

LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

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UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND  
A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING  
AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING  
DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is February 9 and 10, 1987. See tentative agenda on pages 1403-1404 of this Administrative Register.

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**KENTUCKY ADMINISTRATIVE REGULATIONS** are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

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

#### **ADMINISTRATIVE REGISTER OF KENTUCKY**

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
TENTATIVE AGENDA  
February 9, 1987  
(Rm. 110, Capitol Annex @ 2 p.m.)

HIGHER EDUCATION ASSISTANCE AUTHORITY

KHEAA Grant Programs

- 11 KAR 5:010. Authority, purpose, name of grant programs.
- 11 KAR 5:030. Student eligibility requirements.

Work Study Program

- 11 KAR 6:010. Commonwealth work study program.

COUNCIL ON HIGHER EDUCATION

Public Educational Institutions

- 13 KAR 2:040. Residency classification policy. (Repeals 13 KAR 2:010).
- 13 KAR 2:050. Tuition policy. (Repeals 13 KAR 2:030)

GENERAL GOVERNMENT CABINET

Board of Medical Licensure

- 201 KAR 9:083. Certification and supervision of physician assistants. (Amended After Hearing) (Deferred from January)

Board of Speech-Language Pathology & Audiology

- 201 KAR 17:090. Continuing education requirements.

COMMERCE CABINET

Department of Agriculture

Pesticides

- 302 KAR 31:010 & E. Hearings to determine suspension, modification, or revocation of license.
- 302 KAR 31:011 & E. Informal proceedings.

CABINET FOR NATURAL RESOURCES & ENVIRONMENTAL PROTECTION

Nature Preserves Commission

- 400 KAR 2:060. Definitions. (Repeals 400 KAR 2:010, 400 KAR 2:020, 400 KAR 2:030, 400 KAR 2:040, 400 KAR 2:050)
- 400 KAR 2:070. The Nature Preserves Commission.
- 400 KAR 2:080. Dedication of nature preserves and registration of natural areas.
- 400 KAR 2:090. Management, use, and protection of nature preserves.
- 400 KAR 2:100. Hearings and appeals.

Division for Air Quality

General Administrative Procedures

- 401 KAR 50:015. Documents incorporated by reference.

Hazardous Pollutants

- 401 KAR 57:050. Inorganic arsenic emissions from primary copper smelters.
- 401 KAR 57:055. Inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities.

New Source Standards

- 401 KAR 59:031. New nitric acid production units. (Repeals 401 KAR 59:030)
- 401 KAR 59:041. New hot mix asphalt facilities. (Repeals 401 KAR 59:040)

CORRECTIONS CABINET

Office of the Secretary

- 501 KAR 6:020. Corrections policies and procedures.
- 501 KAR 6:030. Kentucky State Reformatory.
- 501 KAR 6:040. Kentucky State Penitentiary.
- 501 KAR 6:060. Northpoint Training Center.
- 501 KAR 6:080. Corrections Cabinet manuals.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
TENTATIVE AGENDA  
February 10, 1987  
(Rm. 110, Capitol Annex @ 10 a.m.)

TRANSPORTATION CABINET

Department of Vehicle Regulation

Motor Carriers

- 601 KAR 1:140 & E. U-Drive-It permit and usage tax.

Coal Transportation

- 601 KAR 35:020. Transportation plans. (Repeals 601 KAR 35:040 and 601 KAR 35:050)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
TENTATIVE AGENDA

February 10, 1987 (continued from preceding page)  
(Rm. 110, Capitol Annex @ 10 a.m.)

Department of Highways

Traffic

- 603 KAR 5:110. Permits for moving mobile homes.
- 603 KAR 5:115. Coal-haul highway system; reporting requirements.
- 603 KAR 5:190. Vehicles prohibited on I-75 & 71.
- 603 KAR 5:200. Vehicles prohibited on I-471.
- 603 KAR 5:210. Extended weight coal haul road system.
- 603 KAR 5:220. Cooperative agreements for transportation of coal.
- 603 KAR 5:230. Bridge weight limits on the extended weight coal haul road system.

EDUCATION AND HUMANITIES CABINET  
Governor's Commission on Literacy

Adult Literacy Program

- 700 KAR 1:010. Adult literacy program fund.

LABOR CABINET

Occupational Safety and Health

- 803 KAR 2:020. Adoption of 29 CFR Part 1910.
- 803 KAR 2:027. Adoption of 29 CFR Parts 1915, 1917, 1918 and 1919, maritime employment.
- 803 KAR 2:030. Adoption of 29 CFR Part 1926.
- 803 KAR 2:250. Discrimination.

PUBLIC PROTECTION AND REGULATION CABINET  
Department of Insurance

Rates and Rating Organizations

- 806 KAR 13:100. Motor vehicle comprehensive insurance rate discounts for anti-theft devices.  
(Amended After Hearing)

Health Insurance Contracts

- 806 KAR 17:080. Long-term health care insurance. (Amended After Hearing)  
Kentucky State Racing Commission

Thoroughbred Racing Rules

- 810 KAR 1:006. Racing associations.

HARNESS RACING COMMISSION

Harness Racing Rules

- 811 KAR 1:055. Declaration to start; drawing horses.

CABINET FOR HUMAN RESOURCES  
Department for Health Services

Hospitalization of Mentally Ill and Mentally Retarded

- 902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

State Health Plan

- 902 KAR 17:010. State health plan. (Amended After Hearing)

Certificate of Need and Licensure

- 902 KAR 20:008. License procedures and fee schedule. (Deferred from January)
- 902 KAR 20:016. Hospitals, operation and services.
- 902 KAR 20:026 & E. Operations and services; skilled nursing facilities. (Deferred from January)
- 902 KAR 20:048 & E. Operations and services; nursing homes. (Deferred from January)
- 902 KAR 20:051 & E. Operations and services; intermediate care. (Deferred from January)
- 902 KAR 20:086. Operation and services; intermediate care facilities for the mentally retarded and developmentally disabled.
- 902 KAR 20:200. Tuberculosis testing in long term care facilities.

Department for Employment Services

Unemployment Insurance

- 903 KAR 5:260. Unemployment insurance procedures.

Department for Social Insurance

Public Assistance

- 904 KAR 2:150. Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program.

Department for Medicaid Services

Medicaid Services

- 907 KAR 1:250 & E. Incorporation by reference of materials relating to the Medical Assistance Program.



## REGULATION REVIEW PROCEDURE

## Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, including public hearing information (described below), the tiering statement required by KRS 13A.210, the regulatory impact analysis as required by KRS 13A.240, and the fiscal note required by KRS 13A.250.

All proposed administrative regulations received by the deadline required in KRS 13A.050, as well as the information required above, shall be published in the Administrative Register.

Following publication in the Administrative Register, all proposed administrative regulations shall be referred by the Legislative Research Commission to the appropriate committee or subcommittee for review.

## Public Hearing

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

Any person interested in attending the scheduled hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will place the letter of cancellation in the file of the original administrative regulation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

## Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and following publication shall be sent to the appropriate committee for review at its next meeting. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the regulation shall be sent to the appropriate committee for review at its next meeting. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the subcommittee meets.

## EMERGENCY REGULATIONS NOW IN EFFECT

(NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.)

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A, the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Department of Personnel in accordance with KRS Chapter 18A, the Department of Personnel needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative

regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
THOMAS C. GREENWELL, Commissioner

## DEPARTMENT OF PERSONNEL

101 KAR 2:040E. Applications and examinations.

RELATES TO: KRS 18A.030, 18A.110, 18A.120  
PURSUANT TO: KRS Chapter 13A, 18A.030,  
18A.110, 18A.150  
EFFECTIVE: January 15, 1987

**NECESSITY AND FUNCTION:** KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern open competitive exams to test the relative fitness of applicants and for the rejection of candidates or eligibles who fail to meet reasonable requirements of the commissioner. This regulation is necessary to implement these statutory requirements and to assure uniformity in administering exams.

**Section 1. Notices of Examinations.** Examinations for entrance to the classified service shall be conducted on an open-competitive basis. For those job classifications in which there is expected to be a considerable and recurring need of eligibles, the commissioner shall establish a recruitment program which shall be both positive and continuous. Under such plan, applications may be accepted at any time and examinations held whenever and wherever the commissioner deems it desirable for the service. For those job classifications for which continuous recruitment is not needed, special announcements will be used. Eligibles will be listed in rank order irrespective of dates on which the examination was taken. Notice of examinations shall be announced publicly fifteen (15) days prior to opening and may be distributed to public officials, employment service offices, newspapers, radio stations, educational institutions, professional and vocational societies, other media and such other individuals and organizations as the commissioner may deem expedient. The public notice of examination shall specify the title and minimum salary of the job classifications; the minimum qualifications required; the final date on which application will be received; the relative weights to be assigned to different parts of the examination; and all pertinent information and requirements.

**Section 2. Minimum Qualifications for Filing.** Open-competitive examinations shall be open to all applicants who meet the standards or requirements fixed by the commissioner with regard to education, experience, age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position.

**Section 3. Previous Experience.** In determining whether a state employee meets the minimum requirements for experience required for a job classification, the department shall, in counting state service experience, consider only experience gained during permanent full-time employment.

**Section 4. Filing Applications.** (1) All applications shall be made on forms prescribed by the commissioner. Such application may require information concerning personal characteristics, education, experience, references, and other pertinent information. When the nature of the work is such that age limits are necessary, the commissioner after consultation with the appointing authority may approve the age limits, which shall be stated in the examination announcement. All applications shall be signed and the truth of the statements

contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to education and experience, but in no case shall admittance to the examinations constitute assurance of a passing grade.

(2) For those job classifications for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice.

(3) For those job classifications for which continuous recruitment is not needed, special announcement bulletins will be used. Applicants shall have fifteen (15) calendar days to apply for these special openings. The applications will be processed and those applicants who meet the minimum requirements will be notified of the testing dates.

**Section 5. Disqualification of Applicants.** The commissioner may refuse to examine an applicant, or, after examination, may disqualify such applicant, remove his name from a register, refuse to certify any eligible on a register or may consult with the appointing authority in taking steps to remove such person already appointed if:

(1) It is found that he does not meet any one of the preliminary requirements established for the examination for the class of position;

(2) He is unable to perform the duties of the class;

(3) He has made a false statement of material fact in his application;

(4) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(5) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(6) He has failed to submit his application correctly or within the prescribed time limits;

(7) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(8) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(9) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the governor;

(10) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(11) He has otherwise willfully violated the provisions of KRS Chapter 18A.

**Section 6. Advance Examinations.** Any applicant who does not meet minimum requirements as to education but who will meet these requirements as a result of the completion of further educational work which he has scheduled for the six (6) months following the date of receipt of application, may be allowed to take the examination at the discretion of the commissioner. An applicant taking the examination under this provision shall have his or her name entered on the register up to thirty (30) days prior to completing the educational requirements.

Section 7. Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular job classification for which he is competing and his general background and related knowledge, and shall be rated impartially. The commissioner may use a rating of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgement serves the need to discover the relative fitness of applicants.

Section 8. Conduct of Examinations. (1) Examinations shall be conducted in as many places in the Commonwealth as are found convenient for applicants and practicable for administration.

(2) The commissioner may designate monitors in various parts of the Commonwealth to take charge locally of examinations under instructions prescribed by him, provide for the compensation of such monitors, and make arrangements for the use of public buildings in which to conduct the examinations.

(3) Retest procedures.

(a) For open continuous testing an applicant may be admitted to the same exam or its alternate no more than two (2) times within a regular workweek.

(b) For open continuous testing an applicant shall not be permitted to take the same exam or its alternate more than twelve (12) times in a twelve (12) month period beginning with the original date such test is taken.

(c) Retest procedures for examinations listed on special announcements shall be stated on the bulletin.

(d) An applicant who is removed from a register under 101 KAR 2:050, Section 6(1) who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to retest for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

Section 9. Rating Examinations. The commissioner shall determine the rating or standing of applicants on the register for all examinations. Such final rating shall be based upon a weighted average of the various parts of the total examination. All applicants for the same job classification shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 10. Rating Education and Experience. (1) When the rating of education and experience forms a part of the total examination, the commissioner shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity of experience and the pertinency of the education.

(2) The commissioner shall investigate the candidate's educational record form. The commissioner may investigate the candidate's work history. If the results of this investigation bring out information affecting the rating of education and experience, the

commissioner may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate.

Section 11. Oral Examinations. When an oral examination forms a part of the total examination for a position, the commissioner shall appoint one (1) or more oral examination panels as needed. An oral examination panel shall consist of three (3) or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel of whom one (1) shall be technically familiar with the character of work in the position for which the applicants will be examined. Whenever practicable, all candidates for the same job classification who qualify for the oral examination shall be rated by the same oral examination panel. A member of an oral examination panel shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

Section 12. Notice of Examination Results. Each competitor shall be notified of his final rating as soon as the rating of the examination has been completed. Eligibles shall be entitled to information concerning their relative position on the register upon request and presentation of proper identification.

Section 13. Adjustment of Errors. An error in the rating of an examination, if called to the attention of the commissioner within thirty (30) days after receipt by the applicant of the notice of examination results shall be corrected by the commissioner provided, however, that such corrections shall not invalidate any certification and appointment previously made.

Section 14. Special Examinations. Except in the case of an error in the examining of an applicant, no applicant shall be given a special examination unless the board by formal recorded action finds that the applicant's failure to take or complete an examination was due to circumstances entirely beyond the control of the applicant. The board's findings and recommendations shall be recorded in its minutes. No claim for a special examination shall be allowed unless it is filed in writing with the board within fifteen (15) days after the date of the original examination. Any special examination shall be constructed on a pattern similar to, and as extensive as, the original examination. Any such special examination shall not invalidate any certification or appointment previously made.

Section 15. Examination Records. The commissioner shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the register.

THOMAS C. GREENWELL, Commissioner  
APPROVED BY AGENCY: January 15, 1987  
FILED WITH LRC: January 15, 1987 at noon

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A, the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Department of Personnel in accordance with KRS Chapter 18A, the Department of Personnel needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
THOMAS C. GREENWELL, Commissioner

## DEPARTMENT OF PERSONNEL

## 101 KAR 2:050E. Registers.

RELATES TO: KRS 18A.005, 18A.110, 18A.120  
PURSUANT TO: KRS Chapter 13A, 18A.030, 18A.040, 18A.110

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern the establishment of eligible lists for appointment and for the rejection of candidates or eligibles who do not meet reasonable selection requirements of the commissioner. This regulation is necessary to comply with these statutory requirements.

Section 1. Responsibility for Maintenance of Registers. It shall be the duty of the appointing authorities to notify the commissioner as far in advance as possible of vacancies in full-time or part-time classified positions which may occur in the agencies. The commissioner shall be responsible for the establishment and maintenance of appropriate registers for all full-time or part-time classified positions and for the determination of the adequacy of existing registers.

Section 2. Open-Competitive Registers. After each open-competitive examination, the commissioner shall prepare a register of persons with passing grades seeking employment in a full-time or part-time classified position. The names of such persons shall be placed on the register in the order of their final ratings, starting with the highest. Registers for job classifications listed on the special announcement bulletins shall be filled no sooner than five (5) days after the final testing date.

Section 3. Use of Related Registers. If a full-time or part-time vacancy exists in a job classification for which there is no appropriate register, the commissioner may prepare a full-time or part-time register for the job classification from one (1) or more existing related registers. The commissioner shall select registers from job classifications for which the minimum qualifications are comparable to or higher than those required for the job classification in which the vacancy exists. The commissioner may, if appropriate, re-rate training and experience on the basis of the minimum qualification required for the job

classification in which the vacancy exists.

Section 4. Duration of Registers. (1) A register shall expire automatically at the end of two (2) years from the time of its establishment unless the register is extended by the commissioner for a period not to exceed one (1) additional year or terminated by the commissioner.

(2) The life of registers for job classifications for which continuous recruitment and examination is conducted shall be indefinite but may be terminated by the commissioner. The names of eligibles shall be added to and removed from such registers on a continuous basis. Normally, the name of an eligible shall not remain on a register for a job classification in the continuous program for longer than two (2) years from the date of its entry on the register. Whenever the name of an eligible is removed from a register, the eligible shall be notified in writing.

(3) When a register becomes so depleted that the preparation of usable certificates for a major portion of the imminent vacancies of the job classification is impracticable, the register will be considered exhausted. The register which has become exhausted shall be considered expired upon the administration of a superseding examination and the establishment of a register on the basis of that examination. When a register becomes exhausted, the commissioner shall send to each eligible remaining on such register a notification prior to the administration of a superseding examination.

Section 5. Replenishment of Registers. If the commissioner determines that a register, although not exhausted, is inadequate for the filling of anticipated vacancies, he may announce an open competitive examination for the purpose of replenishing such register.

Section 6. Removal of Names from the Register. (1) Reasons for removal. The commissioner may, on receipt of authoritative information, remove the name of an eligible from the appropriate full-time or part-time register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(2) An applicant who is removed from a register under Section 6(1) of this regulation who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to be restored to the register for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

(3) [(2)] The names of eligibles who have been considered for a probationary full-time or part-time appointment three (3) times by any one (1) or more appointing authorities and have not been offered employment may be removed from a full-time or part-time register if it is determined they would not be suited to the type of work found in the class for which the register is established.

(4) [(3)] When the Department of Personnel is authoritatively notified that an eligible has accepted a bona fide offer of probationary appointment to any full-time or part-time classified position, effective on a specified date, his name may be removed from the registers for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

(5) [(4)] Whenever an eligible's name is removed from a full-time or part-time register for reasons cited in subsections (1), (2) and (3) of this section, the commissioner shall notify, in writing, the eligible of this action and the reasons therefor, together with his right of appeal to the board pursuant to 101 KAR 1:350. A copy of the appeal form shall be attached to the notice. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board upon appeal.

(6) [(5)] Whenever an eligible notifies the Department of Personnel in writing that he is unavailable for employment or employment consideration, the department may remove the name of that eligible from the appropriate full-time or part-time register without further notification to the person.

Section 7. Promotional Register. At the request of the appoint authority, the commissioner shall prepare a register of status employees interested in promotion to a full-time or part-time classified position who meet the minimum requirements and has obtained a passing grade on the competitive promotional examination. The names of such employees shall be placed on the register in the order of their final ratings, starting with the highest. The register shall be certified to agencies for their consideration in filling vacancies from a promotional register.

Section 8. Full-Time or Part-Time Re-employment Registers. The commissioner shall prepare re-employment registers in accordance with 101 KAR 1:330, Section 5.

Section 9. Cooperation with Other Merit Systems. The commissioner may cooperate with the governmental agencies of other jurisdictions whose merit systems operate in conformity with standards comparable to those contained in these

regulations. The commissioner may announce and administer joint examinations and establish joint lists from which eligibles shall be certified for appointment in accordance with the provisions of these regulations.

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: January 15, 1987

FILED WITH LRC: January 15, 1987 at noon

#### STATEMENT OF EMERGENCY

In order to continue to operate the Kentucky State Penitentiary in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to revise their policy regarding the manner in which inmates receive mail and packages to bring it into accordance with recently revised cabinet policy. This emergency regulation will be replaced by the ordinary administrative regulation filed with the Legislative Research Commission on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

GEORGE W. WILSON, Secretary

#### CORRECTIONS CABINET

##### 501 KAR 6:040E. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [December 15, 1986] and hereinafter should be referred to as Kentucky State Penitentiary Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSP 000000-06	Administrative Regulations
KSP 010000-04	Public Information and Media Communication
KSP 020000-01	General Guidelines for KSP Employees
KSP 020000-02	Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave
KSP 020000-03	Work Planning and Performance Review (WPPR)
KSP 020000-04	Employee Disciplinary Procedure
KSP 020000-05	Proper Dress for Uniformed and Non-Uniformed Personnel
KSP 020000-06	Employee Grievance Procedure
KSP 020000-07	Personnel Registers and Advertisements

KSP 020000-09	Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files	KSP 100000-14	Property Room: Clothing Storage and Inventory
KSP 020000-10	Overtime Policy	KSP 100000-15	Uniform Cell Standards for Fire Safety, Sanitation and Security [(Amended 12/15/86)]
KSP 020000-15	Legal Assistance	KSP 100000-18	Inmate Grievance Committee Hearings
KSP 020000-20	Equal Employment Opportunity Complaints	KSP 100000-20	Legal Services Program (Amended 1/14/87)
KSP 020000-23	Recruitment and Employment of Ex-Offenders	KSP 100000-21	Photocopies for Non-Indigent Inmates with Special Court Deadlines
KSP 020000-24	Educational Assistance Program	KSP 100000-22	Special Management Unit Legal Services Program
KSP 020000-29	Promotional Opportunity Announcement Program	KSP 100000-23	Inmate Legal Office/Legal Library
KSP 030000-01	Inventory Records and Control	KSP 110000-03	Governor's Meritorious Good Time Award Committee
KSP 030000-04	Requisition and Purchase of Supplies and Equipment	KSP 110000-04	Pre-Parole Progress Report
KSP 030000-05	Inmate Personal Funds	KSP 110000-06	General Guidelines of the Classification Committee
KSP 030000-06	Inmate Commissary Program	KSP 110000-07	Statutory Good Time Restoration [(Amended 12/15/86)]
KSP 040000-02	Inmate Records	KSP 110000-08	Award of Meritorious Good Time [(Amended 12/15/86)]
KSP 040000-08	Inmate Equal Opportunity Policy	KSP 110000-10	Special Needs Inmates
KSP 050000-14	Searches and Preservation of Evidence	KSP 110000-11	Classification Committee - Transfer Requests
KSP 060000-01	Special Security Unit	KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units	KSP 110000-13	Classification Document [(Amended 12/15/86)]
KSP 060000-04	Protective Custody Unit (Amended 1/14/87)	KSP 110000-14	Vocational School Placement
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program	KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 060000-12	Maximum Protective Custody	KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 070000-01	Hospital Services	KSP 110000-19	Custody/Security Guidelines
KSP 070000-02	Sick Call	KSP 120000-04	Academic Education
KSP 070000-03	Health Evaluations [(Amended 12/15/86)]	KSP 120000-07	Community Center Program
KSP 070000-04	Consultations [(Amended 12/15/86)]	KSP 120000-08	Inmate Furloughs
KSP 070000-05	Emergency Medical Procedure [(Amended 12/15/86)]	KSP 120000-11	Religious Services - Staffing
KSP 070000-13	Pharmacy Procedures [(Amended 12/15/86)]	KSP 120000-18	Religious Services - Religious Programming
KSP 070000-14	Medical Records [(Amended 12/15/86)]	KSP 120000-20	Marriage of Inmates
KSP 070000-16	Psychiatric and Psychological Services	KSP 120000-24	Muslim Services
KSP 070000-17	Dental Services for Special Management Units	KSP 120000-31	Extended Furloughs
KSP 070000-19	Optometric Services	KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 070000-20	Menu Preparation and Planning	KSP 130000-10	Execution Plan
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements		
KSP 070000-25	Food Service Inspections		
KSP 070000-30	Therapeutic Diets		
KSP 090000-01	Inmate Work Programs		
KSP 090000-03	Correctional Industries [(Amended 12/15/86)]		
KSP 100000-02	Visiting Program		
KSP 100000-03	Disposition of Unauthorized Property		
KSP 100000-04	Inmate Grooming and Dress Code		
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items		
KSP 100000-06	Inmate Mail and Packages (Amended 1/14/87)		
KSP 100000-07	Inmate Telephone Access		
KSP 100000-08	Behavioral Counseling Record		
KSP 100000-09	Due Process/Disciplinary Procedures		
KSP 100000-11	Authorized and Unauthorized Property for Inmates [(Amended 12/15/86)]		

GEORGE W. WILSON, Secretary  
 APPROVED BY AGENCY: January 14, 1987  
 FILED WITH LRC: January 15, 1987 at 10 a.m.

#### STATEMENT OF EMERGENCY

In order to continue to operate the Luther Luckett Correctional Complex in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to continue to operate an inmate grievance procedure in accordance with recently revised cabinet policy. This emergency regulation will be replaced by the ordinary administrative regulation filed with the Legislative Research Commission on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
 GEORGE W. WILSON, Secretary

## CORRECTIONS CABINET

## 501 KAR 6:050E. Luther Luckett Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [September 9, 1986] and hereinafter should be referred to as Luther Luckett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

LLCC 01-08-01 Institutional Legal Assistance  
 LLCC 01-09-01 Public Information and News Media Access  
 LLCC 01-12-01 Duty Officer Responsibilities  
 LLCC 02-01-02 Fiscal Management: Accounting Procedures  
 LLCC 02-01-03 Fiscal Management: Agency Funds  
 LLCC 02-01-04 Fiscal Management: Insurance  
 LLCC 02-03-01 Fiscal Management: Audits  
 LLCC 02-06-01 Property Inventory  
 LLCC 03-01-01 General Guidelines for LLCC Employees  
 LLCC 03-01-02 Service Regulations, Attendance Accumulation and use of Leave  
 LLCC 03-02-01 Proper Dress for Uniformed Personnel  
 LLCC 03-02-02 Replacement of Damaged or Destroyed Personal Property [(Added 9/9/86)]  
 LLCC 03-03-01 Employee Grievance Mechanism  
 LLCC 03-04-01 Employee Records  
 LLCC 03-05-01 Personnel Registers  
 LLCC 03-06-01 Work Planning: Employee Evaluations and Evaluation Control  
 LLCC 03-08-01 Shift Transfers  
 LLCC 03-08-02 Rotation of Correctional Officers Between Central Security and Unit Management Staff  
 LLCC 03-09-01 Promotion Board  
 LLCC 03-10-01 Affirmative Action: EEO  
 LLCC 03-12-01 Confidentiality of Information Roles and Services of Consultants, Contract Personnel and Volunteers  
 LLCC 08-01-01 Offender Records  
 LLCC 08-04-01 Storage of Expunged Records  
 LLCC 10-03-09 Duties and Responsibilities of Building 1 and 2 Officer  
 LLCC 11-03-01 LLCC Population Categories  
 LLCC 11-07-01 Adjustment Procedures for Minor Rule Violations  
 LLCC 11-09-01 Rules and Regulations of the Unit  
 LLCC 11-13-01 Inmate Dress and Use of Access Areas

LLCC 11-15-01 Post-Parole Furloughs  
 LLCC 11-16-01 Restoration of Forfeited Good Time  
 LLCC 11-18-02 Use of Monitor Telephone  
 LLCC 11-19-01 Unit Shakedowns/Control of Excess Property  
 LLCC 11-20-01 Program Services for "Special Needs"/Mentally Ill Inmates  
 LLCC 12-01-01 Special Management Inmates  
 LLCC 12-04-01 Guidelines for (7E) PC Unit/General Living Conditions  
 LLCC 13-01-01 Dining Room Guidelines [(Added 9/9/86)]  
 LLCC 13-04-01 Food Service: Meals  
 LLCC 13-04-02 Food Service: Menu, Nutrition and Special Diets  
 LLCC 13-05-02 Medical Screening of Food Handlers  
 LLCC 13-06-01 Food Service: Inspections and Sanitation  
 LLCC 13-07-01 Food Service: Purchasing, Storage and Farm Products  
 LLCC 14-01-01 Sanitation, Living Condition Standards, and Cloting Issue  
 LLCC 14-05-01 Institutional Inspections  
 LLCC 15-01-01 Health Maintenance Services; Sick Call and Pill Call  
 LLCC 15-02-01 Mental Health/Psychological Services  
 LLCC 15-03-01 Pharmacy  
 LLCC 15-03-02 Use of Psychotropic Medications  
 LLCC 15-04-01 Dental Services  
 LLCC 15-05-02 Licensure and Training Standards  
 LLCC 15-06-02 Specialized Health Services  
 LLCC 15-06-03 Emergency Medical/Dental Care Services  
 LLCC 15-06-04 First Aid/CPR Training Program  
 LLCC 15-06-05 Suicide Prevention and Intervention Program  
 LLCC 15-07-01 Health Records  
 LLCC 15-08-01 Special Diets  
 LLCC 15-12-01 Special Needs Unit  
 LLCC 15-14-01 Informed Consent  
 LLCC 15-15-01 Medical Restraints  
 LLCC 15-16-01 Health Education/Special Health Programs  
 LLCC 16-01-01 Inmate Rights and Responsibilities  
 LLCC 16-02-01 Inmate Grievance Procedure (Amended 1/14/87)  
 LLCC 16-03-01 Inmate Legal Services [(Amended 9/9/86)]  
 LLCC 17-01-01 Due Process/Disciplinary Procedure  
 LLCC 18-01-01 Inmate Correspondence  
 LLCC 18-01-02 Issuance of Legal Mail to Inmate Population  
 LLCC 18-02-01 Inmate Visiting  
 LLCC 18-02-03 Extended Visit and Furloughs [(Amended 9/9/86)]  
 LLCC 18-02-04 Meritorious Visits  
 LLCC 18-03-03 Inmate Visiting (DSU/ASU)  
 LLCC 20-01-01 Personal Property Control  
 LLCC 20-02-01 Authorized Inmate Personal Property  
 LLCC 20-03-01 Unauthorized Items  
 LLCC 20-04-02 Inmate Canteen  
 LLCC 20-05-01 Inmate Control of Personal Funds  
 LLCC 20-05-02 Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays  
 LLCC 20-06-01 Procedure for Sending Appliances to Outside Dealers for Repair  
 LLCC 21-02-01 Classification/Security Levels  
 LLCC 21-03-01 Classification Process  
 LLCC 22-01-01 OJT/Job Assignments  
 LLCC 23-01-01 Academic School  
 LLCC 26-01-01 Religious Services



LLCC 28-01-01 Privileged Trips  
 LLCC 28-03-01 Temporary Release/Community  
 Center Release  
 LLCC 28-04-01 Pre-Parole Progress Report  
 LLCC 28-04-02 Parole Eligibility Dates

GEORGE W. WILSON, Secretary  
 APPROVED BY AGENCY: January 14, 1987  
 FILED WITH LRC: January 15, 1987 at 10 a.m.

## STATEMENT OF EMERGENCY

In order to continue to operate the Northpoint Training Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to continue to operate an inmate grievance procedure in accordance with recently revised cabinet policy, as well as, implement other critical programmatic changes. This emergency regulation will be replaced by the ordinary administrative regulation filed with the Legislative Research Commission on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
 GEORGE W. WILSON, Secretary

## CORRECTIONS CABINET

## 501 KAR 6:060E. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439  
 PURSUANT TO: KRS 196.035, 197.020, 439.470,  
 439.590, 439.640

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [December 15, 1986] and hereinafter should be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

NTC 01-05-01 Extraordinary Occurrence Reports  
 NTC 01-10-01 Legal Assistance for Staff  
 NTC 01-11-01 Political Activities of Merit Employees  
 NTC 01-15-01 Establishment of the Warden as Chief Executive Officer  
 NTC 01-17-01 Relationships with Public, Media and Other Agencies  
 NTC 02-01-02 Fiscal Management: Accounting Procedures  
 NTC 02-01-03 Fiscal Management: Checks  
 NTC 02-01-04 Fiscal Management: Insurance  
 NTC 02-03-01 Fiscal Management: Audits  
 NTC 02-08-01 Inmate Canteen  
 NTC 02-12-01 Inmate Personal Accounts

NTC 03-01-01 Employee Dress and Personal Appearance  
 NTC 03-02-01 Prohibited Employee Conduct  
 NTC 03-03-01 Staff Members Suspected of Being Under the Influence of Intoxicants  
 NTC 03-04-01 Shift Assignments and Transfers  
 NTC 03-06-01 Worker's Compensation  
 NTC 03-07-01 Merit System Registers and Placement of Advertisements  
 NTC 03-08-01 Procedures for New Employees Reporting for Employment  
 NTC 03-09-01 Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File  
 NTC 03-10-01 Employment of Ex-Offenders  
 NTC 03-13-01 Travel Reimbursement for Official Business and Professional Meetings  
 NTC 03-14-01 Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees  
 NTC 03-14-02 Promotional Opportunities  
 NTC 03-15-01 Time and Attendance; Accumulation and Use of Accrued Time  
 NTC 03-15-02 Sick Leave Abuse  
 NTC 03-15-03 Inclement Weather and Emergency Conditions  
 NTC 03-16-01 Affirmative Action Program and the Promotion of EEO  
 NTC 03-18-01 Educational Assistance Program  
 NTC 03-19-01 Holding of Second Jobs by Employees  
 NTC 04-01-01 Training and Staff Development  
 NTC 04-04-01 Firearms and Chemical Agents Training  
 NTC 06-01-01 Offender Records  
 NTC 06-01-02 Records - Release of Information  
 NTC 06-01-03 Taking Offender Record Folders onto the Yard  
 NTC 08-05-01 Duties of Fire and Safety Officer [(Amended 12/15/86)]  
 NTC 08-05-02 Fire Procedures  
 NTC 08-05-03 Fire Prevention  
 NTC 08-05-04 Storage of Flammables and Dangerous Chemicals and Their Use  
 NTC 08-05-05 Control of Flammables, Toxic, Caustic, and Other Hazardous Chemicals and Janitorial Supplies  
 NTC 08-06-01 Safety Officer  
 NTC 10-01-01 Special Management Inmates  
 NTC 10-01-02 Legal Aide Visits for Special Management Inmates  
 NTC 10-02-01 Security Guidelines for Special Management Inmates  
 NTC 11-03-01 Food Services: General Guidelines  
 NTC 11-04-01 Food Service: Meals  
 NTC 11-04-02 Menu, Nutrition and Special Diets  
 NTC 11-05-02 Health Standards/Regulations for Food Service Employees  
 NTC 11-06-01 Inspections and Sanitation  
 NTC 11-07-01 Purchasing, Storage and Farm Products  
 NTC 12-01-01 Institutional Inspections  
 NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens  
 NTC 12-02-02 Issuance of Personal Hygiene Products  
 NTC 13-01-01 Emergency Medical Care Plan  
 NTC 13-01-02 Emergency and Specialized Health Services  
 NTC 13-02-01 Administration and Authority for Health Services  
 NTC 13-03-01 Sick Call and Pill Call  
 NTC 13-04-01 Pharmacy  
 NTC 13-05-01 Dental Services  
 NTC 13-06-01 Licensure and Training Standards  
 NTC 13-07-01 Provisions for Health Care Delivery



# ADMINISTRATIVE REGISTER - 1413

NTC 13-08-01 Medical and Dental Records  
 NTC 13-09-01 Special Diets  
 NTC 13-11-01 Inmate Health Screening and Evaluation  
 NTC 13-12-01 Disabled and Infirm Inmates  
 NTC 13-13-01 Medical Alert System  
 NTC 13-14-01 Management of Chemically Dependent Inmates  
 NTC 13-15-01 Health Education for Inmates  
 NTC 13-16-01 Continuity of Health Care  
 NTC 13-17-01 Inmates Assigned to Health Services  
 NTC 13-19-01 Psychological Services  
 NTC 13-19-02 Mentally Retarded Inmates  
 NTC 13-19-03 Suicide Prevention and Intervention Program  
 NTC 13-20-01 Infectious Disease  
 NTC 13-21-01 Vision Care/Optomety Services  
 NTC 13-22-01 Informed Consent  
 NTC 13-23-01 Special Needs Inmates [(Added 12/15/86)]  
 NTC 14-01-01 Legal Services Program  
 NTC 14-02-01 Inmate Grievance Procedure (Amended 1/14/87)  
 NTC 14-03-01 Inmate Rights and Responsibilities  
 NTC 14-04-01 Inmate Search Policy  
 NTC 15-01-01 Restoration of Forfeited Good Time  
 NTC 15-02-01 Due Process/Disciplinary Procedures (Amended 1/14/87)  
 NTC 15-02-02 Extra Duty Assignments  
 NTC 15-02-03 Hearing Officer  
 NTC 15-03-01 Rules for Inmates Assigned to Outside Detail  
 NTC 15-03-02 Rules and Regulations for Dormitories  
 NTC 15-04-01 Inmate Identification  
 NTC 16-01-01 Mail Regulations (Amended 1/14/87)  
 NTC 16-02-01 Visiting [(Amended 12/15/86)]  
 NTC 16-02-03 Honor Dorm Visiting  
 NTC 16-03-01 Inmate Furloughs  
 NTC 16-05-01 Telephone Use and Control  
 NTC 17-01-01 Personal Property Control  
 NTC 17-01-02 Authorized Inmate Personal Property  
 NTC 17-01-03 Unauthorized Inmate Property  
 NTC 17-01-04 Disposition of Unauthorized Property (Amended 1/14/87)  
 NTC 17-03-01 Assessment/Orientation  
 NTC 18-01-01 Pre-Parole Progress Report  
 [NTC 18-01-02 Parole Eligibility Dates]  
 NTC 18-02-01 Classification  
 NTC 18-02-02 Classification - 48 Hour Notification  
 NTC 18-03-01 Special Notice Form  
 NTC 18-05-01 Transfers of Inmates  
 NTC 18-05-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center  
 NTC 19-01-01 Inmate Work Program  
 NTC 19-01-02 Restricted Outside Work Crew  
 NTC 19-01-03 Temporary Leave from Job Assignment  
 NTC 19-02-01 Correctional Industries  
 NTC 20-01-01 Academic School Program (Amended 1/14/87)  
 NTC 21-01-01 Library Services  
 NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs  
 NTC 23-01-01 Religious Services [(Amended 12/15/86)]  
 NTC 23-03-01 Marriage of Inmates [Amended 12/15/86)]  
 NTC 24-04-01 Honor Status [(Amended 12/15/86)]  
 NTC 24-05-01 Unit Management  
 NTC 25-01-01 Release Preparation Program  
 NTC 25-01-02 Temporary Release/Community Center Release  
 NTC 25-02-01 Funeral Trips and Bedside Visits  
 NTC 25-03-01 Inmate Release Procedure

NTC 26-01-02 Certification of Volunteers and Guests

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 15, 1987 at 10 a.m.

## STATEMENT OF EMERGENCY

In order to continue to operate the Kentucky Correctional Institution for Women in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to continue to operate an inmate grievance procedure in accordance with recently revised cabinet policy. This emergency regulation will be replaced by the ordinary administrative regulation filed with the Legislative Research Commission on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

GEORGE W. WILSON, Secretary

## CORRECTIONS CABINET

501 KAR 6:070E. Kentucky Correctional Institution for Women.

RELATES TO: KRS Chapters 196, 197, 439  
 PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [July 15, 1986] and hereinafter should be referred to as Kentucky Correctional Institution for Women Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KCIW 01-06-01 Legal Assistance for Corrections Staff  
 KCIW 01-08-01 News Media Access  
 KCIW 02-01-01 Comprehensive Insurance Coverage  
 KCIW 02-02-01 Fiscal Management: Audits  
 KCIW 02-02-03 Fiscal Management: Checks  
 KCIW 02-02-04 Institution Purchasing Procedures  
 KCIW 02-03-01 Inventory Control of Non-Expendable Personal Property  
 KCIW 02-03-03 Criteria for Selection of Bidders and Vendors  
 KCIW 02-04-01 Accounting Procedures  
 KCIW 02-05-01 Inmate Canteen/Staff Canteen  
 KCIW 02-07-01 Release of C.E.T.A. Money Earned  
 KCIW 03-01-01 Travel Expense Reimbursement  
 KCIW 03-02-01 General Orders for Staff  
 KCIW 03-02-02 Inclement Weather and Emergency Conditions  
 KCIW 03-03-01 Employee Grievance Procedure

# ADMINISTRATIVE REGISTER - 1414

KCIW 03-05-01	Employee Personnel File	KCIW 16-03-02	Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages
KCIW 03-06-01	Affirmative Action and the Equal Employment Opportunity Complaint Procedure	KCIW 16-04-01	Inmate Indigent Fund
KCIW 03-08-01	Employee Performance Evaluations	KCIW 16-05-01	<u>Commercial</u> Vendor Packages, Appliance [Orders] and Drug Store Orders <u>(Amended 1/14/87)</u>
KCIW 03-09-01	Payroll and Personnel Manning Records	KCIW 17-01-01	Assessment Center Operation and Reception Programs
KCIW 03-10-01	Promotion Committee	KCIW 17-01-02	Assessment/Classification Center Operations, Rules and Regulations [(Amended 7/15/86)]
KCIW 03-11-01	Personnel Registers	KCIW 17-01-03	Assessment and Classification Unit Property Guidelines
KCIW 03-12-01	Criminal History Checks on all Personnel and the Recruitment and Employment of Ex-Offenders	KCIW 17-02-01	Identification Department Admissions
KCIW 06-01-01	Inmate Records	KCIW 17-03-01	Notifying Inmates Families of Admission and Procedures for Mail and Visiting [(Amended 7/15/86)]
KCIW 06-01-02	Transfers to Community Centers and the Minimum Security Unit	KCIW 17-05-01	Inmate Personal Property
KCIW 06-01-03	Storage of Expunged Records	KCIW 18-01-02	Institutional Housing Assignments
KCIW 10-01-01	Special Management Unit General Operation and Regulations	KCIW 18-02-01	Classification Procedures
KCIW 10-01-02	Special Management Unit Programs, Placement and Review	KCIW 18-05-01	Special Needs Inmates
KCIW 11-01-01	Food Service Operation Inspections	KCIW 18-06-01	Institutional Status Codes
KCIW 11-01-02	Budgeting, Accounting, and Purchasing Procedures for Food Products	KCIW 19-01-01	Inmate Work/Program Assignments
KCIW 11-02-01	Menu Preparation/Special Diets	KCIW 19-03-01	Landscape and Maintenance Work Details
KCIW 11-03-01	General Guidelines for Food Service Operations Manager	KCIW 20-01-01	Education Programs
KCIW 11-03-02	General Guidelines for Food Service Workers	KCIW 20-01-03	Vocational Education: Curriculum Flexible Schedule, Up-grade Programs and Release Preparation Program [(Amended 7/15/86)]
KCIW 11-04-01	Health Standards, Regulations for Food Service Workers	KCIW 20-01-04	Entry - Exit Vocational School
KCIW 12-01-01	Control of Pests and Vermin	KCIW 20-01-05	Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records [(Amended 7/15/86)]
KCIW 12-02-01	Laundry Facilities/Clothing Issuance	KCIW 20-01-06	Vocational Education: Staffing Patterns/Requirements
KCIW 12-02-03	Donated Items	KCIW 20-01-07	Vocational Counselor [(Amended 7/15/86)]
KCIW 12-04-01	Sanitation and General Living Conditions	KCIW 20-01-08	Vocational Education: Community Resources and the Integration with Academic Progress
KCIW 13-01-01	Provision of Medical and Dental Care	KCIW 20-01-09	Vocational Education: Support Equipment [(Amended 7/15/86)]
KCIW 13-01-02	Preliminary Health Screening and Appraisal	KCIW 20-01-10	Control of Flammable, Hazardous, Toxic and Caustic Materials in the Vocational Area
KCIW 13-01-03	Use of Pharmaceutical Products	KCIW 22-01-04	Inmate Club Activities
KCIW 13-03-01	Emergency Care	KCIW 23-01-01	Religious Services
KCIW 13-03-02	Infirmary Care and Outside Services	KCIW 25-01-01	Pre-Parole Progress Report [(Amended 7/15/86)]
KCIW 13-03-03	Outside Hospital Security	KCIW 25-02-01	Temporary Release/Community Center
KCIW 13-04-01	Medical Alert System	KCIW 25-02-02	Furloughs [(Amended 7/15/86)]
KCIW 13-04-02	Psychiatric/Psychological Services	KCIW 25-03-01	Escorted Leave into the Community
KCIW 13-06-01	Informed Consent		
KCIW 13-07-01	Detoxification and Alcohol or Chemical Dependency Guidelines [(Amended 7/15/86)]		
KCIW 13-08-01	Medical Exams for New Employees		
KCIW 14-01-02	Inmate Rights [(Amended 7/15/86)]		
KCIW 14-02-01	Access to Attorneys and Designated Counsel Substitutes [(Amended 7/15/86)]		
KCIW 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap, or Political Beliefs		
KCIW 14-04-01	Inmate Grievance Procedure <u>(Amended 1/14/87)</u>		
KCIW 15-01-01	Offenses and Penalties		
KCIW 15-01-02	Adjustment Committee Procedures and Programs		
KCIW 15-03-01	Inmate Rule Book		
KCIW 15-04-01	Incentive Levels System		
KCIW 16-01-01	Inmate Correspondence		
KCIW 16-01-02	Inmate Mail Distribution		
KCIW 16-01-03	Staff Mail		
KCIW 16-02-01	Inmate Access to Telephone		
KCIW 16-02-02	Intra-Institution Phone Calls		
KCIW 16-03-01	Inmate Visiting Regulations		

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 15, 1987 at 10 a.m.

## STATEMENT OF EMERGENCY

In order to continue to operate the Frankfort Career Development Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to continue to operate an inmate grievance procedure in accordance with recently revised cabinet policy. This emergency regulation will be replaced by the ordinary administrative

regulation filed with LRC on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
GEORGE W. WILSON, Secretary

**CORRECTIONS CABINET**

**501 KAR 6:090E. Frankfort Career Development Center.**

RELATES TO: KRS Chapters 196, 197, 439  
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [November 14, 1986] and hereinafter should be referred to as Frankfort Career Development Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

FCDC 01-04-01 Confidentiality of Information  
Roles and Services of Consultant,  
Contract Personnel, Governmental  
Services Supervisors and  
Volunteers

FCDC 02-10-01 Fiscal Management and Control  
[(Amended 11/14/86)]

FCDC 02-11-01 Fiscal Management: Accounting  
Procedures

FCDC 02-12-01 Fiscal Management: Checking  
Accounts [(Amended 11/14/86)]

FCDC 02-13-01 Purchasing and Receiving

FCDC 03-01-02 Security Manual Part 1: Staff  
Guidelines

FCDC 03-10-01 Dress Code

FCDC 03-15-01 Travel Expense Reimbursement

FCDC 03-16-01 Employee Grievance Procedure  
(Amended 1/14/87)

FCDC 03-21-01 Time and Attendance

FCDC 06-02-01 Inmate Records [(Amended  
11/14/86)]

FCDC 11-01-01 Special Diets

FCDC 11-03-01 Food Services [(Amended 11/14/86)]

FCDC 12-03-01 Laundry, Clothing, Hygiene and  
Grooming Services [(Amended  
11/14/86)]

FCDC 13-01-01 Use of Pharmaceutical Products

FCDC 13-01-02 Medical Emergencies

FCDC 13-01-03 Informed Consent

FCDC 13-02-01 Inmate Medical Screenings and  
Health Evaluations [(Amended  
11/14/86)]

FCDC 13-03-01 Psychiatric and Psychological  
Services

FCDC 13-03-02 Parental Administration of  
Medications and Use of  
Psychotropic Drugs

FCDC 13-04-01 Intra-System Transfers of  
Medical/Psychiatric Problems

FCDC 13-06-01 Chronic and Convalescent Care

FCDC 13-08-01 Sick Call/Physician's Bi-Monthly  
Clinic [(Added 11/14/86)]

FCDC 13-09-01 Management of Serious and  
Infectious Diseases [(Added  
11/14/86)]

FCDC 13-10-01 Treatment Protocol Regarding  
First-Aid Procedures, Routine  
Health Care

FCDC 13-11-01 Health Education: Provision of  
Special Health Care Needs

FCDC 13-12-01 Elective Services [(Added  
11/14/86)]

FCDC 13-13-01 Physicians Referrals

FCDC 13-14-01 Health Records [(Amended  
11/14/86)]

FCDC 13-15-01 Routine and Emergency Dental  
Appointments

FCDC 13-16-01 Routine and Emergency Eye  
Examinations

FCDC 14-01-01 Prohibiting Inmate Authority Over  
Other Inmates

FCDC 14-02-01 Inmate Grievance System

FCDC 14-03-01 Inmates Are Not Subject to  
Discrimination Based on Race,  
Religion, National Origin, Sex,  
Handicap or Political Beliefs and  
Are Protected Against Corporal  
Punishment [(Amended 11/14/86)]

FCDC 14-04-01 Legal Services Program [(Amended  
11/14/86)]

FCDC 15-01-01 Good Time - Credits (Meritorious,  
Governor's and Statutory)

FCDC 15-03-01 Conduct of Adjustment Committee  
Hearings (Chairperson)

FCDC 16-01-01 Inmate Visiting

FCDC 16-02-01 Mail Policy [(Amended 11/14/86)]

FCDC 16-03-01 Inmate Access to Telephones  
[(Amended 11/14/86)]

FCDC 17-01-01 Inmate Property Control

FCDC 17-02-01 Inmate Reception, Orientation,  
and Discharge [(Amended 11/14/86)]

FCDC 18-01-01 Inmate Classification [(Amended  
11/14/86)]

FCDC 18-02-01 Reclassification Document

FCDC 18-03-01 Instructions for Six Month Review

FCDC 19-01-01 Security and Operation of the  
Governmental Services Program

FCDC 19-02-01 Inmate Work Program

FCDC 20-01-01 Academic and Vocational Education  
(Added 11/14/86)

FCDC 22-01-01 Privilege Trips

FCDC 22-01-02 Activity Trips

FCDC 22-02-01 Recreation and Inmate Activities

FCDC 23-01-01 Religious Activities

FCDC 24-01-01 Social Service Program

FCDC 24-02-01 Substance Abuse Programs

FCDC 25-01-01 Escorted Leaves

FCDC 25-02-01 Temporary Release/Community  
Center Program

FCDC 25-03-01 Release Preparation Program

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 15, 1987 at 10 a.m.

**STATEMENT OF EMERGENCY**

In order to continue to operate the Roederer Farm Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to continue to operate

an inmate grievance procedure in accordance with recently revised cabinet policy, as well as, implement other critical programmatic changes. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
GEORGE W. WILSON, Secretary

### CORRECTIONS CABINET

#### 501 KAR 6:110E. Roederer Farm Center.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [November 14, 1986] and hereinafter should be referred to as Roederer Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

RFC 01-04-02	Extraordinary Occurrence Procedure [(Added 11/14/86)]	RFC 03-01-02	Service Regulations, Attendance Accumulation and Use of Leave
RFC 01-06-01	Inmate Access to and Communication with RFC Staff [(Amended 11/14/86)]	RFC 03-03-01	Employee Grievance Procedures
RFC 01-07-01	Institutional Legal Assistance	RFC 03-04-01	Personnel Records
RFC 01-08-01	Public Information and News Media Access	RFC 03-05-01	Personnel Vacancies: Promotion Board [(Amended 11/14/86)]
RFC 01-10-01	RFC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies	RFC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control
RFC 01-09-01	Staff Participation in Professional Organization and Conferences; Provisions for Leave and Reimbursement for Expenses	RFC 03-07-01	Affirmative Action - E.E.O.
RFC 01-12-01	Institutional Duty Officer - Responsibilities	RFC 03-08-01	Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, and Volunteers
RFC 02-01-01	Fiscal Management: Organization	RFC 03-09-01	Personnel Manning Review [(Amended 11/14/86)]
RFC 02-01-02	Fiscal Management: Accounting Procedures	RFC 03-10-01	Employee's Handbook
RFC 02-01-03	Fiscal Management: Agency Funds	RFC 03-11-01	Replacement of Damaged or Destroyed Personal Property
RFC 02-01-04	Fiscal Management: Insurance	RFC 03-12-01	Corrections Cabinet Staff Members Entering the Roederer Farm Center While Being Under the Influence
RFC 02-02-01	Fiscal Management: Budget	RFC 03-13-01	Staff/Visitor Meals
RFC 02-02-02	Inmate Control of Personal Funds	RFC 04-01-01	Employee Training and Development [(Amended 11/14/86)]
RFC 02-02-03	Storage and Disposition of Monies received on Weekends, Holidays, and Between 4:00 p.m. and 8:00 a.m. Weekdays	RFC 05-01-01	Information System
RFC 02-02-04	Inmate Accounts [(Amended 11/14/86)]	RFC 06-01-01	Offender Records [(Amended 11/14/86)]
RFC 02-03-01	Fiscal Management: Audits	RFC 06-02-01	Use of Inmate Records/Security of Inmate Records [(Amended 11/14/86)]
RFC 02-04-01	Purchase Orders	RFC 06-03-01	Records Release of Information
RFC 02-04-02	Processing of Invoices [(Amended 11/14/86)]	RFC 06-03-02	Storage of Expunged Records [(Amended 11/14/86)]
RFC 02-06-01	Property Inventory	RFC 06-04-01	Court Trips
RFC 03-01-01	General Guidelines for RFC Employees	RFC 06-04-02	Receipt of Order of Appearance
		RFC 08-01-01	Fire Prevention
		RFC 08-02-01	Fire Procedures
		RFC 08-02-02	Fire Extinguishers and Their Use
		RFC 08-08-01	Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances [(Amended 11/14/86)]
		RFC 09-04-03	Duties and Responsibilities of the Fire/Safety Officer
		<u>RFC 09-06-01</u>	<u>Search Policy/Disposition of Contraband (Added 1/14/87)</u>
		RFC 09-09-02	Drug Abuse Testing
		RFC 09-09-03	Breathalyzer
		<u>RFC 09-14-01</u>	<u>Restricted Areas (Added 1/14/87)</u>
		<u>RFC 09-22-01</u>	<u>Use of Force (Added 1/14/87)</u>
		<u>RFC 09-24-01</u>	<u>Informants (Added 1/14/87)</u>
		RFC 10-01-01	Special Management Inmates [(Added 11/14/86)]
		RFC 11-01-01	Food Services: General Guidelines [(Amended 11/14/86)]
		RFC 11-02-01	Food Service: Security [(Amended 11/14/86)]
		RFC 11-03-01	Dining Room Guidelines [(Amended 11/14/86)]
		RFC 11-04-01	Food Service: Meals [(Amended 11/14/86)]
		RFC 11-04-02	Food Service: Menu, Nutrition and Special Diets [(Amended 11/14/86)]
		RFC 11-05-01	Food Service: Kitchen and Dining Room Inmate Work Responsibilities [(Amended 11/14/86)]
		RFC 11-05-02	Medical Screening of Food Handlers [(Amended 11/14/86)]
		RFC 11-06-01	Food Service: Inspections and Sanitation [(Amended 11/14/86)]
		RFC 11-07-01	Food Service: Purchasing, Storage and Farm Products [(Amended 11/14/86)]
		RFC 11-08-01	Staff/Visitor Meals
		RFC 12-01-01	Sanitation, Living Conditions Standards, Clothing Issues [(Amended 11/14/86)]

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RFC 12-01-02 Bed Areas - Assignment/Condition Standards [(Amended 11/14/86)]  
 RFC 12-02-01 Issuance of Clean Laundry and Receiving of Dirty Laundry [(Amended 11/14/86)]  
 RFC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule  
 RFC 12-03-02 Barber Shop Services and Equipment Control [(Added 11/14/86)]  
 RFC 12-04-01 Institutional Inspections  
 RFC 12-05-01 Fire Safety [(Amended 11/14/86)]  
 RFC 12-05-02 Use of Noncombustible Receptacle  
 RFC 12-06-01 Insect and Vermin Control [(Amended 11/14/86)]  
 RFC 13-01-01 Organization of Health Services  
 RFC 13-02-01 Health Maintenance Services: Sick Call and Pill Call  
 RFC 13-03-01 Dental Policy/Sick Call [(Amended 11/14/86)]  
 RFC 13-04-01 Inmate Medical Screenings and Health Evaluations [(Added 11/14/86)]  
 RFC 13-05-02 Licensure and Training Standards  
 RFC 13-06-03 Emergency Medical/Dental Care Services [(Amended 11/14/86)]  
 RFC 13-06-04 First Aid/CPR Training Program  
 RFC 13-07-01 Health Records  
 RFC 13-10-01 Health Education/Special Health Programs [(Added 11/14/86)]  
 RFC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC [(Added 11/14/86)]  
 RFC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center [(Added 11/14/86)]  
 RFC 13-15-01 Medical Restraints  
 RFC 13-17-01 Vision Care/Optomety Services  
 RFC 14-01-01 Inmate Rights and Responsibilities  
 RFC 14-02-01 Legal Services Program  
 RFC 14-03-01 Inmate Grievance Procedure (Amended 1/14/87)  
 RFC 14-04-01 Inmate Participation in Authorized Research  
 RFC 15-02-01 Hearing Detention [(Added 11/14/86)]  
 RFC 16-01-01 Inmate Visiting [(Amended 11/14/86)]  
 RFC 16-02-01 Telephone Communications [(Amended 11/14/86)]  
 RFC 16-03-01 Mail Regulations  
 RFC 16-03-02 Christmas Packages  
 RFC 17-01-01 Assessment/Orientation Procedure  
 RFC 17-02-01 Inmate Reception Process  
 RFC 17-03-01 Inmate Personal Property and Property Control  
 RFC 17-04-01 Unauthorized Items  
 RFC 17-05-01 Inmate Canteen  
 RFC 18-01-01 Institutional Classification Committee  
 RFC 18-02-01 Classification/Security Levels  
 RFC 18-03-01 Classification Process  
 RFC 18-03-02 Classification Program Planning  
 RFC 18-03-03 Honor's Program  
 RFC 18-04-01 Instruction for Six Month Review [(Amended 11/14/86)]  
 RFC 18-05-01 Transfers to Other Minimum Security Institutions  
 RFC 18-06-01 Classification Document [(Amended 11/14/86)]  
 RFC 19-01-01 Job Assignments [(Added 11/14/86)]  
 RFC 20-01-01 Academic Education Program  
 RFC 20-01-02 Testing and Verification Procedure  
 RFC 20-02-01 Correctional Educator Senior  
 RFC 21-01-01 Library Services [(Amended 11/14/86)]

RFC 22-01-02 Recreational Equipment Check-in/Check-out Procedure  
 RFC 22-02-01 Outside Recreation  
 RFC 22-02-02 Entry/Exit Procedure for Inmate Outside Recreation  
 RFC 22-03-01 Inmate Clubs and Organizations  
 RFC 22-03-02 Privilege Trips  
 RFC 22-04-01 Conducting Inmate Organizational Meetings and Programs  
 RFC 22-05-01 Woodworking Shop  
 RFC 22-06-01 Playing Cards  
 RFC 23-01-01 Religious Services  
 RFC 23-02-01 Security Procedures for the Chapel  
 RFC 23-03-01 Visitors for Religious Programs  
 RFC 23-04-01 Marriage of Inmates  
 RFC 24-01-01 Social Services and Counseling Program  
 RFC 25-01-01 Release Preparation Program Description  
 RFC 25-02-01 Temporary Release/Community Center Release  
 RFC 25-03-01 Furloughs  
 RFC 25-04-01 Pre-parole Progress Report  
 RFC 25-04-02 Parole Eligibility Dates  
 RFC 25-05-01 Inmate Discharge Procedure  
 RFC 26-01-01 Citizen Involvement and Volunteer Services Program

GEORGE W. WILSON, Secretary  
 APPROVED BY AGENCY: January 14, 1987  
 FILED WITH LRC: January 15, 1987 at 10 a.m.

## STATEMENT OF EMERGENCY

In order to continue to operate the Blackburn Correctional Complex in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the institution to continue to operate an inmate grievance procedure in accordance with recently revised cabinet policy. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on January 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
 GEORGE W. WILSON, Secretary

## CORRECTIONS CABINET

501 KAR 6:120E. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439  
 PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: January 15, 1987  
 NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [November 14, 1986] and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of

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the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCC 01-07-01 Extraordinary Occurrence Reports  
 BCC 01-11-01 Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies  
 BCC 01-13-01 Relationships with Public, Media, and Other Agencies  
 BCC 01-15-01 Internal Affairs Office  
 BCC 01-16-01 Tours of Blackburn Correctional Complex  
 BCC 01-19-01 Inmate Access to BCC Staff  
 BCC 02-01-01 Inmate Canteen  
 BCC 02-02-01 Fiscal Responsibility  
 BCC 02-02-02 Fiscal Management: Accounting Procedures  
 BCC 02-02-03 Fiscal Management: Checks  
 BCC 02-02-04 Fiscal Management: Budget  
 BCC 02-02-05 Fiscal Management: Insurance  
 BCC 02-02-06 Fiscal Management: Audits  
 BCC 02-04-01 Billing Method for Health Services Staff Paid by Personal Service Contract  
 BCC 05-01-01 Inmate Participation in Authorized Research  
 BCC 06-01-01 Storage of Expunged Records  
 BCC 06-02-01 Records - Release of Information  
 BCC 06-02-02 Offender Records [(Added 11/14/86)]  
 BCC 06-03-01 Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board  
 BCC 08-01-01 Simplified Fire Safety System (SFSS)  
 BCC 08-02-01 Natural Disaster Plan (Tornado)  
 BCC 08-03-01 Emergency Preparedness Plan Manual  
 BCC 09-02-01 Restricted Areas  
 BCC 09-02-02 Inmate Pass System to Restricted Areas  
 BCC 09-03-01 Inmate Identification  
 BCC 09-04-02 Complex Entry & Exit  
 BCC 09-05-01 Key Control  
 BCC 09-07-01 Drug Abuse and Intoxicants Testing  
 BCC 11-01-01 Menu and Special Diets  
 BCC 11-03-01 Food Service: Meals  
 BCC 11-04-01 Dining Room Guidelines  
 BCC 11-05-01 Food Service Security: Knife & Other Sharp Instrument/Utensil Control  
 BCC 12-02-01 Personal Hygiene Items  
 BCC 12-02-02 Personal Hygiene for Inmates: Clothing and Linens  
 BCC 13-01-01 Sick Call and Pill Call  
 BCC 13-02-01 Administration and Authority for Health Services  
 BCC 13-03-01 Provisions of Health Care Delivery [(Added 11/14/86)]  
 BCC 13-04-01 Licensure and Training Standards [(Added 11/14/86)]  
 BCC 13-05-01 Medical Alert System [(Added 11/14/86)]  
 BCC 13-06-01 Health Care Practices [(Added 11/14/86)]  
 BCC 13-08-01 Inmate Health Screening and Evaluation [(Added 11/14/86)]  
 BCC 13-09-01 Prohibition on Medical Experimentation [(Added 11/14/86)]  
 BCC 14-01-01 Office of Public Advocacy Attorney Visits  
 BCC 14-02-01 Law Library  
 BCC 14-03-01 Inmate Grievance Procedure (Amended 1/14/87)  
 BCC 14-04-01 Inmate Rights and Responsibilities

BCC 15-01-01 Authorized Inmate Personal Property  
 BCC 15-02-01 Meritorious Living Unit (B-1)  
 BCC 15-03-01 Rules and Regulation for Dormitories  
 BCC 15-04-01 Restoration of Forfeited Good Time  
 BCC 15-05-01 Extra Duty Assignments  
 BCC 16-01-01 Inmate Furloughs  
 BCC 16-02-01 Visiting  
 BCC 16-03-01 Mail Regulations - Packages  
 BCC 20-01-01 Academic School  
 BCC 20-02-01 College Programs  
 BCC 21-01-01 Library Services  
 BCC 22-01-01 Arts and Crafts/Production and Sale of Items  
 BCC 22-02-01 Privileged Trips  
 BCC 24-03-01 Social Services  
 BCC 25-01-01 Inmate Check Out Procedure

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 15, 1987 at 10 a.m.

## STATEMENT OF EMERGENCY

Senate Bill 372 passed by the 1986 General Assembly is effective January 1, 1987 and transfers the collection of part of the usage tax on U-Drive-It vehicles from the Revenue Cabinet to the Transportation Cabinet. This emergency regulation is necessary so that the procedures for collecting the tax will be in effect on January 1, 1987. To that end, this emergency administrative regulation is promulgated. It will be replaced by an ordinary administrative regulation as soon as possible.

MARTHA LAYNE COLLINS, Governor

C. LESLIE DAWSON, Secretary

## TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Carriers

601 KAR 1:140E. U-Drive-It permit and usage tax.

RELATES TO: KRS Chapter 138, 186, 281  
 PURSUANT TO: KRS 138.463, 186.005, 281.600  
 EFFECTIVE: December 16, 1986

NECESSITY AND FUNCTION: The Transportation Cabinet has the authority and responsibility to assess and collect the monthly U-Drive-It usage tax and to qualify U-Drive-It operators. This regulation sets out the procedures to be followed by an applicant for a U-Drive-It permit. It also establishes procedures for obtaining a vehicle identification document and for the payment of the monthly usage tax.

Section 1. The application for a permit to engage in the business of U-Drive-It as defined by KRS 281.014(4) or for the annual renewal of the permit shall be on the forms prescribed and furnished by the Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Carriers, and shall be accompanied by a filing fee of twenty-five (25) dollars. Payments made by check or money order shall be made payable to "Kentucky State Treasurer."

Section 2. (1) All initial applications for a U-Drive-It permit shall be the subject of a hearing before the cabinet in accordance with

the procedures established by administrative regulation 601 KAR 1:030.

(2) Applicants for a U-Drive-It permit shall be required to meet the standards established by KRS 281.626. Prior to any application being docketed and noticed for hearing, the applicant shall submit to the Division of Motor Carriers evidence, which may include affidavits, attesting to the fact that the applicant is fit, willing and able to provide the requested service, and that the operation proposed by the applicant is a bona fide operation. (For the purposes of this regulation a bona fide operation is one in which each transaction is arm's length and is based on a fair rental value of the vehicle.) Upon determination by the division that the application is complete, the cabinet shall set the matter for hearing.

(3) The cabinet shall give a minimum of thirty (30) days written notice of each hearing to all required and interested parties. Such notice shall state the time and place the hearing will be held, shall fully describe the matter to be heard, shall contain the name and address of the party initiating or involved in the matter to be heard, and shall contain the docket number assigned to the matter by the cabinet. The notice shall state that anyone having an interest in the matter may file a protest or other proper pleading in accordance with the requirements of the regulations of the cabinet. Any application filed may in the discretion of the Commissioner of the Department of Vehicle Regulation be considered at a consolidated hearing or may be heard independently at a time set by the cabinet.

(4) All protests, pleadings, motions, and other papers must be filed with the cabinet in duplicate and shall be typewritten and double-spaced on white eight and one-half (8 1/2) inch by eleven (11) inch size paper, properly styled with the matter to which they are relative, and the docket number assigned thereto by the cabinet, if any. All protests must be filed no later than ten (10) days prior to the scheduled hearing. Any protests, pleading, motion, or other paper may be printed and, if printed, need not be on eight and one-half (8 1/2) inch by eleven (11) inch size paper and double-spaced. Pleadings, protests, motions or other papers filed by the parties represented by an attorney shall be signed by at least one (1) attorney of record in his individual name and shall state his address. Except when specifically provided otherwise, pleadings need not be verified or accompanied by an affidavit. The attorney's signature shall constitute the certification by him that he has read the matter; that to the best of his knowledge, information, and belief the statements contained therein are true; and that it is not interposed for delay. If the matter is not signed or is signed with the intent to defeat the purpose of this rule, it may be stricken as sham and false, and the matter may proceed as though there had been no filing. All protests must state the statutory grounds of such protest and the reasons therefor. That which is not filed in conformance herewith will not be considered or accepted as a matter of record.

(5) Any application which is protested or which is brought into question by the cabinet shall be set for a separate hearing.

Section 3. Any U-Drive-It permit holder who under the terms of KRS 154.690 claims exemption from the payment of usage taxes shall file annually with the Department of Vehicle Regulation a copy of his certificate from the Enterprise Zone Authority of Kentucky. If a U-Drive-It permit holder obtains an exemption under KRS 154.690 at any time after his initial application for a U-Drive-It permit, he shall be required to file a copy of the certification with the department. If any U-Drive-It permit holder ceases to be certified under KRS 154.690, then he shall immediately notify the department in writing.

Section 4. Payment of all applicable seat taxes imposed by KRS 186.281 shall be due and payable to the department at the time of application for the vehicle identification document (fee receipt card). Seat taxes shall be applicable to cargo-carrying vehicles operated in Kentucky to the extent of the normal passenger carrying capacity of the vehicle. At the time a U-Drive-It permit holder pays to the department the annual seat tax imposed by KRS 186.281 he shall apply for a vehicle identification document for each vehicle to be operated under the U-Drive-It permit in Kentucky. The application for a vehicle identification document shall be made to the Department of Vehicle Regulation, Division of Motor Carriers, on forms prescribed and furnished by the department. The application shall be accompanied by a vehicle equipment list which identifies each vehicle. For each vehicle listed for the first time on an equipment list, the applicant shall provide a copy of both front and back of either the manufacturer's statement of origin or the registration of the vehicle. The vehicle identification document (fee receipt card) must be renewed annually prior to the expiration of the vehicle's registration license plate.

Section 5. A photocopy of the vehicle identification document (fee receipt card) shall at all times, be carried in the vehicle for which it was issued and shall be subject to inspection by any proper representative of the Transportation Cabinet or other law enforcement agency. A copy of the vehicle identification document must be presented to the county clerk upon the initial registration of any vehicle being registered under a U-Drive-It permit. The vehicle identification document shall be used to assess the usage tax imposed by KRS Chapter 138.

Section 6. No vehicle may be operated under a U-Drive-It permit until the permit holder has paid the applicable seat tax imposed by KRS 186.281 and obtained a vehicle identification document for the vehicle. When a vehicle ceases to be operated under a U-Drive-It permit, the permit holder shall advise the department in writing within fifteen (15) days. The notice shall include a complete description of the vehicle including its identification number.

Section 7. The U-Drive-It permit holder who is eligible under KRS 138.463 to elect as to the payment of the usage tax shall make his election at the time of his application for his vehicle identification document (fee receipt card). No change in the method of the payment of the usage tax will be permitted during the term of the

ownership of the vehicle. Any U-Drive-It permit holder who loses his certificate under KRS 154.690 and who is eligible under KRS 138.463 to elect as to the payment of the usage tax shall make such election at the time he notifies the department of his loss of certification.

Section 8. Any holder of a U-Drive-It permit who reports and pays the tax imposed by KRS 138.463 shall report such taxes on a monthly basis on the forms prescribed and furnished by the department. Tax reports and payments shall be due on or before the end of the succeeding month following the period covered by the tax report. Any holder of a U-Drive-It permit with vehicles registered pursuant to an approved fleet registration allocation shall report and pay to the department the monthly usage tax at the rate imposed by KRS 138.463 on all vehicles rented from all its Kentucky locations, regardless of the state of licensing of those vehicles. Such holder must also license in Kentucky, pay the applicable seat tax imposed by KRS 186.281, and obtain a vehicle identification document (fee receipt card) for the number of vehicles at least equal to the number of vehicles to be registered in Kentucky by the approved allocation formula. Tax payments not timely made shall be subject to penalties and interest.

Section 9. Tax records, and records of the payment thereof, shall be maintained by U-Drive-It permit holders for a period as set forth in KRS 138.463(5), and shall be subject to audit by proper representatives of the Transportation Cabinet.

Section 10. If a vehicle on which the usage tax is being paid pursuant to KRS 138.463 is transferred to another party within 180 days of its registration and if less than 5,000 miles have been placed on the vehicle during its registration as a U-Drive-It vehicle, then the new owner is required to pay the usage tax imposed by KRS 138.460 based on the taxable value of the vehicle as required by KRS 138.450(4)(e). In such a case, the U-Drive-It permit holder cannot claim credit for any usage tax remitted for the vehicle.

JOHN K. PENROD, Commissioner

C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: December 12, 1986

FILED WITH LRC: December 16, 1986 at 3 p.m.

#### STATEMENT OF EMERGENCY

This regulation is filed as an emergency because there are many candidates for certification as building inspector who partially completed but failed to fully complete the certification requirements within the prescribed time and local government Kentucky Building Code inspection programs may be unnecessarily hampered. This regulation allows a local government to choose to continue its inspector in its employ for one (1) additional year while the inspector has further opportunity to complete the testing requirements. It is intended that a candidate shall have but one (1) extension of time to complete all test modules. An ordinary regulation will not suffice because the inspector may not lawfully act as a building official unless this regulation is amended at

once. An ordinary regulation will replace this emergency regulation.

MARTHA LAYNE COLLINS, Governor  
ROBERT M. DAVIS, Secretary  
CHARLES A. COTTON, Commissioner

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings & Construction Division of Building Codes Enforcement

#### 815 KAR 7:070E. Requirements for certification of Kentucky Building Code inspectors.

RELATES TO: KRS 198B.040(3), 198B.050(3)(c), (6), 198B.090

PURSUANT TO: KRS 198B.050(5)

EFFECTIVE: January 15, 1987

NECESSITY AND FUNCTION: The department is required by KRS 198B.090 to create and administer a building official's certification program which is designed to ensure uniform statewide enforcement of applicable state building codes. This regulation establishes the testing, training and continuing education requirements for two (2) specifically designated professional classifications of building code inspectors: building inspector and plans and specifications inspector.

Section 1. Definitions and Categories of Inspectors. The scope of authority for each category of inspector identified is specifically limited according to the following description of responsibilities. Depending on the type and level of responsibility assumed by the jurisdiction, certification in more than one (1) category may be required.

(1) "Certified building inspector" means a person whose responsibility it is to inspect buildings as part of a permit application, to determine that the structures are free from conditions that would present a life safety, health or fire hazard to persons using such buildings, and to determine that the buildings are constructed in accordance with the Kentucky Building Code. This person must have been tested for competency in NCPCCI modules 1B and 3B and otherwise met the requirements of the department. This person is authorized by this regulation to make on-site inspections of all buildings, including one (1) and two (2) family dwellings within his/her jurisdiction, regardless of size. This person is further authorized to review and approve plans on those buildings which are the responsibility of local governments under KRS 198B.060(2).

(2) "Certified plans and specifications inspector" means a person whose responsibility it is to determine that the plans submitted as part of a building permit application comply with the Kentucky Building Code and referenced standards, and who has been tested for competency in NCPCCI modules 1B, 1C, 3B and 3C and otherwise met the requirements of the department as set forth in this regulation. This person is further authorized to inspect all buildings within his/her jurisdiction, regardless of size to determine if those buildings are constructed in accordance with the plans and in accordance with the Kentucky Building Code.

(3) "Limited certificate" means a limited authorization issued by the department which represents the level of competency for which a



person has been tested. The department will issue a document specifying on its face that the person is qualified to perform the stated activity only. This certificate shall be issued only after the person has met the training requirements stated in Section 3 of this regulation.

(4) NCPCCI means "National Certification Program for Construction Code Inspectors" and are exam modules developed by the national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence and professionalism in construction code enforcement and shall be used to meet the module testing requirements required herein. Other required training or testing shall be provided through the department.

Section 2. Inspection Operations. (1) It is the specific intention of this regulation to ensure that all Kentucky Building Code inspection programs require plan review and on-site inspection of buildings only by persons who have been tested for competency under this regulation.

(2) Each person who has successfully completed any NCPCCI exam module as listed in this regulation shall be given a "limited certificate." This certificate shall qualify the individual only for that inspection or plan review function on which he/she has been tested. For example, persons holding a limited certificate for NCPCCI Module Building One (1) and Two (2) Family-1A are deemed qualified to inspect and review plans for single family and duplex residential buildings only. Each person must renew the certification as required by Section 5(2) of this regulation and otherwise comply with this regulation.

(3) Each local government and the department shall provide for the services of certified inspectors. In circumstances where the jurisdiction chooses to distribute the inspection or plan review functions to more than one (1) person, each person shall be certified in his/her respective area of responsibility.

(4) Certification of plumbing, elevator and electrical inspectors are not covered by this regulation.

Section 3. Training and Testing Requirements to Become Certified as a Kentucky Building Code Inspector. (1) Each candidate seeking to become certified pursuant to this regulation shall be required to be trained and/or tested on the administrative and accessibility sections of the Kentucky Building Code as determined by the board.

(2) Each candidate seeking certification shall successfully complete the NCPCCI exam module(s) which is/are applicable to the activity in which said candidate shall be engaged. Unless the candidate qualifies as actively pursuing departmental certification under Section 4 of this regulation, no person shall be responsible for any inspection or plan review activity for which he/she has not been tested and passed said test. The testing modules are as follows:

- (a) Building One (1) and Two (2) Family - 1A;
- (b) Building General - 1B;
- (c) Fire Protection General - 3B;
- (d) Building Plan Review - 1C;
- (e) Fire Protection Plan Review - 3C.

(3) Continuing education. From time to time,

the department shall establish continuing education programs for the purpose of keeping the inspectors updated on code requirements. Participation in these programs shall be mandatory for all inspectors in order to maintain certification.

Section 4. Deadline for Certification. (1) All persons charged with the responsibility of inspecting and reviewing buildings plans for compliance with the Kentucky Building Code shall be certified or enrolled and actively pursuing departmental certification by October 1, 1983, or within ninety (90) days after employment of such inspector, whichever is later. Such person shall register with the department, complete the necessary application forms and pay the required fees stated in Section 5 of this regulation, within said timetable.

(2) "Actively pursuing departmental certification" means that each person who is seeking certification pursuant to this regulation shall sit for examination of at least one (1) module of the NCPCCI per year. Failure of any candidate to receive a passing score on each required module within three (3) years of employment shall terminate that person's ability to qualify under this definition. Limited certificates may continue to be renewed after three (3) years. EXCEPTION: Where any candidate has been employed by a local jurisdiction and his three (3) years have expired, he shall be allowed one (1), and only one (1), additional calendar year to achieve certification, upon written petition of the jurisdiction to the commissioner and still be covered by this definition. This exception is available only to those candidates who have passed at least one (1) required NCPCCI test module within the three (3) year period.

(3) Time constraints for certification as stated in subsection (2) of this section shall not apply to those persons seeking certification who are not engaged in an inspection or plan review capacity.

Section 5. Application for Training and Certification. (1) Each person seeking to become a candidate for certification pursuant to this regulation shall submit an application on a form provided by the department, together with a fee of twenty-five (25) dollars to cover the administrative costs of processing the application, establishing the training program and issuing certificates.

(2) Each certified inspector and each candidate actively pursuing certification shall be required to pay an additional annual sum of twenty-five (25) dollars each succeeding fiscal year in order to maintain his/her certification.

Section 6. Suspension and Revocation of Certification. (1) Formal written complaints concerning an inspector must be submitted through the department to the Board of Housing, Buildings and Construction for review and appropriate action.

(2) If, upon investigation, the board determines that there is reason to believe that the certified inspector has willfully, negligently or recklessly violated his/her duties as set forth in this regulation, the board may take action for the revocation or suspension of his/her certificate. No such action shall be taken unless the inspector is

afforded the opportunity to be heard.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: January 15, 1987

FILED WITH LRC: January 15, 1987 at noon

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

904 KAR 2:015E. Supplemental programs for the aged, blind and disabled.

RELATES TO: KRS 205.245

PURSUANT TO: KRS 194.050

EFFECTIVE: December 29, 1986

NECESSITY AND FUNCTION: The Cabinet for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973, recipients of aid to the aged, blind and disabled, hereinafter referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. KRS 205.245 provides not only for the mandatory supplementation program but also for supplementation to other needy aged, blind and disabled persons. This regulation sets forth the provisions of the supplementation program.

Section 1. Mandatory State Supplementation. Mandatory state supplementation payments must be equal to the difference between the AABD payment for the month of December, 1973, plus any other income available to the recipient as of that month and the total of the SSI payment and other income. Also included are those former aged, blind or disabled recipients ineligible for SSI due to income but whose special needs entitled them to an AABD payment as of December, 1973. Mandatory payments must continue until such time as the needs of the recipient as recognized in December, 1973, have decreased or income has increased to the December level.

(1) The mandatory payment is increased only when income as recognized in December, 1973, decreases, the SSI payment is reduced but the recipient's circumstances are unchanged, or the standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.

(2) In cases of man and wife, living together, income changes after September, 1974, will

result in increased mandatory payment only if total income of the couple is less than December, 1973, total income.

Section 2. Optional State Supplementation. Optional state supplementation is available to those persons meeting technical requirements and resource limitations of the aged, blind or disabled medically needy program as contained in 907 [904] KAR 1:011 and 907 [904] KAR 1:004 (except as otherwise specified herein) who require special living arrangements and who have insufficient income to meet their need for care. Special living arrangements include residence in a personal care home as defined in 902 KAR 20:036 or family care home as defined in 902 KAR 20:041 or situations in which a caretaker must be hired to provide care other than room and board. A supplemental payment is not made to or on behalf of an otherwise eligible individual when the caretaker service is provided by the spouse, parent (of an adult disabled child or a minor child), or adult child (of an aged or disabled parent) who is living with the otherwise eligible individual. When this circumstance exists and a person living outside the home is hired to provide caretaker services, the supplemental payment may be made. Application for SSI, if potential eligibility exists, is mandatory.

Section 3. Resources Considerations. In determining countable resources and the effect of resources on eligibility, the following policies are applied.

(1) The upper limit for resources for an individual and for a couple is set at \$1,700 and \$2,550, respectively, effective January 1, 1986; at \$1,800 and \$2,700, respectively, effective January 1, 1987; at \$1,900 and \$2,850, respectively, effective January 1, 1988; and at \$2,000 and \$3,000, respectively, effective January 1, 1989.

(2) Income producing property with a net equity of \$6,000 or less is excluded.

(3) The first \$4,500 of equity value in an automobile is excluded; if used for employment, to obtain medical services, or if specially equipped (e.g., as for use by the handicapped) there is no upper limit on value.

(4) Burial reserves (life insurance, prepaid burial policy, etc.) up to \$1,500 are excluded. The face value of life insurance is considered when determining the total value of burial reserves if the face value of the life insurance is less than \$1,500. Burial spaces are excluded from consideration when computing the value of burial reserves.

(5) A homestead, household items, and personal items are excluded.

(6) Resources determined in accordance with subsections (2), (3), and (4) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or couple exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or couple is ineligible.

Section 4. Income Considerations. In determining the amount of optional supplementation payment, total net income of the applicant or recipient, or applicant or recipient and spouse, including any payments made to a third party in behalf of an applicant

or recipient, is deducted from the standard of need with the following exceptions:

(1) Income of the ineligible spouse is conserved for the needs of the ineligible, non-SSI spouse and/or minor dependent children in the amount of one-half (1/2) of the SSI standard for an individual for each person adjusted by deduction of sixty-five (65) dollars and one-half (1/2) of the remainder from monthly earnings of spouse. Income of the eligible individual is not conserved for the needs of the ineligible spouse and/or minor dependent children. When conserving for the needs of the minor dependent children, income of the children must be appropriately considered so that the amount conserved does not exceed the allowable amount. When the eligible individual and spouse each have earnings, the earnings must be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(2) If one (1) member of a couple is institutionalized and the SSI spouse maintains a home, income in the amount of the SSI standard for one (1) is conserved for the spouse.

Section 5. Standard of Need. (1) The standard, based on living arrangement, from which income as computed in Section 4 of this regulation is deducted to determine the amount of optional payment is as follows:

(a) Personal care home: not less than \$517 [498], effective 1/1/87 [1/1/86];

(b) Family care home: not less than \$430 [411], effective 1/1/87 [1/1/86];

(c) Caretaker:

1. Single individual, or eligible individual with ineligible spouse (one who is not aged, blind, or disabled): not less than \$369 [365], effective 1/1/87 [1/1/86];

2. Married couple, both eligible (aged, blind, or disabled), with one (1) requiring care: not less than \$534 [528], effective 1/1/87 [1/1/86];

3. Married couple, both eligible and both requiring care: not less than \$572 [566], effective 1/1/87 [1/1/86].

(2) In couple cases, both eligible, the couple's income is combined prior to comparison with the standard of need, and one-half (1/2) of the deficit is payable to each.

Section 6. Institutional Status. No aged, blind or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under KRS 216B.010 to 216B.131.

Section 7. Residency. (1) 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 applicants for or recipients of a state supplementary payment and institutionalized individuals. The residency criteria specified in federal regulations at 42 CFR 435.403 shall be applicable except as otherwise specified herein.

(2) Supplemental payments may be made to

Kentucky residents residing outside the state only when the individual has been placed in the other state by this state. In these situations, the other requirements for eligibility shown in other sections of this regulation shall be applicable, except that with regard to the requirement shown in Section 6 of this regulation, the licensure shall be in accordance with a similar licensure act of the other state. If there is no similar licensure act in the other state, the payment may be made only if this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131. To be eligible for a supplemental payment while placed out-of-state the individual must require the level of care provided in the out-of-state placement, there must be no suitable placement available in Kentucky, and the placement must be pre-authorized by staff of the Department for Social Insurance.

(3) When determining residency, ability of the individual to indicate intent (to become a Kentucky resident) must be considered if the individual is institutionalized. The individual is considered incapable of indicating intent if:

(a) His/her I.Q. is forty-nine (49) or less or he/she has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) He/she is judged legally incompetent; or

(c) Medical documentation, or other documentation acceptable to the state, supports a finding that he/she is incapable of indicating intent.

(4) An individual is institutionalized if he/she is residing in a facility providing some services other than room and board. Personal care facilities are considered to be institutions.

(5) For any non-institutionalized individual under age twenty-one (21) whose eligibility for a supplemental payment is based on blindness or disability, his/her state of residence is Kentucky if he/she is actually residing in the state.

(6) For any non-institutionalized individual age twenty-one (21) or over, his/her state of residence is Kentucky if he/she is residing in the state and has the intention to remain permanently or for an indefinite period (or, if incapable of indicating intent, is simply residing in the state).

(7) For any institutionalized individual living in Kentucky who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one (21), the state of residence is Kentucky if:

(a) The state of residence of the individual's parents, or his/her legal guardian if one has been appointed, is Kentucky; or

(b) The state of residence of the parent applying for the supplemental payment on behalf of the individual is Kentucky, when the other parent lives in another state and there is no appointed legal guardian.

(8) For any institutionalized individual living in Kentucky who became incapable of indicating intent at or after age twenty-one (21), the state of residence is Kentucky if he/she was living in Kentucky when he/she became incapable of indicating intent. If this cannot be determined, the state of residence is Kentucky unless he/she was living in another state when he/she was first determined to be

incapable of indicating intent.

(9) For individuals subject to determinations of residency pursuant to subsections (7) and (8) of this section, the state of residency is Kentucky when the individual is residing in Kentucky, and a determination of residency applying those criteria does not show the individual to be a resident of another state.

(10) For an individual subject to a determination of residency pursuant to subsections (7) and (8) of this section, the state of residence is Kentucky when Kentucky and the state which would otherwise be the individual's state of residency have entered into an interstate residency agreement providing for reciprocal residency status; i.e., when a similarly situated individual in either state would by written agreement between the states be considered a resident of the state in which he is actually residing.

(11) For other institutionalized individuals (i.e., those individuals who are both age twenty-one (21) or over and capable of indicating intent), the state of residence is Kentucky if the individual is residing in Kentucky with the intention to remain permanently or for an indefinite period.

(12) Notwithstanding subsections (3) through (11) of this section, any individual placed by the cabinet in an institution in another state may, with appropriate preauthorization, be considered a resident of Kentucky, and any individual placed in an institution in Kentucky by another state shall not be considered a resident of Kentucky.

(13) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky so long as he/she continues to reside in Kentucky. An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(14) An individual eligible for and receiving a supplemental payment in October, 1979, shall be considered a Kentucky resident through July 4, 1984, even if he/she does not meet the residency requirements specified in this section, so long as such individual continues to reside in Kentucky and his/her receipt of supplementary payments has not since October, 1979 been interrupted by a period of ineligibility.

(15) Notwithstanding the preceding provisions of this section, a former Kentucky resident who becomes incapable of indicating intent while residing out of this state shall be considered a Kentucky resident if he/she returns to this state and he/she has a guardian, parent or spouse residing in this state. Such individual shall not be considered a Kentucky resident on the basis of this subsection whenever, subsequent to that time, he/she leaves this state to reside in another state except when the provisions of subsection (11) of this section are met. An individual leaving the state may, however, reestablish Kentucky residency by returning to the state if he has a guardian, parent or spouse residing in this state.

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 23, 1986

FILED WITH LRC: December 29, 1986 at 3 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

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

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

EFFECTIVE: January 5, 1987

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 (FNS), of the United States 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 of this regulation, 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 and/or any portion of such payments returned to the household by the cabinet.

(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).

(14) Assistance monies from another program, as specified in 7 CFR 273.11(j), which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements. These withheld monies shall be considered as income in accordance with 7 CFR 273.11(j).

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 monies 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). However, monies withheld, as specified in Section 2, subsection (14) of this regulation shall not be excluded.

(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. However, any portion of such monies returned to the household by the cabinet shall not be excluded.

(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 as defined in 7 CFR 273.9(c).

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

(6) Effective November 1, 1986, as defined in 7 CFR 273.9(c), 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 post secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. Benefits may be restored back to August 22, 1986.

(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 as defined in 7 CFR 273.9(c).

(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. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming as defined in CFR Part 273.11(a), such losses shall be offset against any other countable income in the household.

(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 laws or certified as excludable energy payments by FNS.

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 to 100 percent of the federal income poverty guidelines.

(2) Households which are categorically eligible as defined in CFR 273.2 do not have to meet either the gross or net income eligibility standards.

(3) 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) Twenty (20) 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 [for non-elderly/non-disabled households] shall not exceed the child care maximum established by FNS. [Elderly/disabled households with a child care deduction shall not exceed the excess shelter maximum established by FNS.]

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction shall not exceed the excess shelter maximum established by FNS, except that households containing an elderly or disabled member shall not be subject to said maximum in regards to the shelter deduction. The excess shelter maximum 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)(5). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling (by air conditioning units only) 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 utility standard or does not choose to use the utility 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 (35) dollars 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 one (1) or

more members, when at least one (1) member is sixty (60) years or older; or

- (2) \$2000: for all other households.

(3) Households which are categorically eligible as defined in CFR 273.2 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 in accordance with 7 CFR 273.8(i).

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 shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS 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 by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. 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 registration requirements unless exempt for reasons other than employment at the time of application.

(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective January 1, 1987 [October 1, 1986] unless otherwise specified.

MIKE ROBINSON, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 23, 1986  
FILED WITH LRC: January 5, 1987 at 10 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 15, 1987

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 provisions 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 and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at \$1,700 and \$3,400 respectively, effective January 1, 1986; at \$1,800 and \$3,600 respectively, effective January 1, 1987; at \$1,900 and \$3,800 respectively, effective January 1, 1988; and at \$2,000 and \$4,000 respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of \$6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of \$4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, or if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to \$1,500 per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), life insurance policies, or other identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.

(6) Burial spaces, plots, vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

**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 (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

**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 this regulation, 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	\$2,300	\$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

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

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

(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 either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded. Full-time and part-time employment, and school attendance, shall be as defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(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) of this section) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). 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) of this section.

(2) Income protected for basic maintenance, effective July 1, 1986, is forty (40) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of forty (40) dollars is applied to the cost of care except as follows:

(a) Available income in excess of forty (40) dollars 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.

(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. Beginning on November 1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

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, but not 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 eligible 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 applicants or recipients living with an ineligible spouse, income from the ineligible spouse shall be deemed as available to the eligible spouse as outlined below.

(a) Determine the potential spend-down amount of the eligible individual by comparing the countable income to the Medically Needy Income Level (MNIL) for one (1) as shown in Section 3 of this regulation.

(b) Allocate to other dependents in the household from the ineligible spouse income in an amount equal to one-half (1/2) of the MNIL for a family size of one (1) for each dependent.

(c) If the ineligible spouse's income is more than one-half (1/2) of the MNIL for a family size of one (1), combine the income of the ineligible spouse with that of the eligible individual and compare that figure with the MNIL for a couple to determine the spend-down amount.

(d) Compare the amount resulting from paragraph (a) of this subsection with the result of paragraph (c) of this subsection and determine eligibility using the spend-down amount, if any, which is greater.

(e) Resources shall be considered in the same manner as for an eligible spouse.

(4) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are 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; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(5) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(6) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) 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.

(7) 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.

(8) In cases of a blind or disabled child under eighteen (18) living with his/her 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.

(9) Income and resources of parent(s) are not considered available to a child living apart from the parents' 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).

(10) When a recipient (but not including a child) in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the forty (40) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. When a child in a family case is in the long term care facility, eligibility of the child is determined in the same manner for up to a year but his/her liability for the cost of care is determined by allowing to the child from his/her own income forty (40) dollars and considering the remainder available for the cost of care. (Note: in this situation any welfare payment made to the child is disregarded when determining liability for cost of care.) 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.

Section 11. Treatment of Income of the Stepparent or Parent/Legal Guardian of a Minor Parent/Legal Guardian (hereinafter referred to as a "Grandparent") and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income, or a grandparent's income, is considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. When the stepparent or grandparent living in the home is not being included in the family case the stepparent's or grandparent's gross income is considered available to the spouse or minor parent in accordance with the

policies set forth in this section.

(1) Disregards/exclusions from income. The following disregards/exclusions from income shall be applied:

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

(b) 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 or grandparent 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 or grandparent as dependents for purposes of determining his/her federal personal income tax liability.

(c) Any amount actually paid by the stepparent or grandparent 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.

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

(e) Income of a stepparent or grandparent receiving Supplemental Security Income.

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

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, such income may be deemed to the spouse (of the stepparent) or minor parent (child of the grandparent) but not to the stepchild(ren) or grandchild(ren). Eligibility of the stepchild(ren) or grandchild(ren) is determined in the following manner in order to take this requirement into consideration.

(a) The available income deemed to the spouse or minor parent shall be the lesser of the amount available or the medically needy income level for one (1), as shown in Section 3 of this regulation.

(b) The income of the spouse or minor parent (including the amount deemed) shall be combined with that of the child(ren) and the total compared against the medically needy income level for the appropriate family size. If there is no excess income, the child is eligible. If there is an excess, the excess amount may be spent down in the usual manner.

(3) Determining eligibility of the spouse or minor parent. Available income of the stepparent or grandparent remaining after exclusions/disregards are applied must be considered fully available to the spouse or minor parent. The eligibility of the spouse or minor parent is therefore determined in the same manner as shown in subsection (2) of this section, except that the full amount available (including that portion of the available income, if any, which is in excess of the medically needy income level for one (1)) is deemed to the spouse or minor parent.

(4) When the spouse or minor parent, or both the spouse or minor parent and child(ren) has a spend-down case(s), uncovered incurred medical expenses of all members of the budget unit may be used to meet the spend-down amount(s).

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/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(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. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

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.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death of a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the \$500) may be deducted from the uncompensated value excess on a monthly basis.

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 for 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.

Section 16. Special Provisions for Hospice

Recipients. Effective October 1, 1986, medical assistance eligibility for participants under the Medicaid hospice benefit shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of the hospice participant shall be the standard for the federal supplemental security income program.

(2) The attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program.

(3) Eligibility shall continue on the same monthly basis as for an institutionalized case when the cost of care is greater than the recipient's monthly income.

(4) A hospice participant may be eligible for benefits based on this section only if he/she has elected coverage under the Medicaid hospice benefit rather than the regular Medicaid program.

Section 17. Special Provisions for Recipients Participating in the Home and Community Based Services Waiver Program. Effective January 1, 1987, medical assistance eligibility for participants under the home and community based (HCB) services waiver program shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of HCB services program participants who are eligible under the special income level shown in this section shall be the standard used for an individual in the federal supplemental security income (SSI) program.

(2) HCB services program participants with income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standard).

(3) Patient liability and relative responsibility is determined in the same manner as if the HCB services program participant was institutionalized except that excess income of responsible relatives will be considered available to the HCB participant with the cost of HCB services projected.

(4) If an HCB services program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant is determined in the usual manner for an individual who is institutionalized, with the cost of HCB services projected, except that the amount protected for basic maintenance is the usual medically needy standard for an individual in his own home as shown in Section 3 of this regulation.

Section 18. [17.] Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying

trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 19. [18.] Implementation. The amendments to this regulation will be effective on January 1, 1987 [November 1, 1986, applicable at the time of the next determination of eligibility for each applicant or recipient, except as otherwise specified herein].

R. HUGHES WALKER, Commissioner

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 5, 1987

FILED WITH LRC: January 15, 1987 at 8 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services

907 KAR 1:013E. Payments for acute care and mental hospital inpatient services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 5, 1987

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 acute care and mental hospital inpatient services.

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and

adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised January 1, 1987 [July 1, 1986], which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be

the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in such a manner as [the same manner with regard to the upper limit] to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to [operating and] capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. [Operating costs are all costs except professional (physician) and capital costs.] Capital costs are interest and depreciation related to plant and equipment. [The minimum occupancy factor is not applicable with regard to operating costs of mental hospitals. Effective January 1, 1986, the operating cost occupancy factor shall be applied in such a manner as not to reduce otherwise allowable payments for operating costs below eighty (80) percent of the appropriate peer group upper limit.]

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent Medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those

acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up). Such major pediatric teaching hospitals shall also be paid, in addition to the facilities' base rate, an amount which is equal to two (2) percent of the base for each one (1) percent of Medicaid occupancy.

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(10) Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.

Section 6. The amendments shown herein shall be effective with regard to payments for services rendered January 1, 1987, and

thereafter.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 23, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services

907 KAR 1:036E. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 5, 1987

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 skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised July 1, 1986, and amended pursuant to a hearing, which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A

reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (non-hospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not

exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the maximum (upper limit) shall be set at 110 percent of the median of the array. Effective January 1, 1987, and continuing through the rate years beginning July 1, 1987, and July 1, 1988, the allowable cost for each facility shall include a patient care labor intensity factor of two and six-tenths (2.6) percent applied to that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs. This allowance is generally intended for the purpose of direct service staff improvements to enhance patient care. Effective with the rate year beginning on July 1, 1987, that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs shall be indexed for the rate year by a labor cost intensity factor based on the state employee annual salary increment; this indexing shall be in lieu of the usual indexing for inflation of such labor costs, however, the labor cost intensity factor shall be not less than the usual indexing factor and, if necessary, shall be increased to an amount equal to the usual indexing factor. This adjustment is designed to allow for salary and staffing improvements to improve patient care.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate except for ventilator therapy services which shall be paid on a prospective rate basis. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and non-legend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal



year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be

allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (and classified as newly participating facilities for purposes of this subsection), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for capital costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the class) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Department for Medicaid Services shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) A facility may request that the Reimbursement Review Panel grant a waiver of its status as a newly participating facility based upon a presentation of facts showing that the provider had already incurred a substantial material financial obligation or binding commitment toward building or expanding a facility prior to April 1, 1981. The obtaining of a certificate of need shall not be construed, in itself, to be sufficient to justify approval of a waiver request, and a waiver, if granted, shall be applicable only with regard to that



building or expansion for which the waiver was requested and approved.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (2/3) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth herein for the reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(12) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to justify and document all costs to and services performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(13) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Cabinet approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the cabinet shall not be construed as approval of the item or expansion.

(14) The cabinet shall review [audit] each year-end cost report to [in the following manner: an initial desk review shall be performed of the report and the cabinet will] determine the necessity for and scope of a field audit in relation to routine and ancillary service cost. A field audit may be conducted for purposes of verifying cost to be used in setting the prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(15) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

(16) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the cabinet).

(17) The cabinet may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the cabinet to be

providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(18) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following

transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Commission for Health Economics Control in Kentucky (CHECK) [Certificate of Need Authority (CONA)] an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Commission for Health Economics Control in Kentucky (CHECK) [Certificate of Need Authority (CONA)] has acted on the application and any appropriate licensure action has been effected.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no

return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$29.99 & below [28.99]	\$.92	\$.58
<u>30.00 - 30.99</u> [29.00 - 29.99]	\$.86	\$.50
<u>31.00 - 31.99</u> [30.00 - 30.99]	\$.78	\$.41
<u>32.00 - 32.99</u> [31.00 - 31.99]	\$.70	\$.32
<u>33.00 - 33.99</u> [32.00 - 32.99]	\$.61	\$.21
<u>34.00 - 34.99</u> [33.00 - 33.99]	\$.51	\$.09
<u>35.00 - 36.14</u> [34.00 - 35.58]	\$.35	-

Maximum Payment \$36.14 [35.58]

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$71.99 & below [69.99]	\$1.38	\$.87
<u>72.00 - 77.99</u> [70.00 - 75.99]	\$1.29	\$.75
<u>78.00 - 83.99</u> [76.00 - 81.99]	\$1.18	\$.62
<u>84.00 - 89.99</u> [82.00 - 87.99]	\$1.06	\$.47
<u>90.00 - 95.99</u> [88.00 - 93.99]	\$.92	\$.31
<u>96.00 - 101.99</u> [94.00 - 99.99]	\$.76	\$.13
<u>102.00 - 108.67</u> [100.00 - 106.81]	\$.53	-

Maximum Payment \$108.67 [106.81]

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$39.99 & below [38.99]	\$.92	\$.58
<u>40.00 - 41.99</u> [39.00 - 40.99]	.86	.50

<u>42.00 - 43.99</u>	.78	.41
[41.00 - 42.99]		
<u>44.00 - 45.99</u>	.70	.32
[43.00 - 44.99]		
<u>46.00 - 47.99</u>	.61	.21
[45.00 - 46.99]		
<u>48.00 - 49.99</u>	.51	.09
[47.00 - 48.99]		
<u>50.00 - 51.93</u>	.35	-
[49.00 - 51.04]		

Maximum Payment \$51.93\* [51.04\*]

\*The maximum payment for hospital based skilled nursing facilities is set at \$70.11 [68.90].

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 102 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 102 percent of the median is a lower dollar amount than has been currently set.

Section 5. Reimbursement Review and Appeal. Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts, a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division of Reimbursement and Contracts. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by

the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6 of this regulation, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the cabinet in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the cabinet, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which except for ventilator therapy services are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including indwelling catheters and syringes, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies and inhalation therapy.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the cabinet will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on allowable costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the cabinet.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

(13) The first twenty (20) cents of cost of each disposable incontinent brief shall be considered to be ancillary costs when such briefs are provided upon a physician's orders, with the balance of the cost of such briefs considered to be routine costs.

Section 7. Implementation Date. The amendments to [provisions of] this regulation[, as amended,] shall be effective on January 1, 1987, or as otherwise specified herein [with regard to services provided on or after July 1, 1986].

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 29, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services

907 KAR 1:160E. Home and community based services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 15, 1987

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 provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the coverage provisions applicable to home and community based services provided to eligible recipients as an alternative to skilled nursing and intermediate care facility services.

Section 1. General Coverage Provisions. The home and community based (HCB) services described in this regulation may be provided only to those individuals eligible for medical assistance who meet patient status criteria for skilled nursing facility care (as set forth in 907 KAR 1:022) or intermediate care facility care (as set forth in 907 KAR 1:024). The HCB services described herein are designed to prevent or reduce institutionalization at the skilled nursing and intermediate care levels, and may therefore be provided only to individuals in community residence living situations. These services are provided pursuant to a waiver granted by the United States Department of Health and Human Services, and are available only to recipients who reside in an area where coverage has been phased in with statewide coverage being available by July 1, 1987. [the Bluegrass Area Development District] as specified in the waiver request. Excluded from coverage are those individuals for whom the

cost of HCB services would reasonably be expected (on an overall basis) to exceed the cost of the appropriate level of institutional services, and inpatients of hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded. HCB services may be provided only to those individuals for whom the HCB services are an appropriate alternative to institutionalization, who meet appropriate patient status, and who choose the HCB services option. The home and community based services agency (provider) shall be responsible for securing appropriate physician recommendations and orders relating to care, and for performing the required comprehensive assessment and care planning. The designated [Kentucky] Peer Review Organization shall make the level of care determination as the agent or representative of the cabinet. HCB services must be prior authorized by the cabinet. Notwithstanding the preceding, the assessment may be completed and billed for any appropriate medicaid recipient.

Section 2. Provider Participation. Participating HCB providers must meet all applicable certification and licensure requirements for providing in-home and community based services under the Kentucky Medical Assistance Program, and shall be required to comply with the provider participation agreement providing for services in accordance with the terms and conditions specified in this regulation.

Section 3. Covered Services. The following services are covered HCB services:

(1) Assessment. The assessment includes the collection of data necessary to determine the appropriateness of HCB service for the client, and case planning (a patient care plan to include services required, duration and frequency, and estimated cost).

(2) Case management. This is the process of locating, coordinating and monitoring a group of services with responsibility resting with a designated person. [Usual case management is reimbursable as an administrative cost. Extraordinary case management may be provided to individuals with multi-faceted medical, social and financial needs as a separately identified item of covered service.]

(3) Homemaker services. This is the provision of service relating to general household activities, such as meal preparation and routine household care, and may be provided by a trained homemaker when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care and arrangements cannot be made with relatives or friends for the performance of the service. Homemaker services may additionally be provided on an intermittent basis when necessary to supplement those services usually and customarily provided by the informal caregiver.

(4) Personal care services. [These are services which enable a person to be treated by his/her physician on an outpatient basis, are ordered by the physician, are provided by a qualified person (not a member of the recipient's family), and which are supervised by a registered nurse.] Personal care services are medically oriented and related to the patient's physical requirements, and may include bathing, assistance with clothing, assisting with

medications customarily self-administered, assistance with ambulation, etc.

(5) Respite care services. This is the provision of homemaker/home health aid level services on a temporary basis due to the absence or need for relief of the informal caregiver. Care must be in accordance with the orders of a physician and the plan of care, and may be provided only when an appropriate alternative informal caregiver is not available to provide the necessary services. Respite care services are [not] covered in an amount up to \$2,000 in any calendar year, but not to exceed \$1,000 in any six (6) month period within that calendar year. [after the cost of respite care provided an individual in a service year (beginning with the date of the first covered HCB service) equals ten (10) times the current maximum daily intermediate care facility payment rate.]

(6) Minor home adaptations. This is the addition to or modification of the home environment when the patient's condition necessitates a modification of the existing home situation, and may include such items as rails, ramps, grab bars, etc., including labor and necessary supplies. Prior approval is required. Major home repairs are not covered.

(7) Adult day health care services. This is the provision of adult day health care in an appropriate licensed facility. Basic services include: one (1) meal per day (including special diets); snacks, as appropriate; registered nurse and other supervision; regularly scheduled daily activities; routine services required to meet daily personal and health care needs; incidental supplies necessary to provide adult day health care services; and equipment essential to the provision of adult day health care services. Ancillary services include: physical, speech and occupational therapy evaluations as indicated for the purpose of developing a plan of treatment which may be carried out by center staff; and necessary ongoing supervision and followup of the maintenance program by the therapist. Transportation is not covered under the service element, but is a separately reimbursable service pursuant to 907 KAR 1:060.

[(8) Nutrition services. These are services to assist the physician in evaluating the recipient and establishing a therapeutic nutrition program in accordance with the physician's orders. The family and patient may be appropriately educated and trained so as to ensure understanding, acceptance and implementation of diet recommendations, nutritional evaluations, the use of alternative foods, etc. The service must be provided by a home health agency in conjunction with one (1) or more of the following home health agency services: nursing, physical therapy, speech therapy, occupational therapy, or home health aid services.]

(8) [(9)] Respiratory therapy services. The service is available only for ventilator dependent recipients who are receiving home health agency services and must be in accordance with the physician's plan of treatment. [may be provided to assist the physician to evaluate the recipient for the techniques for support of oxygenation and ventilation in the acutely ill patient; teaching family the care and maintenance of artificial airways; teaching family techniques to aid removal of secretions from the pulmonary tree; bronchial hygiene therapy; instructing family in the use of respiratory systems, equipment and machines; for

the use of pulmonary rehabilitation techniques; and for periodic assessment and monitoring of acute and chronically ill patients for necessity and effectiveness of respiratory therapy services. The service must be provided in accordance with the physician's home health plan of treatment and/or recertification, and must be in conjunction with one (1) of the following home health agency services: nursing, physical therapy, speech therapy, occupational therapy, or home health aid services.]

[(10) Institutional visit provided prior to discharge. This service may be provided by professional staff of the home health agency to assist in developing the in-home service package and to assure necessary coordination, instruction, and training with regard to the care provided in the institution and that necessary in the home setting. The visit must be ordered by the physician as part of the home health plan of treatment. The service may be provided and billed regardless of whether the client subsequently receives other HCB services, and notwithstanding the coverage provisions specified in Section 1 of this regulation, so long as the patient is an appropriate Medicaid recipient.]

[(11) Provision and retrieval of durable medical equipment. Home health agencies provide appropriate durable medical equipment for the recipient's use; for recipients of HCB services such equipment must be returned to the home health agency when no longer needed by the recipient. Prior authorization by the cabinet is required for the purchase and/or rental of durable medical equipment under the home health agency program.]

Section 4. Prior Authorization for Services; Hearing Rights. The cabinet shall prior authorize HCB services to ensure that patient status is met, that HCB services are adequate for the needs of the client, and that HCB services would not reasonably be expected to exceed the cost of institutional care (on an overall basis). A client found unsuitable for failure to meet the specified criteria may be denied HCB services. An individual, if eligible for HCB services, will be given the option of HCB services or traditional skilled nursing or intermediate care facility services. Any denial of service may be appealed pursuant to 904 KAR 2:055.

Section 5. Contracting and Subcontracting. All HCB services, whether provided directly by the participating provider or through contract or subcontract, must be in accordance with the terms and conditions specified herein, and the contractor or subcontractor must meet applicable requirements of law and regulations governing the performance of the service.

Section 6. Auditing and Reporting. All participating providers, contractors and subcontractors shall be required to maintain fiscal and service records and to provide such reports as may be determined necessary by the cabinet for the effective functioning and administration of the program. Such providers, contractors and subcontractors shall be required to make available upon request all service and financial records (including records of ownership, home office costs, etc.) to the Cabinet for Human Resources, the United States

Department of Health and Human Services, and the Comptroller General, and/or their representatives or designees, for auditing and/or monitoring purposes.

Section 7. Implementation. The phase-in schedule for implementation of HCB services is as follows: effective January 1, 1987, the Bluegrass, Buffalo Trace, Gateway, Kentucky River and Cumberland Valley Area Development Districts (ADDs); effective March 1, 1987, the Barren River, Lincoln Trail, Lake Cumberland and Northern Kentucky ADDs; effective July 1, 1987, all other Kentucky ADDs. [Participating providers may provide services pursuant to the terms and conditions of Sections 1 through 6 of this regulation beginning on the first day of the next calendar month following the month in which this regulation becomes effective.]

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 6, 1987

FILED WITH LRC: January 15, 1987 at 8 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services

907 KAR 1:170E. Payments for home and community based services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 15, 1987

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 methods of payment for home and community based services provided as an alternative to skilled nursing facility and intermediate care facility care.

Section 1. Coverage. The Cabinet for Human Resources shall reimburse participating providers (including coordinating agencies) of home and community based (HCB) services for services rendered to eligible medical assistance recipients who meet patient status criteria for skilled nursing or intermediate care facility care, and who are prior authorized for the HCB

service[]; and shall, in addition, reimburse participating providers (and coordinating agencies) for appropriate assessments and/or institutional visits made for the purpose of determining necessity for, and arranging, HCB services regardless of the final determination of patient status or issuance of prior authorization for HCB services]. Coverage provisions are contained in 907 KAR 1:160.

Section 2. Payments. Payment amounts for HCB services shall be determined in accordance with the provisions and principles contained herein.

(1) Assessment, case management [(extraordinary)], homemaker services, personal care services, [institutional visit,] respiratory therapy[, and nutritional therapy] shall be paid using [on] an interim payment method [rate basis at a percent of billed charges] with a year-end settlement to the lower of actual reasonable costs or reasonable charges utilizing Medicare principles of reimbursement. The interim rate is derived by applying a reduction factor to current charges based on the difference between prior year allowable cost and charges. When prior year costs and charges are not available, the interim rate will be set at the cabinet's best estimate of current costs (not to exceed charges) based on payments made for similar services.

(2) Respite care shall be paid on the basis of billed charges, with reimbursement for an individual [for a service year] (beginning with the first billed HCB service) not to exceed \$2,000 per calendar year or \$1,000 in any six (6) month period within that calendar year [a total of ten (10) times the current maximum daily rate for intermediate care facility services (as shown in 907 KAR 1:036)]. The billed charge should include only the actual cost of the respite care services plus actual overhead costs incurred by the provider. There will be no year-end settlement.

(3) Minor home adaptations shall be paid on the basis of actual billed charges, with reimbursement for an individual for a calendar [service] year [(beginning with the first billed HCB service)] limited to a maximum of \$500 [110] for all modifications. The service must have been appropriately prior authorized and have been provided. The billed charge should include only the actual cost of the minor home adaptations plus actual overhead costs incurred by the provider. There will be no year-end settlement.

[(4) Durable medical equipment shall be provided by or through home health agencies only with reimbursement made directly to the home health agency in accordance with usual payment provisions. Costs related to retrieval of equipment shall be considered administrative costs, not directly billable, and shall be paid as a year-end settlement at the lower of actual reasonable costs or charges.]

(4) [(5)] Payments for adult day health care services shall be made directly to licensed participation adult day health care centers on the basis of an interim rate with a year-end cost settlement to the lower of actual reasonable allowable costs or charges. The basic rate shall not exceed eighty (80) percent of the maximum intermediate care reimbursement rate for routine services. Reimbursement for ancillary services shall not exceed eighty (80) percent of the approved maximum reimbursement rate for



therapy services under the home health program element.

Section 3. Implementation. The amendments to this regulation shall be effective on January 1, 1987. [Payments may be made for covered services provided beginning on the first day of the next calendar month following the month in which this regulation becomes effective.]

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 6, 1987

FILED WITH LRC: January 15, 1987 at 8 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services

907 KAR 1:350E. Coverage and payments for organ transplants.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 5, 1987

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 coverage and payments policy of the cabinet with regard to organ transplants.

Section 1. General Requirements. The following general requirements shall be applicable with regard to organ transplants:

(1) For an organ transplant to be covered under the Medicaid Program, there must be some likelihood that the transplant will achieve its purpose. For purposes of this determination, the prognosis must be that there is a reasonable expectation the patient's health or condition will be improved by the transplant.

(2) The hospital and physician performing the transplant must be recognized by the Medicaid Program as being competent to perform the transplant. A staffed and functioning unit at the hospital designed for and/or accustomed to performing transplants of the nature envisioned, recognized as competent by the medical community, will ordinarily be considered competent by the program.

Section 2. Reimbursement for Organ Transplants. Hospital payments for organ transplants will be set at eighty (80) percent of charges with total payments not to exceed \$75,000 per transplant without regard to usual program limits on hospital length-of-stay. Physician payments for organ transplants will be at the usual Medicaid Program rates.

Section 3. Application of Organ Transplants Policy. It is the intent of the Department for Medicaid Services that the organ transplant policy be applied uniformly and consistently so that similarly situated individuals will be treated alike. To accomplish this goal the department will use the methodology specified in this section in receiving and processing requests for coverage and payments for organ transplants.

(1) All requests for authorization for organ transplants must be sent to the Commissioner, Department for Medicaid Services.

(2) The commissioner will assign the request to appropriate staff for investigation, report and recommendation. The report must show whether the person requesting the transplant is Medicaid eligible (or approximately when the person will become eligible); the type of transplant requested; the name of the facility (and physician if considered necessary) where the transplant is to be performed; any fee arrangement that has been made with the facility and/or physician (or a statement as to whether there is a disagreement with regard to fees); the proposed date of the transplant; the prognosis; a finding as to whether the facility/physician is considered qualified for the transplant being considered; and a finding as to whether program criteria for coverage is met.

(3) After consideration of the report and recommendation the commissioner will determine whether coverage criteria is met and payments for the transplant should be made. If the decision is to provide coverage, Medicaid program staff will assist the recipient with necessary arrangements for the transplant. If the decision is negative, the recipient will be notified of the manner in which the request does not meet agency guidelines.

Section 4. Scope of Coverage. This organ transplant policy is applicable with regard to the following types of transplant: heart, lung, bone marrow and liver. Other types of transplants will also be covered under this policy upon identification and request except when special treatment of the transplant services is not considered necessary (i.e., usual program coverage and reimbursement is considered adequate), or when the transplant is considered by the Department for Medicaid Services to be experimental in nature. The Medicaid Program will not cover experimental transplants, i.e., those which have not previously been proven effective in resolving the health problems which the transplant is the proposed preferable treatment mode.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 30, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

## AMENDED AFTER HEARING

PUBLIC PROTECTION AND REGULATION CABINET  
Department of Insurance  
(Amended After Hearing)

806 KAR 13:100. Motor vehicle comprehensive insurance rate discounts for anti-theft devices.

RELATES TO KRS 304.13-051, 304.13-065, 304.14-100, 304.14-110, [304.14-120,] 304.20-400 to 304.20-450

PURSUANT TO: KRS 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation implements the provisions of 1986 Ky. Acts c. 352, which requires insurers to grant discounts in motor vehicle comprehensive insurance rates for those insureds using anti-theft devices which meet certain criteria.

Section 1. Definitions. As used in this regulation:

(1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(2) "Comprehensive insurance coverage" means a coverage under a motor vehicle insurance policy which provides protection against loss or damage to a motor vehicle except by collision or upset.

(3) "Motor vehicle" has the meaning set forth in KRS 304.39-020(7).

Section 2. Scope. (1) This regulation applies to comprehensive insurance coverage under all motor vehicle insurance policies issued or renewed after January 1, 1987.

(2) The discounts required by KRS 304.20-400 to 304.20-440 must be granted to both commercial and private passenger risks.

Section 3. Approval of Anti-theft Devices. All anti-theft devices which meet the criteria of KRS 304.20-400 to 304.20-440 are approved for discounts as specified in KRS 304.20-400 to 304.20-440.

Section 4. Rate Filings. All insurers issuing or renewing motor vehicle comprehensive insurance coverage in Kentucky after January 1, 1987, shall make a rate filing pursuant to KRS Chapter 304.13 to reflect the discounts required by KRS 304.20-400 to 304.20-440. Such rate filings must be made by January 1, 1987.

Section 5. Notice of Availability of Motor Vehicle Comprehensive Insurance Rate Discounts.

(1) All insurers issuing or renewing motor vehicle comprehensive insurance coverage after January 1, 1987, shall provide written notice to insureds or prospective insureds of the right to apply for a discount for anti-theft devices.

(2) Notice to prospective insureds shall be given no later than the time of the delivery of the policy [taking of the application].

(3) Notice to existing insureds shall be given at the time of the first renewal following January 1, 1987, and on subsequent renewals at the option of the insurer.

Section 6. Application Forms for Discounts. (1) All insurers issuing motor vehicle comprehensive insurance coverage shall develop an application form for discounts in comprehensive insurance coverage pursuant to KRS 304.20-400 to 304.20-440.

(2) Such forms shall be available to insureds upon their request.

(3) Such forms shall be used pursuant to KRS 304.14-100(3), 304.14-110, and all other applicable law. Insurers shall use such forms to determine whether insureds must be granted discounts pursuant to KRS 304.20-400 to 304.20-440.

(4) Insurers may [must] file such forms for approval pursuant to KRS 304.14-120 and 806 KAR 14:005. Such forms shall contain or request at least the following information:

(a) The name of the named insured;

(b) Policy number;

(c) Vehicle description (year, make, model, and vehicle identification number);

(d) A description of the anti-theft device;

(e) Signature by the insured as indication that the representations in the application are true; and

(f) Any other information desired by the insurer.

Section 7. Severability; Effective Date. (1) If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(2) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(3) As a courtesy to the Legislative Research Commission, the Department of Insurance states that this regulation is intended to be permanent.

GIL McCARTY, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: December 22, 1986

FILED WITH LRC: January 6, 1987 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET  
Department of Insurance  
(Amended After Hearing)

806 KAR 17:080. Long-term health care insurance.

RELATES TO KRS 304.14-130, 304.17-314, 304.18-038, 304.18-110, 304.18-120, 304.32-290, 304.38-220

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.32-250, 304.38-150

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.32-250 provides that the Commissioner of Insurance may make reasonable regulations he deems necessary for the proper administration of KRS Chapter 304.32. KRS 304.38-150 provides that the Commissioner may make reasonable regulations deemed necessary

for the proper administration of KRS Chapter 304.38. This regulation establishes guidelines for the implementation of 1986 Ky. Acts c. 409 (eff. July 1, 1987), which requires individual and group health insurers, non-profit hospital, medical-surgical, dental, and health service corporations, and health maintenance organizations to make available long-term health care insurance.

Section 1. Definitions. As used in KRS 304.17-314, 304.18-038, 304.32-290, and 304.38-220 and this regulation.

(1) "Insurance policy" means a contract issued by an insurer as defined herein.

(2) "Insurer" means an insurer, a non-profit hospital, medical-surgical, dental, and health service corporation, or a health maintenance organization. "Insurer" does not include medicare or medicaid.

(3) "Custodial care" does not include personal convenience or comfort services for which a separate charge is levied.

(4) "Long-term health care" means treatment at a licensed long-term health care facility as defined in KRS 216.510(1). "Long-term health care" does not include treatment provided to a patient in the patient's home. If services are not provided by a long-term health care facility licensed in Kentucky, this term shall be defined in accordance with policy provisions.

(5) "Loss ratio" means the ratio of the sum of incurred losses and the change in policy reserves divided by the earned premiums.

(6) "Skilled care" and "intermediate care" are defined in relation to the licensure or certification requirements and the level of services required for skilled and intermediate care facilities in Kentucky. If services are not provided in a long-term health care facility licensed in Kentucky, these terms shall be defined in relation to the level of skill required for the care, the nature of the care, and the setting where the care is delivered.

(7) "Total cost," in relation to skilled and intermediate care, shall mean reimbursable costs based on usual, customary, and reasonable charges, as formulated by insurers.

Section 2. Applicability. (1) 1986 Ky. Acts c. 409 and this regulation establish minimum standards for long-term health care insurance policies which must be available upon request. 1986 Ky. Acts c. 409 and this regulation do not prohibit insurers from developing long-term health care insurance policies which have provisions which do not meet such minimum standards and offering such policies in Kentucky as long as such policies otherwise comply with the Kentucky Insurance Code.

(2) Only insurers issuing health insurance policies in Kentucky which provide coverage on an expense incurred basis shall be required to develop an insurance policy providing coverage for long-term health care. Insurers issuing indemnity policies which have only incidental expense incurred components shall not be required to develop a long-term health care insurance policy.

(3) Insurers issuing only disability or specific disease insurance policies in Kentucky shall not be required to develop a long-term health care insurance policy.

(4) Conversion health insurance policies issued pursuant to KRS 304.18-110, 304.18-120,

304.32-152, and 304.38-191 are not subject to 1986 Ky. Acts c. 409 except to the extent long-term health care must be offered as an option under a conversion health insurance policy in order to provide benefits which are substantially similar to the benefits under the group contract to which the conversion health insurance policy relates.

(5) 1986 Ky. Acts c. 409 and this regulation apply only to policies delivered or issued for delivery in Kentucky and certificates issued thereunder on or after July 1, 1987.

Section 3. Loss Ratios. Individual long-term health care insurance policies shall have anticipated loss ratios at least as great as fifty (50) [forty-five (45)] percent.

Section 4. Medical Underwriting; Pre-existing Conditions; Pre-admission Certification. (1) Medical underwriting. Insurers may engage in reasonable medical underwriting in relation to long-term health care insurance policies.

(2) Pre-existing condition clauses.

(a) No long-term health care insurance policy shall use a definition of "pre-existing condition" which is more restrictive than the following: Pre-existing condition means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care, or treatment, or a condition for which medical advice or treatment was recommended by or received from a health care provider within the limitation periods specified in subparagraphs 1 and 2 of this paragraph:

1. Six (6) months preceding the effective date of coverage of an insured who is sixty-five (65) years of age or older on the effective date of coverage; or

2. Twenty-four (24) months preceding the effective date of coverage of an insured who is under sixty-five (65) years of age on the effective date of coverage.

(b) No long-term health care insurance policy may exclude coverage for a loss or confinement which is the result of a pre-existing condition unless such loss or confinement begins within the periods specified in subparagraph 1 or 2 of this paragraph:

1. Six (6) months following the effective date of coverage of an insured who is sixty-five (65) years of age or older on the effective date of coverage; or

2. Twenty-four (24) months following the effective date of coverage of an insured who is under sixty-five (65) years of age on the effective date of coverage.

(c) The Commissioner of Insurance may extend the limitation periods set forth in paragraphs (a) and (b) of this subsection as to specific age group categories in specific policy forms upon findings that such extension is in the public interest.

(d) The definition of "pre-existing condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant and using such information for underwriting purposes as specified in subsection (1) of this section. [A long-term health care insurance policy may include a clause excluding coverage for health conditions for which medical advice was given or treatment was recommended or received within twelve (12) months before the effective date of coverage. The waiting period for pre-existing

conditions shall not be more than twelve (12) months from the effective date of the policy. As to long-term health care insurance, a pre-existing condition shall not be defined more restrictively than as set forth in this subsection.]

(3) Insurance coverage provided for long-term health care may be conditioned upon compliance with an insurer's pre-admission screening requirements. These requirements may include periodic recertification of the medical necessity or the appropriateness of care for a patient's continued confinement in a long-term health care facility. The level of care and services for skilled care, intermediate care, personal care, and family care, as set forth in Cabinet for Human Resources regulations, shall be considered in preadmission and subsequent review.

Section 5. Deductibles, Co-insurance, and Maximum Benefit Limitation. (1) Deductible and co-insurance provisions need not be identical to those contained in other health insurance policies developed by insurers subject to 1986 Ky. Acts c. 409 and this regulation, so long as insurers provide complete coverage on an expense incurred basis and pay at least seventy-five (75) percent of the total cost of covered long-term health care after any deductibles required by the policy. "Complete coverage" refers to the maximum benefit provided by an insurer under the insurance policy.

(2) The requirement that insurers pay at least seventy-five (75) percent of the total cost of covered long-term health care does not preclude an insurer from imposing daily or lifetime maximum benefit limitations in a long-term health care insurance policy.

(3) Insurers may impose their own deductibles in addition to the sixty (60) day waiting period established by 1986 Ky. Acts c. 409. Insurers shall not be liable for reimbursement of excess benefits where it is determined that prices have been increased by providers on the 61st or subsequent day of a patient's confinement to recoup unpaid expenses incurred during the sixty (60) day waiting period.

Section 6. Medicare Beneficiaries. Insurers which provide long-term health care benefits to Medicare beneficiaries may provide a different level of benefits for policyholders who are eligible for Medicare.

Section 7. Outline of Coverage. An outline of coverage shall be provided to applicants for long-term health care insurance no later than the time the application is taken. For direct response insurers, the outline of coverage shall be delivered to applicants no later than the time the policy is delivered to an applicant.

(1) Such outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(c) A statement of the renewal provisions including any reservation by the insurer of a right to change premium rates;

(d) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions; and

(e) If the policy does not provide coverage for services rendered by long-term health care facilities other than those licensed by the Commonwealth of Kentucky, a statement disclosing this fact.

(2) A certificate issued pursuant to a group long-term health care insurance policy which is delivered or issued for delivery in Kentucky shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy; and

(c) A statement that the group master policy should be consulted to determine governing contractual provisions.

(3) With regard to group coverage, once the insurer has notified the master policyholder of the availability of long-term health care insurance coverage, the insurer is not required to provide any further notification to the master policyholder unless the master policyholder requests the coverage in writing.

Section 8. Requirement of Prior Confinement.

(1) Intermediate nursing facilities: A long-term health care insurance policy shall not require prior confinement in a hospital or a skilled nursing facility as a condition of coverage for long-term health care provided in an intermediate care facility.

(2) Other types of long-term health care facilities: Long-term health care insurance policies may require prior confinement in a hospital or skilled nursing facility as a condition to coverage for long-term health care rendered by any other type of long-term health care facility.

Section 9. Annual Advertising Requirement. (1) Insurers' annual advertising on a collective or institutional basis, of the availability of individual long-term health care insurance policies shall satisfy the annual advertising requirement of KRS 304.17-314(4).

(2) Annual advertising pursuant to KRS 304.17-314(4) shall be in at least one (1) newspaper of statewide circulation and on radio and television stations sufficient to reach all areas of the state, such stations to be selected by insurers.

(3) The first advertising shall occur in July, 1987.

Section 10. Affiliated Insurers. Insurers may comply with the provisions of 1986 Ky. Acts c. 409 by offering a long-term health care insurance policy developed by an insurer which is a member of a group of insurers affiliated with the insurer.

Section 11. Severability; Effective Date. (1) If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(2) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(3) As a courtesy to the Legislative Research Commission, the Department of Insurance states

that this regulation is intended to be permanent.

GIL McCARTY, Commissioner  
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: December 30, 1986  
FILED WITH LRC: January 6, 1987 at 11 a.m.

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**  
(Amended After Hearing)

902 KAR 17:010. State health plan.

RELATES TO: KRS Chapters 194, 216B, Executive Order 86-366

PURSUANT TO: KRS 194.050, Executive Order 86-366

NECESSITY AND FUNCTION: The Health Planning and Resources Development Act, 42 USC 300 M-3 requires participating states to adopt by procedures set out in the United States Code, a state health plan. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the proper administration of the cabinet and its programs. The Commission for Health Economics Control in Kentucky [Certificate of Need Authority] utilizes the state health plan in review of applications for certificates of need to establish and modify health services and health facilities in the

Commonwealth. The function of this regulation is to assist in the inventory of existing health resources and to set planning goals and guidelines.

Section 1. The Kentucky State Health Plan 1986-1988, was adopted by the State Health Planning Council on November 8, 1985, amended on January 22, 1986, and January 9, 1987 [November 12, 1986], and approved by Governor Martha Layne Collins as the document that sets out planning policies and guidelines for use by the Commission for Health Economics Control in Kentucky [Certificate of Need Authority]. A copy of the Kentucky State Health Plan 1986-1988 as amended on January 22 and January 9, 1987 [November 12, 1986], is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 and is open and available for public inspection during normal business hours.

Section 2. The Review Criteria and Standards Section, pages 167 through 190 [191], of the Kentucky State Health Plan 1986-1988 is hereby adopted by reference as regulations of the Cabinet for Human Resources as if fully set out herein.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 12, 1987  
FILED WITH LRC: January 13, 1987 at 10 a.m.

## PROPOSED AMENDMENTS

**DEPARTMENT OF PERSONNEL**  
(Proposed Amendment)

101 KAR 2:040. Applications and examinations.

RELATES TO: KRS 18A.030, 18A.110, 18A.120  
PURSUANT TO: KRS Chapter 13A, 18A.030, 18A.110, 18A.150

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern open competitive exams to test the relative fitness of applicants and for the rejection of candidates or eligibles who fail to meet reasonable requirements of the commissioner. This regulation is necessary to implement these statutory requirements and to assure uniformity in administering exams.

Section 1. Notices of Examinations. Examinations for entrance to the classified service shall be conducted on an open-competitive basis. For those job classifications in which there is expected to be a considerable and recurring need of eligibles, the commissioner shall establish a recruitment program which shall be both positive and continuous. Under such plan, applications may be accepted at any time and examinations held whenever and wherever the commissioner deems it desirable for the service. For those job classifications for which continuous recruitment is not needed, special announcements will be

used. Eligibles will be listed in rank order irrespective of dates on which the examination was taken. Notice of examinations shall be announced publicly fifteen (15) days prior to opening and may be distributed to public officials, employment service offices, newspapers, radio stations, educational institutions, professional and vocational societies, other media and such other individuals and organizations as the commissioner may deem expedient. The public notice of examination shall specify the title and minimum salary of the job classifications; the minimum qualifications required; the final date on which application will be received; the relative weights to be assigned to different parts of the examination; and all pertinent information and requirements.

Section 2. Minimum Qualifications for Filing. Open-competitive examinations shall be open to all applicants who meet the standards or requirements fixed by the commissioner with regard to education, experience, age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position.

Section 3. Previous Experience. In determining whether a state employee meets the minimum requirements for experience required for a job classification, the department shall, in counting state service experience, consider only

experience gained during permanent full-time employment.

Section 4. Filing Applications. (1) All applications shall be made on forms prescribed by the commissioner. Such application may require information concerning personal characteristics, education, experience, references, and other pertinent information. When the nature of the work is such that age limits are necessary, the commissioner after consultation with the appointing authority may approve the age limits, which shall be stated in the examination announcement. All applications shall be signed and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to education and experience, but in no case shall admittance to the examinations constitute assurance of a passing grade.

(2) For those job classifications for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice.

(3) For those job classifications for which continuous recruitment is not needed, special announcement bulletins will be used. Applicants shall have fifteen (15) calendar days to apply for these special openings. The applications will be processed and those applicants who meet the minimum requirements will be notified of the testing dates.

Section 5. Disqualification of Applicants. The commissioner may refuse to examine an applicant, or, after examination, may disqualify such applicant, remove his name from a register, refuse to certify any eligible on a register or may consult with the appointing authority in taking steps to remove such person already appointed if:

(1) It is found that he does not meet any one of the preliminary requirements established for the examination for the class of position;

(2) He is unable to perform the duties of the class;

(3) He has made a false statement of material fact in his application;

(4) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(5) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(6) He has failed to submit his application correctly or within the prescribed time limits;

(7) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(8) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(9) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the governor;

(10) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(11) He has otherwise willfully violated the provisions of KRS Chapter 18A.

Section 6. Advance Examinations. Any applicant who does not meet minimum requirements as to education but who will meet these requirements as a result of the completion of further educational work which he has scheduled for the six (6) months following the date of receipt of application, may be allowed to take the examination at the discretion of the commissioner. An applicant taking the examination under this provision shall have his or her name entered on the register up to thirty (30) days prior to completing the educational requirements.

Section 7. Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular job classification for which he is competing and his general background and related knowledge, and shall be rated impartially. The commissioner may use a rating of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgement serves the need to discover the relative fitness of applicants.

Section 8. Conduct of Examinations. (1) Examinations shall be conducted in as many places in the Commonwealth as are found convenient for applicants and practicable for administration.

(2) The commissioner may designate monitors in various parts of the Commonwealth to take charge locally of examinations under instructions prescribed by him, provide for the compensation of such monitors, and make arrangements for the use of public buildings in which to conduct the examinations.

(3) Retest procedures.

(a) For open continuous testing an applicant may be admitted to the same exam or its alternate no more than two (2) times within a regular workweek.

(b) For open continuous testing an applicant shall not be permitted to take the same exam or its alternate more than twelve (12) times in a twelve (12) month period beginning with the original date such test is taken.

(c) Retest procedures for examinations listed on special announcements shall be stated on the bulletin.

(d) An applicant who is removed from a register under 101 KAR 2:050, Section 6(1) who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to retest for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

Section 9. Rating Examinations. The commissioner shall determine the rating or standing of applicants on the register for all examinations. Such final rating shall be based upon a weighted average of the various parts of the total examination. All applicants for the same job classification shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 10. Rating Education and Experience.

(1) When the rating of education and experience forms a part of the total examination, the commissioner shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity of experience and the pertinency of the education.

(2) The commissioner shall investigate the candidate's educational record form. The commissioner may investigate the candidate's work history. If the results of this investigation bring out information affecting the rating of education and experience, the commissioner may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate.

Section 11. Oral Examinations. When an oral examination forms a part of the total examination for a position, the commissioner shall appoint one (1) or more oral examination panels as needed. An oral examination panel shall consist of three (3) or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel of whom one (1) shall be technically familiar with the character of work in the position for which the applicants will be examined. Whenever practicable, all candidates for the same job classification who qualify for the oral examination shall be rated by the same oral examination panel. A member of an oral examination panel shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

Section 12. Notice of Examination Results. Each competitor shall be notified of his final rating as soon as the rating of the examination has been completed. Eligibles shall be entitled to information concerning their relative position on the register upon request and presentation of proper identification.

Section 13. Adjustment of Errors. An error in the rating of an examination, if called to the attention of the commissioner within thirty (30) days after receipt by the applicant of the notice of examination results shall be corrected by the commissioner provided, however, that such corrections shall not invalidate any certification and appointment previously made.

Section 14. Special Examinations. Except in the case of an error in the examining of an applicant, no applicant shall be given a special examination unless the board by formal recorded action finds that the applicant's failure to take or complete an examination was due to circumstances entirely beyond the control of the applicant. The board's findings and recommendations shall be recorded in its minutes. No claim for a special examination shall be allowed unless it is filed in writing with the board within fifteen (15) days after the date of the original examination. Any special examination shall be constructed on a pattern similar to, and as extensive as, the original examination. Any such special examination shall not invalidate any certification or appointment previously made.

Section 15. Examination Records. The

commissioner shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the register.

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: January 15, 1987

FILED WITH LRC: January 15, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 25, 1987, Room 360 of the Capitol Annex in Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 20, 1987 of their desire to appear and testify at the hearing: Thomas C. Greenwell, Commissioner, Department of Personnel, Room 373, Capitol Annex, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Anne E. Keating

(1) Type and number of entities affected: All applicants for state employment and all state agencies covered by KRS Chapter 18A and 101 KAR Chapter 2.

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings: Hiring should be more efficient as it will be easier to locate interested applicants.

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body: No costs or savings.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Department of Personnel will give notice to appointing authority and applicants of new requirements.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This change applies uniformly to all applicants on state registers.

#### DEPARTMENT OF PERSONNEL (Proposed Amendment)

101 KAR 2:050. Registers.

RELATES TO: KRS 18A.005, 18A.110, 18A.120

PURSUANT TO: KRS Chapter 13A, 18A.030, 18A.040, 18A.110

NECESSITY AND FUNCTION: KRS 18A.110 requires



the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern the establishment of eligible lists for appointment and for the rejection of candidates or eligibles who do not meet reasonable selection requirements of the commissioner. This regulation is necessary to comply with these statutory requirements.

Section 1. Responsibility for Maintenance of Registers. It shall be the duty of the appointing authorities to notify the commissioner as far in advance as possible of vacancies in full-time or part-time classified positions which may occur in the agencies. The commissioner shall be responsible for the establishment and maintenance of appropriate registers for all full-time or part-time classified positions and for the determination of the adequacy of existing registers.

Section 2. Open-Competitive Registers. After each open-competitive examination, the commissioner shall prepare a register of persons with passing grades seeking employment in a full-time or part-time classified position. The names of such persons shall be placed on the register in the order of their final ratings, starting with the highest. Registers for job classifications listed on the special announcement bulletins shall be filled no sooner than five (5) days after the final testing date.

Section 3. Use of Related Registers. If a full-time or part-time vacancy exists in a job classification for which there is no appropriate register, the commissioner may prepare a full-time or part-time register for the job classification from one (1) or more existing related registers. The commissioner shall select registers from job classifications for which the minimum qualifications are comparable to or higher than those required for the job classification in which the vacancy exists. The commissioner may, if appropriate, re-rate training and experience on the basis of the minimum qualification required for the job classification in which the vacancy exists.

Section 4. Duration of Registers. (1) A register shall expire automatically at the end of two (2) years from the time of its establishment unless the register is extended by the commissioner for a period not to exceed one (1) additional year or terminated by the commissioner.

(2) The life of registers for job classifications for which continuous recruitment and examination is conducted shall be indefinite but may be terminated by the commissioner. The names of eligibles shall be added to and removed from such registers on a continuous basis. Normally, the name of an eligible shall not remain on a register for a job classification in the continuous program for longer than two (2) years from the date of its entry on the register. Whenever the name of an eligible is removed from a register, the eligible shall be notified in writing.

(3) When a register becomes so depleted that the preparation of usable certificates for a major portion of the imminent vacancies of the job classification is impracticable, the register will be considered exhausted. The

register which has become exhausted shall be considered expired upon the administration of a superseding examination and the establishment of a register on the basis of that examination. When a register becomes exhausted, the commissioner shall send to each eligible remaining on such register a notification prior to the administration of a superseding examination.

Section 5. Replenishment of Registers. If the commissioner determines that a register, although not exhausted, is inadequate for the filling of anticipated vacancies, he may announce an open competitive examination for the purpose of replenishing such register.

Section 6. Removal of Names from the Register. (1) Reasons for removal. The commissioner may, on receipt of authoritative information, remove the name of an eligible from the appropriate full-time or part-time register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(2) An applicant who is removed from a register under Section 6(1) of this regulation who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to be restored to the register for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

(3) [(2)] The names of eligibles who have been considered for a probationary full-time or part-time appointment three (3) times by any one (1) or more appointing authorities and have not been offered employment may be removed from a full-time or part-time register if it is determined they would not be suited to the type of work found in the class for which the register is established.

(4) [(3)] When the Department of Personnel is authoritatively notified that an eligible has accepted a bona fide offer of probationary appointment to any full-time or part-time classified position, effective on a specified date, his name may be removed from the registers

for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

(5) [(4)] Whenever an eligible's name is removed from a full-time or part-time register for reasons cited in subsections (1), (2) and (3) of this section, the commissioner shall notify, in writing, the eligible of this action and the reasons therefor, together with his right of appeal to the board pursuant to 101 KAR 1:350. A copy of the appeal form shall be attached to the notice. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board upon appeal.

(6) [(5)] Whenever an eligible notifies the Department of Personnel in writing that he is unavailable for employment or employment consideration, the department may remove the name of that eligible from the appropriate full-time or part-time register without further notification to the person.

Section 7. Promotional Register. At the request of the appoint authority, the commissioner shall prepare a register of status employees interested in promotion to a full-time or part-time classified position who meet the minimum requirements and has obtained a passing grade on the competitive promotional examination. The names of such employees shall be placed on the register in the order of their final ratings, starting with the highest. The register shall be certified to agencies for their consideration in filling vacancies from a promotional register.

Section 8. Full-Time or Part-Time Re-employment Registers. The commissioner shall prepare re-employment registers in accordance with 101 KAR 1:330, Section 5.

Section 9. Cooperation with Other Merit Systems. The commissioner may cooperate with the governmental agencies of other jurisdictions whose merit systems operate in conformity with standards comparable to those contained in these regulations. The commissioner may announce and administer joint examinations and establish joint lists from which eligibles shall be certified for appointment in accordance with the provisions of these regulations.

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: January 15, 1987

FILED WITH LRC: January 15, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 25, 1987, Room 360 of the Capitol Annex in Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 20, 1987 of their desire to appear and testify at the hearing: Thomas C. Greenwell, Commissioner, Department of Personnel, Room 373, Capitol Annex, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Anne E. Keating

(1) Type and number of entities affected: All applicants for state employment and all state agencies covered by KRS Chapter 18A and 101 KAR Chapter 2.

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings: Hiring should be more efficient as it will be easier to locate interested applicants.

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body: No costs or savings.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Department of Personnel will give notice to appointing authority and applicants of new requirements.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This change applies uniformly to all applicants on state registers.

#### GENERAL GOVERNMENT CABINET Board of Licensure for Nursing Home Administrators (Proposed Amendment)

201 KAR 6:010. Licensure.

RELATES TO: KRS Chapter 216A

PURSUANT TO: KRS Chapter 216A

NECESSITY AND FUNCTION: KRS Chapter 216A authorizes the Kentucky Board of Licensure for Nursing Home Administrators to regulate the practice of nursing home administration in Kentucky, including the adoption of standards for licensure. The purpose of this regulation is to establish uniform requirements for the licensing of nursing home administrators.

Section 1. Requirements for Issuance of License. An applicant for a license as a nursing home administrator shall in addition to meeting the requirements provided by KRS 216A.080:

(1) Establish a bona fide residency or express an intent to reside in Kentucky, unless employed by a health care facility located in Kentucky.

(2) Have satisfactorily completed a course of study for, and have been awarded a baccalaureate degree from an accredited college or university; and have six (6) months of continuous management experience in a health care facility within three (3) years from the date of application. Said management experience shall include at least partial responsibility for personnel management, budget preparation and fiscal management, and public relations.

(3) Pay a license fee of \$100 at the time of

application, seventy-five (75) dollars of which shall be refunded in the event the applicant is not subsequently licensed.

Section 2. Examination Subjects. (1) Every applicant for a license as a nursing home administrator shall successfully pass a written examination which shall include, but need not be limited to, the following subjects:

- (a) Applicable standards of environmental health and safety;
- (b) Local health and safety regulations;
- (c) General administration;
- (d) Psychology of patient care;
- (e) Principles of patient care;
- (f) Personal and social care;
- (g) Therapeutic and supportive care and services in long-term care;
- (h) Departmental organization and management; and
- (i) Community interrelationships.

(2) Any applicant who has failed to pass the written examination will not be permitted to take the examination again until three (3) months have elapsed. If the applicant fails to pass the examination after three (3) attempts, no further attempts to pass the examination shall be permitted by the board unless the board finds that exceptional circumstances exist at which time the applicant may be allowed to take the examination.

Section 3. Temporary Permits. (1) The board may issue a temporary permit to an individual to practice the art of nursing home administration when the applicant:

- (a) Has made written application to the board on the forms provided;
- (b) Is at least twenty-one (21) years of age;
- (c) Intends to become employed by a health care facility located in Kentucky;
- (d) Has been awarded a baccalaureate degree from an accredited college or university;
- (e) Has furnished the board a letter of recommendation from the facility owner or supervisor where he intends to work, with sufficient information to support the fact that an emergency situation exists; and
- (f) Has paid the temporary permit fee of fifty (50) dollars.

(2) Temporary permits shall be issued in the name of the applicant to be employed at a specific facility for a period of six (6) months.

(3) A refund of twenty-five (25) dollars may be made to the holder of a temporary permit, in the event such permittee receives a nursing home administrators license issued during the first ninety (90) days of the permit period.

(4) A temporary permit may not be extended or renewed beyond the initial period of six (6) months and may not be transferred from one (1) facility to another nor from one (1) individual to another.

Section 4. Renewal, Expiration and Reinstatement of Licenses. (1) All licenses shall be renewed every two (2) years from date of issue or from date of last renewal. It is the responsibility of the licensee, prior to such date of renewal to have:

- (a) Made written application for renewal on the prescribed forms;
- (b) Paid a biennial renewal fee of \$100;
- (c) Submitted evidence, satisfactory to the board, of attendance or completion of a

continuing education program of study approved by the board which contained either a minimum of four (4) college semester hours in courses directly related to business administration, economics, marketing, computer science, social services, psychology, and health profession related programs such as nursing, premedicine, etc., or fifty (50) clock hours, all of which must have been achieved during the immediate preceding biennial period. Any clock hours obtained during the last thirty (30) days of any renewal period, in excess of the number of hours required for renewal purposes, may be credited toward the new renewal period during the renewal process.

(d) Beginning July 1, 1988, instead of the four (4) college semester hours or fifty (50) clock hours required in subsection (1)(c) of this section, the licensee seeking renewal of his or her license must submit evidence, satisfactory to the board, of attendance or completion of a continuing education program of study approved by the board which contained either a minimum of two and one-half (2.5) college semester hours in courses directly related to business administration, economics, marketing, computer science, social services, psychology, and health profession related programs such as nursing, pre medicine, etc., or thirty (30) clock hours, all of which must have been achieved during the immediate preceding biennial period. Any clock hours obtained during the last thirty (30) days of any renewal period, in excess of the number of hours required for renewal purposes, may be credited toward the new renewal period during the renewal process.

(2) The board may make exceptions, grant waivers or provide extensions to the requirements in subsection (1) above when extenuating circumstances are sufficiently evidenced by the licensee to warrant such action.

(3) Expired licenses may be reinstated within a period of sixty (60) days from date of expiration, provided all conditions are met. Failure on the part of the licensee to pay the biennial licensure fee and show evidence of completing the required continuing education credits during the sixty (60) day grace period shall automatically cause such license to terminate. Thereafter, a candidate for relicensure shall make application to the board and meet current licensure requirements.

Section 5. Endorsement. The board may license by endorsement, without examination, a nursing home administrator currently licensed by examination by the proper authorities of any other state upon payment of a fee of \$100, and provided the applicant demonstrates to the board:

(1) That he is familiar with state and local health and safety regulations relating to nursing homes;

(2) That his license has not been revoked or suspended in any other state; and

(3) That he meets current educational and experience requirements contained in Section 1 of this regulation.

Section 6. Refusal, Suspension, and Revocation of Licenses. The board may suspend, revoke, or refuse to issue or renew a license of a nursing home administrator, or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that such

applicant or licensee:

(1) Has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the rules and regulations of the board pertaining thereto;

(2) Has willfully or repeatedly violated any of the provisions of the law, code, rules, or regulations of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction of the operation and licensing of nursing homes;

(3) Has been convicted of a felony involving moral turpitude;

(4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;

(5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;

(6) Has practiced fraud, deceit, or misrepresentation in his capacity as a nursing home administrator;

(7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;

(8) Is addicted or dependent upon the use of alcohol, controlled substances or other drugs; or

(9) Has wrongfully transferred or surrendered possession, either temporarily or permanently, his license to any other person.

Section 7. Complaints and Hearing Procedures. Any person, public officer, or association, or the board may prefer charges against any licensee:

(1) Such charges shall be in writing and shall be submitted to the board.

(2) The board, or any person or persons appointed by it for the said purpose, may hold a preliminary hearing to determine whether a formal hearing on the charges is necessary.

(3) The board may dismiss the charges and take no action thereon, by formal hearing or otherwise, in which event the charges and the order dismissing the charges shall be filed with the board.

(4) If the board decides that the charges shall be heard formally, the board may hear the charges or designate a hearing officer to hear the charges and set a time and place for a hearing.

(5) A copy of the charges, together with notice of the time and place of the hearing, shall be served on the accused at least thirty (30) days before the date fixed for the hearing.

(6) Upon the conclusion of the hearing, the board may revoke the license of the accused, or suspend such license for a fixed period, or reprimand, or take other disciplinary action, or dismiss the charges.

(7) An order of suspension made by the board may contain such provisions as to reinstatement of the license as the board shall direct.

Section 8. Conduct of Hearing. At any hearing conducted pursuant to this regulation, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to introduce evidence and witnesses and to cross-examine witnesses:

(1) At any formal hearing conducted pursuant to this regulation, if a party shall appear without counsel, the board or person designated as a hearing officer shall advise such party of his right to be represented by counsel; and that

if he desires to proceed without counsel that he may call witnesses, cross-examine witnesses, and introduce evidence in his behalf.

(2) Appearances shall be noted on the official record of hearing.

(3) The board or designated hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a day certain.

(4) If an adjournment is requested in advance of the hearing date, such request shall be submitted in writing and shall specify the reason for such request.

(5) In considering an application for adjournment of a hearing the board or hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

(6) The board or designated hearing officer shall issue subpoenas and subpoena duces tecum upon request of any party to the proceedings of any hearing set down by the board.

(7) The board or hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing, but the determination and recommendations of the hearing officer shall be founded upon sufficient legal evidence to sustain them.

(8) Upon the conclusion of a hearing the board shall take such action upon such written findings and determinations as it deems proper.

Section 9. Display of Licenses. Every person licensed as a nursing home administrator shall display such license and certificate of biennial registration in a conspicuous place in the office or place of business or employment of such licensee.

Section 10. Duplicate Licenses. The board may issue a duplicate license upon payment of a fee of ten (10) dollars.

Section 11. Inactive Licensure Status. (1) A licensed nursing home administrator in good standing may be placed on inactive status upon request to the board and payment of a biennial fee of twenty (20) dollars, which is not refundable.

(2) Licensees on inactive status shall be subject to the same renewal provisions as those on active status, except that no continuing education credits are required during the inactive period.

(3) A licensee on inactive status may revert to active status by:

(a) Making written application to the board;

(b) Payment of a biennial licensure fee of \$100;

(c) Successfully passing an examination administered by the board.

(4) The effective date of the return to active status will be the date board approval is granted and will establish a new anniversary date for renewal purposes only, and the original licensure date remains unchanged.

ROBERT ELLIOTT, Chairman

APPROVED BY AGENCY: December 11, 1986

FILED WITH LRC: January 12, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on the amendment to this regulation has been scheduled for February 23, 1987 at 10 a.m. at the Board of Licensure for Nursing Home

Administrators, Berry Hill Annex, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 18, 1987 of their desire to appear and testify at the hearing: Mr. David Nicholas, Director, Division of Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Nicholas

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: Kentucky Board of Licensure for Nursing Home Administrators.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: N/A

TIERING: Was tiering applied? No. N/A

#### GENERAL GOVERNMENT CABINET

Board of Hairdressers and Cosmetologists  
(Proposed Amendment)

201 KAR 12:120. School faculty.

RELATES TO: KRS 317A.010

PURSUANT TO: KRS 317A.050, 317A.090

NECESSITY AND FUNCTION: All instructors and apprentice instructors must hold the appropriate license and provide adequate supervision and instruction to students.

Section 1. Any person employed by a school for the purpose of managing, teaching and instruction, must be licensed as a cosmetologist instructor. Each licensed instructor or apprentice instructor must keep their photograph posted with their license.

Section 2. All students must be under the immediate supervision of a licensed instructor during all classes and study hours and practical student work.

Section 3. No licensed cosmetologist shall render services in a school. Instructors and apprentice instructors shall render services only incidental to and for the purpose of instruction.

Section 4. Every instructor and apprentice instructor employed in a school of cosmetology shall devote their entire time during the school hours to that of instructing the students and shall not apply his or her time to that of private or public practice for compensation during school hours or permit students to instruct or teach other students in the absence of a teacher.

Section 5. Teaching by demonstrators is strictly forbidden, except properly qualified licensed operators may demonstrate to the students new processes, new preparations, and new appliances in the presence of licensed teachers. Such a demonstration may only take place in a licensed school. Schools shall not permit more than one (1) demonstration in any calendar month.

Section 6. All services rendered in a school on patrons must be done by students only. Instructors shall be allowed to teach and aid the students in performing the various services.

Section 7. Instructors and apprentice instructors in attendance must, at all times, wear a clean, washable uniform, and an insignia or badge indicating they are an instructor or apprentice instructor in the school.

Section 8. Each school of cosmetology shall, within five (5) days after the termination, employment or other change in faculty personnel, notify the board of such change.

Section 9. Schools enrolling an apprentice instructor shall maintain the following ratio: One (1) apprentice instructor to one (1) instructor.

CARROLL ROBERTS, Administrator

APPROVED BY AGENCY: January 5, 1987

FILED WITH LRC: January 14, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 27, 1987 at 2 p.m. The hearing will be held at 314 West Second Street, Frankfort, Kentucky. Contact Carroll Roberts, Administrator.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in

conflict, overlapping, or duplication: N/A  
 (a) Necessity of proposed regulation if in conflict:  
 (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:  
 (6) Any additional information or comments:  
 TIERING: Was tiering applied? No. Tiering was not applied as it was not necessary.

**CORRECTIONS CABINET**  
**(Proposed Amendment)**

**501 KAR 6:020. Corrections policies and procedures.**

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [December 15, 1986] and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

- |      |   |       |   |
|------|---|-------|---|
| 1.1  | Legal Assistance for Corrections Staff  | 9.9   | Transportation of Inmates (Amended 1/14/87)   |
| 1.2  | News Media  | 9.10  | Security Inspections  |
| 1.6  | Extraordinary Occurrence Reports  | 9.11  | Tool Control [(Added 12/15/86)]   |
| 1.9  | Institutional Duty Officer [(Amended 12/15/86)]                                 | 9.15  | Institutional Entry and Exit Policy and Procedures  |
| 1.11 | Population Counts and Reporting Procedures (Amended 1/14/87)                    | 9.18  | Informants  |
| 1.12 | Operation of Motor Vehicles by Corrections Cabinet Employees [(Added 12/15/86)] | 10.1  | Inmates Serving a Sentence of Death   |
| 2.1  | Inmate Canteen  | 10.2  | Special Management Inmates  |
| 2.10 | Surplus Property [(Added 12/15/86)]   | 10.3  | Safekeepers   |
| 3.1  | Code of Ethics  | 10.4  | Special Needs Inmates   |
| 3.2  | Inclement Weather and Emergency Conditions Policy                               | 11.2  | Nutritional Adequacy of the Diet for Inmates  |
| 3.3  | Holding of Second Jobs by Bureau Employees                                      | 11.3  | Special Diet Procedures   |
| 3.7  | Employment of Relatives   | 12.1  | Resident Clothing   |
| 3.10 | Staff Clothing and Personal Appearance  | 13.1  | Pharmacy Policy and Formulary   |
| 3.12 | Institutional Staff Housing   | 13.2  | Health Maintenance Services   |
| 3.14 | Corrections Cabinet Payroll Deduction Policy and Procedure                      | 13.3  | Medical Alert System  |
| 4.1  | Attendance at Professional Meetings   | 13.4  | Health Program Audits   |
| 4.2  | Staff Training and Development  | 14.2  | Personal Hygiene Items  |
| 4.3  | Firearms and Chemical Agents Training   | 14.3  | Marriage of Inmates   |
| 4.4  | Educational Assistance Program  | 14.4  | Legal Services Program  |
| 6.1  | Open Records Law  | 14.6  | Inmate Grievance Procedures   |
| 7.2  | Asbestos Abatement  | 15.1  | Hair and Grooming Standards   |
| 8.4  | Emergency Preparedness  | 15.2  | Offenses and Penalties  |
| 9.1  | Use of Force  | 15.3  | Meritorious Good Time   |
| 9.3  | Transportation of Convicted Offenders   | 15.4  | Governor's Meritorious Good Time Award  |
| 9.4  | Transportation of Inmates to Funerals or Bedside Visits                         | 15.5  | Restoration of Forfeited Good Time  |
| 9.5  | Return of Escapees by Automobile  | 15.6  | Adjustment Procedures and Programs  |
| 9.6  | Contraband  | 16.1  | General Inmate Visiting Procedure   |
| 9.7  | Storage, Issue and Use of Weapons Including Chemical Agents                     | 16.2  | Inmate Correspondence (Amended 1/14/87)   |
| 9.8  | Search Policy [(Amended 12/15/86)]  | 16.3  | Telephone Calls   |
|      |   | 16.4  | Inmate Packages   |
|      |   | 17.1  | Inmate Personal Property  |
|      |   | 17.2  | Assessment Center Operations  |
|      |   | 17.3  | Controlled Intake of Inmates  |
|      |   | 18.4  | Classification of the Inmate  |
|      |   | 18.5  | Custody/Security Guidelines   |
|      |   | 18.6  | Classification Document   |
|      |   | 18.7  | Transfers   |
|      |   | 18.8  | Guidelines for Transfers Between Institutions   |
|      |   | 18.9  | Out-of-State Transfers  |
|      |   | 18.10 | Pre-Parole Progress Reports   |
|      |   | 18.11 | Kentucky Correctional Psychiatric Center Transfer Procedures                              |
|      |   | 18.12 | Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill                        |
|      |   | 18.13 | Population Categories   |
|      |   | 18.15 | Protective Custody  |
|      |   | 19.1  | Government Services Projects  |
|      |   | 19.2  | Community Services Projects   |
|      |   | 20.1  | Study Release   |
|      |   | 20.6  | Vocational Study Release  |
|      |   | 22.1  | Privilege Trips   |
|      |   | 25.1  | Gratuities  |
|      |   | 25.2  | Public Official Notification of Release of an Inmate                                      |
|      |   | 25.3  | Pre-Release   |
|      |   | 25.4  | Inmate Furloughs  |
|      |   | 25.6  | Community Center Program  |
|      |   | 25.7  | Expedient Release   |
|      |   | 25.8  | Extended Furloughs  |
|      |   | 27.1  | Supervision: Case Classification  |
|      |   | 27.2  | Risk/Needs Administration   |
|      |   | 27.4  | Supervision Plan: General   |
|      |   | 27.8  | Travel Restrictions   |
|      |   | 27.9  | Conditions of Supervision   |
|      |   | 27.10 | Preliminary Revocation Procedures   |
|      |   | 27.11 | Apprehension and Transportation of Violators of Probation, Parole and Conditional Release |
|      |   | 27.12 | Fugitive Section/Probation and Parole   |
|      |   | 27.13 | Supervision Fee   |
|      |   | 27.14 | Interstate Compact  |

- 27.18 Absconder Procedures
- 27.19 Technical Violators
- 27.20 Intensive Supervision
- 28.2 Investigations: General
- 28.3 Pre-Sentence Investigations (To the Court)
- 28.4 Pre-Parole (Pre-Sentence) Investigation (To the Institution and State Parole Board)
- 28.5 Special Report to the Parole Board
- 28.7 Out-of-State Investigations

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 2,300 employees of the Corrections Cabinet, 4,744 inmates, 8,423 parolees and probationers, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

#### CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470,

439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [December 15, 1986] and hereinafter should be referred to as Kentucky State Penitentiary Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

- KSP 000000-06 Administrative Regulations
- KSP 010000-04 Public Information and Media Communication
- KSP 020000-01 General Guidelines for KSP Employees
- KSP 020000-02 Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave
- KSP 020000-03 Work Planning and Performance Review (WPPR)
- KSP 020000-04 Employee Disciplinary Procedure
- KSP 020000-05 Proper Dress for Uniformed and Non-Uniformed Personnel
- KSP 020000-06 Employee Grievance Procedure
- KSP 020000-07 Personnel Registers and Advertisements
- KSP 020000-09 Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files
- KSP 020000-10 Overtime Policy
- KSP 020000-15 Legal Assistance
- KSP 020000-20 Equal Employment Opportunity Complaints
- KSP 020000-23 Recruitment and Employment of Ex-Offenders
- KSP 020000-24 Educational Assistance Program
- KSP 020000-29 Promotional Opportunity Announcement Program
- KSP 030000-01 Inventory Records and Control
- KSP 030000-04 Requisition and Purchase of Supplies and Equipment
- KSP 030000-05 Inmate Personal Funds
- KSP 030000-06 Inmate Commissary Program
- KSP 040000-02 Inmate Records
- KSP 040000-08 Inmate Equal Opportunity Policy
- KSP 050000-14 Searches and Preservation of Evidence
- KSP 060000-01 Special Security Unit
- KSP 060000-02 Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units
- KSP 060000-04 Protective Custody Unit (Amended 1/14/87)
- KSP 060000-11 Criteria for Disciplinary Segregation and Incentive Time Reduction Program
- KSP 060000-12 Maximum Protective Custody
- KSP 070000-01 Hospital Services
- KSP 070000-02 Sick Call
- KSP 070000-03 Health Evaluations [(Amended 12/15/86)]
- KSP 070000-04 Consultations [(Amended 12/15/86)]



# ADMINISTRATIVE REGISTER - 1458

KSP 070000-05	Emergency Medical Procedure [(Amended 12/15/86)]	KSP 120000-04	Academic Education
KSP 070000-13	Pharmacy Procedures [(Amended 12/15/86)]	KSP 120000-07	Community Center Program
KSP 070000-14	Medical Records [(Amended 12/15/86)]	KSP 120000-08	Inmate Furloughs
KSP 070000-16	Psychiatric and Psychological Services	KSP 120000-11	Religious Services - Staffing
KSP 070000-17	Dental Services for Special Management Units	KSP 120000-18	Religious Services - Religious Programming
KSP 070000-19	Optometric Services	KSP 120000-20	Marriage of Inmates
KSP 070000-20	Menu Preparation and Planning	KSP 120000-24	Muslim Services
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements	KSP 120000-31	Extended Furloughs
KSP 070000-25	Food Service Inspections	KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 070000-30	Therapeutic Diets	KSP 130000-10	Execution Plan
KSP 090000-01	Inmate Work Programs		
KSP 090000-03	Correctional Industries [(Amended 12/15/86)]		
KSP 100000-02	Visiting Program		
KSP 100000-03	Disposition of Unauthorized Property		
KSP 100000-04	Inmate Grooming and Dress Code		
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items		
KSP 100000-06	<u>Inmate Mail and Packages (Amended 1/14/87)</u>		
KSP 100000-07	Inmate Telephone Access		
KSP 100000-08	Behavioral Counseling Record		
KSP 100000-09	Due Process/Disciplinary Procedures		
KSP 100000-11	Authorized and Unauthorized Property for Inmates [(Amended 12/15/86)]		
KSP 100000-14	Property Room: Clothing Storage and Inventory		
KSP 100000-15	Uniform Cell Standards for Fire Safety, Sanitation and Security [(Amended 12/15/86)]		
KSP 100000-18	Inmate Grievance Committee Hearings		
KSP 100000-20	Legal Services Program <u>(Amended 1/14/87)</u>		
KSP 100000-21	Photocopies for Non-Indigent Inmates with Special Court Deadlines		
KSP 100000-22	Special Management Unit Legal Services Program		
KSP 100000-23	Inmate Legal Office/Legal Library		
KSP 110000-03	Governor's Meritorious Good Time Award Committee		
KSP 110000-04	Pre-Parole Progress Report		
KSP 110000-06	General Guidelines of the Classification Committee		
KSP 110000-07	Statutory Good Time Restoration [(Amended 12/15/86)]		
KSP 110000-08	Award of Meritorious Good Time [(Amended 12/15/86)]		
KSP 110000-10	Special Needs Inmates		
KSP 110000-11	Classification Committee - Transfer Requests		
KSP 110000-12	Classification Committee - Inmate Work Assignments		
KSP 110000-13	Classification Document [(Amended 12/15/86)]		
KSP 110000-14	Vocational School Placement		
KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)		
KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release		
KSP 110000-19	Custody/Security Guidelines		

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 309 employees of the Kentucky State Penitentiary, 790 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

**CORRECTIONS CABINET**  
(Proposed Amendment)

**501 KAR 6:050. Luther Lockett Correctional Complex.**

RELATES TO: KRS Chapters 196, 197, 439  
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640  
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [September 9, 1986] and hereinafter should be referred to as Luther Lockett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

LLCC 01-08-01 Institutional Legal Assistance  
LLCC 01-09-01 Public Information and News Media Access  
LLCC 01-12-01 Duty Officer Responsibilities  
LLCC 02-01-02 Fiscal Management: Accounting Procedures  
LLCC 02-01-03 Fiscal Management: Agency Funds  
LLCC 02-01-04 Fiscal Management: Insurance  
LLCC 02-03-01 Fiscal Management: Audits  
LLCC 02-06-01 Property Inventory  
LLCC 03-01-01 General Guidelines for LLCC Employees  
LLCC 03-01-02 Service Regulations, Attendance Accumulation and use of Leave  
LLCC 03-02-01 Proper Dress for Uniformed Personnel  
LLCC 03-02-02 Replacement of Damaged or Destroyed Personal Property [(Added 9/9/86)]  
LLCC 03-03-01 Employee Grievance Mechanism  
LLCC 03-04-01 Employee Records  
LLCC 03-05-01 Personnel Registers  
LLCC 03-06-01 Work Planning: Employee Evaluations and Evaluation Control  
LLCC 03-08-01 Shift Transfers  
LLCC 03-08-02 Rotation of Correctional Officers Between Central Security and Unit Management Staff  
LLCC 03-09-01 Promotion Board  
LLCC 03-10-01 Affirmative Action: EEO  
LLCC 03-12-01 Confidentiality of Information Roles and Services of Consultants, Contract Personnel and Volunteers  
LLCC 08-01-01 Offender Records  
LLCC 08-04-01 Storage of Expunged Records  
LLCC 10-03-09 Duties and Responsibilities of Building 1 and 2 Officer  
LLCC 11-03-01 LLCC Population Categories  
LLCC 11-07-01 Adjustment Procedures for Minor Rule Violations  
LLCC 11-09-01 Rules and Regulations of the Unit  
LLCC 11-13-01 Inmate Dress and Use of Access Areas  
LLCC 11-15-01 Post-Parole Furloughs  
LLCC 11-16-01 Restoration of Forfeited Good Time  
LLCC 11-18-02 Use of Monitor Telephone

LLCC 11-19-01 Unit Shakedown/Control of Excess Property  
LLCC 11-20-01 Program Services for "Special Needs"/Mentally Ill Inmates  
LLCC 12-01-01 Special Management Inmates  
LLCC 12-04-01 Guidelines for (7E) PC Unit/General Living Conditions Dining Room Guidelines [(Added 9/9/86)]  
LLCC 13-01-01 Food Service: Meals  
LLCC 13-04-01 Food Service: Menu, Nutrition and Special Diets  
LLCC 13-05-02 Medical Screening of Food Handlers  
LLCC 13-06-01 Food Service: Inspections and Sanitation  
LLCC 13-07-01 Food Service: Purchasing, Storage and Farm Products  
LLCC 14-01-01 Sanitation, Living Condition Standards, and Cloting Issue  
LLCC 14-05-01 Institutional Inspections  
LLCC 15-01-01 Health Maintenance Services; Sick Call and Pill Call  
LLCC 15-02-01 Mental Health/Psychological Services  
LLCC 15-03-01 Pharmacy  
LLCC 15-03-02 Use of Psychotropic Medications  
LLCC 15-04-01 Dental Services  
LLCC 15-05-02 Licensure and Training Standards  
LLCC 15-06-02 Specialized Health Services  
LLCC 15-06-03 Emergency Medical/Dental Care Services  
LLCC 15-06-04 First Aid/CPR Training Program  
LLCC 15-06-05 Suicide Prevention and Intervention Program  
LLCC 15-07-01 Health Records  
LLCC 15-08-01 Special Diets  
LLCC 15-12-01 Special Needs Unit  
LLCC 15-14-01 Informed Consent  
LLCC 15-15-01 Medical Restraints  
LLCC 15-16-01 Health Education/Special Health Programs  
LLCC 16-01-01 Inmate Rights and Responsibilities  
LLCC 16-02-01 Inmate Grievance Procedure (Amended 1/14/87)  
LLCC 16-03-01 Inmate Legal Services [(Amended 9/9/86)]  
LLCC 17-01-01 Due Process/Disciplinary Procedure  
LLCC 18-01-01 Inmate Correspondence  
LLCC 18-01-02 Issuance of Legal Mail to Inmate Population  
LLCC 18-02-01 Inmate Visiting  
LLCC 18-02-03 Extended Visit and Furloughs [(Amended 9/9/86)]  
LLCC 18-02-04 Meritorious Visits  
LLCC 18-03-03 Inmate Visiting (DSU/ASU)  
LLCC 20-01-01 Personal Property Control  
LLCC 20-02-01 Authorized Inmate Personal Property  
LLCC 20-03-01 Unauthorized Items  
LLCC 20-04-02 Inmate Canteen  
LLCC 20-05-01 Inmate Control of Personal Funds  
LLCC 20-05-02 Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays  
LLCC 20-06-01 Procedure for Sending Appliances to Outside Dealers for Repair  
LLCC 21-02-01 Classification/Security Levels  
LLCC 21-03-01 Classification Process  
LLCC 22-01-01 OJT/Job Assignments  
LLCC 23-01-01 Academic School  
LLCC 26-01-01 Religious Services  
LLCC 28-01-01 Privileged Trips  
LLCC 28-03-01 Temporary Release/Community Center Release

LLCC 28-04-01 Pre-Parole Progress Report  
 LLCC 28-04-02 Parole Eligibility Dates

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 213 employees of the Luther Lockett Correctional Complex, 583 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

#### CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity

with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [December 15, 1986] and hereinafter should be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Legal Assistance for Staff
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of the Warden as Chief Executive Officer
NTC 01-17-01	Relationships with Public, Media and Other Agencies
NTC 02-01-02	Fiscal Management: Accounting Procedures
NTC 02-01-03	Fiscal Management: Checks
NTC 02-01-04	Fiscal Management: Insurance
NTC 02-03-01	Fiscal Management: Audits
NTC 02-08-01	Inmate Canteen
NTC 02-12-01	Inmate Personal Accounts
NTC 03-01-01	Employee Dress and Personal Appearance
NTC 03-02-01	Prohibited Employee Conduct
NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants
NTC 03-04-01	Shift Assignments and Transfers
NTC 03-06-01	Worker's Compensation
NTC 03-07-01	Merit System Registers and Placement of Advertisements
NTC 03-08-01	Procedures for New Employees Reporting for Employment
NTC 03-09-01	Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File
NTC 03-10-01	Employment of Ex-Offenders
NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings
NTC 03-14-01	Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees
NTC 03-14-02	Promotional Opportunities
NTC 03-15-01	Time and Attendance; Accumulation and Use of Accrued Time
NTC 03-15-02	Sick Leave Abuse
NTC 03-15-03	Inclement Weather and Emergency Conditions
NTC 03-16-01	Affirmative Action Program and the Promotion of EEO
NTC 03-18-01	Educational Assistance Program
NTC 03-19-01	Holding of Second Jobs by Employees
NTC 04-01-01	Training and Staff Development
NTC 04-04-01	Firearms and Chemical Agents Training
NTC 06-01-01	Offender Records
NTC 06-01-02	Records - Release of Information
NTC 06-01-03	Taking Offender Record Folders onto the Yard
NTC 08-05-01	Duties of Fire and Safety Officer [(Amended 12/15/86)]
NTC 08-05-02	Fire Procedures
NTC 08-05-03	Fire Prevention
NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use
NTC 08-05-05	Control of Flammables, Toxic, Caustic, and Other Hazardous Chemicals and Janitorial Supplies
NTC 08-06-01	Safety Officer

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NTC 10-01-01 Special Management Inmates  
 NTC 10-01-02 Legal Aide Visits for Special Management Inmates  
 NTC 10-02-01 Security Guidelines for Special Management Inmates  
 NTC 11-03-01 Food Services: General Guidelines  
 NTC 11-04-01 Food Service: Meals  
 NTC 11-04-02 Menu, Nutrition and Special Diets  
 NTC 11-05-02 Health Standards/Regulations for Food Service Employees  
 NTC 11-06-01 Inspections and Sanitation  
 NTC 11-07-01 Purchasing, Storage and Farm Products  
 NTC 12-01-01 Institutional Inspections  
 NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens  
 NTC 12-02-02 Issuance of Personal Hygiene Products  
 NTC 13-01-01 Emergency Medical Care Plan  
 NTC 13-01-02 Emergency and Specialized Health Services  
 NTC 13-02-01 Administration and Authority for Health Services  
 NTC 13-03-01 Sick Call and Pill Call  
 NTC 13-04-01 Pharmacy  
 NTC 13-05-01 Dental Services  
 NTC 13-06-01 Licensure and Training Standards  
 NTC 13-07-01 Provisions for Health Care Delivery  
 NTC 13-08-01 Medical and Dental Records  
 NTC 13-09-01 Special Diets  
 NTC 13-11-01 Inmate Health Screening and Evaluation  
 NTC 13-12-01 Disabled and Infirm Inmates  
 NTC 13-13-01 Medical Alert System  
 NTC 13-14-01 Management of Chemically Dependent Inmates  
 NTC 13-15-01 Health Education for Inmates  
 NTC 13-16-01 Continuity of Health Care  
 NTC 13-17-01 Inmates Assigned to Health Services  
 NTC 13-19-01 Psychological Services  
 NTC 13-19-02 Mentally Retarded Inmates  
 NTC 13-19-03 Suicide Prevention and Intervention Program  
 NTC 13-20-01 Infectious Disease  
 NTC 13-21-01 Vision Care/Optomety Services  
 NTC 13-22-01 Informed Consent  
 NTC 13-23-01 Special Needs Inmates [(Added 12/15/86)]  
 NTC 14-01-01 Legal Services Program  
 NTC 14-02-01 Inmate Grievance Procedure (Amended 1/14/87)  
 NTC 14-03-01 Inmate Rights and Responsibilities  
 NTC 14-04-01 Inmate Search Policy  
 NTC 15-01-01 Restoration of Forfeited Good Time  
 NTC 15-02-01 Due Process/Disciplinary Procedures (Amended 1/14/87)  
 NTC 15-02-02 Extra Duty Assignments  
 NTC 15-02-03 Hearing Officer  
 NTC 15-03-01 Rules for Inmates Assigned to Outside Detail  
 NTC 15-03-02 Rules and Regulations for Dormitories  
 NTC 15-04-01 Inmate Identification  
 NTC 16-01-01 Mail Regulations (Amended 1/14/87)  
 NTC 16-02-01 Visiting [(Amended 12/15/86)]  
 NTC 16-02-03 Honor Dorm Visiting  
 NTC 16-03-01 Inmate Furloughs  
 NTC 16-05-01 Telephone Use and Control  
 NTC 17-01-01 Personal Property Control  
 NTC 17-01-02 Authorized Inmate Personal Property  
 NTC 17-01-03 Unauthorized Inmate Property  
 NTC 17-01-04 Disposition of Unauthorized Property (Amended 1/14/87)  
 NTC 17-03-01 Assessment/Orientation  
 NTC 18-01-01 Pre-Parole Progress Report

[NTC 18-01-02 Parole Eligibility Dates]  
 NTC 18-02-01 Classification  
 NTC 18-02-02 Classification - 48 Hour Notification  
 NTC 18-03-01 Special Notice Form  
 NTC 18-05-01 Transfers of Inmates  
 NTC 18-05-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center  
 NTC 19-01-01 Inmate Work Program  
 NTC 19-01-02 Restricted Outside Work Crew  
 NTC 19-01-03 Temporary Leave from Job Assignment  
 NTC 19-02-01 Correctional Industries  
 NTC 20-01-01 Academic School Program (Amended 1/14/87)  
 NTC 21-01-01 Library Services  
 NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs  
 NTC 23-01-01 Religious Services [(Amended 12/15/86)]  
 NTC 23-03-01 Marriage of Inmates [Amended 12/15/86)]  
 NTC 24-04-01 Honor Status [(Amended 12/15/86)]  
 NTC 24-05-01 Unit Management  
 NTC 25-01-01 Release Preparation Program  
 NTC 25-01-02 Temporary Release/Community Center Release  
 NTC 25-02-01 Funeral Trips and Bedside Visits  
 NTC 25-03-01 Inmate Release Procedure  
 NTC 26-01-02 Certification of Volunteers and Guests

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m., on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 232 employees of the Northpoint Training Center, 654 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in

conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

**CORRECTIONS CABINET  
(Proposed Amendment)**

**501 KAR 6:070. Kentucky Correctional Institution for Women.**

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [July 15, 1986] and hereinafter should be referred to as Kentucky Correctional Institution for Women Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KCIW 01-06-01 Legal Assistance for Corrections Staff  
KCIW 01-08-01 News Media Access  
KCIW 02-01-01 Comprehensive Insurance Coverage  
KCIW 02-02-01 Fiscal Management: Audits  
KCIW 02-02-03 Fiscal Management: Checks  
KCIW 02-02-04 Institution Purchasing Procedures  
KCIW 02-03-01 Inventory Control of Non-Expendable Personal Property  
KCIW 02-03-03 Criteria for Selection of Bidders and Vendors  
KCIW 02-04-01 Accounting Procedures  
KCIW 02-05-01 Inmate Canteen/Staff Canteen  
KCIW 02-07-01 Release of C.E.T.A. Money Earned  
KCIW 03-01-01 Travel Expense Reimbursement  
KCIW 03-02-01 General Orders for Staff  
KCIW 03-02-02 Inclement Weather and Emergency Conditions  
KCIW 03-03-01 Employee Grievance Procedure  
KCIW 03-05-01 Employee Personnel File  
KCIW 03-06-01 Affirmative Action and the Equal Employment Opportunity Complaint Procedure  
KCIW 03-08-01 Employee Performance Evaluations  
KCIW 03-09-01 Payroll and Personnel Manning Records  
KCIW 03-10-01 Promotion Committee  
KCIW 03-11-01 Personnel Registers  
KCIW 03-12-01 Criminal History Checks on all Personnel and the Recruitment and Employment of Ex-Offenders  
KCIW 06-01-01 Inmate Records

KCIW 06-01-02 Transfers to Community Centers and the Minimum Security Unit  
KCIW 06-01-03 Storage of Expunged Records  
KCIW 10-01-01 Special Management Unit General Operation and Regulations  
KCIW 10-01-02 Special Management Unit Programs, Placement and Review  
KCIW 11-01-01 Food Service Operation Inspections  
KCIW 11-01-02 Budgeting, Accounting, and Purchasing Procedures for Food Products  
KCIW 11-02-01 Menu Preparation/Special Diets  
KCIW 11-03-01 General Guidelines for Food Service Operations Manager  
KCIW 11-03-02 General Guidelines for Food Service Workers  
KCIW 11-04-01 Health Standards, Regulations for Food Service Workers  
KCIW 12-01-01 Control of Pests and Vermin  
KCIW 12-02-01 Laundry Facilities/Clothing Issuance  
KCIW 12-02-03 Donated Items  
KCIW 12-04-01 Sanitation and General Living Conditions  
KCIW 13-01-01 Provision of Medical and Dental Care  
KCIW 13-01-02 Preliminary Health Screening and Appraisal  
KCIW 13-01-03 Use of Pharmaceutical Products  
KCIW 13-03-01 Emergency Care  
KCIW 13-03-02 Infirmary Care and Outside Services  
KCIW 13-03-03 Outside Hospital Security  
KCIW 13-04-01 Medical Alert System  
KCIW 13-04-02 Psychiatric/Psychological Services  
KCIW 13-06-01 Informed Consent  
KCIW 13-07-01 Detoxification and Alcohol or Chemical Dependency Guidelines [(Amended 7/15/86)]  
KCIW 13-08-01 Medical Exams for New Employees  
KCIW 14-01-02 Inmate Rights [(Amended 7/15/86)]  
KCIW 14-02-01 Access to Attorneys and Designated Counsel Substitutes [(Amended 7/15/86)]  
KCIW 14-03-01 Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap, or Political Beliefs  
KCIW 14-04-01 Inmate Grievance Procedure (Amended 1/14/87)  
KCIW 15-01-01 Offenses and Penalties  
KCIW 15-01-02 Adjustment Committee Procedures and Programs  
KCIW 15-03-01 Inmate Rule Book  
KCIW 15-04-01 Incentive Levels System  
KCIW 16-01-01 Inmate Correspondence  
KCIW 16-01-02 Inmate Mail Distribution  
KCIW 16-01-03 Staff Mail  
KCIW 16-02-01 Inmate Access to Telephone  
KCIW 16-02-02 Intra-Institution Phone Calls  
KCIW 16-03-01 Inmate Visiting Regulations  
KCIW 16-03-02 Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages  
KCIW 16-04-01 Inmate Indigent Fund  
KCIW 16-05-01 Commercial Vendor Packages, Appliance [Orders] and Drug Store Orders (Amended 1/14/87)  
KCIW 17-01-01 Assessment Center Operation and Reception Programs  
KCIW 17-01-02 Assessment/Classification Center Operations, Rules and Regulations [(Amended 7/15/86)]  
KCIW 17-01-03 Assessment and Classification Unit Property Guidelines

KCIW 17-02-01 Identification Department Admissions  
 KCIW 17-03-01 Notifying Inmates Families of Admission and Procedures for Mail and Visiting [(Amended 7/15/86)]  
 KCIW 17-05-01 Inmate Personal Property  
 KCIW 18-01-02 Institutional Housing Assignments  
 KCIW 18-02-01 Classification Procedures  
 KCIW 18-05-01 Special Needs Inmates  
 KCIW 18-06-01 Institutional Status Codes  
 KCIW 19-01-01 Inmate Work/Program Assignments  
 KCIW 19-03-01 Landscape and Maintenance Work Details  
 KCIW 20-01-01 Education Programs  
 KCIW 20-01-03 Vocational Education: Curriculum Flexible Schedule, Up-grade Programs and Release Preparation Program [(Amended 7/15/86)]  
 KCIW 20-01-04 Entry - Exit Vocational School  
 KCIW 20-01-05 Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records [(Amended 7/15/86)]  
 KCIW 20-01-06 Vocational Education: Staffing Patterns/Requirements  
 KCIW 20-01-07 Vocational Counselor [(Amended 7/15/86)]  
 KCIW 20-01-08 Vocational Education: Community Resources and the Integration with Academic Progress  
 KCIW 20-01-09 Vocational Education: Support Equipment [(Amended 7/15/86)]  
 KCIW 20-01-10 Control of Flammable, Hazardous, Toxic and Caustic Materials in the Vocational Area  
 KCIW 22-01-04 Inmate Club Activities  
 KCIW 23-01-01 Religious Services  
 KCIW 25-01-01 Pre-Parole Progress Report [(Amended 7/15/86)]  
 KCIW 25-02-01 Temporary Release/Community Center  
 KCIW 25-02-02 Furloughs [(Amended 7/15/86)]  
 KCIW 25-03-01 Escorted Leave into the Community

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 81 employees of the Kentucky Correctional Institution for Women, 172 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

#### CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:090. Frankfort Career Development Center.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [November 14, 1986] and hereinafter should be referred to as Frankfort Career Development Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

FCDC 01-04-01 Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers  
 FCDC 02-10-01 Fiscal Management and Control [(Amended 11/14/86)]  
 FCDC 02-11-01 Fiscal Management: Accounting Procedures  
 FCDC 02-12-01 Fiscal Management: Checking Accounts [(Amended 11/14/86)]  
 FCDC 02-13-01 Purchasing and Receiving  
 FCDC 03-01-02 Security Manual Part 1: Staff Guidelines  
 FCDC 03-10-01 Dress Code  
 FCDC 03-15-01 Travel Expense Reimbursement  
 FCDC 03-16-01 Employee Grievance Procedure [(Amended 1/14/87)]  
 FCDC 03-21-01 Time and Attendance  
 FCDC 06-02-01 Inmate Records [(Amended 11/14/86)]

FCDC 11-01-01	Special Diets
FCDC 11-03-01	Food Services [(Amended 11/14/86)]
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services [(Amended 11/14/86)]
FCDC 13-01-01	Use of Pharmaceutical Products
FCDC 13-01-02	Medical Emergencies
FCDC 13-01-03	Informed Consent
FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations [(Amended 11/14/86)]
FCDC 13-03-01	Psychiatric and Psychological Services
FCDC 13-03-02	Parental Administration of Medications and Use of Psychotropic Drugs
FCDC 13-04-01	Intra-System Transfers of Medical/Psychiatric Problems
FCDC 13-06-01	Chronic and Convalescent Care
FCDC 13-08-01	Sick Call/Physician's Bi-Monthly Clinic [(Added 11/14/86)]
FCDC 13-09-01	Management of Serious and Infectious Diseases [(Added 11/14/86)]
FCDC 13-10-01	Treatment Protocol Regarding First-Aid Procedures, Routine Health Care
FCDC 13-11-01	Health Education: Provision of Special Health Care Needs
FCDC 13-12-01	Elective Services [(Added 11/14/86)]
FCDC 13-13-01	Physicians Referrals [(Amended 11/14/86)]
FCDC 13-14-01	Health Records
FCDC 13-15-01	Routine and Emergency Dental Appointments
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates
FCDC 14-02-01	Inmate Grievance System
FCDC 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment [(Amended 11/14/86)]
FCDC 14-04-01	Legal Services Program [(Amended 11/14/86)]
FCDC 15-01-01	Good Time - Credits (Meritorious, Governor's and Statutory) Conduct of Adjustment Committee Hearings (Chairperson)
FCDC 16-01-01	Inmate Visiting
FCDC 16-02-01	Mail Policy [(Amended 11/14/86)]
FCDC 16-03-01	Inmate Access to Telephones [(Amended 11/14/86)]
FCDC 17-01-01	Inmate Property Control [(Amended 11/14/86)]
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge [(Amended 11/14/86)]
FCDC 18-01-01	Inmate Classification [(Amended 11/14/86)]
FCDC 18-02-01	Reclassification Document
FCDC 18-03-01	Instructions for Six Month Review
FCDC 19-01-01	Security and Operation of the Governmental Services Program
FCDC 19-02-01	Inmate Work Program
FCDC 20-01-01	Academic and Vocational Education [(Added 11/14/86)]
FCDC 22-01-01	Privilege Trips
FCDC 22-01-02	Activity Trips
FCDC 22-02-01	Recreation and Inmate Activities
FCDC 23-01-01	Religious Activities
FCDC 24-01-01	Social Service Program
FCDC 24-02-01	Substance Abuse Programs
FCDC 25-01-01	Escorted Leaves
FCDC 25-02-01	Temporary Release/Community Center Program
FCDC 25-03-01	Release Preparation Program
<p>GEORGE W. WILSON, Secretary  APPROVED BY AGENCY: January 14, 1987  FILED WITH LRC: January 14, 1987 at 4 p.m.  PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th floor, State Office Building, Frankfort, Kentucky 40601.</p>	
REGULATORY IMPACT ANALYSIS	
<p>Agency Contact Person: Barbara W. Jones  (1) Type and number of entities affected: 30 employees of the Frankfort Career Development Center, 73 inmates, and all visitors to state correctional institutions.  (a) Direct and indirect costs or savings to those affected:  1. First year: None  2. Continuing costs or savings: None  3. Additional factors increasing or decreasing costs (note any effects upon competition): None  (b) Reporting and paperwork requirements: None  (2) Effects on the promulgating administrative body:  (a) Direct and indirect costs or savings: 1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.  2. Continuing costs or savings: Same as (2)(a)1.  3. Additional factors increasing or decreasing costs: Same as (2)(a)1.  (b) Reporting and paperwork requirements: Monthly submission of policy revisions.  (3) Assessment of anticipated effect on state and local revenues: None  (4) Assessment of alternative methods; reasons why alternatives were rejected: None  (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicative: None  (a) Necessity of proposed regulation if in conflict:  (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:  (6) Any additional information or comments: None  Tiering:  Was tiering applied? No. All policies are administered in a uniform manner.</p>	
<p>CORRECTIONS CABINET  (Proposed Amendment)</p> <p>501 KAR 6:110. Roederer Farm Center.</p> <p>RELATES TO: KRS Chapters 196, 197, 439  PURSUANT TO: KRS 196.035, 197.020, 439.470,  439.590, 439.640  NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper</p>	



administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [November 14, 1986] and hereinafter should be referred to as Roederer Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

RFC 01-04-02 Extraordinary Occurrence Procedure [(Added 11/14/86)]  
 RFC 01-06-01 Inmate Access to and Communication with RFC Staff [(Amended 11/14/86)]  
 RFC 01-07-01 Institutional Legal Assistance  
 RFC 01-08-01 Public Information and News Media Access  
 RFC 01-10-01 RFC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies  
 RFC 01-09-01 Staff Participation in Professional Organization and Conferences; Provisions for Leave and Reimbursement for Expenses  
 RFC 01-12-01 Institutional Duty Officer - Responsibilities  
 RFC 02-01-01 Fiscal Management: Organization  
 RFC 02-01-02 Fiscal Management: Accounting Procedures  
 RFC 02-01-03 Fiscal Management: Agency Funds  
 RFC 02-01-04 Fiscal Management: Insurance  
 RFC 02-02-01 Fiscal Management: Budget  
 RFC 02-02-02 Inmate Control of Personal Funds  
 RFC 02-02-03 Storage and Disposition of Monies received on Weekends, Holidays, and Between 4:00 p.m. and 8:00 a.m. Weekdays  
 RFC 02-02-04 Inmate Accounts [(Amended 11/14/86)]  
 RFC 02-03-01 Fiscal Management: Audits  
 RFC 02-04-01 Purchase Orders  
 RFC 02-04-02 Processing of Invoices [(Amended 11/14/86)]  
 RFC 02-06-01 Property Inventory  
 RFC 03-01-01 General Guidelines for RFC Employees  
 RFC 03-01-02 Service Regulations, Attendance Accumulation and Use of Leave  
 RFC 03-03-01 Employee Grievance Procedures  
 RFC 03-04-01 Personnel Records  
 RFC 03-05-01 Personnel Vacancies: Promotion Board [(Amended 11/14/86)]  
 RFC 03-06-01 Work Planning: Employee Evaluations and Evaluation Control  
 RFC 03-07-01 Affirmative Action - E.E.O.  
 RFC 03-08-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, and Volunteers  
 RFC 03-09-01 Personnel Manning Review [(Amended 11/14/86)]  
 RFC 03-10-01 Employee's Handbook  
 RFC 03-11-01 Replacement of Damaged or Destroyed Personal Property  
 RFC 03-12-01 Corrections Cabinet Staff Members Entering the Roederer Farm Center While Being Under the Influence  
 RFC 03-13-01 Staff/Visitor Meals  
 RFC 04-01-01 Employee Training and Development [(Amended 11/14/86)]  
 RFC 05-01-01 Information System

RFC 06-01-01 Offender Records [(Amended 11/14/86)]  
 RFC 06-02-01 Use of Inmate Records/Security of Inmate Records [(Amended 11/14/86)]  
 RFC 06-03-01 Records Release of Information  
 RFC 06-03-02 Storage of Expunged Records [(Amended 11/14/86)]  
 RFC 06-04-01 Court Trips  
 RFC 06-04-02 Receipt of Order of Appearance  
 RFC 08-01-01 Fire Prevention  
 RFC 08-02-01 Fire Procedures  
 RFC 08-02-02 Fire Extinguishers and Their Use  
 RFC 08-08-01 Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances [(Amended 11/14/86)]  
 RFC 09-04-03 Duties and Responsibilities of the Fire/Safety Officer  
RFC 09-06-01 Search Policy/Disposition of Contraband (Added 1/14/87)  
 RFC 09-09-02 Drug Abuse Testing  
 RFC 09-09-03 Breathalyzer  
RFC 09-14-01 Restricted Areas (Added 1/14/87)  
RFC 09-22-01 Use of Force (Added 1/14/87)  
RFC 09-24-01 Informants (Added 1/14/87)  
 RFC 10-01-01 Special Management Inmates [(Added 11/14/86)]  
 RFC 11-01-01 Food Services: General Guidelines [(Amended 11/14/86)]  
 RFC 11-02-01 Food Service: Security [(Amended 11/14/86)]  
 RFC 11-03-01 Dining Room Guidelines [(Amended 11/14/86)]  
 RFC 11-04-01 Food Service: Meals [(Amended 11/14/86)]  
 RFC 11-04-02 Food Service: Menu, Nutrition and Special Diets [(Amended 11/14/86)]  
 RFC 11-05-01 Food Service: Kitchen and Dining Room Inmate Work Responsibilities [(Amended 11/14/86)]  
 RFC 11-05-02 Medical Screening of Food Handlers [(Amended 11/14/86)]  
 RFC 11-06-01 Food Service: Inspections and Sanitation [(Amended 11/14/86)]  
 RFC 11-07-01 Food Service: Purchasing, Storage and Farm Products [(Amended 11/14/86)]  
 RFC 11-08-01 Staff/Visitor Meals  
 RFC 12-01-01 Sanitation, Living Conditions Standards, Clothing Issues [(Amended 11/14/86)]  
 RFC 12-01-02 Bed Areas - Assignment/Condition Standards [(Amended 11/14/86)]  
 RFC 12-02-01 Issuance of Clean Laundry and Receiving of Dirty Laundry [(Amended 11/14/86)]  
 RFC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule  
 RFC 12-03-02 Barber Shop Services and Equipment Control [(Added 11/14/86)]  
 RFC 12-04-01 Institutional Inspections  
 RFC 12-05-01 Fire Safety [(Amended 11/14/86)]  
 RFC 12-05-02 Use of Noncombustible Receptacle  
 RFC 12-06-01 Insect and Vermin Control [(Amended 11/14/86)]  
 RFC 13-01-01 Organization of Health Services  
 RFC 13-02-01 Health Maintenance Services: Sick Call and Pill Call  
 RFC 13-03-01 Dental Policy/Sick Call [(Amended 11/14/86)]  
 RFC 13-04-01 Inmate Medical Screenings and Health Evaluations [(Added 11/14/86)]  
 RFC 13-05-02 Licensure and Training Standards  
 RFC 13-06-03 Emergency Medical/Dental Care Services [(Amended 11/14/86)]

RFC 13-06-04 First Aid/CPR Training Program  
 RFC 13-07-01 Health Records  
 RFC 13-10-01 Health Education/Special Health Programs [(Added 11/14/86)]  
 RFC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC [(Added 11/14/86)]  
 RFC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center [(Added 11/14/86)]  
 RFC 13-15-01 Medical Restraints  
 RFC 13-17-01 Vision Care/Optomety Services  
 RFC 14-01-01 Inmate Rights and Responsibilities  
 RFC 14-02-01 Legal Services Program  
 RFC 14-03-01 Inmate Grievance Procedure (Amended 1/14/87)  
 RFC 14-04-01 Inmate Participation in Authorized Research  
 RFC 15-02-01 Hearing Detention [(Added 11/14/86)]  
 RFC 16-01-01 Inmate Visiting [(Amended 11/14/86)]  
 RFC 16-02-01 Telephone Communications [(Amended 11/14/86)]  
 RFC 16-03-01 Mail Regulations  
 RFC 16-03-02 Christmas Packages  
 RFC 17-01-01 Assessment/Orientation Procedure  
 RFC 17-02-01 Inmate Reception Process  
 RFC 17-03-01 Inmate Personal Property and Property Control  
 RFC 17-04-01 Unauthorized Items  
 RFC 17-05-01 Inmate Canteen  
 RFC 18-01-01 Institutional Classification Committee  
 RFC 18-02-01 Classification/Security Levels  
 RFC 18-03-01 Classification Process  
 RFC 18-03-02 Classification Program Planning  
 RFC 18-03-03 Honor's Program  
 RFC 18-04-01 Instruction for Six Month Review [(Amended 11/14/86)]  
 RFC 18-05-01 Transfers to Other Minimum Security Institutions  
 RFC 18-06-01 Classification Document [(Amended 11/14/86)]  
 RFC 19-01-01 Job Assignments [(Added 11/14/86)]  
 RFC 20-01-01 Academic Education Program  
 RFC 20-01-02 Testing and Verification Procedure  
 RFC 20-02-01 Correctional Educator Senior  
 RFC 21-01-01 Library Services [(Amended 11/14/86)]  
 RFC 22-01-02 Recreational Equipment Check-in/Check-out Procedure  
 RFC 22-02-01 Outside Recreation  
 RFC 22-02-02 Entry/Exit Procedure for Inmate Outside Recreation  
 RFC 22-03-01 Inmate Clubs and Organizations  
 RFC 22-03-02 Privilege Trips  
 RFC 22-04-01 Conducting Inmate Organizational Meetings and Programs  
 RFC 22-05-01 Woodworking Shop  
 RFC 22-06-01 Playing Cards  
 RFC 23-01-01 Religious Services  
 RFC 23-02-01 Security Procedures for the Chapel  
 RFC 23-03-01 Visitors for Religious Programs  
 RFC 23-04-01 Marriage of Inmates  
 RFC 24-01-01 Social Services and Counseling Program  
 RFC 25-01-01 Release Preparation Program Description  
 RFC 25-02-01 Temporary Release/Community Center Release  
 RFC 25-03-01 Furloughs  
 RFC 25-04-01 Pre-parole Progress Report  
 RFC 25-04-02 Parole Eligibility Dates  
 RFC 25-05-01 Inmate Discharge Procedure

RFC 26-01-01 Citizen Involvement and Volunteer Services Program

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 58 employees of the Roederer Farm Center, 252 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

#### CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity

with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 14, 1987 [November 14, 1986] and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCC 01-07-01 Extraordinary Occurrence Reports  
 BCC 01-11-01 Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies  
 BCC 01-13-01 Relationships with Public, Media, and Other Agencies  
 BCC 01-15-01 Internal Affairs Office  
 BCC 01-16-01 Tours of Blackburn Correctional Complex  
 BCC 01-19-01 Inmate Access to BCC Staff  
 BCC 02-01-01 Inmate Canteen  
 BCC 02-02-01 Fiscal Responsibility  
 BCC 02-02-02 Fiscal Management: Accounting Procedures  
 BCC 02-02-03 Fiscal Management: Checks  
 BCC 02-02-04 Fiscal Management: Budget  
 BCC 02-02-05 Fiscal Management: Insurance  
 BCC 02-02-06 Fiscal Management: Audits  
 BCC 02-04-01 Billing Method for Health Services Staff Paid by Personal Service Contract  
 BCC 05-01-01 Inmate Participation in Authorized Research  
 BCC 06-01-01 Storage of Expunged Records  
 BCC 06-02-01 Records - Release of Information  
 BCC 06-02-02 Offender Records [(Added 11/14/86)]  
 BCC 06-03-01 Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board  
 BCC 08-01-01 Simplified Fire Safety System (SFSS)  
 BCC 08-02-01 Natural Disaster Plan (Tornado)  
 BCC 08-03-01 Emergency Preparedness Plan Manual  
 BCC 09-02-01 Restricted Areas  
 BCC 09-02-02 Inmate Pass System to Restricted Areas  
 BCC 09-03-01 Inmate Identification  
 BCC 09-04-02 Complex Entry & Exit  
 BCC 09-05-01 Key Control  
 BCC 09-07-01 Drug Abuse and Intoxicants Testing  
 BCC 11-01-01 Menu and Special Diets  
 BCC 11-03-01 Food Service: Meals  
 BCC 11-04-01 Dining Room Guidelines  
 BCC 11-05-01 Food Service Security: Knife & Other Sharp Instrument/Utensil Control  
 BCC 12-02-01 Personal Hygiene Items  
 BCC 12-02-02 Personal Hygiene for Inmates: Clothing and Linens  
 BCC 13-01-01 Sick Call and Pill Call  
 BCC 13-02-01 Administration and Authority for Health Services  
 BCC 13-03-01 Provisions of Health Care Delivery [(Added 11/14/86)]  
 BCC 13-04-01 Licensure and Training Standards [(Added 11/14/86)]  
 BCC 13-05-01 Medical Alert System [(Added 11/14/86)]  
 BCC 13-06-01 Health Care Practices [(Added 11/14/86)]  
 BCC 13-08-01 Inmate Health Screening and Evaluation [(Added 11/14/86)]

BCC 13-09-01 Prohibition on Medical Experimentation [(Added 11/14/86)]  
 BCC 14-01-01 Office of Public Advocacy  
 BCC 14-02-01 Attorney Visits  
 BCC 14-02-01 Law Library  
 BCC 14-03-01 Inmate Grievance Procedure (Amended 1/14/87)  
 BCC 14-04-01 Inmate Rights and Responsibilities  
 BCC 15-01-01 Authorized Inmate Personal Property  
 BCC 15-02-01 Meritorious Living Unit (B-1)  
 BCC 15-03-01 Rules and Regulation for Dormitories  
 BCC 15-04-01 Restoration of Forfeited Good Time  
 BCC 15-05-01 Extra Duty Assignments  
 BCC 16-01-01 Inmate Furloughs  
 BCC 16-02-01 Visiting  
 BCC 16-03-01 Mail Regulations - Packages  
 BCC 20-01-01 Academic School  
 BCC 20-02-01 College Programs  
 BCC 21-01-01 Library Services  
 BCC 22-01-01 Arts and Crafts/Production and Sale of Items  
 BCC 22-02-01 Privileged Trips  
 BCC 24-03-01 Social Services  
 BCC 25-01-01 Inmate Check Out Procedure

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: January 14, 1987

FILED WITH LRC: January 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. on the 10th floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 82 employees of the Blackburn Correctional Complex, 345 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:  
None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

**EDUCATION AND HUMANITIES CABINET**  
**Department of Education**  
**Office of Local Services**  
**(Proposed Amendment)**

**702 KAR 3:190. Maximum class sizes.**

RELATES TO: KRS 157.360

PURSUANT TO: KRS 156.070, 157.360

NECESSITY AND FUNCTION: KRS 157.360(3)

[(2)](b) prescribes that the Superintendent of Public Instruction shall enforce maximum class sizes for every academic course requirement of the State Board of Education in kindergarten and grades one (1) through eight (8) [six (6)], except in vocal and instrumental music, art, physical education, and special education classes and shall establish procedures for exemptions to the above. This regulation implements such functions.

Section 1. All classes shall be within the maximum class size by September 15 of each school year. [The maximum number of pupils enrolled in each academic class in grades kindergarten, one (1), two (2), and three (3) shall not exceed twenty-nine (29), except classes in vocal and instrumental music, art, and physical education. The maximum number of pupils enrolled in each academic class in grades four (4), five (5), and six (6) shall not exceed thirty-one (31), except classes in vocal and instrumental music, art, and physical education.]

Section 2. (1) A superintendent of a local school district may request approval from the State Board of Education for a one (1) year exemption of no more classes than enroll twenty (20) percent of the pupils in kindergarten and grades one (1) through eight (8) [six (6)] in each school within the district, when unusual circumstances are believed to warrant an increased class size for a specific class or classes.

(2) The request for exemption shall be filed with the Professional Staff Data forms and shall be forwarded to the Office of Local Services, Division of School Management and Audit, not later than October 1.

(3) The request for exemption shall contain detailed, specific reasons and circumstances causing the increased class size for each class for which an exemption is requested. Unusual circumstances shall be interpreted to include, but not limited to, increases in class size after September 15, caused by student change of residence from one (1) school area to a second or from one (1) district to another.

(4) The request for exemption shall contain an educational plan assuring that all affected students will receive a quality education.

(5) The request for exemption shall include a specific plan for reducing the class size prior to the beginning of the next school year.

(6) No exemption will be granted in the same

grade in the same school for more than one (1) year [in consecutive years] Transferring of students between schools in subsequent years for the purpose of qualifying for an exemption is not approvable.

(7) Since the district, as a condition for approval of an exemption, must provide a plan to alleviate the overcrowding problem, no school which has an exemption in a grade will be granted an exemption in the next grade for the following year. Transferring of students between schools in subsequent years for the purpose of qualifying for an exemption is not approvable.

(8) The services of an aide shall be provided for all classes for which exemptions are granted.

[(9) No class granted an exemption in grades K-6 shall enroll more than thirty-five (35) students.]

Section 3. If by September 15 of any school year a district has complied with maximum class size requirements, then unexpended power equalization monies may be used for purposes under subsection (3) and (4) of KRS 157.580. Maximum class size exemptions shall after September 15 be governed by KRS 157.360(3)(b).

Section 4. [3.] The Office of Local Services shall enforce this regulation through examination of the enrollments recorded on each Professional Staff Data form and shall certify compliance or deny Foundation Program units to a school district in non-compliance with this regulation.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 11:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Arnold Guess

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Routine reports as required in 5 year accreditation review.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No

# EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 10:022. Elementary, middle and secondary schools standards.

RELATES TO: KRS 156.160

PURSUANT TO: KRS 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to grading, classifying, and accrediting all common schools, and further allows private, parochial, and church schools to voluntarily comply with accreditation standards and to be so certified by the state board. This regulation implements this duty by prescribing general standards to be used in evaluation of public elementary, middle and secondary schools, and of those non-public schools voluntarily seeking an accreditation evaluation.

Section 1. (1) Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.070 and 156.160, the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools, as amended on January 7, 1987 [November 5, 1986], are presented herewith for filing with the Legislative Research Commission, and incorporated by reference.

(2) "Procedures for Kentucky Accreditation Program," April, 1985, as revised on September 10, 1985, is presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 2. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.160(2), non-public schools which voluntarily request accreditation shall be in compliance with all standards and indicators included in the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools limited to curriculum, textbooks, and staff certification. Schools will address all standards and indicators except those marked "N/A" (not applicable). These Voluntary Non-Public School Accreditation Standards, May, 1986, are presented herewith for filing with the Legislative Research Commission and incorporated herein by reference.

Section 3. The procedures for the voluntary accreditation of individual non-public schools or related groups of such schools under common management and control shall be as follows:

(1) All non-public schools or groups of schools which voluntarily request accreditation

shall notify the Division of Accreditation by letter of their intentions.

(2) An Instructional Services Advisor (I.S.A.) shall be assigned to a school and shall be the liaison between the school and the Department of Education. The I.S.A. shall provide the school with the department's self-study guide and provide technical assistance as needed.

(3) An on-site team will visit each school to validate the school's self-study. This team shall be appointed by the Department of Education and shall consist of at least three (3) persons - an I.S.A., a local non-public school official and another Department of Education staff member.

(4) An additional team member shall be appointed for each additional five (5) faculty members beyond fifteen (15).

(5) A report shall be generated by the on-site team and a copy presented to the school or related group of schools. The school or related group of schools shall prepare a three (3) year plan of action to correct all non-compliance. The plan shall be monitored annually to assure that the plan of action is being implemented.

(6) The school or related group of schools shall then be placed on a five (5) year accreditation cycle. The first year shall be the self-study and the on-site visit followed by a three (3) year plan of action, and the last year shall be devoted to updating the self-study.

(7) State funds may not be used for the accreditation of non-public schools. Such schools shall reimburse the Department of Education the total costs of accreditation certification, including necessary follow-up, either from their own funds or from any appropriate federal grants.

Section 4. "The Merit Rating Procedural Information and General Criteria for Guidance Programs," March, 1985, and "Merit Rating Guidelines for Kentucky Schools," as adopted on July 9, 1984, are presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 5. Any school or institution whose primary mission is to serve a student clientele (K-12) with unique needs that are outside the generally accepted operational range of students who attend public schools shall be classified and accredited under the category of Special School Accreditation.

Section 6. A copy of all documents incorporated in this regulation may be obtained from the Office of Instruction, Department of Education.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the

above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: None

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Routine reports as required in 5 year accreditation review.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No

#### EDUCATION AND HUMANITIES CABINET

Department of Education  
Office of Instruction  
(Proposed Amendment)

704 KAR 20:045. Testing prerequisites for teacher certification; certificate application; beginning teacher internship program.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board, and KRS 161.030 sets up additional testing and internship requirements for certification. This regulation provides for the implementation of the testing prerequisites for teacher certification as prescribed in KRS 161.030 and for the beginning teacher internship program; and also provides for certificate renewal requirements and for filing certificate application forms.

Section 1. (1) Application for teacher certification shall be made on official forms prepared by the Department of Education.

(2) The application shall be supplemented by official transcripts showing all college credits necessary for the requested certification.

Section 2. Teacher certification issued initially under the provisions of 704 KAR 20:065, 20:070, 20:080, 20:085, 20:090, 20:145, 20:150, 20:159, 20:222, 20:230, 20:235, 20:240, 20:245, 20:270, and 20:290 shall comply with the provisions of KRS 161.030 and with the following requirements and procedures:

(1) There shall be a recency of preparation prerequisite for the issuance of certificates covered by this section, as follows:

(a) For applicants who have completed a four (4) year program of preparation but who have not yet completed a planned fifth-year program, the program of preparation shall have been completed within the five (5) year period next preceding the date of receipt of the certificate application form, or else the applicant shall have completed six (6) semester hours of additional graduate credit within this five (5) year period.

(b) Those applying for initial Kentucky certification who have a planned fifth-year program are exempt from taking the six (6) additional hours, provided they have completed three (3) years of successful teaching experience within the last five (5) years.

(c) For applicants who do not meet the recency of preparation prerequisite, and who have not previously held a regular Kentucky teaching certificate, but who otherwise qualify for certification, the certificate shall be issued for a one (1) year period ending June 30 of the next calendar year and with the condition that six (6) semester hours of credit applicable toward the usual renewal requirements be completed by September 1 of the year of expiration. Thereafter the further extension of the certificate shall be in compliance with the usual renewal requirements as specified in subsection (2) of this section.

(2)(a) Teaching certificates described in this section shall be issued for a duration period of five (5) years and with provisions for subsequent five (5) year renewals, except that the initial certification for the beginning teacher internship shall be issued for a duration period of one (1) year and initial certification for applicants who do not meet the recency of preparation prerequisite shall be issued for a duration period of one (1) year.

(b) Upon successful completion of the beginning teacher internship as judged by majority vote of the beginning teacher committee, the one (1) year certificate shall be extended for the remainder of the five (5) year period.

(c) The certificate shall be renewed for subsequent five (5) year periods upon completion by September 1 of the year of expiration of three (3) years of successful teaching experience or upon completion by September 1 of the year of expiration of at least six (6) semester hours of credit or the equivalent in PSDU's or CEU's, as defined in 704 KAR 20:020, except that persons who have not yet completed the Planned Fifth-Year Program, as defined in 704 KAR 20:020, shall complete at least fifteen (15) semester hours of credit applicable to the

program for the first renewal and the remainder of the program for the second renewal.

(d) Credits for certificate renewal shall be earned after the issuance of the certificate, and any credits earned in excess of the minimum requirements for any renewal period shall accumulate and be carried forward to apply toward subsequent renewals.

(3)(a) Whenever there is a lapse in any certification identified in this section due to expiration for lack of meeting the renewal requirements, the certificate may be reissued at a later date for a one (1) year period by first completing at least six (6) semester hours of graduate credit applicable toward the Planned Fifth-Year Program. The applicant shall complete another nine (9) semester hours of credit applicable toward the Planned Fifth-Year Program by September 1 of the year of expiration in order to qualify for extending the certificate for the remaining four (4) years of the usual five (5) year duration period. At the end of this renewal period the applicant shall have completed the Planned Fifth-Year Program to qualify for the next five (5) year renewal. Thereafter, the regular renewal schedule of six (6) semester hours of additional credit or the equivalent in PSDU's or CEU's each five (5) year period shall apply.

(b) An applicant who has already completed the Planned Fifth-Year Program and whose certificate lapses may have the certificate reissued after first completing another six (6) semester hours of graduate credit. The certificate shall be issued for a five (5) year period and subject to the renewal schedule of three (3) years of successful teaching experience or completion by September 1 of the year of expiration of at least six (6) semester hours of additional credit or the equivalent in PSDU's or CEU's for each five (5) year period.

(c) An applicant who has held a regular Kentucky teaching certificate which has lapsed for failure to meet renewal requirements, but who otherwise qualifies for the reissuance of a Kentucky teaching certificate, shall not be required to take the written tests or to participate in the beginning teacher internship program.

(4)(a) An applicant having completed two (2) or more years of successful teaching experience outside of the Commonwealth of Kentucky, who otherwise qualifies for certification, shall not be required to take the written tests or to participate in the beginning teacher internship program.

(b) Successful experience shall be in a position directly corresponding to the type of teaching certificate for which the application is being made and shall be further defined as follows:

1. Employment is at least on a half-time basis.
2. A full year of experience shall include at least 140 days of employment performed within the academic year.
3. A half year of experience shall include at least seventy (70) days of employment performed within an academic semester.

(5) Prerequisites for the issuance of a one (1) year certificate for the beginning teacher internship shall include:

(a) The completion of an approved program of preparation which corresponds to the certificate desired.

(b) The completion of the written tests

designated by the State Board of Education for:

1. General knowledge;
2. Communications skills;
3. Professional education concepts; and
4. Knowledge in the specific teaching field of the applicant, with minimum scores in each test as set by the State Board of Education.

(c) Evidence of employment in a Kentucky school as attested by the employer in a school that is accredited by the State Board of Education.

(6) Upon successful completion of the approved program of preparation and upon completion of the designated tests with acceptable scores, the Department of Education shall issue a statement of eligibility for employment which shall serve as evidence of eligibility for the one (1) year certificate once a teaching position is secured. The statement of eligibility shall be issued in accordance with 704 KAR 20:055 and shall be valid for a four (4) year period. [The statement of eligibility shall be valid for a four (4) year period beginning from the date of issuance from the Department of Education and ending on the same date four (4) years later.] If the teacher internship is not begun within the four (4) year period, the individual must requalify for another statement of eligibility by retaking and passing the designated written tests with acceptable scores.

(7) For persons who attain the statement of eligibility, but who are not appropriately employed, the Certificate for Substitute Teaching may be issued as provided in 704 KAR 20:210, Section 1.

(8)(a) The employment of a teacher intern shall not begin earlier than the effective date shown on the statement of eligibility.

(b) The one (1) year certificate for the beginning teacher internship shall be issued in accordance with 704 KAR 20:055, "Dating of Certificates." [The one (1) year certificate shall be issued effective from the date of employment and shall expire June 30 of the next calendar year.] If the teacher's first year performance is judged to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time through the reissuance of another one (1) year certificate if the teacher is employed by a school district.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 1500.

(a) Direct and indirect costs or savings to



those affected:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
- (b) Reporting and paperwork requirements: Application for teacher certification (TC-1).
- (2) Effects on the promulgating administrative body: Use uniform for dating statements of eligibility and one year certificates.
- (a) Direct and indirect costs or savings:
  1. First year: None
  2. Continuing costs or savings: None
  3. Additional factors increasing or decreasing costs: None
- (b) Reporting and paperwork requirements: Dating of statements of eligibility and one year certificates.
- (3) Assessment of anticipated effect on state and local revenues: None
- (4) Assessment of alternative methods; reasons why alternatives were rejected: Revision to bring uniformity in procedures for dating certificates.
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
- (a) Necessity of proposed regulation if in conflict: None
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No comparable federal statute regarding certification of teachers.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### EDUCATION AND HUMANITIES CABINET Department of Education Office of Instruction (Proposed Amendment)

#### 704 KAR 20:120. Emergency certification.

RELATES TO: KRS 161.020, 161.030, 161.100

PURSUANT TO: KRS 156.070, 161.030, 161.100

NECESSITY AND FUNCTION: KRS 161.100 provides for the employment of school personnel in the event that regularly qualified persons are not available for specific positions. This regulation establishes the procedures by which the local boards of education and the State Board of Education may comply with the statute.

Section 1. (1) In order to comply with KRS 161.100 in establishing the need for employing emergency teaching personnel, the superintendent of the local school district and the board of education shall make the following declaration

to the Superintendent of Public Instruction on request forms supplied by his office:

(a) No qualified teachers have applied for the vacant position and to our knowledge qualified teachers are not available for the position.

(b) Diligent efforts have been made to recruit a qualified teacher for the vacant position, and furthermore, this vacancy has been made known locally by appropriate means.

(c) The local school district has been unsuccessful in recruiting teachers for the vacant position either from the listings of teachers supplied by the State Department of Education or by means of the placement services of the teacher education institutions.

(d) The position will be filled by the best qualified person available, giving preference to the factors of academic preparation, prior teaching experience or related educational work, and personal attributes compatible with the demands of the teaching profession.

(2)(a) The Superintendent of Public Instruction, depending upon his assessment of the need for the position and the availability or anticipated availability of qualified personnel, shall approve or disapprove a request for the employment of emergency teaching personnel. The term of validity of an emergency certificate may be limited to a period less than the full school year; the beginning date shall be no earlier than the date the request form is received in the Department of Education.

(b) Individuals, for whom application for a full-time emergency certificate is being made by a local school district for a second or any subsequent year shall show evidence of progress towards regular certification by having enrolled in and earned a minimum of six (6) hours of credit from the preparation program leading to the required certification for the position. This required credit shall be earned subsequent to the issuance of the initial or any subsequent full-time emergency certificate and prior to the issuance of next succeeding full-time emergency certificate, until the applicable preparation program has been completed.

(3)(a) The superintendent of the local school district and the board of education may establish the need for emergency teaching personnel, restricted to substitute teaching only, on the basis of anticipated shortages of regularly certified teachers. Emergency certificates may then be issued by the Superintendent of Public Instruction restricted to substitute teaching only and subject to the priority schedule for the employment of substitute teachers as established by 704 KAR 20:210. Emergency certificates for substitute teaching shall not be issued to applicants having less than sixty-four (64) semester hours of credit, except that the Superintendent of Public Instruction may grant approval for applicants having at least thirty-two (32) semester hours of credit or more whenever the need for such personnel is appropriately documented by the local school district superintendent and board of education using application forms provided by the Department of Education.

(b) Each local school district that employs emergency substitute teachers shall report by June 30 of each year on forms provided by the Superintendent of Public Instruction the number of days of substitute teaching performed by each emergency teacher.

(4) The Superintendent of Public Instruction shall periodically report to the State Board of Education the numbers of emergency certificates issued for full-time, part-time, and substitute teaching by school district, by position, and by academic preparation.

(5) A minimum grade point average of 2.0 on a 4.0 scale shall be required for the issuance of any emergency certificate whether for employment in a full-time, part-time, or substitute teaching position.

(6) An application form signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 20 applicants for full-time emergency certificates for the second year.

(a) Direct and indirect costs or savings to those affected:

1. First year: Tuition fees for additional 6 hours college credit.

2. Continuing costs or savings: Same as #1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Application (TC-4) for emergency certificate.

(2) Effects on the promulgating administrative body: Staff must monitor evidence of compliance.

(a) Direct and indirect costs or savings: None

1. First year: No direct costs.

2. Continuing costs or savings: No direct costs.

3. Additional factors increasing or decreasing costs: No direct costs.

(b) Reporting and paperwork requirements: Application (TC-4) for emergency certificate.

(3) Assessment of anticipated effect on state and local revenues: No effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Amendment requires individuals applying for full-time emergency certificates for a second year complete a minimum of (6) hours of college credit to be eligible.

TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No federal mandate exists regarding teacher certification.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### EDUCATION AND HUMANITIES CABINET

Department of Education  
Office of Instruction  
(Proposed Amendment)

704 KAR 20:229. Hearing impaired, endorsement for teaching.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 give the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes an appropriate certification endorsement and corresponding program of preparation for teaching the hearing impaired.

Section 1. (1) The endorsement for teaching hearing impaired pupils shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds either the provisional elementary certificate, the provisional certificate for teaching in the middle grades, or the provisional high school certificate and who has completed the approved program of preparation which corresponds to this endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) The endorsement for teaching hearing impaired pupils shall be valid for the same grade levels as the teaching certificate used as a base for the endorsement and shall have the same duration period as the base certificate except that the elementary certificate shall be

valid for kindergarten through grade eight (8).

(3)(a) For a person who qualifies before the deadline date of September 1, 1988, a one (1) year endorsement for teaching hearing impaired pupils, valid for the same grade level as the teaching certificate used as a base for the endorsement, other than a certificate issued for the internship year for first year teachers as required in KRS 161.030, may be issued to an applicant who meets the following requirements:

1. Completion of six (6) semester hours of credit from the approved curriculum;

2. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The endorsement may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 100 applicants.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: TC-1 application and "Request for one-year certificate for teachers of exceptional children."

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative would allow teachers not fully prepared into internship program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No comparable federal statute for certification of teachers.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:230. Hearing impaired; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching the hearing impaired and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of this section, except subsection (4)(b), shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children who are hearing impaired shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 2 of this regulation.

(1) The provisional certificate for teachers of exceptional children - hearing impaired shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which

corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 63.0.

(2) The provisional certificate for teachers of exceptional children - hearing impaired shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The provisional certificate for teachers of exceptional children - hearing impaired shall be valid at any grade level for the instruction of exceptional children who are hearing impaired and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - hearing impaired may be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching other than a certificate issued for the internship year for first year teachers as required in KRS 161.030;

2. Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably expect to become fully certified;

3. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.

Section 2. Effective July 1, 1986, the following provisions shall become applicable for teacher candidates admitted to the preparation program as described:

(1) The Provisional Certificate for Teachers of Exceptional Children - Hearing Impaired shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate grade levels as described in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 63.2 and TEC 63.4.

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - hearing impaired shall also include preparation for teaching in the regular instructional program with preparation options for grade levels as follows:

(a) Option I. Provisional Certificate for Teachers of Exceptional Children - Hearing Impaired Grades K-12, and Provisional Certificate for Teaching in the Early Elementary

Grades K-4. Curriculum Standards TEC 63.2.

(b) Option II. Provisional Certificate for Teachers of Exceptional Children - Hearing Impaired Grades K-12, and Provisional Certificate for Teaching in the Middle Grades 5-8. Curriculum Standards 63.4.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 100 applicants.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: TC-1 application and "Request for one-year certificate for teachers of exceptional children."

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative would allow teachers not fully prepared into internship program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No comparable federal statute for certification of teachers.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes

additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

# EDUCATION AND HUMANITIES CABINET

Department of Education  
Office of Instruction  
(Proposed Amendment)

704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children with learning and behavior disorders and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of this section shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children with learning and behavior disorders shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 3 of this regulation.

(1) The provisional certificate for teachers of exceptional children - learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 60.0.

(2) The provisional certificate for teachers of exceptional children - learning and behavior disorders shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The provisional certificate for teachers of exceptional children - learning and behavior disorders shall be valid at any grade level for the instruction of exceptional children with learning and behavior disorders and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

Section 2. (1)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - learning and behavior disorders may be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching other than a certificate issued for the internship year for first year teachers as required in KRS 161.030;

2. Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably expect to become fully certified;

3. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.

(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

(2)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - learning and behavior disorders, valid for grades seven (7) through twelve (12), may be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional high school certificate or any other certificate of similar validity for secondary classroom teaching other than a certificate issued for the internship for first year teachers as required in KRS 161.030;

2. Has completed at least six (6) semester hours of credit from the major in exceptional children - learning and behavior disorders under which the applicant may reasonably expect to become fully certified and a three (3) semester hour course in reading;

3. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for subsequent one (1) year periods upon completion of at least six (6) semester hours of credit each year from the applicable approved curriculum.

(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

Section 3. Effective July 1, 1986, the following provisions shall become applicable for teacher candidates admitted to the preparation programs as described:

(1) The Provisional Certificate for Teachers of Exceptional Children - Learning and Behavior Disorders shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate grade levels as described in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 60.2, TEC 60.4, and TEC 40.2.

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - learning and behavior disorders shall also include preparation for teaching in the regular instructional program with preparation options for grade levels as follows:

(a) Option I. Provisional Certificate for Teachers of Exceptional Children - Learning and Behavior Disorders Grades K-12, Provisional Certificate for Teaching in the Early Elementary Grades K-4. Curriculum Standards 60.2.

(b) Option II. Provisional Certificate for Teachers of Exceptional Children - Learning and Behavior Disorders Grades K-12, Provisional Certificate for Teaching in the Middle Grades 5-8. Curriculum Standards 60.4.

(c) Option III. Provisional High School Certificate Grades 7-12 with a major in exceptional children - learning and behavior disorders, after September 1, 1989, Provisional Certificate for Teaching in the Secondary Grades 9-12. Curriculum Standards 40.2.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 100 applicants.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: TC-1 application and "Request for one-year certificate for teachers of exceptional children."

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative would allow teachers not fully prepared into internship program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No comparable federal statute for certification of teachers.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:245. Trainable mentally handicapped; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children classified as trainable mentally handicapped and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of

this section, except subsection (4)(b), shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children who are trainable mentally handicapped children shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 2 of this regulation.

(1) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 61.0.

(2) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - trainable mentally handicapped may be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching other than a certificate issued for the internship year for first year teachers as required in KRS 161.030;

2. Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably expect to become fully certified;

3. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.

(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring TMH certification shall be substituted for the special education portion of the student teaching requirement.

Section 2. Effective July 1, 1986, the following provisions shall become applicable for

teacher candidates admitted to the preparation program as described:

(1) The Provisional Certificate for Teachers of Exceptional Children - Trainable Mentally Handicapped shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate grade levels as described in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 61.2 and TEC 61.4.

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - trainable mentally handicapped shall also include preparation for teaching in the regular instructional program with preparation options for grade levels as follows:

(a) Option I. Provisional Certificate for Teachers of Exceptional Children - Trainable Mentally Handicapped Grades K-12 and Provisional Certificate for Teaching in the Early Elementary Grades K-4. Curriculum Standards TEC 61.2.

(b) Option II. Provisional Certificate for Teachers of Exceptional Children - Trainable Mentally Handicapped Grades K-12, and Provisional Certificate for Teaching in the Middle Grades 5-8. Curriculum Standards TEC 61.4.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 100 applicants.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: TC-1 application and "Request for one-year certificate for teachers of exceptional children."

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None



(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative would allow teachers not fully prepared into internship program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No comparable federal statute for certification of teachers.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:255. Visually impaired; teaching endorsement.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate endorsement for teaching the visually impaired and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The endorsement for teaching visually impaired pupils shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds either the provisional elementary certificate, the provisional certificate for teaching in the middle grades, or the provisional high school certificate and who has completed the approved program of preparation which corresponds to this endorsement at a teacher education institution

approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) The endorsement for teaching visually impaired pupils shall be valid for the same grade levels as the teaching certificate used as a base for the endorsement and shall have the same duration period as the base certificate.

(3)(a) For a person who qualifies before the deadline date of September 1, 1988, a one (1) year endorsement for teaching visually impaired pupils, valid for the same grade level as the teaching certificate used as a base for the endorsement, other than a certificate issued for the internship year for first year teachers as required in KRS 161.030, may be issued to an applicant who meets the following requirements:

1. Completion of six (6) semester hours credit from the approved curriculum;

2. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The endorsement may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 100 applicants.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: TC-1 application and "Request for one-year certificate for teachers of exceptional children."

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state

and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative would allow teachers not fully prepared into internship program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No comparable federal statute for certification of teachers.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### EDUCATION AND HUMANITIES CABINET Department of Education Office of Vocational Rehabilitation (Proposed Amendment)

#### 706 KAR 1:020. Independent living plan.

RELATES TO: KRS 156.010, 156.035, 163.140, 163.160

PURSUANT TO: KRS 156.035, 156.070, 163.140

NECESSITY AND FUNCTION: Title VII, Part A, P.L. 93-112, as amended, requires the submission of a Three (3) Year State Plan for Independent Living Rehabilitation Services, to the Secretary, Department of Education. The plan must be approved in order for a state to be eligible for grants from the allotment of funds under Title VII, Part A, of the Rehabilitation Act of 1973, P.L. 93-112, as amended by P. L. 93-516, P. L. 95-602 and P. L. 98-221. This regulation adopts such a plan, and thereby implements statutory responsibility of the Department of Education and the State Board of Education under KRS 156.010, 156.035, 163.140, and 163.160.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.035 and 163.140, the Kentucky State Plan for Independent Living Rehabilitation Services for the period October 1, 1984 through September 30, 1987 is presented herewith for filing with the Legislative Research Commission, and incorporated by reference, as revised January 7, 1987 [May 7, 1986]. This plan describes how federal funds will be utilized to provide services for independent living to individuals with disabilities so severe that they presently do not have potential for employment, and a copy of said plan can be obtained from the Office of Vocational Rehabilitation, Department of Education.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Terry Hibpsman

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: N/A

TIERING: Was tiering applied? No. Standards are applied uniformly to all applicants for the program.

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Regulations in 34 CFR 365 require an annual update to the 1985-1987 State Plan for Independent Living Rehabilitation Services. This part of the annual update involves a technical change in the plan. Federal Regulations are given in P.L. 93-112, Title VII, as amended, and in CFR Part 365.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities:

PUBLIC PROTECTION AND REGULATION CABINET  
Kentucky State Racing Commission  
(Proposed Amendment)

810 KAR 1:003. Licensing.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the licensing procedures and requirements.

Section 1. License Required. No person, legal entity, or association shall conduct any thoroughbred race for any stakes, purse, or reward in the Commonwealth without first securing a license therefor from the commission. No person shall participate in thoroughbred racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, without first securing a license therefor from the commission.

Section 2. Conditions Precedent to Issuance of License. Thoroughbred racing and participation therein in the Commonwealth are privileges, not rights, granted only by the commission by license subject to the hereinafter set out conditions precedent. Acceptance of a license shall be construed as consent and agreement to the following conditions precedent by the licensee and failure to comply therewith shall be grounds for immediate voidance or revocation of such license:

(1) Representations made or with license application are complete and correct.

(2) Licensee shall abide by all rulings, and decisions of the stewards and all such decisions by the stewards shall remain in force unless reversed or modified only by the commission upon proper appeal thereto. All rulings and decisions of the stewards may be appealed to the commission except those made by the stewards as to findings of fact as occurred during and incident to the running of a race and as to determination of the extent of disqualification of horses in a race for fouls committed during such race, and all such excepted rulings and decisions by the stewards shall be final with no right of review thereof by the commission or courts.

(3) Licensee shall consent to a reasonable search of his person and property in his possession by the commission or its representatives, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters, motor vehicles, trunks, boxes, and containers of any sort, and licensee shall consent to seizure of any object which may be evidence indicating a rule violation. Licensee shall cooperate in every way with the commission or its representatives during the conduct of an investigation, to include responding correctly under oath to the best of his knowledge to all questions asked by the

commission or its representatives pertaining to racing matters.

(4) A licensed trainer shall be responsible for the condition of horses in his charge and shall be held to a high standard of care in taking all precautions as are reasonable and necessary to safeguard such horses from tampering. Upon a finding of a positive for a prohibited medication, drug, or substance, in a saliva, urine, or blood specimen taken from a horse, the trainer of such horse shall have the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering.

Section 3. Standards for Granting Licenses and Racing Dates to Associations. The commission may issue a license to any association which applies for same to conduct a thoroughbred race meeting on such days as the commission may deem appropriate, if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposed to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, and improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth under KRS 137.170, 138.480, and 138.510, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

Section 4. Standards for Granting Licenses to Participants in Racing. The commission may issue a license to any person who applies for same to participate in thoroughbred racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, if the commission finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.

Section 5. Grounds for Refusal, Suspension, or Revocation of a License. The commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, on the following grounds:

(1) Denial of a license to an applicant, or suspension or revocation of a license in another racing jurisdiction; the commission may require reinstatement in the original racing jurisdiction where applicant was denied a license or where his license was suspended or revoked;

(2) Conviction of a crime or violation of any regulation dealing with a controlled substance;

(3) Falsification, misrepresentation, or omission of required information in license application to the commission; failure to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced; misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of thoroughbreds;

(4) Making false or misleading statements to the commission and/or the stewards, in the course of an investigation;

(5) Failure to comply with any order or ruling of the commission, stewards, or racing official pertaining to a racing matter;

(6) Ownership of any interest in, or participation by any manner in, any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise, or association with any person so engaged in such activity;

(7) Person less than sixteen (16) years of age;

(8) Person unqualified by experience or competence to perform the activity permitted by license as determined by standard examination prescribed by the stewards;

(9) Intoxication, use of profanity, fighting or any conduct of a disorderly nature, on association grounds;

(10) Employment or harboring of unlicensed persons required by these rules to be licensed;

(11) Discontinuance of or ineligibility for activity for which license was issued;

(12) Possession on association grounds, without written permission therefor from the commission or stewards, of:

(a) Firearms;

(b) Battery, or buzzer, or electrical device, or other appliance other than an ordinary whip which could be used to alter the speed of a horse in a race or workout.

(13) Possession on association grounds by a person other than a licensed veterinarian of:

(a) Hypodermic needle, or hypodermic syringe, or other device which could be used to administer any substance to a horse;

(b) Narcotics, or medication, or drugs, or substance which could be used to alter the speed of a horse in a race.

(14) Use of profane, abusive, or insulting language to or interference with a commissioner, member of the commission staff, or racing official, while such persons are in the discharge of their duties;

(15) Cruelty to a horse or neglect of a horse entrusted to a licensee's care;

(16) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of same immediately to the stewards;

(17) Causing, or attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of same immediately to the stewards;

(18) Entering, or aiding and abetting the entering of, a horse ineligible or unqualified for the race entered;

(19) Drug addiction, bad moral character, intemperate habits, bad reputation for honesty, truth and veracity, or involvement in a subject of public notice as involved in any activity which, in the opinion of the commission, would be inconsistent with the best interests of racing by reflection on the honesty and integrity of the sport of racing, or association with persons so characterized;

(20) Violation of any rule of the commission, or aiding or abetting any person in violation of any such rule.

Section 6. License Applications for Associations. Any person or legal entity desiring to conduct thoroughbred racing in the Commonwealth may apply to the commission for association license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office on or before September 1 of the year preceding the calendar year in which the license is to be in force. Such application shall contain:

(1) Name and location of track. Initial applications shall be accompanied by such physical information as the commission may require.

(2) Names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the association with such degree of ownership or type of interest shown; names and addresses of all persons capable of exercising any control over affairs of the association as trustee or guardian or lessor, or mortgagee, or fiduciary. Any corporation, partnership, or other legal entity which owns or controls a beneficial interest in the association directly, or through other corporations or legal entities, shall similarly file with the application lists showing the names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in such legal entities with such degree of ownership or type of interest thereunto pertaining. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(3) Days and hours thereof on which racing is requested to be conducted, and number of races to be run on each day.

(4) Names of racing officials and persons responsible for track security and fire protection.

(5) Proposed purse schedule, showing minimum purse, average daily distribution, added money for each stake, if any.

(6) An operating report on forms prescribed by the commission if applicant is currently licensed.

(7) Such other information as the commission may from time to time require to ascertain the fitness of the applicant to conduct thoroughbred racing.

Section 7. License Application for Participants in Racing. (1) Any person other than an association required to be licensed by Section 1 of this regulation and desiring to participate in thoroughbred racing in the Commonwealth may apply to the commission for a

license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office or with the commission license administrator at the association on or after January 2 of the calendar year in which the license is to be in force, but not later than twenty-four (24) hours after applicant has arrived on association grounds.

(2) Applications from persons not previously licensed in Kentucky shall include the names of two (2) reputable persons who will attest to the good reputation of the applicant and to the capability and general fitness of the applicant to perform the activity permitted by the license.

(3) Applications from persons whose age is not readily ascertainable by the licensing committee shall be accompanied by an attested copy of birth certificate or work permit showing applicant is sixteen (16) years or older.

(4) Fingerprint identification will be required of all licensees unless waived by the commission (i.e., absentee owners and casual delivery personnel who do not enter the stable area).

(5) Applications from persons, corporations, partnerships, lessors, or other legal entities involving more than one individual person desiring to race horses in the Commonwealth shall, in addition to designating the person or persons to represent the entire ownership of such horses, be accompanied by documents which fully disclose the identity and degree and type of ownership held by all individual persons who own or control a present or reversionary interest in such horses. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(6) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a practicing veterinarian, shall be accompanied by evidence that such person is currently licensed as a veterinarian by the Commonwealth of Kentucky. An accredited practicing veterinarian not licensed by the commission or the Commonwealth, however, may with permission of the stewards in an emergency be called in as a consultant, or to serve as a veterinarian for one (1) horse on a temporary basis, and shall not thereby be considered as participating in racing in this state.

(7) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a dental technician shall be accompanied by the name of a licensed veterinarian who will attest to the technical competence of such applicant and under whose sponsorship and direction such applicant will work on association grounds.

(8) Applications from persons not previously licensed in the capacity of farrier shall not be forwarded with recommendation to the commission by the licensing committee until such applicant has been administered a standard examination by an experienced farrier known to the stewards so as to provide the licensing committee a reasonable basis for recommendation as to the technical proficiency of such applicant for a farrier's license.

(9) The following annual fees shall accompany the application and shall not be refundable:

(a) \$25 - Owner license and annual color registration;

(b) \$25 - Trainer, jockey, apprentice jockey, or jockey's agent license;

(c) \$25 - Veterinarian, dental technician, assistant trainer, farrier, or apprentice farrier license;

(d) \$5 - Stable employee license (foreman, authorized agent, exercise boy, groom, hotwalker, watchman, or pony boy);

(e) \$10 - Stable-area supplier license (supplier of horse feed, tack, medication, or food vendors);

(f) \$10 - Racing department employee license, steward, racing secretary, assistant racing secretary, director of racing, starter and assistant starter, paddock judge, patrol judge, placing judge, timer, commission veterinarian, commission chemist, commission supervisor of pari-mutuel betting, commission director of security, commission license administrator, commission inspector, association veterinarian, testing laboratory employee, horse identifier, valet, jockey room custodian, clerk of scales, entry clerk, photo-finish operator, film patrol or video tape operator and projectionist, flagman, or outrider, association security department including police chief, detectives, policemen, watchmen, fire, ambulance drivers and attendants; track superintendent, groundsmen, mechanics, carpenters; maintenance department manager and employees;

(g) \$10 - Mutuel department employee license, manager, calculator, sheet writer, supervisor, ticket checker, ticket seller, ticket cashier, messenger runner, outbook clerk, program clerk, porter, information and change clerk, boardman, ticket room and money room clerk, assistant, totalizer employee;

(h) \$10 - Occupational license, admission department manager and employees; concessions manager and employees; parking manager and employees; [association security department including police chief, detectives, policeman, watchmen, fire, ambulance drivers and attendants, track superintendent, groundsmen, mechanics, carpenters; maintenance department manager and employees;] all other persons employed by the association or employed by a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting.

(i) \$5 - Temporary occupational license for persons to be employed in occupations listed in paragraph (h) above for ten (10) days or less during a calendar year.

Section 8. Licensing Committee. The commission may appoint a licensing committee including the commission secretary and commission steward or their designated representative. Such licensing committee shall review all applications for all licenses, and forward all such applications to the commission with recommendations thereon, subject to security checks, for final action. Such licensing committee may issue to a license applicant a temporary permit to participate in the activity for which such license application was made pending administrative processing and final action on such license application by the commission.

Section 9. Term of License. Licenses issued by the commission for participation in thoroughbred racing shall be valid from the date of issuance through the calendar year shown on such license

at all race meetings conducted by associations in the Commonwealth during such calendar year, unless sooner suspended, revoked, or voided. The commission may renew any license and any such renewal shall not be construed to be a waiver of or to condone any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor. The validity of a license does not preclude or infringe upon the common law right of associations to eject or exclude any persons, licensed or unlicensed, from association grounds.

Section 10. Possession of License Required. No person required to be licensed by these rules may participate in any activity required to be licensed on association grounds during a race meeting without having been issued a valid license therefor and having same in his possession. All licenses specified under subsection (9)(b) to (f) [(i)] shall include a color photograph of the licensee and shall be openly displayed on the backside of association grounds at all times.

Section 11. Applicability of Rules and Rulings to Household. Rules pertaining to, and rulings against, licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by such affected person will in no way circumvent the intent of the rule, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

Section 12. Notice for Discontinuance of Employment. Licensed associations, racing officials, owners, trainers, jockeys, agents, farriers, stable employees, and all other licensees who have accepted with advance notice the conditions under which a race meeting is planned to be conducted, shall before terminating employment, engagements, or activities under such conditions, so notify the commission and respective interested persons or associations of such intention at least fifteen (15) days before such termination. The commission shall upon notice to parties in interest conduct a hearing on the matter. If the commission finds that the cause of termination is unreasonable, unlawful, or contrary to these rules, the commission shall so advise all parties in interest and shall take appropriate action against offending parties. If the commission finds that the cause of termination is reasonable, lawful, and not contrary to these rules, the commission shall so advise all parties in interest and shall use its best efforts to settle the dispute.

MARTHA H. BROADBENT, Chairman

APPROVED BY AGENCY: December 17, 1986

FILED WITH LRC: December 24, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on February 23, 1987 at 10 a.m. at the offices of the Kentucky State Racing Commission at 535 West Second Street, Lexington, Kentucky. Those interested in attending the

hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: N/A

TIERING: Was tiering applied? No

#### PUBLIC PROTECTION AND REGULATION CABINET

Department of Housing, Buildings & Construction

Division of Building Codes Enforcement

(Proposed Amendment)

815 KAR 7:070. Requirements for certification of Kentucky Building Code inspectors.

RELATES TO: KRS 198B.040(3), 198B.050(3)(c), (6), 198B.090

PURSUANT TO: KRS 198B.050(5)

NECESSITY AND FUNCTION: The department is required by KRS 198B.090 to create and administer a building official's certification program which is designed to ensure uniform statewide enforcement of applicable state building codes. This regulation establishes the testing, training and continuing education requirements for two (2) specifically designated professional classifications of building code inspectors: building inspector and plans and specifications inspector.

Section 1. Definitions and Categories of Inspectors. The scope of authority for each category of inspector identified is specifically limited according to the following description of responsibilities. Depending on the type and level of responsibility assumed by the jurisdiction, certification in more than one (1) category may be required.

(1) "Certified building inspector" means a person whose responsibility it is to inspect buildings as part of a permit application, to determine that the structures are free from

conditions that would present a life safety, health or fire hazard to persons using such buildings, and to determine that the buildings are constructed in accordance with the Kentucky Building Code. This person must have been tested for competency in NCPCCI modules 1B and 3B and otherwise met the requirements of the department. This person is authorized by this regulation to make on-site inspections of all buildings, including one (1) and two (2) family dwellings within his/her jurisdiction, regardless of size. This person is further authorized to review and approve plans on those buildings which are the responsibility of local governments under KRS 198B.060(2).

(2) "Certified plans and specifications inspector" means a person whose responsibility it is to determine that the plans submitted as part of a building permit application comply with the Kentucky Building Code and referenced standards, and who has been tested for competency in NCPCCI modules 1B, 1C, 3B and 3C and otherwise met the requirements of the department as set forth in this regulation. This person is further authorized to inspect all buildings within his/her jurisdiction, regardless of size to determine if those buildings are constructed in accordance with the plans and in accordance with the Kentucky Building Code.

(3) "Limited certificate" means a limited authorization issued by the department which represents the level of competency for which a person has been tested. The department will issue a document specifying on its face that the person is qualified to perform the stated activity only. This certificate shall be issued only after the person has met the training requirements stated in Section 3 of this regulation.

(4) NCPCCI means "National Certification Program for Construction Code Inspectors" and are exam modules developed by the national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence and professionalism in construction code enforcement and shall be used to meet the module testing requirements required herein. Other required training or testing shall be provided through the department.

Section 2. Inspection Operations. (1) It is the specific intention of this regulation to ensure that all Kentucky Building Code inspection programs require plan review and on-site inspection of buildings only by persons who have been tested for competency under this regulation.

(2) Each person who has successfully completed any NCPCCI exam module as listed in this regulation shall be given a "limited certificate." This certificate shall qualify the individual only for that inspection or plan review function on which he/she has been tested. For example, persons holding a limited certificate for NCPCCI Module Building One (1) and Two (2) Family-1A are deemed qualified to inspect and review plans for single family and duplex residential buildings only. Each person must renew the certification as required by Section 5(2) of this regulation and otherwise comply with this regulation.

(3) Each local government and the department shall provide for the services of certified

inspectors. In circumstances where the jurisdiction chooses to distribute the inspection or plan review functions to more than one (1) person, each person shall be certified in his/her respective area of responsibility.

(4) Certification of plumbing, elevator and electrical inspectors are not covered by this regulation.

Section 3. Training and Testing Requirements to Become Certified as a Kentucky Building Code Inspector. (1) Each candidate seeking to become certified pursuant to this regulation shall be required to be trained and/or tested on the administrative and accessibility sections of the Kentucky Building Code as determined by the board.

(2) Each candidate seeking certification shall successfully complete the NCPCCI exam module(s) which is/are applicable to the activity in which said candidate shall be engaged. Unless the candidate qualifies as actively pursuing departmental certification under Section 4 of this regulation, no person shall be responsible for any inspection or plan review activity for which he/she has not been tested and passed said test. The testing modules are as follows:

- (a) Building One (1) and Two (2) Family - 1A;
- (b) Building General - 1B;
- (c) Fire Protection General - 3B;
- (d) Building Plan Review - 1C;
- (e) Fire Protection Plan Review - 3C.

(3) Continuing education. From time to time, the department shall establish continuing education programs for the purpose of keeping the inspectors updated on code requirements. Participation in these programs shall be mandatory for all inspectors in order to maintain certification.

Section 4. Deadline for Certification. (1) All persons charged with the responsibility of inspecting and reviewing buildings plans for compliance with the Kentucky Building Code shall be certified or enrolled and actively pursuing departmental certification by October 1, 1983, or within ninety (90) days after employment of such inspector, whichever is later. Such person shall register with the department, complete the necessary application forms and pay the required fees stated in Section 5 of this regulation, within said timetable.

(2) "Actively pursuing departmental certification" means that each person who is seeking certification pursuant to this regulation shall sit for examination of at least one (1) module of the NCPCCI per year. Failure of any candidate to receive a passing score on each required module within three (3) years of employment shall terminate that person's ability to qualify under this definition. Limited certificates may continue to be renewed after three (3) years. EXCEPTION: Where any candidate has been employed by a local jurisdiction and his three (3) years have expired, he shall be allowed one (1), and only one (1), additional calendar year to achieve certification, upon written petition of the jurisdiction to the commissioner and still be covered by this definition. This exception is available only to those candidates who have passed at least one (1) required NCPCCI test module within the three (3) year period.

(3) Time constraints for certification as stated in subsection (2) of this section shall



not apply to those persons seeking certification who are not engaged in an inspection or plan review capacity.

Section 5. Application for Training and Certification. (1) Each person seeking to become a candidate for certification pursuant to this regulation shall submit an application on a form provided by the department, together with a fee of twenty-five (25) dollars to cover the administrative costs of processing the application, establishing the training program and issuing certificates.

(2) Each certified inspector and each candidate actively pursuing certification shall be required to pay an additional annual sum of twenty-five (25) dollars each succeeding fiscal year in order to maintain his/her certification.

Section 6. Suspension and Revocation of Certification. (1) Formal written complaints concerning an inspector must be submitted through the department to the Board of Housing, Buildings and Construction for review and appropriate action.

(2) If, upon investigation, the board determines that there is reason to believe that the certified inspector has willfully, negligently or recklessly violated his/her duties as set forth in this regulation, the board may take action for the revocation or suspension of his/her certificate. No such action shall be taken unless the inspector is afforded the opportunity to be heard.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: January 15, 1987

FILED WITH LRC: January 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 24, 1987, at 10 a.m. in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by February 19, 1987, the hearing may be cancelled.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

902 KAR 4:060. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC).

RELATES TO: KRS 194.050, 211.180

PURSUANT TO: KRS 194.050(1), 211.090, 211.180

NECESSITY AND FUNCTION: P.L. 95-627, the "Child Nutrition Act of 1966," as amended and 7 CFR, Part 246, authorizes grants for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Special Supplemental Food Program for Women, Infants and Children (WIC) in accordance with applicable federal laws and regulations.

Section 1. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources hereby adopts the "Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC)-Fiscal Year 1986-1987 [1985-1986]" by reference as the Kentucky WIC Program regulation covering all phases of program operation including but not limited to program eligibility for services, the provision of nutrition education and supplemental foods in accordance with federal regulations and guidelines, and other relevant components of the program. A copy of the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC)-Fiscal Year 1986-1987 [1985-1986] (two (2) volumes) has been filed with the United States Department of Agriculture, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30367. A copy shall be on file and available for public inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 19, 1986

FILED WITH LRC: January 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February

24, 1987 at 9 a.m. in the Vital Statistics Conference Room, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Peggy S. Kidd

(1) Type and number of entities affected: 64,000 clients per month in 120 counties.

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): Services are ongoing, therefore there are no changes.

(b) Reporting and paperwork requirements: No additional paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: Services are ongoing therefore N/A.

(b) Reporting and paperwork requirements: No additional paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: Services already ongoing therefore no effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Only efficient alternative available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Tiering not applicable.

## FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: State compliance standards in the WIC State Plan and Manual do not exceed the minimum uniform standards in the federal mandate for the Special Supplemental Food Program for Women, Infants and Children (WIC), Child Nutrition Act of 1966, P.L. 95-627, as amended.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: No

**CABINET FOR HUMAN RESOURCES**  
**Department for Mental Health and**  
**Mental Retardation Services**  
**(Proposed Amendment)**

**902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.**

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the November 15, 1986, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the May 15, 1986, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the September 1, 1985, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the January 15, 1987 [October 15, 1986], edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the November 15, 1986, edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the January 15, 1987 [December 15, 1986], edition of the "Western State Hospital Policy Manual" consisting of thirty-two (32) volumes relating to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the September 1, 1985, edition of the "Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the March 15, 1986, edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of

Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the September 1, 1985, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the April 15, 1986, edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 12. Summary of Amendments.

#### Section 4. Eastern State Hospital Policy Manual

Eastern State Hospital Policy Manual is revised as follows:

DI, Sec I, page 64 - Use of fire key - a new policy to account for this key. -

DI, Sec II, page 15, Policy on Rape or Attempted Rape; revised policy to indicate staff who will transport victim to U.K. Medical Center.

DI, Sec II, page 44, New policy on warning intended victims of possible patient aggression.

#### Section 6 - Western State Hospital Policy Manual

F33 - A new manual on Infection Control to deal with communicable diseases.

[Section 6 - Western State Hospital Policy Manual  
Western State Hospital Policy Manual is revised as follows:

F-26 Pharmaceutical Service, Sec II

Table of Contents - Revision to add Policies 33 and 34. Remove old Table of Contents page and insert revision.

Section VI - No. 6 - New Policy for Refrigeration Requirements for State Storage of Drugs.

Remove old table of contents page and insert new one.

Section XI - Deletion of Policy Nos. 6, 7, 8, 12 and 13 in Section XI.

Remove old Table of Contents page and insert new one.

Section II - No. 33 - Drug Recall: A new policy for handling drug recall.

No. 34 - New policy on reporting Drug Product Defects.

Section IV - Routine Inspection Made by Pharmacy Personnel.

No. 6 - Return of Outdated Drugs - revised to change the method of removing outdated drugs from the ward.

Section VI - Policies for Security and Storage of Drugs in the Pharmacy.

New Policy: To establish a definition of temperature requirements of drugs.

Section XI - Policies for Sterile Supplies and Equipment.

Policy No. 1 - Revision: The pharmacy no longer autoclaves any items.

Policy No. 2 - Revision: To denote the continual sterility of prepackaged, non-dated items with statement: "Sterile Until Opened."

Policy No. 4 - Deletion - The Pharmacy no longer autoclaves any items.

Policy No. 6 - Deletion.

Policy No. 7 - Deletion - The Pharmacy no longer autoclaves any items.

Policy No. 8 - Deletion - The Pharmacy no longer autoclaves any items.

Policy No. 10 - Revision: To give a procedure by which the doctor will be notified of any patient contact with a recalled supply item.

Policy No. 12 - Deletion.

Policy No. 13 - Microbial Monitoring of the Autoclave. Deletion: The Pharmacy no longer autoclaves any items.]

DENNIS D. BOYD, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by January 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities affected: This regulation with the attached reference material is the on-going policy and procedure manual of the state facilities for the treatment of patients with mental illness and mental retardation. These facilities function with 2,880 staff members serving 1,850 residents.

(a) Direct and indirect costs or savings to

those affected:

1. First year:
  2. Continuing costs or savings:
  3. Additional factors increasing or decreasing costs (note any effects upon competition):
    - (b) Reporting and paperwork requirements:
    - (2) Effects on the promulgating administrative body: This regulation usually does not effect the fiscal operation of these state facilities significantly. It affects the care and treatment of patients, compliance with JCAH standards, and Kentucky licensure regulations. The work environment of the staff is frequently the subject of this regulation also, along with the orderly management of the various programs.
    - (a) Direct and indirect costs or savings:
      1. First year:
      2. Continuing costs or savings:
      3. Additional factors increasing or decreasing costs:
    - (b) Reporting and paperwork requirements:
    - (3) Assessment of anticipated effect on state and local revenues: None
    - (4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.
    - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
    - (a) Necessity of proposed regulation if in conflict:
    - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
    - (6) Any additional information or comments:
- TIERING: Was tiering applied? Yes.

**CABINET FOR HUMAN RESOURCES**  
**Department for Employment Services**  
**Division of Job Training**  
**(Proposed Amendment)**

**903 KAR 6:040. Job Training Partnership Act.**

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Public Law 97-300, the Job Training Partnership Act authorizes the states to implement a job training program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Job Training Program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the Job Training Program as authorized by Public Law 97-300, the 1986 Amendments and as regulated in 20 CFR Parts 626 through 636 [638], the following CFR, Public Law and Conference Report are adopted by reference:

(1) Title 20 Code of Federal Regulations (CFR), Parts 626 through 636 [638], dated April 1, 1986 [March 15, 1983], which contains regulations regarding the implementation of the Job Training Partnership Act (JTPA) and includes operational procedures for: determining eligibility of grant recipients and funding; preparing the Governor's Coordination and

Special Services Plan; involving the State Job Training Coordinating Council; implementing interstate JTPA agreements; distribution of state funds; ensuring state education coordination and awarding grants; implementing training programs for older individuals; awarding state incentive grants; designating JTPA service delivery areas (SDA) and private industry councils; selection of SDA grant recipients; preparing, reviewing and approving job training plans; prohibiting use of public service employment for JTPA purposes; determining eligibility for need-based payments and benefits and assessing working conditions; ensuring compliance in the areas of grant payments, program income, insurance, procurement, management systems, reporting and recordkeeping, budgetary classifications and limitations, matching funds, property management standards, audits, program oversight, sanctions for Act violations, program closeout and performance standards; filing requests for and conducting grievance hearings; handling of administrative, civil and criminal complaints and reports of fraud, abuse and other criminal activity; and implementing summer youth employment and training programs, Native American employment and training programs, migrant and seasonal farmworker programs and veterans employment programs.

(2) Public Law 97-300, the Job Training Partnership Act of 1982 and the Amendments issued in Public Law 99-496 dated October 16, 1986 [,] which concerns the state and local service delivery system and general program and administrative issues including: the authority and program requirements of the governor, state job training coordinating councils, private industry councils and chief elected officials; processes for designating local service delivery areas; preparing local plans and selecting local service providers; development of performance standards and procedures for implementation; fiscal control; monitoring and recordkeeping; training programs for disadvantaged youth and adults, including the areas regarding funding and eligibility and summer youth training and job programs; implementing training and employment aid program for dislocated workers including consultation with private industry councils; funding and implementation of employment and training programs for Native Americans, migrant workers and veterans; Job Corps; labor market information systems; functions of the National Commission for Employment Policy; and coordination between the Work Incentive Program and the job training delivery system.

(3) Job Training Partnership Act, Conference Report, issued September 28, 1982, which is a joint explanatory statement of the Committee of Conference on the Job Training Partnership Act which explains the action agreed upon by the House and Senate managers and expresses the intent of the Congress.

(4) Interpretations of Job Training Partnership Act Rules and Regulations dated June 18, 1986, which contains interpretations pertaining to: Summer Youth Employment and Training Programs; Maximum and Minimum Limitations on Expenditures; Job Training Partnership Act, States' Responsibilities in Incident Report Procedures; and Job Training Partnership and Wagner-Peyser Acts Funds Availability. Also contained therein is an

amendment to Part 629.38(e)(2)(iii) concerning Single Unit Charge Agreements Involving Training of Youth as well as 20 CFR, Volume 51, Notices: No. 22, Job Training Partnership Act, Performance Standards for Program Years (PY) 1986 and 1987; No. 88, Job Training Partnership Act, Semiannual Status Report for Titles II-A and III Programs, and Title II-B Summer Performance Report; No. 117, Job Training Partnership Act, Annual Status Report for Titles II-A and III Programs. [Job Bank/MODS Bulletin No. 1, Reissue, dated September 14, 1984, which includes procedures for completing the ES-511, Application Card, as to whether a male applicant has registered with the Selective Service, if applicable, as is required for eligibility under Job Training Partnership Act programs.]

[(5) On-the-Job Training Programs Procedures and Implementation, dated October 9, 1984, which includes a policy statement and procedures for developing OJT contracts and determining employer eligibility and occupational eligibility.]

Section 2. In order to coordinate the Job Training Program and provide for uniform service to the public, the following plan, [and] instructions and procedures are adopted by reference:

(1) Governor's Coordination and Special Services Plan (GCSSP) for Program Years 1986 and 1987, dated May 15, 1986. This plan contains the identifying information of the applicant which includes the name and address of the grantee, date of submission, and time period covered. The program information includes the criteria for coordinating activities under the Act, including Title III activities, with programs and services provided by state and local agencies determined to have a direct interest in employment and training and human resource utilization within the state. It describes the use of resources provided to the state and its service delivery areas under the Act. It describes the projected use of resources, including education coordination, oversight, and support activities, priorities and criteria for state incentive grants, and performance standards and incentive award systems for state-supported programs. It also addresses adjustments in Kentucky's performance standards as well as incentive awards and the method used in making the adjustments. It includes information on any of the activities listed in Section 121(c) of the Act which the state intends to conduct. It provides a statement indicating that the state had adequate methods of administration to assure compliance with Section 167 of the Act. It provides for a method of modification in accordance with procedures established by the Department of Labor if major changes occur in labor market conditions, funding, or other factors during the period covered by the plan. [Governor's Coordination and Special Services Plan, dated May 15, 1984 which contains applicant identifying information, program information for state and local agencies determined to have a direct interest in employment and training and human resource utilization within the state, priorities and criteria for state-supported programs, adjustments in performance standards, modification methods if major changes occur in labor market conditions, funding or other factors covered under the plan.]

(2) Program Announcement for a Request for Proposal (RFP) for Older Individuals, dated May 30, 1986. This packet includes a letter of request seeking proposals to provide innovative employment and training programs for individuals age fifty-five (55) and older (Older Workers); also the procedures for the submission of a program request of funding for activities authorized under JTPA, Title II-A. These procedures include information on the purpose, objectives, authorized activities, approach and methodology, length of project, level of support and funding information, matching, service providers, list of Service Delivery Areas (SDAs); also, the project application that includes name of project and agency, summary, requested funds, number of slots, budget summary and detailed budget, project description and design, performance standards, staff job descriptions, DES and SDA concurrence forms, EEO statement, and deliverer of training services. [Information and Instructions for a Request for Proposal (RFP), which includes procedures for the submission of a program request of funding for job training activities under the Job Training Partnership Act, including the purpose, objectives, approach and methodology, length of program, level of support, funding, matching, service providers, performance standards, proposal review outlines, JTPA cost classifications, cost principles for JTPA-funded activities, a list of service delivery areas, administrative entities and Department for Employment Services offices, submission instructions, application instructions and an application form.]

(3) Program Announcement for a Request for Proposal (RFP) for Post Program Data Collection dated June 23, 1986. This packet includes a letter of request seeking proposals from organizations which will gather data on former participants who received services which were funded through specific resources of JTPA, Title II-A (adults) and Title III; also, the program announcement that includes the purpose, methodology, response requirements, project scope and duration and contracts. The RFP contains the description, outline and informational attachments. Included in these three (3) items are: special conditions and requirements, content specifications, evaluation criteria, selection process, general conditions, summary sheet application, budget summary, narrative instructions, narrative proposed work plan, demonstrated effectiveness of bidder, experience of key personnel, organizational/management systems, required inclusions, SDA listing, estimate of PY 1986 trainees, required questions in the survey and data entry form.

(4) Program Announcement for a Request for Proposal (RFP) for Audit of Funds Under the Job Training Partnership Act (JTPA) dated February 20, 1986. This packet includes a letter of request seeking applications from all certified public accounting firms interested in submitting bids for the audit of funds distributed to agency contractors under JTPA. The proposal package contains five (5) enclosures, including specification schedule, application and certification, list of audits to be conducted, JTPA federal regulations, and a copy of the Job Training Partnership Act (P.L. 97-300).

(5) Job Training Partnership Act On-the-Job Training (OJT) Manual JTPA Titles II-A and III dated January 1, 1986, which contains updated

information and instructions for state administered OJT Programs. This packet includes operational procedures and implementation for developing OJT contracts and determining employer and occupational eligibility for the program under JTPA, Title II-A and III. These procedures include information on: the purpose; performance standards; employer, occupational and participant eligibility; number of allowable trainees and their wages; working conditions and labor laws; apprenticeable occupations; development, negotiation, duration, completion, modification and monitoring of contracts; linkages and waiver of OJT procedures; matching funds; payment procedures (responsibility for payment, allowable costs, reimbursement procedures); copies of JTPA forms used in the program and line instructions for completing the forms.

(6) Job Training Partnership Act Financial Management Guide dated July 1, 1986. This guide sets forth minimum requirements for recipients of JTPA funds in the disbursement of, accounting for, and reporting of program funds. Included are sections pertaining to: definitions of JTPA financial terms; compliance standards for recipients in the control and accountability of assets, liabilities, funds, and expenditures by the various titles of JTPA; procedures to be followed in order to minimize the time elapsing between the receipt of JTPA funds and disbursement of those funds; the responsibilities and standards to be followed in order to ensure that a financial and compliance audit is conducted on all JTPA funds; the responsibilities of the state and the SDAs in the financial monitoring of recipients of JTPA funds, in order to identify problem areas in recipient programs; procurement policies required to be followed in order to meet minimum federal, state, and local requirements; property management standards to be used by recipients in maintaining accountability of all property purchased with JTPA funds and transferred from the CETA Program; the responsibilities of the state and the service delivery areas in the purchase, maintenance, and use of the single integrated management information system for JTPA; and the instructions for completing the JTPA Quarterly Status Report and the JTPA Annual Status Report. Also included are JTPA forms and instructions for the completion thereof.

(7) JTPA Grievance Procedures (State Level) dated January 1987, which provides for a participant grievance system to be adopted by all contractors (including their subcontractors) having JTPA funded contractual agreements with the state, a mechanism for hearing complaints that have not been resolved at the SDA (Service Delivery Area) level and a formal procedure for the resolution of non-participant complaints and which includes the time frames and procedures to follow during the appeals process as well as forms to be used by the parties involved in the process.

Section 3. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621, and in local service delivery area offices located throughout the state.

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 12, 1987

FILED WITH LRC: January 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels

(1) Type and number of entities affected: 9 Service Delivery Areas; 35,000 JTPA participants; 1,500 contractors; 450 employers.

(a) Direct and indirect costs or savings to those affected: None

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: This regulation updates policies and procedures to comply with applicable federal laws and regulations.

TIERING: Was tiering applied? No. Tiering not applicable under JTPA (P.L. 97-300).

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: P.L. 97-300 and Title 20 CFR Parts 626-636 governing the Job Training Partnership Act (JTPA). Program requires states to develop administrative and operational instructions and procedures to insure compliance with applicable laws. The proposed amendments are in keeping with this federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter

standards, requirements or responsibilities: Not applicable.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management & Development**  
**(Proposed Amendment)**

**904 KAR 2:015. Supplemental programs for the aged, blind and disabled.**

RELATES TO: KRS 205.245

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973, recipients of aid to the aged, blind and disabled, hereinafter referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. KRS 205.245 provides not only for the mandatory supplementation program but also for supplementation to other needy aged, blind and disabled persons. This regulation sets forth the provisions of the supplementation program.

**Section 1. Mandatory State Supplementation.** Mandatory state supplementation payments must be equal to the difference between the AABD payment for the month of December, 1973, plus any other income available to the recipient as of that month and the total of the SSI payment and other income. Also included are those former aged, blind or disabled recipients ineligible for SSI due to income but whose special needs entitled them to an AABD payment as of December, 1973. Mandatory payments must continue until such time as the needs of the recipient as recognized in December, 1973, have decreased or income has increased to the December level.

(1) The mandatory payment is increased only when income as recognized in December, 1973, decreases, the SSI payment is reduced but the recipient's circumstances are unchanged, or the standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.

(2) In cases of man and wife, living together, income changes after September, 1974, will result in increased mandatory payment only if total income of the couple is less than December, 1973, total income.

**Section 2. Optional State Supplementation.** Optional state supplementation is available to those persons meeting technical requirements and resource limitations of the aged, blind or disabled medically needy program as contained in 907 [904] KAR 1:011 and 907 [904] KAR 1:004 (except as otherwise specified herein) who require special living arrangements and who have insufficient income to meet their need for care. Special living arrangements include residence in a personal care home as defined in 902 KAR 20:036 or family care home as defined in 902 KAR 20:041 or situations in which a caretaker must be hired to provide care other than room and board. A supplemental payment is not made to or on behalf of an otherwise eligible individual when the caretaker service is provided by the spouse, parent (of an adult disabled child or a

minor child), or adult child (of an aged or disabled parent) who is living with the otherwise eligible individual. When this circumstance exists and a person living outside the home is hired to provide caretaker services, the supplemental payment may be made. Application for SSI, if potential eligibility exists, is mandatory.

**Section 3. Resources Considerations.** In determining countable resources and the effect of resources on eligibility, the following policies are applied.

(1) The upper limit for resources for an individual and for a couple is set at \$1,700 and \$2,550, respectively, effective January 1, 1986; at \$1,800 and \$2,700, respectively, effective January 1, 1987; at \$1,900 and \$2,850, respectively, effective January 1, 1988; and at \$2,000 and \$3,000, respectively, effective January 1, 1989.

(2) Income producing property with a net equity of \$6,000 or less is excluded.

(3) The first \$4,500 of equity value in an automobile is excluded; if used for employment, to obtain medical services, or if specially equipped (e.g., as for use by the handicapped) there is no upper limit on value.

(4) Burial reserves (life insurance, prepaid burial policy, etc.) up to \$1,500 are excluded. The face value of life insurance is considered when determining the total value of burial reserves if the face value of the life insurance is less than \$1,500. Burial spaces are excluded from consideration when computing the value of burial reserves.

(5) A homestead, household items, and personal items are excluded.

(6) Resources determined in accordance with subsections (2), (3), and (4) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or couple exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or couple is ineligible.

**Section 4. Income Considerations.** In determining the amount of optional supplementation payment, total net income of the applicant or recipient, or applicant or recipient and spouse, including any payments made to a third party in behalf of an applicant or recipient, is deducted from the standard of need with the following exceptions:

(1) Income of the ineligible spouse is conserved for the needs of the ineligible, non-SSI spouse and/or minor dependent children in the amount of one-half (1/2) of the SSI standard for an individual for each person adjusted by deduction of sixty-five (65) dollars and one-half (1/2) of the remainder from monthly earnings of spouse. Income of the eligible individual is not conserved for the needs of the ineligible spouse and/or minor dependent children. When conserving for the needs of the minor dependent children, income of the children must be appropriately considered so that the amount conserved does not exceed the allowable amount. When the eligible individual and spouse each have earnings, the earnings must be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(2) If one (1) member of a couple is



institutionalized and the SSI spouse maintains a home, income in the amount of the SSI standard for one (1) is conserved for the spouse.

Section 5. Standard of Need. (1) The standard, based on living arrangement, from which income as computed in Section 4 of this regulation is deducted to determine the amount of optional payment is as follows:

(a) Personal care home: not less than \$517 [498], effective 1/1/87 [1/1/86];

(b) Family care home: not less than \$430 [411], effective 1/1/87 [1/1/86];

(c) Caretaker:

1. Single individual, or eligible individual with ineligible spouse (one who is not aged, blind, or disabled): not less than \$369 [365], effective 1/1/87 [1/1/86];

2. Married couple, both eligible (aged, blind, or disabled), with one (1) requiring care: not less than \$534 [528], effective 1/1/87 [1/1/86];

3. Married couple, both eligible and both requiring care: not less than \$572 [566], effective 1/1/87 [1/1/86].

(2) In couple cases, both eligible, the couple's income is combined prior to comparison with the standard of need, and one-half (1/2) of the deficit is payable to each.

Section 6. Institutional Status. No aged, blind or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under KRS 216B.010 to 216B.131.

Section 7. Residency. (1) 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 applicants for or recipients of a state supplementary payment and institutionalized individuals. The residency criteria specified in federal regulations at 42 CFR 435.403 shall be applicable except as otherwise specified herein.

(2) Supplemental payments may be made to Kentucky residents residing outside the state only when the individual has been placed in the other state by this state. In these situations, the other requirements for eligibility shown in other sections of this regulation shall be applicable, except that with regard to the requirement shown in Section 6 of this regulation, the licensure shall be in accordance with a similar licensure act of the other state. If there is no similar licensure act in the other state, the payment may be made only if this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131. To be eligible for a supplemental payment while placed out-of-state the individual must require the level of care provided in the out-of-state placement, there must be no suitable placement available in Kentucky, and the placement must be pre-authorized by staff of the Department for Social Insurance.

(3) When determining residency, ability of the

individual to indicate intent (to become a Kentucky resident) must be considered if the individual is institutionalized. The individual is considered incapable of indicating intent if:

(a) His/her I.Q. is forty-nine (49) or less or he/she has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) He/she is judged legally incompetent; or

(c) Medical documentation, or other documentation acceptable to the state, supports a finding that he/she is incapable of indicating intent.

(4) An individual is institutionalized if he/she is residing in a facility providing some services other than room and board. Personal care facilities are considered to be institutions.

(5) For any non-institutionalized individual under age twenty-one (21) whose eligibility for a supplemental payment is based on blindness or disability, his/her state of residence is Kentucky if he/she is actually residing in the state.

(6) For any non-institutionalized individual age twenty-one (21) or over, his/her state of residence is Kentucky if he/she is residing in the state and has the intention to remain permanently or for an indefinite period (or, if incapable of indicating intent, is simply residing in the state).

(7) For any institutionalized individual living in Kentucky who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one (21), the state of residence is Kentucky if:

(a) The state of residence of the individual's parents, or his/her legal guardian if one has been appointed, is Kentucky; or

(b) The state of residence of the parent applying for the supplemental payment on behalf of the individual is Kentucky, when the other parent lives in another state and there is no appointed legal guardian.

(8) For any institutionalized individual living in Kentucky who became incapable of indicating intent at or after age twenty-one (21), the state of residence is Kentucky if he/she was living in Kentucky when he/she became incapable of indicating intent. If this cannot be determined, the state of residence is Kentucky unless he/she was living in another state when he/she was first determined to be incapable of indicating intent.

(9) For individuals subject to determinations of residency pursuant to subsections (7) and (8) of this section, the state of residency is Kentucky when the individual is residing in Kentucky, and a determination of residency applying those criteria does not show the individual to be a resident of another state.

(10) For an individual subject to a determination of residency pursuant to subsections (7) and (8) of this section, the state of residence is Kentucky when Kentucky and the state which would otherwise be the individual's state of residency have entered into an interstate residency agreement providing for reciprocal residency status; i.e., when a similarly situated individual in either state would by written agreement between the states be considered a resident of the state in which he is actually residing.

(11) For other institutionalized individuals (i.e., those individuals who are both age

twenty-one (21) or over and capable of indicating intent), the state of residence is Kentucky if the individual is residing in Kentucky with the intention to remain permanently or for an indefinite period.

(12) Notwithstanding subsections (3) through (11) of this section, any individual placed by the cabinet in an institution in another state may, with appropriate preauthorization, be considered a resident of Kentucky, and any individual placed in an institution in Kentucky by another state shall not be considered a resident of Kentucky.

(13) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky so long as he/she continues to reside in Kentucky. An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(14) An individual eligible for and receiving a supplemental payment in October, 1979, shall be considered a Kentucky resident through July 4, 1984, even if he/she does not meet the residency requirements specified in this section, so long as such individual continues to reside in Kentucky and his/her receipt of supplementary payments has not since October, 1979 been interrupted by a period of ineligibility.

(15) Notwithstanding the preceding provisions of this section, a former Kentucky resident who becomes incapable of indicating intent while residing out of this state shall be considered a Kentucky resident if he/she returns to this state and he/she has a guardian, parent or spouse residing in this state. Such individual shall not be considered a Kentucky resident on the basis of this subsection whenever, subsequent to that time, he/she leaves this state to reside in another state except when the provisions of subsection (11) of this section are met. An individual leaving the state may, however, reestablish Kentucky residency by returning to the state if he has a guardian, parent or spouse residing in this state.

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 23, 1986.

FILED WITH LRC: December 23, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, Acting General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Janie Miller

(1) Type and number of entities affected: Approximately 1,600 recipients.

(a) Direct and indirect costs or savings to those affected:

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:  
(2) Effects on the promulgating administrative body:

- (a) Direct and indirect costs or savings:
  1. First year: \$77,000
  2. Continuing costs or savings:
  3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None  
(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:  
TIERING: Was tiering applied? No. Not applicable.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

RELATES TO: KRS 194.050

PURSUANT TO: KRS 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 (FNS), of the United States 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 of this regulation, 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 garnisheed 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 and/or any portion of such payments returned to the household by the cabinet.

(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).

(14) Assistance monies from another program, as specified in 7 CFR 273.11(j), which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements. These withheld monies shall be considered as income in accordance with 7 CFR 273.11(j).

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 monies 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). However, monies withheld, as specified in Section 2, subsection (14) of this regulation shall not be excluded.

(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. However, any portion of such monies returned to the household by the cabinet shall not be excluded.

(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 as defined in 7 CFR 273.9(c).

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

(6) Effective November 1, 1986, as defined in 7 CFR 273.9(c), 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 post secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. Benefits may be restored back to August 22, 1986.

(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 as defined in 7 CFR 273.9(c).

(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. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming as defined in CFR Part 273.11(a), such losses shall be offset against any other countable income in the household.

(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 laws or certified as excludable energy payments by FNS.

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 to 100 percent of the federal income poverty guidelines.

(2) Households which are categorically eligible as defined in CFR 273.2 do not have to meet either the gross or net income eligibility standards.

(3) 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) Twenty (20) 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 [for non-elderly/non-disabled households] shall not exceed the child care maximum established by FNS. [Elderly/disabled households with a child care deduction shall not exceed the excess shelter maximum established by FNS.]

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction shall not exceed the excess shelter maximum established by FNS, except that households containing an elderly or disabled member shall not be subject to said maximum in regards to the shelter deduction. The excess shelter maximum 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)(5). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling (by air conditioning units only) 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 utility standard or does not choose to use the utility 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 (35) dollars 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 one (1) or more members, when at least one (1) member is sixty (60) years or older; or

(2) \$2000: for all other households.

(3) Households which are categorically eligible as defined in CFR 273.2 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 in accordance with 7 CFR 273.8(i).

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 shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS 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 by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. 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 registration requirements unless exempt for reasons other than employment at the time of application.

(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective January 1, 1987 [October 1, 1986] unless otherwise specified.

MIKE ROBINSON, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 23, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, Acting General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Janie Miller

(1) Type and number of entities affected: Minimal

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: Minimal - this change merely incorporates federal material.

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal requirements do not allow for alternatives.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Federal requirements must be applied uniformly statewide, therefore tiering was not applied.

## CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 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 provisions 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 and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at \$1,700 and \$3,400 respectively, effective January 1, 1986; at \$1,800 and \$3,600 respectively, effective January 1, 1987; at \$1,900 and \$3,800 respectively, effective January 1, 1988; and at \$2,000 and \$4,000

respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of \$6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of \$4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, or if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to \$1,500 per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), life insurance policies, or other identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.

(6) Burial spaces, plots, vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded

from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

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 (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

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 this regulation, 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	\$2,300	\$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

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

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

(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 either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded. Full-time and part-time employment, and school attendance, shall be as defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(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) of this section) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). 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) of this section.

(2) Income protected for basic maintenance, effective July 1, 1986, is forty (40) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of forty (40) dollars is applied to the cost of care except as follows:

(a) Available income in excess of forty (40) dollars 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.

(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. Beginning on November 1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

**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, but not 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 eligible 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 applicants or recipients living with an ineligible spouse, income from the ineligible spouse shall be deemed as available to the eligible spouse as outlined below.

(a) Determine the potential spend-down amount of the eligible individual by comparing the countable income to the Medically Needy Income Level (MNIL) for one (1) as shown in Section 3 of this regulation.

(b) Allocate to other dependents in the household from the ineligible spouse income in an amount equal to one-half (1/2) of the MNIL for a family size of one (1) for each dependent.

(c) If the ineligible spouse's income is more than one-half (1/2) of the MNIL for a family size of one (1), combine the income of the ineligible spouse with that of the eligible individual and compare that figure with the MNIL for a couple to determine the spend-down amount.

(d) Compare the amount resulting from paragraph (a) of this subsection with the result of paragraph (c) of this subsection and determine eligibility using the spend-down amount, if any, which is greater.

(e) Resources shall be considered in the same manner as for an eligible spouse.

(4) In cases of aged, blind, or disabled



couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are 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; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(5) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(6) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) 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.

(7) 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.

(8) In cases of a blind or disabled child under eighteen (18) living with his/her 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.

(9) Income and resources of parent(s) are not considered available to a child living apart from the parents' 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).

(10) When a recipient (but not including a child) in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the forty (40) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. When a child in a family case is in the long term care facility, eligibility of the child is determined in the same manner for up to a year but his/her liability for the cost of care is determined by allowing to the child from his/her own income forty (40) dollars and considering the remainder available for the cost of care. (Note: in this situation any welfare payment made to the child is disregarded when determining liability for cost of care.) 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.

Section 11. Treatment of Income of the Stepparent or Parent/Legal Guardian of a Minor Parent/Legal Guardian (hereinafter referred to as a "Grandparent") and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income, or a grandparent's income, is considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. When the stepparent or grandparent living in the home is not being included in the family case the stepparent's or grandparent's gross income is considered available to the spouse or minor parent in accordance with the policies set forth in this section.

(1) Disregards/exclusions from income. The following disregards/exclusions from income shall be applied:

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

(b) 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 or grandparent 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 or grandparent as dependents for purposes of determining his/her federal personal income tax liability.

(c) Any amount actually paid by the stepparent or grandparent 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.

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

(e) Income of a stepparent or grandparent receiving Supplemental Security Income.

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

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, such income may be deemed to the spouse (of the stepparent) or minor parent (child of the grandparent) but not to the stepchild(ren) or grandchild(ren). Eligibility of the stepchild(ren) or grandchild(ren) is determined in the following manner in order to take this requirement into consideration.

(a) The available income deemed to the spouse or minor parent shall be the lesser of the amount available or the medically needy income level for one (1), as shown in Section 3 of this regulation.

(b) The income of the spouse or minor parent (including the amount deemed) shall be combined with that of the child(ren) and the total compared against the medically needy income level for the appropriate family size. If there is no excess income, the child is eligible. If there is an excess, the excess amount may be spent down in the usual manner.

(3) Determining eligibility of the spouse or minor parent. Available income of the stepparent or grandparent remaining after exclusions/disregards are applied must be considered fully available to the spouse or minor parent. The eligibility of the spouse or minor parent is therefore determined in the same manner as shown in subsection (2) of this section, except that the full amount available (including that portion of the available income, if any, which is in excess of the medically needy income level for one (1)) is deemed to the spouse or minor parent.

(4) When the spouse or minor parent, or both the spouse or minor parent and child(ren) has a spend-down case(s), uncovered incurred medical expenses of all members of the budget unit may be used to meet the spend-down amount(s).

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/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(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. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted

from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

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.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death of a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the \$500) may be deducted from the uncompensated value excess on a monthly basis.

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 for 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.

Section 16. Special Provisions for Hospice Recipients. Effective October 1, 1986, medical assistance eligibility for participants under the Medicaid hospice benefit shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of the hospice participant shall be the standard for the federal supplemental security income program.

(2) The attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program.

(3) Eligibility shall continue on the same monthly basis as for an institutionalized case when the cost of care is greater than the recipient's monthly income.

(4) A hospice participant may be eligible for benefits based on this section only if he/she has elected coverage under the Medicaid hospice benefit rather than the regular Medicaid program.

Section 17. Special Provisions for Recipients Participating in the Home and Community Based Services Waiver Program. Effective January 1, 1987, medical assistance eligibility for participants under the home and community based (HCB) services waiver program shall be

determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of HCB services program participants who are eligible under the special income level shown in this section shall be the standard used for an individual in the federal supplemental security income (SSI) program.

(2) HCB services program participants with income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standard).

(3) Patient liability and relative responsibility is determined in the same manner as if the HCB services program participant was institutionalized except that excess income of responsible relatives will be considered available to the HCB participant with the cost of HCB services projected.

(4) If an HCB services program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant is determined in the usual manner for an individual who is institutionalized, with the cost of HCB services projected, except that the amount protected for basic maintenance is the usual medically needy standard for an individual in his own home as shown in Section 3 of this regulation.

Section 18. [17.] Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 19. [18.] Implementation. The amendments to this regulation will be effective on January 1, 1987 [November 1, 1986, applicable at the time of the next determination of eligibility for each applicant or recipient, except as otherwise specified herein].

R. HUGHES WALKER, Commissioner

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 5, 1987

FILED WITH LRC: January 15, 1987 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify

the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

# REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: 50 to 75 Medicaid recipients.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$90,000 to \$135,000 (costs).

2. Continuing costs or savings: \$90,000 to \$135,000 (costs).

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

## CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

907 KAR 1:013. Payments for acute care and mental hospital inpatient services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 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 acute care and mental hospital inpatient services.

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred

by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised January 1, 1987 [July 1, 1986], which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for

the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in such a manner as [the same manner with regard to the upper limit] to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to [operating and] capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. [Operating costs are all costs except professional (physician) and capital costs.] Capital costs are interest and depreciation related to plant and equipment. [The minimum occupancy factor is not applicable with regard to operating costs of mental hospitals. Effective January 1, 1986, the operating cost occupancy factor shall be applied in such a manner as not to reduce otherwise allowable payments for operating costs below eighty (80) percent of the appropriate peer group upper limit.]

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent Medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate

number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up). Such major pediatric teaching hospitals shall also be paid, in addition to the facilities' base rate, an amount which is equal to two (2) percent of the base for each one (1) percent of Medicaid occupancy.

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(10) Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.

Section 6. The amendments shown herein shall be effective with regard to payments for services rendered January 1, 1987, and thereafter.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 23, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: Potentially all medicaid providers and recipients.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None\*

1. First year: \$12,200,000 to \$13,700,000 (costs).

2. Continuing costs or savings: \$12,200,000 to \$13,700,000 (costs).

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate, with regard to hospital payments under the Medicaid Program, is contained in federal regulations at 42 CFR 447.250-447.280. The state regulation implements the minimum requirements contained in the federal regulations.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The state has wide latitude in developing its reimbursement system for hospital payments, but does not exceed mandated federal standards.

3. If the proposed regulation imposes additional requirements or responsibilities,

justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

#### CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

907 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 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 skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised July 1, 1986, and amended pursuant to a hearing, which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following

reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (non-hospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the maximum (upper limit) shall be set at 110 percent of the median of the array. Effective January 1, 1987, and continuing through the rate years beginning July 1, 1987,

and July 1, 1988, the allowable cost for each facility shall include a patient care labor intensity factor of two and six-tenths (2.6) percent applied to that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs. This allowance is generally intended for the purpose of direct service staff improvements to enhance patient care. Effective with the rate year beginning on July 1, 1987, that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs shall be indexed for the rate year by a labor cost intensity factor based on the state employee annual salary increment; this indexing shall be in lieu of the usual indexing for inflation of such labor costs, however, the labor cost intensity factor shall be not less than the usual indexing factor and, if necessary, shall be increased to an amount equal to the usual indexing factor. This adjustment is designed to allow for salary and staffing improvements to improve patient care.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate except for ventilator therapy services which shall be paid on a prospective rate basis. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and non-legend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or



(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (and classified as newly participating facilities for purposes of this subsection), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost

center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for capital costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the class) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Department for Medicaid Services shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) A facility may request that the Reimbursement Review Panel grant a waiver of its status as a newly participating facility based upon a presentation of facts showing that the provider had already incurred a substantial material financial obligation or binding commitment toward building or expanding a facility prior to April 1, 1981. The obtaining of a certificate of need shall not be construed, in itself, to be sufficient to justify approval of a waiver request, and a waiver, if granted, shall be applicable only with regard to that building or expansion for which the waiver was requested and approved.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

(10) To determine the gain or loss on the sale

of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (2/3) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth herein for the reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(12) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to justify and document all costs to and services performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(13) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a

departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Cabinet approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the cabinet shall not be construed as approval of the item or expansion.

(14) The cabinet shall review [audit] each year-end cost report to [in the following manner: an initial desk review shall be performed of the report and the cabinet will] determine the necessity for and scope of a field audit in relation to routine and ancillary service cost. A field audit may be conducted for purposes of verifying cost to be used in setting the prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(15) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

(16) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the cabinet).

(17) The cabinet may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the cabinet to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(18) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more

than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Commission for Health Economics Control in Kentucky (CHECK) [Certificate of Need Authority (CONA)] an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Commission for Health Economics Control in Kentucky (CHECK)

[Certificate of Need Authority (CONA)] has acted on the application and any appropriate licensure action has been effected.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$29.99 & below [28.99]	\$.92	\$.58
30.00 - 30.99 [29.00 - 29.99]	\$.86	\$.50
31.00 - 31.99 [30.00 - 30.99]	\$.78	\$.41

<u>32.00 - 32.99</u>	\$ .70	\$ .32
[31.00 - 31.99]		
<u>33.00 - 33.99</u>	\$ .61	\$ .21
[32.00 - 32.99]		
<u>34.00 - 34.99</u>	\$ .51	\$ .09
[33.00 - 33.99]		
<u>35.00 - 36.14</u>	\$ .35	-
[34.00 - 35.58]		

Maximum Payment \$36.14 [35.58]

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
<u>\$71.99 &amp; below</u> [69.99]	\$1.38	\$ .87
<u>72.00 - 77.99</u> [70.00 - 75.99]	\$1.29	\$ .75
<u>78.00 - 83.99</u> [76.00 - 81.99]	\$1.18	\$ .62
<u>84.00 - 89.99</u> [82.00 - 87.99]	\$1.06	\$ .47
<u>90.00 - 95.99</u> [88.00 - 93.99]	\$ .92	\$ .31
<u>96.00 - 101.99</u> [94.00 - 99.99]	\$ .76	\$ .13
<u>102.00 - 108.67</u> [100.00 - 106.81]	\$ .53	-

Maximum Payment \$108.67 [106.81]

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
<u>\$39.99 &amp; below</u> [38.99]	\$ .92	\$ .58
<u>40.00 - 41.99</u> [39.00 - 40.99]	.86	.50
<u>42.00 - 43.99</u> [41.00 - 42.99]	.78	.41
<u>44.00 - 45.99</u> [43.00 - 44.99]	.70	.32
<u>46.00 - 47.99</u> [45.00 - 46.99]	.61	.21
<u>48.00 - 49.99</u> [47.00 - 48.99]	.51	.09
<u>50.00 - 51.93</u> [49.00 - 51.04]	.35	-

Maximum Payment \$51.93\* [51.04\*]

\*The maximum payment for hospital based skilled nursing facilities is set at \$70.11 [68.90].

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have

been set to be at or about 102 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 102 percent of the median is a lower dollar amount than has been currently set.

Section 5. Reimbursement Review and Appeal. Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts, a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division of Reimbursement and Contracts. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6 of this regulation, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the cabinet in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the cabinet, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which except for ventilator therapy services are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including indwelling catheters and syringes, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies and inhalation therapy.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the cabinet will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in

computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on allowable costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the cabinet.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

(13) The first twenty (20) cents of cost of each disposable incontinent brief shall be considered to be ancillary costs when such briefs are provided upon a physician's orders, with the balance of the cost of such briefs considered to be routine costs.

Section 7. Implementation Date. The amendments to [provisions of] this regulation[, as amended,] shall be effective on January 1, 1987, or as otherwise specified herein [with regard to services provided on or after July 1, 1986].

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 28, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, 175 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort,

Kentucky, 40621.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: All Medicaid participating skilled nursing and intermediate care facilities; potentially all recipients in such facilities.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$6,200,000 (costs).

2. Continuing costs or savings: Second and third year costs include \$1.5 million for disposable briefs and the carry forward of the 2.6% allowance; the following year, total costs will decrease to \$3.6 million.

3. Additional factors increasing or decreasing costs: Part of the labor intensity allowance is effective January 1, 1987, with the balance effective July 1, 1987, and a cost phase-out after the 1988-89 rate year.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. N/A

## FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate with regard to payments for skilled nursing and intermediate care facility services provided under the Medicaid Program are shown in federal regulations at 42 CFR 447.250 - 447.280. The state regulation implements the minimum requirements contained in the federal regulations.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The state has wide latitude in developing its reimbursement system for skilled nursing and intermediate care facility payments, but does not exceed mandated federal standards.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

CABINET FOR HUMAN RESOURCES  
Department for Medicaid Services  
(Proposed Amendment)

907 KAR 1:160. Home and community based services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 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 provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the coverage provisions applicable to home and community based services provided to eligible recipients as an alternative to skilled nursing and intermediate care facility services.

Section 1. General Coverage Provisions. The home and community based (HCB) services described in this regulation may be provided only to those individuals eligible for medical assistance who meet patient status criteria for skilled nursing facility care (as set forth in 907 KAR 1:022) or intermediate care facility care (as set forth in 907 KAR 1:024). The HCB services described herein are designed to prevent or reduce institutionalization at the skilled nursing and intermediate care levels, and may therefore be provided only to individuals in community residence living situations. These services are provided pursuant to a waiver granted by the United States Department of Health and Human Services, and are available only to recipients who reside in an area where coverage has been phased in with statewide coverage being available by July 1, 1987. [the Bluegrass Area Development District] as specified in the waiver request. Excluded from coverage are those individuals for whom the cost of HCB services would reasonably be expected (on an overall basis) to exceed the cost of the appropriate level of institutional services, and inpatients of hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded. HCB services may be provided only to those individuals for whom the HCB services are an appropriate alternative to institutionalization, who meet appropriate patient status, and who choose the HCB services option. The home and community based services agency (provider) shall be responsible for securing appropriate physician recommendations and orders relating to care, and for performing the required comprehensive assessment and care planning. The designated [Kentucky] Peer Review Organization shall make the level of care determination as the agent or representative of the cabinet. HCB services must be prior authorized by the cabinet. Notwithstanding the preceding, the assessment may be completed and billed for any appropriate Medicaid recipient.

Section 2. Provider Participation. Participating HCB providers must meet all applicable certification and licensure requirements for providing in-home and community based services under the Kentucky Medical Assistance Program, and shall be required to

comply with the provider participation agreement providing for services in accordance with the terms and conditions specified in this regulation.

Section 3. Covered Services. The following services are covered HCB services:

(1) Assessment. The assessment includes the collection of data necessary to determine the appropriateness of HCB service for the client, and case planning (a patient care plan to include services required, duration and frequency, and estimated cost).

(2) Case management. This is the process of locating, coordinating and monitoring a group of services with responsibility resting with a designated person. [Usual case management is reimbursable as an administrative cost. Extraordinary case management may be provided to individuals with multi-faceted medical, social and financial needs as a separately identified item of covered service.]

(3) Homemaker services. This is the provision of service relating to general household activities, such as meal preparation and routine household care, and may be provided by a trained homemaker when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care and arrangements cannot be made with relatives or friends for the performance of the service. Homemaker services may additionally be provided on an intermittent basis when necessary to supplement those services usually and customarily provided by the informal caregiver.

(4) Personal care services. [These are services which enable a person to be treated by his/her physician on an outpatient basis, are ordered by the physician, are provided by a qualified person (not a member of the recipient's family), and which are supervised by a registered nurse.] Personal care services are medically oriented and related to the patient's physical requirements, and may include bathing, assistance with clothing, assisting with medications customarily self-administered, assistance with ambulation, etc.

(5) Respite care services. This is the provision of homemaker/home health aid level services on a temporary basis due to the absence or need for relief of the informal caregiver. Care must be in accordance with the orders of a physician and the plan of care, and may be provided only when an appropriate alternative informal caregiver is not available to provide the necessary services. Respite care services are [not] covered in an amount up to \$2,000 in any calendar year, but not to exceed \$1,000 in any six (6) month period within that calendar year. [after the cost of respite care provided an individual in a service year (beginning with the date of the first covered HCB service) equals ten (10) times the current maximum daily intermediate care facility payment rate.]

(6) Minor home adaptations. This is the addition to or modification of the home environment when the patient's condition necessitates a modification of the existing home situation, and may include such items as rails, ramps, grab bars, etc., including labor and necessary supplies. Prior approval is required. Major home repairs are not covered.

(7) Adult day health care services. This is the provision of adult day health care in an appropriate licensed facility. Basic services

include: one (1) meal per day (including special diets); snacks, as appropriate; registered nurse and other supervision; regularly scheduled daily activities; routine services required to meet daily personal and health care needs; incidental supplies necessary to provide adult day health care services; and equipment essential to the provision of adult day health care services. Ancillary services include: physical, speech and occupational therapy evaluations as indicated for the purpose of developing a plan of treatment which may be carried out by center staff; and necessary ongoing supervision and followup of the maintenance program by the therapist. Transportation is not covered under the service element, but is a separately reimbursable service pursuant to 907 KAR 1:060.

[(8) Nutrition services. These are services to assist the physician in evaluating the recipient and establishing a therapeutic nutrition program in accordance with the physician's orders. The family and patient may be appropriately educated and trained so as to ensure understanding, acceptance and implementation of diet recommendations, nutritional evaluations, the use of alternative foods, etc. The service must be provided by a home health agency in conjunction with one (1) or more of the following home health agency services: nursing, physical therapy, speech therapy, occupational therapy, or home health aid services.]

[(8) [(9)] Respiratory therapy services. The service is available only for ventilator dependent recipients who are receiving home health agency services and must be in accordance with the physician's plan of treatment. [may be provided to assist the physician to evaluate the recipient for the techniques for support of oxygenation and ventilation in the acutely ill patient; teaching family the care and maintenance of artificial airways; teaching family techniques to aid removal of secretions from the pulmonary tree; bronchial hygiene therapy; instructing family in the use of respiratory systems, equipment and machines; for the use of pulmonary rehabilitation techniques; and for periodic assessment and monitoring of acute and chronically ill patients for necessity and effectiveness of respiratory therapy services. The service must be provided in accordance with the physician's home health plan of treatment and/or recertification, and must be in conjunction with one (1) of the following home health agency services: nursing, physical therapy, speech therapy, occupational therapy, or home health aid services.]

[(10) Institutional visit provided prior to discharge. This service may be provided by professional staff of the home health agency to assist in developing the in-home service package and to assure necessary coordination, instruction, and training with regard to the care provided in the institution and that necessary in the home setting. The visit must be ordered by the physician as part of the home health plan of treatment. The service may be provided and billed regardless of whether the client subsequently receives other HCB services, and notwithstanding the coverage provisions specified in Section 1 of this regulation, so long as the patient is an appropriate medicaid recipient.]

[(11) Provision and retrieval of durable medical equipment. Home health agencies provide appropriate durable medical equipment for the



recipient's use; for recipients of HCB services such equipment must be returned to the home health agency when no longer needed by the recipient. Prior authorization by the cabinet is required for the purchase and/or rental of durable medical equipment under the home health agency program.]

Section 4. Prior Authorization for Services; Hearing Rights. The cabinet shall prior authorize HCB services to ensure that patient status is met, that HCB services are adequate for the needs of the client, and that HCB services would not reasonably be expected to exceed the cost of institutional care (on an overall basis). A client found unsuitable for failure to meet the specified criteria may be denied HCB services. An individual, if eligible for HCB services, will be given the option of HCB services or traditional skilled nursing or intermediate care facility services. Any denial of service may be appealed pursuant to 904 KAR 2:055.

Section 5. Contracting and Subcontracting. All HCB services, whether provided directly by the participating provider or through contract or subcontract, must be in accordance with the terms and conditions specified herein, and the contractor or subcontractor must meet applicable requirements of law and regulations governing the performance of the service.

Section 6. Auditing and Reporting. All participating providers, contractors and subcontractors shall be required to maintain fiscal and service records and to provide such reports as may be determined necessary by the cabinet for the effective functioning and administration of the program. Such providers, contractors and subcontractors shall be required to make available upon request all service and financial records (including records of ownership, home office costs, etc.) to the Cabinet for Human Resources, the United States Department of Health and Human Services, and the Comptroller General, and/or their representatives or designees, for auditing and/or monitoring purposes.

Section 7. Implementation. The phase-in schedule for implementation of HCB services is as follows: effective January 1, 1987, the Bluegrass, Buffalo Trace, Gateway, Kentucky River and Cumberland Valley Area Development Districts (ADDs); effective March 1, 1987, the Barren River, Lincoln Trail, Lake Cumberland and Northern Kentucky ADDs; effective July 1, 1987, all other Kentucky ADDs. [Participating providers may provide services pursuant to the terms and conditions of Sections 1 through 6 of this regulation beginning on the first day of the next calendar month following the month in which this regulation becomes effective.]

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 6, 1987

FILED WITH LRC: January 15, 1987 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify

the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: Approximately 1550 Medicaid recipients in the first year of the waiver increasing to an estimated 3,100 by the third year of the waiver and some 95 to 100 home health agencies who will provide HCB services.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$2,000,000 (costs).

2. Continuing costs or savings: \$5,000,000\*

3. Additional factors increasing or decreasing costs: Additional clients being served.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

\*Assumes current HCB waiver program would have continued at a cost of about \$600,000 per year.

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Federal regulations provide that home and community based services may be provided under a waiver. This regulation shows the coverage provisions that will be used for HCB services provided under a waiver in Kentucky.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The state standards do not impose stricter requirements than those required by federal mandate.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

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

**907 KAR 1:170. Payments for home and community based services.**

RELATES TO: KRS 205.520  
 PURSUANT TO: KRS 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 methods of payment for home and community based services provided as an alternative to skilled nursing facility and intermediate care facility care.

**Section 1. Coverage.** The Cabinet for Human Resources shall reimburse participating providers (including coordinating agencies) of home and community based (HCB) services for services rendered to eligible medical assistance recipients who meet patient status criteria for skilled nursing or intermediate care facility care, and who are prior authorized for the HCB service[]; and shall, in addition, reimburse participating providers (and coordinating agencies) for appropriate assessments and/or institutional visits made for the purpose of determining necessity for, and arranging, HCB services regardless of the final determination of patient status or issuance of prior authorization for HCB services]. Coverage provisions are contained in 907 KAR 1:160.

**Section 2. Payments.** Payment amounts for HCB services shall be determined in accordance with the provisions and principles contained herein.

(1) Assessment, case management [(extraordinary)], homemaker services, personal care services, [institutional visit,] respiratory therapy[, and nutritional therapy] shall be paid using [on] an interim payment method [rate basis at a percent of billed charges] with a year-end settlement to the lower of actual reasonable costs or reasonable charges utilizing Medicare principles of reimbursement. The interim rate is derived by applying a reduction factor to current charges based on the difference between prior year allowable cost and charges. When prior year costs and charges are not available, the interim rate will be set at the cabinet's best estimate of current costs (not to exceed charges) based on payments made for similar services.

(2) Respite care shall be paid on the basis of billed charges, with reimbursement for an individual [for a service year] (beginning with the first billed HCB service) not to exceed \$2,000 per calendar year or \$1,000 in any six (6) month period within that calendar year [a total of ten (10) times the current maximum daily rate for intermediate care facility services (as shown in 907 KAR 1:036)]. The billed charge should include only the actual cost of the respite care services plus actual overhead costs incurred by the provider. There will be no year-end settlement.

(3) Minor home adaptations shall be paid on

the basis of actual billed charges, with reimbursement for an individual for a calendar [service] year [(beginning with the first billed HCB service)] limited to a maximum of \$500 [110] for all modifications. The service must have been appropriately prior authorized and have been provided. The billed charge should include only the actual cost of the minor home adaptations plus actual overhead costs incurred by the provider. There will be no year-end settlement.

[(4) Durable medical equipment shall be provided by or through home health agencies only with reimbursement made directly to the home health agency in accordance with usual payment provisions. Costs related to retrieval of equipment shall be considered administrative costs, not directly billable, and shall be paid as a year-end settlement at the lower of actual reasonable costs or charges.]

[(4) [(5)] Payments for adult day health care services shall be made directly to licensed participation adult day health care centers on the basis of an interim rate with a year-end cost settlement to the lower of actual reasonable allowable costs or charges. The basic rate shall not exceed eighty (80) percent of the maximum intermediate care reimbursement rate for routine services. Reimbursement for ancillary services shall not exceed eighty (80) percent of the approved maximum reimbursement rate for therapy services under the home health program element.]

**Section 3. Implementation.** The amendments to this regulation shall be effective on January 1, 1987. [Payments may be made for covered services provided beginning on the first day of the next calendar month following the month in which this regulation becomes effective.]

R. HUGHES WALKER, Commissioner  
 E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 6, 1987

FILED WITH LRC: January 15, 1987 at 8 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: Potentially 1550 HCB waiver participants (first year) to 3,100 participants (third year of HCB waiver).

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$25,000 to \$30,000 (costs)\*.

2. Continuing costs or savings: \$80,000 to \$100,000 (costs)\* (third year).  
 3. Additional factors increasing or decreasing costs: Additional clients being served.  
 (b) Reporting and paperwork requirements: None  
 (3) Assessment of anticipated effect on state and local revenues: None  
 (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A  
 (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None  
 (a) Necessity of proposed regulation if in conflict:  
 (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:  
 (6) Any additional information or comments:  
 \*Assumes actual use of respite care and/or home modifications by about 450 HCB participants in the first waiver year, 800 in the second waiver year, and 1100 in the third waiver year.  
 TIERING: Was tiering applied? No. Not

applicable for Medicaid regulations.

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Federal regulations provide that home and community based services may be provided under a waiver. This regulation shows the payment provisions that will be used for HCB services provided under a waiver in Kentucky.  
 2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The state standards do not impose stricter requirements than those required by federal mandate.  
 3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

## PROPOSED REGULATIONS RECEIVED THROUGH JANUARY 1

### REVENUE CABINET

Department of Professional & Support Services

103 KAR 44:006. Repealer.

RELATES TO: KRS 138.462, 138.463  
 PURSUANT TO: KRS Chapter 13A  
 NECESSITY AND FUNCTION: This regulation repeals 103 KAR 44:020 in accordance with SB 372 (1986 General Assembly Session) which transfers administration of the motor vehicle usage tax paid by U-Drive-It operators from the Revenue Cabinet to the Transportation Cabinet.

Section 1. 103 KAR 44:020 is repealed at close of business December 31, 1986.

GARY W. GILLIS, Secretary

APPROVED BY AGENCY January 15, 1987

FILED WITH LRC: January 15, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 25, 1987, at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: The 1986 General Assembly enacted legislation to transfer administration of the motor vehicle usage tax as it applies to U-Drive-It operators from the Revenue Cabinet to the Transportation Cabinet effective January 1, 1987. The regulation applies to all persons who hold a certificate issued under KRS 281.014 to operate as a U-Drive-It.

(a) Direct and indirect costs or savings to

those affected:

1. First year: None  
 2. Continuing costs or savings: None  
 3. Additional factors increasing or decreasing costs (note any effects upon competition): None  
 (b) Reporting and paperwork requirements: The transfer should have no effect on taxpayer reporting and paperwork requirements.  
 (2) Effects on the promulgating administrative body:  
 (a) Direct and indirect costs or savings:  
 1. First year: Nominal savings.  
 2. Continuing costs or savings: Same  
 3. Additional factors increasing or decreasing costs: None  
 (b) Reporting and paperwork requirements: None  
 (3) Assessment of anticipated effect on state and local revenues: None  
 (4) Assessment of alternative methods; reasons why alternatives were rejected: None. A statutory change was required to transfer administrative responsibility. This regulation reflects that change.  
 (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None  
 (a) Necessity of proposed regulation if in conflict: N/A  
 (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A  
 (6) Any additional information or comments:  
 TIERING: Was tiering applied? No. Tiering is not applicable since the regulation applies equally to all U-Drive-It operators.

### GENERAL GOVERNMENT CABINET Kentucky Board of Auctioneers

201 KAR 3:070. Absolute auction.

RELATES TO: KRS 330.110

PURSUANT TO: KRS 330.110(2), (3), (8), (10), (11)

**NECESSITY AND FUNCTION:** To prohibit misrepresentation and fraudulent advertising designed to bait the public and then not sell at true absolute auction.

Section 1. No auction shall be termed "ABSOLUTE" nor shall any advertising contain the words "ABSOLUTE AUCTION" or the word "ABSOLUTE", or words which indicate or mean "ABSOLUTE" or "ABSOLUTE AUCTION" nor shall any licensee sell any goods, including real estate at "ABSOLUTE AUCTION" unless:

(1) There are no liens or encumbrances on the property (excepting current tax obligations, easements or restrictions of record) in favor of any person, firm or corporation besides the seller, unless each and every such holder of each and every lien and encumbrance has signed the auction listing contract agreeing to the acceptance of the highest bid for the property, without regard to the amount of the highest bid.

(2) There is a complete absence of any reserve price on the property, or any part of the property to be sold. Procurement by the seller of an agreement on the part of the licensee or any other person, in advance, to bid at any certain level, shall constitute a reserve price for purposes of this regulation.

(3) There is the bona fide intent at the time of the sale to transfer the property, regardless of the amount of the highest and last bid, to the high bidder, such intent existing without reliance or any expectation of receiving any particular bid or bids. Failure of the seller to transfer the property to the high bidder within a reasonable length of time shall constitute prima facie evidence of lack of such intent.

(4) The signatures of all persons required to effect a fee simple transfer to the buyer are on the auction listing contract between licensee and the seller or consignor of the goods.

(5) Violation of any section or sections of this regulation shall constitute a violation of subsections (2), (3), (8), (10) and (11) of this section, or all of said subsections of Section 330.110 of the Kentucky Revised Statutes.

ALECK GRIBBINS, Chairman

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 12, 1987 at 4 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on the amendment to this regulation has been scheduled for February 23, 1987 at 11 a.m. at the offices of the Kentucky Board of Auctioneers, 400 Sherburn Lane, Suite 343, Louisville, Kentucky 40207. However, this hearing will be cancelled unless interested persons notify, in writing, this office five days prior to the above hearing date of their intention to attend. The person to contact would be: Barbara Schoen, Executive Secretary, Kentucky Board of Auctioneers, 400 Sherburn Lane, Suite 343, Louisville, Kentucky 40207.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Schoen

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: N/A

**TIERING:** Was tiering applied?

#### GENERAL GOVERNMENT CABINET Kentucky Real Estate Commission

**201 KAR 11:210. Licensing, education and testing requirements.**

RELATES TO: KRS 324.010, 324.020, 324.040, 324.045, 324.046

PURSUANT TO: KRS 13A.100(3)

**NECESSITY AND FUNCTION:** To set forth procedures and standards for education requirements, testing, and license applications.

Section 1. An applicant for licensure cannot engage in any real estate activities until the license has been issued and received by the principal broker.

Section 2. An applicant for licensure accepts responsibility to meet all statutory and regulatory licensing requirements. Applicants having questions regarding applicability of education courses, pending complaints, past criminal convictions, or any other requirement should contact the commission in writing prior to the examination.

Section 3. An applicant for licensure must have successfully completed all education requirements prior to taking the required written examination.

Section 4. An applicant for licensure must provide proof of high school graduation or successful passage of the General Educational Development test. In lieu of the above, candidates may submit an official transcript which indicates completion of a degree program at a post secondary institution, or a transcript which indicates successful completion of twenty-eight (28) academic semester hours or equivalent from a post secondary institution.

Section 5. An official transcript is a document imprinted with the institution's seal, signed by the registrar, and sent directly from the institution to the commission.

Section 6. An applicant who has attended an approved or accredited real estate school as defined by KRS 324.010, must provide an official

transcript indicating successful completion of course, date of completion, clock or academic semester hours awarded, and other information which would indicate compliance with statutory requirements.

Section 7. Sixteen (16) clock hours from an approved school will be equal to one (1) academic semester hour from an accredited college or university.

Section 8. A real estate course shall be one which is designated specifically as a real estate course by an approved or accredited real estate school which offers the course. The academic content for the course must specifically focus on real estate. The course must be for academic credit and not a continuing education unit, examination preparation or review, experiential education, or competency testing. Candidates may not submit completion of the same course or essentially same course twice for licensure credit.

Section 9. An applicant who successfully passes the entire real estate examination must apply for a license within sixty (60) days after the examination. Failure to do so necessitates the candidate's re-examination.

Section 10. Candidates for licensure must successfully pass the entire examination within a two (2) year period prior to licensure.

Section 11. 201 KAR 11:080, Broker's requirements when not regularly engaged in business, is hereby repealed.

SUSAN G. STOPHER, Executive Director

APPROVED BY AGENCY: November 19, 1986

FILED WITH LRC: December 24, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 23, 1987 at the offices of the Kentucky Real Estate Commission, 222 South First Street, Suite 300, Louisville, Kentucky 40202. Persons interested in attending the hearing shall notify in writing at least five days prior to the hearing: Susan G. Stopher, Executive Director, Kentucky Real Estate Commission, 222 South First Street, Suite 300, Louisville, Kentucky 40202.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan G. Stopher

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: Will provide clarification of statutes and procedures for license education requirements and issuance.

TIERING: Was tiering applied? No. Not applicable.

#### EDUCATION AND HUMANITIES CABINET

Department of Education  
Office of Local Services

702 KAR 3:210. Foundation program penalization for out-of-field assignments.

RELATES TO: KRS 157.320, 161.030

PURSUANT TO: KRS 157.320(9)

NECESSITY AND FUNCTION: KRS 161.030 vests the certification of teachers and other school personnel in the State Board of Education; and KRS 157.320, by its definition of "teacher," ties all state Foundation Program funding to properly certified personnel. While certification regulations have historically stopped short of requiring one to be assigned to his or her major or minor field or area of concentration, Standard V of the Accreditation Standards recognizes a deficiency for out-of-field assignments and requires a school district to make satisfactory progress toward eliminating all out-of-field assignments. This regulation is necessary to exact some Foundation Program penalty for districts not acting in good faith to get the best qualified personnel possible into their teaching positions.

Section 1. Except as hereinafter provided, school districts making initial assignments to out-of-field positions in 1987-88 and thereafter, and those districts not making good faith, satisfactory progress in reducing existing out-of-field assignments in 1987-88 and thereafter, may be penalized by appropriate loss of Foundation Program funds, subject to state board action. For purposes of calculation of the amount of such penalization, out-of-field teachers shall not, as statutorily appropriate in specific cases, be allowed to generate whole units or teacher salary portions thereof.

Section 2. In emergency situations, school districts may request a waiver from the Office of Instruction to make initial assignments to out-of-field positions for which certified staff members are not available and cannot be hired. This waiver shall be justified as educationally sound under the specific circumstances and must be renewed annually. The district must provide proof that certified teachers were not available. This waiver shall not apply to teachers of exceptional children and vocational teachers for which specific certification is required.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: January 7, 1987

FILED WITH LRC: January 15, 1987 at 9 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing has been scheduled on Wednesday, February 25, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Friday, February 20, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sheila A. Collins

(1) Type and number of entities affected: 178 School districts.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Insignificant increase in paperwork.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Penalties could cause individual districts to lose portion of Foundation Program Units.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No present penalty or enforcement exists.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes

#### EDUCATION AND HUMANITIES CABINET Department for Libraries and Archives

**725 KAR 2:040. State aid for specific counties.**

RELATES TO: KRS 171.201(2)(c), 171.230, Chapter 173

PURSUANT TO: KRS Chapter 13A, 171.201, 171.220

NECESSITY AND FUNCTION: KRS 171.201(2)(c) mandates that the Department for Libraries and Archives provide grants to recognized library organizations in counties without a public library for the purpose of providing or establishing county-wide public library service under existing departmental guidelines and to the fiscal courts in counties without recognized library organizations for distribution to public education entities. This regulation prescribes the requirements for distribution of foundation

grants and per capita funding to these counties.

Section 1. Definitions. (1) "Recognized library organization" is that established by methods provided in KRS Chapter 173.

(2) "Department" is the Department for Libraries and Archives.

(3) "Public library service" is the provision of free access through location, hours of operation and staffing, to an organized collection of informational, recreational, and cultural materials in a variety of formats, which reflect the interest of the general population and is open to the entire country. The collection should not be limited to curriculum-based or special subject areas.

(4) "Public education entity" is a public elementary or secondary school, a college or university or a library which receives its primary financial support from public funds.

Section 2. (1) Recognized library organizations in counties which do not have a public library as defined by KRS 171.230 will be notified by the department of the availability and requirements for foundation grants and per capita distribution.

(2) In order to receive the funds set out in subsection (1) of this section, the recognized library organization shall complete the department's "Annual Report of Public Libraries Application for State Support" which will specify their plan for the provision or establishment of county-wide public library service.

(3) If the application is rejected by the department as not providing for county-wide public library service, the recognized library organization may appeal this rejection to the department in writing within thirty (30) days from written notice of rejection. A final determination shall be made by the state librarian/commissioner of the department within thirty (30) days of the appeal. A review of the state librarian/commissioner's final determination may be accomplished by filing a petition for review in the Franklin Circuit Court within thirty (30) days of such commissioner's determination.

Section 3. (1) The fiscal court in counties in which there is no recognized library organization shall be notified by the department of the availability and requirements for foundation grants and per capita distribution.

(2) In order to receive the funds set out in subsection (1) of this section, the fiscal court shall complete an application for the foundation grants and per capita distribution as provided by the department. The application will detail the plan for provision of public library service through a public education entity.

(3) If the application is rejected by the department as not providing for county-wide public library service through a public education entity, the fiscal court may appeal this rejection to the department in writing within thirty (30) days from written notice of rejection. A final determination shall be made by the state librarian/commissioner of the department within thirty (30) days of the appeal. A review of the state librarian/commissioner's final determination may be accomplished by filing a petition for review in the Franklin Circuit Court within thirty (30)

days of such commissioner's determination.

Section 4. Counties which do not have a public library as defined by KRS 171.230 are eligible for foundation grants and per capita distribution only and are not eligible for full services and support from the department. Counties with no recognized library organization are eligible for foundation grants and per capita distribution only and are not eligible for full services and support from the department.

JAMES A. NELSON, State Librarian/Commissioner

APPROVED BY AGENCY: January 13, 1987

FILED WITH LRC: January 13, 1987 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 23, 1987, at 9 a.m. in the Board Room of the Department for Libraries and Archives Building, 300 Coffee Tree Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact, in writing: Michelle M. Gardner, Deputy Commissioner, Department for Libraries and Archives, P.O. Box 537, Frankfort, Kentucky 40602-0537.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michelle M. Gardner

(1) Type and number of entities affected: At present, four county governments, although that number will vary as county circumstances change.

(a) Direct and indirect costs or savings to those affected: No costs in the form of matching funds from a local government are required. The regulation sets out merely the procedures to be followed in granting funds. (\$37,970 in fiscal year 1987; \$40,830 in 1988, unless county circumstances change.)

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Annual applications/reports are required, as they are with all counties receiving state aid.

(2) Effects on the promulgating administrative body: Oversight of provision of library service to four counties.

(a) Direct and indirect costs or savings: Indirect costs in forms of staff time in oversight of awards.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Reporting and paperwork will not be significantly affected since records are already being kept for all counties receiving state aid.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives to this regulation were deemed appropriate given the department's statutory obligations and the requirement that it promulgate adequate regulations to carry out that statutory mandate.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. Per capita distribution is made on top of a foundation grant which is also based on population of the county.

#### LOCAL MANDATE IMPACT STATEMENT

Regulation No.:

SUBJECT/TITLE:

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION: This measure provides only for grants to counties. Through statutory requirement, grants total 1987: \$37,970  
1988: \$40,830

#### CABINET FOR HUMAN RESOURCES

Department for Medicaid Services

907 KAR 1:350. Coverage and payments for organ transplants.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 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 coverage and payments policy of the cabinet with regard to organ transplants.

Section 1. General Requirements. The following general requirements shall be applicable with regard to organ transplants:

(1) For an organ transplant to be covered under the Medicaid Program, there must be some likelihood that the transplant will achieve its purpose. For purposes of this determination, the prognosis must be that there is a reasonable expectation the patient's health or condition will be improved by the transplant.

(2) The hospital and physician performing the transplant must be recognized by the Medicaid Program as being competent to perform the transplant. A staffed and functioning unit at the hospital designed for and/or accustomed to performing transplants of the nature envisioned, recognized as competent by the medical community, will ordinarily be considered competent by the program.

Section 2. Reimbursement for Organ Transplants. Hospital payments for organ transplants will be set at eighty (80) percent of charges with total payments not to exceed \$75,000 per transplant without regard to usual program limits on hospital length-of-stay. Physician payments for organ transplants will be



at the usual Medicaid Program rates.

Section 3. Application of Organ Transplants Policy. It is the intent of the Department for Medicaid Services that the organ transplant policy be applied uniformly and consistently so that similarly situated individuals will be treated alike. To accomplish this goal the department will use the methodology specified in this section in receiving and processing requests for coverage and payments for organ transplants.

(1) All requests for authorization for organ transplants must be sent to the Commissioner, Department for Medicaid Services.

(2) The commissioner will assign the request to appropriate staff for investigation, report and recommendation. The report must show whether the person requesting the transplant is Medicaid eligible (or approximately when the person will become eligible); the type of transplant requested; the name of the facility (and physician if considered necessary) where the transplant is to be performed; any fee arrangement that has been made with the facility and/or physician (or a statement as to whether there is a disagreement with regard to fees); the proposed date of the transplant; the prognosis; a finding as to whether the facility/physician is considered qualified for the transplant being considered; and a finding as to whether program criteria for coverage is met.

(3) After consideration of the report and recommendation the commissioner will determine whether coverage criteria is met and payments for the transplant should be made. If the decision is to provide coverage, Medicaid program staff will assist the recipient with necessary arrangements for the transplant. If the decision is negative, the recipient will be notified of the manner in which the request does not meet agency guidelines.

Section 4. Scope of Coverage. This organ transplant policy is applicable with regard to the following types of transplant: heart, lung, bone marrow and liver. Other types of transplants will also be covered under this policy upon identification and request except when special treatment of the transplant services is not considered necessary (i.e., usual program coverage and reimbursement is considered adequate), or when the transplant is considered by the Department for Medicaid Services to be experimental in nature. The Medicaid Program will not cover experimental transplants, i.e., those which have not previously been proven effective in resolving the health problems which the transplant is the proposed preferable treatment mode.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 30, 1986

FILED WITH LRC: January 5, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 24, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 19, 1987, of their desire to appear and testify at the hearing: Ryan Halloran,

General Counsel, Cabinet for Human Resources,  
275 East Main Street, 4 West, Frankfort,  
Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: Approximately 40 to 50 Medicaid recipients who may require organ transplants and the hospital/physicians who would perform the transplants.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None\*

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: \*It is assumed that the number of persons requiring organ transplants and the cost relating to such transplants, will remain approximately the same.

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

#### FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal policy with regard to coverage of organ transplants under the Medicaid Program is shown in Section 1903(i)(1) of the Social Security Act. The state's policy implements the minimum requirements contained in the Social Security Act.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The state has wide latitude in designing its policy, but does not exceed the federal mandate.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

## REPRINT

**COMPILER'S NOTE:** This administrative regulation, as amended and effective on May 14, 1985, was not printed in its correct form in the 1985 and 1986 volumes of the Kentucky Administrative Regulations Service. The regulation as it appears below is the official administrative regulation and should replace the ones printed in those volumes.

#### 605 KAR 1:030. Applications.

RELATES TO: KRS 190.010 to 190.080

PURSUANT TO: KRS 190.020, 190.073

**NECESSITY AND FUNCTION:** KRS 190.030 provides for the issuance of various licenses to engage in the activity of a motor vehicle dealer. This regulation allows the Motor Vehicle Commission to provide for an orderly procedure for the submission of applications and the content thereof to facilitate processing of applications and the issuance of the license.

Section 1. Upon receipt of a completed application other than an application for a license as a motor vehicle salesperson, manufacturer, factory branch or factory representative, a review of the application will be made, including an appropriate investigation as to the applicant's compliance with the appropriate statutory and regulatory provisions governing the issuance of a license.

Section 2. Applicant will be notified of the acceptance or rejection of his application, and if the application is rejected, the grounds therefor must be specifically stated, and the applicant shall further be notified, in that event, of his right to a hearing before the commission in accordance with the rules and regulations of the commission.

Section 3. No application may be accepted or license granted unless the applicant has an established place of business as defined in KRS 190.010.

(1) The office shall be underpinned and on a permanent foundation.

(2) The office shall have the following equipment:

- (a) Electricity;
- (b) File cabinet(s);
- (c) A telephone;
- (d) A desk;
- (e) Chairs.

Section 4. (Applies to retail only.) A motor vehicle dealer shall display on his premises a sign with lettering not less than nine (9) inches in height, which is clearly visible from the nearest roadway, and which specifically identifies his business. The business name on the sign must be the same as that on the license application.

Section 5. A licensee may conduct more than one (1) business in a building otherwise meeting the requirements of this regulation provided he has suitable space and adequate facilities therein to conduct the business of a motor vehicle dealer.

Section 6. An applicant for a license conducting more than one (1) business at the proposed location shall be capable as to fitness and ability to properly conduct the business activity authorized by the license.

Section 7. All applicants shall comply with the following:

(1) Submit a financial statement. The commission may require the applicant to furnish bond as authorized by statute.

(2) Submit at least six (6) photographs of the premises to be occupied by the applicant.

(3) Submit a detailed drawing of his premises in relation to the nearest roadway. This drawing is to include location and size of office, display area and location of dealership sign.

(4) Furnish a personal data sheet on each individual owning a portion of the business and/or officers of a corporation, including a photograph and an employment history of each such person.

(5) Applicant, partner or corporate officer must sign a statement authorizing the Motor Vehicle Commission to make inquiries or investigations concerning the applicant's employment, credit, or criminal records.

(6) Applicant must obtain garage liability insurance and file with the commission a certificate of insurance (form TD 95-99) in the exact name in which it applies for a license.

(7) Applicant will be required to verify that it is familiar with the laws concerning the purchase and sale of motor vehicles. Failure to demonstrate such proof constitutes grounds for denial of license. A copy of the applicable laws and regulations governing the purchase and sale of motor vehicles shall be given to each applicant. In addition, applicants shall execute such other forms dealing with their familiarity with such specific statutory and regulatory requirements as the commission may indicate.

(8) Applicant must have a hard surface lot (gravel, asphalt, concrete or other suitable covering) of at least 2000 square feet for customer parking and vehicle storage area. This lot shall be used exclusively for the display and showing of vehicles for sale and customer parking, and shall be constructed in such a manner that it will not allow the flow of public traffic through it. The lot shall be a distinctively defined area, from that which surrounds it.

(9) Applicant must have 100 square feet of office floor space to carry on the activity authorized under the license for which the application is submitted. The office space need not be a separate walled enclosure, but must be an area which will be used to conduct the activity authorized under the license in addition to the area necessary to conduct the applicant's primary business. The office shall be located on the display lot and shall not be a part of a residence.

Section 8. An applicant who conducts an automobile salvage or junk business on the same premises must be in compliance with all state regulations regarding junkyard operations. Applicant must have an area for the display of vehicles for sale and an office separate and apart from the area where junk cars or parts are

stored or situated.

Section 9. If an applicant operates a garage for the repair or rebuilding of wrecked or disabled vehicles, an office and area for the display of vehicles separate and apart from the area where such repairs are made must be allocated for the licensed activity.

Section 10. Not more than one (1) licensee for the same licensed activity shall be licensed from a single place of business.

Section 11. A licensee shall have a sales tax permit number from the Revenue Cabinet. (Recodified from 601 KAR 21:030, 7-13-84; Am. 11 Ky.R. 1463; eff. 5-14-85.)

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the January 12-13, 1987 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 12, 1987 at 2 p.m. and on Tuesday, January 13, 1987 10 a.m. in Room 110. Representative Jim Bruce, Acting Chairman, called the meeting to order, and the secretary called the roll. Without objection, the minutes of the December 1-2, 1986 meeting were approved.

Present were:

**Members:** Senators Harold Haering, Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Joe Meyer, Mark D. O'Brien.

**Guests:** Senator Fred Bradley; Scott Akers, John Covington, Kenneth E. Gilbert, Revenue Cabinet; David W. Carby, John S. Llewellyn, Bill Schmidt, Board of Medical Licensure; Janet Stayer Kozel, Patrick Pepper, KY Academy of Physician Assistants; Scott T. Woodward, Anesthesia Assistants; Richard Guarneri, W. Weller Head, Jr., Susan Riley, Glenn A. Ruppert, Lois Ruppert, KY Association of Nurse Anesthetists; Jann B. Logsdon, Louisville Anesthesia Service; Glenda S. Bourne, Pamela C. Hagan, Alta P. Haunsz, Pamela King, Bill Shouse, Bernadette M. Sutherland, Pamela Troutman, Sharon M. Weisenbeck, KY Board of Nursing; Nancy Lipinski, KY Hospital Association; Jean P. Duncan, Charlotte Denny, Brawner Rebecca Heady, Kearney Madeline, Geraldine Maerz, Patricia C. Miller, Alice Pelkey, Beverly Smith, KY Nurses Association; Larry S. Perkins, Board of Registration for Professional Engineers and Land Surveyors; Greg Holmes, KY Athletic Commission; Karen L. Barney, James L. Dickinson, Joe Ann Dove, Sandra J. Duncan, Thomas Fisher, Elnora M. Hubbard, Gladys Masagatani, Jack L. May, Jr., KY Occupational Therapy Board; Kathy Bishop, Kathy Gifford, Shirley Peganoff, Becky Pelfrey, Rhonda Stone, Debbie Watson, KY Occupational Therapy Association; Donna Carlson, Lavonne Jaeger, Judith Taylor, KY Chapter of Physical Therapists; Peter W. Pfeiffer, Department of Fish & Wildlife Resources; Alan Hamilton, Michael McDonald, D.V.M., Tom Troth, Department of Agriculture; J. Alex Barber, Abbie Meyer, Patricia Zweig, Natural Resources & Environmental Protection Cabinet; Michael Bradley, Corrections Cabinet; Joann Akers, Gary Bale, Margaret McClain, Department of Education; Janis P. Scott, KY School Boards Association; Edward A. Farris, Department of Alcoholic Beverage Control; William E. Doyle, Department of Financial Institutions; Rick Norton, Cap Hershey, KY State Racing Commission; Frank F. Chuppe, Office of Attorney General; Bob Benson, Ed Flint, H.B.P.A.; Carl B. Larsen, KY Harness Racing Commission; Judith G. Walden, Department of Housing, Buildings and Construction; Jayne M. Arnold, Barbara Coleman, Louise H. Greeman, Jim Heth, Ron Holland, N. Clifton Howard, Eugenia

Jump, Jack S. Lesshaft, Sr., Janie Miller, Prudence Z. Moore, Bill Robinson, Linda Snodgrass, Cabinet for Human Resources; James F. Judy, Marie Alagia Cull, KY Association of Health Care Facilities; Bill Doll, KY Medical Association.

**Press:** Luralyn Lahr, K.E.T.; Fran Ellers, State Journal.

**LRC Staff:** Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Valencia, and Carla Arnold.

The Administrative Regulation Review Subcommittee met on January 12 and 13, 1987, and submits the following report:

The Subcommittee attached statements of objection to and/or referred the following regulations to appropriate Interim Joint Committees for further consideration:

#### General Government Cabinet: Athletic Commission

201 KAR 27:044 (Appointment of officials.) Representative O'Brien asked how officials were now assigned. Agency personnel replied that in most cases the Commission assigned them. Representative Meyer pointed out that there were no standards within the regulation that would determine assignment of officials, and that KRS Chapter 229 did not grant such authority to the Commission. The Subcommittee approved a motion that a statement be attached to this regulation that it exceeded statutory authority.

#### Board of Occupational Therapy

201 KAR 28:010 (Definitions and abbreviations.) Technical amendments were made in Sections 1(16) and (19) to change the word "and" to the word "or". The Subcommittee approved a motion to attach a statement that this regulation exceeded statutory authority, and that it be referred to the Interim Joint Committee on Business Organizations and Professions.

201 KAR 28:040 (Wavier of examination.) The Subcommittee approved a motion to attach a statement that this regulation exceeded statutory authority, and that it be referred to the Interim Joint Committee on Business Organizations and Professions.

201 KAR 28:060 (Regular licensure requirements/temporary permits of L.O.T.R.s and L.O.T.A.s.) The Subcommittee approved a motion by Senator Haering to attach a statement to this regulation that it exceeds statutory authority, because it provides for fees in addition to the fees specified by KRS 319A.170. This motion included referring the issues raised by the regulation to the Interim Joint Committee on Business Organizations and Professions.

201 KAR 28:110 (Fees.) The Subcommittee attached the following statement to this regulation: This regulation exceeds statutory authority by providing in Section 1(1) and (2) for an "application fee" and an "initial licensure" fee which are in addition to the number and type of fees that KRS 319A.170 specifies that the Board may levy. In the same motion the Subcommittee also referred this regulation to the Interim Joint Committee on Business Organizations and Professions.

**Public Protection and Regulation Cabinet: State Racing Commission: Thoroughbred Racing Rules**

810 KAR 1:013 (Entries, subscriptions and declarations.) Mr. Ed Flint and Senator Fred Bradley appeared before the Subcommittee in opposition to this regulation. Chairman O'Brien questioned the authority of the Commission to require licensing of all farm personnel. Commission personnel stated that the intent was to insure that persons who had their licenses revoked would not be hired by a farm and work with horses entered for racing. Mr. Flint and Senator Bradley stated that the regulation was not so limited: that it was impossible to separate non-racing farm business from the areas of concern to the Commission; that employees would require licensing even if most of their time was spent on work not related to horses entered for racing; that licensing would be required even of non-farm personnel who made frequent deliveries to farms; and that the regulation could have been limited to the people the Commission wanted to control. It was also pointed out that the cost of construction of a training track with an inner rail was prohibitive; that such a track was unnecessary for the proper training of horses, arbitrarily precludes other proper methods of training; and that the regulation of the method of training horses was in excess of statutory authority and was not related to safety or other proper concerns of the Commission. Additional concerns expressed by members of the Subcommittee and those appearing before them related to the requirement that such farms would be required to meet standards established for association grounds. It was pointed out that private farms could not meet the expense inherent in the stable construction standards to be met by associations and that there was no necessity to require such standards; that few, if any, farms would be eligible for licensing under such requirements. In addition, private farms would be made subject to the warrantless searches the Commission may conduct with regard to associations' property, and such searches would not be limited to the subject matters over which the Commission has specific statutory authority. Since many farms would not qualify for licensure under this regulation, owners would face increased costs because they would have to enter horses from trainer stable and stable horses with a trainer (entailing additional costs), or incur increased transportation costs when association stables were not available. If such farms were to be considered part of an association backside, owners would face additional costs in the maintenance of horses. Owners who now train or stable horses, but are unable to secure the licensing imposed by this regulation, would lose business from those who perceived the lack of license as a mark of inferior quality of training or illegal

operation. Representative Meyer pointed out that the Commission had not set out standards or criteria that farms would have to meet for licensure, and no time period for compliance or inspection was specified. He added that the Regulatory Impact Analysis required by KRS Chapter 13A had not been completed. Commission personnel stated that the facts would be available in the next few months. Representative Meyer pointed out that such facts must appear in the Analysis when the regulation is filed. Commission personnel stated that other regulations promulgated by the Commission contained provisions subjecting approved farms to the requirements associations must meet, and that the amendments under discussion actually relieved farms from the more stringent requirements they already had to meet. Representative Meyer pointed out that such requirements were not enforced, and they did not appear in this regulation which actually governed the farms. Although it was agreed that the Commission could establish standards to be met by those from other states who wished to race in Kentucky, it was pointed out that the requirements were, in effect, a regulation of farms in other jurisdictions. The statutory authority of the Commission to levy the fees specified in the regulation was questioned. Also, the fees levied on private farms by the regulation were extensive and pervasive enough to raise the question of the jurisdiction or statutory authority of the Commission to impose them, rather than requiring enactment by the General Assembly. The Subcommittee approved a motion by Senator Haering to attach a statement that this regulation was in excess of statutory authority and the issues raised were referred to the Interim Joint Committee on Business Organizations and Professions for review and legislative recommendations.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

**Revenue Cabinet: Ad Valorem Tax; Administration**  
103 KAR 5:130 (Annual expense allowances and travel expenses.)

**Sales and Use Tax; Service and Professional Occupations**

103 KAR 26:050 (Common carriers.)

**Sales and Use Tax; Miscellaneous Retailer Occupations**

103 KAR 27:180 (Vending machines.)

**Sales and Use Tax; General Exemptions**

103 KAR 30:020 (Prescription medicines, prosthetic devices and physical aids.)

**General Government Cabinet: Board of Medical Licensure**

201 KAR 9:016 (Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances.)

201 KAR 9:031 (Examinations.)

201 KAR 9:041 (Fee schedule.)

201 KAR 9:151 (Contracts for support services; establish a fee schedule; and establish a paramedic advisory committee.)

**Board of Registration for Professional Engineers and Land Surveyors**

201 KAR 18:040 (Fees.)

201 KAR 18:050 (Branches of professional engineering.)

201 KAR 18:070 (Examinations.)

**Athletic Commission**

201 KAR 27:015 (Prompt payment of fees, fines, and forfeitures required.)

**Board of Occupational Therapy**

201 KAR 28:020 (General provisions.)

201 KAR 28:030 (Exemptions from licensing.)

201 KAR 28:050 (Special licensure requirements.) A technical amendment was made to Section 2(5) by adding the words "Those persons certified by A.O.T.A. in another state as an O.T.R. or as a C.O.T.A." at the beginning of the subsection. Agency personnel initially agreed to amend Subsection (4) by deleting it and inserting in lieu thereof: Submit a copy of the certificate issued by the A.O.T.A. stating that the individual meets the requirements of a certification as an O.T.R. or a C.O.T.A. However at the meeting, the agency made the deletion but determined that the additional language would be redundant.

201 KAR 28:070 (Examination.)

201 KAR 28:080 (Licenses.)

201 KAR 28:090 (Renewals.)

201 KAR 28:100 (Late renewal of licenses.)

201 KAR 28:120 (Applications by foreign trained O.T.R.s and O.T.A.s.)

201 KAR 28:130 (Supervision of occupational therapy assistants and occupational therapy aides.)

201 KAR 28:140 (Grounds for probation, suspension or revocation of license.)

201 KAR 28:150 (Disciplinary proceedings.)

201 KAR 28:160 (Administrative hearings.)

**Tourism Cabinet: Department of Fish and Wildlife Resources: Fish**

301 KAR 1:055 (Angling; limits and seasons.)

**Commerce Cabinet: Department of Agriculture: Livestock Sanitation**

302 KAR 20:056 (Qualifications and eligibility requirements on state brucellosis indemnity payments for negative exposed cattle.)

302 KAR 20:057 (Brucellosis quarantine requirements.)

302 KAR 20:065 (Sale and exhibition of livestock in Kentucky.)

302 KAR 20:180 (Restrictions equine viral arteritis.) Technical amendments were made to Section 4 of this regulation by inserting after the words "EVA testing" the words "and a negative EVA test result"; and by changing the word "standing" to the word "breeding" in the last sentence of this section.

**Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Waste Management: Solid Waste Facilities**

401 KAR 47:070 (Operator certification.)

**Corrections Cabinet: Office of the Secretary**

501 KAR 6:020 (Corrections policies and procedures.)

501 KAR 6:040 (Kentucky State Penitentiary.)

501 KAR 6:060 (Northpoint Training Center.)

501 KAR 6:090 (Frankfort Career Development Center.)

501 KAR 6:110 (Roederer Farm Center.)

501 KAR 6:120 (Blackburn Correctional Complex.)

**Education and Humanities Cabinet: Department of Education: Office of Local Services: General Administration**

702 KAR 1:025 (Extended employment.) Technical amendments were made to this regulation as follows: (1) In Section 7, the phrase "minus agri-business units" was moved to correct a typographical error; and (2) Section 10 was deleted as it is now obsolete.

**Office of Instruction: Instructional Services**

704 KAR 3:304 (Required program of studies.)

**Elementary and Secondary Education Act**

704 KAR 10:022 (Elementary, middle and secondary schools standards.)

**Public Protection and Regulation Cabinet: Department of Alcoholic Beverage Control: Advertising Malt Beverages**

804 KAR 2:007 (Inside signs.)

**Department of Financial Institutions: Securities**

808 KAR 10:210 (Registration exemptions - Federal Regulation D.)

**Harness Racing Commission: Harness Racing Rules**

811 KAR 1:055 (Declaration to start; drawing horses.)

811 KAR 1:070 (Licensing; owners, drivers, trainers, grooms and agents.)

**Department of Housing, Buildings and Construction: Boilers and Pressure Vessels**

815 KAR 15:020 (Administrative procedures; requirements.)

815 KAR 15:080 (Fees for licensing new boiler and pressure vessel contractors.) A technical amendment was made to this regulation by inserting in Section 1 the words "required by KRS 236.210 to be licensed" and by deleting the words "who engage in the business of installing, erecting or repairing boilers".

**Cabinet for Human Resources: Department for Health Services: Hospitalization of Mentally Ill and Mentally Retarded**

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)

**Social Security Act**

902 KAR 25:010 (Section 1122 review.)

**Department for Employment Services: Unemployment Insurance**

903 KAR 5:260 (Unemployment insurance procedures.) Representative Meyer pointed out the improper practice followed in the past by the agency: immediate effect given amendment of material incorporated by reference without first filing such amendment with LRC. Agency personnel stated that the agency would no longer do this and would file a regulation containing the changes or amendments to the material before the changes would be considered effective. Representative Meyer asked if the regulation now before the Subcommittee contained any material that had not heretofore been filed with LRC. Agency personnel stated that it did not. The Subcommittee had no objection to the regulation.

**Department for Social Insurance: Public Assistance**

904 KAR 2:140 (Supplementary policies for programs administered by the Department for Social Insurance.)

904 KAR 2:170 (Incorporation by reference of materials relating to the Child Support Program.)

**Food Stamp Program**

904 KAR 3:090 (Incorporation by reference of materials relating to Food Stamp Program.)

**Department for Social Services: Child Welfare**

905 KAR 1:180 (DSS policy and procedures manual.)

**Aging Services**

905 KAR 8:110 (Homecare fee schedule for the elderly.)

905 KAR 8:120 (Homecare policy manual for the elderly.)

The Subcommittee deferred the following regulations at the request of the promulgating agency:

**General Government Cabinet: Board of Dentistry**

201 KAR 8:005 (Advertising of dental services.)

**Board of Medical Licensure**

201 KAR 9:083 (Certification and supervision of physician assistants.) Objections were raised by representatives of the Kentucky Nurses' Association, the Kentucky Board of Nursing, and the Kentucky Hospital Association. The Board presented a number of amendments to the regulation. The first amendment to Section 2(d) would delete the requirement of successful completion of an examination of those currently practicing and require only a valid certificate from NCCPA. The second amendment, to Section 2(2), was technical. Section 2(4) permitted licensure of currently practicing physician assistants (who have practiced under a physician for one of the last five years), after they have taken the NCCPA examination, or in the alternative, requesting waiver of examination from the Board. The third amendment, to Section 2(4), deleted the requirement for examination but required a physician assistant to have practiced for four of the past five years. In either version, the waiver of the examination is

discretionary with the Board. The Subcommittee members questioned the authority of an agency to propose amendments to a regulation being considered by the Subcommittee. Representatives Bruce and Meyer felt that KRS 13A.320 permitted the amendment of a regulation at a meeting of the Subcommittee only upon the approval of the Subcommittee and that it limited the proposal of such amendments to the Subcommittee. The Subcommittee approved separate motions approving the amendments to Sections 2(d), 2(2), and 2(4). After a lengthy discussion, all parties agreed to defer the regulation until all concerned could meet in an attempt to resolve their differences.

**Cabinet for Human Resources: Department for Health Services: State Health Plan**

902 KAR 17:010 (State health plan.)

**Certificate of Need and Licensure**

902 KAR 20:008 (License procedures and fee schedule.)

902 KAR 20:026 (Operations and services; skilled nursing facilities.)

902 KAR 20:048 (Operations and services; nursing homes.)

902 KAR 20:051 (Operations and services; intermediate care.)

The Subcommittee had no objections to emergency regulations which had been filed.

**Other Business:**

The Subcommittee elected Representative Mark O'Brien as Chairman by acclamation.

The Subcommittee adjourned at 11:30 a.m. until February 9, 1987.

## CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	H2
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## LOCATOR INDEX -- EFFECTIVE DATES

NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.

## VOLUME 12

Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
704 KAR 3:325			704 KAR 20:330	1961	8-12-86
Amended	1864	8-12-86	904 KAR 1:013		
704 KAR 15:080			Amended	1922	8-12-86
Amended	1874		Recodified		8-13-86
Withdrawn		8-27-86			

## VOLUME 13

Emergency Regulation	13 Ky.R. Page No.	Effective Date	Emergency Regulation	13 Ky.R. Page No.	Effective Date
101 KAR 1:300E	120	7-15-86	101 KAR 2:120E	154	7-15-86
Replaced	390	9-4-86	Replaced	430	9-4-86
101 KAR 1:310E	120	7-15-86	101 KAR 2:130E	156	7-15-86
Replaced	391	9-4-86	Replaced	432	9-4-86
101 KAR 1:320E	121	7-15-86	101 KAR 3:005E	157	7-15-86
Replaced	392	9-4-86	Replaced	433	9-4-86
101 KAR 1:325E	122	7-15-86	101 KAR 3:010E	157	7-15-86
Replaced	393	9-4-86	Replaced	434	9-4-86
101 KAR 1:330E	123	7-15-86	101 KAR 3:030E	161	7-15-86
Replaced	394	10-2-86	Replaced	438	9-4-86
101 KAR 1:340E	125	7-15-86	101 KAR 3:040E	161	7-15-86
Replaced	397	9-4-86	Replaced	438	9-4-86
101 KAR 1:350E	127	7-15-86	101 KAR 3:050E	162	7-15-86
Replaced	399	9-4-86	Replaced	439	9-4-86
101 KAR 1:360E	129	7-15-86	301 KAR 2:044E	482	8-14-86
Replaced	401	9-4-86	Replaced	519	10-2-86
101 KAR 1:370E	132	7-15-86	301 KAR 2:047E	484	8-14-86
Replaced	405	9-4-86	Replaced	521	10-2-86
101 KAR 1:380E	133	7-15-86	301 KAR 2:220E	849	9-29-86
Replaced	406	9-4-86	Replaced	908	12-2-86
101 KAR 1:390E	134	7-15-86	302 KAR 16:010E	164	7-1-86
Replaced	407	9-4-86	Replaced	240	9-4-86
101 KAR 2:005E	135	7-15-86	302 KAR 20:056E	1023	11-13-86
Replaced	408	9-4-86	Replaced	1195	1-13-87
101 KAR 2:010E	136	7-15-86	302 KAR 20:057E	1024	11-13-86
Replaced	409	9-4-86	Replaced	1196	1-13-87
101 KAR 2:020E	136	7-15-86	302 KAR 20:065E	1025	11-13-86
Replaced	410	9-4-86	Replaced	1094	1-13-87
101 KAR 2:030E	137	7-15-86	302 KAR 31:010E	1219	12-3-86
Replaced	411	9-4-86	302 KAR 31:011E	1221	12-3-86
101 KAR 2:040E	140	7-15-86	405 KAR 10:200E	614	9-3-86
Replaced	414	9-4-86	Replaced	1076	12-2-86
Resubmitted	1405	1-15-87	501 KAR 6:020E		
101 KAR 2:050E	142	7-15-86	Replaced	4	5-16-86
Replaced	416	9-4-86	Resubmitted	4	5-16-86
Resubmitted	1408	1-15-87	Replaced		7-2-86
101 KAR 2:060E	144	7-15-86	Resubmitted	1222	11-17-86
Replaced	418	9-4-86	Replaced	1099	1-13-87
101 KAR 2:070E	145	7-15-86	501 KAR 6:030E	486	7-21-86
Replaced	420	9-4-86	Replaced	525	10-2-86
101 KAR 2:080E	146	7-15-86	501 KAR 6:040E	165	6-16-86
Replaced	421	9-4-86	Replaced	488	7-21-86
101 KAR 2:090E	148	7-15-86	Resubmitted	488	7-21-86
Replaced	423	9-4-86	Replaced	283	9-4-86
101 KAR 2:100E	149	7-15-86	Resubmitted	1409	1-15-87
Replaced	425	9-4-86	501 KAR 6:050E	1411	1-15-87
101 KAR 2:110E	153	7-15-86	501 KAR 6:060E	1412	1-15-87
Replaced	626	9-4-86			



# ADMINISTRATIVE REGISTER - H3

Emergency Regulation	13 Ky.R. Page No.	Effective Date	Emergency Regulation	13 Ky.R. Page No.	Effective Date
501 KAR 6:070E	166	6-16-86	904 KAR 2:116E	1052	10-16-86
Replaced	58	8-12-86	Replaced	980	12-2-86
Resubmitted	1413	1-15-87	904 KAR 2:140E	494	8-8-86
501 KAR 6:090E	617	9-10-86	Replaced	549	10-2-86
Replaced	744	11-11-86	904 KAR 2:170E	495	8-8-86
Resubmitted	1223	11-17-86	Replaced	550	10-2-86
Replaced	1103	1-13-87	904 KAR 3:010E	496	7-22-86
Resubmitted	1415	1-15-87	Replaced	551	10-2-86
501 KAR 6:110E	167	6-16-86	904 KAR 3:020E	853	10-6-86
Replaced	101	8-12-86	Replaced	983	12-2-86
Resubmitted	1224	11-17-86	Resubmitted	1424	1-5-87
Replaced	1105	1-13-87	904 KAR 3:090E	498	8-8-86
Resubmitted	1416	1-15-87	Replaced	554	10-2-86
501 KAR 6:120E	1417	1-15-87	905 KAR 1:180E	11	5-16-86
502 KAR 15:020E	489	7-25-86	Replaced		7-2-86
Replaced	601	10-2-86	Resubmitted		7-1-86
502 KAR 50:010E	490	8-14-86	Resubmitted	222	7-15-86
Replaced	602	10-2-86	Replaced	662	10-2-86
600 KAR 1:045E	490	8-14-86	Resubmitted	1055	10-19-86
Replaced	894	11-11-86	Replaced	1168	1-13-87
601 KAR 1:140E	1418	12-16-86	905 KAR 3:030E	223	7-1-86
601 KAR 9:074E	168	7-1-86	Replaced	376	9-4-86
Replaced	289	9-4-86	905 KAR 8:110E	1056	10-29-86
603 KAR 5:190E	492	7-25-86	Replaced	1169	1-13-87
Replaced	602	11-11-86	905 KAR 8:120E	1056	10-29-86
603 KAR 5:200E	493	7-25-86	Replaced	1170	1-13-87
Replaced	603	11-11-86	907 KAR 1:004E	856	10-6-86
702 KAR 1:010E	172	7-10-86	Replaced	987	12-2-86
Replaced	635	10-2-86	Resubmitted	1427	1-15-87
702 KAR 3:200E	618	9-8-86	907 KAR 1:010E	861	10-6-86
Replaced	1081	12-2-86	Replaced	992	12-2-86
702 KAR 7:065E	619	9-8-86	907 KAR 1:013E	623	8-27-86
Replaced	835	11-11-86	Expired		10-24-86
702 KAR 7:070E	619	9-8-86	Resubmitted	1057	10-29-86
Replaced	749	11-11-86	Withdrawn		12-19-86
702 KAR 7:080E	620	9-8-86	Resubmitted	1432	1-5-87
Replaced	750	11-11-86	907 KAR 1:031E	224	7-1-86
704 KAR 7:070E	621	9-8-86	Replaced	380	9-4-86
Replaced	749	12-2-86	907 KAR 1:036E	224	7-3-86
704 KAR 15:080E	173	7-10-86	Replaced	663	10-2-86
Replaced	639	10-2-86	Resubmitted	1434	1-5-87
815 KAR 7:070E	1420	1-15-87	907 KAR 1:045E	231	7-1-86
900 KAR 1:006E	5	5-23-86	Replaced	387	9-4-86
Replaced	110	8-12-86	907 KAR 1:055E	232	7-1-86
900 KAR 1:060E	174	7-15-86	Replaced	389	9-4-86
Replaced	465	9-4-86	907 KAR 1:160E	1441	1-15-87
902 KAR 4:050E	622	8-15-86	907 KAR 1:170E	1443	1-15-87
Replaced	539	10-2-86	907 KAR 1:250E	625	8-15-86
902 KAR 10:110E	493	8-8-86	Replaced	555	10-2-86
Replaced	540	10-2-86	Resubmitted	1226	11-25-86
902 KAR 20:016E	175	7-14-86	907 KAR 1:330E	862	10-6-86
Replaced	645	10-2-86	Replaced	1016	12-2-86
902 KAR 20:026E	185	7-7-86	907 KAR 1:340E	863	10-6-86
Replaced	342	9-4-86	Replaced	1017	12-2-86
Resubmitted	1027	11-13-86	907 KAR 1:350E	1444	1-5-87
902 KAR 20:036E	194	7-7-86			
Replaced	351	9-4-86			
902 KAR 20:048E	199	7-7-86			
Replaced	356	9-4-86			
Resubmitted	1036	11-13-86			
902 KAR 20:051E	207	7-7-86			
Replaced	365	9-4-86			
Resubmitted	1044	11-13-86			
902 KAR 20:220E	214	7-14-86			
Replaced	655	10-2-86			
903 KAR 5:270E	221	6-16-86			
Replaced	89	8-12-86			
904 KAR 2:015E	1422	12-29-86			
904 KAR 2:016E	7	5-16-86			
Replaced		7-2-86			
Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
11 KAR 3:040			Amended	18	8-12-86
11 KAR 5:010			Amended	19	8-12-86
Amended	1235		Amended		
11 KAR 5:030			Amended	20	8-12-86
Amended	1236		Amended		
11 KAR 5:031	92		11 KAR 5:032		
11 KAR 5:032			Repealed	92	8-12-86



## ADMINISTRATIVE REGISTER - H4

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
11 KAR 5:035			101 KAR 1:230		
Repealed	92	8-12-86	Repealed	157	7-15-86
11 KAR 5:060			101 KAR 1:300	390	9-4-86
Repealed	92	8-12-86	101 KAR 1:310	391	9-4-86
11 KAR 5:070			101 KAR 1:320	392	9-4-86
Repealed	92	8-12-86	101 KAR 1:325	393	9-4-86
11 KAR 5:080			Amended	899	12-2-86
Repealed	92	8-12-86	101 KAR 1:330	394	10-2-86
11 KAR 5:085			101 KAR 1:340	397	9-4-86
Repealed	92	8-12-86	101 KAR 1:350	399	9-4-86
11 KAR 5:090			101 KAR 1:360	401	9-4-86
Repealed	92	8-12-86	101 KAR 1:370	405	9-4-86
11 KAR 5:100			101 KAR 1:380	406	9-4-86
Repealed	92	8-12-86	101 KAR 1:390	407	9-4-86
11 KAR 6:010			101 KAR 2:005	408	9-4-86
Amended	1237		101 KAR 2:010	409	9-4-86
11 KAR 7:010			101 KAR 2:020	410	9-4-86
Amended	21		101 KAR 2:030	411	9-4-86
Amended	499	8-12-86	101 KAR 2:040	414	9-4-86
11 KAR 7:020	93	8-12-86	Amended	1448	
11 KAR 8:010	94		101 KAR 2:050	416	9-4-86
Amended	503	8-12-86	Amended	1450	
11 KAR 8:020	96	8-12-86	101 KAR 2:060	418	9-4-86
11 KAR 9:010	98	8-12-86	101 KAR 2:070	420	9-4-86
13 KAR 2:040	1310		101 KAR 2:080	421	9-4-86
13 KAR 2:050	1314		101 KAR 2:090	423	9-4-86
14 KAR 1:010	557	10-2-86	101 KAR 2:100	425	9-4-86
31 KAR 3:010	559	10-2-86	101 KAR 2:110	428	
101 KAR 1:010			Amended	626	9-4-86
Repealed	120	7-15-86	101 KAR 2:120	430	9-4-86
101 KAR 1:020			101 KAR 2:130	432	9-4-86
Repealed	120	7-15-86	101 KAR 3:005	433	9-4-86
101 KAR 1:030			101 KAR 3:010	434	9-4-86
Repealed	120	7-15-86	101 KAR 3:030	438	9-4-86
101 KAR 1:040			101 KAR 3:040	438	9-4-86
Repealed	135	7-15-86	101 KAR 3:050	439	9-4-86
101 KAR 1:051			103 KAR 5:130	1173	1-13-87
Repealed	135	7-15-86	103 KAR 15:050		
101 KAR 1:060			Amended	26	8-12-86
Repealed	120	7-15-86	103 KAR 16:070		
101 KAR 1:070			Amended	27	8-12-86
Repealed	120	7-15-86	103 KAR 16:080		
101 KAR 1:080			Amended	30	8-12-86
Repealed	120	7-15-86	103 KAR 16:090		
101 KAR 1:090			Amended	33	8-12-86
Repealed	120	7-15-86	103 KAR 17:080		
101 KAR 1:100			Amended	35	8-12-86
Repealed	120	7-15-86	103 KAR 26:050		
101 KAR 1:110			Amended	1084	1-13-87
Repealed	120	7-15-86	103 KAR 27:180		
101 KAR 1:120			Amended	1084	1-13-87
Repealed	120	7-15-86	103 KAR 30:020		
101 KAR 1:130			Amended	1085	1-13-87
Repealed	120	7-15-86	103 KAR 43:240	99	8-12-86
101 KAR 1:140			103 KAR 44:006	1516	
Repealed	120	7-15-86	105 KAR 1:010		
101 KAR 1:145			Amended	36	8-12-86
Repealed	135	7-15-86	105 KAR 1:040		
101 KAR 1:150			Amended	38	8-12-86
Repealed	135	7-15-86	105 KAR 1:080		
101 KAR 1:160			Repealed	38	8-12-86
Repealed	120	7-15-86	105 KAR 1:090		
101 KAR 1:170			Repealed	38	8-12-86
Repealed	120	7-15-86	105 KAR 1:100		
101 KAR 1:200			Repealed	38	8-12-86
Repealed	157	7-15-86	106 KAR 1:050		
101 KAR 1:205			Amended	233	7-2-86
Repealed	157	7-15-86	201 KAR 3:070	1516	
101 KAR 1:210			201 KAR 6:010		
Repealed	157	7-15-86	Amended	41	8-12-86
101 KAR 1:220			Amended	1452	
Repealed	157	7-15-86			

# ADMINISTRATIVE REGISTER - H5

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
201 KAR 8:005	994		301 KAR 1:145		
201 KAR 9:016			Amended	518	10-2-86
Amended	1087	1-13-87	301 KAR 2:044		
201 KAR 9:031			Amended	519	10-2-86
Amended	1088	1-13-87	301 KAR 2:047		
201 KAR 9:041			Amended	12	6-10-86
Amended	1089	1-13-87	Amended	521	10-2-86
201 KAR 9:081			301 KAR 2:140		
Amended	670	11-11-86	Amended	906	12-2-86
201 KAR 9:083	805		301 KAR 2:220		
Amended	1073		Amended	908	12-2-86
201 KAR 9:084	808	11-11-86	301 KAR 3:021		
201 KAR 9:151			Amended	523	10-2-86
Amended	1090	1-13-87	301 KAR 3:080	100	8-12-86
201 KAR 11:200	1315		302 KAR 16:010		
Withdrawn		12-24-86	Amended	240	9-4-86
201 KAR 11:210	1517		302 KAR 20:056	1195	1-13-87
201 KAR 12:110			302 KAR 20:057	1196	1-13-87
Amended	237	9-4-86	302 KAR 20:065		
201 KAR 12:120			Amended	1094	1-13-87
Amended	1455		302 KAR 20:180		
201 KAR 13:040			Amended	1096	1-13-87
Amended	900	12-2-86	302 KAR 31:010		
201 KAR 17:010			Amended	1238	
Amended	515	10-2-86	302 KAR 31:011	1317	
201 KAR 17:011	560	10-2-86	400 KAR 2:060	1318	
201 KAR 17:012	562	10-2-86	400 KAR 2:070	1319	
201 KAR 17:015	563	10-2-86	400 KAR 2:080	1321	
201 KAR 17:041			400 KAR 2:090	1322	
Amended	516	10-2-86	400 KAR 2:100	1326	
201 KAR 17:050			401 KAR 5:055		
Repealed	564	10-2-86	Amended	241	9-4-86
201 KAR 17:060			401 KAR 5:065		
Repealed	564	10-2-86	Amended	258	9-4-86
201 KAR 17:061	564	10-2-86	401 KAR 5:090		
201 KAR 17:090	1316		Amended	44	
201 KAR 18:040			Amended	505	9-4-86
Amended	1091	1-13-87	401 KAR 47:070		
201 KAR 18:050			Amended	913	
Amended	1091	1-13-87	Amended	1228	1-13-87
201 KAR 18:070			401 KAR 50:010		
Amended	1092	1-13-87	Amended	920	12-2-86
201 KAR 20:057			401 KAR 50:015		
Amended	239	9-4-86	Amended	267	9-4-86
201 KAR 22:010			Amended	1240	
Amended	901	12-2-86	401 KAR 51:017		
201 KAR 22:031			Amended	924	12-2-86
Amended	902	12-2-86	401 KAR 57:011		
201 KAR 22:052			Amended	934	12-2-86
Amended	904	12-2-86	401 KAR 57:020		
201 KAR 27:015			Repealed	995	12-2-86
Amended	905		401 KAR 57:021		
Amended	1228	1-13-87	Amended	995	12-2-86
201 KAR 27:044	995	1-13-87	401 KAR 57:045		
201 KAR 28:010	1175	1-13-87	Amended	997	12-2-86
201 KAR 28:020	1177	1-13-87	401 KAR 57:050	1327	
201 KAR 28:030	1178	1-13-87	401 KAR 57:055	1329	
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Amended	273	9-4-86	501 KAR 4:070		
401 KAR 59:211	443	9-4-86	Amended	710	11-11-86
401 KAR 59:242	444	9-4-86	501 KAR 4:080		
401 KAR 59:290	446	9-4-86	Amended	711	11-11-86
401 KAR 59:295	1006	12-2-86	501 KAR 4:090		
401 KAR 61:020			Amended	712	11-11-86
Amended	275	9-4-86	501 KAR 4:100		
401 KAR 61:140			Amended	714	11-11-86
Amended	278	9-4-86	501 KAR 4:110		
401 KAR 61:175	1008	12-2-86	Amended	715	11-11-86
401 KAR 63:021	564		501 KAR 4:120		
Amended	864		Amended	715	11-11-86
Amended	1059	11-11-86	501 KAR 4:130		
401 KAR 63:022	574		Amended	717	11-11-86
Amended	870		501 KAR 4:140		
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401 KAR 63:040	1198		501 KAR 5:010		
Withdrawn		12-23-86	Amended	719	11-11-86
405 KAR 10:200	809		501 KAR 5:020		
Amended	1076	12-2-86	Amended	721	11-11-86
500 KAR 1:010			501 KAR 5:030		
Amended	48	8-12-86	Amended	722	11-11-86
500 KAR 1:020			501 KAR 5:040		
Amended	50	8-12-86	Amended	723	11-11-86
500 KAR 2:010	448	9-4-86	501 KAR 5:050		
500 KAR 2:020	449	9-4-86	Amended	725	11-11-86
500 KAR 3:010	452	9-4-86	501 KAR 5:060		
500 KAR 3:020	453		Amended	728	11-11-86
Amended	627	9-4-86	501 KAR 5:070		
501 KAR 3:010			Amended	730	11-11-86
Amended	674	11-11-86	501 KAR 5:080		
501 KAR 3:020			Amended	731	11-11-86
Amended	675	11-11-86	501 KAR 5:090		
501 KAR 3:030			Amended	732	11-11-86
Amended	677	11-11-86	501 KAR 5:100		
501 KAR 3:040			Amended	733	11-11-86
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501 KAR 3:050			Amended	734	11-11-86
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501 KAR 3:060			Amended	735	11-11-86
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501 KAR 3:080			Amended	52	8-12-86
Amended	687	11-11-86	Amended	1099	1-13-87
501 KAR 3:090			Amended	1244	
Amended	688	11-11-86	Amended	1456	
501 KAR 3:100			501 KAR 6:030		
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Amended	690	11-11-86	Amended	525	10-2-86
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Amended	691	11-11-86	Amended	935	12-2-86
501 KAR 3:130			Amended	1246	
Amended	692	11-11-86	501 KAR 6:040		
501 KAR 3:140			Amended	55	8-12-86
Amended	694	11-11-86	Amended	283	9-4-86
501 KAR 3:150			Amended	527	10-2-86
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501 KAR 4:010			Amended	1100	1-13-87
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501 KAR 4:030			Amended	56	
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501 KAR 4:040			Amended	741	11-11-86
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501 KAR 4:050					
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Amended	1460		Repealed	103	8-12-86
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Amended	286	9-4-86	603 KAR 5:071	1011	12-2-86
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501 KAR 6:080			Amended	1254	
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Amended	1107	1-13-87	Amended	1260	
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501 KAR 7:040	817	11-11-86	Amended	630	10-2-86
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501 KAR 7:070	822	11-11-86	Amended	635	10-2-86
501 KAR 7:080	823	11-11-86	702 KAR 1:025		
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Amended	748	11-11-86	Amended	942	1-13-87
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Amended	1474		815 KAR 7:070		
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803 KAR 2:030			902 KAR 6:040		
Amended	1268		Amended	963	12-2-86
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Amended	235	7-2-86	Amended	971	12-2-86
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808 KAR 3:060	607	10-2-86	Amended	1130	
808 KAR 10:210			Amended	1448	
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902 KAR 20:026			Amended	1494	
Amended	342	9-4-86	904 KAR 3:045		
Amended	1133		Amended	90	8-12-86
902 KAR 20:036			904 KAR 3:090		
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Amended	1159	1-13-87	905 KAR 7:070		
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Amended	547		Repealed	222	7-1-86
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