence upon which the decision was based;

(2) An opportunity to appear in person and introduce evidence to refute the basis of the adverse decision;

(3) A provider may be represented by counsel;

(4) A provider shall have an opportunity to be heard in person, to call witnesses, and to introduce documentary and other demonstrative evidence;

(5) A provider shall have an opportunity to cross-examine witnesses;

(6) The decision of the impartial hearing officer shall be in writing and shall set forth the reasons for the decision and the evidence upon which the determination is based.

Section 5. The decision of the hearing officer shall be the final decision of the Cabinet for Human Resources.

Section 6. The rights upon appeal by skilled nursing facilities (SNF's), intermediate care facilities (ICF's), and intermediate care facilities for the mentally retarded (ICF/MR's) shall be governed by the provisions of 42 CFR §431.154 (informal reconsideration), and thereafter, 42 CFR §431.153 (evidentiary hearing).

JOHN CUBINE, Commissioner

ADOPTED: August 11, 1983

APPROVED: BUDDY H. ADAMS, Secretary

RECEIVED BY LRC: August 15, 1983 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the July 27-28, 1983 Meeting

(Subject to subcommittee approval at the August 23-24 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Wednesday, July 27, and on Thursday, July 28, 1983, at 10:00 a.m. in Room 103 of the Capitol Annex. Present were:

**Members:** Representative William T. Brinkley, Chairman; Senators Pat McCuiston, Bill Quinlan and Joe Lane Tavis; Representatives Greg Stumbo, Albert Robinson and James Bruce.

**Guests:** Paris Hopkins, Joe Smith, Paul Fauri, Don Dixon, Joan Hoskins, James Randall, Brenda Bradley, Diane Simmons, Dr. Ward Hinds, Joe Miller, Peggy Kidd and Greg Lawther, Cabinet for Human Resources; Raymond Barber, Gary Bale, Carolyn Wosoba, Arnold Guess, Bill Howard and Paul Jones, Department of Education; Ora Nall, Don Nall and Charles Vice, Kentucky Education Association; V. Wayne Young, Kentucky Association of School Administrators; Ted Crosthwait, Kentucky Retired Teachers Association; Bill Lunceford, Richard Casey and Wayne Whitney, Kentucky Higher Education Assistance Authority; Judith Walden, Department of Housing, Buildings and Construction; Patrick Watts, Department of Insurance; Charles Wickliffe, Tanya Gritz, Grant Satterly and Jim Ramsey, Finance Cabinet; Clint Newman, State Investment Commission; George Geoghegan, Medical Licensure Board; Frank Sanning and Suzanne Gruss, Kentucky Board of Ophthalmic Dispensers; Carl Larsen, Kentucky Harness Racing Commission; Laleah Logan, League of Women Voters; Richard Shogren and Andrew Cammack, Natural Resources and Environmental Protection Cabinet; Tom Fitzgerald, Appalachian Research and Defense Fund; Lloyd Cress, Kentucky Oil and Gas Association; Jerry Hardt, Magoffin Countians for a Clean Environment; Scott Akers, Revenue Cabinet; Ted Bradshaw, Kentucky Bankers Association; Mack Morgan and John Hinkle, Kentucky Retail Federation; Joseph Thomas, Kentucky State AFL-CIO; George Peters, Kentucky Utilities Company; Jay Runyon and W. R. Miller, Kentucky Power Company; William Cunningham, Jeannette Downs, Rosebud Franklin, William McDuffie and Lois Trimble,

Blue Grass Long Term Care Ombudsman Organization; Charles Dibowski and Mabel Wiggins, Jefferson County Council on Aging; James Judy, Dandridge Walton and Nancy Versnick, Kentucky Association for Home Care Facilities; Irving Lipetz, Jane Greenebaum and Jane Jagers, Kentucky Association for Older Persons; Jean Gossick, Kentucky Association for Retired Citizens; Ted LaPin, Rebecca Richie and E. P. Hilton, KCCOA; Ward Bradford Boone, MCFU-OAG; Emma Lou Mattingly, Donald Sizemore, Mable Sizemore, Evelyn Seals and Helen Riggs, Volunteers for Ombudsman for Bell County; Thelma Dorroh, NASW; Virginia Mason and Caroline Randolph, Senior Citizens Enterprise Ombudsman Program; Nancy Mauer and Steve Fitzpatrick, Quality Care Advocates; Talberta Sharber, Dorothy Hicks, Edward Wilson, Mark Watson, Hazel Royalty, Jesse Cunningham and Hazel Wilson.

**LRC Staff:** Susan Harding, Joe Hood, Dan Risch, June Mabry, Carla Arnold, Chris Lilly, Roy Haddix, Barbara Rhoads, Scott Peyton, Janie Jones, Sandy Deaton, Carolyn Sparks and Shirley Hart.

**Press:** Herb Sparrow, Associated Press; Kurt Pickering, Kentucky Network News; Woodson Emmons, Lexington Herald-Leader; Barry Peel, Channel 36; Glen Osbourne, UPI; Bill Weathers, Kentucky Post; Richard Wilson and Livingston Taylor, Courier Journal.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the June 22, 1983 meeting were approved. On motion of Representative Bruce, seconded by Senator McCuiston, the minutes of the July 12 meeting with the State Board of Education were approved.

The following regulations were recommended for deferment by the subcommittee until the August 23 meeting:

### FINANCE AND ADMINISTRATION CABINET

#### Department of Administration

#### State Investment Commission

200 KAR 14:040. Priority to public depositories.

#### Board of Medical Licensure

201 KAR 9:030. Examinations.

**PUBLIC PROTECTION AND REGULATION CABINET****Department of Housing, Buildings and Construction****Kentucky Building Code**

815 KAR 7:070. Requirements for certification of Kentucky Building Code inspectors.

**Mobile Homes and Recreational Vehicles**

815 KAR 25:020. Recreational vehicles.

**CABINET FOR HUMAN RESOURCES****Department for Health Services****Maternal and Child Health**

902 KAR 4:040. Special Supplemental Food Program for Women, Infants and Children (WIC).

The subcommittee took no action on the following emergency regulations:

**CABINET FOR HUMAN RESOURCES****Department for Health Services****Maternal and Child Health**

902 KAR 4:040E. Special Supplemental Food Program for Women, Infants and Children (WIC).

**Department for Social Insurance****Public Assistance**

904 KAR 2:125E. Emergency food and shelter program.

The subcommittee recommended that the following regulations be approved for filing:

**KENTUCKY HIGHER EDUCATION****ASSISTANCE AUTHORITY****KHEAA Grant Programs**

11 KAR 5:010. Authority, purpose, name of grant programs.

**REVENUE CABINET****Department of Professional and Support Services****Income Tax; Individual**

103 KAR 17:010. Residence.

**FINANCE AND ADMINISTRATION CABINET****Board of Ophthalmic Dispensers**

201 KAR 13:010. Board; powers, duties, meetings.

201 KAR 13:040. Licensing; application, examination; temporary permit.

**NATURAL RESOURCES AND ENVIRONMENTAL****PROTECTION CABINET****Department for Environmental Protection****Division of Water Quality**

401 KAR 5:090. Control of water pollution from oil and gas facilities. (As amended)

**EDUCATION AND HUMANITIES CABINET****Department of Education****Pupil Transportation**

702 KAR 5:080. Bus drivers' qualifications; responsibilities.

**School Terms, Attendance and Operation**

703 KAR 2:010. Terms and months. (Representative Robinson voted no because it does not meet legislative intent.)

**Instructional Services**

704 KAR 3:304. Required program of studies.

704 KAR 3:305. Minimum unit requirements for high school graduation. (Representative Robinson voted no because it does not meet legislative intent.)

**Elementary and Secondary Education Act**

704 KAR 10:022. Elementary, middle and secondary schools standards.

**PUBLIC PROTECTION AND REGULATION CABINET****Department of Insurance****Agents, Consultants, Solicitors and Adjusters**

806 KAR 9:130. Agent's assumed business name.

**Kentucky Harness Racing Commission****Harness Racing Rules**

811 KAR 1:125. Pari-mutuel rules.

**CABINET FOR HUMAN RESOURCES****Administration**

900 KAR 2:010. Access and hours of visitation. (Senator Travis voted no.)

**Department for Health Services****Communicable Diseases**

902 KAR 2:090. Tuberculosis testing. (Representative Robinson voted no because it does not conform to statutory authority according to case law.)

**State and Local Confinement Facilities**

902 KAR 9:010. Environmental health.

**Certificate of Need and Licensure Board**

902 KAR 20:111. Medical detoxification services.

902 KAR 20:115. Ambulance services.

902 KAR 20:160. Chemical dependency treatment services and facility specifications.

902 KAR 20:180. Psychiatric hospitals; operation and services.

**Department for Social Insurance****Public Assistance**

904 KAR 2:006. Technical requirements; AFDC.

904 KAR 2:125. Emergency food and shelter program

**Food Stamp Program**

904 KAR 3:035. Certification process.

The meeting was adjourned at 2:20 p.m. on July 28 until August 23-24, 1983.

# *Administrative Register* <sup>of</sup> *kentucky*

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# Locator Index—Effective Dates

NOTE: Emergency regulations expire on being repealed or replaced.

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