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**ADMINISTRATIVE REGISTER OF KENTUCKY**

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Notice of Intent
Administrative bodies shall file with the Regulations Compiler a Notice of Intent to promulgate an administrative regulation, including date, time and place of a public hearing on the subject matter to which the administrative regulation applies. This Notice of Intent, along with the public hearing information, shall be published in the Administrative Register. This Notice has to be filed and published in the Administrative Register, and the public hearing held or cancelled, prior to the filing of an administrative regulation.

After the scheduled hearing date, if held, the administrative body shall file with the Regulations Compiler a Statement of Consideration, setting forth a summary of the comments made at the public hearing, and the responses by the administrative body. This Statement shall not be published in the Administrative Register.

Filing and Publication
Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing information, tiering statement, regulatory impact analysis, fiscal note, and the federal mandate comparison. Those administrative regulations received by the deadline required in KRS 15A.050 shall be published in the Administrative Register.

Public Hearing
The administrative body shall schedule a public hearing on proposed administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication. 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 working (5) days before the scheduled hearing. If no written notice is received at least five (5) working days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler of the cancellation. 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 to 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.

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 the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting following publication. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or thirty (30) days after being referred by LRC, whichever occurs first.
NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS
RECEIVED AS OF NOON, JUNE 15, 2001

GOVERNOR'S OFFICE
Kentucky State Agency for Substance Abuse Policy

June 13, 2001

(1) 10 KAR 7:010, Kentucky Agency for Substance Abuse Policy (KY-ASAP) Program and start-up funding.
(2) The Governor's Office of Kentucky Agency for Substance Abuse Policy (KY-ASAP) intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001, at 9 a.m. in the Capitol Annex Building, First Floor, Room 125, Frankfort, Kentucky.
(4) (a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to July 21, 2001, the public hearing will be canceled.
(5) (a) Persons wishing to request a public hearing should mail their written request to the following address: Karen C. Jones, Executive Assistant, Governor's Office of the, Kentucky Agency for Substance Abuse Policy, 859 East Main Street, Suite 7 A/B, Frankfort, Kentucky 40621, (502) 564-8262, (502) 564-6104 (fax).
(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6) (a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Executive Assistant, 859 East Main Street, Suite 7 A/B, Frankfort, Kentucky 40601.
(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-372-3973 (V/TTY).
(7) Information relating to the proposed administrative regulation.
(b) The administrative regulation that the Governor's Office of the Kentucky Agency for Substance Abuse Policy intends to promulgate is a new administrative regulation, 10 KAR 7:010. The proposed administrative regulation is necessary to: Comply with SB 315 of the 2000 General Assembly to implement a statewide strategic plan for the development of policy directed to reduce the prevalence of tobacco use and other drug and alcohol use among both the youth and adult populations of Kentucky.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows:
1. To establish a mechanism for the distribution of start-up funds for the implementation of an approved long-term community strategy.
2. To provide incentives to encourage formation of multicounty drug, alcohol and tobacco advisory and coordination boards.
3. To outline the composition and requirements for Kentucky Agency for Substance Abuse Policy (KY-ASAP) local boards.
4. To establish the application process and reporting requirements.
(d) The benefits expected from this administrative regulation are: To promote the reduction of tobacco use and drug and alcohol abuse and related consequences, through comprehensive, research-based state and county strategies.
(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Governor's Office of Kentucky Agency for Substance Abuse Policy (KY-ASAP).

OFFICE OF ATTORNEY GENERAL

June 15, 2001

(1) 40 KAR 7:010, Procedures for reporting allegations of racial profiling.
(2) Office of the Attorney General intends to promulgate an administrative regulation setting forth procedures and establishing a toll-free hotline for reporting alleged incidents of racial profiling.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 24, 2001 at 9 a.m., at the Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 24, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Corey Bellamy, Office of the Attorney General, Capitol Building, Frankfort, Kentucky 40601, (502) 696-5642, (502) 573-8310 (Fax).
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Office of the Attorney General, Capitol Building, Frankfort, Kentucky 40601.
(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accor-
dance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services’ regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to procedures for reporting allegations of racial profiling is KRS 15.180.
(b) The administrative regulation that the Office of Attorney General intends to promulgate will not amend an existing regulation.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth procedures for citizens to report alleged instances of racial profiling by law enforcement personnel in the Commonwealth. As chief legal officer of the Commonwealth, the Office of Attorney General receives allegations from citizens of incidents of racial profiling by law enforcement personnel. This administrative regulation sets forth procedures for the reporting and handling of such allegations and is promulgated pursuant to KRS 15.180.
(d) The benefits expected from administrative regulation are to provide Kentucky citizens with an additional opportunity to report allegations of racial profiling and to provide law enforcement agencies with an opportunity to review and respond with a goal of improving public awareness and communication.
(e) The administrative regulation will be implemented as follows: By the Special Assistant for Community Services and Minority Affairs, Office of the Attorney General.

KENTUCKY RETIREMENT SYSTEMS

June 14, 2001
(1) 105 KAR 1:160. Sick leave plans.
(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at
Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-5124, Phone (502) 554-4646, Fax (502) 564-5556.
(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing.
(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(d) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.
(7) Information relating to the proposed administrative regulation is as follows: The statutory authority for the promulgation of an administrative regulation relating to disability procedures is KRS 15.180.
(a) The Office of Attorney General intends to promulgate this regulation will not amend an existing regulation.
(b) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Office of Attorney General receives allegations from citizens of incidents of disability procedures by law enforcement personnel. This administrative regulation sets forth procedures for the reporting and handling of such allegations and is promulgated pursuant to KRS 15.180.
(c) The benefits expected from the proposed administrative regulation are to provide Kentucky citizens with an additional opportunity to submit information on disability programs at the time of application.
(d) The administrative regulation will be implemented as follows: Participating agencies will be required to submit information on disability programs at the time of application.

June 14, 2001
(1) 105 KAR 1:210. Disability procedures.
(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at
Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-5124, Phone (502) 554-4646, Fax (502) 564-5556.
(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing.
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.
(7) Information relating to the proposed administrative regulation is as follows: The statutory authority for the promulgation of an administrative regulation relating to disability procedures is KRS 15.180.
(a) The Office of Attorney General intends to promulgate this regulation will not amend an existing regulation.
(b) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Office of Attorney General receives allegations from citizens of incidents of disability procedures by law enforcement personnel. This administrative regulation sets forth procedures for the reporting and handling of such allegations and is promulgated pursuant to KRS 15.180.
(c) The benefits expected from the proposed administrative regulation are to provide Kentucky citizens with an additional opportunity to submit information on disability programs at the time of application.
(d) The administrative regulation will be implemented as follows: Participating agencies will be required to submit information on disability programs at the time of application.

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(c) The necessity and function of the proposed administrative regulation is as follows: The disability applicant has responsibility for obtaining medical records necessary for a determination of disability. The formular for determining added service is required to determine added service credit where the disability applicant has both hazardous and nonhazardous service. The formula for determining the maximum benefit is needed where benefits from other programs may be paid in a lump sum rather than monthly amount.

(d) The benefits expected from the administrative regulation are: Disability applicants will have a clear formula for determining the amount of benefits that they may be entitled to receive.

(e) The administrative regulation will be implemented as follows: The retirement system will notify disability applicants of the requirements and formulas used.

June 14, 2001

(1) 105 KAR 1:290. Medical insurance reimbursement plan.
(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Phone (502) 564-4646, Fax (502) 564-5656.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.

(f) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to medical insurance reimbursement plan is KRS 61.645(9)(e).

(b) The administrative regulation that the Kentucky Retirement Systems intends to promulgate will change the deadlines for filing for reimbursement and clarify amounts that offset against the reimbursement.

(c) The necessity and function of the proposed administrative regulation is as follows: Because insurance records are often maintained on a quarterly basis, the deadlines will be changed to coincide with quarter ends. It is also necessary to clarify that payments from employers or other agencies toward the recipients' medical insurance reduce the amount the recipient is entitled to for reimbursement.

(b) The benefits expected from the administrative regulation are: The changed application deadlines are expected to be easier for recipients to track and for the retirement system to administer.

(e) The administrative regulation will be implemented as follows: The individuals participating in the medical insurance reimbursement program will be notified of the changed filing deadlines.

June 14, 2001

(1) 105 KAR 1:300. Determination of service credit for classified employees.
(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Phone (502) 564-4646, Fax (502) 564-5656.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.

(f) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to determination of service credit for classified employees is KRS 61.645(9)(e).

(b) The administrative regulation that the Kentucky Retirement Systems intends to promulgate will amend the formula for computing a year of service to be based on 180 days in a school year.

(c) The necessity and function of the proposed administrative regulation is as follows: 2001 Ky. Acts ch. 151 amended KRS 78.615 changing the number of days work required for a full-time classified employee of a local school board to receive 12 months of credit.

(d) The benefits expected from the administrative regulation are: The regulation will conform to statutory changes.

(e) The administrative regulation will be implemented as follows: Service of classified employees of local school boards will be determined in accordance with the 180-day formula.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Phone (502) 564-4646, Fax (502) 564-5556.

(b) On request for public hearing, a person shall state:
   1. "I agree to attend the public hearing;" or
   2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that those who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to proration of service credit is KRS 61.645(9)(e).

(b) The administrative regulation that the Kentucky Retirement Systems intends to promulgate will establish a formula for prorating service between systems and between hazardous and nonhazardous positions where employees hold more than 1 position simultaneously or where an overlap may occur.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 61.545 provides for division of service based on total salary. This regulation will set out the formula to be used.

(d) The benefits expected from the administrative regulation are: The employees participating in more than 1 position with the Kentucky Retirement Systems will have a clear method for determining how much service credit will be earned in each position.

(e) The administrative regulation will be implemented as follows: Service credit will be prorated in accordance with the formula.

June 14, 2001

(1) 105 KAR 1:330. Purchase of service credit.

(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.

(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Phone (502) 564-4646, Fax (502) 564-5556.

(b) On request for public hearing, a person shall state:
   1. "I agree to attend the public hearing;" or
   2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that those who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to proration of service credit is KRS 61.645(9)(e).

(b) The administrative regulation that the Kentucky Retirement Systems intends to promulgate will establish a formula for prorating service between systems and between hazardous and nonhazardous positions where employees hold more than 1 position simultaneously or where an overlap may occur.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 61.545 provides for division of service based on total salary. This regulation will set out the formula to be used.

(d) The benefits expected from the administrative regulation are: The employees participating in more than 1 position with the Kentucky Retirement Systems will have a clear method for determining how much service credit will be earned in each position.

(e) The administrative regulation will be implemented as follows: Service credit will be prorated in accordance with the formula.

June 14, 2001

(1) 105 KAR 1:340. Rollovers and transfers of contributions from other plans.

(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.

(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for July 23, 2001, at 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Phone (502) 564-4646, Fax (502) 564-5556.

(b) On request for public hearing, a person shall state:
   1. "I agree to attend the public hearing;" or
   2. "I will not attend the public hearing."

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(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to rollovers and transfers of contributions from other plans is KRS 61.545(9)(e).

(b) The administrative regulation that the Kentucky Retirement System intends to promulgate will establish procedures for acceptance of rollovers or transfers of contributions in other retirement plans or deferred compensation arrangements.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 61.552 provides for rollovers and transfers of contributions for the purchase of service credit. This regulation will set out forms and procedures for making transfers.

(d) The benefits expected from the administrative regulation are: Employees and affected plans will have procedures for making rollovers and transfers.

(e) The administrative regulation will be implemented as follows: The procedures will be followed in transacting rollovers and transfers.

KENTUCKY BOARD OF DENTISTRY

June 12, 2001

1. 201 KAR 8:440. Biennial fee schedule and registration. This proposed amended administrative regulation amends the renewal licensure fees of dental hygienists.

2. The Kentucky Board of Dentistry intends to promulgate the administrative regulation cited above.

3. A public hearing to receive oral and written comments on the notice of intent has been scheduled for July 23, 2001, at 3 p.m., at the Board Office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

4. (a) The public hearing will be held if:

   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree in writing, to be present at the public hearing.

   (b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

   (5) Persons wishing to request a public hearing should file their written request with the Executive Director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223. Phone: (502) 243-0573, Fax: (502) 423-1239.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from Gary Munsie at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to renewal forms is KRS 313.080(1), (3), and 313.305(1), (3).

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will amend the renewal licensure fees for dentists and dental hygienists.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will amend the renewal licensure fees for dentists and dental hygienists.

(d) The benefit expected from this amended administrative regulation is the increased operation of the board as an independent, self-funded governmental entity without any reliance on general fund dollars.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry.

BOARD OF NURSING

May 21, 2001

1. 201 KAR 20:070. Licensure by examination.

2. The Board of Nursing intends to promulgate the administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001 at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

4. (a) The public hearing will be held if:

   1. It is requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

   (b) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to July 23, 2001, the public hearing will be cancelled.

   (5) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 696-3938.

   (b) On a request for public hearing, a person should state:

   1. "I agree to attend the public hearing;" or
   2. "I will not attend the public hearing."

   (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

   (b) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

   (7) Information relating to the proposed administrative regulation.

   (a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.

   (b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
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(c) The necessity and function of the proposed administrative regulation is as follows: Primarily, to provide a means of testing the English language comprehension of foreign educated nurses applying for Kentucky license. A secondary change to the regulation requires applicant to obtain a Kentucky criminal background check from the Administrative Office of the Courts.

(d) The benefits expected from the administrative regulation are: The implementation of KRS 314.041(1)(c) and 314.051(1)(c) dealing with English language comprehension of applicants for nursing licensure.

(e) The administrative regulation will be implemented as follows: Applicants for licensure will be directed to the appropriate testing authorities to obtain the necessary tests and certifications.

May 21, 2001

1. (a) 201 KAR 20:110. Licensure by endorsement.
    (b) The Board of Nursing intends to promulgate the administrative regulation governing the subject matter listed above.
    (c) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001 at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
    (d) The public hearing will be held:
        1. If requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
        2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
    (e) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to July 23, 2001, the public hearing will be cancelled.

(b) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 393-9396.

(b) On a request for public hearing, a person shall state:
    1. "I agree to attend the public hearing.", or
    2. "I will not attend the public hearing.", or

(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(d) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(e) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(f) Information relating to the proposed administrative regulation:
    (a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
    (b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
    (c) The necessity and function of the proposed administrative regulation is as follows: To provide a means of testing the English language comprehension of foreign educated nurses applying for Kentucky license.
    (d) The benefits expected from the proposed administrative regulation are: The implementation of KRS 314.041(1)(c) and 314.051(1)(c) dealing with English language comprehension of applicants for nursing licensure.
    (e) The administrative regulation will be implemented as follows: Applicants for licensure will be directed to the appropriate testing authorities to obtain the necessary tests and certifications.

BOARD OF PHYSICAL THERAPY

June 8, 2001

1. (a) 201 KAR 22:150. Impaired practitioners alternative program.
    (b) The Board of Physical Therapy intends to promulgate the new administrative regulation cited above.
    (c) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001 at 9 a.m. (EST), at the office of the Board of Physical Therapy, 9110 Leesgates Road, Suite 6, Louisville, Kentucky 40222.

   (c) The public hearing will be held:
        1. If requested, in writing, by a least 5 persons, or an administrative body, or an association having at least 5 members; and
        2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
    (d) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to July 23, 2001, the public hearing will be cancelled.

(b) Persons wishing to request a public hearing should mail their written request to the following address: Bedry Kuhl, Executive Director, Board of Physical Therapy, 9110 Leesgates Road, Suite 6, Louisville, Kentucky 40222, Telephone: (502) 327-8497, Fax: (502) 423-0934.

(b) On a request for public hearing, a person shall state:
    1. "I agree to attend the public hearing.", or
    2. "I will not attend the public hearing.", or

(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(d) Persons who wish to file this request may obtain a request form from Executive Director, Board of Physical Therapy, 9110 Leesgates Road, Suite 6, Louisville, Kentucky 40222.

(e) Information relating to the proposed administrative regulation:
    (a) The statutory authority for the promulgation of an administrative regulation is a new section of KRS 327.045 pertaining to the Committee for Impaired Physical Therapy Practitioners.
    (b) The administrative regulation that the Board of Physical Therapy intends to create 201 KAR 22:150, a new administrative regulation.
    (c) The necessity and function of the proposed administrative regulation is within KRS Chapter 327.
    (d) The benefit expected from this new administrative regulation is to promulgate KRS 327.045 and to define how the committee for impaired physical therapy practitioners will administer and develop a program as an alternative to discipline of an impaired practitioner.
    (e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

GOVERNOR'S OFFICE FOR TECHNOLOGY

Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky

June 14, 2001

1. (a) 202 KAR 6:070. PSAP Workload Fund disbursement.
    (b) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky intends to promulgate the administrative regu-
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lation cited above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, at 3 p.m. in the CMRS Board's Conference Room, at 21 Millcreek Park, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to the hearing date, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing shall mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 21 Millcreek Park, Frankfort, Kentucky 40601, Phone: (502) 573-1000, FAX: (502) 573-1711.
(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Any person who wishes to file the request may obtain a request form from the CMRS Administrator at the above address.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7633(2)(b) and 65.7633.
(b) The proposed regulation will establish the process by which a CMRS Board will disburse the workload portion of the CMRS Fund and the dates by which a PSAP shall be certified to qualify for funds.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7629(7) states that the CMRS Board shall establish procedures and guidelines to be followed by the board in approving and disapproving disbursements from the CMRS fund. KRS 65.7633 authorizes the CMRS Board to implement as the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This regulation establishes the process by which the regular disbursement of funds to PSAPs shall be conducted.
(d) The benefit expected from this proposed administrative regulation is as follows: By delineating clear dates and temporarily freezing a portion of the funds, the CMRS Board shall ensure that all PSAPs are able to certify receiving an equal distribution of the revenues collected as intended by the statute and it allows PSAPs to plan effectively for the certification process.
(e) This administrative regulation will be implemented by the CMRS Board by notifying all entities likely to apply for certification of the deadlines established and ensuring that all have had sufficient time and notice to complete the certification requirements.

June 14, 2001
(1) 202 KAR 6:080, CMRS surcharge remittance and reporting.
(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky intends to promulgate the administrative regulation cited above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, at 2 p.m. in the CMRS Board's Conference Room, at 21 Millcreek Park, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to the hearing date, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 21 Millcreek Park, Frankfort, Kentucky 40601, Phone: (502) 573-1000, FAX: (502) 573-1711.
(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Any person who wishes to file the request may obtain a request form from the CMRS Administrator at the above address.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7629(2)(b) and 65.7633.
(b) The proposed regulation will establish the process by which a CMRS Board will disburse the workload portion of the CMRS Fund and the dates by which a PSAP shall be certified to qualify for funds.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7629(7) states that the CMRS Board shall establish procedures and guidelines to be followed by the board in approving and disapproving disbursements from the CMRS fund. KRS 65.7633 authorizes the CMRS Board to implement as the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This regulation establishes the process necessary to collect surcharges and properly evaluate disbursements to providers and PSAPs.
(d) The benefit expected from this proposed administrative regulation is as follows: By establishing remittance methods the board will insure that funds are collected and deposited as quickly as possible while maintaining a good audit trail; subscriber based cost recovery plans are independently verifiable by board staff; establishes the basis for PSAP workload disbursements.
(e) This administrative regulation will be implemented by the CMRS Board by notifying all involved providers and government entities.

JUSTICE CABINET
Department of Corrections

June 13, 2001
(1) 501 KAR 6:999, Department of Corrections secured policies and procedures.
(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.
(3) There shall be no public hearing on these regulations as they relate to secured policies under the provisions of KRS 197.025 which states that these policies shall not be accessible to the public or inmates.
(4) Information relating to these proposed administrative regulations.
(5) The statutory authority for the promulgation of these administrative regulations relating to the subject matter of these administrative regula-
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The administrative regulations that the Department of Corrections intends to promulgate shall amend 501 KAR 6-999, as follows:

1. Use of Force and Mechanical Restraints (CPP 9.1) shall be amended to add statutory authority; set forth procedures for authorization of a warning shot; add when a medical examination of an inmate is required after use of force or assault; and conform to KRS Chapter 13A requirements.

2. Storage of Flammables and Dangerous Chemicals and Their Use (NTC 08-05-04) shall be added to establish the procedures ensuring control for flammables and dangerous toxic and caustic material, through an organized system of regulations governing the storage and use of materials.

3. Escape by Air (NTC 09-01-02) shall be added to establish procedures to be followed by staff in the event of an escape attempt by air (helicopter).

4. Regulation of Inmate Movement (NTC 09-02-01) shall be added to establish a procedure for staff to regulate and secure movement of all inmates to ensure timely and accurate accountability.

5. Construction Crew Entry and Exit (NTC 09-04-01) shall be added to establish a procedure for the controlling of pedestrians and vehicles entering and exiting at designated points in the perimeter. Monitoring of construction crews shall be continuous while at the institution to ensure their safety and the security of the institution.

6. Count Procedure and Documentation (NTC 09-05-01) shall be added to provide a system for staff to regulate inmate movement and physically count inmates. The procedure shall include strict accountability for all inmates assigned to work and educational release, furloughs, and other approved temporary absences.

7. issuance and Use of Institution Portable Radios (NTC 09-08-01) shall be added to establish a procedure for the utilization and issuance of portable and mobile radios and to ensure all staff understand and utilize the same radio language.

8. Transportation Operations (NTC 09-09-01) shall be added to establish a procedure for transporting inmates in a secure manner outside the institution, from 1 jurisdiction to another, preventing escapes and ensuring the well-being of inmates, staff, and the public.

9. Use of Force; Prohibiting Personal Abuse and Corporal Punishment (NTC 09-10-01) shall be added to establish a procedure for the use of force by Northpoint Training Center employees as mandated by legislative authority and Department of Corrections policy. To ensure inmates shall not be subject to personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.

10. Use of Physical Restraints (NTC 09-10-02) shall be added to establish procedures for the utilization of physical restraints in maintaining control and security of inmates.

11. Tool Control (NTC 09-11-01) shall be added to establish the objectives of tool control at Northpoint Training Center to minimize threat of escape and to safeguard state property; maintaining accountability and control of all tools; maintain availability and accessibility to tools as necessary; and conduct mandatory routine, and unscheduled inventories.

12. Procedure for Operation in the Event of Dense Fog and Loss of Power (NTC 09-13-01) shall be added to establish a procedure in an attempt to minimize the possibility of escape and in situations that threaten institutional security.

13. Standards for Maintaining Perimeter Security (NTC 09-17-01) shall be added to maintain security standards to prevent an escape, unauthorized absence, and ensure internal and external security, facilitate inmate movement, suppress the movement of contraband, afford maximum response in minimum time to any unauthorized activity, prevent access by the general public without proper authorization, protect state property and ensure the physical welfare of inmates and staff.

14. Perimeter Security Check (NTC 09-17-02) shall be added to ensure staff who monitor and protect the perimeter area of the compound are awake, alert, and secure in their posts.

15. Key Control (NTC 09-18-01) shall be added to establish procedures for a key control as an important factor in achieving security in the institution.

16. Electrical Disabling Devices (NTC 09-19-01) shall be added to establish a policy governing the appropriate utilization of electrical disabling devices to control serious situations.

17. Security Operations Plan (NTC 09-20-01) shall be added to maintain institutional security, regular planned security inspections that are essential for formalized security inspection procedures. The security inspection procedure shall be concerned with the prevention of escapes, detection of security breaches, and the overall welfare and safety of staff and inmates.

18. Inclement Weather Operations (NTC 09-21-01) shall be added to establish procedures for clear, well-defined methods of operation necessary to maintain the total security of the facility as the potential for escape or attempted escape is greatly enhanced during inclement weather.

19. Weapons and Related Security Device Control (NTC 09-25-01) shall be added to establish procedures for the availability, control, purchase, storage, and utilization of firearms, ammunition, chemical agents, and related security equipment.

20. Use of Chemical Agents (NTC 09-25-02) shall be added to establish guidelines for the acquisition, utilization, storage, and control of chemical agents.

21. Personal Firearms Owned by Employees Residing on Institutional Property (NTC 09-28-01) shall be added to establish guidelines and precautionary measures to prevent easy access of weapons to inmates. To provide employees in residence a place to store personally owned weapons, and provide guidelines for maintaining personally owned weapons in residence on institutional property.

22. Security Check-in List Procedures (NTC 09-30-01) shall be added to establish procedures for staff to ensuring inmates assigned to the Security Check-in List are properly supervised and accounted for.

23. Escape Procedures (RCC 08-03-01) shall be added to establish the procedures to be followed by staff in the event of an escape.

24. Control and Use of Flammable, Toxic and Caustic Materials (RCC 08-08-01) shall be added to establish the handling of hazardous chemicals.

25. Institutional Emergency Plan (RCC 08-09-01) shall be added to establish the need and availability of the institutions emergency plan.

26. Establishment of Security Post (RCC 09-01-01) shall be added to establish the use of post orders.

27. Security Activity Logs (RCC 09-02-01) shall be added to establish the documentation of vital information.

28. Institutional Security Inspections (RCC 09-03-01) shall be added to establish the procedures for all security inspections.

29. Entry and Exit to Institution (RCC 09-05-01) shall be added to establish the regulations for all entrance and exit to the institution.

30. Collection, Preservation and Identification of Physical Evidence (RCC 09-05-02) shall be added to establish the gathering of physical evidence.

31. Disposition of Contraband from Outside Institutional Perimeter (RCC 09-06-04) shall be added to establish the procedures for handling contraband discovered outside of the institution.

32. Key Control (RCC 09-07-01) shall be added to establish the standards for handling and distribution of institutional keys.

33. Guideline for Contractors (RCC 09-11-01) shall be added to establish the procedures for dealing with outside contractors.

34. Outside Hospital Security (RCC 09-12-01) shall be added to establish the procedures for dealing with security issues at an outside medical facility.

35. Outside Details and Farm Details (RCC 09-13-01) shall be added to establish the procedures for dealing with security issues at an outside medical facility.

36. Restricted Areas (RCC 09-14-01) shall be added to establish the procedures for dealing with security issues at an outside medical facility.
36. Count Procedure (RCC 09-15-01) shall be established to provide a system of physically counting inmates and insuring strict accountability for all inmates committed to the institution.

39. Security and Records Office Documentation for Placement and Movement of Inmates (RCC 09-15-02) shall be established to insure accurate counting and proper location of inmates received and their presence until discharged from the institution.

40. Regulation of Inmate Movement (RCC 08-15-03) shall be established to provide for the orderly and secure movement of large numbers of inmates at the institution.

41. Inmate Death (RCC 09-16-01) shall be established to set the procedures to be utilized in case of inmate death.

42. Recreational Area Security and Recreation Field (RCC 09-17-01) shall be established to prevent escape, maintain inventory of equipment, prevent injury of staff and inmates and maintain the proper level of sanitation at recreational areas.

43. Tool Control (RCC 09-19-01) shall be established to regulate the handling of all tools at the institution.

44. Weapons and Related Security Device Control (RCC 09-20-01) shall be established to govern the storage and use of weapons at the institution.

45. Issuance of Firearms and Chemical Weapons from the Armory (RCC 09-20-03) shall be established to govern the issuance and maintenance of firearms and chemical weapons.

46. Transportation of Inmates (RCC 09-21-01) shall be established to set procedures to be followed during the transporting of inmates.

47. Use of Electronic Riot Shield (RCC 09-22-02) shall be established to insure guidelines for the use of the electronic riot shield.

48. Use of Restraints (RCC 09-23-01) shall be established to govern the use of restraints.

49. Procedure for Operation in Inclement Weather (RCC 09-25-01) shall be established to insure procedures for operation in inclement weather.

50. Use of State Vehicles and Staff-owned Vehicles (RCC 09-26-01) shall be established to set guidelines for the use and parking of state and staff-owned vehicles.

(c) The necessity and function of the proposed administrative regulation is as follows:

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

2. This administrative regulation updates operating procedures at the Department of Correctional to comply with KRS Chapter 13A and to reflect current operating procedures.

3. KRS 197.025(5) provides: "The policies and procedures of administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for these policies and procedures shall be conducted in closed sessions".

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff shall comply with operational procedures and standards noted in policy changes.

JUSTICE CABINET
Department of Criminal Justice Training

June 8, 2001

(1) 503 KAR 1:150. Department of Criminal Justice Training - Kentucky Police Corps basic training: graduation requirements; records.

(2) The Kentucky Law Enforcement Council intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, at 9 a.m., in Room 211, Funderburk Building, Richmond, Kentucky 40475-3137.

(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.

(c) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funderburk Building, Richmond, Kentucky 40475-3137; Phone: (859) 622-5897; Fax: (859) 622-3162.

(d) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing:"; or

2. "I will not attend the public hearing."

(e) Persons who wish to file this request may obtain a request form from the Kentucky Law Enforcement Council at the address listed above.

(f) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 15.330(1)(c) and (g).

(b) The administrative regulation that the Kentucky Law Enforcement Council intends to promulgate will create 503 KAR 1:150, as follows:

1. Establish graduation requirements for the Department of Criminal Justice Training - Kentucky Police Corps, including physical training requirements, and testing requirements for the course's 3 clearly-defined training areas;

2. Establish a policy for absenteeism;

3. Establish policies related to course failures, and leaves of absence;

4. Establish procedures for testing;

5. Establish criteria for the maintenance of Department of Criminal Justice Training - Kentucky Police Corps records.

(c) The necessity and function of the proposed administrative regulation is as follows:

1. KRS 15.330(1)(c) and (g) authorize the Kentucky Law Enforcement Council to prescribe qualifications for attendance of law enforcement training course and to promulgate administrative regulations.

2. This administrative regulation establishes requirements for graduation from the Department of Criminal Justice Training - Kentucky Police Corps training course and for maintenance of training records.

(d) The benefits expected from this administrative regulation are: To codify the physical, course, and graduation requirements for the partici-
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pants of the Department of Criminal Justice Training - Kentucky Police Corps Program. The implementation of the Department of Criminal Justice Training - Kentucky Police Corps will provide a college education to worthy applicants, as well as provide additional police officers for needy communities.

(e) This administrative regulation will be implemented as follows: The Department of Criminal Justice Training, and cadets will comply with graduation and records requirements as established in this policy.

June 8, 2001
(1) 503 KAR 3:060, Department of Criminal Justice Training - Kentucky Police Corps basic training course cadet conduct requirements; procedures and penalties.
(2) The Department of Criminal Justice Training intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, at 9 a.m., in Room 211, Funderburk Building, Richmond, Kentucky 40475-3137.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funderburk Building, Richmond, Kentucky 40475-3137, phone: (859) 622-5897, fax: (859) 622-3162.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing.;" or
2. "I will not attend the public hearing."
(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(d) Persons who wish to file this request may obtain a request form from the Department of Criminal Justice Training at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 15A.070(1).
(b) The administrative regulation that the Department of Criminal Justice Training intends to promulgate will create 503 KAR 3:060, as follows:
1. Establish conduct, dress, and grooming requirements for members of the Department of Criminal Justice Training - Kentucky Police Corps;
2. Establish dormitory requirements;
3. Establish an Honor Code for Department of Criminal Justice Training - Kentucky Police Corps cadets;
4. Establish a policy for notification of sponsoring police agencies in the event of cadet rule violations;
5. Establish disciplinary procedures including penalties for misconduct;
(c) The necessity and function of the proposed administrative regulation is as follows:
1. KRS 15A.070(1) authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel.
2. This administrative regulation establishes the conduct requirements of cadets attending the Department of Criminal Justice Training - Kentucky Police Corps basic training course, prescribes procedures for disciplinary action, and sets penalties.
(d) The benefits expected from this administrative regulation are: To codify the conduct requirements and disciplinary procedures for the participants of the Department of Criminal Justice Training - Kentucky Police Corps basic training course.
(e) This administrative regulation will be implemented as follows: The Department of Criminal Justice Training and cadets will comply with conduct and disciplinary procedures as established in this policy.

June 15, 2001
(1) 503 KAR 3:070, Telecommunications Academy (non-CJIS).
(2) The Department of Criminal Justice Training intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, at 9 a.m., in Room 211, Funderburk Building, Richmond, Kentucky 40475-3137.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funderburk Building, Richmond, Kentucky 40475-3137, Phone: (859) 622-5897, FAX (859) 622-3162.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing.;" or
2. "I will not attend the public hearing."
(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(d) Persons who wish to file this request may obtain a request form from the Department of Criminal Justice Training at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 15.590.
(b) The administrative regulation that the Department of Criminal Justice Training intends to promulgate will create 503 KAR 3:070, as follows:
1. Graduation requirements for the Telecommunications Academy (non-CJIS);
2. Four clearly-defined areas of training in the academy;
3. Procedures related to excused absences and make-up work;
4. Procedures and cost associated with repeating the academy in the event of a failure;
5. Circumstances under which a trainee will be permitted to complete the academy in the event of termination of employment;
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7. Maintenance of training records.
   (c) The necessity and function of the proposed administrative regulation is as follows:
   1. KRS 15.550 authorizes the Commissioner of the Department of Criminal Justice Training to promulgate administrative regulations which are necessary regarding training, in-service training, and telecommunications practices;
   2. This administrative regulation establishes the graduation and records requirements for trainees attending the Telecommunications Academy (non-CJJS) conducted by the Department of Criminal Justice Training.
   (d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to establish telecommunications academy training requirements to improve and assure the quality services provided to the citizens of the Commonwealth by law enforcement telecommunications.
   (e) This administrative regulation will be implemented as follows: The Department of Criminal Justice Training, law enforcement agencies, and trainees will comply with telecommunications academy training procedures and standards as established in policy.

KENTUCKY BOARD OF EDUCATION

June 14, 2001

(1) 704 KAR 3:490, Teachers’ Professional Growth Fund, amended, to provide reimbursement to content area teachers for taking content courses or professional development.

(2) The Kentucky Board of Education intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, July 30, 2001, 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, 500 Meri Street, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to July 30, 2001 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Mr. Kevin Noland, General Counsel, Office of Legal and Legislative Services, Kentucky Department of Education, 500 Meri Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

(b) On a request for a public hearing, a person shall state:
   1. “I agree to attend the public hearing.” or
   2. “I will not attend the public hearing.”

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request from the Department of Education at the address listed above.

(7) Information relating to the proposed administrative regulation.

(8) The statutory authority is KRS 156.553.

(9) The administrative regulation that the Kentucky Board of Education intends to promulgate is 704 KAR 3:490.

(10) The necessity, function, and conformity of the proposed administrative regulation is KRS 156.553 as passed by the 2000 General Assembly, and amended by the 2001 General Assembly, establishing the application and approval process for distribution of funds and determining approved programs and courses for which applicants in the core content areas may receive funds.

(11) The benefit expected from this administrative regulation is the establishment of professional development funds for distribution to middle school teachers of science, language arts, and social studies, after priority is given to mathematics.

(12) The administrative regulation will be implemented as follows: The Kentucky Department of Education will develop and approve applications, approve providers of professional development programs, and reimburse teachers for expenses related to their participation in those programs of college content courses.

KENTUCKY COMMISSION ON THE DEAF AND HARD OF HEARING

June 14, 2001

(1) 738 KAR 1:010, Eligibility requirements, application and certification procedures to receive specialized telecommunications equipment for the deaf, hard of hearing and speech impaired.

(2) Kentucky Commission on the Deaf and Hard of Hearing (KCDHH) intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, from 1 p.m. to 2:30 p.m., at the KCDHH Conference Room located at 632 Versailles Road, Frankfort, 40601.

(4)(a) The public hearing will be held if:
   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Commission on the Deaf and Hard of Hearing, ATTN: Dr. Bobbie Beth Scoggins, 632 Versailles Road, Frankfort, Kentucky 40601, 800-372-2907 (TTY), 502-573-3594 (Fax).

(b) On a request for public hearing, a person shall state:
   1. “I agree to attend the public hearing.”;
   2. “I will not attend the public hearing.”

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Commission on the Deaf and Hard of Hearing at the address listed above.

(7) Information relating to the proposed administrative regulation.

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(a) The statutory authority for the promulgation of an administrative regulation relating to TDD Distribution Program is KRS 163.525(5).

(b) The administrative regulation that the Kentucky Commission on the Deaf and Hard of Hearing intends to promulgate 735 KAR 1:010, Eligibility requirements, application and certification procedures to receive specialized telecommunications equipment for the deaf, hard of hearing and speech impaired, will not amend an existing administrative regulation. It will clarify the consumers responsibilities, explain the fiscal restraints the program is currently operating under, remove all references to the loaner program, expand definitions, explain protocol for the waiting list, revise maintenance and repair provisions, modify and updates the program application and includes minor changes to ensure consistency of language.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The amendments are necessary to ensure the program process, acceptable verification, consumer responsibilities and the waiting list protocol while removing all references to the loaner program which has proved to be cost prohibitive during times of fiscal restraint. Funds previously allocated to the loaner program will be redirected to the purchase of equipment for individuals on the waiting list.

(d) The benefits expected from administrative regulation are: The program will run more efficiently without the fiscal obligations of the loaner program. Those funds previously allocated to upkeep and maintenance of the loaner program will be used to issue equipment to individuals currently on the waiting list.

(e) The administrative regulation will be implemented as follows: The KCDHH will continue to operate the TDD Distribution Program as outlined in the existing administrative regulations until the amendments take effect. Once the amendments take effect, the KCDHH will completely discontinue the loaner program, and begin distributing the revised application form. All ownership rights to the equipment remain the same, with the exception of loaner equipment currently in use by individuals eligible to receive equipment from the program. All costs associated with the repair and maintenance of equipment will become the responsibility of the individual after the 5 year warranty period ends.

June 14, 2001

(1) 735 KAR 1:020, Processing system including vendor participation, security, and maintenance and repair for specialized telecommunications equipment.

(2) Kentucky Commission on the Deaf and Hard of Hearing (KCDHH) intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 23, 2001, from 1 p.m. to 2:30 p.m. at the KCDHH Conference Room located at 632 Versailles Road, Frankfort, Kentucky, 40601.

(4)(a) The public hearing will be held if:

1. If requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 23, 2001, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Commission on the Deaf and Hard of Hearing, ATTN: Dr. Bobbie Beth Scoggins, 632 Versailles Road, Frankfort, Kentucky 40601. 800-372-2807 (VIT), 502-573-3594 (Fax).

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Commission on the Deaf and Hard of Hearing at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to TDD Distribution Program is KRS 163.525(5).

(b) The administrative regulation that the Kentucky Commission on the Deaf and Hard of Hearing intends to promulgate 735 KAR 1:020, Processing system including vendor participation, security, and maintenance and repair for specialized telecommunications equipment, will not amend an existing administrative regulation. It will clarify the consumers responsibilities, explain the fiscal restraints the program is currently operating under, remove all references to the loaner program, expand definitions, explain protocol for the waiting list, revise maintenance and repair provisions, modify and updates the program application and includes minor changes to ensure consistency of language.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The amendments are necessary to ensure the program process, acceptable verification, consumer responsibilities and the waiting list protocol while removing all references to the loaner program which has proved to be cost prohibitive during times of fiscal restraint. Funds previously allocated to the loaner program will be redirected to the purchase of equipment for individuals on the waiting list.

(d) The benefits expected from administrative regulation are: The program will run more efficiently without the fiscal obligations of the loaner program. Those funds previously allocated to upkeep and maintenance of the loaner program will be used to issue equipment to individuals currently on the waiting list.

(e) The administrative regulation will be implemented as follows: The KCDHH will continue to operate the TDD Distribution Program as outlined in the existing administrative regulations until the amendments take effect. Once the amendments take effect, the KCDHH will completely discontinue the loaner program, and begin distributing the revised application form. All ownership rights to the equipment remain the same, with the exception of loaner equipment currently in use by individuals eligible to receive equipment from the program. All costs associated with the repair and maintenance of equipment will become the responsibility of the individual after the 5 year warranty period ends.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training

June 15, 2001

(1) 503 KAR 2:320, Air contaminants.
(2) The Kentucky Occupational Safety and Health Standards Board intends to amend the regulation cited above.
(3) A public hearing to receive oral and written comments on the proposed amendment to the administrative regulation has been scheduled for July 30, 2001, at 10 a.m. (ET), in the Bay 3 Conference Room at 1047 U.S. 127 South, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, or 1 person representing the administrative body or association, agrees to be present at the public hearing.

(b) If a request for a public hearing is not received from the required number of people at least 10 days prior to July 30, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mr. Tim Chancellor, Health Standards Specialist, Kentucky Labor Cabinet, OSH Standards Office, 1047 E. 127 South, Suite 4, Frankfort, Kentucky 40601, telephone (502) 564-3070, or facsimile the request to (502) 564-1682.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Labor Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to occupational safety and health is KRS Chapter 338.

(b) The administrative regulation that the Occupational Safety and Health Standards Board intends to promulgate will amend KAR 2:320, as follows: This emergency administrative regulation, in Section 6 incorporates, by reference, a Federal Register publication, dated January 18, 2001, Volume 66, Number 12, pp. 5318-5325 which revises 29 CFR 1910.1030, "Occupational Exposure to Bloodborne Pathogens." These changes were mandated by the Needlestick Safety and Prevention Act, and codify the requirement or the use of safer medical devices. The changes also add a sharps injury recordkeeping requirement. This emergency regulation, also in Section 6, incorporates by reference two Federal Register publications amending 29 CFR 1910.143, "Occupational Exposure to Cotton Dust." The first Federal Register publication, dated November 3, 2000, Volume 65, Number 235, pp. 76583-76669, amends 29 CFR 1910.143 to include "batch kier" washed cotton in the exemptions section of that standard. The second Federal Register publication, dated April 6, 2001, Volume 66, Number 67, pp. 18191-18192, confirms the effective date of the amendments published in the December 7, 2000 Federal Register. Finally, this emergency regulation updates the incorporation by reference of the Code of Federal Regulations to July 2000, and corrects typographical errors and omissions in Section 6.

(c) The necessity and function of the proposed administrative regulation is: Kentucky's occupational safety and health program is mandated by federal law to be at least as effective as the federal program. Kentucky does not have an effective alternative to this revision; accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate these federal requirements.

(d) The benefits expected from the proposed amendment to the administrative regulation are: The incorporation of this revision assures conformity with the Code of Federal Regulations, assuring that the regulations of the Kentucky program in this area are as effective as those of the Occupational Safety and Health Administration.

(e) The administrative regulation will be implemented as follows: The proposed amendment to the administrative regulation will be implemented by the Division of OSH Education and Training through its training sessions and seminars and its voluntary surveys, and by the Division of Compliance through its enforcement investigations.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Charitable Gaming

June 14, 2001

(1) 820 KAR 1:001. Definitions for 820 KAR Chapter 1.

(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-5714, (502) 573-5528, Fax (502) 573-6625.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(5)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238,515(9).

(b) This is not a new regulation but an amendment to the existing regulation setting forth definitions for terms used in 820 KAR Chapter 1. The proposed regulation will define the term "seal card game with a cumulative or carryover prize."

(c) The necessity and function of this administrative regulation is as follows: KRS 238,515(9) authorizes the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 238. The proposed definition is necessary to describe a specific type of charitable game regulated by the department.

(d) The benefits expected from the administrative regulation are: The proposed definition will describe this specific type of charitable game and will form the basis for a proposed administrative regulation regarding standards for the play of this specific type of game.

(e) The administrative regulation will be implemented as follows: The definition for "seal card game with a cumulative or carryover prize" will be
added to this regulation, and the department will propose amendments to an existing administrative regulation to set forth standards regarding the play of these specific types of games.

June 14, 2001
(1) 820 KAR 1:010. Temporary licensure.
(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.
(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-6526, Fax (502) 573-6626.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.
(7) Information relating to this administrative regulation.
(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(4), 238.525(4), 238.530(1) and (2), 238.535(11), and 238.555(1).
(b) This amendment to the regulation is for the purpose of making changes to the department's license applications. This regulation will:
1. Revise Form CG-1, "Application for License for Charitable Organization to Conduct Charitable Gaming in the Commonwealth of Kentucky (6/99);
2. Revise Form CC-2, "Application for License for Distributor of Charitable Gaming Supplies and Equipment (6/99);
3. Revise Form CG-3, "Application for License for Manufacturer of Charitable Gaming Supplies and Equipment (6/99);
4. Revise Form CG-4, "Application for License to Operate a Charitable Gaming Facility in the Commonwealth of Kentucky (6/99);
5. Revise Form CG-Schedule A, "Application for Charity Fundraising Event License or Special Limited Charity Fundraising Event License (For Use With Form CG-1)(6/99)."
(c) The necessity and function of this administrative regulation is as follows: The department is authorized to issue temporary licenses. Applicants are required to submit applications on the forms approved in this regulation. The information obtained on these forms is necessary to the department's evaluation of an applicant's qualification for licensure.
(d) The benefits expected from the administrative regulation are:
1. The license application forms will be revised to obtain additional information from prospective and current licensees and to enable department staff to make a more thorough determination as to qualification for licensure.
2. The administrative regulation will be implemented as follows: Each applicant for a license is required to complete a particular application in order to receive a license. The department's licensing staff is responsible for the processing of applications and for providing assistance to applicants in completing the required forms.

June 14, 2001
(1) 820 KAR 1:015. Permanent licensure.
(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.
(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5526, Fax (502) 573-6626.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.
(7) Information relating to this administrative regulation.
(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(4), 238.525(4), 238.530(1) and (2), 238.535(11), and 238.555(1).
(b) This amendment to the regulation is for the purpose of making changes to the department's license applications. This regulation will:
1. Revise Form CG-1, "Application for License for Charitable Organization to Conduct Charitable Gaming in the Commonwealth of Kentucky
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(6/99)

2. Revise Form CG-2, "Application for License for Distributor of Charitable Gaming Supplies and Equipment (6/69);
3. Revise Form CG-3, "Application for License for Manufacturer of Charitable Gaming Supplies and Equipment (6/69);
4. Revise Form CG-4, "Application for License to Operate a Charitable Gaming Facility in the Commonwealth of Kentucky (6/99);
5. Revise Form CG-Schedule A, "Application for Charity Fundraising Event License or Special Limited Charity Fundraising Event License (For Use With Form CG-1)(6/99)."

(c) The necessity and function of this administrative regulation is as follows: The department is authorized to issue permanent licenses. Applicants are required to submit applications on the forms approved in this regulation. The information obtained on these forms is necessary to the department's evaluation of an applicant's qualification for licensure.

(d) The benefits expected from the administrative regulation are: The license application forms will be revised to obtain additional information from prospective and current licensees and to enable department staff to make a more thorough determination as to qualification for licensure.

(e) The administrative regulation will be implemented as follows: Each applicant for a license is required to complete a particular application in order to receive a license. The department's licensing staff is responsible for the processing of applications and for providing assistance to applicants in completing the required forms.

June 14, 2001

(1) 620 KAR 1:025. Quarterly reports of a licensed charitable organization.

(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(4) and (9), 238.550, and 238.570(1).

(b) The amendment to the regulations is for the purpose of making changes to the department's quarterly report forms. This regulation will:
1. Revise Form CG-GR, "Quarterly Activity Report;"
2. Revise Attachment A, "Charitable Gaming Accounting Summary;"
3. Revise Attachment B, "Report of All Prize Winners of $500 or More;"  
4. Revise Attachment C, "Special License Activity Report;"
5. Revise Attachment D, "Summary of Gaming Activity."

The necessity and function of this administrative regulation is as follows: KRS 238.550 requires licensed charitable organizations to submit financial reports. KRS 238.570 requires licensed charitable organizations to pay to the department a fee in the amount of four-tenths of one percent (.04%) of gross receipts derived from charitable gaming. This regulation requires that reports be filed quarterly and that the required fee be paid on submission of each report. Information obtained on the quarterly report form and attachments is required to ascertain compliance with statutory reporting obligations.

(d) The benefits expected from the administrative regulation are: Revisions to the quarterly report form and attachments will provide more accurate information, the evaluation of which will enable the department to ascertain compliance with reporting obligations imposed in KRS 238.550.

(e) The administrative regulation will be implemented as follows: All licensed charitable organizations are required to submit reports on the forms approved in this regulation. The department's accounting staff is responsible for processing the reports and for providing assistance to organizations in completing the forms.

June 14, 2001

(1) 620 KAR 1:026. Quarterly report of a licensed charitable gaming facility.

(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as requested.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing;"

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.

(c) This is a new administrative regulation designed to require holders of facility licenses issued by the department to file reports on a quarterly basis. This regulation will:
1. Establish the due date for filing a facility's quarterly report;
2. Require facility license holders to file a report:
   a. Identifying the facility's employees;
   b. Identifying each licensed charitable organization conducting gaming in the facility during the calendar quarter;
   c. Indicating the amount of rent received during the calendar quarter from each organization; and
   d. Indicating the number of any special licensed events held in the facility during the calendar quarter along with the organization hosting the event, if any such events are hosted;
3. Establish a fine for the late filing of the report by a facility license holder;
4. Authorize revocation or denial of a facility license if the license holder fails to file the report or to pay assessed late fines;

(c) The necessity and function of this administrative regulation is as follows: The department is authorized in KRS 238.515(9) to promulgate administrative regulations to carry out the provisions of KRS Chapter 238, KRS 238.555(6) requires quarterly reporting by charitable gaming facilities. This administrative regulation establishes the obligation to file the report, the due date for the filing of the quarterly report and any penalties assessed for the license holder's failure to file the report as required.

(d) The benefits expected from the administrative regulation are: Facility operators will report to the department concerning their activities in the leasing of space to licensed charitable organizations for gaming purposes. Periodic review of the required reports will enable the department to ascertain the facility's compliance with the provisions of KRS 238.555(4), (5) and (7). Comparing facility quarterly reports to rent information provided by licensed charitable organizations on their own quarterly reports will enable the department to ascertain that both the facility and the organizations are fulfilling their obligations to report accurately concerning amounts paid for charitable gaming rent. Information in these reports will also enable the department to develop statistical information regarding trends in amounts paid in facility rent.

(e) The administrative regulation will be implemented as follows: Holders of facility licenses will be required to report to the department on a quarterly basis. The report will be submitted on a form adopted by the proposed regulation. Penalties will be assessed for the late filing of the report. The department's accounting staff will be responsible for receiving and filing the reports and will also be responsible for invoicing facility license holders for any assessed late fines. The accounting staff will also provide assistance to facility operators in completing the reports.

June 14, 2001

(1) 820 KAR 1:027. Quarterly report of a licensed distributor regarding card-minding devices.
(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.
(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5628, Fax (502) 573-6625.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing;"
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.
(c) The necessity and function of this administrative regulation is as follows: Licensed charitable organizations are authorized under KRS 238.545(1)(b) to offer card-minding devices, as defined in KRS 238.505(26), for use by bingo players. KRS 238.540(6) requires that a licensed charitable organization obtain charitable gaming supplies and equipment, of which card-minding devices are a type, only from a licensed distributor. KRS 238.530(5) permits the department to require a licensed distributor to report on its activities regarding the furnishing of charitable gaming supplies. This administrative regulation establishes the method and time of filing for reports concerning card-minding devices.
(d) The benefits expected from the administrative regulation are: The regulation will establish the method and time of filing for reports regarding card-minding devices. Filing of these reports will enable the department to ascertain organization and distributor compliance with the obligation.
to accurately report concerning expenses charged and paid for charitable gaming supplies and equipment. Periodic review of card-minding device usage reports will enable the department to compile statistical information regarding amounts paid for these specific items of supplies and equipment.

(e) The administrative regulation will be implemented as follows: Holders of distributor licenses will be required to report to the department on a quarterly basis regarding the card-minding devices they provide to licensed charitable organizations. The report will be submitted on a form adopted by the proposed regulation. Penalties will be assessed for the late filing of the report. The department's accounting staff will be responsible for receiving and filing the reports and will also be responsible for invoicing distributors for any owed late fees. The accounting staff will also provide assistance to distributors in completing the reports.

June 14, 2001
(1) 820 KAR 1:030. Charity game ticket standards.
(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(b)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subjeet matter may file a request to be informed by the administrative body.
6. Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.
(8) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2) and (9) and 238.545(1) and (2).

This administrative regulation, as amended, is designed to establish standards for the construction and distribution of charity game tickets and for the conduct of play of charity game tickets. Amendments to this regulation will:
1. Require licensed distributors and charitable organizations to use only charity game tickets that conform to the requirements of this administrative regulation;
2. Describe items that must be printed on individual charity game tickets;
3. Require that a charitable organization only play charity game tickets where the game serial number appearing on the individual tickets matches that appearing on the seal card that accompanies the deal of tickets;
4. Require that a charitable organization only award a prize to the winner of a charity game ticket if the serial number on the ticket matches that appearing on the seal card accompanying the deal of tickets.
5. Require that charitable organizations award prizes in charity game tickets only in accordance with the prize structure designed by the game manufacturer.
6. Set forth standards regarding the play of seal card games with cumulative or carryover prizes, including the requirement that a charitable organization report quarterly concerning its play of such games.

(c) The necessity and function of this administrative regulation is as follows: KRS 238.515(9) authorizes the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 238. The department is authorized to establish reasonable standards for the conduct of charitable gaming and to establish certain standards for charity game ticket construction, distribution and rules of play. This administrative regulation establishes standards for the construction, distribution and play of charity game tickets.

(d) The benefits expected from the administrative regulation are: This regulation will clarify the obligation that only charity game tickets conforming to Kentucky regulations may be played in charitable gaming in the Commonwealth. The requirement that charitable organizations only pay out prizes for tickets where serial numbers on the tickets match those on accompanying seal cards is designed to promote game security and integrity and to promote public confidence in the security and integrity of these games. Similar analysis applies to the obligation that organizations play charity game tickets only in accordance with the manner in which the manufacturer has designed a particular game. Also. specific standards relative to seal card games with carryover prizes are designed to promote better reporting concerning these games, as well as to promote public confidence in the integrity of the games themselves and the manner in which the various organizations conduct them.

(e) The administrative regulation will be implemented as follows: Compliance officers within the department's compliance branch will monitor the use of charity game tickets by licensed organizations, generally during the process of inspecting bingo sessions and other charitable gaming events. Compliance officers will notify any organization of a violation of this regulation. The department's accounting staff will be responsible for receiving and filing attachments to organization quarterly reports regarding the play of seal card games with carryover prizes. The accounting staff and compliance officers will be responsible for providing needed assistance concerning rules for reporting and play of charity game tickets.

June 14, 2001
(1) 820 KAR 1:040. Bingo standards.
(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(b)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
6. Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.
(8) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2) and (9) and 238.545(1) and (2).

This administrative regulation, as amended, is designed to establish standards for the construction and distribution of charity game tickets and for the conduct of play of charity game tickets. Amendments to this regulation will:
1. Require licensed distributors and charitable organizations to use only charity game tickets that conform to the requirements of this administrative regulation;
2. Describe items that must be printed on individual charity game tickets;
3. Require that a charitable organization only play charity game tickets where the game serial number appearing on the individual tickets matches that appearing on the seal card that accompanies the deal of tickets;
4. Require that a charitable organization only award a prize to the winner of a charity game ticket if the serial number on the ticket matches that appearing on the seal card accompanying the deal of tickets;
5. Require that charitable organizations award prizes in charity game tickets only in accordance with the prize structure designed by the game manufacturer.
6. Set forth standards regarding the play of seal card games with cumulative or carryover prizes, including the requirement that a charitable organization report quarterly concerning its play of such games.

(c) The necessity and function of this administrative regulation is as follows: KRS 238.515(9) authorizes the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 238. The department is authorized to establish reasonable standards for the conduct of charitable gaming and to establish certain standards for charity game ticket construction, distribution and rules of play. This administrative regulation establishes standards for the construction, distribution and play of charity game tickets.

(d) The benefits expected from the administrative regulation are: This regulation will clarify the obligation that only charity game tickets conforming to Kentucky regulations may be played in charitable gaming in the Commonwealth. The requirement that charitable organizations only pay out prizes for tickets where serial numbers on the tickets match those on accompanying seal cards is designed to promote game security and integrity and to promote public confidence in the security and integrity of these games. Similar analysis applies to the obligation that organizations play charity game tickets only in accordance with the manner in which the manufacturer has designed a particular game. Also, specific standards relative to seal card games with carryover prizes are designed to promote better reporting concerning these games, as well as to promote public confidence in the integrity of the games themselves and the manner in which the various organizations conduct them.

(e) The administrative regulation will be implemented as follows: Compliance officers within the department's compliance branch will monitor the use of charity game tickets by licensed organizations, generally during the process of inspecting bingo sessions and other charitable gaming events. Compliance officers will notify any organization of a violation of this regulation. The department's accounting staff will be responsible for receiving and filing attachments to organization quarterly reports regarding the play of seal card games with carryover prizes. The accounting staff and compliance officers will be responsible for providing needed assistance concerning rules for reporting and play of charity game tickets.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled. 

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled. 

(5) (a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625. 

(b) On a request for public hearing, a person shall state: 
1. “I agree to attend the public hearing,”; or 
2. “I will not attend the public hearing.” 

(6) (a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body. 

(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above. 

(7) Information relating to this administrative regulation: 

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2), 238.515(9), and 238.545(1)(b). 

(b) Proposed amendments to this administrative regulation are designed to establish standards concerning the use and control of “card-minding devices” offered by licensed charitable organizations for use by bingo players. Amendments to this regulation will: 

1. Establish standards for the approval and use of card-minding devices and related systems; 
2. Establish standards for manufacture, distribution and use of card-minding devices; 
3. Establish requirements for licensed charitable organizations in the use of card-minding devices; 
4. Require licensed manufacturers, distributors and charitable organizations providing or using card-minding devices to maintain records; 
5. Authorize department representatives to examine, inspect and have access to any individual card-minding device and its related systems at any time; 
6. Establish supervision of player use of card-minding devices and training to volunteers in charitable gaming; 
7. Require licensed distributors to file reports concerning card-minding device usage; 
8. Require licensed manufacturers to, on a quarterly basis, provide to the department copies of distribution agreements they have with licensed distributors regarding card-minding devices; and 
9. Require charitable organizations to report amounts paid for card-minding device purchase or rental on quarterly reports required pursuant to 820 KAR 1:025. 

(c) The necessity and function of this administrative regulation is as follows: The department is authorized in KRS 238.515(9) to promulgate administrative regulations to carry out the provisions of KRS Chapter 238. KRS 238.545(1)(b) directs the department to promulgate an administrative regulation concerning the use and control of card-minding devices. 

(d) The benefits expected from the administrative regulation are: The regulation will establish standards for the manufacture and distribution of card-minding devices and for the use of such devices by licensed charitable organizations. The regulation will provide the department with the authority to examine and inspect any individual card-minding device and will allow the department to exercise appropriate control over the introduction of specific devices into the marketplace. This ability will help to promote public confidence in the security and integrity of the devices and the manner in which they are used. Reporting obligations will enable the department to capture in necessary detail the extent to which these devices are used in charitable gaming, including capturing amounts charged by manufacturers and distributors for their use, as well as amounts paid by licensed charitable organizations for their use. 

(e) The administrative regulation will be implemented as follows: Manufacturers and distributors of card-minding devices will notify the department of their intent to sell such devices in the Commonwealth of Kentucky. The department, through its legal staff, office of the commissioner and the directors of the divisions of licensing and compliance and enforcement will determine if specific devices conform to the standards set forth in this proposed regulation. The accounting staff will be responsible for receiving and filing reports required under this regulation. The department’s compliance officers will ascertain, through the inspection process, that card-minding devices are being used properly by charitable organizations. All department staff will be responsible for providing any needed assistance concerning use and control of card-minding devices. 

June 14, 2001

(1) 820 KAR 1:070. Exempt activities. 

(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above. 

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton-Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. 

A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party. 

(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing. 

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled. 

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled. 

(5) (a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625. 

(b) On a request for public hearing, a person shall state: 
1. “I agree to attend the public hearing,”; or 
2. “I will not attend the public hearing.” 

(8) (a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body. 

(b) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above. 

(7) Information relating to this administrative regulation: 

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2), 238.535(1) and 238.535(2). 

(b) This is an amendment to the existing regulation required by a statute enactment imposing a reporting obligation on exempt organizations. This amendment will provide a financial report form to be submitted by exempt organizations. 

(c) The necessity and function of this administrative regulation is as follows: KRS 238.515(9) authorizes the department to promulgate admin-
istitutional regulations to carry out the provisions of KRS Chapter 238. KRS 238.535(2) authorizes any charitable organization to be exempt from licensure provided they meet criteria set out in that statute. The statute requires exempt organizations to submit an annual financial report describing their gaming activity for a particular calendar year. The statute also requires the department to provide a form for exempt organizations to use in submitting the required report.

(d) The benefits expected from the administrative regulation are: The proposed regulation will provide a form for exempt organizations to utilize in filing the annual report required under the statute.

(e) The administrative regulation will be implemented as follows: The department's accounting section will be responsible for providing exempt organizations with Form CG-EFH for completion. Upon submission, the accounting staff will review these reports for accuracy. The accounting staff will also provide assistance to organizations in completing the forms.

June 14, 2001
(1) 820 KAR 1:120. Other allowable expenses.

(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(a) (4) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.

(5) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(d) Persons who wish to file this request may obtain a request form from the Department of Charitable Gaming at the address listed above.

(e) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2), (5) and 238.550(6).

(b) This administrative regulation is designed to approve expenses determined to be legitimate but which have not already been authorized by statute. The amendment to this regulation will authorize as a charitable gaming expense any federal excise taxes paid by a charitable organization during the calendar year. These excise taxes are assessed against the receipts derived from the sale of charity game tickets. KRS 238.536(1)(c) excludes the amount of these taxes from the calculation of an organization's 40% retention percentage as required in KRS 238.536(1).

(c) The necessity and function of this administrative regulation are as follows: The department is authorized to approve expenses determined to be legitimate but which have not already been authorized by statute. The amendment to this administrative regulation establishes federal excise taxes, if paid by an organization during the calendar year, as such expenses. This amendment will give effect to the statutory provision that these taxes be excluded from the retention percentage calculation and will also require that an organization paying such taxes report the amount paid on the quarterly report form required by 820 KAR 1:125.

(f) Benefits expected from the administrative regulation are: The regulation will establish an expense the department has determined to be legitimate, allowing expense incurred by licensed charitable organizations in the conduct of charitable gaming. A reporting mechanism will be provided so that the department will be made aware if an organization pays such taxes, and the department will know the amount to be excluded from the retention percentage calculation.

(g) The administrative regulation will be implemented as follows: Allowed charitable gaming expenses are reported on an organization's quarterly report and submitted to the department for review by the department's accounting section within the licensing division. The accounting staff will review amounts reported for this expense as with the other authorized charitable gaming expenses.

June 14, 2001
(1) 820 KAR 1:130. Administrative actions.

(2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Tuesday, July 24, 2001, at 9 a.m., at the Department of Charitable Gaming (large conference room), 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation if requested at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Tuesday, July 24, 2001, the public hearing will be canceled.

(5) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, (502) 573-5528, Fax (502) 573-6625.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
June 15, 2001

(1) 901 KAR 5:040, Verification of birth and death facts.
(2) Cabinet for Health Services, Department for Public Health intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001, at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - SW-B, Frankfort, Kentucky 40621, (502) 564-7573 (Fax).

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."
2. "I will not attend the public hearing."

(b) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to KRS 213.141, (b) The administrative regulation that the Department for Public Health intends to promulgate 901 KAR 5:040 to incorporate by reference the forms on which facts may be verified by the registrar and to bring the regulation into compliance with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 213.025 requires the secretary for health services to designate a state registrar of vital statistics, to be known as "state registrar", to perform duties established in KRS 213.031. This administrative regulation establishes the responsibility of the state registrar to verify certain items or facts appearing on birth and death certificates and incorporates the forms by reference.

(c) The benefits expected from administrative regulation are: Compliance with KRS Chapter 13A and to incorporate by reference the official documents of birth and death certificates the state registrar is authorized to verify.
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June 15, 2001

(1) 902 KAR 20:018. Operation and services; renal dialysis facilities.

(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

(3) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 5W-D, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, 275 East Main Street, SE-A, Frankfort, Kentucky 40621.

(3) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services regulations may call toll free 1-800-372-2973 (V/TDD).

(4) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of administrative regulations is KRS 216B.042, 216B.105, 314.011(8), 314.042(8).
(b) The cabinet intends to amend 902 KAR 20:018 to allow dialysis technicians certified by the Kentucky Board of Nursing to perform dialysis therapy in licensed dialysis facilities. The regulation will also be amended to amend requirements relating to patient safety. Other amendments will comply with drafting requirements of KRS Chapter 13A.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 216B.042 and 216B.105 mandate that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation provides for the licensure requirements for the operation and services of renal dialysis facilities.
(d) The benefits expected from these proposed amendments are that this regulation will comply with HB 184 as enacted by the 2001 General Assembly of the Kentucky Legislature and safety for patients of renal dialysis facilities will be enhanced.
(e) The administrative regulation will be implemented as follows: By the Office of Inspector General, Cabinet for Health Services.

June 15, 2001

(1) 906 KAR 1:120. Informal dispute resolution.

(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

(5) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 5W-D, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, 275 East Main Street, SE-A, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of administrative regulations relating to health facilities and health services is KRS 194A.050 and 42 CFR 488.331
(b) The cabinet intends to amend 906 KAR 1:120 to establish formats for the informal dispute resolution process and define the role of the informal dispute resolution coordinator. Other amendments will comply with drafting requirements of KRS Chapter 13A.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 42 CFR 488.331 requires the cabinet to establish an informal dispute resolution process to be used by a provider to informally dispute a finding of deficiency at a nursing facility or skilled nursing facility. This administrative regulation establishes the informal dispute resolution process and expands the process to all long term care facilities.
(d) The benefits expected from these proposed amendments are that they will allow long term care providers an opportunity to informally dispute cited deficiencies and scope and severity assessments that constitute findings of substandard quality of care or immediate jeopardy.
(e) The administrative regulation will be implemented as follows: By the Office of Inspector General, Cabinet for Health Services.
June 15, 2001

(1) 907 KAR 1:840, income standards for Medicaid.

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(a) The public hearing will be held if:
   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

(c) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

(b) On a request for public hearing, a person shall state:
   1. "I agree to attend the public hearing;" or
   2. "I will not attend the public hearing."

(5) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(6) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to income standards for Medicaid are KRS 194A.030(3), 194A.050(1), 42 USC 1366a, b, d, and 1397aa.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:840, Income standards for Medicaid, to allow the exemption of interest and dividend income, simplify the consideration of lump sum income, correctly consider Veteran's Administration benefits and make drafting and formatting changes to conform to KRS Chapter 13A requirements.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the methodology to consider income in a Medicaid determination.

(d) The benefits expected from this administrative regulation are: To conform to federal regulation and allow eligibility workers to be more efficient and accurate.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

June 15, 2001

(1) 907 KAR 1:845, Resource standards for Medicaid.

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(a) The public hearing will be held if:
   1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
   2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

(c) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

(b) On a request for public hearing, a person shall state:
   1. "I agree to attend the public hearing;" or
   2. "I will not attend the public hearing."

(5) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(6) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to resource standards for Medicaid are KRS 194A.030(3), 194A.050(1) and 205.520(3).

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:845, Resource standards for Medicaid, to modify the Medicaid eligibility process by excluding all nonliquid resources from the eligibility determination and to make drafting and formatting changes to comply with KRS Chapter 13A requirements.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the procedures used to determine Medicaid eligibility.

(d) The benefits expected from this administrative regulation are: To allow the eligibility workers to more efficiently and correctly determine the countable resources in a Medicaid eligibility determination.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services.
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Services, Cabinet for Health Services.

June 15, 2001

(1) 007 KAR 1:655, Spousal impoverishment and nursing facility requirements for Medicaid.

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

3 A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001 at 9 a.m., in the Cabinet for health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

5(ii) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - SW-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564- 7573 (Fax).

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

5(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to spousal impoverishment and nursing facility requirements for Medicaid eligibility are KRS 194A.030(3), 194A.050(1), and 205.520(3).

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 079 KAR 1:555, Spousal impoverishment and nursing facility requirements for Medicaid to conform to federal regulation in the method used to count Veteran's Administration benefits in a Medicaid eligibility determination and to make drafting and formatting changes to conform to KRS Chapter 13A requirements.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes spousal impoverishment and nursing facility requirements for Medicaid eligibility determinations.

(d) The benefits expected from this administrative regulation are: That the Medicaid Program will be in conformity with federal regulation and veterans residing in nursing homes will be able to retain up to an additional $40 per month for personal needs.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

June 15, 2001

(1) 007 KAR 1:655, Special income requirements for supports for community living (SCL), hospice, and home and community based services (HCBS).

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

3 A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to July 31, 2001, the public hearing will be canceled.

5(ii) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - SW-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564- 7573 (Fax).

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

5(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to special income requirements for supports for community living (SCL), hospice, and home and community based services (HCBS) are KRS 194A.030(3), 194A.050(1) and 205.520(3).

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 007 KAR 1:655, Special income requirements for supports for community living (SCL), hospice, and home and community based services (HCBS) to allow a veteran or the spouse of a veteran in a Medicaid waiver program to retain up to an additional $90 for a personal needs allowance and to make drafting and formatting changes required by KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes special income requirements for supports for community living (SCL), hospice, and home and community based services (HCBS) Medicaid eligibility determinations.
(d) The benefits expected from this administrative regulation are: A veteran or the spouse of a veteran will be able to retain up to an additional $50 for a personal needs allowance.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development

June 15, 2001

(1) 921 KAR 2:046. Adverse Actions; conditions.
(2) Cabinet for Families and Children, Department for Community Based Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to July 31, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (fax).

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, Third Floor West, OHR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-372-2973 (TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 921 KAR 2:046 is KRS 194B.050(1), 205.200(2), and 42 USC 601 et seq.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 921 KAR 2:046. The proposed amendment to the administrative regulation is necessary to:
1. Amend notification requirements.
2. Add information about conditions under which an application is denied or assistance decreased or discontinued and notification given for Kinship Care Program applicants and recipients.
4. Make necessary corrections to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive public assistance be prescribed by administrative regulations. This administrative regulation sets forth the conditions under which an application is denied or assistance is decreased or discontinued and notification is given to applicants or recipients of the Kentucky Transitional Assistance Program.

(d) The benefits expected from this administrative regulation are: The notifications to applicants and recipients of the Kentucky Transitional Assistance Program will be simplified. Information will be added regarding notification requirements for Kinship Care Program applicants and recipients.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services.

June 15, 2001

(1) 921 KAR 3:025, Technical requirements.
(2) Cabinet for Families and Children, Department for Community Based Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for July 31, 2001, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to July 31, 2001, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (fax).

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll-free 1-800-372-2973 (V/TTY).

(7) Information relating to the proposed administrative regulation.


(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 921 KAR 3:025. The proposed administrative regulation is necessary to:

1. Amend Section 3 to add that an alien whose eligibility status is pending verification from a federal agency shall be eligible to participate for up to 6 months from the date of the original request for verification;
3. Make technical changes as necessary to comply with KRS Chapter 13A.
4. Clarify and update definitions in Section 1.
5. Clarify and update technical eligibility criteria for noncitizens.
6. Clarify and update work requirements in Section 8.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To set forth the technical requirements used by the cabinet in the administration of the Food Stamp Program; and comply with federal mandates to implement 7 CFR Parts 272 and 273 Final Rule, published November 21, 2000, that is required to be effective by June, 2001. Comply with the Final Rule published January 17, 2001, at 7 CFR Part 273, regarding work requirements to be effective August, 2001.

(d) The benefits expected from this administrative regulation are:

1. The cabinet shall enforce effective and efficient work requirements pursuant to 7 CFR Part 273 Final Rule published January 17, 2001; and
2. An extended period of 6 months, from the date of the original request for verification of eligibility status by a federal agency, for an alien to participate in the Food Stamp Program, published in the Final Rule November 21, 2000, at 7 CFR Parts 272 and 273.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.
VOLUME 28, NUMBER 1 – JULY 1, 2001
EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, JULY 15, 2001

NOTE: Emergency administrative regulations expire 170 days from publication or upon replacement, repeal, or withdrawal.

STATEMENT OF EMERGENCY
10 KAR 7:010E

This emergency administrative regulation in accordance with KRS 13A:190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation is necessary in order to implement and provide funding for the Kentucky Agency for Substance Abuse Policy (KY-ASAP) local boards. These local boards are authorized by SB 315 of the 2000 General Assembly and codified at KRS 12.330-12.334 and in accordance with KRS 248.722, the Tobacco Settlement Agreement and the Kentucky Health Care Improvement Fund. The purpose of KY-ASAP is to implement a statewide strategic plan for the development of policy directed to reduce the prevalence of tobacco use and other drug and alcohol use among both the youth and adult populations of Kentucky. An ordinary administrative regulation is not sufficient as the administrative regulation must be implemented immediately due to the threat to public health which was recognized in the "Tobacco Settlement Agreement". This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
LARRY CARRICO, Executive Director

GOVERNOR’S OFFICE
Kentucky Agency for Substance Abuse Policy
(Proclamation Department of Health and Family Services)

10 KAR 7:010E, Kentucky Agency For Substance Abuse Policy (KY-ASAP) Program and start-up funding.

RELATES TO: KRS 12.330-12.334, 45A, 222.211, 248.723
EFFECTIVE: June 13, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.332 authorizes the Kentucky Agency for Substance Abuse Policy (KY-ASAP) to promulgate regulations for the implementation of a statewide strategic plan which develops policy directed to reduce the prevalence of tobacco use and drug and alcohol abuse among both the youth and adult populations in Kentucky. This administrative regulation prescribes: the mechanism for the distribution of start-up funds for the implementation of the approved long-term community strategy; the incentives to encourage formation of multicounty advisory and coordination boards; the composition of a local board; and reporting requirements.

Section 1. Definitions. (1) "Initial fiscal agent" means a public entity that shall have a permanent representative on a local board and have a financial structure that currently receives funding from state or federal government. (2) "Kentucky Agency for Substance Abuse Policy (KY-ASAP)" is defined in KRS 12.330(1)-(3). (3) "KY-ASAP board" is defined in KRS 12.330(4). (4) "Local board" is defined at KRS 12.334(1). (5) "Long-term community strategy" is defined in KRS 12.334(4). (6) "Start-up funds" shall be one (1) time lump sum money issued in two (2) equal parts. (7) "Convening agency" means that agency which convenes the initial member assist in the applicant process up and until receipt of local KY-ASAP board designation.

Section 2. General. (1) KY-ASAP shall be implemented statewide in accordance with KRS 12.330 and through the use of local boards to ensure coordination and collaboration of alcohol, tobacco use and drug and alcohol abuse prevention and treatment resources and systems at both the state and local level.

(2) A local board may represent a single county or multiple counties.

(3) Start-up funding proposal instructions shall be developed with advice from the following: (a) KY-ASAP Board; and (b) Cabinet for Health Services, Department for Mental Health and Mental Retardation Services.

(4) Instructions shall be contained in an application package distributed by the KY-ASAP in accordance with KRS 12.334(3).

(5) If a local board fails to comply with KRS 12.334, the Executive Director of KY-ASAP shall notify the chairman of the local board by letter that the existing board may be abolished.

(6) An adverse action letter to a local board chairman shall comply with KRS Chapter 13B.

Section 3. Local Board Membership. (1) A local board representing more than one (1) county shall insure that each county is represented on the local board when requesting appointment for local board members.

(2) Membership of a single county local board shall be no less than fifteen (15) and no more than twenty (20) members.

(3) Membership of a multicounty local board shall be no less than fifteen (15) and no more than thirty (30) members.

(4) Membership of a single county local board above population of 250,000 shall be no less than fifteen (15) and no more than thirty (30).

(5) Local board members shall comply with KRS 12.334(3).

(6) A permanent member of a local board shall represent the: (a) County judge executive or designee; (b) Executive director of a county mental health center or designee; (c) Executive director of a health department or designee; (d) Coordinator of a family resource or youth services center; (e) Superintendent of a local school district or designee; (f) Service Region Administrator of the Cabinet for Families and Children, Department for Community Based Services or designee; and

(7) A nonpermanent board member shall be selected to fill any of the remaining seats from the following areas: (a) Business leaders; (b) Religious leaders; (c) Judicial system; (d) Law enforcement; (e) Media; (f) Health care; (g) Group with funds to provide alcohol, tobacco, and other drug prevention; (h) Group with funds to provide alcohol, tobacco, and other drug treatment; (i) Local leaders in the area of alcohol, tobacco, and drug prevention; (j) Member of existing health or related strategic planning initiatives; and

(k) University or local college that serves the county.

(8) Board representatives as specified in subsections (3) and (4) of this section shall not exceed ten (10) percent per category of the total board composition.

(9) Representation from health departments and community mental health centers shall be equivalent.

Section 4. Local Board Requirements. (1) A local board shall maintain the following standards: (a) A written description on how membership and officers are defined and selected; (b) Written bylaws; (c) An organizational chart; (d) A written description of the responsibilities of officers; (e) A written description of procedures for decision making;
(f) A written policy for member rotation;
(g) Establishment of meeting times at a regular time and date;
(h) Preparation of a written agenda for a meeting;
(i) Provision of standard orientation for all new members;
(j) Distribution of meeting minutes to members prior to a meeting;
(k) A written description of procedures for dispute resolutions; and
(l) Except as specified in Section 7(1) of this administrative regulation, select and use of a fiscal agent that receives funding from state or federal government.

(2) The KY-ASAP Executive Director shall send notification in writing to the convening agency if notification is warranted prior to or following board designation and thereafter to the fiscal agent for failure to meet local board requirements in accordance with KRS 12.334 and Section 2(6) of this administrative regulation.

(3) Change in local board membership shall be filed with the agency semiannually in accordance with Section 8 of this administrative regulation.

Section 5. Application Process. (1) In order to approve start-up funding in accordance with Section 6 of this administrative regulation, a local board shall submit an application to KY-ASAP.

(2) If an applicant, during an initial submission period includes a county or counties that are also specified in another application, then applications that include overlapping counties shall be returned to the applicant for resolution.

(3) If application time frame does not allow for resolution of an overlapping county issue and this overlap remains in the final application submitted, a local board shall be issued a certificate letter from KY-ASAP requesting the organizer to reapply during the next application cycle.

(4) Prior to acceptance of an applicant by the KY-ASAP Executive Director into the KY-ASAP local board process an applicant shall complete the following:
(a) An applicant shall submit a letter of intent to begin the KY-ASAP local board and strategic plan development process;
(b) KY-ASAP shall respond to a letter of intent within fifteen (15) calendar days of receipt of a letter of intent;
(c) An applicant shall upon receipt of notification by KY-ASAP, submit a community readiness document in compliance with the instructions issued by KY-ASAP which shall be available on the World Wide Web.

(d) An applicant shall be reviewed by a panel consisting of KY-ASAP board representatives and individuals recognized as experts in alcohol, tobacco and other drug prevention or treatment as assigned by the KY-ASAP Executive Director;
(e) A recommendation from the panel for approval shall be sent to the Executive Director of KY-ASAP; and
(f) Accepted applicants shall submit an approved community needs and resource assessment and a board system structure development plan.

(5) In order for an initial lump sum payment to be made, the following actions shall be taken:
(a) A community needs and resource assessment pertaining to tobacco and alcohol and other drug use and programs;
(b) A system structure plan that details local board development and activities;
(c) A list of permanent local board members in accordance with Section 3 of this administrative regulation;
(d) A list of nonpermanent local board members in place at the time of application submission;
(e) If the local board encompasses more than one (1) county, a letter of support shall be required from each county judge executive; and
(f) If a local board includes a city of the first class, a letter of support shall be required from a mayor;
(g) A notice of approval shall be sent in accordance with KRS 12.334 by the executive director to the initial fiscal agent with a letter of intent to contract that complies with KRS Chapter 45A; and
(h) The contract shall specify: 1. Obligations and deliverables; 2. Payback requirement and penalty for failure to meet contract provisions; and 3. Signature of the initial fiscal agent.

(6) Final lump sum payment shall be made following a fiscal re-

Section 6. Start-Up Funding. (1) In order to insure funding is received by local boards without unnecessary delay, start-up funding shall be provided through two (2) lump sum payments.

(a) Lump sum payments shall be used to develop and implement the long-term community strategic plan.

(2) No more than fifteen (15) percent of the total start-up funds shall be used prior to the receipt of approval by the Executive Director of KY-ASAP of the long-term community strategic plan.

(3) An initial lump sum payment may be made if:
(a) At least six (6) permanent members have been appointed to the board; and
(b) Two (2) nonpermanent members.

Section 7. Start-Up Funding Payment. (1) The initial fiscal agent needs to submit a letter of agreement to KY-ASAP to serve in said capacity once KY-ASAP local board designation is received.

(2) Payments shall be awarded by KY-ASAP to designated local board through that local board's selected fiscal agent to the extent funds are available as follows:
(a) $50,000 for a single county with a local board;
(b) An incentive of $110,000 for a single local board which coordinates the two (2) counties local board in accordance with KRS 12.334;
(c) An incentive of $175,000 for three or more multiple counties using a single local board;
(d) $200,000 for single local board which shall coordinate the efforts of a multicity area with a combined population of 250,000 or greater.

Section 8. Local Board Reporting. (1) A local board shall report semiannually to KY-ASAP in accordance with KRS 12.334(2) on the following dates:
(a) March 1; and
(b) September 1.

(2) KY-ASAP shall forward a report copy upon receipt to the KY-ASAP Board.

(3) A copy of semi-annual report shall be included in the KY-ASAP Annual Report to the Legislative Research Center and the Governor in accordance with KRS 12.332(20).

LARRY CARRICO, Executive Director
APPROVED BY AGENCY: June 13, 2001
FILED WITH LRC: June 13, 2001 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Mawn, Deputy Director

(1) Provide a brief summary of:
(a) What this administrative regulation does: Establish a mechanism for the distribution of start-up funds for the implementation of an approved long-term care community strategy; provide incentives to encourage formation of multicity drug, alcohol and tobacco advisory coordination boards; outline the composition and requirements for Kentucky Agency for Substance Abuse Policy (KY-ASAP) local board; establishes the application process and reporting requirements.
(b) The necessity of this administrative regulation: The administrative regulation is necessary to comply with SB 315 of the 2000 General Assembly to implement a statewide strategic plan for the development of policy directed to reduce the prevalence of tobacco use and other drug and alcohol use among both the youth and adult population of Kentucky.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms SB 315 of the 2000 General Assembly as specified in (1)(b).
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will allow for the implementation of a statewide plan for the development of policy directed to reduce the prevalence of tobacco use and other drug and alcohol use among both the youth and adult population of Kentucky.

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use and other drug and alcohol use among both the youth and adult population of Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of this administrative regulation is not an amendment.

(a) How the amendment will change this existing administrative regulation:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation shall not directly impact businesses, organizations, or local governments. The administrative regulation sets up local boards which will be comprised of county judge executives, community mental health centers, health departments, family resource and youth services, and the boards of Education and local school districts.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation in its current form, or by the change if it is an amendment: The above groups will be impacted through promoting the reduction of alcohol, tobacco and other drug use and related consequences through comprehensive research and state and county strategies.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: Funding was appropriated in the 2000-2001 Budget Bill (HB 502).

(a) Initially:

(b) On a continuing basis:

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: House Bill 502 of the 2000 General Assembly Budget Bill.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Refer to item (6).

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase fees.

(9) TIERING: Is tiering applied? Tiering was not used. The administrative regulation is applicable on a statewide basis.

STATEMENT OF EMERGENCY
201 KAR 20:070E

This emergency administrative regulation provides for the implementation of KRS 314.041(1)(c), 314.042(1), and 314.051(1)(c) regarding an applicant for a nursing license's ability to understandably speak and write English language and to read the English language with comprehension. It requires the completion of certain tests and procedures to insure an understanding of English and comparable educational standards. There is presently a nursing shortage, which is anticipated to become worse in the near future. Historically at such times, employers recruit foreign educated nurses, who oftentimes have a difficulty with English. Consequently, in order to protect the health and welfare of the citizens of the Commonwealth, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 201 KAR 20:070 was filed with the Regulations Compiler on May 21, 2001.

PAUL E. PATTON, Governor
TENA PAYNE, President

KENTUCKY BOARD OF NURSING
(Emergency Amendment)

201 KAR 20:070E. License by examination.

RELATES TO: KRS 194A.540, 314.041(1), (2), 314.051(3)
STATUTORY AUTHORITY: KRS 314.041(1), (2), 314.051(3), 314.131(1)
EFFECTIVE: May 21, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(2) requires an applicant for licensure as a registered nurse to pass an examination prescribed by the board. KRS 314.051(3) requires an applicant for licensure as a licensed practical nurse to pass an examination prescribed by the board. KRS 314.131(1) authorizes the board to promulgate administrative regulations to implement the provisions of KRS Chapter 314. This administrative regulation establishes the requirements for the licensure of nurses by examination.

Section 1. Eligibility for Licensure by Examination for a Graduate of a Kentucky Program or Other State or Territorial Nursing Program.

(1) To be eligible for licensure by examination an applicant shall:

(a) Submit:

1. A properly executed application for licensure, as required by 201 KAR 20:370, Section 1(1);

2. The licensure application fee as established in 201 KAR 20:240; [and]

3. One (1) current passport type photograph;

4. A report from the Kentucky Administrative Office of the Courts, Courten Disposition System;

5. A certified copy of the court record of any misdemeanor or felony conviction; and

6. A letter of explanation that addresses each conviction.

(b) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction:

(i) Notify the board as soon as a new address is established after submitting the application;

(ii) [submitted a copy of the marriage certificate or court order to change the applicant's name, if the applicant's name is changed after the original application is filed;

(iii) When taking the examination, abide by and cooperate with security procedures adopted by the board;

(iv) [if] Apply to take and pass the National Council Licensure Examination;

(v) [if] Meet the requirement for completion of an educational course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.615 and 302 KAR 2:150.

(ii) An application for licensure shall be valid for a period of one (1) year from the date the application is filed with the board office. This requirement shall apply to each application received by this board after the effective date of this administrative regulation and each application pending on the effective date.

(iii) The name of the applicant shall appear on the "Certified List of Program of Nursing Graduates" as established in 201 KAR 20:260 or the applicant shall request that the program submit to the board an official transcript verifying completion of program requirements.

(iv) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

Section 2. Graduates of Foreign Nursing Schools. To be eligible for application for licensure by examination, a graduate of a foreign nursing school shall comply with the provisions of this section.

(1) If licensed in another country, or in a jurisdiction or territory governed by the United States, the applicant shall submit a statement from the licensing authority that the:

(a) Applicant is a licensee in good standing;

(b) License has not been revoked, suspended, or probation.

(2) An applicant shall maintain proof of legal permanent or temporary residency under the laws and regulations of the United States.

(3) An applicant shall meet the requirements of Section 1 of this
administrative regulation, except for Section 1(3) of this administrative regulation.

(4) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

(5) Prior to taking the NCLEX examination, an applicant shall pass:

(a) The Michigan English Language Assessment Battery (MELAB) with an overall score of at least 79 and a score of at least 3+ on the oral interview; or

(b) The Test of English as a Foreign Language (TOEFL) with a score of at least 207 (if taken by computer) or 540 (if taken in paper format) and a score of at least 4.0 on the Test of Written English (TWE), and the Test of Spoken English (TSE) with a score of at least 50; or

(c) The Test of English for International Communication (TOEIC) with a score of at least 700 and the Test of Spoken English (TSE) with a score of at least 50.

(6) The test shall have been taken within two (2) years of the date of the application for licensure.

(7) The provisions of subsection (5) of this section shall not apply to an applicant who was educated in Australia, Canada (all provinces except Quebec), Ireland, New Zealand, or the United Kingdom.

(8) An applicant shall complete the Commission on Graduates of Foreign Nursing Schools (CGFNS) Certification Program, prior to taking the NCLEX examination.

(9) If CGFNS determines that an applicant is not eligible for the certification program because of the applicant's educational level, then the applicant shall obtain a Full Education Course-by-Course Report from the CGFNS Credentials Evaluation Service. This report shall indicate that the applicant's educational level is equivalent to a United States practical nurse education program, prior to taking the NCLEX examination.

Section 3. Retaking the Examination. (1) An examination candidate who fails to achieve a passing result may retake the examination after meeting the requirements of Section 1 of this administrative regulation.

(2) The applicant shall not be eligible to take the examination more often than once every ninety-one (91) days.

Section 4. Release of Examination Scores. The board shall release examination results to:

(1) The candidate;

(2) Other state boards of nursing;

(3) The National Council of State Boards of Nursing, Inc.; and

(4) An individual or agency who submits an applicant's or licensee's written authorization for their release.

Section 5. Incorporation By Reference. (1) "Certified List of Program of Nursing Graduates", (2/96), Kentucky Board of Nursing, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

TENA PAYNE, President
APPROVED BY AGENCY: April 20, 2001
FILED WITH LRC: May 21, 2001 at 1 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets requirements for the initial licensure of new graduate nurses by examination in Kentucky.

(b) The necessity of this administrative regulation: Required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statute: By setting requirements.

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

ments.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It will require a criminal record background check for all nurse applicants as well as requiring a specific test of English language comprehension for foreign educated nurses.

(b) The necessity of the amendment to this administrative regulation: To protect the health and welfare of the citizens of the Commonwealth.

(c) How the amendment conforms to the content of the authorizing statute: The statute allows the board to set requirements for initial licensure.

(d) How the amendment will assist in the effective administration of the statutes: It will specify a criminal background check for all applicants and clarify the appropriate tests for English comprehension for foreign educated applicants.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All applicants for initial licensure by examination; unable to predict a specific number.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Criminal background checks and English language comprehension testing (for foreign educated nurses) will be required prior to the issuance of a nurse license.

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

(a) Initially: 0

(b) On a continuing basis: 0

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

(7) Provide an assessment of whether any increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish/increase any fees. However, the Administrative Office of the Courts does charge a fee to the individual for the report.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

STATEMENT OF EMERGENCY

201 KAR 20:110E

This emergency administrative regulation provides for the implementation of KRS 314.041(1)(c), 314.042(1), and 314.051(1)(c) regarding an applicant for a nursing license's ability to understandably speak and write the English language and to read the English language with comprehension. It requires the completion of certain tests and procedures to ensure an understanding of English and comparable educational standards. There is presently a nursing shortage, which is anticipated to become worse in the near future. Historically at such times, employers recruit foreign educated nurses, who oftentimes have a difficulty with English. Consequently, in order to protect the health and welfare of the citizens of the Commonwealth, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 201 KAR 20:110 was filed with the Regulations Complier on May 21, 2001.

PAUL E. PATTON, Governor
TENA PAYNE, President

KENTUCKY BOARD OF NURSING
(Emergency Amendment)

201 KAR 20:110E, Licensure by endorsement.

VOLUME 28, NUMBER 1 – JULY 1, 2001

STATUTORY AUTHORITY: KRS 314.131(1)
EFFECTIVE: May 21, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(4) and 314.051(5) authorize the board to issue a license to practice nursing as a registered nurse or a licensed practical nurse to an applicant who has passed the required examination or its equivalent and who was licensed to practice nursing in another jurisdiction. KRS 314.101(4) authorizes the board to issue a temporary work permit to a person who has completed the requirements for, applied for, and paid the fee for licensure by examination or endorsement. This administrative regulation establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed.

Section 1. Eligibility for Licensure by Endorsement. (1) To be eligible for licensure by endorsement, an applicant shall:
(a) Have completed a state approved program of practical nursing for licensed practical nurse licensure or a state approved program of registered nursing for registered nurse licensure equivalent to Kentucky's nurses; or
(b) Have taken the State Board Test Pool Examination or National Council Licensure Examination or an examination that is consistent with Section 5 of this administrative regulation;
(c) Provide proof of current, active license [(have and submit a copy of a current, active license) to practice nursing in another U.S. jurisdiction, territory, or foreign country;]
(d) Complete the application form, as required by 201 KAR 20:370, Section 1(1);
(e) Submit one (1) current passport type photograph;
(f) Submit the current fee for a licensure application, as established by 201 KAR 20:240;
(g) Report each disciplinary action taken or pending on a license by another jurisdiction;
(h) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction;
(i) Request the U.S. jurisdiction or territory or foreign country of initial licensure to submit a verification of licensure by examination to the board which shall include the following information:
1. Date of initial licensure;
2. Examination results;
3. Name of the program of nursing completed and date of graduation;
and
4. A statement that the applicant's license has not been revoked, suspended, limited, probated or otherwise disciplined by the licensing authority and is not subject to disciplinary action; and
(j) Meet the requirement for completion of an educational course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.515 and 902 KAR 2:150.
(2) An application shall be valid for a period of six (6) months. The applicant shall:
(a) Submit a copy of a marriage certificate or court order to change the applicant's name after the original application is filed; and
(b) Notify the board in writing as soon as a new address is established after submitting the application.
(3) After six (6) months, the applicant shall:
(a) Submit a new application;
(b) Submit the current licensure application fee; and
(c) Meet the requirements established in this section.
(4) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 19A.540.

Section 2. Graduates of Foreign Nursing Schools. (1) A graduate of a foreign nursing school shall:
(a) meet the requirements established in Section 1 of this administrative regulation; and
(b) Submit an official transcript of the nursing program.
(2) A graduate of a foreign nursing school who is not a citizen of the United States shall maintain evidence of legal permanent or temporary residency in the United States.
(3) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.
(4) A graduate of a foreign nursing school shall pass:
(a) The Michigan English Language Assessment Battery (MELAB) with an overall score of at least 70 and a score of at least 3+ on the oral interview; or
(b) The Test of Spoken English (TSE) with a score of at least 50.
(c) The test shall have been taken within two (2) years of the date of application for licensure.
(5) The provisions of subsection (4) of this section shall not apply to a graduate of a foreign nursing school who was educated in Australia, Canada (all provinces except Quebec), Ireland, New Zealand, or the United Kingdom.
(6) A graduate of a foreign nursing school shall obtain an evaluation of his educational credentials from the Commission on Graduates of Foreign Nursing Schools (CGFNS).

Section 3. Nursing Practice and Continuing Education Requirements. (1) Except as provided in subsection (2) of this section, an applicant shall complete fifteen (15) contact hours in continuing education for each year since the last year in which the applicant can demonstrate at least 100 hours of practice.
(2) The requirement established in subsection (1) of this section shall not apply to an applicant who:
(a) Has been licensed for less than five (5) years from the date of initial licensure; or
(b) Has been actively licensed and engaged in nursing practice for at least 500 hours during the preceding five (5) years; and
(2) Submits evidence that verifies this practice.
(3) An applicant shall not be required to complete more than 150 contact hours in continuing education, if at least thirty (30) contact hours were earned within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.
(4) Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting the requirements established in subsections (1) and (3) of this section.

Section 4. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets the requirements of Section 1(1)(a) through (h) of this administrative regulation shall be issued a temporary work permit.
(2) A temporary work permit shall be valid for a period not to exceed six (6) months.
(3) An individual who practices as a nurse in this state without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing without a license in violation of KRS 314.031 and subject to the penalties listed in KRS Chapter 314.

Section 5. Licensing Examination Standards. An applicant who has taken an examination other than the State Board Test Pool Examination, the National Council Licensure Examination, or the Canadian Registered Nurse Examination (in English), or the Canadian Practical Nurse Registration Examination [Nurses Association Testing Service Examination] (in English) shall provide evidence to the board that the examination met the following standards of equivalency:
(1) Accepted psychometric procedures are used in the development of the examination;
(2) The examination is available to the board in the English language;
(3) The examination test plan blueprint is available for board review and adequately identifies test content and content weighting;
(4) Test items are available for board review and demonstrate the testing of competency necessary for safe practice;
(5) At least one (1) of the reliability estimates for the examination is 0.80 or higher;
(6) The examination is revised after each administration to insure currency and security of content; and
(7) The examination is given under strict security measures.

TENA PAYNE, President
APPROVED BY AGENCY: April 20, 2001
FILED WITH LRC: May 21, 2001 at 1 p.m.
Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: It sets the requirements for licensure of nurses who are applying from other states/countries of nurse licensure.
(b) The necessity of this administrative regulation: Required by statute.
(c) How this administrative regulation conforms to the content of the authorizing statute: By setting requirements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: It will require the specific testing of English language comprehension for foreign educated nurses.

(b) The necessity of the amendment to this administrative regulation: To protect the health and welfare of the citizens of the Commonwealth.

(c) How the amendment conforms to the content of the authorizing statute: The statute allows the board to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: It will specify the appropriate testing required.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All foreign educated nurse applicants for licensure; unable to specify a number.

(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Testing will be required prior to obtaining licensure as a nurse in Kentucky.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: 0

(b) On a continuing basis: 0

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish/increase fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

STATEMENT OF EMERGENCY
202 KAR 6:070E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 911 services to wireless consumers. In order to release funds as soon as possible and ensure the equitable distribution of funds to 911 centers enabling them to make the technical upgrades necessary to facilitate the deployment of 911 services to wireless consumers, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
ALDONA K. VALICENTI, Chief Information Officer

GOVERNOR'S OFFICE FOR TECHNOLOGY
Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky
(New Emergency Administrative Regulation)


RELATES TO: KRS 65.7621 to 65.7643, 9 USC 1 to 16, 47 USC 153(27), 332(d)
STATUTORY AUTHORITY: KRS 65.7633(2)(b)
EFFECTIVE: June 15, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7633(2)(b) requires the CMRS Board to establish procedures and guidelines for reviewing, evaluating, and approving or disapproving disbursements from the CMRS Fund and requests for disbursements. This administrative regulation establishes the wireless workload fund disbursement process.

Section 1. Initial Revenues Collected by the CMRS Board. (1) Monthly revenues remitted to the CMRS Board prior to July 1, 2001 for distribution per the "wireless workload formula" shall be disbursed in one (1) payment.

(2) PSAPs certified by the CMRS Board on October 1, 2001 shall be eligible to receive a disbursement under this section.

(3) Not later than July 1, 2001, the CMRS Board shall notify PSAPs of this deadline by:
(a) Posting it on the CMRS Board's web site; and
(b) Distributing it in writing to:
1. County judge-executives of those jurisdictions without a certified PSAP;
2. Mayors of class six (3) cities or above in those jurisdictions without a certified PSAP;
3. Mayors of county governments in those jurisdictions without a certified PSAP;
4. The executive director of each area development district; and
5. All currently-certified PSAPs.

(4) Each PSAP certified by the board shall receive a disbursement from the workload funds in accordance with KRS 65.7631(2)(a), within 120 days after June 30, 2001.

Section 2. Ongoing Revenues Collected by the CMRS Board. (1) Wireless workload revenues remitted to the CMRS Board during any calendar quarter after June 30, 2001 shall be disbursed in one (1) payment to PSAPs within 120 days of the end of that same calendar quarter.

(2) Each PSAP certified by the end of a calendar quarter shall be eligible for a disbursement of funds received during that same calendar quarter.

Section 3. Determination of the Zip Codes or Portions Therein in a PSAP's Jurisdiction. (1) Not later than June 30, 2001, CMRS Board staff shall submit by certified mail, return receipt requested, to all certified PSAPs and those whose application for certification is currently being processed by the CMRS Board, a list of all zip codes or any portion of a zip code greater than three (3) percent within the PSAP's jurisdiction, as determined by Kentucky's Office for Geographic Information from U.S. Postal Office data.

(2) Within forty-five (45) days of receipt of the zip code list from the CMRS Board, each PSAP shall acknowledge, in writing to the CMRS Board, that:
(a) The list of zip codes determined by the CMRS Board to be in the PSAP's jurisdiction is correct and complete; and
(b) Where at least a three (3) percent or larger portion of a zip code is in more than one (1) PSAP's jurisdiction, the percentage of the zip code area allocated by the CMRS Board to the PSAP is equivalent to the percentage of CMRS connections within the zip code.

(3) Within forty-five (45) days of receipt of the zip code list from the CMRS Board, a PSAP may dispute zip code allocations or percentage allocations of zip codes by notifying the board and any PSAP affected by the dispute, in writing, of the problematic zip code.

(a) Within five (5) working days of receipt of such a notice, the CMRS Board shall notify all PSAPs affected by the dispute, by certified mail, return receipt requested. The affected PSAPs shall negotiate a mutually agreeable resolution to the identified problem and notify the
VOLUME 28, NUMBER 1 – JULY 1, 2001

CMRS Board of the result.

(b) If within the following thirty (30) days the CMRS Board is not notified of a mutually-agreeable resolution between the affected PSAPs, regarding the identified problem, the board shall determine the percentage of the identified zip code to be allocated to each PSAP.

(4) A PSAP may request a change to a previously approved zip code allocation by submitting a written request to CMRS Board and the other affected PSAPs no later than thirty (30) days after the end of any calendar quarter.

(a) Within five (5) working days of receipt of such a request, CMRS Board staff shall notify all affected PSAPs, by certified mail, return receipt requested. The affected PSAPs shall negotiate a mutually-agreeable resolution to the requested change and notify the CMRS Board of the result.

(b) If within the following thirty (30) days the CMRS Board is not notified of a mutually-agreeable resolution between the affected PSAPs, regarding the requested change, the board shall determine the percentage of the zip code to be allocated to each PSAP.

(a) A PSAP may appeal any final allocation of a zip code assignment in accordance with KRS Chapter 138.

(6) The zip codes and percentage allocations of zip codes as determined in this section shall be used to determine the number of CMRS connections for each PSAP as required by Section 4(3) of this administrative regulation.

Section 4. Calculation of Individual PSAP Disbursements Under the PSAP Wireless Workload Formula. (1) Not more than two (2) calendar months after the end of calendar quarter, the CMRS Board shall determine a value per CMRS connection by dividing the total amount of funds remitted to the CMRS Board during the collection period established for this disbursement by the total number of CMRS connections, as submitted in a quarterly report by the CMRS providers.

(2) CMRS Board shall then multiply the value per connection by the number of connections in each zip code as reported in the quarterly report specified in subsection (1) of this section.

(3) For those zip codes which cross PSAP jurisdictional boundaries, the CMRS Board shall divide the disbursement for that zip code according to the percentages established in Section 3 of this administrative regulation.

(4) A PSAP's workload disbursement shall consist of the totalized amounts for all the codes or percentage of zip codes whose areas are served by a PSAP as determined by subsections (2) and (3) of this section.

(5) Disbursement amounts attributed to zip codes whose allocation of CMRS connections is disputed by a PSAP shall be reserved by the CMRS Board for its reimbursement if and until the dispute is resolved and the disputed zip code is redetermined.

(a) Disputed funds shall remain in the CMRS Fund accounts until disbursed.

(b) All interest accrued by disputed funds shall be distributed among the CMRS Board and PSAPs in accordance with KRS 65.7627.

(c) Upon resolution of any dispute, the reserved funds shall be disbursed to the PSAPs with the next regular workload disbursement. Interest accrued during the period of the dispute shall remain in the CMRS Fund as specified by KRS 65.7627 and 7631.

ALDONA VALICENTI, Chief Administration Officer
JAMES CANTRILL, General Counsel
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 15, 2001 at noon

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John J. Patterson, ENP, CMRS Administrator, 21 Mill Creek Park, Frankfort, KY 40601, Phone: (502) 573-1000, FAX: (502) 573-1711, John.Patterson@mail.state.ky.us

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation defines the process by which the amount to be distributed to PSAPs under the workload formula will be determined and the dates by which PSAPs must be notified to participate in these disbursements.

(b) The necessity of this regulation: The statute KRS 65.7631(2)(b) permits the CMRS Board to determine the basis for these disbursements. KRS 65.7633(2)(c) requires the Board to promulgate regulations for this purpose.

(c) How this regulation conforms to the content of the authorizing statutes: This regulation determines the formula to be used in the disbursement of the workload portion of the CMRS Fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 65.7631(2)(b) states that the CMRS Board must determine the most effective method of measuring the workload of the PSAPs and disburse the funds accordingly. This regulation defines the process to be used for disbursement.

(2) If this an amendment to an existing regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or local governments affected by this administrative regulation: Approximately 80 public safety answering points (PSAPs) operated by local governments and Kentucky State Police.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: PSAPs will receive additional revenue in quarterly payments correlated to the amount of work they perform in the management of calls by wireless consumers to 911. This money is to assist them in covering their costs for additional hardware and software caused by the additional workload imposed by wireless 911 traffic.

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

(a) Initially: There is no additional cost in the implementation for this regulation since it only requires some staff time for the CMRS Board to set up the initial formulas and gain agreement from the local PSAPs regarding the percentage allocation where zip codes are split across more than one PSAP.

(b) On a continuing basis: Once established, there is virtually no additional work to maintaining this formula for disbursement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administrative budget of the CMRS Board will cover all of the costs of implementation and enforcement of this regulation. The CMRS Board receives its budget completely from its statutory allocation of the CMRS Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding increases will be necessary to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees established by this regulation nor are any fees increased in any way.

(9) TIERING: Is tiering applied? No. This regulation applies equally to all regulated entities.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect: Specify the unit, part, or division. Public safety communications operations which utilize enhanced 911 facilities to receive calls for emergency services from the public will be affected by this administrative regulation.

3. State the aspect or service of local government to which this administrative regulation relates: This administrative regulation relates to the reception and management of voice and data elements associated with calls to 911 centers for emergency service from wireless telephone users.

4. Estimate the effect of this administrative regulation on the ex-
penditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of this regulation. The purpose of this administrative regulation is to stipulate disciplines to receive funds distributed by the Commercial Mobile Radio Service Board in accordance with the workload formula specified by KRS 65.7631 (2)(b). This administrative regulation also stipulates both when the revenue collected during the start up phase of board operations and the ongoing revenues remitted to the board will be paid to 911 centers. This administrative regulation will impact city, county, or urban county governments that operate or contract with others to operate enhanced 911 services. Government revenues will increase via payments from the Commercial Mobile Radio Services Board based on the total number of wireless connections billed within individual government entities. As a gauge of the additional workload imposed on their 911 centers, participating government entities, depending on the current sophistication of the equipment deployed in a 911 center, may be required to increase their expenditures to manage the increased workload and increased capacity in telecommunications network facilities in order. It is anticipated that the increase in revenue available will exceed any increased costs incurred by an individual local government and some may receive small surpluses above their increased costs. Neither state revenues nor expenditures are increased or decreased by this administrative regulation because the funds utilized by the board are collected from wireless consumers as a user surcharge. Additional fees are collected by local governments nor are any paid by local governments to the board. Any local government certified by the board as a result of the administrative regulation is entitled to an equal share of 25% of the funds collected by the board and to a refund for each wireless 911 call received based on a formula in accordance with KRS 65.7631(2)(b).

**STATEMENT OF EMERGENCY**

503 KAR 1:150E

KRS 13A.190(2) provides that an emergency administrative regulation is one that must be placed into effect immediately in order to prevent a loss of federal or state funds. KRS 15.330(1)(c) and (g) authorize the Kentucky Law Enforcement Council to prescribe qualifications and standards of law enforcement training courses and to promulgate administrative regulations for the training and education of Kentucky Law Enforcement Officers. The Department of Criminal Justice Training - Kentucky Police Corps has been created in accordance with the requirements of the Federal Police Corps Act (42 USC Sections 14091 et seq.) to provide scholarships and educational assistance to Kentucky residents who wish to obtain a college education and pursue a career in law enforcement. The Federal Police Corps Act will provide scholarship funds of up to $30,000 per participant in the Department of Criminal Justice Training - Kentucky Police Corps Program and is expected to benefit approximately thirty (30) participants annually. This emergency administrative regulation, 503 KAR 1:150E establishes the graduation and recordkeeping requirements for the Department of Criminal Justice Training - Kentucky Police Corps. This administrative regulation is promulgated as an emergency to prevent the loss of the scholarship funding available to Kentucky residents under the Federal Police Corps Act. An ordinary administrative regulation could not be promulgated since the course curriculum was not finalized and approved by the Kentucky Law Enforcement Council until their May 2001 meeting. An ordinary administrative regulation will not suffice because it would not become effective prior to the beginning of the course by study for the Department of Criminal Justice Training - Kentucky Police Corps, which is scheduled to begin June 11, 2001. It is essential that the requirements of this administrative regulation be in place by that date. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on June 8, 2001.

PAUL E. PATTON, Governor
ROBIN COOPER, Chair

**JUSTICE CABINET**

Kentucky Law Enforcement Council
(New Emergency Administrative Regulation)

503 KAR 1:150E. Department of Criminal Justice Training - Kentucky Police Corps basic training; graduation requirements; records.

RELATES TO: KRS 15.330(1)(c), (g)
STATUTORY AUTHORITY: KRS 15.330(1)(c), (e), (g)
EFFECTIVE: June 8, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.330(1)(c) and (g) authorize the Kentucky Law Enforcement Council to prescribe qualifications for attendance of law enforcement training course and to promulgate administrative regulations. This administrative regulation establishes requirements for graduation from the Department of Criminal Justice Training - Kentucky Police Corps basic training course, which fulfills the requirements for police officer certification and participation in the Kentucky Law Enforcement Foundation Peace Officer Program Fund, and for maintenance of the resulting basic training records.

Section 1. (1) Definitions.
(a) "Cadet" means a person attending the Police Corps basic training course.
(b) "Director" means the director of the Training Operations division of DOCJT, or his designee.
(c) "Police Corps basic training" means the 1228 hour council approved basic training course conducted by DOCJT.
(d) "Police Corps director" means the director of the Police Corps section of DOCJT, or his designee.

(2) Police Corps basic training content. Police Corps basic training shall consist of 1228 hours of training, and require a cadet to demonstrate proficiency in the following five (5) areas:
(a) Area I:
1. Five (5) academic tests; and
2. First aid and CPR, including:
   a. Professional rescuer CPR; and
   b. First aid;
(b) Area II:
1. Firearms, including:
   a. Day handgun;
   b. Night handgun; and
   c. Shotgun;
2. Vehicle operations, including:
   a. Precision course; and
   b. Emergency response course;
3. Defensive tactics; and
4. Mountain bike;
(c) Area III:
1. Breath test, including:
   a. Practical examination; and
   b. Written examination;
2. DUI detection, including:
   a. Practical examination; and
   b. Written examination;
3. Law Information Network of Kentucky (LINK) and National Crime Information Center (NCIC) inquiry only, including a combined practical and written examination.

Section 2. Police Corps Basic Training Graduation Requirements. To graduate from Police Corps basic training, a cadet shall:
1. Successfully complete a minimum of 1228 hours of training based upon the curriculum approved by the council in accordance with KRS 15.330 and 503 KAR 1:090;
2. (a) Attain a seventy (70) percent overall score on all graded training areas covered during the course for which a numerical score is assigned. A cadet who does not achieve a seventy (70) percent overall score shall be considered to have failed Police Corps basic training;
(b) Pass all training areas covered during the course for which a pass or fail designation is assigned. A cadet who does not pass all pass or fail training areas shall be considered to have failed Police Corps basic training; and
4. Successfully complete all other assignments, exercises, and
projects included in the course. After-hours assignments may be required, and shall be successfully completed in order to pass the training area for which they were assigned.

Section 3. Physical Training Requirements. A cadet shall meet the physical training entry and graduation requirements established in this section.

(1) Physical training entry requirements.
(a) Within five (5) days from the first date of the Police Corps basic training course, the cadet shall successfully complete each of the following events as instructed and evaluated by qualified department instructors:
1. Sixteen (16) inch vertical jump;
2. One (1) repetition maximum (RM) bench press equal to sixty-four (64) percent of the cadet's body weight;
3. Eighteen (18) sit-ups in one (1) minute;
4. 300 meter run in sixty-five (65) seconds;
5. Twenty (20) pushups; and
6. One and five-tenths (1.5) mile run in seventeen (17) minutes twelve (12) seconds.
(b) If a cadet passes all events when participating in the physical training entry test, he shall have met the physical training entry requirements.
(c) Retest. If a cadet fails to pass all events when participating in the physical training entry test:
1. He shall retake the failed events no earlier than forty-eight (48) hours from the date of the entry test;
2. All failed events shall be retested on the same date;
3. If the cadet passes all previously failed events on the date of the retest, he shall have met the physical training entry requirements; and
4. If the cadet does not pass all previously failed events on the date of the retest, he shall be unqualified to participate in the Police Corps basic training course for which he is currently enrolled, and may reapply to participate in a future DOCJT basic training course. The cadet shall receive no credit for the part of the Police Corps basic training course which he has completed.

(2) Physical training graduation requirements.
(a) Within five (5) days from the final date of the Police Corps basic training course, the cadet shall successfully complete each of the following events as instructed and evaluated by qualified department instructors:
1. Seventeen (17) inch vertical jump;
2. One (1) repetition maximum (RM) bench press equal to seventy-three (73) percent of the recruit's body weight;
3. Eighteen (18) sit ups in one (1) minute;
4. 300 meter run in sixty-five (65) seconds;
5. Twenty-five (25) pushups; and
6. One and five-tenths (1.5) mile run in sixteen (16) minutes fifteen (15) seconds.
(b) If a cadet passes all events when participating in the physical training graduation test, he shall have met the physical training graduation requirements.
(c) Retest. If a cadet fails to pass all events when participating in the physical training graduation test:
1. He shall retake the failed events no earlier than forty-eight (48) hours after the date of the graduation test, but not later than the last scheduled date of the Police Corps basic training course;
2. All failed events shall be retested on the same date;
3. If the cadet passes all previously failed events on the date of the retest, he shall have met the physical training graduation requirements; and
4. If the cadet does not pass all previously failed events on the date of the retest, he shall be considered to have failed Police Corps basic training.

Section 4. Reexaminations. (1) A cadet shall be permitted one (1) reexamination in each of the three (3) areas of Police Corps basic training.
(2) A cadet who fails an examination, other than defensive tactics, shall not be reexamined:
(a) Earlier than twenty-four (24) hours from the original examination; or
(b) Later than: 1. Thirty (30) days after the original examination; or
2. The last scheduled day of the Police Corps basic training course.
(3) Failure of a defensive tactics examination.
(a) If the failure occurs prior to the last scheduled day of defensive tactics training, the cadet shall not be reexamined earlier than the last scheduled day of defensive tactics training.
(b) If the failure occurs on the last scheduled day of defensive tactics training, the cadet shall not be reexamined:
1. Earlier than twenty-four (24) hours from the original examination; or
2. Later than the last scheduled day of the Police Corps basic training course.

(4) A cadet shall be considered to have failed Police Corps basic training if the cadet:
(a) Fails a reexamination in accordance with subsection (1) of this section; or
(b) Fails two (2) examinations in the same area of Police Corps basic training.

Section 5. Failure and Repetition of Police Corps Basic Training.
(1) A cadet who has failed a Police Corps basic training course shall be unqualified for future Police Corps basic training courses. The cadet may participate, if qualified, in one (1) DOCJT law enforcement basic training course in its entirety during the following twelve (12) months.
(2) The cadet or his agency shall pay all fees for the DOCJT basic training course.

Section 6. Absence. (1) A cadet may have excused absences from Police Corps basic training with approval of the director, or the Police Corps Director.
(2) An excused absence from Police Corps basic training which causes a cadet to miss any of the required 1228 hours of training shall be made up through an additional training assignment.

Section 7. Leave of Absence from Police Corps Basic Training. (1) Pursuant to 42 USC section 14006(e), a cadet:
(a) Who requests a leave of absence from Police Corps basic training due to temporary physical or emotional disability shall be granted the leave for a period not to exceed one (1) year, or eighteen (18) months in the event of multiple requests; or
(b) Who requests a leave of absence from Police Corps basic training for a reason other than those described in paragraph (a) of this subsection may be granted the leave for a period not to exceed one (1) year, or eighteen (18) months in the event of multiple requests.
(2) The length of leaves of absence from educational study, Police Corps basic training, or service that a cadet has previously received will be deducted from the time available for a leave of absence from Police Corps basic training.
(3) A cadet who receives a leave of absence will be required to repeat Police Corps basic training in its entirety.

Section 8. Maintenance of Records. (1) At the conclusion of the Police Corps basic training course, DOCJT shall, for each cadet who completes the course, complete and send a DOCJT Form 68-1 (Application for Training Credit) to the council.
(2) DOCJT shall send a copy of the DOCJT Form 68-1 to the:
(a) Council for verification; and
(b) DOCJT Records Section Supervisor.
(3) All training records required for Kentucky Law Enforcement Foundation Program Fund purposes shall be retained by DOCJT, but a copy of pertinent facts shall be sent to the fund administrator upon written request.
(4) All training records shall be:
(a) Available to the Office of the Police Corps and Law Enforcement Education of the United States Justice Department, the council, the secretary, and the fund administrator for inspection or other appropriate purposes; and
(b) Maintained in accordance with applicable provisions of KRS Chapter 171.

Section 9. Incorporation by Reference. (1) "DOCJT Form 68-1 - Application for Training Credit", 229/1996 edition, Department of
Criminal Justice Training, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Criminal Justice Training, Funderburk Building, Eastern Kentucky University, 521 Lancaster Road, Richmond, Kentucky 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBIN COOPER, Chair
APPROVED BY AGENCY: June 8, 2001
FILED WITH LRC: June 8, 2001 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1)(a) What this administrative regulation does: Establishes the guidelines and procedures for graduation from the Department of Criminal Justice Training - Kentucky Police Corps basic training course.

(b) Necessity of this administrative regulation: The regulation is necessary so that the Kentucky Law Enforcement Council may fulfill its responsibility, as established in KRS 15.330, to establish and prescribe qualifications for attendance to the Department of Criminal Justice Training - Kentucky Police Corps basic training course.

(c) How this regulation conforms to the content of the authorizing statutes: KRS 15.330(1)(c) and (e) authorize the Kentucky Law Enforcement Council to prescribe qualifications for attendance of law enforcement training course and to promulgate reasonable rules and administrative regulations. This administrative regulation is required to establish graduation requirements for the Department of Criminal Justice Training - Kentucky Police Corps.

(d) How this regulation currently assists in the effective administration of the statutes: This regulation sets clear, reasonable, and consistent rules and procedures for graduation from the Department of Criminal Justice Training - Kentucky Police Corps program.

(2) Not an amendment.

(3) Type and number of entities affected: Approximately 14 local law enforcement agencies in the Commonwealth shall be affected as a result of the Department of Criminal Justice Training - Kentucky Police Corps basic training course beginning in June 2001.

(4) How the aforesaid entities will be impacted by the implementation of this regulation: It is anticipated that agencies should experience positive results from the implementation of this administrative regulation. Upon graduation, Kentucky Police Corps cadets will be assigned to various agencies for a period of 4 years. The Federal Police Corps Act (42 USC sections 14091 et seq.) authorizes the award of a scholarship to participants in the Police Corps who agree to work in a state or local police force after graduation. Additionally, each agency will receive, from the United States Department of Justice, $10,000 for each year of service, for each Police Corps graduate hired.

(5) Cost to implement this regulation:

(a) Initially: No additional state costs.

(b) On a continuing basis: No additional state costs.

(6) Source of funding to be used for implementation and enforcement of administrative regulation: Federal funds received pursuant to the Federal Police Corps Act, and the Kentucky Law Enforcement Foundation Program Fund, which is a restricted fund.

(7) Assessment of whether an increase in fees or funding shall be necessary to implement the amendment to this regulation: No.

(8) Does this administrative regulation directly or indirectly increase any fees: No.

(9) TIERING: Was tiering applied: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY

503 KAR 3:060E

KRS 13A.190(2) provides that an emergency administrative regulation is one that must be placed into effect immediately in order to prevent a loss of federal or state funds. KRS 15A.070 authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. The Department of Criminal Justice Training - Kentucky Police Corps has been created in accordance with the requirements of the Federal Police Corps Act (42 USC sections 14091 et seq.) to provide scholarships and educational assistance to Kentucky residents who wish to obtain a college education and pursue a career in law enforcement. The Federal Police Corps Act will provide scholarship funds of up to $30,000 per participant in the Department of Criminal Justice Training - Kentucky Police Corps Program and is expected to benefit approximately thirty (30) participants annually. This emergency administrative regulation, 503 KAR 3:060E establishes the conduct requirements and disciplinary procedures for the Department of Criminal Justice Training - Kentucky Police Corps. This administrative regulation is promulgated as an emergency to prevent the loss of the scholarship funding available to Kentucky under the Federal Police Corps Act. An ordinary administrative regulation could not be promulgated since the course curriculum was not finalized and approved by the Kentucky Law Enforcement Council until their May 2001 meeting. An ordinary administrative regulation will not suffice because it would not become effective prior to the beginning of the course of study for the Department of Criminal Justice Training - Kentucky Police Corps, which is scheduled for June 11, 2001. It is essential that the requirements of this administrative regulation be in place by the beginning of the course. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on June 8, 2001.

PAUL E. PATTON, Governor
JOHN W. BIZZACK, Ph.D., Commissioner

JUSTICE CABINET
Department of Criminal Justice Training
(First Emergency Administrative Regulation)

503 KAR 3:080E. Department of Criminal Justice Training - Kentucky Police Corps basic training course cadet conduct requirements; procedures and penalties.

RELATES TO: KRS 15A.070(1)
STATUTORY AUTHORITY: KRS 15A.070(1), (5)
EFFECTIVE: June 8, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070 authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This administrative regulation establishes the conduct requirements of cadets attending the Kentucky Police Corps basic training course conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties.

Section 1. Definitions. (1) "Cadet" means a person attending the Police Corps basic training course.

(2) "OCPLEE" means the Office of the Police Corps and Law Enforcement Education of the United States Justice Department.

(3) "Police Corps basic training" means the 1228 hour council approved basic training course conducted by the department.

(4) "Police Corps director" means the director of the Police Corps section of the department, or his designee.

Section 2. Uniforms and Operator's License Required. A cadet shall provide the uniforms required in Section 7(8) of this administrative regulation and present a valid motor vehicle operator's license to participate in the Police Corps basic training course.

Section 3. Removing an Unqualified Cadet from Police Corps Basic Training. If a cadet is not qualified to participate in the Police Corps
basic training course, he shall:

(1) Be removed from Police Corps basic training by the:
   (a) Commissioner;
   (b) Director; or
   (d) Police Corps Director;

(2) Receive no credit for the part of the Police Corps basic training
course he has completed.

(3) If a cadet is removed from training, pursuant to subsection (1)
of this section, within thirty (30) days of the removal, he may request in
writing an administrative hearing, which shall comply with KRS Chap-
ter 13B.

(4) A cadet shall be considered unqualified if he:
   (a) Files an incomplete or fraudulent application to attend Police
       Corps basic training, or otherwise fails to comply with admissions
       requirements;
   (b) Does not meet all requirements for Police Corps participation
       as defined by the OPCLEE, including:
       1. Not having received a bachelor's degree from an accredited
          four-year college or university;
       2. Having served as a sworn police officer with the power of ar-
          rest, as defined by OPCLEE;
       (c) Arrives at the beginning of the Police Corps basic training
           course physically unable to participate because of:
           1. Physical injury; or
           2. Being under the influence of alcohol or drugs (prescription
              or illegal); or
           3. Failure of the physical training entry requirements as found in
              503 K-A 115;
       (d) Has had prior disciplinary action while at the department which
           would prevent participation (expelled or suspended from training),
           or has a pending disciplinary action which was initiated during a previous
           department training course;

   (e) Is unprepared to participate in training due to his arrival without
       the required equipment, license, uniform, or preparation.

Section 4. Gifts. Gifts from cadets to department staff members
shall conform with the Executive Branch Code of Ethics (KRS
11A.040).

Section 5. Penalties for Misconduct. (1) The following penalties
shall apply to a cadet's failure to meet conduct or honor code require-
ments of the department. The penalties are listed in order of decreas-
ing severity:

(a) Expulsion. The cadet is dismissed from the Police Corps basic
    training course, and all privileges are terminated. The cadet is ineligi-
    ble for future Police Corps basic training courses, and may not reapply
    for admission to the department's basic training course for five (5)
    years from the date of expulsion.

(b) Suspension. The cadet is suspended from department training
    for a specified period of time, not to exceed one (1) year; all privileges
    are revoked during the suspension period.

(c) Probation. The cadet is placed on probation for a specified pe-
    riod of time, not to exceed the final date of the Police Corps basic
    training course in which he is currently enrolled. A loss of privileges
    may be imposed during the period of probation. A violation of any
    conduct or honor code requirement during the period of probation shall
    result in an extension of the period of probation, additional loss of privi-
    leges, suspension, or expulsion.

(d) Loss of privileges. The cadet's privileges as specified in the
    imposed penalty are rescinded for a stated period of time. The cadet's
    participation in training activities is not affected.

(e) Written reprimand. The cadet is reprimanded in writing for vi-
    olating a conduct or honor code requirement.

(f) Verbal warning. The cadet is warned verbally that he has vio-
    lated a conduct or honor code requirement.

(2) Second and subsequent violations.

(a) If a cadet has received a penalty for violating a conduct or
    honor code requirement, upon a second violation of any conduct or
    honor code requirement the next higher penalty shall be added to the
    list of penalties which may be imposed for the second violation.

(b) If a cadet has previously received two (2) penalties for violating
    two (2) conduct or honor code requirements, upon a third or subse-
    quent violation of any conduct or honor code requirement the next two
    (2) higher penalties shall be added to the list of penalties which may
    be imposed for the third or subsequent violation.

(3) Giving notice of disciplinary action to cadet. The department
    shall give written notice to a cadet of any penalty imposed upon him.

(4) Penalties records.
   (a) The department shall keep a written record of any penalty im-
       posed on a cadet.
   (b) A copy of any penalty imposed on a cadet shall be placed in
       his basic training file.
   (c) Only the OPCLEE, the department, and the cadet shall have
       access to the penalty records in a cadet's basic training file unless
       broader access is required by law.

Section 6. Termination of Dangerous or Disruptive Situation. If the
conduct or condition of a cadet constitutes an immediate danger or an
immediate threat of danger to self or others, or is disruptive of, or is an
immediate threat to be disruptive of a department activity, a depart-
ment staff member may take all reasonable steps necessary to termi-
nate the situation.

Section 7. Conduct Requirements. A cadet attending the Police
Corps basic training course shall meet the following conduct require-
ments:

(1) General conduct, chain of command. All communications shall
    follow chain of command of the department. Exceptions are the un-
    availability of a supervisor, or the cadet's complaint regarding a super-
    visor. Penalties: verbal warning or written reprimand.

(2) General conduct, insubordination. A cadet shall:
   (a) Obey a lawful order from a department staff member. Penalty:
       verbal warning, written reprimand, loss of privileges, probation, or
       suspension.
   (b) Refrain from vulgarity, rudeness, violent, threatening, or offen-
       sive confrontation, or other disrespectful conduct directed toward a
       department staff member, cadet, recruit or other department trainee,
       or guest. Penalty: verbal warning, written reprimand, probation, or
       suspension.

(3) General conduct, grooming. The cadet shall be clean shaven
    with sideburns no longer than the bottom of the ear lobe. A musta-
    chae is permitted if the cadet had the mustache upon arrival and it is kept
    neatly trimmed. A cadet's hair shall not be unkempt or over the collar.
    Penalty: verbal warning or written reprimand.

(4) General conduct, alcoholic beverages and other intoxicants.
   (a) A cadet shall not possess, consume nor be under the influ-
       ence of alcoholic beverages, controlled substances, or other intoxicat-
       ing substances not therapeutically prescribed by a physician while at-
       tending Police Corps basic training, which shall include all dates of
       training and periods while residing in the dormitory. A cadet shall not
       report to the dormitory having consumed alcoholic beverages, con-
       trolled substances, or other intoxicating substances. A cadet shall not
       submit to testing as requested by the department to determine the
       presence of alcoholic beverages, or controlled or other intoxicating
       substances at the department's expense. Testing shall be requested if
       a department or dormitory staff member, instructor, section supervisor,
       branch manager, director or commissioner has a reasonable suspicion
       that the cadet has violated the provisions of this section. Testing may
       be randomly requested of all cadets. Penalty: written reprimand, loss
       of privileges, probation, suspension or expulsion.
   (b) If a cadet has taken a controlled substance as prescribed by a
       physician or has taken any other medication, whether prescribed or
       not, he shall not participate in any training activity if he is under the
       influence thereof to the extent that the cadet may be impaired or may
       endanger himself or other persons or property. A cadet shall advise
       the class coordinator or the section supervisor in writing of the use of
       controlled substance or medication whether or not it has been pre-
       scripted by a physician. Penalty: verbal warning, written reprimand,
       probation, or suspension.

(c) Confiscation.
   1. If a dormitory staff member, department instructor, section su-
      pervisor, or branch manager conserves an unlawfully-possessed intox-
      icing substance, he shall immediately confiscate the substance.
      Confiscated items shall be stored in a safe and secure facility of
      the department pending appropriate disposition.

(5) General conduct, weapons and other dangerous devices.
   (a) A cadet shall not possess deadly weapons (as defined in KRS
       500.080), ammunition, destructive devices or booby trap devices (as
defined in KRS 237.030), hazardous substances (as defined in KRS 224.01-400), knives other than an ordinary pocket knife, fireworks, or instruments used by law enforcement for control purposes including batons, stun guns, Mace, and pepper spray, on property used by the department except under circumstances specifically authorized by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

(b) Weapons specifically designated by the department to be used for training purposes shall be stored in a vault provided by the department at all times when they are not being used directly in training activities and may be removed only for scheduled training, servicing, cleaning, or repair involving cleaning, and repairs of weapons (other than repairs which may require the expertise of a qualified gunsman) shall be carried out only as authorized by the section supervisor and only in the presence of a certified firearms instructor. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, branch manager, director or commissioner observes an unlawful possession of a weapon or other dangerous device he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(d) General conduct, department property.

(a) A cadet shall not recklessly, negligently, or intentionally damage, destroy, fail to return, or be wasteful of property of the department or any other facility used by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion. Additionally, the appropriate prosecutorial authority shall be notified of the activity if it constitutes a felony or Class A misdemeanor, and may be notified of other activity when appropriate.

(b) Engage in conduct which creates a danger or risk of danger to the cadet or another, possess obscene matter as defined in KRS 531.010, engage in conduct which is unreasonably annoying, engage in fighting or in violent, tumultuous or threatening conduct, engage in sexual harassment or conduct which is patently offensive. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(c) Engage in conduct which violates an Eastern Kentucky University policy or rule. A copy of the policies and rules shall be given to each cadet at the beginning of the course. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(b) Training activities, uniforms.

(a) A cadet shall maintain all issued uniforms and wear them as required by the department. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(b) Navy blue utility uniforms shall be:

1. Clean, pressed and in good condition;
2. Appropriately sized to fit the cadet and not excessively loose, baggy, or tight;
3. Worn over a clean white tee-shirt, visible at the neck; and
4. Worn with a wide black police-type belt, clean black police-type footwear, black or navy blue socks, and when outdoors, a department cap. Penalty: verbal warning or written reprimand.

(c) All other uniforms, including physical fitness uniforms, shall be worn in a manner as directed by the department.

(d) Jewelry. The cadet may wear:

1. One (1) ring per hand. A wedding and engagement ring worn together on the left hand shall be considered one (1) ring; or
2. Necklaces if worn under the tee-shirt and not visible. Penalty: verbal warning or written reprimand.

(e) A name tag, provided by the department, shall be worn on the left shirt-pocket flap while in navy blue uniform. Penalty: verbal warning or written reprimand.

(f) Sleeves on winter shirts shall not be rolled up outside the classroom. Penalty: verbal warning or written reprimand.

(g) Additional clothing may be worn during a training activity if authorized by the instructor.

(h) Training activities, absences.

(a) A cadet is absent if he is not physically present in a class or other required department activity for ten (10) minutes or more. A cadet is tardy if he is not physically present at a class or other required department activity for fewer than ten (10) minutes. A cadet shall give advance notice of an absence when possible. Penalty for an unexcused absence: verbal warning, written reprimand, loss of privileges, probation, or suspension; penalty for an unexcused tardiness: verbal warning or written reprimand.

(b) All absences from Police Corps basic training must be approved by the director, or Police Corps Director.

(c) If a cadet is absent, excused or unexcused, he shall make up for the absence by completing an assignment provided by the instructor who taught the missed unit. Failure to make up the work shall be deemed a failure for that training area.

(d) Training activities, breaks. Cadets shall be allowed a ten (10) minute break per hour of instruction if possible. Breaks shall be taken only in areas designated by the department. Penalty: verbal warning or written reprimand.

(e) Training activities, general conduct.

(a) A cadet shall be attentive during training activities. Penalty: verbal warning or written reprimand.

(b) A cadet shall not use tobacco products during, or bring food or drink into a training activity unless so permitted by the training director or commissioner. Penalty: verbal warning or written reprimand.

(c) A cadet shall not engage in conduct which creates or may create a risk of injury to others during a training session. Penalty: probation, suspension, or expulsion.

(d) A cadet shall complete assignments by the deadline established by the instructor or coordinator. Penalty: verbal warning or written reprimand.

(f) Training activities, dishonesty.

(a) A cadet shall not cheat or attempt to cheat on a test, or alter or attempt to alter a test grade or other evaluation result. A cadet shall not permit, assist or facilitate this conduct by another cadet. Penalty: suspension or expulsion.

(b) A cadet shall not cheat or attempt to cheat on any other assignment or activity, engage in any other conduct intended to gain an undeserved evaluation, or falsify a document provided to the department during Police Corps basic training. A cadet shall not permit, assist or facilitate this conduct by another cadet. Penalty: written reprimand, loss of privileges, probation, suspension or expulsion.

(g) Residence hall.

(a) During the Police Corps basic training course, when attending in Madison County, a cadet shall reside in the residence hall designated by the department.

(b) A cadet shall return to his residence hall at curfew times designated by the commissioner, Sunday through Thursday evenings, and Friday or Saturday if a training session is scheduled for the following day, and remain there until 5 a.m. the next morning. Exceptions shall be approved by the class coordinator and reported in writing through channels to the director. Penalty: verbal warning, written reprimand, loss of privileges, probation.

(c) A cadet shall observe "lights out" by 11:30 p.m. Sunday through Thursday, and Friday or Saturday if a training session is scheduled for the following day, except on nights prior to an academic test when the time shall be extended to 12 midnight. Penalty: verbal warning or written reprimand.

(d) Each cadet shall be responsible for cleaning his area. Each morning, prior to leaving for class training, a cadet shall ensure his room is clean and free of trash, with beds made and the room ready for inspection. Penalty: verbal warning, written reprimand, loss of privileges.

(e) Doors shall be locked whenever a room is unoccupied. Penalty: verbal warning or written reprimand.

(f) The use of cooking appliances or space heaters is prohibited. Penalty: verbal warning, written reprimand, loss of privileges.

(g) All residence hall rooms, closets, and containers therein may
Section 8. Honor Code. (1) The cadet shall abide by the provisions of the honor code which reads as follows:

We are a dynamic team of individuals who possess a wide array of talent and strengths. In order for our team to grow and be successful, we will need the leadership of the agency and follow directives to the best of our ability. We will make sacrifices for the benefit of the team. We will practice humility and show a spirit of compromise. As cadets of the Department of Criminal Justice Training, the Police Corps basic training class, we will not lie, steal or cheat nor tolerate any among us who do.

We will keep our private lives honorable as an example to all. We will be exemplary in obeying the laws of the Commonwealth and the administrative regulations of the Department of Criminal Justice Training. Whatever we see or hear of a confidential nature or confidence to us in our official capacity shall be kept confidential unless revelation is necessary in the performance of duty. We will never allow personal feelings, prejudices, ill will or friendships to influence our decisions.

We know that each of us is individually responsible for standards of professional performance. Therefore, we will make the utmost efforts to improve our level of knowledge and competence.

We recognize the badge of our office as a symbol of public faith and accept it as a public trust to be held so long as we are true to the ethics of the police service. We will constantly strive to achieve these ideals, dedicating ourselves to our chosen profession - law enforcement. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

Upon the completion of the class, the class shall designate a minimum of one (1) honor code representative for the first phase of Police Corps basic training. The honor code representative may be replaced:

(a) In the case of nonperformance of duties, including conduct violations; or

(b) When the coordinator, in cooperation with the class, determines that a rotating assignment as honor code representative is in the best interest of the class.

(3) All cadets shall report honor code violations to the honor code representative who shall report the offense to the class coordinator. The representative will recommend the penalty to be imposed for the violation.

(4) All disciplinary procedures contained in this administrative regulation shall apply to the honor code violation. The department may pursue separately any additional offenses discovered during the investigation of the honor code violation. The department may charge a cadet with an honor code violation without a prior report from the honor code representative. A penalty recommendation for the violation shall be solicited from the honor code representative.

Section 9. Department's Responsibilities to Sponsoring Agency. In order to keep the sponsoring agency advised of the cadet's progress and performance in Police Corps basic training so that the agency may adequately assess the cadet's ability to perform required duties, the department shall provide the following to the police chief, sheriff or chief administrator of the cadet's sponsoring agency:

(1) Cadet performance report which shall be completed at least every (4) weeks intervals and shall include cadet conduct, demonstrated leadership abilities, examination scores, physical fitness scores and overall effort on performance, observed social and interpersonal skills, and appearance.

(2) Immediate notice of any off-campus activity which reflects negatively on the profession, including the following:

(a) Disorderly conduct;

(b) Speeding; or

(c) Other behavior that gives rise to a citizen's complaint.

(4) Written notice of any misconduct or honor code penalty imposed upon the cadet.

(5) Notice when a cadet has been charged with a violation of a conduct or honor code requirement and has requested a hearing.

(6) Notice when a cadet has been removed from training pending an initial appearance before the commissioner as defined in Section 11 of this administrative regulation, or when a cadet has been removed from training pending a disciplinary hearing as defined in Section 15(3) of this administrative regulation.

Section 10. Summary Discipline. Except for summary discipline, no penalty shall be imposed upon a cadet unless charges have first been brought by the legal officer.

(1) The following department staff members have the authority to impose the specified penalties summarily without meeting the requirements of the formal disciplinary procedures provided by Sections 11 through 17 of this administrative regulation. The legal authority to impose summary discipline, the staff member must have reasonable grounds to believe the cadet has engaged in the misconduct.

(a) A department instructor may summarily impose a verbal warning.

(b) The section supervisor, Police Corps Director, branch manager, director, or commissioner may summarily impose a verbal warning, written reprimand, or penalty.

(c) The Corps Director, Branch Manager, Director, or Commissioner may summarily impose a verbal warning, written reprimand, or penalty.

(2) After imposing a penalty summarily, the staff member shall give the cadet the opportunity to give an explanation.

(3) A summarily imposed penalty shall be reviewed by, and may be rescinded or modified by, the immediate supervisor of the staff member imposing the penalty. The reviewer shall provide the cadet with the opportunity to give an explanation.

Section 11. Removal From Training Pending An Initial Appearance Before the Commissioner. (1) When a charge is filed against a cadet, the commissioner or director, in consultation with the Police Corps Director, may remove the cadet from some or all training until the cadet's initial appearance before the commissioner if he has reasonable grounds to believe the alleged misconduct took place and:

(a) He has reasonable suspicion to believe thecadet would be dangerous or disruptive if not removed; or

(b) The cadet has been charged with misconduct for which suspension or expulsion is authorized, and the facts demonstrate that suspension or expulsion is the appropriate penalty should the cadet be found guilty of the misconduct.

(2) A cadet who has been removed from training pending an initial appearance before the commissioner shall be provided the initial appearance within three (3) training days of the removal.

Section 12. Complaint. Anyone having reasonable grounds to believe that a cadet has violated any of the conduct or honor code requirements identified in this administrative regulation may file a complaint with the section supervisor or Police Corps Director. This complaint shall be in writing setting forth the facts upon which the complaint is based.

Section 13. Investigation by Police Corps Director or Section Supervisor. (1) If the Police Corps Director or Section Supervisor receives a complaint of or witnesses apparent misconduct, he shall take statements and otherwise investigate the matter. (2) After investigating the matter, the Police Corps director or section supervisor shall:

(a) Take no action if none is justified by the evidence; or

(b) Impose appropriate summary discipline; or

(c) File, with the legal officer, a written request that charges be brought against the cadet. The request for charges shall describe the alleged misconduct and designate the specific conduct requirements
violated. All pertinent evidence and documents including the complaint, and statements of the cadet and witnesses shall be forwarded to the legal officer.

Section 14. Review by Legal Officer; Placing Charges. (1) The legal officer shall review the request for charges and the supporting evidence and documents.
(2) The legal officer may make or cause further inquiry into the matter for additional information.
(3) The legal officer shall:
(a) File such charges against the cadet as he believes are justified by the evidence; or
(b) Deny the request for charges if the evidence does not support any charges. If the legal officer declines to file charges, he shall provide the commissioner with a statement of his reasons for not filing charges.
(4) The charging document shall:
(a) Be in writing;
(b) Particularly describe the alleged misconduct so as to reasonably inform the cadet of the nature of the allegation;
(c) State the time, date and place the cadet shall make an initial appearance before the commissioner to answer the charges;
(d) Be signed by the legal officer; and
(e) Be served upon the cadet at least forty-eight (48) hours before his initial appearance before the commissioner.

Section 15. Initial Appearance Before the Commissioner. (1) The initial appearance before the commissioner shall be held no more than five (5) training days after the charges have been served on the cadet. If the cadet after receiving proper notice, fails to appear, the commissioner may proceed in his absence and the cadet shall be notified in writing of any action taken.
(2) At the initial appearance before the commissioner:
(a) The legal officer shall:

1. Read the charges to the cadet;
2. Explain to the cadet:
   a. The charges;
   b. His right to a hearing in accordance with KRS Chapter 13B; and
   c. His right to be represented by legal counsel.
(b) The legal officer shall explain to the cadet the possible answers to the charges: admit the charges are true, deny the charges are true but waive a hearing, or deny the charges are true and ask for a hearing.
(c) The commissioner shall advise the cadet of the penalty which shall be imposed if the cadet admits the charges or waives a hearing. The commissioner's recommendation regarding penalty shall be made in consultation with the Police Corps Director.
(d) The cadet shall be requested to answer the charges.
(e) If the cadet chooses to waive his rights and admits the charges or denies the charges but waives a hearing:

1. He shall be permitted to make a statement of explanation; and
2. The commissioner shall impose a penalty.
(f) If the cadet denies the charges and requests a hearing, the commissioner shall set a date for the hearing. A notice of administrative hearing as required by KRS 13B.050 shall be served on the cadet within forty-eight (48) hours of the initial appearance before the commissioner.
(g) If the cadet remains silent or refuses to answer the charges, the commissioner, in consultation with the Police Corps Director, may suspend the cadet from training until the cadet answers the charges or the legal officer drops the charges.
(3) The commissioner, in consultation with the Police Corps Director, may remove the cadet from some or all training until the hearing if:
(a) He has reasonable grounds to believe the cadet would be dangerous or disruptive if not removed; or
(b) The cadet is charged with misconduct serious enough to authorize expulsion as a possible penalty.

Section 16. Hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 17. Appeal. (1) A cadet may appeal an order entered by the commissioner which imposes a penalty adverse to the cadet by filing a written notice of appeal to the Secretary of the Justice Cabinet.
(a) The notice of appeal shall state the points on which the appeal is based and shall be on a form provided by the department. The form is made a part hereof by reference.
(b) A copy of the order being appealed shall be attached to the notice of appeal.
(c) A copy of the notice of appeal shall be delivered to the commissioner of the department by certified mail.
(2) The appeal shall not be heard de novo but shall be determined upon the audio record and any written or physical evidence introduced at the hearing.
(3) The Secretary of the Justice Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

JOHN W. BIZZACK, Ph.D., Commissioner
APPROVED BY AGENCY: June 8, 2001
FILED WITH LRC: June 8, 2001 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1)(a) What this administrative regulation does: Establishes the conduct and disciplinary procedures for the Department of Criminal Justice Training - Kentucky Police Corps basic training course.
(b) Necessity of this administrative regulation: The regulation is necessary so that the Department of Criminal Justice Training can fulfill its responsibility, as established in KRS 15A.070(1), to establish conduct and disciplinary requirements for the Department of Criminal Justice Training - Kentucky Police Corps basic training course.
(c) How this regulation conforms to the content of the authorizing statute: KRS 15A.070(1) authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This administrative regulation establishes the conduct requirements of cadets attending the Department of Criminal Justice Training - Kentucky Police Corps basic training course, prescribes procedures for disciplinary action, and sets penalties.
(d) How this regulation currently assists in the effective administration of the statute: This regulation sets clear, reasonable and consistent conduct rules and disciplinary procedures for the Department of Criminal Justice Training - Kentucky Police Corps basic training course.
(2) Not an amendment.
(3) Type and number of entities affected: Approximately 14 local law enforcement agencies in the Commonwealth shall be affected as a result of the Department of Criminal Justice Training - Kentucky Police Corps basic training course beginning in June 2001.
(4) How the aforesaid entities will be impacted by the implementation of this regulation: It is anticipated that agencies should experience positive results from the implementation of this administrative regulation. Upon graduation, Kentucky Police Corps cadets will be assigned to various agencies for a period of 4 years. The Federal Police Corps Act (42 USC sections 14091 et seq.) authorizes the award of a scholarship to participants in the Police Corps who agree to work in a state or local police force after graduation. Additionally, each agency will receive, from the United States Department of Justice, $10,000 for each year of service, for each Police Corps graduate hired.
(5) Cost to implement this regulation:
(a) Initially: No additional state costs.
(b) On a continuing basis: No additional state costs.
(6) Source of funding to be used for implementation and enforcement of administrative regulation: Federal funds received pursuant to the Police Corps Act, and the Kentucky Law Enforcement Foundation Program Fund, which is a restricted fund.
(7) Assessment of whether an increase in fees or funding shall be necessary to implement this regulation: No.
(8) Does this administrative regulation directly or indirectly increase any fees: No.
(9) TIERING: Was tiering applied: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the
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agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
803 KAR 2:320E

This emergency administrative regulation, in Section 6 incorporates, by reference, a Federal Register publication, dated January 18, 2001, Volume 66, Number 12, pp. 5318-5325 which revises 29 CFR 1910.1030, "Occupational Exposure to Bloodborne Pathogens". These changes were mandated by the Needlestick Safety and Prevention Act, and codify the requirement for the use of safer medical devices. The changes also add a sharps injury recordkeeping requirement. This emergency administrative regulation, also in Section 6, incorporates by reference two (2) Federal Register publications amending 29 CFR 1910.1043, "Occupational Exposure to Cotton Dust". The first Federal Register publication, dated December 7, 2000, Volume 65, Number 236, pp. 76563-76669, amends 29 CFR 1910.1043 to include "batch kier" washed cotton in the exemptions section of that standard. The second Federal Register publication, date April 6, 2001, Volume 66, Number 67, pp. 18191-18192, confirms the effective date of the amendments published in the December 7, 2000 Federal Register. Finally, this emergency administrative regulation updates the incorporation by reference of the Code of Federal Regulations to July 2000, and corrects typographical errors and omissions in Section 6. It is necessary to promulgate this emergency administrative regulation to comply with federal mandate, 29 CFR 1953.23, which requires implementation of the federal standard, or one more stringent, within six (6) months of the date of promulgation of the new federal standard, and to keep the state program as effective as the federal program. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The "Notice of Intent to Promulgate Administrative Regulation" shall be filed with the Regulations Compiler, June 15, 2001.

PAUL E. PATTON, Governor
JOE NORSWORTHY, Chairman

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Emergency Amendment)

803 KAR 2:320E. Air contaminants.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1910.1000-1500
EFFECTIVE: June 15, 2001
NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions. (1) Definitions applicable to this part:
(a) "Act" means KRS Chapter 338.
(b) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.
(c) "Employee" means any person employed except those employees excluded in KRS 338.021.
(d) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.
(e) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.
(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.
(g) "Standard" means the same as regulation or federal rule which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment.
(h) "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or U.S. Department of Labor.

(2) Definitions for Section 2 of this administrative regulation.
(a) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of three-tenths (0.3) mu particles.
(b) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.
(c) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline). The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.
(d) "Closed system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) where containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.
(e) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.
(f) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary or Health, Education and Welfare to act for the Director.
(g) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.
(h) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) which may result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).
(i) "External environment" means any environment external to regulated and nonregulated areas.
(j) "Isolated system" means a fully enclosed structure other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.
(k) "Laboratory type hood" means a device enclosed on three sides and the top and bottom designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained is such a way that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of any employee's body other than his hands and arms.
(l) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.
(m) "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas or the external environment.
(n) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).
(o) "Regulated area" means an area where entry and exit is restricted and controlled.
(p) "Scope of this administrative regulation.
(a) "Area director" means Director, Division of Occupational Safety and Health, Kentucky Labor Cabinet.
(b) "Assistant secretary" means Secretary of Labor, Kentucky Labor Cabinet.
(c) "U.S. Department of Labor" means Kentucky Labor Cabinet.

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.
(a) This section applies to any area in which, 4,4'-Methylene bis
(2-chloroaniline). Chemical Abstracts Service Registry Number 101144 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (5)(b), (c), and (d) of this section.

(2) Requirements for areas containing 4,4' -Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4' -Methylene bis (2-chloroaniline) is manufactured, processed, used, released, handled, or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4' -Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas where 4,4' -Methylene bis (2-chloroaniline) is stored in sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4' -Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only;
2. Employees shall be required to wash hands, forearms, face and neck after each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations as defined in Section 1(1)(m) of this administrative regulation are prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving "laboratory-type hoods," or in locations where 4,4' -Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into another normally closed container, the provisions of this subparagraph shall apply.

1. Access shall be restricted to authorized employees only;
2. Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, non-regulated areas or the external environment unless decontaminated. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.
3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

4. Employees engaged in 4,4' -Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 1910.134. A respirator affording higher level or protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under subsection (5)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains are prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4' -Methylene bis (2-chloroaniline) could result, each authorized employee performing such operations shall:

1. Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with 1910.134;
2. Be decontaminated before removing the protective garments and hood;
3. Be required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this subparagraph shall apply to research and quality control activities involving the use of 4,4' -Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4' -Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4. Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

5. All other forms of 4,4' -Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with, and required to use, complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and
b. Prior to each exit from a regulated area employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under subsection (5)(b), (c), and (d) of this section.

7. Employees, other than those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

b. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)(2), 3, and 4 of this subsection.

c. Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4' -Methylene bis (2-chloroaniline) is handled and biosafety studies are performed shall be negative in relation to the pressure in surrounding area. Exhaust air shall not be discharged to regulated areas, non-regulated areas or the external environment unless decontaminated.

9. There shall be no connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4' -Methylene bis (2-chloroaniline) shall be maintained.

11. Vented apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

12. Premixed solutions. Where 4,4' -Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however,

1. Only authorized employees shall be permitted to handle such materials;
2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;
3. Employees shall be required to remove and leave protective clothing and equipment when leaving the work area at the end of the work day or at any time solution is spilled on such clothing or equipment. Used clothing and equipment shall be placed in impervious containers for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)(1), (3), and (4) of this section.

4. Employees shall be required to wash hands and face after removing such clothing and equipment and before engaging in other activities.

5. Employees assigned to work covered by the subparagraph shall be deemed to be working in regulated areas for the purposes of subsection (4) of this section.

6. Work areas where solution may be spilled shall be:
   a. Covered daily or after any spill with a clean covering;
   b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.
(a) Employee identification. A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years. The rosters and/or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures including, but not limited to, the requirements of subparagraphs 1, 2, 3, 4, and 5 of this paragraph shall be implemented.
1. The potentially affected area shall be evacuated as soon as the emergency has been determined.
2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.
3. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.
4. Where an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline) such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.
5. An incident report on the emergency shall be reported as provided in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.
1. Storage or consumption of food, drink or use of containers of beverages, storage or application of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.
2. Where employees are required by this section to wash, washing facilities shall be provided in accordance with 1910.141.
3. Where employees are required by this section to shower, facilities shall be provided in accordance with 1910.141(g)(3).
4. Where employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 1910.141(e), for the number of such employees required to change clothes.
5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.
1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.
2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.
3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment and the decontamination facility.
4. Signs, information and training
   (a) Signs.
   1. Entrance to regulated areas shall be posted with signs bearing the legend: CANCER-SUSPECT AGENT Authorized Personnel Only
   2. Entrances to regulated areas containing operations covered in subsection (3)(e) of this section shall be posted with signs bearing the legend: Cancer-Suspect Agent exposed
   b. Container contents identification.
   1. Containers of 4,4'-Methylene bis (2-chloroaniline) and containers required under subsection (2)(d)(2) and (f)(7b) and (f)(7b) and (g)3 of this section which are accessible only to, and handled only by authorized employees, or by other employees trained in accordance with paragraph (e) of this subsection, may have contents identification limited to a generic or proprietary name, or other proprietary identification, or the carcinogen and percent of the body.
   2. Containers of 4,4'-Methylene bis (2-chloroaniline) and containers required under subsection (2)(d)(2) and (f)(7b) and (f)(7b) and (g)3 of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph of this paragraph shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in subsection (1)(a) of this section.
   3. Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.
   4. Containers which have 4,4'-Methylene bis (2-chloroaniline) contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive of affected portions of the body.
   5. Lettering. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two inch labels. Labels on containers required under this section shall not be less than one-half (1/2) the size of the largest lettering on the package, and not less than eight (8) point type in any instance; provided that no such required lettering need be more than one (1) inch in height.
   6. Prohibited statements. No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.
   (e) Training and Indocination.
   1. Each employee prior to being authorized to enter regulated area shall receive a training and indoctrination program including, but not necessarily limited to:
   a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including short- and systemic toxicity;
   b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) which could result in exposure;
   c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;
   d. The purpose for and application for decontamination practices and purposes;
   e. The purpose for and significance of emergency practices and procedures;
   f. The employees specific role in emergency procedures;
   g. Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4,4'-Methylene bis (2-chloroaniline);
   h. The purpose for and application of specific first-aid procedures and practices.
   i. A review of this section at the employees first raining and indocination program and annually thereafter.
   ii. Specific emergency procedures shall be prescribed, and posted, and employees shall be familiarized with their terms, and rehearsed in their application.
   iii. All materials relating to the program shall be provided upon request to authorized representatives of assistant secretary and the
director. (5) Reports. (a) Operations. Not later than March 1, 1974, the information required in subparagraphs 1, 2, 3, and 4 of this paragraph shall be reported in writing to the nearest OSHA Area director. Any changes in such information shall be similarly reported in writing within fifteen (15) calendar days of such change. 1. A brief description and inplant location of the area(s) regulated and the address of each regulated area: 2. The name(s) and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area. 3. The number of employees in each regulated area, during normal operations including maintenance activities; and 4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area; e.g., whether it is manufactured, processed, used, repackaged, release, stored, or otherwise handled. (b) Incidents. Incidents which result in the release of 4,4'- Methylene bis (2-chloroaniline) into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph. 1. A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within twenty-four (24) hours to the nearest OSHA Area Director. 2. A written report shall be filed with the nearest OSHA Area Director within fifteen (15) calendar days thereafter and shall include: a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure; b. A description of the area involved, and the extent of known possible employee and area contamination; and c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and d. An analysis of the circumstances to be taken, with specific completion dates, to avoid further similar release. (6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees. (a) Examinations. 1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors. 2. Authorized employees shall be provided periodic physical examination, not less often than annually, following the preassignment examination. 3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids of cytotoxic agents, pregnancy and cigarette smoking. (b) Records. 1. Employers or employees examined pursuant to this paragraph shall cause to be maintained complete and accurate record of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employee resumes business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director. 2. Records required by this paragraph shall be provided upon request to authorized representatives of the assistant secretary or the director: and upon request of an employee or former employee, to a physician designated by the employee or to a new employer. 3. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employees suitability for employment in the specific exposure. Section 3. Laboratory Activities. The requirements of this subsection shall apply to research and quality control activities involving the use of chemicals covered by 29 CFR 1910.1003-1016. (1) Mechanical pipetting aids shall be used for all pipetting procedures. (2) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes. (3) Surfaces on which chemicals covered by 29 CFR 1910.1003 [4403]-1016 are handled shall be protected from contamination. (4) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be in cemented in such a manner that no carcinogenic products are released. (5) All other forms of chemicals covered by 29 CFR 1910.1003-1016 shall be inactivated prior to disposal. (6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters. (7) Employees engaged in animal support activities shall be: (a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and (b) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under Section 3(2), (3), and (4) of this administrative regulation. (c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and (d) Required to shower after the last exit of the day. (8) Employees, other than those engaged only in animal support activities, each day shall be: (a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suite, or fully buttoned laboratory coat; and (b) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under Section 3(2), (3), and (4) of this administrative regulation. (c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities. (9) Air pressure in laboratory areas and animal rooms where chemicals covered by 29 CFR 1910.1003-1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. (10) There shall be no connection between regulated areas and any other areas through the ventilation system. (11) A current inventory of chemicals covered by 29 CFR 1910.1003-1016 shall be maintained. (12) Ventilated apparatus such as laboratory-type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation. Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 CFR 1910.1020(e)(1)(i); (2) 29 CFR 1910.1020(e)(1)(i) is amended to read: "Whenever an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, pace, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical". (3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 CFR 1910.1020(e)(1)(ii); (4) 29 CFR 1910.1020(e)(1)(iii) is amended to read: "Whenever an employee or designated representative requests a copy of a record, the employer shall, except as specified in (v) of this section, within
Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) The material in subparagraph 1 through 2 of this paragraph, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 2000, is incorporated by reference:
1. 29 CFR 1910.1000 to 29 CFR 1910.1030(d)(3)(viii); and
(g) The revisions to 29 CFR 1910.103, "Carcinogens (4-Nitrophenyl, etc.)", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.
(h) The revisions to 29 CFR 1910.103, "Carbonaceous Particulates (Coal or Animal Blood, etc.)", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.
(u) The revisions to 29 CFR 1910.1044, "1,2-Dibromo-3-chloropropane", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.
(2) The language relating to the use of exposure and medical records in Section 4(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.1020(e)(1).
(3) The language relating to the use of exposure and medical records in Section 4(4) of this administrative regulation shall apply in lieu of 29 CFR 1910.1020(e)(1).
(4) The language relating to the use of exposure and medical records in Section 5(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.1030(d)(3)(ix).
(5) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Kentucky Labor Cabinet, Division of Education and Training, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. Office hours are 8 a.m. to 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman
KEMBRA SEXTON TAYLOR, Attorney
APPROVED BY AGENCY: June 7, 2001
FILED WITH LRC: June 15, 2001 at 8 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kembra Taylor, Tim Chancellor

(1) Provide a brief summary of:
(a) What this administrative regulation does: This emergency regulation, in Section 6, incorporates by reference a Federal Register publication, dated January 18, 2001, Volume 66, Number 12, pp. 5318-5325 which revises 29 CFR 1910.1030, "Occupational Exposure to Bloodborne Pathogens". These changes were mandated by the Needlestick Safety and Prevention Act and codify the requirement for the use of safer medical devices. The revisions also add a requirement for a sharps injury log. This emergency regulation also in Section 6, incorporates 2 Federal Register Publications amending 29 CFR 1910.143, "Occupational Exposure to Cotton Dust". The first Federal Register notice dated December 7, 2000, Volume 65, Number 236, pp. 563-76699, amends 29 CFR 1910.143, to include cotton washed using the batch kier process to the exemptions section of the standard. The second Federal Register dealing with Cotton Dust, published April 6, 2001, Volume 66, Number 67, pp. 18191-18192, simply confirms the effective date of the December publication. Finally, this administrative regulation updates the incorporation by reference of the

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FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(o)(2)).


4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements, responsibilities, or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The revisions impose no stricter, additional, or different responsibilities than the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part o’ division of the local government. The amendments affect local government entities engaged in general industry and construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees of local government engaged in general industry and construction work. The amendments will primarily affect the safety and health of local government employees engaged in healthcare activities.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. The proposed amendments will not affect the number of local government employees.

STATEMENT OF EMERGENCY
907 KAR 1:640

This emergency administrative regulation is being promulgated to conform to federal regulations. This action must be taken on an emergency basis to protect the health and safety of families with children and veterans by providing health coverage. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because one veterans and families with children could be denied health coverage. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.
Section 1. Definitions. (1) "ABD" means an individual who is aged, blind, or disabled.
(2) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996.
(3) "Child" means a person who:
   (a) is under the age of eighteen (18); or
   (b) is under the age of nineteen (19) if the person is:
      (i) in high school or the same level of vocational or training school; and
      (ii) Expected to graduate before or during the month of his 19th birthday.
   2. Is not self-supporting:
   3. Is not a member of the Armed Forces of the United States; and
   4. If previously emancipated by marriage, has returned to the home of his parents or to the home of another relative; or
   (b) has not attained nineteen (19) years of age as specified in 42 USC 1396a(l)(1).
(4) "Family alternatives diversion payment" means a lump sum payment made to a K-TAP applicant to meet short-term emergency needs.
(5) "Incapacity" means a condition of mind or body making a parent physically or mentally unable to provide the necessities of life for a child.
(6) "Income" means money received from statutory benefits (including Social Security, Veteran's Administration pension, black lung benefits, or railroad retirement benefits), pension plans, rental property, investments, or wages for labor or services.
(7) "Lump sum income" means money received at one (1) time which is normally considered as income, including accumulated back payments from Social Security, unemployment insurance or worker's compensation, back pay from employment, money received from an insurance settlement, gift, inheritance, lottery winning, noncontinuing proceeds from a bankruptcy proceeding, money withdrawn from an IRA, KEOGH plan, deferred compensation, tax deferred retirement plan, or other tax deferred asset.
(8) "Minor parent" means a parent under the age of twenty-one (21).
(9) "Official poverty income guidelines" means the poverty income guidelines which are:
   (a) Updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 USC 9902(2); and
   (b) The latest poverty guidelines available as of March 1 of the particular state fiscal year.
(10) "SSI" means supplemental security income program.

Section 2. Income Limitations. (1) For the medically needy as described in 907 KAR 1:011, income shall be determined by comparing adjusted income as required by Section 3 of this administrative regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

<table>
<thead>
<tr>
<th>Size of Family</th>
<th>Annual</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$2,600</td>
<td>$217</td>
</tr>
<tr>
<td>2</td>
<td>3,200</td>
<td>267</td>
</tr>
<tr>
<td>3</td>
<td>3,700</td>
<td>308</td>
</tr>
<tr>
<td>4</td>
<td>4,600</td>
<td>383</td>
</tr>
<tr>
<td>5</td>
<td>5,400</td>
<td>450</td>
</tr>
<tr>
<td>6</td>
<td>6,100</td>
<td>508</td>
</tr>
<tr>
<td>7</td>
<td>6,800</td>
<td>567</td>
</tr>
</tbody>
</table>

For each additional member, $720 annually or sixty ($60) dollars monthly shall be added to the scale.

(2) The following special factors shall be applicable for a pregnant woman or child eligible pursuant to 42 USC 1396a(e):
   (a) A pregnant woman or child under age one (1) shall have family income not exceeding 150 percent of the official poverty income guidelines;
   (b) A child age one (1) or over but under age six (6) shall have family income not exceeding 133 percent of the official poverty income guidelines;
   (c) A child born after September 30, 1983, who has attained six (6) years of age but has not attained nineteen (19) years of age shall have family income not exceeding 100 percent of the official poverty income guidelines;
   (d) A pregnant woman or child who would be eligible under provisions of 42 USC 1396a(l) or 1397l(b) except for income in excess of the allowable standard shall not become eligible by spending down to the official poverty guidelines as described in Section 9 of this administrative regulation;
   (e) A change of income that occurs after the determination of eligibility of a pregnant woman shall not affect the pregnant woman's eligibility through the remainder of the pregnancy including the postpartum period which ends at the end of the month containing the 60th day of a period beginning on the last day of her pregnancy;
   (f) A child as specified in 907 KAR 1:011, Section 2(17), shall have family income not exceeding 100 percent of the official poverty income guidelines;
   (g) A targeted low-income child as specified in 907 KAR 1:011, Section 2(18), shall have family income not exceeding 150 percent of the official poverty income guidelines;
   (h) The following special income limits and provisions shall be applicable for a determination of eligibility of a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified disabled working individual, or Medicare qualified individual:
   (a) A qualified Medicare beneficiary shall have income not exceeding 100 percent of the official poverty income guidelines.
   (b) A specified low-income Medicare beneficiary shall have income greater than 100 percent of the official poverty income guidelines but not to exceed 120 percent of the official poverty income guidelines.
   (c) Medicare qualified individuals shall be divided into two (2) groups:
      1. Group one (1) shall have income greater than 120 percent of the official poverty income guidelines but less than or equal to 135 percent of the official poverty income guidelines.
      2. Group two (2) shall have income greater than 135 percent of the official poverty income guidelines but less than or equal to 175 percent of the official poverty income guidelines.
   (d) A qualified disabled working individual shall have income not exceeding 200 percent of the official poverty income guidelines.
   (e) Income shall be limited to the allowable amounts for the SSI Program for:
      (a) A child who lost eligibility for supplemental security income benefits due to the change in the definition of childhood disability as established in 42 USC 1396a(l)(10); or
      (b) A person with hemophilia who received a class action settlement as established in 42 CFR 435.122
   (f) Income shall be limited to the allowable amounts for the State Supplementation Program for a pass through recipient as established in 42 CFR 435.135.

Section 3. Income Disregards. In comparing income with the scale...
established in Section 2 of this administrative regulation, gross income shall be adjusted as follows:

(1) In an AFDC or family related Medicaid case, the standard work related expenses of an adult member or out-of-school child shall be deducted from gross earnings. For a person with either full-time or part-time employment the standard work expense deduction shall be ninety-nine (99) dollars per month. Earnings of an individual attending school who is a child or parent under age nineteen (19) or a child under age eighteen (18) who is a high school graduate shall be disregarded.

(2) In an AFDC or family related Medicaid case, child care as a work expense shall be allowed for a child who is living in the home of the caretaker and is related to the caretaker in accordance with 907 KAR 1, Section (b), for full-time and part-time employment:

(a) The dependent child care work expense shall be deducted after all other disregards have been applied.

(b) The child care work expense allowed shall not exceed, per month:
   1. $200 for full-time or part-time employment per child under age two (2) and
   2. $175 for full-time employment or $150 for part-time employment per:
      a. Child age two (2) or above; or
      b. Incapacitated adult.

(3) For an AFDC-related Medicaid case, a thirty (30) dollar and one-third (1/3) deduction of earned income shall be allowed in accordance with 921 KAR 2:016.

(4) In an ABD Medicaid case, income disregards shall be those applicable in the federal SSI program established in 42 USC 1332a(b).

Section 4. Income of the Stepparent or Parent of a Minor Parent referred to as a "Grandparent". An incapacitated stepparent’s income, or a grandparent’s income, shall be considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. If the stepparent or grandparent living in the home is not being included in the family case, the stepparent’s or grandparent’s gross income shall be considered available to the spouse or the grandparent's gross income shall be considered available to the minor parent in accordance with the requirements established in this section. The following disregards and exclusions from income shall be applied:

(1) The first ninety (90) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time;

(2) An amount equal to the appropriate income limitations scale established in Section 2 of this administrative regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals (not including the spouse or minor parent) living in the house but whose needs are not taken into consideration in the Medicaid eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining federal personal income tax liability;

(3) Any amount actually paid by the stepparent or grandparent to an individual not living in the home who is claimed by him as a dependent for purposes of determining his personal income tax liability;

(4) A payment by the stepparent or grandparent for alimony or child support with respect to an individual not living in the household;

(5) Income of a stepparent or grandparent receiving SSI; and

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

Section 5. Lump Sum Income. (41) For an AFDC-related Medicaid case, lump sum income shall be divided by the medically needy income level and prorated over the resultant number of months. A deduction from the lump sum may be allowed for related or extraordinary expenses.

(2) For an individual eligible under the federal poverty level standards specified in Section 2(2)(a), (b), (c), (f), and (g) of this administrative regulation, lump sum income shall be divided by the appropriate standard for the eligible group and prorated over the resultant number of months. A deduction from the lump sum may be allowed for related or extraordinary expenses.

(9) For a [an-ABD] Medicaid case, lump sum income shall be considered as income in the month received.

Section 6. Income Exclusions. (1) Income of a person who is blind or disabled necessary to fulfill an approved plan for achieving self-support (PASS), impairment related work expense (IRWE) deduction, or the blind work expense (3WE) deduction shall be excluded from consideration.

(2) A payment or benefit from a federal statute, other than SSI benefits, shall be excluded from consideration as income if precluded from consider in SSI determinations of eligibility by the specific terms of the statute.

(3) A cash payment intended specifically to enable an applicant or recipient to pay for medical or social services shall not be considered as available income in the month of receipt.

(4) A Federal Republic of Germany reparation payment shall not be considered available in the eligibility or posteligibility treatment of income of an individual in a nursing facility or hospital who is receiving home and community-based services under a waiver.

(5) A Social Security cost of living adjustment on January 1 of each year shall not be considered as available income for a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified disabled working individual or Medicare qualified individual until after the month following the month in which the official poverty guideline promulgated by the Department of Health and Human Services, U.S. Government, is published.

(6) Any amount received from a victims compensation fund established by a state to aid victims of crime shall be excluded as income.

(7) A veteran or the spouse of a veteran residing in a nursing facility who is receiving a [the] reduced ninety (90) dollars Veterans Administration (VA) benefit, shall have the ninety (90) dollars:

(a) Excluded as income in the Medicaid eligibility determination; and

(b) Excluded [Considered] as income in the posteligibility determination process.

(8) Veterans Administration payments for unmet medical expenses (UME) and aid and attendance (A&A) shall be excluded in a Medicaid eligibility determination for a veteran or the spouse of a veteran residing in a nursing facility.

(9) Veterans Administration payments for unmet medical expenses (UME) and aid and attendance (A&A) shall be excluded in the posteligibility determination for a veteran or the spouse of a veteran residing in a nonstate operated nursing facility.

(10) Veterans Administration payments for unmet medical expenses (UME) and aid and attendance (A&A) shall not be excluded in the posteligibility determination process for a veteran or the spouse of a veteran residing in a state operated nursing facility.

(11) An Austrian Social Security payment based, in whole or in part, on a wage credit granted under Sections 500-506 of the Austrian General Social Insurance Act shall be excluded from income consideration.

(12) [96] An individual retirement account, KEOGH plan or other tax deferred asset shall be excluded as income until withdrawn.

(13) [96] Disaster relief assistance shall be excluded as income.

(14) Income which is exempted from consideration for purposes of computing eligibility for the comparable money payment program (AFDC and SSI) shall be exempted from consideration by the cabinet.

(15) [96] In accordance with 42 CFR 435.122 and Section 4735 of PL 105-33, a payment made from a fund established by a settlement in the case of Susan Walker v. Bayer Corporation or payment made for release of claims in this action shall be excluded as income.

(16) [96] In accordance with 42 CFR 435.122, any payment received by a person with hemophilia from a class action law suit entitled "Factor VIII or IX Concentrate Blood Products Litigation" shall be excluded as income.

(17) Family alternatives diversion payments shall be excluded as income.

(18) [96] For an AFDC or family-related Medicaid case, a Medicare recipient shall have the option to receive a one (1) time exclusion of two (2) months of earned income for new employment or increased wages acquired after approval and reported timely.

(19) For an AFDC-related or a family related Medicaid case, interest and dividend income shall be excluded.

(20) All money received by an individual from the tobacco settlement between the states and tobacco manufacturers shall be excluded.
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Section 7. Consideration of State Supplementary Payments. For an individual receiving a state supplementary payment, that portion of the individual's income which is in excess of the basic maintenance standard (established in Section 2(1) of this administrative regulation) shall be applied to the special need which results in the supplementary payment.

Section 8. Pass-through Cases. (1)(a) An increase in a Social Security payment shall be disregarded in determining eligibility for Medicaid benefits if:
1. The increase is a cost of living increase; and
2. The individual would otherwise be eligible for an SSI benefit or state supplementary payment.
(b) An individual who would otherwise be eligible for an SSI benefit or state supplementary payment shall remain eligible for the full scope of program benefits with no spend-down requirements, as established in Section 9 of this administrative regulation.

(2) For an individual who applied by July 1, 1988, the additional amount specified in 42 USC 1393c(b) shall be disregarded, meaning that amount of Social Security benefits to which a specified widow or widower was entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) an individual would be eligible for federal SSI benefits.

Section 9. Spend-down Provisions. (1) A technically eligible individual or family shall not be required to utilize protected income for medical expenses before qualifying for Medicaid.
(b) An individual with income in excess of the basic maintenance scale established in Section 2(1) of this administrative regulation may qualify for Medicaid in 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.
(c) Medical expenses incurred in a period prior to the quarter for which spend-down eligibility is being determined may be used to offset excess income if the medical expenses remain unpaid at the beginning of the quarter and have not previously been used as spend-down expenses.
(d) The incurred costs may be reimbursed under another public program of the state or political subdivision of the state and still be considered incurred costs of the applicant or recipient.

ELLEN HENSEN, Interim Commissioner
MARCA R. MORGAN, Interim Secretary
APPROVED BY AGENCY: May 31, 2001
FILED WITH LRC: June 7, 2001 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Sharon Rodriguez

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the income standards by which eligibility for Medicaid is determined.
(b) The necessity of this administrative regulation: This administrative regulation outlines the procedures to be used to determine Medicaid eligibility.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation outlines federal and state requirements and state options allowed by law for determining eligibility for Medicaid.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists administration of the statutes by clearly defining procedures to be used for determining Medicaid eligibility.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment specifies state policy options related to Medicaid eligibility determination.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement policy decisions related to options and to implement federal requirements.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment clearly defines procedures to be used to determine Medicaid eligibility in accordance with federal guidelines.
(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation clearly outlines procedures to be used in the counting of income in a Medicaid eligibility determination.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All veterans residing in a nursing facility whose cost of care is reimbursed by the Medicaid Program, individuals who receive income from a tobacco settlement, families applying for Medicaid and Department for Community Based Services field service workers.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This amendment will allow veterans in nursing facilities to retain a portion of their income for personal use, allow individuals otherwise eligible for Medicaid not to be penalized by receiving income from a tobacco settlement, simplify the required documentation for families applying for Medicaid and allow the Department for Community Based Services field service workers to be more efficient and accurate due to simplification of the eligibility process.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The net fiscal impact of these changes is estimated to be budget neutral.
(b) On a continuing basis: The net fiscal impact of these changes is estimated to be budget neutral.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under Title XIX and Title XXI of the Social Security Administration and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency.

The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 1:645E

This emergency regulation is being promulgated to simplify the Medicaid eligibility process for counting resources. This action must be taken on an emergency basis to protect the health and safety of families with children by providing health coverage. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because some families with children could be denied health coverage. This emergency regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
MARCA R. MORGAN, Interim Secretary
CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(Emergency Amendment)


RELATED TO: KRS 205.330, 42 CFR Part 435, 38 USC 5503, 42 USC 1396a, b, d, 1397jj(b)
VOLUME 28, NUMBER 1 – JULY 1, 2001

STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1), 205.520(3)

EFFECTIVE: June 7, 2001

NECESSITY, FUNCTION, AND CONFORMANCE: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the resource standards for determining eligibility for Medicaid.

Section 1. Definitions. (1) "ABD" means an individual who is aged, blind, or has a disability.
(2) "Department" means the Department for Medicaid Services or its agent.
(3) "Individual development account" means an account containing funds for the purpose of continuing education, purchasing a first home, business capitalization or any other purpose allowed by federal regulations or clarifications which meets the criteria established in 921 KAR 2:016.
(4) "K-TAP" means Kentucky's version of the federal block grant program of Temporary Assistance for Needy Families (TANF), a money payment program for children who are deprived of parental support or care due to:
(a) Death;
(b) Continued voluntary or involuntary absence;
(c) Physical or mental incapacity of one (1) parent or step-parent if two (2) parents are in the home; or
(d) Unemployment of one (1) parent if both parents are in the home.
(5) "Liquid resource" means cash, savings accounts, checking accounts, money market accounts, certificates of deposit, bonds and stocks.
(6) "Poverty level guidelines" means the poverty income guidelines updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 USC 9902(2).
(7) "Real property" means land or an interest in land with an improvement, permanent fixture, mineral, or appurtenance considered to be a permanent part of the land, and a building with an improvement or permanent fixture attached.
(8) "Resources" mean cash money and other personal property or real property that an individual:
(a) Owns;
(b) Has the right, authority or power to convert to cash; and
(c) Is not legally restricted for support and maintenance.
(9) "SSI" means the Social Security Administration Program called supplemental security income.

Section 2. Resource Limitations. (1) For the medically needy as established in 907 KAR 1:011, the upper limit for resources for a family size of one (1) and for family size of two (2) shall be $2,000 and $4,000 respectively, with fifty ($50) dollars for each additional member.
(2) For a pregnant woman or a child meeting the following criteria, resources shall be disregarded:
(a) A child under age one (1);
(b) A child who is at least age one (1) but under age six (6);
(c) A child who is at least age six (6) but under age nineteen (19) born after September 30, 1983 who is eligible under federal poverty level guidelines;
(d) A child born on or before September 30, 1983 who has not attained the age of nineteen (19) years as specified in 42 USC 1396a(t) and who is eligible under the Children's Health Insurance Program, 907 KAR Chapter 4; or
(e) A targeted low income child, as defined in 42 USC 1397(b), from birth to age nineteen (19).
(3) For a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified working disabled individual, or a Medicare qualified individual, resources shall be limited to twice the allowable amount for the SSI Program.
(4) For a pass-through recipient as established in 907 KAR 1:640, a person with hemophilia who received a settlement in a class action lawsuit as described in 907 KAR 1:011, or a child who lost supplemental security income eligibility due to the change in definition of childhood disability as established in 907 KAR 1:011, resources shall be limited to the allowable amounts for the SSI Program.
(5) For an AFDC-related Medicaid case, the resource limit shall be $1,000.

Section 3. Resource Exclusions. (1) A homestead, occupied or abandoned, household, personal effects, and farm equipment without limitation on value shall be excluded from consideration.
(2) For an adult Medicaid case, equity of $8,000 in income-producing, nonhomestead real property, business or nonbusiness, essential for self-support, shall be excluded from consideration. The value of property (including the tools of a tradesperson or the machinery or livestock of a farmer) that is essential for self-support for the individual or spouse, or family group in the instance of a family with a child, and which is used in a trade or business or by the individual or member of the family group as an employee shall be excluded from consideration as a resource.
(3) For a family-related Medicaid case, the value of otherwise countable real property (whether income-producing or nonincome-producing) shall be excluded from consideration for six (6) months if the individual can demonstrate that he is spending to dispose of the property properly. An additional three (3) months shall be allowed for the disposal of the property within the six (6) month period have been unsuccessful.
(4) For an ABD Medicaid case, real property or nonreal property shall be excluded from consideration if it can be demonstrated that there was a reasonable effort to sell the property at fair market value within a year of application for Medicaid.
(5) For an AFDC-related Medicaid case, $1,000 in resources shall be excluded from consideration.
(6) For an AFDC-related Medicaid case, the equity of one (1) automobile shall be excluded from consideration.
(7) For the [a] adult [or family-related] Medicaid case, except as provided in paragraph (b) of this subsection, equity of $4,500 in automobiles shall be excluded from consideration.
(b) For the [a] adult [or family-related] Medicaid case, if an automobile is used as a home, for employment, to obtain medical treatment of a specific or regular medical problem, or if specially equipped for use by an individual with a disability, the total value of the automobile shall be excluded.
(6) For an ABD Medicaid case, a burial reserve of up to $1,500 per individual, which may be in the form of a burial agreement, prepaid burial or similar arrangement, trust fund, life insurance policy, savings account, checking account or other identifiable fund shall be excluded from consideration.
(a) For an adult Medicaid case, the cash surrender value of life insurance shall be considered if determining the total value of burial reserves.
(b) If a burial fund is commingled with another fund, the applicant shall have thirty (30) days to separately identify the burial reserve amount.
(c) Interest or other appreciation of value of an excluded burial reserve or space shall be excluded as a resource if the amount is left to accumulate as a part of the burial reserve or space.
(2) For a burial trust, burial space, plot, vault, crypt, mausoleum, urn, casket, or other repository which is customarily and traditionally used for the remains of a deceased person shall be excluded from consideration as a countable resource without regard to value.
(9) For an ABD Medicaid case, proceeds from the sale of a home shall be excluded from consideration for three (3) months from the date of receipt if used to purchase another home.
(b) For a family related Medicaid case, proceeds from the sale of a home shall be excluded from consideration for six (6) months from the date of receipt if used to purchase another home.
(9) Resources of an individual who is blind or has a disability shall be excluded if the resources are included in an approved plan for achieving self-support (PASS).
(10) An individual development account up to a total of $5,000, excluding interest accrued, shall be excluded from consideration as a resource for an AFDC-related Medicaid case.
(11) For an adult Medicaid case, a payment or benefit from a federal statute, other than an SSI benefit, shall be excluded from...
consideration as a resource if precluded from consideration in an SSI determination of eligibility by the specific terms of the statute.

(12) [(44)] Disaster relief assistance shall be excluded from consideration.

(13) [(45)] Cash or in-kind replacement for repair or replacement of an excluded resource shall be excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

(14) [(46)] A life interest that a Medicaid applicant or recipient has in real estate or other property shall be excluded from consideration as an available resource.

(15) [(47)] Real property other than the homestead shall be excluded from consideration if:
(a) The property is jointly owned and its sale would cause loss of housing for the other owner or owners;
(b) Its sale is barred by a legal impediment; or
(c) The owner's reasonable efforts to sell by informing the public of his intention to sell the property at fair market value have been unsuccessful.

(16) [(48)] A cash payment intended specifically to enable an applicant or recipient to pay for a medical or social service shall not be considered as a resource in the month of receipt or for one (1) calendar month following the month of receipt. If the cash is still being held at the beginning of the second month following its receipt, it shall be considered a resource.

(17) [(49)] An amount received which is a result of an underpayment or a retroactive payment of benefits from retirement, survivors, and disability insurance benefits or SSI shall be excluded as a resource for the first six (6) months following the month in which the amount is received.

(18) [(20)] A federal Republic of Germany reparation payment shall not be considered as an available resource.

(19) [(21)] An amount received from a victim's compensation fund established by a state to aid victims of crime shall be:
(a) Complete included as a resource if the individual can show that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime; or
(b) Excluded as a resource for nine (9) months if the individual can show that the amount was paid for pain and suffering.

(20) [(22)] An Austrian social insurance payment based on a wage credit granted under Sections 500-505 of the Austrian General Social Insurance Act shall be excluded from resource consideration.

(21) [(23)] An individual retirement account, Keogh plan or other tax deferred asset shall be excluded as a resource until withdrawn.

(22) [(24)] A payment made from a fund established by a settlement in the case of Susan Walker v. Bayer Corporation or payment made for release of claims in this action shall be excluded from consideration as an available resource.

(23) [(25)] A payment received from a class action law suit entitled "Factor VIII or IX Concentrate Blood Products Litigation" shall be excluded from consideration as an available resource.

Section 4. Resource Exemptions. (1) A resource which is exempted from consideration for purposes of computing eligibility for the SSI program shall be exempted from consideration by the department.

(2) For an AFDC-related and a family-related Medicaid case, all nonliquid resources shall be exempted.

ELLEN HESEN, Interim Commissioner

MARCIA R. MORGAN, Interim Secretary

APPROVED BY AGENCY: June 7, 2001

FILED WITH LRC: June 7, 2001 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Sharon Rodriguez

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes resource standards to be used in Medicaid eligibility determinations.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures for determining recipient eligibility for Medicaid.

(2) How this administrative regulation conforms to the content of the authorizing statutes: This regulation outlines federal and state guidelines for the consideration of resources in a Medicaid eligibility determination.

(3) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation outlines the procedures to be used in Medicaid eligibility determinations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will simplify the procedure to be used to determine eligibility.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to protect the health and welfare of families with children by providing health coverage through the Medicaid Program.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment simplifies the resource consideration in an eligibility determination.

(3) How the amendment will assist in the effective administration of the statutes: This amendment will allow the workers to more efficiently and correctly determine Medicaid eligibility.

(4) List the type and number of individuals, businesses, organizations, state and local government affected by this administrative regulation: Families with children who apply for Medicaid and eligible workers.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The net fiscal impact of these changes is estimated to be budget neutral.
(b) On a continuing basis: The net fiscal impact of these changes is estimated to be budget neutral.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under Title XIX and Title XXI of the Social Security Administration and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Eligibility workers and families applying for Medicaid will benefit from the simplification of the eligibility process.

(8) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The net fiscal impact of these changes is estimated to be budget neutral.
(b) On a continuing basis: The net fiscal impact of these changes is estimated to be budget neutral.

(9) Whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(10) How is the federal government involved: USEP?

(11) STATEMENT OF EMERGENCY

907 KAR 1:855E

This emergency administrative regulation is being promulgated to conform to federal regulation. This action must be taken on an emergency basis to assure that veterans receive medical coverage. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because some veterans could be deprived of medical coverage. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
MARCIA R. MORGAN, Interim Secretary
CABINET FOR HEALTH SERVICES  
Department for Medicaid Services  
Division of Member and Provider Services  
(Emergency Amendment)  

907 KAR 1:655E. Spousal impoverishment and nursing facility requirements for Medicaid.

RELATES TO: KRS 205.520, 38 USC 5503  
STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1), 194A.505, 205.520(3), 42 CFR Part 435, 42 USC 1396a, d, r-5L EO 96-862  
EFFECTIVE: June 7, 2001  
NECESSITY FUNCTION, AND CONFORMITY: The Cabinet for Health Services has responsibility to administer the Medicaid Program. Effective June 7, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520(3) authorizes the cabinet, in administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to certain eligible individuals. This administrative regulation establishes spousal impoverishment and nursing facility requirements for Medicaid eligibility determinations.

Section 1. Definitions. (1) “Assigned support right” means the assignment of the support right of an institutionalized individual to the state or Medicaid Program.

(2) “Community spouse” means the spouse of an institutionalized spouse, who remains at home in the community and is not living in a medical institution or nursing facility or participating in a home and community based services (HCBS) waiver program.

(3) “Community spouse maintenance standard” means the income standard to which a community spouse’s income is compared for purposes of determining the amount of the allowance used in the possibility calculation.

(4) “Continuous period of institutionalization” means thirty (30) or more consecutive days of institutional care in a medical institution or nursing home (or both) and may include thirty (30) consecutive days of receipt of HCBS (or a combination of both).

(5) “Countable resources” means resources not subject to exclusion in the Medicaid Program.

(6) “Department” means the Department for Medicaid Services or its designee.

(7) “Dependent child” means the couple’s child (including a child gained through adoption) who lives with the community spouse and is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(8) “Dependent parent” means a parent of either member of a couple who lives with the community spouse and is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(9) “Disability” means a condition of a person that results in the individual being determined by the cabinet as having a physical or mental disability that substantially limits a person’s ability to participate in the mainstream of community life.

(10) “Gross income” means nonexcluded income which would be used to determine eligibility prior to income disregards.

(11) “Income” means money received from statutory benefits (Social Security, Veterans Administration pension, black lung benefits, railroad retirement benefits), pension plans, rental property, investments or wages for labor or services as defined in 907 KAR 1:650.

(12) “Institutionalized individual” means an individual with respect to whom payment is based on a level of care provided in a NF and who is (a) An inpatient in: 1. A nursing facility (NF); 2. An Intermediate care facility for the mentally retarded (ICF-MR); or 3. A medical institution; or (b) Receiving home and community based services (HCBS) as defined in 907 KAR 1:650.

(13) “Institutionalized spouse” means an individual who is in a medical institution or nursing facility, or participates in an HCBS waiver program, with a spouse who is not in a medical institution or nursing facility or HCBS waiver program if the individual is likely to be in the medical institution or nursing facility or waiver program for at least thirty (30) consecutive days while the community spouse remains out of a medical institution or nursing facility or HCBS waiver program.

(14) “Likely to remain in an institution” means a determination by the cabinet that the individual is likely to remain in a nursing facility for at least thirty (30) consecutive days while the community spouse remains out of the medical institution or nursing facility.

(15) “Living apart” means not sharing a common household, whether due to estrangement, disability, or illness, and includes living in a medical institution, special school, or in foster care even if the individual makes a visit to the home.

(16) “Living with” means sharing a common living arrangement or household but does not include living in the same room in a long term care facility.

(17) “Medical institution or nursing facility” means a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(18) “Minor” means the couple’s minor child who is under age twenty-one (21) who lives with a community spouse and is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(19) “Month after the month of separation” means the first day of the month that follows the month in which an individual ceases living in the same household of the Medicaid budget unit.

(20) “Monthly income allowance” means an amount: (a) Deducted in the posteligibility calculation for maintenance needs of a community spouse and other family member; and (b) Equal to the difference between a spouse’s and other family member’s income and the appropriate maintenance needs standard.

(21) “Other family member” means a child who is either a minor or dependent, a dependent parent or dependent sibling of either member of a couple and who resides with the community spouse.

(22) “Other family member’s maintenance standard” means an amount equal to one-third (1/3) of the difference between the income of the other family member and the standard maintenance amount.

(23) “Otherwise available income” means income to which the community spouse has access and control, including gross income that would be used to determine eligibility under Medicaid without benefit of disregards for federal, state and local taxes; child support payments; or other court ordered obligation.

(24) “Resources” means money and personal property or real property that an institutionalized individual or institutionalized individual’s spouse owns; has the right, authority or power to convert to cash and is not legally restricted from using for support and maintenance as defined in 907 KAR 1:650.

(25) “Resource assessment” means the assessment, at the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1999) of the institutionalized spouse upon request by either spouse, of the joint resources of a couple [when] a member of the couple enters a medical institution or nursing facility or becomes a participant in an HCBS waiver program.

(26) “Significant (or extreme) financial duress” means a member of a couple establishes to the satisfaction of a hearing officer that the community spouse needs income above the level permitted by the community spouse maintenance standard to provide for medical, remedial, or other support needs of the community spouse to permit the community spouse to remain in the community.

(27) “Spousal protected resource amounts” means resources deducted from a couple’s combined resources for the community spouse in an eligibility determination for the institutionalized spouse.

(28) “Spouse” means a person legally married to another under state law.

(29) “Standard maintenance amount” means one-twelfth (1/12) of the federal poverty income guidelines [guidelines] for a family unit of two (2) members (with revisions of the official poverty guideline [line] applied for Medicaid provided during and after the second calendar quarter that begins after the date of publication of the revisions) multiplied by 150 percent.

(30) “State spousal resource standard” means the amount of a couple’s combined countable resources determined necessary by the Department for a community spouse to maintain himself in the community.
(31) "Support right" means the right of an institutionalized spouse to receive support from a community spouse under state law.

(32) "Termination of institutionalization" means an individual has been out of a medical institution, nursing facility, or HCBS waiver program, for thirty (30) consecutive days.

(33) "Undue hardship" means that Medicaid eligibility of the institutionalized spouse cannot be established on the basis of assigned support rights and the spouse is subject to discharge from the medical institution, nursing facility, or HCBS waiver program due to inability to pay.

Section 2, Resource Assessment. (1) Pursuant to 42 USC 1396r-5(c)(1)(6), an assessment of the joint resources of an institutionalized spouse and the community spouse shall be made upon request of either spouse at the beginning of a continuous period of institutionalization of the institutionalized spouse and upon receipt of relevant documentation of resources.

(2) The department shall complete the assessment within forty-five (45) days if the necessary documentation or verification is provided in a timely manner.

(3) Upon completion of the resource assessment, each spouse shall:

(a) Receive a copy of the assessment; and

(b) Be notified that the right of appeal of the assessment shall exist at the time the institutionalized spouse applies for Medicaid.

Section 3, Protection of Income and Resources of the Couple for Maintenance of the Community Spouse.

(1) Treatment of income. The following income provisions shall apply for an individual beginning a continuous period of institutionalization on or after September 30, 1989:

(a) Separate treatment of income. Except as provided in paragraph (b) of this subsection, during a month in which an institutionalized spouse is in the institution, income of the community spouse shall be deemed available to the institutionalized spouse.

(b) Attributed income. In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined or redetermined to be eligible for Medicaid, the provisions of 42 USC 1396r-5(b)(2) shall apply.

(2) Treatment of resources. The following resource provisions shall apply for an individual beginning a continuous period of institutionalization on or after September 30, 1989:

(a) Attributed resources. At the time of an initial eligibility determination. Except as provided in subsection 4(b) of this section, in determining the resources of an institutionalized spouse at the time of application for a benefit under Medicaid, the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse.

(b) Nonattributed resources. The following protected amounts shall be deducted from a couple's combined countable resources at the time of the determination of initial eligibility of the institutionalized spouse:

1. The state resource standard; and

2. a. If applicable, an additional amount transferred under a court order; or

b. [3] If applicable, an additional amount designated by a hearing officer.

(c) Exceptions to resource eligibility by assignment of support rights. The institutionalized spouse shall not be ineligible by reason of resources determined under paragraphs (a) and (b) of this subsection to be available for the cost of care in the following circumstances:

1. The institutionalized spouse has assigned to the department his right to support from the community spouse;

2. The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment and the state has the right to bring a support proceeding against a community spouse without the assignment; or

3. The department determines that denial of eligibility would work an undue hardship.

(d) Separate treatment of resources after eligibility for benefits is established.

1. During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for a Medicaid benefit, the resources of the community spouse shall not be deemed available to the institutionalized spouse.

2. Resources of the institutionalized spouse protected for the needs of the community spouse shall be considered available to the institutionalized spouse if the resources are not transferred to the community spouse within six (6) months of the initial eligibility determination.

(e) Excess value of an automobile. The equity value of an automobile in excess of the limits established by 907 KAR 1:645 shall not be included as a countable resource.

(3) Protecting income for the community spouse. The following provisions shall apply with regard to protecting income for the community spouse:

(a) The following allowances shall be offset from income of an institutionalized spouse. After an institutionalized spouse is determined or redetermined to be eligible for Medicaid, in determining the amount of the spouse's income that is to be applied monthly to pay for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

1. A personal needs allowance of forty (40) dollars plus a mandatory withholding from income, including a mandatory payroll deduction that is a condition of employment and federal, state and local taxes that the government requires the payer to deduct before payment is made to the payee;

2. A community spouse monthly income allowance to the extent income of the institutionalized spouse is made available to, or for the benefit of, the community spouse;

3. A family allowance determined in accordance with the definition of other family member's maintenance standard; and

4. An amount for incurred expenses for medical or remedial care for the institutionalized spouse.

(b) Establishment of the community spouse maintenance standard. The community spouse maintenance standard shall be set at $1,500 per month, to be increased for each calendar year after 1989 by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

(c) Court ordered support. If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall not be less than the amount ordered.

(4) Permitting transfer of resources to a community spouse. The following provisions shall apply with regard to a transfer of resources from an institutionalized spouse:

(a) Permitted transfer. An institutionalized spouse may, without regard to the usual prohibitions against disposal of assets for less than fair market value, transfer to the community spouse (or to another for the sole benefit of the community spouse) an amount equal to the state spousal resource standard to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer shall be made as soon as practicable after the initial determination of eligibility, taking into account the time necessary to obtain a court order under paragraph (c) of this subsection.

(b) Establishment of the state spousal resource standard. The state spousal resource standards shall be set at $60,000, to be increased for each calendar year after 1989 by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

For an individual, the spousal protected resource amount may be a higher amount established by a hearing officer, or a higher amount transferred under a court order as specified in paragraph (c) of this subsection.

(c) Transfers under court orders. If a court has entered an order against an institutionalized spouse for the support of a community spouse, the usual prohibitions against disposal of assets for less than fair market value shall not apply to the amount of resources transferred pursuant to the order for the support of the spouse.

(5) Prohibited transfers. Except for a transfer of resources to the community spouse as specified in subsection (4) of this section, the transfer of resource policies established by 907 KAR 1:650 shall ap-
(6) Requirement for notice and fair hearings. The following notice and fair hearings requirements shall apply:
(a) Notice.
1. The department shall send the notification required by subparagraph 2 of this paragraph to:
   a. Both spouses upon a determination of eligibility for Medicaid of an institutionalized spouse; or
   b. The spouse making the request upon a request by either the institutionalized spouse, the community spouse, or a representative acting on behalf of either spouse.
2. The notice shall state:
   a. The amount of the community spouse monthly income allowance;
   b. The amount of a family allowance;
   c. The method of computing the amount of the community spouse resources allowance; and
   d. The spouse's right to a fair hearing in accordance with 907 KAR 1:560.
(b) Fair hearings. Both the institutionalized spouse and community spouse shall be entitled to a fair hearing in accordance with 907 KAR 1:560 if the spouse is dissatisfied with the action of the agency including determination of the following:
1. The community spouse monthly income allowance;
2. The amount of monthly income determined to be otherwise available to the community spouse;
3. The attribution of resources at the time of the initial eligibility determination; or
4. The determination of the community spouse resource allowance.
(c) Revision of monthly maintenance needs allowance. If either the institutionalized spouse or community spouse establishes during the hearing that the community spouse needs income above the level otherwise provided by the monthly maintenance needs allowance, due to an exceptional circumstance resulting in a significant financial duress, an amount adequate to provide the necessary additional income shall be substituted for the monthly maintenance needs allowance.
(d) Revision of community spouse resource allowance. If either spouse established during the hearing process that the community spouse resource allowance (in relation to the amount of income generated by an allowance) is inadequate to raise the community spouse's income to the monthly maintenance needs allowance, there shall be substituted for the community spouse resource allowance an amount adequate to provide the monthly maintenance needs allowance.

Section 4. Specified Individuals in Nursing Facilities. For an individual who is aged, blind, or has a disability and who is in a nursing facility not subject to treatment as the institutionalized spouse of a community spouse as shown in Section 3 of this administrative regulation, the following requirements with respect to income limitations and treatment of income shall apply:

1. In determining eligibility, the appropriate medically needy standard or special income level, disregards, and exclusions from income shall be used. In determining patient liability for the cost of institutional care, gross income shall be used as provided in subsections (2) and (3) of this section.

2. Income protected for basic maintenance shall be forty (40) dollars monthly plus mandatory withholdings. Mandatory withholdings shall:
   a. Exclude minimum state and federal taxes, and
   b. Not include court-ordered child support, alimony, or similar payment resulting from an action by the recipient.
   [a]. For an individual receiving the ninety-(90)-dollars-reduced Veterans Administration[VA] improved pension benefits, the personal needs allowance shall be ninety-(90)-dollars effective with the month the VA payment is reduced.

   [b]. An amount excluded under a plan to achieve self-support (PASS), as an income related work expense (IRWE) or blind work expense (BWE) shall be considered an increase in personal needs allowance for a Medicaid recipient except a recipient for whom a quarterly spenddown process as established in 907 KAR 1:560 is applicable.

   [c]. Income in excess of the amount protected for basic maintenance shall be applied to the cost of care except [exempt] as follows:
   1. Available income in excess of the basic maintenance allowance shall be first conserved as needed to provide for the needs of a minor child up to the appropriate family size amount from the scale as established by 907 KAR 1:560, Section 2(1).
   2. Remaining available income shall be applied to the incurred costs of medical and remedial care that are not subject to payment by a third party (except that the incurred costs may be reimbursed under another public program of the state or political subdivision of the state), including Medicare and health insurance premiums or 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 nursing facility shall take into account the home maintenance costs.
   4. If an individual loses eligibility for a supplementary payment due to entrance into a participating nursing facility, and the supplement payment received by a specified institutionalized Medicaid eligible individual in accordance with 42 USC 1382(e)(1)(G) shall be excluded from consideration as either income or a resource. The payment shall not be used in the posteligibility process to increase the patient liability.

   [d]. Ninety-(90)-dollars of Veterans Administration(VA) benefits received by a veteran or the spouse of a veteran shall be excluded from consideration as income. The ninety-(90)-dollars shall not be counted in the eligibility or the posteligibility calculation.

   [e]. Veterans Administration payments for unreimbursed medical expenses (UME) and aid and attendance (A&A) shall be excluded in a Medicaid eligibility determination for a veteran or the spouse of a veteran residing in a nursing facility.
   a. Veterans Administration payments for unreimbursed medical expenses (UME) and aid and attendance (A&A) shall be excluded in the posteligibility determination for a veteran or the spouse of a veteran residing in a nonstate operated nursing facility.
   b. Veterans Administration payments for unreimbursed medical expenses (UME) and aid and attendance (A&A) shall not be excluded in the posteligibility determination process for a veteran or the spouse of a veteran residing in a state-operated nursing facility.

Section 5. Special Needs Contributions for Institutionalized Individuals. A voluntary payment made by a relative or other party on behalf of a nursing 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 Medicaid Program. A special service or item shall include television or telephone service, private room or bath, or a private duty nursing service.

ELLEN HESSEN, Interim Commissioner
MARCIA R. MORGAN, Interim Secretary
APPROVED BY AGENCY: June 7, 2001
FILED WITH LRC: June 7, 2001 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Sharon Rodriguez

1. Provide a brief summary of:
   a. What this administrative regulation does: This administrative regulation establishes spousal impoverishment and nursing facility requirements for Medicaid eligibility determinations.
   b. The necessity of this administrative regulation: This administrative regulation is necessary to establish the guidelines to determine recipient eligibility in a nursing facility.
   c. How this administrative regulation conforms to the content of the authorizing statutes: This regulation outlines the federal and state regulations regarding the provision of Medicaid to individuals residing in nursing facilities.
   d. How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines procedures to be used in the eligibility determination of an indi-
vidual residing in a nursing facility.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will change current procedures to con- form with federal requirements.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to conform to federal regulations.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment allows a $50 income exclusion from Vet- eran Administration benefits.
(d) How the amendment will assist in the effective administration of the statute: This amendment simplifies the procedure for considering income from Veteran Administration benefits and brings this regulation into conformity with federal requirements.
(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All veterans residing in Medicaid reimbursed nursing facil- ities.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Veterans in a nursing facility will be allowed to retain a portion of their pension for their personal use.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The net fiscal impact of these changes is estimated to be budget neutral.
(b) On a continuing basis: The net fiscal impact of these changes is estimated to be budget neutral.
(6) What is the source of the funding to be used for the imple- mentation and enforcement of this administrative regulation: Federal funds authorized under Title XIX and Title XXI of the Social Security Act and matching funds of general fund appropriations.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.
(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 1:655E

This emergency administrative regulation is being promulgated to conform to federal regulations. This action must be taken on an emer- gency basis to assure that veterans receive medical coverage. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because some veterans could be deprived of medical coverage. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regu- lations Compiler.

PAUL E. PATTON, Governor
MARcia R. MORGAN, Interim Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(Emergency Amendment)

907 KAR 1:655E. Special income requirements for [alternative intermediate services for individuals with mental retardation (AIS-MR),] hospice[,] and home and community based services (HCBS).

RELATES TO: KRS 205.520, 42 CFR Part 435, 38 USC 5503, 42 USC 1396a, n
STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1) [194A.060], 205.520(3) [: EO 96-862]
EFFECTIVE: June 7, 2001
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services has responsibility to administer the Medicaid Pro- gram. [Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed it under the Department for Medi- caid Services and the Medicaid Program under the Cabinet for Health Services.] KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes special income requirements for home and community based services for individuals with mental retardation—(AIS-MR), hospice services [and home and community based services (HCBS)].

Section 1. Definitions. (1) "AIS-MR," means alternative intermediate services for individuals with mental retardation.
(2) "Basic maintenance" means the amount of income that may be retained by the applicant for living and personal expenses.
(3) "Categorically needy" means an individual with income below 300 percent of the Supplemental Security Income (SSI) standard who has been receiving [AIS-MR] hospice or HCBS for thirty (30) consecutive days.
(4) "(4) "HCBS" means home and community based services.
(5) "Income deeming" means the amount of income which is considered available to a Medicaid applicant from a spouse or parent.
(6) "Institutionalized" means residing in a nursing facility or receiving [AIS-MR] hospice, or HCBS benefits.
(7) "SSI" means the Social Security Administration Program called supplemental security income.
(8) "SSI general exclusion" means the twenty (20) dollars disregard from income allowed by the Social Security Administration in an SSI determination.
(9) "SSI" means the Social Security Administration as the federal benefit rate.

Section 2. Special Provisions for Recipients Participating in the HCBS Waiver Program. Medicaid eligibility for a participant under HCBS shall be determined if necessary to establish eligibility for Medi- caid benefits for a case with income in excess of the basic mainte- nance standard taking into consideration the special provisions established in this section and in KAR 1:655.
(1) Income protected for the basic maintenance of an HCBS Pro- gram participant who is eligible as medically needy or under the special income level established in this section shall be the standard used for an individual in the federal SSI Program in addition to the SSI general exclusion from income.
(2) An HCBS Program participant who participates in the HCBS Program for thirty (30) consecutive days, including the actual days of institutionalization within that period, and who has income not in ex- cess of 300 percent of the SSI standard for an individual shall be de- termined to be eligible as categorically needy under a special income level which shall be 300 percent of the SSI standard.
(3) If an HCBS Program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant shall be deter- mined on a spenddown basis for an individual who is institutionalized, with the cost of HCBS projects if eligibility is determined on a monthly basis.
(4) Institutional deeming rules shall apply in accordance with 907 KAR 1:655.
(5) In the posteligibility determination of available income, the basic maintenance needs allowance shall include a mandatory withholding from income. Mandatory withholdings shall:
(a) Include state and federal taxes; and
(b) Not include child support, alimony, or a similar payment resulting from an action by the recipient.
(6) A veteran or the spouse of a veteran who is receiving services in a home and community based waiver program and who is receiving a Veteran’s Administration (VA) benefit shall have ninety (90) dollars excluded from the eligibility and posteligibility determination process.
(a) Include state and federal taxes; and
(b) Not include child support, alimony, or a similar payment resulting from an action by the recipient.
(6) A veteran or the spouse of a veteran who is receiving services in a home and community based waiver program and who is receiving a Veteran’s Administration (VA) benefit shall have ninety (90) dollars excluded from the eligibility and posteligibility determination process.
(a) Include state and federal taxes; and
(b) Not include child support, alimony, or a similar payment resulting from an action by the recipient.
(7) Institutional deeming rules shall be applicable in accordance with 907 KAR 1:665.
(8) The following AIS-MR services program participants shall be determined to be eligible as categorically needy under a special income level, which shall be 300 percent of the SSI standard:
(a) A participant in the AIS-MR Program for thirty (30) consecutive days, including the actual days of institutionalization within that period; and
(b) A participant who does not have income in excess of 300 percent of the SSI standard for an individual.
(9) Income protected for basic maintenance of the AIS-MR participant in the posteligibility determination for an individual eligible as medically needy or on the basis of the special income level of 300 percent of the federal SSI standard shall be the standard for the federal SSI Program in addition to the SSI general exclusion from income.
(10) If an AID-MR services program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant shall be determined on a spenddown basis for an individual who is institutionalized, with the cost of AID-MR services program if eligibility is determined on a monthly basis.
(11) Eligibility shall continue on the same basis as for an institutionalized individual if the cost of care is greater than the recipient's adjusted monthly income or the recipient is eligible based on the special income level of 300 percent of the SSI standard.
In the posteligibility determination, the basic maintenance needs allowance shall include a mandatory withholding from income. Mandatory withholdings shall:
(a) Include state and federal taxes; and
(b) Not include child support, alimony, or a similar payment resulting from an action by the recipient.
Section 3. Special Provisions for Hospice Recipients. Medicaid eligibility for a participant in the Medicaid Hospice Program shall be determined by taking into consideration the special provisions contained in this section.
(1) Income protected for basic maintenance shall be:
(a) The standard for the SSI Program in addition to the SSI general exclusion from income for the hospice participant in the posteligibility determination for a noninstitutionalized individual eligible on the basis of the special income level of 300 percent of the federal SSI standard;
(b) The usual medically needy standard established in 907 KAR 1:640; and
(c) The medically needy standard for the appropriate family size plus the SSI general exclusion for the institutionalized medically needy;
(d) Forty (40) dollars per month for the hospice participant institutionalized in a long-term care facility.
(e) A veteran or the spouse of a veteran who is receiving services from a hospice and who is receiving a Veteran’s Administration (VA) benefit shall have ninety (90) dollars excluded from the eligibility and posteligibility determination process.
(f) Veterans Administration payments for unremit medical expenses (UME) and aid and attendance (A&A) shall be excluded in a Medicaid eligibility and posteligibility determination for a veteran or the spouse of a veteran receiving services from a hospice.
(2) If eligibility is determined for an institutionalized monthly spenddown case, the attributable cost of 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 42 USC 1395lix) plus the private pay rate for the nursing facility.
(3) Eligibility shall continue on the same monthly basis as for an institutionalized individual if the recipient is eligible based on the special income level of 300 percent of the SSI standard.
(4) A hospice participant shall be eligible for a benefit based on this section if he has elected coverage under the Medicaid Hospice Program rather than the regular Medicaid Program.
(5) Institutional deeming rules shall apply in accordance with 907 KAR 1:665 with regard to the categorically needy including a participant eligible on the basis of the special income level of 300 percent of the SSI standard and an institutionalized hospice recipient eligible on a monthly spenddown basis.
(6) Community deeming procedures shall be used in accordance with 907 KAR 1:660 for a noninstitutionalized hospice recipient who is:
(a) A medically needy individual, who shall spenddown on a quarterly basis; and
(b) Not eligible under the special income level.
(7) In the posteligibility determination of available income, the basic maintenance needs allowance shall include a mandatory withholding from income. Mandatory withholdings shall:
(a) Include state and federal taxes; and
(b) Not include child support, alimony, or a similar payment resulting from an action by the recipient.
[Section 4. Special Provisions for Recipients Participating in the HCBS Waiver Program. Medicaid eligibility for a participant under HCBS shall be determined if necessary to establish eligibility for Medicaid benefits for a case with income in excess of the basic maintenance standard taking into consideration the special provisions established in this section and in 907 KAR 1:665.
(1) Income protected for the basic maintenance of an HCBS Program participant who is eligible as medically needy or under the special income level established in this section shall be the standard used for an individual in the federal SSI Program in addition to the SSI general exclusion from income.
(2) An HCBS Program participant who participates in the HCBS Program for thirty (30) consecutive days, including the actual days of institutionalization within that period, and who has 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 which shall be 300 percent of the SSI standard.
(3) If an HCBS Program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant shall be determined on a spenddown basis for an individual who is institutionalized, with the cost of HCBS projected if eligibility is determined on a monthly basis.
(4) Institutional deeming rules shall apply in accordance with 907 KAR 1:665.
(5) In the posteligibility determination of available income, the basic maintenance needs allowance shall include a mandatory withholding from income. Mandatory withholdings shall:
(a) Include state and federal taxes; and
(b) Not include child support, alimony, or a similar payment resulting from an action by the recipient.
ELLEN HENSEN, Interim Commissioner
MARIA R. MORGAN, Interim Secretary
APPROVED BY AGENCY: June 7, 2001
FILED WITH LRC: June 7, 2001 at 4 p.m.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Agency Contact Person: Sharon Rodriguez
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes special income requirements for individuals re-

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ceiving hospice or home and community based (HCB) services.
(b) The necessity of this administrative regulation: This adminis-
trative regulation is necessary to establish the guidelines for deter-
mining recipient eligibility for hospice or home and community based
(HCB) services.
(c) A statement of how the administrative regulation conforms to the content of
the authorizing statutes: This administrative regulation outlines the
state and federal guidelines for the provision of Medicaid to individuals
for hospice or home and community based (HCB) services.
(d) How this administrative regulation currently assists or will as-
sist in the effective administration of the statutes: This regulation
outlines procedures to be used in the eligibility determination of an
individual to receive hospice or home and community based (HCB) serv-
ices.
(2) If this is an amendment to an existing administrative regulation,
provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will change procedures to conform with
federal requirements.
(b) The necessity of the amendment to this administrative regula-
tion: The amendment is necessary to conform to federal regulations.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment allows a $90 income exclusion from Veteran
Administration benefits.
(d) How the amendment will assist in the effective administration of
the statutes: This amendment simplifies the procedures for consid-
ering income from Veteran Administration benefits and brings this
administrative regulation in conformity with federal requirements.
(3) List the type and number of individuals, businesses, organiza-
tions, or state and local government affected by this administrative
regulation: All veterans eligible to receive hospice or home and com-
munity based (HCB) services.
(4) Provide an assessment of how the above group or groups will be
impacted by either the implementation of this administrative regulation,
if new, or by the change if it is an amendment: Veterans receiving
hospice or HCB services will be allowed to retain a portion of their
pension for their personal use.
(5) Provide an estimate of how much it will cost to implement this
administrative regulation:
(a) Initially: The net fiscal impact of these changes is estimated to
be budget neutral.
(b) On a continuing basis: The net fiscal impact of these changes is estimated to
be budget neutral.
(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: Federal
funds authorized under Title XIX and Title XXI of the Social Security
Act and matching funds of general fund appropriations.
(7) Provide an assessment of whether an increase in fees or
funding will be necessary to implement the changes to this adminis-
trative regulation, if new, or by the change if it is an amendment: No increase in fees or
funding will be necessary to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes
any fees or directly or indirectly increases any fees: This administrative
regulation does not establish or increase any fees.
(9) Tiering: Is tiering applicable? Tiering was not appropriate in this
administrative regulation because the administrative regulation applies
equally to all those individuals or entities regulated by it. Disparate
treatment of any person or entity subject to this administrative regula-
tion could raise questions of arbitrary action on the part of the agency.
The "equal protection" and "due process" clauses of the Fourteenth
Amendment of the U.S. Constitution may be implicated as well as
Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
921 KAR 3:025E

The administrative regulation 921 KAR 3:025E, Technical require-
ments (Food Stamp Program) is being promulgated as an emer-
gency to comply with a federal mandate in accordance with KRS
13A.150. The federal requirement was published as a final rule on
November 21, 2000 at 7 CFR 272 and 273. This emergency adminis-
trative regulation is necessary to assist aliens awaiting verification
from federal agencies to obtain food stamps without unnecessary ad-
mist inary delay for up to six (6) months. The federally mandated
effective date is June, 2001. The amendments to food stamp work
requirements are necessary to comply with the final rule published on
January 17, 2001, at 7 CFR 273. The federal Food and Nutrition
Service notified the state agency that implementation shall be effective
August, 2001. This emergency administrative regulation will be re-
placed by an ordinary administrative regulation.

PAUL E. PATTON, Governor
VIOLA P. MILLER, Secretary

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Emergency Amendment)

921 KAR 3:025E. Technical requirements.

RELATES TO: 7 CFR 273, 1273.5, 273.7, 7 USC 2015(e), (o), 8
USC 1612(a), (b), 1613(b), 1622(b), 1641(b), [PL 105-185, sec. 503
through 508]
STATUTORY AUTHORITY: KRS 194B.050(1), 205.2005, 7 CFR
271.4, 272, 273 [EQ 98-731]
EFFECTIVE: June 1, 2001
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for
Families and Children has responsibility to administer a Food Stamp
Program. KRS 194B.050(1) provides that the secretary shall, by ad-
mnisterative regulation, develop policies and operate programs con-
cerned with the welfare of the citizens of the Commonwealth. This
administrative regulation sets forth the technical eligibility requirements
used by the cabinet in the administration of the Food Stamp Program.

Section 1. Definitions. (1) "Certification period" means a definite
period of time within which a household shall be eligible to receive
food stamp benefits.
(2) "Qualified alien" means an alien who, at the time the alien ap-
plies for, receives, or attempts to receive food stamp benefits, is:
(a) An alien who is lawfully admitted for permanent residence pur-
suant to 8 USC 1101(a) 10;
(b) An alien who is granted asylum pursuant to 8 USC 1158;
(c) A refugee who is admitted to the United States pursuant to 8
USC 1157;
(d) An alien who is paroled into the United States pursuant to 8
USC 1182(d)(5) for a period of at least one (1) year;
(e) An alien whose deportation is being withheld pursuant to:
1. 8 USC 1253(a), as in effect prior to April 1, 1997; or
2. 8 USC 1231(b)(3);
(f) An alien who is granted conditional entry pursuant to 8 USC
1153(a)(7) as in effect prior to April 1, 1980;
(g) An alien who is granted status as a Cuban and Haitian entrant
pursuant to 8 USC 1522;
(h) An alien who is admitted to the United States as an Amerasian
immigrant pursuant to 8 USC 1101;
(i) An alien lawfully residing in the United States who is:
1. A veteran as defined pursuant to 38 USC 101, 107, 1101, or
1301 with an honorable discharge and not on account of alienage,
who fulfills the minimum active-duty service requirements of 38 USC
5303(d); or
2. On active duty, other than active duty for training, in the Armed
Forces of the United States; or
3. The spouse or unmarried dependent child of an individual de-
scribed in subparagraphs 1 and 2 of this paragraph; or
4. The unmarried (unremarried) surviving spouse of an individual
described in subparagraph 1 and 2 of this paragraph who is deceased
if the marriage fulfills the requirements of 38 USC 1304;
(j) An alien lawfully residing in the United States on August 22,
1996, who is blind or has a disability pursuant to 42 USC 1382;
(k) An alien who is:
1. An American Indian born in Canada pursuant to 8 USC 1359;
or
2. A member of an Indian tribe pursuant to 25 USC 450;
(l) An alien lawfully residing in the United States on August 22,
1996, who was sixty-five (65) years of age or older;
(m) An alien lawfully residing in the United States on August 22,
1996, who is under eighteen (18) years of age; or
(n) An alien lawfully residing in the United States who was a member of a Hmong or Highland Laotian tribe and rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era pursuant to 38 USC 101 or [ - ] or
1. The spouse, or an unmarried [unremarried] dependent child, of an individual described in this paragraph; or
2. The unmarried [unremarried] surviving spouse of such an individual who is deceased, as described in this paragraph;
(o) An alien who has been battered or subjected to extreme cruelty in the U.S. by:
1. Spouse or parent; or
2. Member of the spouse or parent's family residing in the same household as the alien at the time of the abuse; or
(p) An alien whose child has been battered or subjected to battery or cruelty; or
(q) An alien child whose parent has been battered; or
(r) An alien who is a victim of a severe form of trafficking in persons who has been certified to the same extent as an alien who is admitted to the U.S. as a refugee pursuant to 8 USC 1157;
3. "Quality control review" means a review of a statistically valid sample of active and denied or discontinued cases to determine the extent to which households are receiving food stamp allotments to which they are entitled, and to ensure that inactive cases are not incorrectly denied or terminated;
4. "Student status" means any person who is between the ages of eighteen (18) and fifty (50) inclusive, physically and mentally fit, and enrolled at least half-time in an institution of higher education.

Section 2. Technical Eligibility. In accordance with federal regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, the cabinet shall utilize national uniform requirements of technical eligibility for the Food Stamp Program.

Section 3. Technical Eligibility Criteria. Technical eligibility requirements shall apply equally to all households and consist of:
1. Residency. A household:
   a. Shall live in the county in which they receive benefits; and
   b. May apply for benefits in any county;
2. Identity: [ - ]
   a. The applicant's identity shall be verified; and
   b. If an authorized representative applies for the household, the applicant's and the authorized representative's identities shall be verified;
3. Citizenship and alien status: [ - ]
   a. Except as provided in paragraph (c) of this subsection, Food Stamp Program benefits shall be provided to a citizen of the United States; and
   b. A qualified alien, as defined in Section 1(2) of this administrative regulation, shall not be eligible to participate in the Food Stamp Program; [ - ]
   c. The following exceptions shall apply to paragraph (b) of this subsection:
      1. In accordance with 8 USC 1612(a)(2)(A), a qualified alien described in this subparagraph shall be eligible to participate in the Food Stamp Program until seven (7) years after the date:
         a. He has entered the United States as a refugee pursuant to 8 USC 1157;
         b. He is granted asylum pursuant to 8 USC 1158;
         c. His deportation is withheld pursuant to: (i) 8 USC 1231(b), as in effect prior to April 1, 1997; or
            (ii) 8 USC 1231(b)(5); d. He is granted status as a Cuban and Haitian entrant pursuant to 8 USC 1522; or
         e. He is admitted to the United States as an Amerasian immigrant pursuant to 8 USC 1101;
      f. An alien who is a victim of a severe form of trafficking in persons who has been certified to the same extent as an alien who is admitted to the U.S. as a refugee pursuant to 8 USC 1157; [ - ]
      2. A qualified alien who is lawfully admitted to the United States for permanent residence pursuant to 8 USC 1101 et seq. and; [ - ] and
         a. Has worked for (40) qualifying quarters of coverage pursuant to 42 USC 413; or
b. Can be credited with forty (40) qualifying quarters pursuant to 8 USC 1645; and
   c. For the purpose of qualifying for food stamp benefits pursuant to clauses a and b of this subparagraph, a qualifying quarter shall not be credited for a period beginning after December 31, 1996, during which the qualified alien or his spouse receives a federal means-tested public benefit;
   d. An alien who is lawfully residing in Kentucky and is:
      a. A veteran, as defined pursuant to 38 USC 101, 107, 1101, or 1301 with an honorable discharge and not on account of alienage, who fulfills the minimum active-duty service requirements of 38 USC 503(a); and
      b. On active duty, other than active duty for training, in the Armed Forces of the United States; or
      c. The spouse or unmarried dependent child of an individual described in clauses a and b of this subparagraph; or
      d. The unmarried [unremarried] surviving spouse of an individual described in clauses a and b of this subparagraph who is deceased if the marriage fulfills the requirements of 38 USC 1304; [ - ]
   e. An alien lawfully residing in the United States on August 22, 1996, who is blind or has a disability pursuant to 42 USC 1382;
   f. An alien who is:
      a. An American Indian born in Canada pursuant to 8 USC 1359; or
      b. A member of an Indian tribe pursuant to 25 USC 450;
   g. An alien lawfully residing in the United States on August 22, 1996, who was sixty-five (65) years of age or older;
   h. An alien lawfully residing in the United States on August 22, 1996, who is under eighteen (18) years of age; and
   i. An alien lawfully residing in the United States who is a member of a Hmong or Highland Laotian tribe and rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era pursuant to 38 USC 101 or [ - ]
      a. The spouse, or an unmarried dependent child, of an individual described in this subparagraph; or
      b. The unmarried [unremarried] surviving spouse of an individual described in this subparagraph;[ - ]
   (d) Pursuant to 8 USC 1612(a)(2)(D)(ii), an alien who was participating in the Food Stamp Program on August 22, 1996, shall not be determined ineligible based solely on the alien eligibility criteria of 8 USC 1612(a)(1), as described in paragraphs (b) and (c) of this subsection, until April 1, 1997; [ - ]
   (e) An individual whose status is questionable shall be ineligible to participate until verified;
   (f) An individual whose status is pending verification from a federal agency shall be eligible to participate for up to six (6) months from the date of the original request for verification;
   (g) A single household member shall attest in writing to the citizen status or alien status of each household member by signing the Food Stamp Application Form, that which is incorporated by reference of 921-KAR 3:030; [ - ]
   (h) Household size. Size of household shall be verified through readily available documentary evidence or through a collateral contact;
   (i) Students. A person who meets the definition of student status pursuant to Section 14 of this administrative regulation shall be ineligible to participate unless they meet at least one (1) of the following criteria:
      a. Shall be engaged in paid employment for a minimum of twenty (20) hours per week or, if self-employed, shall be employed for a minimum of twenty (20) hours per week and receive weekly earnings at least equal to the federal minimum wage multiplied by twenty (20) hours; or
      b. Shall participate in a state or federally financed work study program during the regular school year; or
      c. Shall be responsible for the care of a dependent household member under the age of six (6); or
   (d) Shall be responsible for the care of a dependent household member who has reached the age of six (6) but is under age twelve (12) where the cabinet has determined that adequate child care is not available to enable the individual to attend class and to satisfy the work requirements of paragraphs (a) and (b) of this subsection;
   (e) Shall receive benefits from the Kentucky Transitional Assistance Program (K-TAP);[ - ]
   (f) Shall be assigned to or placed in an institution of higher learn-
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ing through a program pursuant to:
1. 29 USC 1501;
2. 7 USC 2015;
3. 18 USC 2296;
4. [ ] shall be enrolled in an institution of higher learning as a result of participation in a work incentive program pursuant to 42 USC 681;
5. (h) is a single parent with responsibility for the care of a dependent household member under age twelve; [ ]
6. (a) Social Security number (SSN); [ ]
   (a) Households applying for or participating in the Food Stamp Program shall comply with SSN requirements by providing the SSN of each household member or applying for one prior to certification; [ ]
   (b) Failure to comply with good cause shall be determined for each household member and shall result in an individual's disqualification from participation in the Food Stamp Program until this requirement is met; [ ]
7. (f) Work registration. All household members shall be required to comply with the work registration requirements, unless exempt, pursuant to 29 KAR 3:042, Food Stamp Employment and Training Program; [ ]
8. (g) Effective August 1, 2001, work requirement; [ ]
   (a) Except individuals that may be eligible for up to three (3) additional countable months in accordance with paragraph (a) of this subsection, an individual shall not be eligible to participate in the Food Stamp Program as a member of any household if the individual receives food stamps for more than three (3) countable months during any three (3) year period, [ ]
   (b) For twenty (20) hours or more per week, at least five hundred two (502) days, an individual whose eligibility status is pending verification from a federal agency shall be eligible to participate for up to 6 months from the date of the original request for verification. Also, it incorporates changes required by 7 CFR 271.4, Food Stamp Program Final Rule, published January 17, 2001, that are required to be effective by August, 2001.
9. (h) Quality control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits; [ ]
10. (i) Drug felons. An individual convicted under federal or state law of an offense classified as a felony by the law of the jurisdiction involved and that [which] has an element of possession, use or distribution of a controlled substance as defined in 21 USC 802(a), may remain eligible for food stamp benefits if the individual meets the requirements pursuant to KRS 250.205.

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: May 31, 2001
FILED WITH LRC: June 1, 2001 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Shirley Eldridge, Coordinator

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation implements the changes as they relate to the criteria to be in effect on June, 2001. It adds that an alien whose eligibility status is pending verification from a federal agency shall be eligible to participate for up to 6 months from the date of the original request for verification. Also, it incorporates changes required by 7 CFR 271.4, Food Stamp Program Final Rule, published January 17, 2001, that are required to be effective by August, 2001.
(b) The necessity of this administrative regulation: To set forth the technical eligibility requirements used by the cabinet in the administration of the Food Stamp Program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms by administering policy as it relates to the Food Stamp Program in compliance with KRS 194.050(1), 205.005, 7 CFR 271.4, 272 and 273.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently assists in the effective administration of the statutes by developing policies and operating the Food Stamp Program as it relates to the welfare of the citizens and aliens of the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment, to be effective June, 2001, will allow an alien whose eligibility status is pending verification from a federal agency to participate for up to 6 months from the date of the original request for verification. Also, it incorporates changes required by 7 CFR Parts 273, Food Stamp Program Final Rule, published January 17, 2001, that is required to be effective by August, 2001.
(b) The necessity of the amendment to this administrative regulation: To comply with the federal mandates that are required to be effective June, 2001, for aliens to participate for up to 6 months from the date of the original request for verification from a federal agency, and to prevent the possible loss of federal funding due to the failure to implement. Also, to comply with implementation of amended work requirements required to be effective August, 2001.
(c) How the amendment conforms to the content of the authorizing statutes: implements the federal requirements pursuant to 7 CFR Parts 272 and 273 as they relate to the Food Stamp Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in making more alien individuals or households eligible to participate in the Food Stamp Program while pending verification from Immigration and Naturalization Services (INS), Social Security Administration (SSA), or other federal agencies. In addition, amends the work requirements of Kentucky's Food Stamp Program to comply with federal requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The affected individuals will be aliens whose eligibility status is pending verification. This population is minimal. In addition, all individuals required to work register pursuant to the federal Food Stamp Program.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The impact on the alien population will be positive as it will assist more aliens in obtaining food stamps in a timely manner without unnecessary administrative delay. The amendment pertaining to work registration does not increase or decrease work requirements of a food stamp recipient.

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

(a) Initially: No additional funding required.

(b) On a continuing basis: No additional funding required.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding has been appropriated in the enacted budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in funding required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with the Food Stamp Program.

(9) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals in accordance with federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON


2. State compliance standards. None


4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None
10 KAR 3:020. Establishing and funding telehealth network training centers.


STATUTORY AUTHORITY: KRS 11.550(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11.550(3) requires the Telehealth Board to promulgate administrative regulations relating to the establishment of telehealth training centers, the development of a telehealth network of rural sites, the establishment of protocols and standards to be followed by the training centers and rural sites, and the maintenance of the central link for the network with the Kentucky information highway. This administrative regulation establishes the telehealth training centers at the University of Kentucky, University of Louisville, and the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board as stated herein, and to establish basic criteria therefor.

Section 1. Training Center Basic Criteria. (1) The training centers shall be [are] established by the board for the purpose of promoting telehealth activities.

(2) The training centers shall [will] be equipped and staffed to provide technical training for telehealth applications.

(3) The training centers shall [will] oversee the development of continuing education programs designed to familiarize practitioners throughout the Commonwealth with telehealth applications.

(4) The training centers shall [will] train practitioners implementing telehealth applications.

(5) The training centers shall [will] meet clinical, professional, and technical standards as determined by the Telehealth Board.

Section 2. University Training Center Participation. The training centers at the University of Kentucky and the University of Louisville shall be awarded funding once a Memorandum of Agreement (MOA) is entered into between the university and the Telehealth Board for that purpose.

Section 3. Other Training Center Participation. The training centers in western Kentucky and eastern Kentucky shall be determined by the Telehealth Board pursuant to the provisions of KRS Chapter 45A.

Section 4. Disbursement of Funds. Disbursement of funds shall be determined by the Telehealth Board based on the availability of funding.

Section 5. Reporting Requirements. The training centers shall submit semi-annual progress reports to the Telehealth Board based on criteria developed by the Telehealth Board.

DR. KIMBERLY WILLIAMS, Chair
APPROVED BY AGENCY: April 12, 2001
FILED WITH LRC: April 13, 2001 at 9 a.m.

10 KAR 3:030. Establishing and funding telehealth network rural sites.


STATUTORY AUTHORITY: KRS 11.550(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11.550(3) requires the Telehealth Board to promulgate administrative regulations relating to the establishment of telehealth training centers, the development of a telehealth network of rural sites, the establishment of protocols and standards to be followed by the training centers and rural sites, and the maintenance of the central link for the network with the Kentucky information highway. This administrative regulation establishes [is promulgated to develop] a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the Telehealth Network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville. This administrative regulation also establishes basic criteria therefor.

Section 1. Definitions. (1) "Health care facility" means a hospital including, but not limited to, a physical health care hospital, psychiatric hospital, or rehabilitation center, a hospital affiliated clinic, a private practitioner’s office, a public health facility, a nursing home or assisted living center, a mental health facility, a mental retardation facility, a school clinic, a correctional facility clinic, and other facilities that normally provide health care services such as an outpatient dialysis center; or a patient’s home for home health services.

(2) "Health professional’s shortage area (HPSA)" means:

(a) An urban or rural area;
(b) A population group; or
(c) A public or private nonprofit medical facility or the public facility that has a shortage of health-care professionals as determined by the Secretary of the U.S. Department of Health and Human Services pursuant to 42 CFR Part 5.

(3) "Medically-underserved area (MUA)" means an urban or rural area designated by the Secretary of the U.S. Department of Health and Human Services as an area with a shortage of personal health services, or a population group designated by the Secretary of the U.S. Department of Health and Human Services as having a shortage of such services pursuant to 42 CFR Part 51c.

(4) "Rural site" means a health care facility in a county with a population of less than 100,000 people, based on the 1990 Census Data developed by the State Data Center at the University of Louisville shall serve as a registered health care provider to one (1) or more counties designated as a health professional shortage area (HPSA) or medically-underserved area (MUA), or is designated HPSA or MUA county as identified by the Bureau for Health Care Data Services (BHCDSNet), updated 8/07/2000.

(5) "Telehealth" means the use of interactive audio, video, or other electronic media to improve access to health resources including [—it includes] the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education.

Section 2. Rural Sites Basic Criteria. To be selected as a rural site on the Telehealth Network, the following criteria shall be met:

(1) The site shall be defined as a health care facility.
(2) The site shall meet the definition of a rural site.
(3) The site shall comply with all federal and state laws and regulations relating to health care facilities.

(4) The site shall be required to sign and comply with all terms and conditions contained in its contract with the board.

(5) The site shall comply with all criteria, protocols, and standards as set forth by the board.

Section 3. Rural Site Selection Process. The Telehealth Board shall make the rural site selections pursuant to the provisions of KRS Chapter 45A and based on the availability of funding.

Section 4. Local Health Department Selection Process. The Telehealth Board shall make the local health department selections pursuant to criteria established by the Telehealth Board for that purpose and based on the availability of funding. Local health departments so selected will enter into a Memorandum of Agreement (MOA) between the local health department, the Telehealth Board, and the University that will administer the program.

Section 5. Disbursement of Funds. Disbursement of funds shall be determined by the Telehealth Board based on the availability of funding. Successful applicants shall be notified pursuant to the provisions of KRS Chapter 45A.

Section 6. Reporting Requirements. The Telehealth Network rural sites shall submit semiannual progress reports to the Telehealth Board based on criteria developed by the Telehealth Board.

DR. KIMBERLY WILLIAMS, Chair
APPROVED BY AGENCY: April 12, 2001
FILED WITH LRC: April 13, 2001 at 9 a.m.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, June 12, 2001)

31 KAR 4:070. Recanvass procedures.

RELATES TO: KRS 117.305, 118.425
STATUTORY AUTHORITY: KRS 117.015(1), 117.305(2), (3), (4), 118.425(5).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.305(3) requires that the board promulgate administrative regulations to set reporting standards for recanvass reports, and KRS 117.305(4) requires that the board promulgate administrative regulations to establish the proper procedures for conducting a recanvass for each type of election system approved by the board and in use in Kentucky. [The purpose of this administrative regulation is to provide a standard for the conduct of recanvasses in Kentucky.]

Section 1. (1) The Recanvass of Official Count and Record of Election Totals form, SBE 49A, 7/84, [which is incorporated by reference] shall be used by the county board of elections to report all recanvassed votes. [This form, SBE 49A, may be obtained from the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601; which is open Monday through Friday, 8 a.m. to 4:30 p.m.]

(2) The county board of elections shall state the county making the report, the date of the report, the date of the election, the office for which the recanvass is being made, the name (name[s]) of each candidate for [in the office being recanvassed, and the machine votes, absentee votes, and total votes for each candidate. The report shall be signed by each member of the county board of elections.

Section 2. (1) The county board of elections shall file its recanvass report, SBE 49A, on the Monday following the day of the recanvass [Thursday before the third Monday] after the election for those vote totals reported to the Secretary of State.

(2) The county board of elections shall file its recanvass report, SBE 49A, on the Monday following the day of the recanvass [Thursday before the third Monday] after the election for the vote totals reported to the county clerk.

(3) The original of the recanvass report, SBE 49A, shall be filed with the:

(a) Secretary of State if [when] the candidate was voted for as specified by KRS 118.425(3).

(b) [and] shall be filed with the County clerk if [when] the candidate was voted for as specified by KRS 118.425(2).

(4) The county board of elections shall file the yellow copy of the recanvass report, SBE 49A, for those [of] vote totals reported to the Secretary of State and the county clerk with the county clerk.

Section 3. If KRS 117.305(1) requires a recanvass, the provisions established in this section shall apply:

(1) In a general election, the county board of elections shall only check and tabulate the votes of the candidate requesting a recanvass and each opposing candidate seeking the same office.

(2) In a partisan primary election, the county board of elections shall only check and tabulate the votes of the candidate requesting a recanvass and each opposing candidate of the same political party seeking the same office.

(3) In a nonpartisan election, the county board of elections shall only check and tabulate the votes of the candidate requesting a recanvass and each opposing candidate seeking the same office.

Section 4. The county board of election shall determine the applicable recanvass method to utilize, based on the regulations set forth below. In accordance with KRS 117.305(1), a county board of elections shall recanvass the votes recorded on election day:

(1) When a county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts, or

(2) When a candidate makes a written request in accordance with the requirements of KRS 117.305(1). When a request has been made by a candidate in accordance with the requirements of KRS 117.305(1), the county board of elections shall only take a recanvass of the votes of the candidate requesting a recanvass and each opposing candidate seeking the same office.

Section 5. A county board of elections shall recanvass the votes recorded depending on the machine and voting method utilized, as follows:

(1) If [when] an electronic voting system with a central tabulation system is used, the recanvass shall be taken [either]:

(a) By clearing the system (e.g., such as by setting the tabulation system to zero) and reentering the votes recorded on the memory cards on election day by using the central tabulation system; or

(b) By comparing the results printout printed from each voting machine on election day with the county-wide recapitulation sheet.

(2) If [When] an electronic voting system without a central tabulation system is used, the recanvass may be taken by comparing the results printout printed from each voting machine on election day with the county-wide recapitulation sheet.

(3) If [When] a mechanical voting system is used, the recanvass shall be taken by:

(a) Comparing each machine counter with the individual precinct return sheets for accuracy;

(b) Comparing the individual precinct return sheets to the county-wide recanvass sheets for accuracy; and

(c) Recounting the county-wide recanvass sheets for accuracy.

(4) Paper ballots, which were judged to be valid by the county board of elections on election day and which were not counted using a central tabulation system but were hand-counted on election day, shall be recanvassed using the same procedure usually used to count those paper ballots on election day.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
40 KAR 2:270. Professional solicitor and fundraising consultant forms: registration statement, bond, and criminal record check [registration statement forms].

RELATES TO: KRS 367.652
STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.652(3) Necessity, Function, and Conformity; KRS 367.652(2) and 6 require a professional solicitor or fundraising consultant to file a registration statement with, and obtain the approval of, the Attorney General. KRS 367.652(3) requires a professional solicitor to file, with the registration statement, a full cash or surety bond. KRS 367.652(8) requires the Attorney General to perform background checks to determine if an applicant has been convicted of an offense involving moral turpitude, or arising from conduct as a solicitor or consultant for a charitable organization or purpose. This administrative regulation establishes the required forms, incorporating them by reference. 367.652 requires in pertinent part the Division of Consumer Protection to promulgate administrative regulations pertaining to the operation of professional solicitors and fundraising consultants acting on behalf of charitable organizations. This administrative regulation establishes the requirements of an administrative form to be completed by those individuals or entities registering as professional solicitors as required by KRS 367.652.

Section 1. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "SR-1 Professional Solicitor Registration Statement (3/2001)"
(b) "FC-1 Fundraising Consultant Registration Statement"
(c) "SR-1 Guarantee Bond (3/2001)"
(d) "CB-1 Cash Bond (3/2001)"; and
(e) "RRC-1 Request for Conviction Record (3/2001)"

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Consumer Protection Division, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [Registration Application Requirements]. (1) Persons applying for registration as professional solicitor shall file a registration statement with, and obtain the approval of the Attorney General before acting as a professional solicitor. The registration statement shall be attested by the professional solicitor, if an individual, or by the principal officer, if the solicitor is a business entity.

(2) The attested statement required by KRS 367.652 shall contain the following information:
(a) The name, principal address, Kentucky address, if any, telephone number and facsimile number of the professional solicitor;
(b) The name, address, telephone number of the agent authorized to accept service of process in this state or a statement designating the Secretary of State as service agent;
(c) The name in which the professional solicitor is doing business in Kentucky and any names previously used by the professional solicitor;
(d) The names and addresses of any charitable organization to which charitable contributions received in this state;
(e) A copy of the articles of incorporation and by-laws of the solicitor;
(f) The names, address, and occupations of all officers, directors, or any person with a controlling interest in the business, or any person employed or procured to solicit for compensation or to advise, consult, plan or manage in regards to any fundraising campaign;
(g) A statement as to whether any of the persons listed in paragraph f has been convicted of a summary offense of any state or the United States of a felony or misdemeanor involving moral turpitude or arising from his conduct as a solicitor;

(h) A copy of the financial statement for the professional solicitor’s preceding fiscal year, which shall set out the total profits and revenue from all fund-raising activities, the balance sheet, the kind and amount of funds raised, specific costs of raising funds, the percentage of funds raised on behalf of the charitable organization which are actually paid to the organization for charitable purposes, and the location of the original financial records;
(i) A statement as to whether the professional solicitor has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction;
(j) The business form of the professional solicitor (e.g., corporation, partnership, individual), if a corporation, the date and state of incorporation;
(k) The name, residence address and title of other relationship to the business of the following individuals: The applicant, partners, partners, corporations, corporations, corporation officers, and corporate directors;
(l) A statement as to whether the firm or any representative of the firm is currently, or has ever been, associated with any charitable organization or other organization with which the firm has contracted to act as a solicitor. The statement shall include the name of the individual, the name and address of the organization and the individual’s relationship to the organization;
(m) A statement as to whether the firm, or any representative of the firm is currently, or has ever been employed by or associated with any other professional solicitor, fundraising consultant or professional fundraiser.

Section 2. Professional solicitor statements. (a) A statement of the professional solicitor is registered as a professional solicitor, fundraising consultant or professional fundraiser with any other state or government;
(b) A statement of whether the professional solicitor’s registration, license or other permit is currently, or has ever been, denied, canceled, suspended, revoked, or whether there is any pending actions involving such registration, license or permit. The statement shall include the name and address of the governmental agency involved in the action, the nature of the action and the date commenced or concluded;
(c) A statement of whether the professional solicitor has knowledge of any pending investigations by any governmental agency into its business operations as a professional solicitor;
(d) The names and addresses of financial institutions with which the professional solicitor has accounts, including the type of account(s) and account number(s);
(e) The name, address and telephone number of any individual or firm providing accounting services for the professional solicitor.

(3) The information required by KRS 367.652(4)(a) through (k) and other information required by the Attorney General pursuant to KRS 367.652(4)(l) shall be provided by the professional solicitor on Professional Solicitor Registration Statement SR-1 (March 2001 edition), which is incorporated by reference.

(4) Copies of the form may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Attorney General, Consumer Protection Division, 1024 Capital Center Drive, Frankfort, Kentucky 40601, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

ALBERT B. CHANDLER, III, Attorney General
APPROVED BY AGENCY: March 22, 2001
FILED WITH LRC: March 22, 2001 at 11 a.m.

FINANCE AND ADMINISTRATION CABINET
Office of the Controller
(As Amended at AARRS, June 12, 2001)

200 KAR 24:020. Allocation of driving under the influence service fees.

RELATES TO: KRS 42.023(1), 189A.050
STATUTORY AUTHORITY: KRS 42.021(3), 42.023(1), 42.040(3)
Necessity, Function, and Conformity: In addition to all other penalties authorized by law, KRS 189A.050 imposes a $250...
service fee upon persons convicted of driving under the influence of alcohol or other substance impairing one’s driving ability and allocates the fee among designated agencies. [The revenue collected from this service fee is to be utilized as follows:]

(1) Fifteen (15) percent by the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(2) Twenty-five (25%) percent by the Department of Public Advocacy;

(3) One (1) percent by the Prosecutor’s Advisory Council for training of prosecutors for the prosecution of persons charged with driving under the influence under KRS Chapter 189A and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of KRS Chapter 189A; and

(4) The remainder to fund enforcement of KRS Chapter 189A and for the support of jail, recordkeeping, treatment, and educational programs authorized by KRS Chapter 189A and by the Department of Public Advocacy.] This administrative regulation provides for the allocation of the remainder of the service fee, after distribution as stated in KRS 189A.050, for the purposes specified in the statute.

Section 1. Circuit clerks shall report to the Finance and Administration Cabinet and pay into the state treasury the fee imposed by KRS 189A.050 upon persons convicted of driving under the influence of alcohol or other substance impairing driving ability at the time other fees, fines, and forfeitures adjudged in the courts of their counties, are reported and paid into the treasury, as provided in KRS 30A.190.

Section 2. After allocations to the entities specified in KRS 189A.050, the remaining balance of the fee shall be allocated quarterly, on a percentage bases, to the agencies, and for the purposes, indicated below:

(1) Transportation Cabinet - five (5) percent for furnishing copies of driver history records to courts for use in driving under the influence cases.

(2) Cabinet for Health Services - fifty-one and one-half (51.5) percent for costs of treatment programs for indigent offenders.

(3) Finance and Administration Cabinet - twenty-nine and one-half (29.5) percent for distribution to counties in which drunk driving convictions are adjudged to assist in expense of maintaining jails, and which shall be in addition to other jail costs allowed by the state.

(4) Justice Cabinet - fourteen (14) percent for enforcement of activities under the provisions of KRS 189A.010.

[Section 3. Fees collected and paid into the State Treasury prior to the effective date of this administrative regulation shall be allocated as provided in Section 2 of this administrative regulation.]

T. KEVIN FLANERY, Secretary
APPROVED BY AGENCY: April 12, 2001
FILED WITH LRC: April 13, 2001 at 10 a.m.

KENTUCKY BOARD OF RESPIRATORY CARE
(As Amended at ARRS, June 12, 2001)

201 KAR 29:010. [Definition of] Activities under limited mandatory certification.

RELATES TO: KRS 314A.110
STATUTORY AUTHORITY: KRS 314A.205(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314A.205 requires the board to evaluate the qualification of candidates for mandatory certification and to establish guidelines to make evaluations. This administrative regulation lists the qualifications for limited mandatory certification and clarifies requirements as well as the types of activities which are permissible by persons holding limited mandatory certification. [This administrative regulation clarifies the types of activities which are permissible by persons holding limited mandatory certification.]

Section 1. To be eligible for limited mandatory certification as a respiratory care practitioner, the applicant shall:

(1) Be actively enrolled in an accredited program as defined by KRS 314A.010(5) [respiratory-care-program];

(2) Have documented competency in a minimum of six (6) of the following areas as it relates to KRS 314A.010(6):

(a) Oxygen therapy;

(b) Assessment of patients cardiopulmonary status;

(c) Cardiopulmonary resuscitation;

(d) Ethics of respiratory care and medical care;

(e) Humidity therapy;

(f) Aerosol therapy;

(g) Airway clearance techniques;

(h) Chest physiotherapy;

(i) Gas therapy; and

(j) Respiratory assist device (RAD); and

(3) Submit documentation of authorization of employment on the Application for Limited Mandatory Certificate form by the director of the applicant’s educational program and also by the appropriate supervisory personnel in the health care facilities in which the applicant intends to practice respiratory care.

Section 2. Upon completion of the accredited program, the holder of a limited mandatory certificate shall apply for a temporary mandatory certificate or a mandatory certificate by completing the Application for Mandatory Certification as a Respiratory Care Practitioner.

Section 3. “Continuous mechanical or physiological ventilatory support” as used in KRS 314A.110(2) [(1)](j) shall be considered to be [means] the establishment, management, or termination of mechanical ventilation. A person holding a limited mandatory certificate shall be prohibited from performing these functions, as well as arterial puncture and blood gas analysis. Persons holding a limited mandatory certificate may perform any other respiratory care procedure or function for which they have received training, if they are done under the supervision of an individual holding mandatory certification by this board.

Section 4. [3.] A person shall not practice under a limited mandatory certificate if he or she has been previously approved by the board for a temporary certificate.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Application for Limited Mandatory Certificate, 8/94;

(b) Application for Mandatory Certification as a Respiratory Care Practitioner, 3/97.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Respiratory Care, 301 East Main Street, Suite 900, Lexington, Kentucky 40507, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. ROBERT POWELL, Chair
APPROVED BY AGENCY: April 5, 2001
FILED WITH LRC: April 6, 2001 at noon

KENTUCKY BOARD OF RESPIRATORY CARE
(As Amended at ARRS, June 12, 2001)

201 KAR 29:020. Code of ethics; unprofessional conduct.

RELATES TO: KRS 15A.205(4), 314A.205(5) [344A.040–(4); 314A.225
STATUTORY AUTHORITY: KRS 314A.205(5), 314A.225
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314A.225 requires the board to promulgate [adopt] administrative regulations defining unprofessional conduct, [and] establishing a code of ethics, and grounds for removal of board members. This administrative regulation sets forth codes [both-a-code] of ethics and unprofessional conduct, as well as grounds for removing board members.

Section 1. The following code of ethics consists of general guidelines which embody certain standards of practice for the respiratory
Section 2. Unprofessional conduct in the practice of respiratory care shall include [but shall not be limited to] the following acts by a person credentialed by this board:

(1) Violating any of the provisions of KRS Chapter 314A or the administrative regulations adopted thereunder;
(2) Committing any unfair, false, misleading, or deceptive act or practice;
(3) Acting incompetently or negligently in the practice of respiratory care;
(4) Practicing respiratory care while under the suspension, revocation, or restriction of the individual's certification by competent authority in any state, federal, or foreign jurisdiction;
(5) Unlawfully failing to cooperate with the board by:
   (a) Not furnishing any papers or documents requested by the board;
   (b) Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;
   (c) Not appearing before the board at the time and place designated;
   (d) Not properly responding to subpoenas issued by the board;
   (6) Failing to comply with an order issued by the board or an agreed order established with the board;
(7) Aiding or abetting an uncertified person to practice respiratory care when a certificate is required;
(8) Practicing beyond the scope of practice set forth in KRS 314A.100;
(9) Failing to provide adequate supervision to persons holding a limited or temporary certification;
(10) Being convicted of any misdemeanor or felony relating to the practice of respiratory care. For purposes of this subsection, conviction includes all instances in which a plea of nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;
(11) Physically abusing or having sexual contact with a patient or client;
(12) Accepting by any means, a valuable consideration or gratuity of any kind in return for preferential consideration or treatment of a patient;
(13) Practicing respiratory care while intoxicated or under the influence of alcohol or other mind-altering or mood-altering drugs not prescribed by a licensed physician;
(14) Engaging in any immoral conduct in the practice of respiratory care;
(15) Not informing the board in writing of any changes to the licensee's permanent address or place of employment within twenty (20) days; and
(16) Violating the code of ethics adopted by the board.

Section 3. Reasons for Removal of Board Member. (1) A board member may be removed by the board by majority vote of the board if the member has:

(a) Been convicted of felony;
(b) Had his or her certification to practice respiratory care or license to practice medicine [has been] suspended or revoked; or
(c) [Has] Missed three (3) or more consecutive board meetings and those absences are deemed unexcused by a majority vote of the board.
(2) Upon an affirmative vote by the board to remove a member, the board shall notify the Governor of the action.

DR. ROBERT POWELL, Chair
APPROVED BY AGENCY: April 5, 2001
FILED WITH LRC: April 6, 2001 at noon

KENTUCKY BOARD OF RESPIRATORY CARE
(As Amended at ARRS, June 12, 2001)

201 KAR 29:030. Complaint processing procedures.

RELATES TO: KRS 314A.225
STATUTORY AUTHORITY: KRS 314A.205
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314A.205(1) requires the board to investigate persons engaging in practices which violate the provisions of KRS Chapter 314A. This administrative regulation establishes the detailed procedures for the investigation of complaints received by the board.

Section 1. Definitions. (1) "Chairperson" means the presiding official of the board.
(2) "Charge" means a specific allegation contained in a formal complaint issued by the board alleging a violation of a specified provision of KRS Chapter 314A or the administrative regulations promulgated thereunder.
(3) "Complaint" means any written allegation alleging misconduct which might constitute a violation of KRS Chapter 314A or the administrative regulations promulgated thereunder by a certified individual or other person.
(4) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a certified individual or other person and commences a formal disciplinary proceeding.
(5) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any formal complaint.
(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.
(7) "Investigative assistant" means an appropriately-certified individual designated by the board to assist the board's attorney in the investigation of a complaint or an investigator employed by the Attorney General or the board. "Chairman" means the chairman of the board.
(8) "Investigative assistant" means an appropriately-certified individual designated by the board to assist the board's attorney in the investigation of a complaint or an investigator employed by the Attorney General or the board.
(3) "Complaint" means any written allegation alleging misconduct which might constitute a violation of KRS Chapter 314A or the administrative regulations promulgated thereunder by a certified individual or other person.
(4) "Charge" means a specific allegation contained in a formal complaint issued by the board alleging a violation of a specified provision of KRS Chapter 314A or the administrative regulations promulgated thereunder.
(5) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any formal complaint.
(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.
Section 2. Reception of Complaints. (1) A complaint [Complaints] may be submitted by an individual, organization, or entity. A complaint [Complaints] shall be in writing and shall be signed by the person offering the complaint. The board may also file a complaint based on information in its possession.

(2) Upon receipt of a complaint a copy of the complaint shall be sent to the board's attorney for an initial review and preliminary recommendation of subsequent action to the board. A copy of the complaint shall also be sent to the certified individual named in the complaint along with a request for that individual's response to the complaint. The response of the individual shall be required for the next regularly scheduled meeting of the board except that the individual shall be allowed a period of twenty (20) days from the date of receipt to make a response.

Section 3. Preliminary Recommendations and Initial Board Review. (1) After the receipt of a complaint and the period for the individual's response has concluded, the board shall consider the preliminary recommendation of the board's attorney, the individual's response, and any other relevant material available to the board in the initial review of the complaint. The determination that the board makes at this point shall be whether or not there is enough evidence to warrant a formal investigation.

In the opinion of the board a complaint does not warrant the formal investigation of a complaint against an individual, the board shall notify both the complaining party and the individual of the outcome of the complaint.

(3) When in the opinion of the board a complaint warrants the formal investigation of a complaint against either a certified individual or a person who may be practicing respiratory care without appropriate certification, the board shall authorize its attorney and a designated investigative assistant to investigate the matter and report their findings and recommendations to the board at their earliest opportunity.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the board's attorney or the investigative assistant shall report to the board his or her [their] findings and recommendations as to the proper disposition of the complaint. The determination that the board makes at this point shall be whether or not there is enough evidence to believe that a violation of the law or administrative regulations may have occurred and that a hearing should be held.

(2) When in the opinion of the board a complaint does not warrant the issuance of a formal complaint and the holding of a hearing the complaint shall be dismissed or other appropriate action taken. The board shall notify both the complaining party and the individual of the outcome of the complaint.

(3) When in the opinion of the board a complaint warrants the issuance of a formal complaint, the board shall cause a complaint to be prepared stating clearly the charge or charges to be considered at the hearing. The formal complaint shall be signed by the chairperson [chairman] and served upon the individual as required by KRS 13B.050 [Section 6 of this administrative regulation].

(4) When in the opinion of the board a complaint warrants the issuance of a formal complaint against a person who may be practicing respiratory care without proper certification, the board shall cause a formal complaint to be prepared and signed by the chairperson [chairman] of the board, stating the board's belief the charges are based upon reliable information. The formal [Such] complaint shall be forwarded to the county attorney of the county of residence of the person allegedly practicing respiratory care without appropriate certification with a request that appropriate action be taken under KRS 314A.960. The board may also initiate action in Franklin Circuit Court for injunctive relief to stop the unauthorized practice of respiratory care.

Section 5. Settlement by Informal Proceedings; Letter of Admonishment. (1) The board, through counsel may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter. Any agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairperson [chairman] of the board.

(2) The board may at any time during this process, issue a letter of admonishment to the individual who is named in the complaint as a means of resolving the complaint. This [Such] action may be taken if it is determined by the board that this is an appropriate method of dispelling with the complaint. The [Such] letter of admonishment shall be sent to the individual with a copy placed in the individual's permanent file. A copy may also be sent to the government agencies deemed appropriate by the board. Within thirty (30) days of the date of the letter the individual shall have the right to file a written response to the letter and have it attached to the letter of admonishment and placed in the permanent file. The individual shall also, within thirty (30) days of the date of the letter, have the right to appeal the letter of admonishment and be granted a full hearing on the complaint. If this appeal is requested, the board shall immediately file a formal complaint in regard to the matter and set a date for a hearing.


(2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail; return receipt requested, to the individual at last known address of which the board has record or if known, by such service on the named individual's attorney-of-record, if appropriate. Refusal of service if by certified mail or avoidance of service if hand-delivered shall not prevent the board from pursuing proceedings as may be appropriate.

(3) When notice of the initial date for the administrative hearing is given either by the board or the hearing officer, the [such] notice shall be sent to the appropriate person at least twenty (20) days prior to the hearing.

DR. ROBERT POWELL, Chair
APPROVED BY AGENCY: April 5, 2001
FILED WITH LRC: April 6, 2001 at noon

KENTUCKY BOARD OF RESPIRATORY CARE
(As Amended at ARRS, June 12, 2001)

201 KAR 29:050. Continuing education requirements.

RELATES TO: KRS 314A.115
STATUTORY AUTHORITY: KRS 314A.205
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314A.115(4) requires the submission of proof of continuing education in order to renew certification. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. As used in this administrative regulation, unless the context otherwise requires:

(1) "Academic courses" offered by an accredited postsecondary institution means:

(a) A respiratory care course, designated by a respiratory care course number, beyond the prelicensure certification level;
(b) An academic course in the biological, psychological, sociological, or physical sciences relevant to patient care and is beyond the prelicensure certification level; or
(c) An academic course applicable to respiratory care practice and appropriate for the respiratory care practitioner employed in the areas of clinical practice, administration, education, or research.

(2) "American Association for Respiratory Care Continuing Respiratory Care Education (AARC-CRCE) approved" means any offering having received recognition by this organization.

(3) "Approved" means Kentucky Board for Respiratory Care (KBRC) approved.

(4) "Continuing education unit" means sixty (60) contact minutes of participating in continuing education experiences.

(5) "Offering" means an organized learning experience planned
and evaluated to meet behavioral objectives; offerings may be presented in one (1) session or in a series.  
(5) "Provider" means an organization approved by the Kentucky Board of Respiratory Care (KBRC) for offering continuing education programs.  
(2) "Relevant" means having content applicable to the practice of respiratory care.  
(3) "Successful completion" means that the practitioner has satisfactorily met the specific requirements of the offering and earned the continuing education units. "Approved" means Kentucky Board of Respiratory Care (KBRC)-recognized.  
(4) "Offering" means an organized learning experience planned and evaluated to meet behavioral objectives; offerings may be presented in one (1) session or in a series.  
(3) "Continuing education hour" means fifty (50) contact minutes of participating in continuing educational experiences.  
(3) "AARC-CRCE approval" means any offering that has been approved by AARC-CRCE by the organization.  
(5) "Accredited post-secondary institution" means:  
(a) Respiratory care course, designated by a respiratory care course number beyond the premandary certification level;  
(b) An academic course in the biological, psychological, sociological or physical sciences relevant to patient care and is beyond the premandary certification level;  
(c) An academic course applicable to respiratory care practice and appropriate for the respiratory care practitioner employed in the areas of clinical practice, administration, education or research. General education courses, either elective or designated to meet degree requirements, are not acceptable. Academic credit equivalency for continuing education hours will be based on one (1) credit hour = fifteen (15) continuing education hours.  
(6) "Relevant" means having content applicable to the practice of respiratory care.  
(2) "Provider" means an organization approved by the Kentucky Board of Respiratory Care (KBRC) for offering continuing education programs.  
(8) "Successful completion" means that the practitioner has satisfactorily met the specific requirements of the offering and the practitioner has earned the continuing education hours. Provider of non-academic offerings may earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit will not be issued for repeated instruction of same course."

Section 2. Accrual of Continuing Education Units [Hours] Mandatory: Computation of Accrual. A minimum of twenty-four (24) continuing education units [hours] shall be awarded by each person holding mandatory certification during the two (2) year certification period for renewal, except that those persons holding mandatory certification which is due to be renewed in January of 1994, shall receive twelve (12) continuing education hours for this renewal period only. All persons holding mandatory certification shall receive twenty-four (24) continuing education hours for each renewal thereafter. The certification period shall be January 1 of one year through December 31 of the following calendar year. All units shall [hours] must be in or related to the field of respiratory care.  

Section 3. Methods of Acquiring Continuing Education Units [Hours] Continuing education credits [hours] applicable to the renewal of the mandatory certificate shall be directly related to the professional growth and development of the respiratory care practitioner. Units [Hours] may be earned by completing any of the following educational activities:  
(1) Offerings having American Association for Respiratory Care (AARC) Continuing Respiratory Care Education (CRCE) approval (including traditional and nontraditional);  
(2) Academic courses as set forth in Section 1 of this administrative regulation;  
(b) General education courses, either elective or designated to meet degree requirements, shall not be acceptable; and  
(c) Academic credit equivalency for continuing education units shall be based on one (1) credit hour = fifteen (15) continuing education units.  
(3) Offerings provided by the Committee on Accreditation for Respiratory Care (CoARC) or its equivalent [Joint Review Committee for Respiratory-Therapy Education (JRCRTE)] accredited educational programs;  
(4) Relevant offerings provided by other organizations or institutions approved by the KBRC [including but not limited to]:  
(a) American [Kentucky] Thoracic Society (ATS [KTS]); and American [Kentucky] Lung Association (ALA [KLA]);  
(b) Kentucky Board of Nursing (KBN);  
(c) American Heart Association (AHA);  
(d) American Medical Association (AMA); or  
(e) American Cancer Society; or  
(f) Other organizations or institutions approved by the KBRC.  
(5) Scientific and educational lectures, workshops, or seminars presented by the person holding mandatory certification. A maximum of one-half (1/2) of the continuing education units [hours] may be credited for scientific and educational lectures, workshops, or seminars presented by the certificate holder. Credit shall not be issued for repeated instruction of the same course;  
(6) Related areas not specifically a part of the field of respiratory care may be approved for up to two (2) continuing education units [hours] if the board believes that those [said] related areas may serve to enhance the certificate holder's ability to practice; or  
(7) Presenters of non-academic offerings may earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of same course."

Section 4. Procedures for Accreditation of Sponsors and Approval of Continuing Education Activities. Any entity desiring to establish accreditation of a continuing education offering prior to attendance shall apply for approval to the board at least forty-five (45) days in advance of the commencement of the offering, on the Application For Continuing Education Approval Process [a form provided by the board] stating the type of learning activity, the subject matter, the names and qualifications of the instructors, and the number of continuing education units [hours] offered. A continuing education activity shall be qualified for approval if the board determines that the activity being presented:  
(1) Is an organized program of learning; and  
(2) Pertains to subject matters which integrally relate to the practice of respiratory care; and  
(3) Contributes to the professional competency of the licensees; and  
(4) Is conducted by individuals who have educational training, or experience acceptable to the board.  

Section 5. Responsibilities and Reporting Requirements of Certificate Holders. A certificate holder shall be responsible for obtaining required continuing education units [hours]. The certificate holder (he) shall identify his or her own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills and attitudes. Each person holding mandatory certification shall:  
(1) Select approved activities by which to earn continuing education units [hours];  
(2) Obtain from the board prior approval for continuing education activities not accredited by the board;  
(3) Maintain records of continuing education units [hours]. Each person holding mandatory certification shall maintain, for a period of three (3) years, all documentation verifying successful completion of continuing education units [hours]. During each certification renewal period, up to fifteen (15) percent of all certificate holders [licensees] shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education units [hours] for the current renewal period. Verification of continuing education units [hours] is not otherwise reported to the board; and  
(4) Document attendance and participation in a continuing education activity in the form of [but not limited to] official documents including [such as] transcripts, certificates, affidavits signed by instructors, receipts for fees paid to the sponsor, or less formal evidence including [such as] written summaries of experiences that are not other-
shall not apply to a person hunting:
(a) Waterfowl; or
(b) Raccoon or opossum at night.
(3) During the first two (2) days of modern gun deer season, a person shall not:
(a) Hunt small game or fur bearers;
(b) Trap; or
(c) Allow an unleashed dog.
(4) A person may hunt small game or a fur bearer during the modern gun deer season in a wildlife management area where gun deer hunting is not permitted during the modern gun deer season.

Section 3. Exceptions or Specific Wildlife Management Areas. (1) Barren River Wildlife Management Area.
(a) Quail and rabbit: closed after December 31. Barren River WMA shall be considered to be entirely within the Eastern Quail Zone.
(b) On the Peninsula Unit, including Narrows, Goose and Grass Islands, a person shall not:
1. Hunt with a breech-loading firearm;
2. Exceed 4 \( \text{agun} \) or 1 \( \text{agun} \) for each harvester, carry a breech-loading firearm with ammunition in the chamber or magazine; or
3. Hunt small game with shot larger than number two (#2).
(2) Beaver Creek Wildlife Management Area, including private inholdings.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.
(3) Furbearer: December 5 through December 31. [A-trapper shall complete a harvest survey.

(4) Big South Fork National River and Recreation Area, McCreary County.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.
(c) Cane Creek Wildlife Management Area, including private inholdings.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.
(c) Furbearer: December 5 through December 31. [A-trapper shall complete a harvest survey.

(5) Central Kentucky Wildlife Management Area.
(a) Closed to small game and furbearer hunting except squirrels.
(b) A person shall not allow a dog to be unleashed:
1. April 1 until the third Saturday in August; or
2. At other times of the year, except on a Tuesday, Thursday, Saturday, Sunday, or during an authorized field trial.
(c) A-trapper shall obtain prior written permission from the area manager.
(d) A-hunter or dog-trainer shall check in and out daily at the designated check station.

(6) Clay Wildlife Management Area.
(a) Quail and rabbit: closed after December 31.
(b) Grouse: October 1 through December 31.
(c) The area shall be closed November 30 until December 2 to all hunting except the pheasant quota hunt and archery deer hunters. On December 3 and 4, the area shall be closed to all small game hunting except pheasant hunting. From [Between] December 3 until December 31, the daily limit shall be three (3) birds of either sex per hunter.
(d) From December 3 until December 31, pheasant shall be a legal small game species and may [can] be taken on this area with a valid Kentucky hunting license. [A-hunter or dog-trainer shall check in and out daily at the designated check station.

(7) Curtis Gates Lloyd/Moines Wildlife and Recreation Area.
(a) Quail and rabbit: closed after December 31.
(b) A person shall not allow a dog to be unleashed from April 1 until the third Saturday in August.
(c) A-hunter or dog-trainer shall check in and out daily at the designated check station.

(8) Daviess County Wildlife Management Area. Closed to hunting for small game and furbearers. [Area-open-to-trapping according to statewide administrative regulations as found in 301 KAR 2:251.]

(9) Fleming Wildlife Management Area.
(a) Quail and rabbit: closed after December 31.
(b) Grouse: October 1 through December 31.
3. If a tract is closed before January 10, a sign announcing closure shall be posted at the hunter check station at least twenty-four (24) hours prior to the closure.
   (c) A hunter or dog-trainer shall check-in and out daily at the designated check station.
   (d) A person shall not:
      1. Use a rifle or ball or slug ammunition;
      2. Allow an unleashed dog, or
      3. Operate a vehicle on Tract 6 from February 1 through April 16.
   (25) [226] Yatesville Wildlife Management Area. (a) All hunting shall be closed after December 31.
   (26) [227] Yellowbank Wildlife Management Area.
   (a) Quail and rabbit; closed after December 31.
   (b) A hunter or dog-trainer shall check-in and out daily at the designated check station.

TOM A. YOUNG, Deputy Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: March 2, 2001
FILED WITH LRC: April 13, 2001 at noon

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, June 12, 2001)

301 KAR 2:132. Elk depredation permits and quota hunts.

RELATES TO: KRS 150.010, 150.177, 150.180, 150.390, 150.395, 150.390(11)
STATUTORY AUTHORITY: KRS 150.177, 150.390(3), (4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.390(3) authorizes the department to promulgate administrative regulations stipulating the conditions under which depredation permits for elk may be issued. This administrative regulation details procedures to be used to obtain a depredation permit to control elk causing property damage. KRS 150.390(4) authorizes [also allows] the department to establish elk hunting seasons and requirements. This administrative regulation establishes the hunting requirements during [the specific year] of the elk hunting season. KRS 150.177 authorizes [allows to] the commission to establish the parameters of the use of the Elk permits donated to a wildlife conservation organization.

Section 1. Definitions. (1) "Antlered elk" means an elk with one (1) antler possessing four (4) or more antler points that are each at least one (1) inch long when measured from the main beam. The main beam shall count as one (1) point.
   (2) "Antlerless elk" means an elk without visible polished antler pronging above the hairline.
   (3) "Elk" means a member of the species Cervus elaphus.
   (4) "Restoration area" means the Kentucky counties east of and including Bell, Knox, Clay, Ferry, Breathitt, Magoffin, Johnson and Martin.
   (5) [20] "Wild elk" means:
      (a) An elk translocated and released by the department; or
      (b) The progeny of an elk translocated and released by the department.

Section 2. Elk Damage Control. (1) A person shall:
   (1) not kill or attempt to take or molest a wild elk that is causing property damage, except as specified in (Section 3(3) of this administrative regulation.
   (2) A person shall contact the department if he wants depredating wild elk removed from his property.
   (3) [Section 3.] Upon receipt of a damage complaint, the depart-
ment shall:
(a) [14] Verify that wild elk are causing the damage; and
(b) Remove, destroy or authorize the destruction of the elk by the
property owner or his designee;
(c) The property owner or designee shall immediately contact the
department upon destruction of the elk.
(4) [23] If inside the restoration area, remove the elk; or
(b) if outside the restoration area:
1. Remove the elk; or
2. Authorize the property owner or his designee to destroy the elk.

Section 3. A person authorized to destroy an elk under the pro-
visions of this section [3; of this administrative regulation] shall not:
(a) [13] Move the elk until he has attached a tag provided by the
department to the carcass; and
(b) [23] Remove the tag until the carcass is processed.

Section 3. Quota Elk Hunts. (1) A person whose name is [only
persons whose names are] selected pursuant to this administrative
regulation or a person who receives or is transferred a special com-
mission permit issued pursuant to 301 KAR 3:100 shall participate in
either of the elk quota hunts as assigned.
(2) An individual selected to participate in the quota hunt or
who receives or is transferred a special commission permit [Said
individual] may be accompanied by up to two (2) other individuals
who may assist in the retrieval of the harvested elk.
(3) Quota hunt.
(a) There shall be a quota hunting the first Saturday in
October, for seven (7) consecutive days for antlered elk only.
(b) There shall be a second quota hunt beginning the first Satur-
day in December, for seven (7) consecutive days for antlerless elk
only.
(4) Limits:
(a) An elk hunter shall only take one (1) antlered elk in the Cotto-
ber quota hunt.
(b) An elk hunter shall only take one (1) antlerless elk in the De-
ember quota hunt.
(5) Illegal hunting equipment. A person shall not use or possess
while elk hunting:
(a) A device capable of taking an elk except a firearm, crossbow
or archery equipment;
(b) A modern firearm of less than .27 caliber;
(c) A muzzle-loading firearm of less than .50 caliber;
(d) A shotgun of less than 20 gauge;
(e) A handgun;
(f) Filmfire ammunition;
(g) A fully-automatic firearm;
(h) A firearm with a magazine capacity greater than ten (10)
rounds;
(i) Steel jacketed ammunition;
(j) Tracer bullet ammunition;
(k) A shotgun shell containing more than one (1) projectile;
(l) A broadhead smaller than seven-eighths (7/8) inch wide;
(m) A barbed broadhead;
(n) A crossbow without a working safety device;
(o) A chemically treated arrow; and
(p) An arrow with a chemical attachment;
(5) Hunter orange.
(a) During the elk quota hunt, elk hunters or any person accom-
panying an elk hunter shall display solid, unbroken hunter orange vis-
bale from all sides on the head, back and chest;
(b) The hunter orange portions of a garment worn to fulfill the re-
quirements of this section:
1. May display a small section of another color; and
2. Shall not have mesh weave openings exceeding one-fourth
(1/4 inch [by any measurement].
(c) A camouflage pattern hunter orange garment worn without
additional solid hunter orange on the head, back and chest shall not
meet the requirements of this section.
(6) Hunter requirements.
(a) A person under sixteen (16) years old shall be accompanied
by an adult who shall remain in a position to take immediate control of
the juvenile's firearm.
(b) An adult accompanying a juvenile hunter shall not be required
to possess a hunting license or elk permit if the adult is not hunting.
(c) An elk hunter or any person accompanying the elk hunter;
1. Shall [MUST] attend a mandatory training seminar and tour of
the assigned area to be conducted prior to the hunt. Failure to attend
shall result in the disqualification of the person from participating in the
hunt;
2. May be in the field, woods or stands before or after daylight
hours, but shall not take elk except during daylight hours;
3. Shall not use dogs;
4. Shall not use bait;
5. Shall not drive elk from outside his assigned area;
6. Shall not take swimming elk;
7. Shall not use electronic calls.
8. Shall not take an elk while in a vehicle or boat, or on horseback.
A hunter may use a vehicle as a hunting platform if he has a disabled
hunting exemption permit issued by the department;
9. Shall immediately after taking an elk, attach the tag portion of
the permit to the carcass before moving the carcass; and
10. Must check in and out of the assigned area daily with the area
hunt manager, and must check any harvested elk with area hunt
manager on the day that the elk was taken.
(d) A person checking in for a quota hunt shall show his Social
Security number, and valid hunting license, except a person on mili-
itary furlough for more than three (3) days may show his military identi-
fication instead of a license.
(e) If an individual is drawn and fails to appear at the mandatory
seminar or hunt, that individual is ineligible to be drawn in any future
hunt for five (5) years.

Section 4. Quota Hunt Application Procedures. (1) A person shall
apply for a quota hunt drawing by purchasing an application from the
department between December 1 and May 31 and following the below
specified procedures;
(a) Provide his Social Security number or driver's license num-
ber; and
(b) Paying a nonrefundable ten (10) dollar application fee for each
application by:
1. Check;
2. Money order;
3. Visa or
4. MasterCard;
(2) A person shall not apply more than one (1) time per application
period.
(3) The department shall select hunters by a random drawing of all
valid applicants. Up to ten (10) percent of those drawn may be non-
residents as defined in KRS 150.010.
(a) Applicants must have purchased a valid Kentucky hunting li-
cense prior to the drawing or be exempt under KRS 150.170.
(b) If the selected individual does not have a valid Kentucky hunt-
ing license, or is not otherwise license-exempt, that person shall be
disqualified and another selected.
(4) If any individual who was drawn is disqualified for any of the
reasons specified in this administrative regulation, an alternate will be
drawn from the undrawn applicants.
(5) The commissioner may
(a) Extend the application deadline if technical difficulties with the
application system prevent applications from being accepted for one
(1) or more days during the application period; and
(b) Authorize the on-site sale of applications during promotional
events or festivals.

TOM A. YOUNG, Deputy Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: June 9, 2000
FILED WITH LRC: April 13, 2001 at noon
TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, June 12, 2001)

301 KAR 2:179. State park deer hunts.

RELATES TO: KRS 144.029(5), 150.025(2), 150.105, 150.360, 150.390, 150.640(1), 150.710
STATUTORY AUTHORITY: KRS 148.029(5), 150.105, 150.025(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.029(5) authorizes the Department of Parks, in cooperation with the Department of Fish and Wildlife Resources, to implement wildlife management plans on state parks. KRS 150.105 authorizes the Department of Fish and Wildlife Resources to permit the destruction of animals that are causing damage to property or spreading disease. KRS 150.025(1) authorizes the Department of Fish and Wildlife to open seasons and make those seasons apply to a limited area of the state. This administrative regulation is necessary to allow controlled deer hunting at selected state parks to relieve serious overpopulations of white-tailed deer that are damaging the ecological integrity of the parks.

Section 1. Permitted Deer Hunting Within State Parks. (1) Deer hunting shall be permitted on the first Saturday and Sunday of November at Grayson Lake State Park, for any deer. The hunt shall be open to persons who have not yet reached their 16th birthday.
(2) Deer hunting shall be permitted on the first Saturday and Sunday of December at Taylorsville Lake State Park, for any deer. Open to persons with a disability which impairs their mobility. Deer hunting shall be permitted on the first Saturday and Sunday of December at Taylorsville Lake State Park, for any deer. These two (2) hunts are open to any hunter.
(3) Deer hunting shall be permitted on the second [third] Tuesday and Wednesday of January [December] for any deer at Lake Cumberland State Resort Park and at Dale Hollow State Park. A person shall:
(a) Not use a firearm or crossbow on those areas; and
(b) Remain in his assigned area.
(4) Deer hunting shall be permitted on the second [first] Tuesday and Wednesday of January for antlered or antlerless deer at:
(a) Lake Barkley State Resort Park; and
(b) Greenbo Lake State Resort Park.

Section 2. A person shall not hunt on a state park unless he:
(1) Was selected by a random drawing pursuant to 301 KAR 2:178; or
(2) Is a member of the successful applicant's hunting party.

Section 3. (1) A person shall:
(a) Check in and check out as required by 301 KAR 2:178; [1]
1. Between 4 p.m. and 10 p.m. on the day before the hunt; or
2. After 5 a.m. on the day of the hunt;
(b) Furnish check-in:
1. The confirmation [authorization] number as specified in 301 KAR 2:178 [E-401], showing that he was a successful applicant for the hunt; and
2. A driver's license or other form of personal identification.
(2) When checking in, a successful applicant shall show the appropriate permits [and/or licenses as are] required by 301 KAR 2:172; [:]
(a) A valid:
1. Current deer permit with an unfilled carcass tag;
2. Quota hunt deer permit with an unfilled carcass tag or
3. If hunting with a senior/disabled license, the hand-made cards required by 301 KAR 2:172; and
(b) Unless exempt from licensing requirements by KRS 150.170; a valid Kentucky license and deer permit.

Section 4. A person participating in the hunt:
(1) Shall:
(a) Comply with the provisions of 301 KAR 2:172;
(b) Daily check deer taken at the designated park check station[;]
and
(e) Check out by 8 p.m. except on Taylorsville Lake State Park, where a hunter must only check out at the conclusion of his hunting.
(2) Shall not:
(a) Take more than two (2) deer only one (1) of which may be antlered;
(b) Take a white deer at Dale Hollow State Resort Park;
(c) Injure a tree by using:
1. A tree stand except a portable stand;
2. Climbing devices which nail or screw to the tree; or
3. Climbing spikes.
(d) Discharge a firearm within 100 feet of a maintained road;
(e) Hunt:
1. In an area posted as closed by signs; or
2. Outside the park boundaries.
(3) A person who does not check out as required by this administrative regulation shall not be eligible to apply for a quota hunt the following year.

TOM A. YOUNG, Deputy Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: March 2, 2001
FILED WITH LRC: April 13, 2001 at noon

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, June 12, 2001)

301 KAR 2:222. Waterfowl hunting requirements.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.600(1), 150.990, 50 CFR Parts 20, 21
STATUTORY AUTHORITY: KRS 150.025(1)(a), (b), 150.340(1), (2), (3), 150.600(1), 50 CFR Parts 20, 21
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.600(1) authorize the department to establish statewide waterfowl hunting requirements and to specify seasons and other requirements on wildlife management areas. Waterfowl seasons in the Ballard Wildlife Management Area, Canoe Creek Wildlife Management Area, Cumberland Lake Wildlife Management Area, and Yellowbank Wildlife Management Area differ from and are shorter than federal regulations to optimize public use within sound waterfowl conservation practices.

Section 1. Definitions. (1) "Blind" means:
(a) A concealing enclosure; [ ;]
(b) A pit; or [ ]
(c) A boat.
(2) "Party" means:
(a) A person hunting alone; or
(b) From two (2) to four (4) persons who share a blind.
(3) "Permanent blind" means a blind left in place more than twenty-four (24) hours.
(4) "Statewide waterfowl seasons" means the provisions of this administrative regulation and of 301 KAR 2:221.
(5) "Waterfowl" is defined by KRS 150.010(40).

Section 2. A waterfowl hunter shall not use or carry a shotgun shell:
(1) Longer than three and one-half (3 1/2) inches; or
(2) Containing shot:
(a) Made of lead;
(b) Not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or
(c) Larger than size "T."

Section 3. In the Ballard Reporting Area, as described in 301 KAR 2:224:
(1) A waterfowl hunter shall:
(a) Hunt from a blind unless hunting in flooded, standing timber; [ ;]
(b) Not hunt from or establish a blind:
1. Within 100 yards of another blind; or
2. Within fifty (50) yards of a property line; and
(c) Not possess more than one (1) shotgun while in a blind.
(2) More than five (5) persons shall not occupy a blind.
(3) The requirements of subsection (1) of this section shall not apply after Canada goose season closes.

Section 4. (1) Except as specified in this section or in Section 5 of this administrative regulation, on a wildlife management area:
(a) A waterfowl hunter shall not establish or hunt from:
1. A permanent blind; or
2. A blind within 200 yards of:
   a. Another blind; or
   b. A waterfowl refuge;
(b) A person shall not hunt in a designated recreation area or access point;
(c) More than four (4) persons shall not occupy a blind; and
(d) A hunter shall remove decoys and personal effects from the wildlife management area daily, except that a hunter drawn for a midday hunt may leave decoys in place for the duration of his hunt.
(2) A person wishing to establish a permanent blind on Barclay Lake, Barron River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake, Paintsville Lake, Rough River Lake or Taylorsville Lake Wildlife Management Areas:
(a) Shall first obtain a permit from the U. S. Army Corps of Engineers;
(b) May designate one (1) other person as a partner; and
(c) Shall participate in a drawing for a blind permit on the Barkley, Barron, Green, Paintsville, or Taylorsville areas;
(d) Shall present a valid hunting license at the time of the drawing; and
(e) Shall not hold more than one (1) permit per area.
(3) The holder of a blind permit shall:
(a) Construct his blind before November 20 or forfeit the permit; and
(b) Not lock a blind; and
(c) Unless an extension of time is granted, remove his blind within thirty (30) days of the close of waterfowl season or be ineligible for a permit the following year.
(4) A blind not occupied by the permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-serve basis.
(5) A blind restriction specified in this section shall not apply to a falconer if a gun or archery season is not open.

Section 5. On a wildlife management area:
(1)(a) Statewide waterfowl seasons shall apply unless otherwise stated in this section.
(2) If specific hunting dates are given in this section, a person shall not hunt waterfowl except on those dates.
(3) Paragraph (b) of this subsection shall not apply to a waterfowl hunting season opening before October 15.
(2) A person shall not:
(a) Hunt on an area or portion of an area marked by a sign as closed to hunting;
(b) Hunt on an area or a portion of an area marked by signs as closed to public access; or
(c) Hunt a species on an area or a portion of an area marked by signs as closed to hunting for that species.
(3) Wildlife management areas in Ballard County.
(a) A person shall not:
1. Have more than fifteen (15) shotgun shells in one (1) day while waterfowl hunting; or
(b) At least one (1) person in a blind shall be eighteen (18) years of age or older while hunting from a department blind at Ballard WMA or Barlow Bottoms WMA.
(c) At Ballard Wildlife Management Area:
1. Waterfowl hunting shall be permitted during an open waterfowl season occurring before October 15.
2. The duck, coot, and merganser season shall be:
   a. December 20 [46] through January 31 [24]; or
   b. Until the Ballard Reporting Area Canada goose quota is reached.
3. The goose season shall be:
   a. December 20 [46] through January 31 [24]; or
   b. Until the Ballard Reporting Area Canada goose quota is reached.
4. A waterfowl hunter shall not hunt on a Monday, Tuesday, Christmas Day, or New Year's Day.
5. A waterfowl hunter shall:
   a. Apply in advance in accordance with Section 6 of this administrative regulation;
   b. Case his gun while using department-supplied transportation to and from a blind; and
   c. Not hunt waterfowl on the Ohio River from fifty (50) yards upstream from Dam 53 to fifty (50) yards downstream from the southern border of the Ballard Wildlife Management Area from October 15 through March 15.
   (d) At Barlow Bottoms Wildlife Management Area, including the Olmsted [Lower-Bottoms], Peal and Swan Lake units:
1. A person shall:
   a. Not hunt on a Monday or Tuesday; and
   b. Check in and out daily at the designated check station during duck and Canada goose hunting season.
2. A department blind assignment shall be made in accordance with Section 6 of this administrative regulation.
3. A blind shall be made offered to another hunter on a first-come, first-served basis, if the original assignee has not checked in by 5 a.m.
4. A person shall not, on Olmsted [Lower-Bottoms] unit:
   a. Hunt waterfowl except from a permanent department blind;
   b. Be on the area after June 1 during a waterfowl season, except as authorized by the department; and
   c. Hunt waterfowl except from a blind assigned by the department during Canada goose season.
5. On the Peal unit:
   a. More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;
   b. More than four (4) parties shall not hunt at the same time on Fish Lake;
   c. More than three (3) parties shall not hunt at the same time on First Lake or Second Lake;
6. On the Swan Lake Unit, a person shall not hunt duck, coot, merganser, or goose other than a Canada goose except from a blind assigned by the department and unless:
   a. The season for these species is open; and
   b. The season for Canada goose is also open.
4. (4) Barclay Lake Wildlife Management Area.
(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.
(b) A person shall establish a permanent blind within ten (10) yards of his assigned and numbered blind marker within:
   1. An area bounded by the mouth of Donaldson Creek, the east side of the Cumberland River Channel and the boat ramp at Linton;
   2. An area bounded by the Pryor's Creek Light, the west side of the Cumberland River Channel, Land Between the Lake Road 204 and river mile 73.5.
(c) The following refuge areas are closed to the public:
   1. From November 1 through February 15 within an area west of the main river channel between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light);
      a. Including the row of islands on the west side of the main river channel; and
      b. Not including Taylor Bay and Jake Fork Bay;
   2. From November 1 through March 15 within Honker Bay and Fulton Bay as marked by buoys and signs.
(d) From October 15 through March 15, a person shall not hunt:
   1. Within 200 yards of;
   2. Within the area defined by the levee between river mile 68.4 and river mile 70.4.
(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.
(b) A waterfowl hunter:
1. May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and
2. Shall not use a breech-loading firearm elsewhere on the area.
6. Buckhorn Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative regulation.
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(7) Cane Creek Wildlife Management Area shall be closed to goose hunting.
(8) Central Kentucky Wildlife Management Area. A person shall not hunt waterfowl from October 15 through January 14 [48].
(9) Cumberland Lake Wildlife Management Area. The following sections shall be closed to the public from October 15 through March 15:
   (a) Wesley Bend, the area bounded by Fishing Creek, Beech Grove Road and Fishing Creek Road.
   (b) Yellowthread, the area bounded by Fishing Creek Road and Hickory Nut Road.
(10) Addington Enterprises (Cypress-AMEX) Wildlife Management Area shall be closed to waterfowl hunting.
(11) Grayson Lake Wildlife Management Area. A person shall not hunt waterfowl:
   (a) Within the no wake zone at the dam site marina;
   (b) From the shore of Camp Webb;
   (c) From the shore of the state park; or
   (d) On Deer Creek Fork of Grayson Lake.
(12) Green River Lake Wildlife Management Area.
   (a) A permanent blind may be used as specified in Section 4 of this administrative regulation.
   (b) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
(13) Kaler Bottoms Wildlife Management Area. Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
(14) Land Between the Lakes.
   (a) The following portions shall be closed to the public from November 1 through March 15:
      1. Long Creek Pond; [ ]
      2. The eastern one-third (1/3) of Smith Bay; [ ]
      3. The eastern two-thirds (2/3) of Duncan Bay.
   (b) The following portions shall be closed to waterfowl hunting:
      1. The Environmental Education Center; [ ]
      2. Energy Lake.
   (c) A person shall possess an annual Land Between the Lakes Hunting Permit when hunting waterfowl:
      1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or
      2. From a boat over a flooded portion of Land Between the Lakes when the lake level is above elevation 359.
   (d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.
   (e) A person shall not establish or use a permanent blind:
      1. On an inland area; or
      2. Along the Kentucky Lake shoreline of Land Between the Lakes.
   (f) A waterfowl hunter shall remove decoys and personal effects daily.
(15) Nolin River Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative regulation.
(16) Oblon Creek Wildlife Management Area. Shooting hours are one-half (1/2) hour before sunrise until 2 p.m.
(17) Ohio River Waterfowl Refuge.
   (a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing at approximately river mile 911.5.
   (b) Stewart Island shall be closed to the public from October 15 through March 15, except for quota deer hunting.
(18) Peabody Wildlife Management Area.
   (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
   (b) The following portions, as posted by signs, are closed to the public from October 15 through March 15:
      1. Gibralter Mine, as bounded by Rockport Road, the Western Kentucky Parkway, Pond Creek and the P&M Haul Road; [ ]
      2. Sinclair Mine, as bounded by railroad tracks, the hault road and posted signs; [ ]
      3. Homestead, as bounded by the hault road and the Green River.
(19) Pioneer Weapons Wildlife Management Area. A waterfowl hunter:
   (a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; [ ]
   (b) Shall not use a breech-loading firearm elsewhere on the area.
(20) The main block of Robinson Forest Wildlife Management Area shall be closed to waterfowl hunting.
(21) Sloughs Wildlife Management Area.
   (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
   (b) On the Grassy-Pond Powell's Lake Unit, a waterfowl hunter:
      1. Shall use a permanent blind provided by the department; and [ ]
      2. Shall remove decoys and personal effects from a blind or the vicinity of a blind daily.
   (c) On the Jenny Hole Highlands Creek Unit, a waterfowl hunter:
      1. Shall not establish or hunt from a blind closer than 200 yards from another hunting party; and [ ]
      2. Shall remove decoys and personal effects from blinds or the vicinity of blinds daily.
   (d) If the Ohio River reaches a level that requires boat access, a waterfowl hunter:
      1. May hunt from a boat without regard to department blinds; and [ ]
      2. Shall not hunt closer than 200 yards from another boat.
   (e) A waterfowl hunter on the Crenshaw and Duncan Tracts of the Sauerheber Unit:
      1. Shall hunt from the blind assigned by the department through a drawing as stipulated in Section 6 of this administrative regulation; [ ]
      2. May occupy a blind not claimed by the permittee one (1) hour before sunrise; [ ]
      3. Shall not have more than fifteen (15) shotgun shells in one (1) day; and [ ]
      4. Shall be accompanied by an adult if under eighteen (18) years of age.
   (f) The Crenshaw and Duncan II tracts of the Sauerheber Unit shall be closed to hunting except waterfowl from November 1 [October 16] through March 15.
   (g) The remainder of the Sauerheber Unit shall be closed to the public from November 1 [October 16] through March 15.
(22) Taylorsville Lake Wildlife Management Area.
   (a) A permanent blind may be used as specified in Section 4 of this administrative regulation.
   (b) The portion east of Van Buren Boat Ramp as marked by a sign shall be closed to the public from November 1 through the last day of February, except for quota deer hunting.
(23) Westvaco Wildlife Management Area.
   (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
   (b) The portion south of the Westvaco Road as posted by a sign shall be closed to the public from November 1 through March 15.
   (c) A person shall obtain a Westvaco Permit before hunting.
(24) White City Wildlife Management Area. Shooting hours shall be from one-half (1/2) hour before sunrise until 2 p.m.
(25) Yellowbank Wildlife Management Area. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

Section 6. (1) A person wishing to apply to hunt waterfowl on Ballard, Barlow Bottoms or the Sauerheber unit of Sloughs wildlife management areas shall:
   (a) Apply on a form provided by the department; and [ ]
   (b) Submit a completed application form before the deadline date on the form.
   (2) A form which is not completed according to the instructions on the form shall be disqualified from the drawing.
   (3) A person shall not apply more than one (1) time for each hunt.
   (4) Each hunter drawn may bring up to three (3) additional hunters.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) "Sloughs Wildlife Management Area Waterfowl Hunting Application", (August, 1997 edition), Department of Fish and Wildlife Resources;
   (b) "Ballard Wildlife Management Area Goose Hunt Application", (August, 1997 edition), Department of Fish and Wildlife Resources; and [ ]
   (c) "Application for Lower Bottoms/Swan Lake Waterfowl Blind
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Drawings in Ballard County*, (August, 1997 edition), Department of Fish and Wildlife Resources.

(2) This material may be inspected, copied or obtained at Depart-

ment of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort,

Kentucky 40601, Monday through Friday from 8 a.m. through 4:30 p.m.

TOM A. YOUNG, Deputy Commissioner
ANN R. LATTU, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: August 4, 2000
FILED WITH LRC: April 13, 2001 at noon

TOURISM DEVELOPMENT CABINET

Department of Fish and Wildlife Resources
(As Amended at ARRS, June 12, 2001)

301 KAR 3:010. Public use of wildlife management areas.

RELATES TO: KRS 150.025, 150.620, 150.640

STATUTORY AUTHORITY: KRS 150.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150., [1] KRS

150.020 authorizes [permits] the department to impose and enforce special administrative regulations on lands acquired for public hunting, fishing, and related recreational uses. This administrative regulation prohibits certain actions not in keeping with the intended purpose of wildlife management areas, sets requirements on other uses and stipulates the procedure for obtaining group use permits on these ar-

areas.

Section 1. Definitions. (1) "Event" means:
(a) An activity conducted by a group;
(b) A commercial activity; or
(c) A field trial.
(2) "Field trial" means an event where unleashed dogs are worked and judged.
(3) "Group" means:
(a) A club, society or association;
(b) Ten (10) or more persons who gather to conduct an event; or
(c) A field trial.
(4) "Horse" means a horse, pony, mule, donkey, llama or similar beast of burden.
(5) "Injurious substance" means a substance which may be injuri-

ous to aquatic life, wildlife or wildlife habitat.
(6) "Mechanized vehicle" means a motor vehicle, bicycle or other human conveyance except a wheelchair.
(7) "Motor vehicle" means a motor-driven conveyance, whether or not licensed for use on a public highway.
(8) "Ride" means to ride, drive or lead a horse.
(9) "Wildlife management area" or "WMA" means a tract of land:
(a) Controlled by the department through ownership, lease, li-

ensure or cooperative agreement; and
(b) Having "wildlife management area" or "WMA" as part of its official name.
(10) "Bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay or any other food materials, whether natural or manufactured, which may lure, entice or attract wildlife. [Bait] does not include the establishment and maintenance of plantings for wild-

life, foods found scattered solely as the result of normal agricultural practices or harvesting practices, foods available to wildlife through normal agricultural practices or livestock feeding if the area is occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.
(11) "Baiting" means to place, deposit, tend, distribute, or scatter bait.

Section 2. While upon a WMA, a person:
(1) Shall observe the hunting dates, limits and other requirements that apply to the county in which the WMA is located, unless specific requirements are stipulated in:
(a) This administrative regulation;
(b) 301 KAR 2:049;
(c) 301 KAR 2:178;
(d) 301 KAR 2:140;
(e) 301 KAR 2:142;
(f) 301 KAR 2:144;
(g) 301 KAR 2:222; or
(h) 301 KAR 2:225.
(2) Shall wear hunter orange garments as stipulated in 301 KAR

2:172 when deer hunting with firearms is allowed.
(3) [When deer hunting with breech-loading firearms is allowed, shall:
(a) Hunt small game or furbearers;
(b) Trap; or
(c) Release an unlicensed dog.
(4) May hunt small game, furbearers, or turkey by archery during the modern gun deer season including the first two (2) days, if the statewide modern gun deer season is closed on that area. Unleashed dogs will be permitted under these circumstances. [Gun deer hunting is not permitted on that WMA during the modern gun deer season.] The dog remains leashed except while actively in training in or within 100 feet of the body of water.
(5) [6] Shall not:
(a) Hunt:
1. On a WMA or portion of a WMA designated by a sign as closed to hunting; or
2. At an established access point, launching ramp, or recreation area;
(b) Enter a portion of a wildlife management area designated by a sign as closed to public access;
(c) Discharge a firearm within 100 yards of a residence or occupied building, whether or not the building is on a WMA;
(d) Camp, except in a designated area.
(e) Feed or attract wildlife, except as permitted by the department, or use baiting, baits or baits.
(f) Place or distribute bait or otherwise participate in baiting wild-

life on a wildlife management area. Bait does not include the establish-

ment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural practices or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the area is occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.
(1) Hunt over bait.

Section 3. Horseback Riding. A person shall not:
(1) Ride a horse on a WMA except:
(a) On:
1. A trail or area specifically marked for horseback riding; or
2. A maintained public road open to public vehicular traffic;
(b) During an event where a horse is allowed under a permit is-

sued under the provisions of Section 6 of this administrative regula-

tion; or
(c) While engaged in a legal hunting activity.
(2) Allow a horse to roam or graze on department property.
(3) Tether a horse in a way that would cause damage to a tree or shrub.

Section 4. Prohibited Activities. Except as authorized by the de-

partment, on a WMA a person shall not:
(1) Damage a tree or shrub;
(2) Dump trash or litter;
(3) Set fires, except for an attended campfire;
(4) Leave a campfire unattended;
(5) Cut or damage a fence or gate;
(6) Deface or destroy a sign;
(7) Destroy, harvest or glean a crop;
(8) Allow livestock to roam freely;
(9) Dump the contents of a holding tank, portable toilet or other container holding human waste.
(10) Deface or collect artifacts from historical or archeological sites;
(11) Ignite fireworks or rockets;
(12) Collect or remove plants;
(13) Place or cause to be placed an injurious substance on land or water;
(14) Engage in an activity which:
   (a) Is commercial in nature and intent; or
   (b) Could:
      1. Unreasonably interfere with other users or users of the area;
      2. Pose a risk to persons or property;
      3. Damage facilities, roads, trails or ecosystems of the area.

Section 5. Use of Mechanized Vehicles. Except as specifically authorized by the department, on a WMA, a person shall not:
(1) Use a mechanized vehicle except:
   (a) On a maintained road [roads] open to public use; or
   (b) In a designated parking area;
(2) Park in a way that:
   (a) Block a road or gate; or
   (b) Prevent access to a portion of the area.

Section 6. Group Permits. (1) A group shall not conduct an event upon department property without obtaining a permit at least thirty (30) days before the date of the event.
(2) Application for the permit shall be upon a form provided by the department.
(3) The department shall deny a permit for an event that involves:
   (a) The use of mechanized vehicles, except for travel to and from the area; or
   (b) An activity prohibited in Section 4 of this administrative regulation except that a commercial activity may be permitted if it is:
      1. An informational booth;
      2. A food vendor;
      3. For collecting registration or entrance fees; or
      4. A similar ancillary activity authorized by the event permit.
(4) The department may:
   (a) Require the group to reschedule an event to avoid user conflicts;
   (b) Restrict an event to a specified location within the WMA;
   (c) Cancel a scheduled event if flooding, fire danger or other unforeseen circumstances render the WMA unsafe or unsuitable for the event; or
   (d) Require the group to provide portable sanitary toilet facilities if existing facilities on the WMA are inadequate for the expected size of the group.
(5) The department shall revoke the permit and cancel an event if the group's behavior:
   (a) Is rude, obnoxious, disruptive or disorderly;
   (b) Creates a danger to the health or safety of other users;
   (c) Results in damage to the area; or
   (d) Violates a state or federal law.
(6) The department may deny a permit to a group which has had a previous event canceled under subsection (5) of this section.

Section 7. Appeal of Permit Denial. (1) A person who wishes to appeal the denial of a permit shall request a hearing in writing, postmarked or delivered in person to the department no later than ten (10) days after notification of denial.
(2) Upon receipt of the request for a hearing, the department shall:
   (a) Appoint a hearing officer qualified to conduct hearings under the provisions of KRS Chapter 13B; and
   (b) Schedule a hearing to be held either:
      1. Prior to the next regularly scheduled meeting of the commission, if the request for a hearing is received more than thirty (30) days before the scheduled commission meeting; or
      2. Within thirty (30) days, if the request for a hearing is received within thirty (30) days of the next scheduled commission meeting.
(3) The hearing officer shall conduct the hearing and present his recommendation at the commission meeting immediately following the hearing date.
(4) The department shall present evidence and call witnesses to support the suspension or revocation.
(5) The commission shall make its decision by majority vote.

(6) A person may appeal a decision of the commission in accordance with the provisions of KRS Chapter 13B.

Section 8. On wildlife management areas not owned by the department, provisions of this administrative regulation shall not apply if:
(1) An activity prohibited by this administrative regulation is allowed by the entity owning the property; or
(2) An activity allowed by this administrative regulation is prohibited by the entity owning the property.

(2) It may be inspected, copied, or obtained at the Kentucky Department of Fish and Wildlife, #1 Game Farm Road, Frankfort, Kentucky 40601 from 8 a.m. to 4:30 p.m. Monday through Friday.

TOM A. YOUNG, Deputy Commissioner
ANN R. LATTI, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: March 2, 2001
FILED WITH LRC: April 13, 2001 at noon

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Natural Resources
Division of Forestry
(As Amended at ARRS, June 12, 2001)


RELATES TO: KRS 149.330, 149.332, 149.334, 149.344, 149.346, 149.348, 149.350, 149.355, 224.10-100
STATUTORY AUTHORITY: KRS 149.330, 149.334(5), 149.344 NECESSITY, FUNCTION, AND CONFORMITY: KRS 149.334(5) authorizes the cabinet to promulgate administrative regulations relating to the Kentucky Forest Conservation Act, KRS 149.330 to 149.355. KRS 149.344 requires that [after two (2) years from the Act's effective date] any logger or operator engaged in the conduct of any timber harvesting operations [shall] use appropriate best management practices, KRS 149.330(1) defines best management practices as those practices developed by the Division of Forestry and approved by the Agriculture Water Quality Authority. This administrative regulation establishes [as necessary in order to set forth by administrative regulations] the best management practices for timber harvesting operations as developed by the Division of Forestry and approved by the Agriculture Water Quality Authority.


(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Division of Forestry, 627 Campground Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JAMES E. BICKFORD, Secretary
APPROVED BY AGENCY: April 9, 2001
FILED WITH LRC: April 9, 2001 at 3 p.m.
VOLUME 28, NUMBER 1 — JULY 1, 2001

JUSTICE CABINET
(As Amended at ARRS, June 12, 2001)

500 KAR 12:010. Duplicate records request fee schedule.

RELATES TO: KRS 72.255
STATUTORY AUTHORITY: KRS 72.260
NECESSITY, FUNCTION, AND CONFORMITY: KRS 72.260

Section 1. Definition. [Definitions.] "Special stain" means a stain [anything] other than the standard Hematoxylin and Eosin.

Section 2. Duplicate Records Fees. (1) Kodachromes shall be one (1) dollar each, [§]
(2) Prints:
(a) Four (4) inch x six (6) inch prints shall be three (3) dollars each, [§]
(b) Five (5) inch x seven (7) inch prints shall be five (5) dollars each, [§]
(c) Eight (8) inch x ten (10) inch prints shall be seven (7) dollars each, [§]
(3) Glass histology slides shall be twelve (12) dollars per slide, [§]
(4) X-rays shall be ten (10) dollars each, [§]
(5) Written records shall be one (1) dollar per page, [§]
(6) Special stains shall be forty (40) dollars per slide, [§]
(7) There shall be a twenty-five (25) dollars processing and handling fee for each special laboratory testing duplicate record request.

Section 3. Procedure for Requesting Duplicate Records. To obtain duplicate records from the Medical Examiner's Office, a person shall:
(1) Complete a "Commonwealth of Kentucky Medical Examiner Duplicate Records Request" form;
(2) Enclose a check or money order payable to the Kentucky State Treasurer for the amount of the records requested; and
(3) Submit the request form and payment to the appropriate regional Medical Examiner's Office.

Section 4. Incorporation by Reference. (1) "Commonwealth of Kentucky Medical Examiner Duplicate Records Request" form, (I01 edition), Medical Examiner's Office, is incorporated by reference.
(2) This material [form] may be inspected, copied, or obtained, subject to applicable copyright law, Monday through Friday, 8 a.m. to 4:30 p.m. at:
(a) The Medical Examiner's Office, Urban Government Center, 810 Barrett Avenue, Louisville, Kentucky 40204; or
(b) The Medical Examiner's Office, Central Lab, 100 Sower Boulevard, Suite 202, Frankfort, Kentucky 40601.

KURT F. STEPHENS, Secretary
KAREN QUINN, Staff Attorney
APPROVED BY AGENCY: January 5, 2001
FILED WITH LRC: January 5, 2001 at 3 p.m.

JUSTICE CABINET
Department of Corrections
(As Amended at ARRS, June 12, 2001)

501 KAR 6:999. Corrections secured policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) The following material is incorporated by reference: "Department of Corrections Secured Policies and Procedures, June [April] 12 [February-13], 2001."

BCC 09-01-01 Inclement Weather/Emergency Condition Operation
BCC 09-02-01 Restricted Areas
BCC 09-02-02 Inmate Pass System to Restricted Areas
BCS 09-02-03 Regulated Inmate Movement
BCC 09-04-01 Construction Crew Entry, Exit and Regulations
BCC 09-04-02 Complex Entry and Exit
BCC 09-05-01 Key Control
BCC 09-06-02 Transportation to Courts
BCC 09-07-01 Drug Abuse and Intoxicants Testing
BCC 09-09-01 Population Counts and Count Documentation
BCC 09-15-01 Search Policy and Disposition of Contraband
BCC 09-16-01 Security Activity Logs
BCC 09-17-01 Institutional Supervisor Inspections
BCC 09-20-01 Inmate Death
BCC 09-21-01 Tool Control
BCC 09-22-01 Emergency Communication System
CPP 8.3 Emergency Planning
CPP 8.4 Emergency Preparedness
CPP 8.5 Emergency Squads
CPP 9.1 Use of Force
CPP 9.3 Security Threat Groups
CPP 9.7 Storage, issue, and Use of Weapons Including Chemical Agents [Amended 6/12/01 (4/12/01)]
CPP 9.9 Transportation of Inmates
CPP 9.10 Security Inspections
CPP 11 Tool Control
FCDC 09-01-02 Institutional Entry and Exit Surveillance and Perimeter Security Procedures [Amended 6/12/01 (4/12/01)]
FCDC 09-01-03 Firearms, Mechanical Restraints, and Emergency Equipment [Amended 4/12/01, Amended 6/12/01]
FCDC 09-03-01 Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
FCDC 09-07-01 Guidelines for Contract and Construction Personnel [Amended 4/12/01, Amended 6/12/01]
FCDC 09-09-01 Tool Control [Amended 4/12/01, Amended 6/12/01]
FCDC 09-12-01 Key Control [Amended 4/12/01, Amended 6/12/01]
FCDC 09-14-01 Count Procedures [Amended 4/12/01, Amended 6/12/01]
FCDC 09-20-01 Collection Preservation, and Identification of Physical Evidence [Amended 4/12/01, Amended 6/12/01]
GRCC 08-03-01 Escape Plan [Amended-12/13/00]
GRCC 08-05-01 Emergency Squad: Selection, Training and Evaluation [Amended-2/13/01]
GRCC 08-07-01 Natural Disaster or Earthquake [Amended 2/13/01]
GRCC 09-03-01 Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power
GRCC 09-04-01 Inmate Death
GRCC 09-05-01 Construction Crew Entry and Exit Guidelines
GRCC 09-06-01 Entry and Exit Procedures
GRCC 09-07-01 Institutional Inspections
GRCC 09-08-01 Issuance of Weapons, Ammunition and Chemical Agents
GRCC 09-10-01 Emergency Release from Locked Areas
GRCC 09-11-01 Tool and Equipment Control
GRCC 09-12-01 Key Control
KSP 09-08-01 Searches and Preservation of Evidence
KSR 09-00-04 Horizontal Gates/Box 1 Entrance and Exit Procedures
KSR 09-00-09 Contraband, Dangerous Contraband and Search Policy
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(1) Delivered to [any office of the department; or
(2) Deposited in the mail at or with a commercial postal service on or
before the due date, as indicated by the postmark applied by the U.S.
Postal Service or official mail applied by a commercial postal service.
The mark made by a privately-held postage meter shall not be consid-
ered in determining the date of receipt.

Section 2. Any report or payment received and processed by an
agent of the Department for Employment Services shall be considered
received by the department as of the date recorded by the agent and
transmitted to the department. Any report or payment delivered to an
agent of the Department for Employment Services by mail or commer-
cial postal service shall be considered received five (5) business days
prior to the date of delivery to the agent. [For purposes of this admin-
istrative regulation, a business day is any day the department’s offices
are open.]

Section 3. If [When] a due date falls on a day the office of the de-
partment is closed, the next day the office is opened shall be consid-
ered the due date.

MARGARET WHITTET, Commissioner
APPROVED BY AGENCY: April 9, 2001
FILED WITH LRC: April 11, 2001 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(As Amended at ARRS, June 12, 2001)

806 KAR 9:310. Viatial settlement broker license.

RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110, 304.15-700, 304.15-
720
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110
authorizes [provides that the] Commissioner of Insurance to [may]
promulgate administrative regulations necessary for or as an aid to the
enforcement of any provision of the Kentucky Insurance Code. KRS
304.15-700 requires [provides that the] commissioner to [shall]
promulgate administrative regulations to provide for the licensing of
viatical settlement brokers and the termination or revocation of the
license. KRS 304.15-720 authorizes [provides that] the commissioner
to [may] promulgate administrative regulations to implement [provide
for the implementation of] KRS 304.15-700 to 304.15-720 and to es-
establish [for the establishment of] appropriate requirements and fees
for a viatical settlement broker license. This administrative regulation
establishes the information to be included in the application for, the
requirements for the issuance and continuation of, and the fees for a
viatical settlement broker license.

Section 1. Definition. [As-used in this administrative regulation,]
"viatical settlement broker" means the individual or business entity
defined in KRS 304.15-020(4).

Section 2. Individual Applicant. (1) An individual may be issued a
viatical settlement broker license if the commissioner determines that
the applicant:
(a) Is at least twenty-one (21) years of age;
(b) Has successfully attained a general educational level equiv-
alent to that required for graduation from an accredited high school in
Kentucky;
(c) Has completed a forty (40) hour viatical prelicensing classroom
course of study, which has been approved by the commissioner in
accordance with 806 KAR 9:001; and
(d) Has passed a viatical examination.
(2) An individual applying for a viatical settlement broker license
shall:
(a) Submit completed Form 3301-VS;
(b) Remit the nonrefundable fee of $250;
(c) Provide proof of financial responsibility in the amounts estab-
lished in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or
99-3 (terms prescribed by the commissioner); and

WORKFORCE DEVELOPMENT CABINET
Department for Employment Services
Division of Unemployment Insurance
(As Amended at ARRS, June 12, 2001)

787 KAR 1:230. Due dates.

RELATES TO: KRS 341.262, 341.300, 341.430(2), 341.450(1)
STATUTORY AUTHORITY: KRS 151B.020(6), 341.115(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1)
authorizes [provides that the] secretary to promulgate administrative regulations
necessary to implement KRS Chapter 341. This administrative regulation establishes
requirements for calculating the due dates established in KRS Chapter 341. [This administrative regulation defines the due date as of the department as used in KRS Chapter 341 and Kentucky administrative regulations as it relates to the timely filing of reports, protests, appeals, or the payment of contributions, and extends the due date when the due date falls on a day the office of the department is closed.]

Section 1. Except as provided in Section 2 of this administrative regulation, a contribution payment, report, protest, or appeal shall be considered received by the department as of the date it is:
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Section 3. Business Entity Applicant. (1) A business entity may be issued a viatical settlement broker license if the commissioner determines the applicant has only individuals acting for, or authorized to act for, the business entity under the business entity's viatical settlement broker license who are:
(a) Designated in the business entity's [entity] application; and
(b) Licensed as individual viatical settlement brokers in accordance with Section 2 of this administrative regulation.
(2) A business entity applying for a viatical settlement broker license shall:
(a) Submit completed Form 8301-BS-VS; 
(b) Remit the nonrefundable fee of $750; 
(c) Provide proof of financial responsibility in the amounts established in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or 99-3 [forms prescribed by the commissioner]; 
(d) Provide the following documentation, as applicable:
1. Articles of incorporation; 
2. Articles of organization; 
3. Partnership agreement; or [and]
4. Certificate of authority from the Kentucky Secretary of State; 
5. Provide a list of all officers or general partners, as applicable, including their names, titles, addresses, Social Security numbers, and Kentucky Department of Insurance identification numbers; and 
(f) Submit confirmation from the Life Division of the Kentucky Department of Insurance that the applicant has met the filing and approval of contracts and forms requirements of KRS 304.15-700(2).
(3)(a) A business entity shall immediately notify the department of any changes in its designated to act under its license.
(b) A business entity shall [at all times] have at least one (1) licensed individual viatical settlement broker designated with the department. If [at any time] the business entity fails to have at least one (1) licensed individual viatical settlement broker designated with the department, the business entity viatical settlement broker license shall be deemed [is] revoked and shall be promptly surrendered to the commissioner without demand.

Section 4. Renewal and Continuation of License. (1) Each viatical settlement broker license shall continue in force until expired, suspended, revoked, or otherwise terminated if:
(a) Payment is made [but subject to payment] to the commissioner on or before March 31 in odd-numbered years of the applicable renewal fee for a viatical settlement broker license not terminated on or before December 31 of the preceding calendar year, and
(b) The payment is accompanied by a written renewal request signed by the licensee.
(2) The renewal fee shall be nonrefundable and in the amount as follows:
(a) $250 for an individual licensee; or [and]
(b) $750 for a business entity licensee.
(3)(a) Except [provided by paragraph (b) of this subsection, if] A viatical settlement broker license for which the request for renewal or the fee is not received by the commissioner on or before March 31 of odd-numbered years, the viatical settlement broker license shall expire [be deemed to have expired] at midnight on March 31.
(b) [Except] A request and fee received by the commissioner between [after] March 31 and [prior to the next following] June 30 may be accepted and efectuated by the commissioner, in the commissioner's discretion, that they are accompanied by a penalty equal to and in addition to the renewal fee specified in subsection (2) of this section.
(4) Except for the changes requiring prior notification under KRS 304.15-700(3), the licensed viatical settlement broker shall notify the department of insurance in writing within thirty (30) days of any change to the information in the application or in the documents required to be submitted in accordance with Section 2 or 3 of this administrative regulation; except, notice of change in the licensee's name, residence address, principal business address, or mailing address shall be given thirty (30) days prior to the change in accordance with KRS 304.15-700(2).
(5) The licensed viatical settlement broker shall notify the department in writing within thirty (30) days of the initiation of any disciplinary action taken by an insurance regulatory body or other governmental agency, either in this state or in another jurisdiction, against any viatical settlement license or professional license held by the licensee.

Section 5. Continuing Education. (1) An individual licensed as a viatical settlement broker shall complete twenty-four (24) hours of department-approved continuing education during each continuing education biennium.
(2) The required continuing education hours shall include a minimum of:
(a) Ten (10) hours in life insurance; 
(b) Six (6) hours in viatics; and
(c) Two (2) hours in ethics.
(3) The same hours may be credited towards the individual's continuing education requirements for both the viatical settlement broker license and the applicable agent license, if any.
(4) Each continuing education biennium shall begin on July 1 of an even-numbered year and end on June 30 two (2) years later.
(5) The license of an individual who fails to comply with this continuing education requirement and who has not been granted an extension of time to comply in accordance with KRS 304.9-295(7) shall terminate and shall be promptly surrendered to the commissioner without demand.

Section 6. Lapse of Financial Responsibility. The viatical settlement broker license shall be deemed revoked and shall be promptly surrendered to the commissioner without demand if [at any time] notice is given to the commissioner that:
(1) The policy or bond demonstrating proof of financial responsibility in accordance with KRS 304.15-700(3) is to be terminated and has not been replaced by another policy or bond or by a deposit within the time established by 806 KAR 9:210; or
(2) [If] The deposit in accordance with KRS 304.15-700(4) is reduced through levy of execution or withdrawn and not replaced by the necessary additional deposit or by a policy or bond within the time established by 806 KAR 9:210, the viatical settlement broker license is revoked and shall be promptly surrendered to the commissioner without demand.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Form 8301-BS, "Viatical Settlement Broker/Provider Individual License Application" (2/2001 edition);
(b) Form 8301-BS-VS. "Viatical Settlement Broker/Provider Business License Application" (2/2001 edition);
(c) Form 99-1, "Evidence of Legal Liability Insurance (Errors & Omissions Policy)" (12/2000 edition);
(d) Form 99-2, "Irrevocable Letter of Credit" (12/2000 edition); and
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: April 12, 2001
FILED WITH LRC: April 12, 2001 at 4 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(As Amended at ARRS, June 12, 2001)


RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110, 304.15-700, 304.15-720
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110
authorizes [provides that] the Commissioner of Insurance to [may] promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.15-701 provides that the commissioner to [shall] promulgate administrative regulations to provide for the licensing of viatical settlement providers and the termination or revocation of the license. KRS 304.15-720 authorizes [provides that] the commissioner to [may] promulgate administrative regulations to implement [provide for the implementation of] KRS 304.15-700 to 304.15-720 and to establish [for the establishment of] the requirements and fees for a viatical settlement provider license. This administrative regulation establishes the information to be included in the application for, the requirements for the issuance and continuation of, and the fees for a viatical settlement provider license.

Section 1. Definition. [As used in this administrative regulation] “Viatical settlement provider” [is] means the individual or business entity [defined in] KRS 304.15-020(5).

Section 2. Individual Applicant. (1) An individual may be issued a viatical settlement provider license if the commissioner determines that the applicant:
(a) Is at least twenty-one (21) years of age; and
(b) Has successfully attained a general educational development level equivalent to that required for graduation from an accredited high school in Kentucky.
(2) An individual applying for a viatical settlement provider license shall:
(a) Submit completed Form 8301-VA;
(b) Remit the nonrefundable fee of $500;
(c) Provide proof of financial responsibility in the amounts established in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or 99-3 [forms prescribed by the commissioner]; and
(d) Submit confirmation from the Life Division of the Kentucky Department of Insurance that the applicant has met the filing and approval of contracts and forms requirements of KRS 304.15-700(2).

Section 3. Business Entity Applicant. (1) A business entity may be issued a viatical settlement provider license if the commissioner determines the applicant has only individuals acting for, or authorized to act for, the business entity under the business entity’s viatical settlement provider license who are:
(a) Designated in the business entity’s [entity] application; and
(b) Licensed as individual viatical settlement providers in accordance with Section 2 of this administrative regulation.
(2) A business entity applying for a viatical settlement provider license shall:
(a) Submit completed Form 8301-BE-VA;
(b) Remit the nonrefundable fee of $1,500;
(c) Provide proof of financial responsibility in the amounts established in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or 99-3 [forms prescribed by the commissioner]; and
(d) Provide the following documentation, as applicable:
1. Articles of incorporation;
2. Articles of organization;
3. Partnership agreement; or [and]
4. Certificate of authority from the Kentucky Secretary of State;
(e) Provide a list of all officers or general partners, as applicable, including their names, titles, addresses, Social Security numbers, and Kentucky Department of Insurance identification numbers; and
(f) Submit confirmation from the Life Division of the Kentucky Department of Insurance that the applicant has met the filing and approval of contracts and forms requirements of KRS 304.15-700(2).
(3)(a) A business entity shall immediately notify the department of any changes in who is designated to act under its license.
(b) A business entity shall [at all times] have at least one (1) licensed individual viatical settlement provider designated with the department. If at any time the business entity fails to have at least one (1) licensed individual viatical settlement provider designated with the department, the business entity viatical settlement provider license shall be deemed [is] revoked and shall be promptly surrendered to the commissioner without demand.

Section 4. Renewal and Continuation of License. (1) Each viatical settlement provider license shall continue in force until expired, suspended, revoked, or otherwise terminated if: (a) Payment is made [is subject to payment] to the commissioner on or before March 31 in odd-numbered years of the applicable renewal fee for a viatical settlement provider license not terminated on or prior to December 31 of the preceding calendar year; and (b) The payment is accompanied by a written request for renewal signed by the licensee.
(2) The renewal fee shall be nonrefundable and in the amount as follows:
(a) $500 for an individual license; or [and]
(b) $1,500 for a business entity license.
(3)(a) Except as provided by paragraph (b) of this subsection, if [Any] viatical settlement provider license for which the request for renewal or the fee is not received by the commissioner on or before March 31 of odd-numbered years, the viatical settlement provider license shall expire [be deemed to have expired] at midnight on March 31.
(b) [except] A request and fee received by the commissioner between [after] March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in the commissioner’s [his or her] discretion, if they are accompanied by a partial payment and in addition to the renewal fee specified in subsection (2) of this section.
(4) Except for the changes requiring prior notification under KRS 304.15-700(2), the licensed viatical settlement provider shall notify the Department of Insurance in writing within thirty (30) days of change to the information in the application or in the documents required to be submitted in accordance with Section 2 or 3 of this administrative regulation except notice of any change in the licensee’s name, address, principal address, or mailing address shall be given thirty (30) days prior to the change in accordance with KRS 304.15-700(2).
(5) The licensed viatical settlement provider shall notify the department in writing within thirty (30) days of the initiation of disciplinary action taken by an insurance regulatory body or other governmental agency, either in this state or in another jurisdiction, against any viatical settlement license or professional license held by the licensee.

Section 5. Lapse of Financial Responsibility. The viatical settlement provider license shall be deemed revoked and shall be promptly surrendered to the commissioner without demand if [at any time] notice is given to the commissioner that:
(1) The policy or bond demonstrating proof of financial responsibility in accordance with KRS 304.15-700(4) is to be terminated and has not been replaced by another policy or bond or by a deposit within the time established by 806 KAR 9:210; or
(2) [the] The deposit in accordance with KRS 304.15-700(4) is reduced through levy of execution or withdrawn and not replaced by the necessary additional deposit or by a policy or a bond within the time established by 806 KAR 9:210; the viatical settlement provider license is revoked and shall be promptly surrendered to the commissioner without demand.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Form 8301-VA, “Viatical Settlement Broker/Provider Individual License Application” (2/2001 edition);
(b) Form 8301-BE-VA, “Viatical Settlement Broker/Provider Business Entity License Application” (2/2001 edition);
(c) Form 99-1, “Evidence of Legal Liability Insurance (Errors & Omissions Policy)” (12/2000 edition);
(d) Form 99-2, “Irrevocable Letter of Credit” (12/2000 edition); and
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: April 12, 2001
FILED WITH LRC: April 12, 2001 at 4 p.m.
806 KAR 9:330. Termination or revocation of viatical settlement broker and viatical settlement provider licenses.

RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110, 304.15-700, 304.15-725

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes [provides that the Commissioner of Insurance to [may]] promulgate administrative regulations necessary for or as an aid to the effective performance of any provision of the Kentucky Insurance Code. KRS 304.15-700 requires [provides that the commissioner to [shall]] promulgate administrative regulations to provide for the termination or revocation of viatical settlement broker and viatical settlement provider licenses. KRS 304.15-720 authorizes [provides that the commissioner to [may]] promulgate administrative regulations to implement [provide for the implementation of] KRS 304.15-700 to 304.15-720 and to establish [the establishment of] licensing requirements for viatical settlement brokers and viatical settlement providers. This administrative regulation establishes the causes for termination and revocation of viatical settlement broker and viatical settlement provider licenses.

Section 1. Definitions. (As used in this administrative regulation)
(1) "Viatical settlement broker" is [means the individual or business entity] defined in KRS 304.15-020(6).
(2) "Viatical settlement provider" is [means the individual or business entity] defined in KRS 304.15-020(6).

Section 2. (1) The commissioner may place on probation, suspend, or may impose conditions upon the continuance of a viatical settlement broker license or a viatical settlement provider license of an individual or a business entity for not more than twelve (12) months, if the commissioner revokes, or if the commissioner revoke, or if the commissioner revoke, or if it issue or renew the license, or may levy a civil penalty in accordance with KRS 304.99-126, or any combination of penalties for any one (1) or more of the following causes:
(a) [(1)] Providing incorrect, misleading, incomplete, or materially untrue information in the license application; [ ]
(b) [(6)] Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner; [ ]
(c) [(3)] Obtaining or attempting to obtain a license through misrepresentation or fraud; [ ]
(d) [(4)] Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or viatical settlement business; [ ]
(e) [(5)] Intentionally misrepresenting the terms of an actual or proposed insurance or viatical settlement contract or application for insurance; [ ]
(f) [(6)] Having been convicted of any felony; [ ]
(g) [(7)] Having admitted or been found to have committed any unfair insurance trade practice or insurance fraud; [ ]
(h) [(8)] Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility or being a source of injury or loss to the public in the conduct of business in this state or elsewhere; [ ]
(i) [(9)] Having any insurance license, viatical settlement license, or their equivalent, denied, suspended, or revoked in any other state, province, district, or territory; [ ]
(j) [(4)] Surrendering or otherwise terminating any other license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction; [ ]
(k) [(1)] Forging another's name to an application for insurance or to any document related to an insurance or viatical settlement transaction; [ ]
(l) [(2)] Cheating, including improperly using notes or any other reference material to complete an examination for a viatical settlement broker license; [ ]
(m) [(4)] Knowingly accepting viatical settlement business from an individual who is not licensed, but who is required to be licensed under KRS Chapter 304.9; [ ]
(n) [(4)] Failing to comply with an administrative or court order imposing a child support obligation; [ ]
(o) [(5)] Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax; [ ]
(p) [(6)] Having been convicted of a misdemeanor for which restitution is ordered in excess of $300, or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude; [ ]
(q) [(7)] Has failed to honor contractual obligations set forth in viatical settlement contracts; [ ]
(r) [(8)] Has provided materially untrue information to a life insurer which issued the life insurance policy which is the subject of a viatical settlement contract; or [ ]
s) [(9)] Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.

(2) Prior to imposing a penalty on an individual or business entity with a viatical settlement or provider license, the commissioner shall provide notice to the licensee and a hearing pursuant to KRS Chapter 13B.
(3) If the commissioner imposes a penalty on an applicant for a viatical settlement or provider license, the applicant shall have the right to demand a hearing in accordance with KRS 304.2-310.

Section 3. The commissioner shall retain the authority to enforce the provisions and penalties of KRS Chapter 304 against an individual or business entity which is under investigation for or charged with a violation of KRS Chapter 304, even if the license of the individual or business entity has been surrendered or has terminated by operation of law.

JANIE A. MILLER, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: April 12, 2001
FILED WITH LRC: April 12, 2001 at 4 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(As Amended at ARRS, June 12, 2001)


RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110, 304.15-700, 304.15-725

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes [provides that the Commissioner of Insurance to [may]] promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.15-700 requires [provides that the commissioner to [shall]] promulgate administrative regulations to provide for the termination or revocation of viatical settlement broker and viatical settlement provider licenses. KRS 304.15-720 authorizes [provides that the commissioner to [may]] promulgate administrative regulations to implement [provide for the implementation of] KRS 304.15-700 to 304.15-720 and to establish [the establishment of] licensing requirements for viatical settlement brokers and viatical settlement providers. 806 KAR 9:310 (Viatical settlement broker license), 806 KAR 9:320 (Viatical settlement provider license), 306 KAR 9:330 (Termination or revocation of viatical settlement broker and viatical settlement provider license), and 806 KAR 15:050 (Reporting and general requirements for viatical settlement providers and brokers) are being promulgated to address the material contained in 806 KAR 15:040 (Licensing, reporting, and general requirements for viatical settlement providers and brokers) rendering 806 KAR 15:040 redundant.

Section 1. 806 KAR 15:040, Licensing, reporting, and general requirements for viatical settlement providers and brokers, is repealed.

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Section 3. General Rules

A viatical settlement provider shall not unfairly discriminate between a viator and a viator with no dependent.

A viatical settlement provider shall not solicit investors who may influence the treatment of the insured whose coverage would be the subject of the investment.

The viator shall have the right to rescind a viatical settlement contract in accordance with KRS 304.15-710(5) and 304.15-715(3) subject to repayment of all viatical settlement proceeds and any premiums, loans, and loan interest to the viatical settlement provider that was paid to or on behalf of the viator.

Pursuant to KRS 304.15-710(7), the viatical settlement funds shall be available to the viator within two (2) business days after the viatical settlement provider has received the insurer's or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and the appropriate beneficiary has been designated.

The viatical settlement provider shall disclose to the viator in writing the dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. If known, the viatical settlement provider shall also disclose to the viator in writing the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the viatical settlement provider's interest in those benefits.

If the viator has chosen to be notified of a change of ownership in accordance with KRS 304.15-715(7)(a), the viatical settlement provider shall communicate the change of ownership or beneficiary to the viator in writing within twenty (20) days after the change.

Within three (3) days of execution of the viatical settlement contract, the viatical settlement provider shall mail to the viator copies of the following:

(a) The executed viatical settlement contract;
(b) The application for the viatical settlement contract; and
(c) The statement from the licensed attending physician that the viator is of sound mind and not under undue influence or constraint.

Section 4. Prohibited Practices

Except for a subpoena issued by the commissioner, if a viatical settlement provider or broker is served with a subpoena compelling the viatical settlement provider or broker to produce records containing individual identification data, the viatical settlement provider or broker shall notify the viator and the insured within five (5) business days after receiving notice of the subpoena. Notice shall be sufficient if delivered to the last known address of the viator and the insured. [This subsection shall not apply to subpoenas issued by the commissioner.]

A licensed viatical settlement provider or licensed viatical settlement broker shall not perform any service for the viator or insured other than those services necessary to effectuate a viatical settlement.

Section 5. Disclosure

The viatical settlement broker shall provide a copy of the viatical settlement disclosure Form VS 007 and the "Kentucky Consumer Guide to Understanding Viaticals" to the viator on or before the date that the viatical settlement broker offers or advertises the availability of the viator's life insurance policy, introduces the viator to a viatical settlement provider, or offers or attempts to negotiate a viatical settlement between a viator and a viatical settlement provider. The viatical settlement broker shall deliver the original, executed Form VS 007 to the viatical settlement provider that purchases the life insurance policy on or before the date that the viatical settlement contract is signed by each party to the contract.

If there is no viatical settlement broker involved in the viatical settlement transaction, the viatical settlement provider shall provide the viatical settlement disclosure Form VS 007 and the "Kentucky Consumer Guide to Understanding Viaticals" to the viator on or before
the date that the viatical settlement contract is signed by each party to the contract.

(3) The disclosure form required by subsections (1) and (2) of this section shall be signed and dated by the viator, by an authorized representative of the viatical settlement provider, and by the viatical settlement broker, if any.

Section 6. Advertising for Viatical Settlements. (1) This section shall apply to advertising of viatical settlement contracts, or related products or services intended for dissemination in Kentucky, including Internet advertising viewed by persons located in Kentucky. Where disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

(2) A viatical settlement licensee shall establish and maintain at all times a system of control over the content, form, and method of dissemination of advertisements of its contracts, products, and services. Advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the viatical settlement provider, and shall be subject to the control of the individual who created or presented the advertisement. A system of control shall include a routine notification, at least once a year, to persons authorized by the viatical settlement licensee to disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the viatical settlement licensee.

(3) An advertisement shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(4) The information required to be disclosed under this section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(5) The following rules shall govern the advertisement of viatical settlements:

(a) An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations that omit or fail to clearly identify the options for, or capacity, of the viatical settlement contract. An advertisement of a viatical settlement contract shall be made available for inspection prior to consummation of the sale, or offering, of a viatical settlement contract. An advertisement shall be made available for inspection prior to consummation of the sale, or offering, of a viatical settlement contract.

(b) An advertisement shall not use the name or title of a life insurer or a life insurance policy unless the advertisement has been approved by the insurer.

(c) An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

(d) The words "free," "no cost," "without cost," or "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to a benefit or service unless true. An advertisement may specifically charge for a benefit or a service, and may state that a charge is included in the payment, or may use other similar language.

(e) When a testimonial, appraisal, or analysis is used in an advertisement, the testimonial, appraisal, or analysis shall:
   1. Be genuine;
   2. Represent the current opinion of the author;
   3. Be applicable to the viatical settlement contract product or service advertised, if any, and
   4. Be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonial, appraisal, analysis or endorsement;
   5. Prominently disclose in the advertisement if the individual making the testimonial, appraisal, analysis, or an endorsement has a financial interest in the viatical settlement provider or related entity as a stockholder, director, officer, employee, or otherwise, or receives a benefit [directly or indirectly] other than required under these regulations.

6. Not state or imply that a viatical settlement contract benefit or service has been approved, endorsed by a group of individuals, so-called 'certified viatical settlement providers,' or that the fact and unexcess any relationship between an organization and the viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(f) In using testimonials, appraisals, or analysis, the viatical settlement licensee makes as its own all the statements contained within, and the statements are subject to all the provisions of this section.

(g) If an endorsement refers to benefits received under a viatical settlement contract, all pertinent information shall be retained for a period not less than five (5) years after its use.

(h) An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

(i) An advertisement shall not disparage insurers, viatical settlement providers, viatical settlement brokers, insurance producers, policies, services, or methods of marketing.

(j) The name of the viatical settlement licensee shall be [clearly] identified in all advertisements about the licensee or its viatical settlement contracts [contrast, products, or services]. In any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

(k) An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol or other device, or reference without disclosing the name of the viatical settlement licensee, or create the impression that a company other than the viatical settlement licensee would have the same identity as the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have the same identity as the viatical settlement licensee.

(l) An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency as to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

(m) An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that competing viatical settlement licensee may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the department of insurance to find out if Kentucky requires licensing and, if so, whether the viatical settlement provider or viatical settlement broker is licensed.

(n) An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by a government entity.

(o) The name of the actual licensee shall be stated in all of its advertisements. An advertisement shall not use a trade name, group designation, name of an affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have responsibility for the financial obligation under a viatical settlement contract.

(p) An advertisement shall not [directly or indirectly] create the impression that a division or agency of the state or of the U.S. government endorses, approves or favors:
VOLUME 28, NUMBER 1 – JULY 1, 2001

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, June 12, 2001)

815 KAR 20:020. Parts or materials list.

RELATES TO: KHS 318.070, 318.075, 318.130, 318.150, 318.200

STATUTORY AUTHORITY: KRS 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after review by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation established an "approved parts or materials list" containing the parts and materials that have been approved for use in Kentucky.

Section 1. Definitions. (1) "ABMS" means acrylonitrile-butadiene-styrene pipe.
(2) "APML" means the "Approved Parts or Materials List."
(3) "ASTM" means American Society for Testing Materials.
(4) "Code" is defined by KRS 318.010(11).
(5) "Committee" means the State Plumbing Code Committee.
(6) "Department" is defined by KRS 318.010(1).
(7) "Parts or materials" means all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.
(8) "Person" is defined by KRS 318.010(9).
(9) "PVC" means polyvinyl chloride pipe.

Section 2. Approved Parts or Materials List (APML). (1) A part or material manufactured or produced according to a specification listed in the code shall be considered approved if it meets the latest edition of the specification.

(2) A part or material shall not be used in a drainage or plumbing system, other than those currently authorized by the code, unless the use of the part or material has been considered by the committee and approved by the department as being equal to or better than other similarly approved items for inclusion in the APML. The APML may specify methods of installation or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person may petition the committee, in writing, no later than fourteen (14) days prior to the committee's next scheduled meeting for the purpose of amending the APML. The request shall include:

(a) A description of the part or material for which approval is sought;
(b) Available technical data;
(c) A listing of other authorities which have approved the use of the part or material; and
(d) Any other pertinent information requested by the committee.

(2) The committee shall consider all parts or materials for which approval is sought and shall forward its recommendations within thirty (30) days to the department.

(b) A hearing shall be held before the committee if requested, by a person having an interest in the subject matter within thirty (30) days following the determination of the committee.

(c) Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this administrative regulation.

Section 4. Custody of the APML. The Director, Division of Plumbing, shall maintain an up-to-date APML and make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601.

Section 5. Content of Approved Parts or Materials List. The following list of parts or materials have been approved by the Kentucky...
Plumbing Code Committee and the Division of Plumbing and shall be allowed for installation in Kentucky.
(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, .032.
(2a) Flushmate water closet tank.
(b) Microphor company. Two (2) quart flush toilets.
(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush.
(d) Suprasine toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Waste-water Treatment Systems.
(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock.
(f) Cashaver MX (quantum 150-1) Water Closet Combination and Flushmate II Flushometer/Tank as manufactured by Mansfield Plumbing Products.
(g) Dual flush water closets by Caroma, USA. The water closets shall be equipped with a one-half (1/2) inch discharge for the flush cycle and one and six-tenths (1 6/10) gallons for the full flush cycle.
(3) Tubular traps with gasket in trap seal.
(4a) Polyethylene sump pump basin. Polyethylene sump pump basin shall be constructed of polyethylene material and shall be provided with a sump cover.
(b) Liberty Pump Model 402, Laundry TruPump for pipe size one and one-half (1 1/2) inch for light commercial and household usage.
(c) Zoeller Drain pump and HiLo Industries Power Drain for pipe sizes one and one-half (1 1/2) inch and two (2) inch for light commercial and household usage.
(d) Sewage ejector pit - eighteen (18) inch by twenty-two (22) inch with steel cover pit and eighteen (18) inch by thirty (30) inch with steel cover sump pit as manufactured by A.K. Industries.
(e) Little Giant Pump Company, Dinosaur Water Removal System, Model AWRS-6. This approval shall be limited to two (2) drainage fixture units since it has a one and one-half (1 1/2) inch drain.
(f) Add A Drain (Waste Discharge System) as manufactured by Lunsford and Associates.
(g) Sta-Rite Pump Corporation, laundry tray system approved for residential and light commercial use.
(h) Electric Drain System as manufactured by Myers for light commercial and household usage.
(5a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a preformed boot forming a water tight seal with the stack that it serves.
(b) Polyethylene roof flashing. Polyethylene roof flashing shall have a base which shall extend six (6) inches in all directions from the base of a stack and shall have a boot with a preformed thermoplastic rubber gasket.
(c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation.
(6a) Oatey eighteen (16) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only.
(b) Carlisle systems. Vent flashings for sureseal and Britelite-Ply roofing systems as required by Carlisle Corporation.
(c) Trafalgar systems. Vent flashings for Trafalgar roof systems as required by Dynamit Nobel of America, Inc.
(d) Masterflash Pipe Flashing system for plumbing vent stacks as manufactured by Aztec Washer Company.
(6a) Kitchen sink faucet. Kitchen sink faucets may have corrugated supply piping if the piping has a wall thickness equal to Type M copper pipe.
(b) Sink and lavatory faucets and pop-up lavatory assembly parts manufactured by CPVC plastic as manufactured by Nibco Co.
(c) Series 1000 Automatic Faucets as Manufactured by Hydrotek USA, Inc.
(7) Lab-End Infield L-E acid waste systems, one and one-half (1 1/2) through four (4) inch inside measurement for above and below ground installation on acid waste. Underground shall be laid on six (6) inches of sand grillage and shall be backfilled by hand and tamped six (6) inches around piping or be surrounded by six (6) inches of sand grillage.
(8) Floor drains, shower drains, urinal drains and clean-outs manufactured by Plastic Oddities, Inc.
(9) Tubular plastic connectors conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes and extension tubes as manufactured by J & B Products Corporation.
(b) Water heaters, point of use or instantaneous.
2. Eemax Electric Tankless water heaters - non-pressure type without the requirement of a temperature and pressure relief valve; the pressure type with the requirement that the temperature and pressure relief valve be of a one-half (1/2) inch shank valve and shall be installed with the product.
3. Vitaclimatic Control Systems, Inc. - Heatrae Instantaneous Water Heaters Models 7000 and 9000, pressure type, point of use water heater and shall be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge.
4. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130 pressure type and shall be equipped with an approved temperature and pressure relief valve.
5. Elkay Aqua-Temp tankless water heaters - non-pressure type without the requirement of a temperature and pressure relief valve.
6. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.
7. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve.
8. Amtral hot water maker model numbers WHJP, WH7 and WHC7 with a minimum three-fourths (3/4) inch inlet and outlet.
9. Chronomite Laboratories, Inc. - instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.
12. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP and shall be equipped with an approved temperature and pressure relief valve.
13. Ariston electric water heaters, model numbers P-15S and P-10S and shall be equipped with an approved temperature and pressure relief valve.
14. Vaillant Corporation gas fired point of use water heater.
15. Tricorn Hot Man Tankless Water Heater as manufactured by Siemens.
16. Field Controls Company Power Venter - Models PVAE and SWG for use in conjunction with gas and oil fired water heaters.
17. Acutemp Instantaneous Water Heater as manufactured by Keltech, Inc., Model #100/208; #100/240; #150/208; #150/240; #180/208; #180/240; #180/253; #180/258; #180/293; #180/296; #180/348 and #180/348.
(11) Compression joints. Fail-safe hot and cold water systems.
(12) Orion fittings for acid waste piping systems for above and below ground.
(13) R & G Sione Manufacturing Company. Fusal mechanical joint for the connection of polypropylene and waste piping.
(14) Johns Manville Flex I drain roof drain system.
(15) Hydrocrete liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material shall be at least one-sixteenth (1/16) inch thick.
(16) Scotch-Cling brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, hall Bathrooms, janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping.
(17) Elkay Aqua-chill water dispensers.
(18) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers which shall be forty-eight (48) inches maximum.
(19) A Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only.
(20) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only.
(21) Interceptors.
(a) Town and Country plastic interceptors to be used as a grease trap.
(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ.
(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, R HS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code.
(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL.
(f) Grease Traps U.S.A.: Polypropylene grease trap, model number GT-25, as certified by the Plumbing and Drain Institute.
(21) Plastic Oddities Srv (sewer relief vent) clean-out.
(22) Contech A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-74 except dimensions at the time of manufacture.
(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kem-Tone, Inc.
(24) Ever plumbing ware - Elgers ultra one/G water closet.
(25) "Power Flush" and "Quik Jon" as manufactured by Zoeller Company; shall have a three (3) inch vent; alternate additional waste openings to be located in pump chamber above top of base chamber.
(b) Hydraulic JB-1 System as manufactured by Hydraulic Pumps, Inc.
(26) Exemplar energy garden solar water heater.
(27) ProSet systems for pipe penetrations in fire rated structures.
System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for similar or dissimilar materials.
(26)(a) ABS and PVC backwater valves, Models 3281, 3282, 3283 and 3284 for solvent cement joints only as manufactured by Capcol Industries.
(b) Flood Gate Automatic Backwater Valve as manufactured by Bibly-Stee-Croak.
(c) Fullport Backwater Valve as manufactured by Mainline Backflow Products, Inc.
(29) Clamp-All Corporation Pipe Coupling Systems is approved size for size on dissimilar materials on new or existing installations. Snap-All Increase/Reducer transition bushings are approved for repairs using dissimilar materials or sizes.
(30) Mission Rubber Company "Band-Seat Specialty Coupling" is approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS and SDR 35.
(31)(a) Latitcrete 9235 Waterproof Membrane to be used as a saitling material for floors and walls in showers, bathtubs and floor drain pans.
(b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material.
(32) DFV Elastomeric PVC coupling manufactured by DFV Plastics, Inc. for use on building sewers.
(33)(a) Ferrco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade.
(b) Ferrco Proflex Shielded Couplings: Series 3000 for service weight cast iron to plastic, steel or extra cast iron in sizes one and one-half (1 1/2) inch to four (4) inch. Series 3001 for cast iron, plastic or steel to copper in sizes one and one-half (1 1/2) inch to two (2) inch. Series 3003 for copper to copper in one and one-half (1 1/2) inch.
(34) TBA drain, waste and vent pipe, schedule 40 PVC piping marked "meets dimensional specifications of ASTM D-2665." This pipe has been tested for the tensile strength, durability, etc., of those materials in soil waste and vent systems except that it is made from recycled, unused plastics rather than virgin materials.
(35) Blucher-losam stainless steel pipe, fittings and drains for disposal of corrosive wastes.
(36) Paul Panella Industries Hostaline GUR UHMW Polymer Cleanout approved for use on sewers of Schedule 40 PVC, ABS and SDR in four (4) inch and six (6) inch sizes.
(37) Advanced Drainage Systems, Inc., Series 35 polyethylene corrugated sewer pipe with a smooth interior in sizes four (4) inch through twenty-four (24) inches for underground storm water drainage within buildings.
(38) "Flowguard Gold" one (1) step CPVC cement for joining copper tube size CPVC piping systems through two (2) inches without the requirement of a cleaner or primer.
(39) E-Z Trap Adapter as manufactured by S & S Enterprises to be used as connection between chrome plated P trap and PVC waste line.
(40) Caplins Industries LTC Specialty DWV Fittings: Part #3628 ABS or PVC forty-five (45) degree Discharge Closet Flange, Part #3231 Appliance (dishwasher) Yoke, Part #3650A Closet Flange Kit for Concrete Installations.
(41)(a) Conbraco 78-RV Series In-Line Water Heater Shut-Off Thermal Expansion Control Valve preset at 125 psi to relieve thermal expansion.
(b) Watts Regulator DRV Expansion Relief Valve to relieve thermal expansion.
(42) Plastic Productions PVC "Quick Stub" approved as a solvent weld transition between tubular PVC and schedule 40 PVC.
(43) HubSett in Line Test Coupling: PVC and ABS test couplings produced by HubSett Manufacturing Inc. for testing soil waste and vent systems.
(44) Viega/Redig ProPress System: Copper press fittings for joining copper water tubing and using an elastomeric o-ring that forms the joint. The fitting shall be made by pressing the socket joint under pressure in accordance with the manufacturers installation requirements.
(45) TRIC Trenchless Systems for replacement sewers in four (4) inch and six (6) inch sizes. A video camera tape of the existing sewer shall be made to determine proper alignment. After the installation is complete, another tape shall be submitted to ensure that the installation was successful. The sewer shall be tested according to [administrative regulation] 815 KAR 20:150. The interior heat fusion bead shall (must) be removed to provide a smooth surface with no obstruction.
(46) Envirotec Inc.; Evac Vacuum Systems Condensate Collection System approved for condensate collection and the discharge from lavatories only.
(47) Macerating Systems from Sanitary-for-All, consisting of a sum with a macerating pump, with or without a macerating toilet. The sum shall be in tight and provided with a minimum one and one-fourth (1 1/4) inch vent. These systems shall be installed in accordance with the manufacturer's recommendations and shall not be used as a primary means of waste disposal.
(48) Rhino Wet Waste Interceptor manufactured by Ecosystems Inc. to be used as a pretreatment of wet wastes before discharging to a grease trap or interceptor.

STEVE MILBY, Chairman
DENNIS J. LANGFORD, Commissioner
RONALD MCCLOUD, Secretary
APPROVED BY AGENCY: April 6, 2001
VOLUME 28, NUMBER 1 – JULY 1, 2001

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Epidemiology and Health Planning
(As Amended at ARRS, June 12, 2001)

901 KAR 5:010. State registrar.

RELATES TO: KRS 213.026, 213.031 [Chapter-213]
STATUTORY AUTHORITY: KRS 213.021 [194.050, 211.000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 213.026
requires the Secretary for Health Services to designate a state
registrar of vital statistics to be known as "state registrar", to per-
form duties established in KRS 213.031. This administrative
regulation establishes the responsibility of the state registrar to
sign certified copies of vital records issued in the Common-
wealth. [Chapter-213 relating to Vital Statistics authorizes the Cabinet for
Health Services [Human Resources] to regulate the registration of
births, deaths, marriages, divorces and other vital records in Kentucky. The
purpose of this administrative regulation is to provide for the des-
ignation of a State Registrar of Vital Statistics whose signature shall
appear on all certified copies of vital records in Kentucky.]

Section 1. State Registrar of Vital Statistics. (1) The Secretary for Health Services [Human Resources] shall designate a State Registrar of Vital Statistics in accordance with KRS 213.026.
(2) The state registrar shall sign each certified copy [for the
record-keeping purposes] (a) the health-officer; or (b) A application for license to operate a Critical Access Hospital (CAH), or
(3) The state registrar [The Registrar of Vital Statistics] shall be
the Director of the Vital Statistics program of the cabinet. A copy of the
appointment and signature of the state registrar [together with a copy
of his signature] shall be on file with the office of the Secretary of State.

Section 2. Forms. Information on the Certificate of Live Birth
will be recorded on the VS NO.2-A. supplied by the registrar.

Section 3. Incorporation by Reference. (1) Form VS NO. 2-A, Cer-
tificate of Live Birth, is incorporated by reference.
(2) This material may be inspected, copied or obtained, subject to
applicable copyright law, at the Department for Public Health, Division of Epidemiology and Health Planning, Vital Statistics Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]

NICHOLAS Z. KAFOGLOS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARCA R. MORGAN, Interim Secretary
APPROVED BY AGENCY: April 5, 2001
FILED WITH LRC: April 6, 2001 at 4 p.m.

CABINET FOR HEALTH SERVICES
Office of Inspector General
(As Amended at ARRS, June 12, 2001)

902 KAR 20:008. License procedures and fee schedule.

RELATES TO: KRS 216.2025, 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216.530, 216B.042[1](a),
[216B.105], 200 K.y. Acts ch. 548, Part L A, 46.068, 46.068(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042[1](a) requires [and 216B.105 require that] the Cabinet for Health Services to regulate health facilities and [health] services. This administrative regulation establishes the fee schedule and requirements for obtaining a license to operate a health facility and establishes the procedure for obtaining a variance [fee schedule for license]. [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.]

Section 1. Definitions. (1) "Accredited" means a hospital accred-
ited by either the Joint Commission on Accreditation of Health Care
Organizations (JCAHO) or the American Osteopathic Association
(AOA).
(2) "Cabinet" means the Cabinet for Health Services.
(3) [59] "Inspecting agency" means the Division of Licensing and
Regulation in the Office of the Inspector General, Cabinet for Health Services.
(4) "Inspector General" means the Inspector General or [her]
designee.
(5) "Variance" means the written approval of the Cabinet for
Health Services authorizing a health care facility to depart from a re-
quired requirement established in an applicable facility specification,
requirement [and raise the conditions established in Sections 4 and 5 of this administrative regulation].

Section 2. Licenses. (1) The license required by KRS 216B.105(1)
shall be conspicuously posted in a public area of the facility.
(2) An applicant for licensure shall file with the Office of the In-
spector General, [Division of Licensing and Regulation], 275 East Main Street, Frankfort, Kentucky 40621, appropriate application for licensure, as follows:
(a) Application for License to Operate a Family Care Home;
(b) Application for License to Operate a Long-term Care Facility
[and Rehabilitation Service];
(c) Application for License to Operate a Hospital;
(d) Application for License to Operate a Home Health Agency,
(e) Application for License to Operate a Special Health Clinic or
Service; [Specialized-Medical Technology Service, Mobile Health Service;
or
(f) Application for License to Operate a Health Facility or Service;
(g) Application for Initial License to Operate a Critical Access
Hospital (CAH); or
(h) Application for Relicensure to Operate a Critical Access Hos-
pital (CAH).
(3) An applicant for a license shall, as a condition precedent to
licensure or relicensure;
(a) [7] Be in compliance with the applicable administrative regulations relating to the particular health facility;
(b) Have [or shall have requested and] received a variance under
Section 3 of this administrative regulation;
(4) [55] Compliance with licensure administrative regulations shall be determined through an on-site inspection of the health facility.
(5) Except for a health facility subject to KRS 216.530, a licensure inspection may be unannounced.
(b) A representative of the inspecting agency shall have access to the
health facility during the hours that the facility operates.

Violations.
(a) [54] A regulatory violation identified during an inspection shall be transmitted in writing to the health facility by the inspecting agency.
(b) [44] The health facility shall submit to the inspecting agency,
within ten (10) days of notice, a written plan for the elimination or correction of the regulatory violation [to the inspecting agency within ten (10) days].
1. The plan shall specify the date by which each violation shall be corrected.
2. Following a review of the plan, the inspecting agency shall notify the health facility in writing of the acceptability of the plan.
3. If a portion of or all of the plan is unacceptable:
   a. The inspecting agency shall specify the reasons for the unac-
   ceptability; and
   b. The health facility shall modify or amend the plan and resubmit
   it to the inspecting agency within ten (10) days.
   [43] A license shall, as a condition of licensure or relicensure, be in compliance with the following reporting requirements, unless otherwise exempted.
   (a) A licensee shall have submitted:
1. [the] Completed annual reports;
2. [the] Data submissions; and
3. Within forty-five (45) days of the date a cabinet request is
   mailed, special reports [required by the cabinet] concerning:
   a. Health services provided;
b. [] Health manpower employed; [ ]

(c) Utilization of health services [within forty-five (45) days of the date the request is received].

2. A completed semiannual report required by the cabinet shall be submitted within thirty (30) days of the date the request is mailed.

3. A license shall be notified of the reporting requirements established in KRS 2111907 and 052 KAR 17040 no later than October 1 of the year preceding the report year.

7. [K] An unannounced inspection shall be conducted:
   (a) In response to a credible, relevant complaint or on a complaint allegiation; and
   (b) According to the procedures established in subsection (d) of §40-3 of this section.

8. (a) A license shall;
   (1) Remain in effect for one (1) year from the date of issuance, unless otherwise expressly provided in the license certificate; and
   (2) Be renewed if the applicant licensed:
      1. Pays [upon payment-of] the prescribed fee; and
      2. Demonstrates compliance with the applicable provisions of law and [the licensure-administrative regulations.]

(b) Each licence to operate shall be issued for the person or persons named in the application, including the number of beds, if applicable, named in the application.

9. More than one (1) license shall not be issued or renewed for a particular licensure category, at a specific location and, if specified, a designated geographical area.

10. A new application shall be filed in the event of change of ownership.

(a) A change of ownership for a license shall be deemed to occur if more than fifty (50) percent of an existing facility or capital stock or voting rights of a corporation is purchased, leased, or acquired by comparable arrangement, by one (1) person from another.

(b) Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period.

(c) An additional fee shall not be charged for the remainder of the licensure period.

(11) The licensee shall fully disclose [There shall be full disclosure] to the cabinet of the name and address, or in the name and address of:
   (a) Each person having a direct or indirect ownership interest of ten (10) percent or more in the facility;
   (b) Each officer or director of the corporation, if a facility is organized as a corporation; and
   (c) Each partner, if a facility is organized as a partnership.

Section 3. Fee Schedule. (1) Fees for review of plans and specifications for construction of health facilities shall be as follows:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Hospitals plans and specifications review</td>
<td>$0.04 per sq. ft.</td>
</tr>
</tbody>
</table>
  (initial through final) | $100 minimum [max. $2,000] |
| (b) All other health facilities plans and specifications review | $0.04 per sq. ft. |
  (initial through final) | $100 minimum [max. $2,000] |

(2) Annual fees. The annual licensure fee, [including a renewal,]

<p>| for health facilities and services shall be as follows: |</p>
<table>
<thead>
<tr>
<th>License Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Alternative birth center [centers]</td>
<td>$155</td>
</tr>
<tr>
<td>(b) Alzheimer’s nursing home [homes]</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(c) Ambulatory surgical center</td>
<td>$259 [166]</td>
</tr>
<tr>
<td>(d) Chemical dependency treatment service</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(e) Community mental health and mental retardation center</td>
<td>$1,252 [760]</td>
</tr>
<tr>
<td>(f) Day health care</td>
<td>$134 [80]</td>
</tr>
<tr>
<td>(g) Family care home [homes]</td>
<td>$40</td>
</tr>
<tr>
<td>(h) Group homes for the mentally retarded/developmentally disabled</td>
<td>$90</td>
</tr>
<tr>
<td>(i) Health maintenance organization [organizations]</td>
<td>$9 [6] per 100 patients</td>
</tr>
<tr>
<td>(j) Home health agency [agencies]</td>
<td>$134 [80]</td>
</tr>
<tr>
<td>(k) Homemaker</td>
<td>$80</td>
</tr>
<tr>
<td>(l) Hospice</td>
<td>$24 [20]</td>
</tr>
<tr>
<td>(m) Hospital [in-Hospitals]</td>
<td></td>
</tr>
<tr>
<td>1. Accredited hospital</td>
<td>$9 [6] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>2. Nonaccredited hospital</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(n) [eni] Intermediate care facility [facilities]</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(o) [eo] ICF/MR facility [facilities]</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(p) Network</td>
<td>$259</td>
</tr>
<tr>
<td>(q) Medical detoxification services</td>
<td>No fee</td>
</tr>
<tr>
<td>(r) Networks</td>
<td>$165</td>
</tr>
<tr>
<td>(s) [en] Nursing facility [facilities]</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(t) [es] Nursing home</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(u) [tt] Outpatient clinics and] Ambulatory care clinic [facilities]</td>
<td>$259 [166]</td>
</tr>
<tr>
<td>(v) [uu] Personal care home</td>
<td>$4 per bed $80/min (max. $800)</td>
</tr>
<tr>
<td>(w) [vi] Primary care center</td>
<td>$259 [165] $25 per satellite</td>
</tr>
<tr>
<td>(x) [wa] Psychiatric hospital [hospitals]</td>
<td>$259 [166]</td>
</tr>
<tr>
<td>1. Accredited</td>
<td>$9 [6] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>2. Nonaccredited hospital</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(y) [ze] Psychiatric residential treatment facility [facilities]</td>
<td>$259 [166]</td>
</tr>
<tr>
<td>(z) [zy] Rehabilitation (outpatient)</td>
<td>$134 [80]</td>
</tr>
<tr>
<td>(a) [ze] Renal dialysis facility</td>
<td>$34 [20] per station</td>
</tr>
<tr>
<td>(b) [aa] Rural health clinic [clinics]</td>
<td>$134 [80]</td>
</tr>
<tr>
<td>(c) [bbb] Skilled nursing facility [facilities]</td>
<td>$14 [8] per bed $155/min (max. $1,645)</td>
</tr>
<tr>
<td>(d) [geo] Special health clinic [clinics]</td>
<td>$259 [165]</td>
</tr>
</tbody>
</table>
Section 4. Existing Facilities With Waivers. (1) The Inspector General shall deem an existing health care facility to be in compliance with a requirement, even though the facility does not meet fully the applicable specification, if:
(a) The Inspector General has previously granted a waiver for the requirement;
(b) The facility is licensed by the cabinet;
(c) The facility is in good standing as of the effective date of this administrative regulation; and
(d) The waived requirement does not adversely affect the health, safety, or welfare of a resident or patient. Notwithstanding any provision of this administrative regulation, an existing health care facility that had previously been granted a waiver by the Office of Inspector General for a facility requirement and is licensed by the cabinet and in good standing as of the effective date of this administrative regulation, and the facility is not fully met by applicable facility specifications and regulations shall be deemed, by the Inspector General, to be in compliance with the waived requirement; provided the waived requirement does not adversely affect the health, safety, or welfare of each resident or patient.

(2) If the Inspector General determines that the waived requirement has adversely affected patient or resident health, safety, or welfare, then:
(a) The Inspector General shall notify the facility by certified mail of the findings and the need to comply with the applicable administrative regulations; and
(b) The health facility shall submit a written plan to ensure compliance, pursuant to Section 2(6)(b) [3(6)](b) of this administrative regulation.

(3) An existing health facility shall comply with all other provisions of the applicable administrative regulations.

Section 5. Variances. (1) The Inspector General may grant a health care facility a variance from a specific [an applicable] facility specification requirement if the facility establishes that the variance will:
(a) Improve the health, safety, or welfare of a resident or patient;

(b) [of the health care facility, or if the facility establishes that the variance will] Promote the same degree of health, safety, or welfare of a patient or resident as would prevail without the variance.

(2) A facility shall submit a request for a variance, [shall be submitted by the facility in writing, to the Office of the Inspector General within the Cabinet for Health Services. The request [and] shall include:
(a) All pertinent information about the facility;

(b) [The specific provision of the administrative regulation affected;]

(c) [The specific reason for the request; and]

(d) [Evidence in support of the request.]

(3) Upon receipt of a request for a variance, the Inspector General shall review the information received and shall approve or deny the request for variance [in accordance with this section]. The Inspector General may request [new] additional information from the facility as is necessary to render a decision. A variance may be granted [and any variance so granted may be] with or without a stipulation or restriction [as specified or restrictions].

(4) The Inspector General shall revoke a variance previously granted if the Inspector General determines that the variance has not:
(a) [if the Inspector General determines that a variance granted under this section has not] Improved the health, safety, or welfare of a patient or resident; or

(b) [the variance has not] Promoted the same degree of health, safety, or welfare of a patient or resident that would prevail without the variance; then the Inspector General may revoke the variance.

1. The Inspector General shall notify the health facility, by certified mail, of a [a] decision to revoke a [the] variance and the need to comply with the applicable regulatory requirement, [requirements]; and

2. The health facility shall submit a written plan to ensure compliance, [with regulatory requirements] pursuant to Section 2(6)(b) [3(6)](b) of this administrative regulation.

Section 6. Variances Hearings. (1) A health care facility [that is] dissatisfied with a [the] decision to deny, modify, or revoke a variance or a request for a variance [request] may file a written request for a hearing with the Secretary of the Cabinet Health Services. The request shall [a written request for hearing must be received by the secretary of the cabinet within twenty (20) days of the date the health care facility receives notice of the decision to deny or modify the variance request.]

(2) An administrative hearing [all administrative hearings under this section] shall be conducted in accordance with KRS Chapter 13B.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Application for License to Operate a Family Care Home, L&R 4 (06/00);

(b) Application for License to Operate a Long-term Care Facility, L&R 5 (06/00);

(c) Application for License to Operate a Hospital, L&R 140 (06/00);

(d) Application for License to Operate a Home Health Agency, L&R 141 (06/00);

(e) Application for License to Operate a Special Health Clinic or Service, L&R 142 (06/00);

(f) Application for License to Operate a Health Facility or Service, L&R 144 (06/00);

(g) Application for Initial License to Operate a Critical Access Hospital (CAH), L&R 242 (6/00); and

(h) Application for Re licensure to Operate a Critical Access Hospital (CAH), L&R 242A (6/00).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector General, 275 East Main Street, Frankfort, Kentucky 40621. (8 a.m. until 4:30 p.m.) Monday through Friday, 8 a.m. to 4:30 p.m.

[Section 4: Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Application for License to Operate a Family Care Home, L&R 4 (11/97);

(b) Application for License to Operate a Long-term Care Facility and Rehabilitation Service, L&R 5 (03/00);

(c) Application for License to Operate a Hospital, L&R 140 (11/96);

(d) Application for License to Operate a Home Health Agency, L&R 141 (02/94);

(e) Application for License to Operate a Special Health Clinic, Specialized Medical Technology Service, Mobile Health Service, L&R 142 (6/96); and

(f) Application for License to Operate a Health Facility or Service, L&R 144 (11/92).

(2) This material may be inspected, copied, or obtained at the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.)]
VOLUME 28, NUMBER 1 – JULY 1, 2001

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, June 12, 2001)

921 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability.

RELATES TO: KRS 205.245, 216.557(1), 20 CFR 416.2095, 416.2096, 8 USC 1621, 1641
STATUTORY AUTHORITY: KRS 194B.050(1), 205.245, 42 USC 1362(g)(1), 42 USC 1396b(a)(7)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children is authorized to administer a state funded program of supplementation to all December, 1973, former recipients of aid to the aged, blind and disabled, disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 provides for the mandatory supplementation program and also for supplementation to other needy persons who are aged, blind, or have a disability. The cabinet shall operate a supplement program for certified personal care homes which accept state supplementation recipients and have thirty-five (35) percent of the residents in the personal care home's occupied licensed personal care beds who have a diagnosis of mental illness or mental retardation. This administrative regulation sets forth the provisions of the supplementation program.

Section 1. Definitions. (1) "Aid to the Aged, Blind and Disabled Program" means the former state funded program for an individual who was aged, blind or had a disability.

(2) "Cabinet" means the Cabinet for Families and Children.

(3) "Qualified alien" means an alien who, at the time the person applies for, receives, or attempts to receive state supplementation, is an alien as pursuant to Section 1(13) of 921 KAR 2:006.

(4) "Specialized personal care home" means a licensed personal care home that receives funding from the Department for Mental Health and Mental Retardation Services to employ a mental health professional who has specialized training in the care of a resident with mental illness or mental retardation.

Section 2. Mandatory State Supplementation. (1) A mandatory state supplementation payment shall be equal to the difference between:

(a) The Aid to the Aged, Blind and Disabled Program payment for the month of December, 1973, plus any other income available to the recipient as of that month; and

(b) The total of the Supplemental Security Income Program payment and other income for the current month.

(2) A recipient shall include a former Aid to the Aged, Blind and Disabled Program recipient who became ineligible for the Supplemental Security Income Program due to income but whose special needs entitled him to an Aid to the Aged, Blind and Disabled Program payment as of December, 1973.

(3) A mandatory payment shall continue until:

(a) The needs of the recipient as recognized in December, 1973, have decreased; or

(b) Income has increased to the December, 1973 level.

(4) The mandatory payment shall not be increased unless:

(a) Income as recognized in December, 1973, decreases; or

(b) The Supplemental Security Income Program payment is reduced but the recipient's circumstances are unchanged; or

(c) The standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.

(5) In a case of a husband and wife living together, an income change after September, 1974, shall not result in an increased mandatory payment unless total income of the couple is less than December, 1973, total income.

Section 3. Optional State Supplementation. (1) Optional state supplementation shall be available to a person who:

(a) Except pursuant to Sections 5, 6, and 7 of this administrative regulation, meets technical requirements and resource limitations of the medically needy program for a person who is aged, blind, or has [have] a disability pursuant to 907 KAR 1:011, Sections 1(4), 5(5), 6(7), 12(13), 9, 10, and 11, 907 KAR 1:640, Sections 1(1), 5(6), 9, 3(3), 5(3), 907 KAR 1:645, 907 KAR 1:650, Sections 1(6), 3, and 907 KAR 1:660, Sections 1(1), 3, 5(6), 2(1), 2(2(b), 5(c), 3, 4, 5, 7).

(b) Requires a special living arrangement; and

(c) Has insufficient income to meet the need for care.

(2) A special living arrangement shall include:

(a) Residence in a personal care home that:

1. Meets the requirements and provides services pursuant to 902 KAR 20:036; and

2. Is licensed under KRS 216B.010 to 216B.131; or

(b) Residence in a family care home that:

1. Meets the requirements and provides services pursuant to 902 KAR 20:041; and

2. Is licensed under KRS 216B.010 to 216B.131; or

(c) A situation in which a caretaker must be hired to provide care other than room and board.

(3) A person applying for or receiving state supplementation shall be required to:

(a) Furnish a Social Security number; or

(b) If a Social Security number has not been issued, apply for a Social Security number.


Section 4. Eligibility for Caretaker Services. (1) A service by a caretaker shall be made to enable the individual with an illness or infirmity to:

(a) Remain safely and adequately:

1. At home;

2. In another family setting; or

3. In a room and board situation; and

(b) Prevent institutionalization.

(2) A service by a caretaker shall be made at regular intervals by:

(a) A live-in attendant; or

(b) One (1) or more persons hired to come to the home.

(3) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if:

(a) The client is taken daily or periodically to the home of the caretaker; or

(b) The caretaker service is provided by the following persons living with the applicant:

1. The spouse;

2. Parent of an adult or minor child who has a disability [or a minor child]; or

3. Adult child of a parent who is aged, blind or has a disability.

(4) Eligibility for caretaker supplementation shall be verified by agency contact with the caretaker to establish how:

(a) [How] Often the service is provided;

(b) The service prevents institutionalization; and

(c) Payment is made for the service.

Section 5. Resource Consideration. (1) Except as stated in subsection (2) of this section, countable resources shall be determined according to polices for the medically needy pursuant to 907 KAR 1:840, Sections 1(1), 5(6), 6(6), 3(3), 5(3), 907 KAR 1:645, 907 KAR 1:650, Sections 1(6), 3, and 907 KAR 1:660, Sections 1(1), 3, 5(6), 2(1), 2(2(b), 5(c), 3, 4, 5, 7).

(2) The individual or couple shall not be eligible if countable resources exceed the limit of:

(a) $2000 for individual; or

(b) $3000 for couple.

Section 6. Income Considerations. (1) Except as noted in subsections (2) through (8) (9) of this section, income and earned income deductions shall be considered according to the policy for the medically needy pursuant to 907 KAR 1:640, Sections 1(1), 5(6), 6(9), 3(3), 5(3), 907 KAR 1:645, 907 KAR 1:650, Sections 1(6), 3, and 907 KAR 1:660, Sections 1(1), 3, 5(6), 2(1), 2(2(b), 5(c), 3, 4, 5, 7).

(2) The optional supplementation payment shall be determined by adding:

(a) Total net income of the applicant or recipient, or applicant or
recipient and spouse; and
(b) Except for a payment for medical insurance or medical care
and services, a payment made to a third party in behalf of an applicant
or recipient; and
(c) Subtracting the total of paragraphs (a) and (b) of this subsection
from the standard of need in Section 7 of this administrative
regulation.
(3) Income of the ineligible spouse shall be:
(a) Adjusted by deducting sixty-five (65) dollars and one-half (1/2)
of the remainder from the monthly earnings; and
(b) Conserved in the amount of one-half (1/2) of the Supplemental
Security Income Program standard for an individual for:
1. Himself;
2. Each minor dependent child.
(4) Income of the eligible individual shall not be conserved for the
needs of the ineligible spouse or minor dependent children.
(5) Income of the child shall be conserved when conserving for the
needs of the minor dependent child so the amount conserved
does not exceed the allowable amount.
(6) The earnings of the eligible individual and spouse shall be
combined prior to the application of the earnings disregard of sixty-five
(65) dollars and one-half (1/2) of the remainder.
(7) If one (1) member of a couple is institutionalized and the
spouse maintains a home, income in the amount of the Supplemental
Security Income Program standard for one (1) shall be conserved for
the spouse, if this spouse is a recipient of the Supplemental Security
Income Program.
(8) A husband and wife residing in the same personal care or
family care home may be considered to be living with each other
if treating the husband and wife as living apart would prevent either
of them from receiving state supplementation.
(5) [69] The Supplemental Security Income Program twenty (20)
dollars general exclusion shall not be an allowable deduction from income.
(9) For a resident in the Elder Shelter Network Program:
(a) Income and resources of the spouse shall be disregarded for the
month of separation; and
(b) A third-party payment on behalf of an applicant or recipient
made by the Elder Shelter Network Program shall be disregarded for
ninety (90) days from the date of admission.

Section 7. Standard of Need. (1) The standard shall be based on the
living arrangement of an eligibility determination as follows:
(a) [For an eligibility determination for] A resident of a personal care
home made:
1. On or after January 1, 2001, $945 [2000, $906]; or
2. Effective August 1, 2001, $947;
(b) [For an eligibility determination for] A resident of a family care
home made:
1. On or after January 1, 2001, $685 [2000, $651]; or
2. Effective August 1, 2001, $688; and
(c) Caretaker; [1]
1. [For an eligibility determination for] A single individual, or an
eligible individual with an ineligible spouse who is not aged, blind, or
has a disability made:
2. On or after January 1, 2001, $577 [2000, $546]; or
3. Effective August 1, 2001, $578;
2. [For an eligibility determination for] An eligible couple, both
aged, blind, or have a disability and one (1) requiring care made on or
after January 1, 2001, $344; and [2000, $797];
3. [For an eligibility determination for] An eligible couple, both
aged, blind or have a disability and both requiring care made on or
after January 1, 2001, $689 [2000, $641].
(2) In a respective case, if both are eligible, the couple's income shall
be combined prior to comparison with the standard of need. One-half
(1/2) of the deficit shall be payable to each.
(3) The personal care or family care home shall accept as full
payment for cost of care the amount of the standard, based on the
living arrangement, minus a forty (40) dollars personal needs allowance
that shall be retained by the client.

Section 8. Temporary Stay in a Medical Institution. (1) A recipient of
optional or mandatory state supplementation shall have continuation
of state supplementation benefits without interruption for any of
the first three (3) full months of medical confinement if:
(a) Admitted to a:
1. Hospital;
2. Psychiatric hospital; or
3. Nursing facility;
(b) The recipient's physician shall certify that he expects the re-
cipient to be medically confined for ninety (90) full consecutive days or
less; and
(c) The state supplementation recipient receives benefits from the
Supplemental Security Income Program.
(2) If discharged in the month following the last month of contin-
ued benefits, the temporary absence shall continue through the date of
discharge.

Section 9. Citizenship requirements. An applicant or recipient shall
be a:
(1) Citizen of the United States; or
(2) Qualified alien pursuant to Section 1(3) of this administrative
regulation.

Section 10. Residence Requirements. (1) The applicant or recipi-
ent shall be a resident of Kentucky.
(2) A supplemental payment may be made to a Kentucky resident
residing outside the state if:
(a) The individual has been placed in the other state by this state;
(b) Except with regard to the requirement shown in Section 8 of this
administrative regulation, the other requirements for eligibility con-
tained in this administrative regulation shall be applicable; [1]
(c) For an out-of-state placement, the licensure shall be in accor-
dance with a similar licensure act of the other state; and [1]
(d) There is no similar licensure act in the other state, the payment
shall not be made unless this state determines that, except for being in
another state, the facility meets standards for licensure under the pro-
visions of KRS 216B.010 to 216B.131.
(3) [55] To be eligible for a supplemental payment while placed
out-of-state:
(a) [1] The individual shall require the level of care provided in the
out-of-state placement;
(b) [2] There shall not be a suitable placement available in Ken-
ucky; and
(c) [3] The placement shall be preauthorized by staff of the De-
partment for Community-Based Services.
(4) [63] Except as specified in subsection (10) [69] of this section,
an applicant placed in Kentucky by another state shall not be consid-
ered a resident of Kentucky.
(5) [64] The state of residence shall be Kentucky for an applicant or
recipient of state supplementation if the individual:
(a) Is age twenty-one (21) and over;
(b) Is residing in the state and;
1. Intends to remain permanently or for an indefinite period; or
2. Entered the state with a job commitment or to seek employ-
ment.
(6) [65] The applicant or recipient residing in a personal care
home shall be considered incapable of indicating intent to become a
Kentucky resident if the individual:
(a) Has an I.Q. of forty-nine (49) or less or has a mental age of
seven (7) or less, based on the following tests:
1. Bayley Scales of Infant Development;
2. McCarthy Scales of Children's Abilities;
3. Stanford-Binet;
4. Wechsler Adult Intelligence Scale - Revised (WAIS-R);
5. Wechsler Intelligence Scale for Children-III (WISC-III);
6. Wechsler Intelligence Scale for Children - Revised (WISC-R); or
7. Wechsler Preschool and Primary Scale of Intelligence (WPPSI);
or
(b) Is judged legally incompetent; or
(c) Is found incapable of indicating intent based on medical or
other documentation acceptable to the state.
(7) [69] For an applicant or recipient residing in a family care
home or requiring caretaker services, the state of residence shall be
Kentucky if the individual is:
(a)1. Under age twenty-one (21);
2. Eligible for a supplemental payment based on blindness or dis-
ability; and
3. Residing in the state; or
(a) Age twenty-one (21) or over;
(b) Incapable of indicating intent; and
3. Residing in the state.
(b) [73 For an applicant or recipient residing in a personal care home 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 shall be Kentucky if Kentucky is the state of residence of the individual's:
(a) Parents; or
(b) If one has been appointed, his legal guardian; or
(c) Parent applying for the supplemental payment on behalf of the individual if:
1. The other parent lives in another state and
2. There is no appointed legal guardian.
(b) [66 For an applicant or recipient residing in a personal care home who became incapable of indicating intent at or after age twenty-one (21), the state of residence shall be Kentucky if he was:
(a) [He was] Living in Kentucky when he became incapable of indicating intent; or
(b) [If this cannot be determined, he was] Not living in another state when he was first determined to be incapable of indicating intent.
(b) [66 For an individual subject to a determination of residency pursuant to subsections (9) or (9) (7) or (8) of this section, the state of residence shall be Kentucky if Kentucky and the state that would otherwise be the individual's state of residence have entered into an interstate residency agreement providing for reciprocal residency status.
(11) [40 An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky if he continues to reside in Kentucky.
(12) [41 An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.
(13) [42 A former Kentucky resident who becomes incapable of indicating intent while residing out of this state, may reestablish Kentucky residency if he:
(a) Returns to Kentucky; and
(b) Has a guardian, parent or spouse residing in Kentucky.
Section 11. Persons with Mental Illness or Mental Retardation. A [certified] personal care home may qualify for quarterly supplement payments of fifty (50) cents per diem for each [each] state supplementation recipient in their care as of the first calendar day of a [each] qualifying month. A [The] personal care home shall meet the following criteria to qualify for a supplementation payment:
(1) [The personal care home shall be] Licensed pursuant to KRS 216.010 to 216.131; and
(2) [The personal care home shall] Care for a resident who has a:
(a) [A Primary or secondary diagnosis of mental retardation including mild or moderate, or other ranges of retardation whose needs can be met in a personal care home; or
(b) [A Primary or secondary diagnosis of mental illness excluding organic brain syndrome, senility, chronic brain syndrome, Alzheimer's, and similar diagnoses; or
(c) [A Medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis;]
(3) [The personal care home shall] Care for a thirty-five (35) percent mental illness or mental retardation population in all of its occupied licensed personal care home beds; [a]
(4) [The personal care home shall] Be eligible for a payment during the days it received a Type A citation pursuant to KRS 216.557(1) by the Office of Inspector General; [a]
(5) [The personal care home shall] Have a licensed nurse or an individual who has received and successfully completed certified medication technician training on duty for at least four (4) hours during the first or second shift each day. The personal care home shall not decrease staffing hours of the licensed nurse or individual who has successfully completed certified medication technician training in effect prior to July 1990, as a result of this minimum requirement; [a]
(6) [The personal care home shall] File an Application for MI or MR Supplement Program Benefits with the Department for Community-Based Services by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter; [a]
(a) Quarters shall begin in January, April, July and October; [a]
(b) [A certified,] Unless MI or MR supplement eligibility is discontinued, a new application for the purpose of program certification shall not be required; [a]
(c) [The] personal care home shall provide the Department for Community-Based Services with its tax identification number and address as part of the application process; [a]
(d) "Notice of Decision to Personal Care Home" shall be provided to a [the] personal care home following approval or denial of an [the] application; [a]
(7) [The personal care home shall] Provide the Department for Community-Based Services with a monthly report; [a]
(a) The report shall list:
1. Every resident of the personal care home who was a resident on the first day of the month; and
2. The resident's Social Security number; [a]
(b) In order to maintain confidentiality, a [the] personal care home shall annotate the monthly report as follows with a:
1. [A Star indicating] [shall indicate] a resident has a mental illness or mental retardation diagnosis; [a]
2. [A Check mark indicating] [shall indicate] a resident receives state supplementation; and [a]
3. [A Star and a check mark indicating] [shall indicate] the resident has a mental illness or mental retardation diagnosis and is a recipient of state supplementation; [a]
(c) The monthly report shall be used for:
1. Verification [Certification];
2. Payment; and
3. Audit purposes; [a]
(d) The monthly report shall be postmarked to the Department for Community-Based Services by the fifth working day of the month; [a]
(8) [The personal care home shall] Notify the Department for Community-Based Services if its mental illness or mental retardation percentage goes below thirty-five (35) percent for all personal care residents. A personal care home [facility] may be randomly audited to verify percentages and payment accuracy.

Section 12. Training. (1) [The personal care home's] [Home] licensed nurse or individual who has successfully completed certified medication technician training shall attend the mental illness or mental retardation basic training workshop provided through the Department for Mental Health and Mental Retardation Services. Other staff may attend the basic training workshop in order to assure the personal care home [facility] always has at least one (1) certified staff employed for certification purposes. (2) The mental illness or mental retardation basic training shall be provided through a (1) day workshop. The following topics shall be covered:
(a) Importance of proper medication administration; [a]
(b) Side effects and adverse medication reactions with special attention to psychotropics; [a]
(c) Signs and symptoms of an acute onset of a psychiatric episode; [a]
(d) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bipolar disorder, or mental retardation; [a]
(e) Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or mental retardation; and [a]
(f) Instruction in providing a necessary activity to meet the needs of a resident who has a diagnosis of mental illness or mental retardation.
(3) Initial basic training shall include the licensed nurse or the individual who has successfully completed certified medication technician training and may include the owner or operator. The individual shall be trained in the quarter during which the application is filed. (4) To assure that a staff member who has received basic training is always employed at the personal care home [facility], a maximum of five (5) staff may be trained during a year. (a) If staff turnover results in the loss of the licensed nurse or individual who has successfully completed certified medication technician training and five (5) staff have been trained, the personal care home shall request in writing to the Department for Community-Based Services an exemption of the five (5) staff rule.
(b) A [the] personal care home shall have on staff a licensed nurse or individual who has successfully completed certified medication technician training who:
1. Has received [the] mental illness or mental retardation basic training; or
2. Is enrolled in the next scheduled mental illness or mental retardation basic training workshop at the closest location.

(3) The Department for Mental Health and Mental Retardation Services may provide advanced level training for a personal care home [homes].

(a) Advanced level training shall be provided through one (1) day workshops.
(b) Each advanced level workshop shall consist of two (2) three (3) hour sessions per day.
(c) Each three (3) hour session shall cover a topic appropriate for staff working with a resident who has a diagnosis of mental illness or mental retardation.

(d) Attendance of advanced level training workshops shall be optional [for a Persons with Mental-Illness or Mental-Retardation Supplemental Program participant].

(6) The Department for Mental Health and Mental Retardation Services shall provide within five (5) working days:

(a) A certificate to direct care staff who complete the workshop; and
(b) A listing to the Department for Community-Based Services of staff who completed the training workshop.

(7) The Department for Community-Based Services shall pay twenty-five (25) dollars for each staff member receiving basic or advanced level training up to the maximum of five (5) staff per year to a personal care home that has applied for the Persons with Mental Illness or Mental Retardation Supplement Program.

(8) Attendance of the basic training workshop shall be optional for a specialized personal care home.

Section 13. Persons with Mental Illness or Mental Retardation Supplement Program Certification. (1) The Cabinet for Health Services, Office of the Inspector General, [Division of Licensing and Regulation] shall visit the personal care home to certify eligibility to participate in the Persons with Mental Illness or Mental Retardation Supplement Program:

(a) The personal care home's initial Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey may be separate from the annual survey;
(b) The initial [Persons with Mental Illness or Mental Retardation Supplement Program] Survey shall be in effect until the next licensure survey that may be greater than or less than twelve (12) months;
(c) A personal care home's annual Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey may be completed during the annual licensure survey; and
(d) The Department for Community-Based Services shall notify the Cabinet for Health Services, Office of Inspector General [Division of Licensing and Regulation] that the personal care home [facility] is ready to be certified.

(2) The Cabinet for Health Services, Office of Inspector General [Division of Licensing and Regulation] shall review records, observe and interview residents and staff during the certification process. The Office of Inspector General [Division of Licensing and Regulation] shall review and evaluate the following for the personal care home:

(a) Certification is on file at the personal care home to verify staff attended basic training provided by the Department for Mental Health and Mental Retardation Services. This provision shall be waived for a specialized personal care home; [3]
(b) The personal care home's certified staff have trained all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or mental retardation basic training workshop. The personal care home shall maintain documentation of attendance at the in-service training for all direct care staff; [3]
(c) An activity is being regularly provided and meets the needs of the resident. When a resident does not attend a group activity, an activity shall also be designed to meet the needs of an individual resident, for example, reading or other activity that may be provided on an individual basis. An individualized care plan is not required to meet this criterion; and [4]
(d) Medication administration meets licensure requirements and licensed nurse or individual who has successfully completed certified medication technician training demonstrates a knowledge of psychotropic drug side effects.

(3) The Cabinet for Health Services, Office of Inspector General [Division of Licensing and Regulation] shall review the personal care home copy of the training certification prior to performing their record checks for the Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey process.

(4) If thirty-five (35) percent mental illness or mental retardation population is met on the day of the visit, the personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification. The personal care home shall notify the Department for Community-Based Services, within ten (10) working days, if the mental illness or mental retardation population goes below thirty-five (35) percent of all occupied personal care beds in the facility.

(5) The cabinet shall receive from the Cabinet for Health Services, Office of Inspector General, a completed "Person with Mental Illness or Mental Retardation Supplement Program Certification Survey" within five (5) working days of receipt by the Cabinet for Health Services, Office of the Inspector General, Division of Licensing and Regulation. The survey shall provide a monthly statement to the Department for Community-Based Services identifying certified personal care homes eligible for the Persons with Mental Illness or Mental Retardation Supplement Program. This information shall be provided by the fifth working day of each month for the prior month.

(6) The Cabinet for Health Services, Office of Inspector General, [Division of Licensing and Regulation] shall inform the Department for Community-Based Services monthly of a personal care home which receives a Type A citation. This information shall be provided by the fifth working day of each month for the prior month.

(7) The personal care home shall receive a reduced payment for the number of days the Type A citation occurred on the first administratively feasible quarter following notification by the Cabinet for Health Services, Office of Inspector General, [Division of Licensing and Regulation] pursuant to 921 KAR 2:050.

(8) "Notice of Decision to Personal Care Home" shall be provided to a personal care home following the certification survey by the Cabinet for Health Services, Office of Inspector General [Division of Licensing and Regulation] if a criteria for certification is not met.

Section 14. Hearings and Appeals. An applicant or recipient of benefits under a program described in this administrative regulation who is dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 921 KAR 2:055.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Notice of Decision to Personal Care Home", edition 3/99;
(b) "Monthly Report Form", edition 3/99;
(c) "Application for ML or VR Supplement Program Benefits", edition 3/99; and
(d) "Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey", edition 3/99.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Families and Children, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: March 25, 2001
FILED WITH LRC: April 6, 2001 at 11 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, June 12, 2001)


2. An amount which equals or exceeds two-thirds (2/3) of the thrifty food plan for the appropriate size of the boarder household for a boarder whose board arrangement is for two (2) meals or less per day; (d) A boarder is ineligible to participate in the program independent of the household providing the board; (7) (66) "Cabinet" means the Cabinet for Families and Children or its designee; (8) (66) "Certification" means the action necessary to determine eligibility of a household including: (a) Interview; (b) Verification; and (c) Decision. (9) (77) "Communal dining facility" means: (a) A public or nonprofit private establishment, approved by FNS, that prepares and serves meals for elderly persons; (b) A public or private nonprofit establishment (eating or otherwise) that feeds: 1. Elderly persons; and 2. SSI recipients and their spouses; (c) Federally subsidized housing for the elderly that prepares and serves meals to the residents; and (d) A private establishment that contracts with an appropriate state or local agency to offer meals at concessional prices to: 1. Elderly persons; and 2. SSI recipients and their spouses. (10) (68) "Date of entry" or "date of admission" means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence. (11) (99) "Disability" means: (a) An individual who receives: 1. Supplemental Security Income (SSI) or presumptive SSI under 42 USC 1381 to 1385; 2. Disability or blindness payments under: a. 42 USC 401 to 433; b. 42 USC 1206; c. 42 USC 1351 to 1355; or d. 42 USC 1381 to 1385; 3. Optional or mandatory state supplementation; 4. Disability retirement benefits from a: a. Federal; b. State; or c. Local governmental agency; and d. Resulting from a disability considered permanent under 42 USC 421(k); 5. Annuity payments under: a. 45 USC 231(a); and b. Is determined to qualify for Medicare by the Railroad Retirement Board; or c. Has a disability based upon the criteria under 42 USC 1381 to 1385; or (b) A veteran with a service connected or nonservice connected disability rated by the Veteran's Administration or paid as total (100 percent) by the Veteran's Administration under Title 38 of the United States Code; (c) A veteran considered by the Veteran's Administration to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code; (d) A surviving spouse of a veteran and considered by the Veteran's Administration to be in need of regular aid and attendance or permanently housebound; (e) A surviving child of a veteran and considered by the Veteran's Administration to be permanently incapable of self-support under Title 38; (f) A surviving spouse or surviving child of a veteran and considered by the Veteran's Administration to be entitled to: 1. Compensation for a service-connected death; 2. Pension benefits for a nonservice-connected death under Title 38; and 3. Has a disability considered permanent under 42 USC 421(l); (g) An individual in receipt of disability related medical assistance under 42 USC 1396; (h) An individual who is certified to receive, but not yet receiving SSI or Social Security disability payments; or
(1) An individual who is currently having his entire SSI or Social Security disability benefit check recouped to recover a prior overpayment.

(12) [(10)] "Drug addiction or alcoholic treatment and rehabilitation program" means a program conducted by a private nonprofit organization or institution that is certified by the cabinet or agencies designated by the Governor as responsible for the administration of the state's program for alcoholics or drug addicts, by any:
(a) Drug addiction; or
(b) Alcoholic treatment and rehabilitation program;
(c) Conducted by:
1. A private nonprofit organization; or
2. Institution that is certified as responsible for the administration of the state's program for:
   a. Alcoholics; or
   b. Drug addicts; by
(i) The cabinet; or
(ii) Agencies designated by the Governor.

(13) [(11)] "Electronic benefit transfer (EBT)" means a computer-based electronic benefit transfer system in which an eligible household's benefit authorization is received from a central computer through a point-of-sale terminal. In order to access the food benefits, an eligible household member, or authorized representative, shall:
(a) Insert a magnetic strip plastic card into a terminal that reads the encoded information; and
(b) Enter a personal identification number (PIN) to verify identity.

(14) "Eligible household member" means an individual residing with a household but excluded when determining the household's size in accordance with the provisions of 921 KAR 3:035, Section 3(3) and (4).

(a) The income and resources of the excluded household member shall be treated the same as that of an eligible household member in accordance with 921 KAR 3:035, Section 3(3) and (4).

(b) The following excluded household members shall not participate as a separate household:
1. An ineligible alien;
2. An individual disqualified for failure to provide a Social Security number;
3. An individual disqualified for intentional program violation; or
4. An individual disqualified for failure to comply with work or workforce requirements.

(15) "Employment and training (ET) program" means a program consisting of one (1) or more of the following components:
(a) Work;
(b) Training;
(c) Education; or
(d) Job search.

(17) "Entitlement" means the amount of food stamp benefits that a household would receive if every eligible household member participates.

(18) "Excluded household member" means an individual residing with a household but excluded when determining the household's size in accordance with the provisions of 921 KAR 3:035, Section 3(3) and (4).

(a) The income and resources of the excluded household member shall be treated the same as that of an eligible household member in accordance with 921 KAR 3:035, Section 3(3) and (4).

(b) The following are excluded household members and shall not participate as a separate household:
1. An ineligible alien;
2. An individual disqualified for failure to provide a Social Security number;
3. An individual disqualified for intentional program violation; or
4. An individual disqualified for failure to comply with work or workforce requirements.

(19) "Expungement" means the removal of EBT benefits from a household's EBT account if the household has not accessed the account for 270 days.

(20) [(16)] "Federal fiscal year" means a period of twelve (12) calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

(21) [(17)] "FNS" means the Food and Nutrition Service of the United States Department of Agriculture.

(22) [(18)] "Group living arrangement" means a public or private nonprofit residential setting that:
(a) Serves no more than sixteen (16) residents; and
(b) Is appropriately certified.

(23) [(19)] "Head of household" means the person in whose name the application for participation is made as:
(a) Having primary financial responsibility for the household;
(b) Being an adult parent of a child of any age and living in the household;
(c) An adult having parental control over a child under the age of eighteen (18) and living in the household.

(24) [(20)] "Household" means:
(a) An individual who:
1. Lives alone; or
2. While living with others, customarily purchases and prepares meals for home consumption separate from others;
(b) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption; and
(c) The following individuals shall be treated as a group of individuals who customarily purchase food and prepare meals together for home consumption even if they do not do so:
1. Spouses who live together;
2. A parent and his child twenty-one (21) years of age or younger who live together;
3. A child, excluding a foster child, under eighteen (18) years of age who lives with and is under parental control of a person other than
his parent, together with the person exercising parental control.
(d) Notwithstanding the preceding sentence, the following individual shall be considered: together with any of the others who is his spouse, an individual household, without regard to the purchase of food and preparation of meals if the income as determined under 7 USC 2014(d) of the others, excluding the spouse, does not exceed the poverty line as described in 7 USC 2014(e)(1) by more than sixty-five (65) per centum:
(a) An individual who lives with others;
(b) An individual who is sixty (60) years of age or older;
(c) An individual who is unable to purchase and prepare meals because he suffers, as certified by a licensed physician, from a
   a. Disability which would be considered a permanent disability
   b. A severe, permanent and disabling physical or mental infirmity which is not symptomatic of a disease;
   c. In no event shall any:
   i. Individual;
   ii. Group of individuals;
   iii. Constitute a household if they reside in an
   a. Institution;
   b. Boarding house;
   c. Live with others and pay compensation to the others for meals.
(f) The following shall not be considered a resident of an institution and shall be considered an individual household:
(a) A resident of federally subsidized housing for the
   a. Elderly;
   b. Persons with a disability or blind recipients of benefits as defined under subsection (11) (f) of this section;
2. A resident in a public or private nonprofit group living arrangement that:
   a. Serves no more than sixteen (16) residents; and
   b. Is certified by the appropriate state agency or agencies under regulations under 42 USC 1382a(e); or
   c. Is certified under standards determined by the secretary to be comparable to standards implemented by appropriate state agencies under this section;
3. A temporary resident of a public or private nonprofit shelter for battered women and children;
4. A resident of a public or private nonprofit shelter for individuals who
   a. Do not reside in a permanent dwelling;
   b. Have no fixed mailing address; and
   c. Are otherwise eligible for coupons and
   d. A narcotic addict or alcoholic who together with his child live under
   a. The supervision of a private nonprofit institution; or
   b. A publicly operated community mental health center for the purpose of regular participation in a drug or alcoholic treatment program.
(25) "Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons;
(22) "Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, United States Department of Justice.
(29) "Indiscretion household error" means an overissuance resulting from a misunderstanding or unintended error on the part of the household.
(27) "Institution of higher education" means any institution providing post high school education which normally requires a high school diploma or equivalency certificate for a student to enroll, including but not limited to:
(a) College;
(b) University; and
(c) Vocational or technical school.
(28) "Intentional program violation" means having intentionally:
(a) Made a false or misleading statement;
(b) Misrepresented, concealed or withheld facts;
(c) Sold food purchased with food stamp coupons or EBT card;
(d) For the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking a food stamp coupon or EBT card, committed an act that constitutes a violation of; 1. 7 USC 2011, et seq.; 2. 7 CFR 210 through 295; or 3. 921 KAR Chapter 3.
(29) "Kentucky Transitional Assistance Program (K-TAP)", means a program pursuant to 921 KAR 2:017, Section (18).
(30) [Kentucky's Temporary Assistance for Needy Families (TANF) program, means a money payment program for children who are deprived of parental support or care due to:
(a) Death, continued voluntary or involuntary absence, of a parent;
(b) Physical or mental incapacity of one (1) parent when both parents are in the home;
(c) Unemployment of at least one (1) parent when both parents are in the home;
(d) "Kentucky Works" means a program pursuant to 921 KAR 2:017, Section (18).
(31) [which assists recipients of K-TAP, in obtaining education, training, experience and employment necessary to leave public assistance.
(32) "Meal delivery service" means an entity with which the cabinet has contracted for the preparation of meals at concessional prices to an individual who is unable to adequately prepare his meals.
(a) A "meal delivery service participant" shall include:
1. An elderly person and his spouse;
2. The person who has a physical or mental disability; and
3. A person who otherwise has a disability and his spouse.
(b) The cabinet shall contract with any of the following "meal delivery service providers:
   a. A political subdivision;
   b. A private nonprofit organization; or
   c. A private establishment.
(33) "Medicaid" means medical assistance under 42 USC 1396.
(34) (28) "Nonassistance household" (NA) means a household containing at least one (1) member who is not included in a K-TAP household.
(34) (29) "Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food the "Nonhousehold member" means an individual residing with a household but not considered a household member in determining the household's eligibility or allotment.
(a) The following shall be considered a nonhousehold member and if otherwise eligible, may participate in the program as a separate household:
1. Roomer. An individual to whom a household furnishes lodging, but no meals, for compensation;
2. Live-in attendant. An individual who resides with a household to provide medical, housekeeping, child care or other similar personal services;
3. Other. Another individual who shares living quarters with the household but who does not customarily purchase food and prepare meals with the household.
(b) The following shall be considered as a nonhousehold member, ineligible to participate in the program as a separate household, and treated as described in 921 KAR 3:035:
1. An ineligible student;
2. A person disqualified for noncompliance with the work requirements;
3. A border;
4. A resident of an institution, except as provided in subsection (22)(18) of this section;
5. A strike, unless:
   a. The household was eligible the day prior to the strike; and
   b. The household is eligible at the time of application; 6. A household disqualified due to voluntary quit provisions.
(35) "Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.
(36) (31) "Overissuance" means the amount by which benefits issued to a household exceed the amount the household was eligible to receive.
(37) (32) "Public assistance" (PA) means any of the programs authorized under 42 USC 601 to 679 including:
   a. Old age assistance;
   b. K-TAP;
c. Aid to the blind;  
d. Aid to the persons who have a permanent and total disability;  
and  
e. Aid to aged, blind or persons with a disability.  
(38) "Quality control review" means a review of a statistically-valid sample of active and negative cases to determine the extent to which a household:  
(a) Received the food stamp allotment to which it was entitled to receive; or  
(b) Was not incorrectly denied food stamp benefits or terminated from the Food Stamp Program.  
(39) "Recipient claim" means an amount owed to the cabinet because a household:  
(a) Received an overissuance; or  
(b) Tracked food stamp benefits.  
(40) "Restored benefit" means a food stamp benefit that is owed to a household that received less food stamp benefits than it was entitled to receive during the month.  
(41) (330) "Self-employment income" means income from a business enterprise from which no taxes are withheld prior to receipt of the income by the individual.  
(42) (348) "Shelter for battered women and children" means a public, or private, nonprofit residential facility that serves battered women and children. [If a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.]  
(43) (356) "Sponsor" means a person who executes an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.  
(44) (336) "Sponsored alien" means an alien lawfully admitted for permanent residence as an immigrant as defined under 8 USC 1101.  
(45) (374) "Spouse" means either of two (2) individuals who:  
(a) Would be defined as married to each other under applicable state law; or  
(b) Are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.  
(46) (386) "Striker" means anyone involved in a strike or other concerted stoppage of work by employees. [This shall include:  
(a) A stoppage by reason of expiration of a collective bargaining agreement; and  
(b) Any concerted slowdown or other concerted interruption of operations by employees, unless:]  
1. The individual is exempt from work registration for reasons other than employment; and  
2. The exemption existed on the day prior to the strike.]  
(47) (399) "Supplemental security income (SSI)" means monthly cash payments made under the authority of:  
(a) 42 USC 1381 to 1385 to the aged, blind and disabled;  
(b) 42 USC 1382e; or  
(c) 42 USC 1382.  
(48) (401) "Thrifty food plan" means:  
(a) The diet required to feed a family of four (4) persons, determined in accordance with the Secretary of the United States Department of Agriculture calculations, consisting of:  
[el 1] A man and a woman twenty (20) through fifty (50);  
[el 2] A child six (6) through eight (8); and  
[el 3] A child nine (9) through eleven (11) years of age; and  
(b) The cost of such diet shall be the basis for uniform allotments for all-households regardless of their actual composition, except that the Secretary of the United States Department of Agriculture shall make household size adjustment in the thrifty food plan taking-into account economies of scale.]  
(49) "Traficking" means:  
(a) The buying or selling of a food stamp coupon or an EBT card or other benefit instrument for cash or consideration other than eligible food; or  
(b) The exchange of firearms, ammunition, explosives, or controlled substances as defined in Section 802 of title 21 USC for a food stamp coupon or an EBT card.  
(50) (443) "Underissuance" means the amount that the benefits to the household were entitled exceeded the benefits which the household received.  

DIETRA PARIS, Commissioner  
VIOLA P. MILLER, Secretary  
CHARLES P. LAWRENCE, Attorney  
APPROVED BY AGENCY: February 20, 2001  
FILED WITH LRC: February 23, 2001 at 1 p.m.  

CABINET FOR FAMILIES AND CHILDREN  
Department for Community Based Services  
Division of Policy Development  
(As Amended at ARRS, June 12, 2001)  


NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children shall administer a Food Stamp Program as proscribed by [under] 7 USC 2011-2029. KRS 194B.050(1) provides that the secretary shall by administrative regulation, develop policies and operate programs concerning the welfare of citizens of the Commonwealth. This administrative regulation sets forth the application process used by the cabinet in the administration of the Food Stamp Program. KRS 116.048 designates the cabinet to have responsibility for the administration of the Food Stamp Program as a voter registration agency in accordance with 42 USC 1973g-10. [Therefore.] This administrative regulation sets forth policy and procedures necessary to provide an eligible Food Stamp Program participant the opportunity to register, or to decline from registering, to vote.  

Section 1. Right to Apply or Reapply. (1) An individual shall have the right to apply or reapply for food stamp benefits on the same day that the household first contacts the food stamp office in person during office hours.  
(2) The cabinet shall make the application process readily accessible to a household.  
(3) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for a person who is:  
(a) Deaf; or  
(b) Hard of hearing.  
(4) Interpreter services shall be provided for a non-English speaking individual, utilizing procedures and forms specified by 920 KAR 1:070.  
(5) An application shall be considered to have been filed when:  
(a) An application form containing the name, address and signature of the applicant is received by the food stamp office;  
(b) The applicant or representative is interviewed;  
(c) Required information on the application is provided to the food stamp office and verified; and  
(d) The application is received by the appropriate office.  

Section 2. Who May Sign an Application. An application for food stamps shall be signed by:  
(1) An adult or emancipated child who is a responsible member of the household; or  
(2) The household's authorized representative.  

Section 3. Where an Application is Filed. (1) Except as provided in subsection (2) of this section, an application shall be filed in any office of the Department for Community-Based Services and processed in the county in which an applicant resides.  
(2) A concurrent application for Supplemental Security Income (SSI) and Food Stamps shall be filed in the service area office of the Social Security Administration.  

Section 4. Prompt Action on an Application. The cabinet shall provide an eligible household, that completes the initial application process, an opportunity to participate as soon as possible but not later than:  
(1) Thirty (30) days after the application is filed for a household ineligible for expedited services; or  
(2) The fifth calendar day following the date an application is filed
Section 5. Expedited Service. A household eligible for expedited services shall be:

(1) A household in which:
   (a) monthly gross income is less than $150; and
   (b) liquid resources do not exceed $100; or

(2) A destitute migrant or seasonal farm work household whose
    liquid resources do not exceed $100; or

(3) A household for whom monthly rent or mortgage and actual
    utilities exceed the household's combined monthly gross income and
    liquid resources.

Section 6. Public Assistance Application Process. (1) A household in which every member is applying for Kentucky Transitional Assistance Program (K-TAP) shall be allowed to simultaneously apply for food stamp benefits. A single interview shall be conducted for both programs.

(2) Time standards specified in Section 4 of this administrative regulation shall apply to a public assistance application.

(3) A household in which every member receives, or is authorized to receive, SSI shall be considered categorically eligible unless the entire household is:
   (a) institutionalized; or
   (b) disqualified from receiving food stamps.

(4) A household in which any member receives, or is authorized to receive cash, in-kind, or other benefits funded under temporary assistance for needy families shall be considered categorically eligible unless the entire household is:
   (a) institutionalized; or
   (b) disqualified from receiving food stamps.

(5) A categorically eligible household shall not be required to verify
   the following eligibility factors:
   (a) Resources;
   (b) Gross and net income limits;
   (c) Social Security number information;
   (d) Sponsored alien information; and
   (e) Residency.

Section 7. Joint SSI and Food Stamp Application Process. A household in which every member is an applicant or recipient of SSI shall be allowed to simultaneously apply for both SSI and food stamps at the appropriate Social Security Administration office.

Section 8. Voter Registration. (1) In accordance with KRS 116.048
and 42 USC 1973gg-10, an applicant or recipient meeting the
registration criteria shall be provided the opportunity to complete an application
to register to vote or update his current voter registration:
(a) Be age eighteen (18) or over; and
(b) Be present in the office at the time of the interview or when a
change of address is reported; and
(c) Not be registered to vote or not registered to vote at his current
address.

(2) An individual not included in the assistance application shall
not be registered to vote in this process, including an:
   (a) Authorized representative; or
   (b) Individual acting as a responsible party.

(3) An individual providing a voter registration service who seeks
    to unlawfully influence an applicant's political preference or party
    registration as prohibited by KRS 116.048(4) may be fined or imprisoned,
    not to exceed five (5) years, or both.

(4) A form and information utilized in the voter registration process
    shall remain confidential and be used only for voter registration pur-
    poses.

(5) Only a Board of Elections official may view a form and in-
    formation utilized directly in the voter registration process.

(6) Completion of the Voter Registration Form is only an applica-
    tion to apply to register to vote. The State Board of Elections shall
    approve the application to register to vote and send a confirmation or
denial notice to the applicant.

(7) Forms necessary to register a Food Stamp Program partici-
    pants to vote are incorporated by reference in this administrative regu-
    lation.
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CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, June 12, 2001)

921 KAR 3:050. Claims and additional administrative provisions.


STATUTORY AUTHORITY: KRS 194B.050(1), 7 USC 2020 ( 50 CFR 98-731)

NECESSITY, FUNCTION, AND CONFORMITY: 7 USC 2011 to 2029 requires the Cabinet for Families and Children to administer a Food Stamp Program. KRS 194B.050(1) provides that the secretary shall, by administrative regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation establishes recipient claims and collections provisions, and additional provisions used by the cabinet in the administration of the Food Stamp Program.

Section 1. Civil Rights Compliance. The cabinet shall not discriminate against an applicant or participant in any aspect of program administration for reasons of age, race, color, sex, disability, religious creed or national origin.

Section 2. Restoration of Lost Benefits. (1) Benefits shall be restored to a household if the household has lost benefits:
(a) Due to an administrative error; or
(b) By an administrative disqualification for intentional program violation that is subsequently reversed.
(2) Benefits shall be restored for a period of not more than twelve (12) months from:
(a) The date the agency receives a request for restoration; or
(b) If no request is received, the date a fair hearing action is initiated.

(3) Benefits to be restored shall be calculated by determining the difference between what the household was entitled to receive and what the household actually received.

(4) Benefits to be restored shall be used to offset an unpaid or suspended claim the household may have.

Section 3. Program Informational Activities. (1) A low-income or disadvantaged household shall be informed of the availability of the program and program rights and responsibilities through program informational activities including posters and pamphlets from the Food and Nutrition Service.
(2) Other programs that a household shall be encouraged to use are:
(a) Special Supplemental Food Program for Women, Infants and Children;
(b) Expanded Food and Nutrition Education Program.

Section 4. Identification and Classification of a Claim Against a Household. (1) The following are responsible for paying a recipient claim pursuant to 921 KAR 3:010:
(a) Each person who was an adult member of the household when the overpayment or trafficking occurred;
(b) A sponsor of an alien household member if the sponsor is at fault; or
(c) A person connected to the household, such as an authorized representative, who actually traffics or otherwise causes an overpayment or trafficking. [All adult-household members shall be jointly and severally liable for the value of any overissuance of benefits to the household.]

(2) Pursuant to 921 KAR 3:010, a recipient [The cabinet shall establish a claim against a household that:
(a) Has received more food stamp benefits than it is entitled to receive; or
(b) Contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.

Section 5. Classification and Establishment of Claims. (a) A claim shall be classified as:
(1) [H] Inadvertent household error (IHE) claim;
(2) [O] Overissuance was due to;
(3) The household unintentionally failed to provide the food stamp office with correct or complete information;
(b) An action, or failure to take action, by the Social Security Administration, that results in the household improperly receiving Supplemental Security Income; or
(c) A misunderstanding or unintended error on the part of a categorically eligible household, established in 921 KAR 3:020, Section 4, that results in benefits payable on the basis of categorical eligibility, and is subsequently determined ineligible for the Kentucky Transitional Assistance Program (K-TAP) or Supplemental Security Income; or both;
(d) The household unintentionally failed to report to the cabinet a change in its household's circumstance;
(e) The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to the benefits;
(f) Administrative error (AE) claim; or
(g) [O] Overissuance was due to the agency;
(h) Failing to take action on a change reported by the household;
(i) Incorrectly computing household income or deductions or otherwise issuing an incorrect statement;
(j) Issuing duplicate benefits;
(k) Continuing to issue benefits after the certification period expired without a reapplication determination; or
(l) Taking an action or failing to take an appropriate action, that resulted in the household improperly receiving K-TAP.
(3) Intentional program violation (IPV) claim.

(a) Overissuance was due to an act of intentional program violation on the part of the household by:
1. Making a false or misleading statement, or misrepresenting, concealing or withholding facts; or
2. Committing a violation of 7 USC 2011-2029, 921 KAR Chapter 3, or any state statute relating to the Food Stamp Program, relating to the:
(a) Use;
(b) Presentation;
(c) Transfer;
(d) Acquisition;
(e) Receipt; or
(f) Possession of food stamp coupons or an electronic benefit transfer card.
(b) The act of intentional program violation is determined by:
1. An administrative disqualification hearing official;
2. A federal, state, or local court;
3. An individual signing a waiver of his right to an administrative disqualification hearing; or
4. An individual signing a disqualification consent agreement in a case referred for prosecution.
(4) Neither an agency error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the cabinet failing to ensure that a household fulfilled the following procedural requirements:
(a) Sign the application form;
(b) Complete the registration of an individual who is required to register for work pursuant to 921 KAR 3:042; or
(c) Certify the household in the correct county where the household resides.

Section 6. (6) Calculating the Amount of a Recipient Claim. (1) For a recipient claim not related to trafficking, the cabinet shall:
(a) Calculate:
1. An IHE or AE claim back to twelve (12) months prior to when the cabinet became aware of the overpayment; and
2. An IPV claim back to the month the act of IPV first occurred, but not more than six (6) years prior to when the cabinet became aware of the overpayment; and
(b) Determine [Inadvertent household error and agency error claim.
(a) For each month that a household received an overissuance
due to an inadvertent household error or agency error, the cabinet shall determine the correct amount of food stamp benefits for each month that a [the] household received an overpayment and
(c) If the claim is classified as an IPV or IHE, not apply the earned income deduction to the portion of earned income that a household failed to report in a timely manner pursuant to Section 6 of this administrative regulation, when this act is the basis for a recipient claim.

(d) Subtract the correct amount of food stamp benefits from the benefits actually received and the answer is the amount of the overpayment.

(e) The cabinet shall reduce the overpayment pursuant to paragraph (d) of this subsection, by the amount of electronic benefit transfer (EBT) benefits expensed from a household's EBT benefit account:
1. When the recipient claim is initially calculated; and
2. At each subsequent expungement until the balance of the claim is paid in full.

(f) For a recipient claim related to trafficking, the cabinet shall calculate the value of the trafficked food stamp benefits as determined by:
(a) An individual's admission;
(b) Adjudication; or
(c) The documentation that forms the basis for the trafficking determination.

3. The cabinet shall adjust the amount of a recipient claim as determined pursuant to subsections (1) and (2) of this section if a different amount is ordered by:
(a) An administrative hearing official pursuant to:
   1. 501 KAR 3:060; or
   2. 591 KAR 3:070;
(b) A court.

4. The cabinet shall not establish a recipient claim if it is determined that the claim is not $125 or less, unless:
(a) A household is currently participating in the Food Stamp Program; or
(b) The cabinet established or discovered the recipient claim through a quality control review.

Section 6. Action on a Change in the Household's Circumstances.

1. The cabinet was entitled to receive:

2. The amount of the inadvertent household error or agency error claim shall be calculated based on the amount of overissuance that occurred during the twenty-four (24) months preceding the date that the overissuance was discovered.

3. In a case involving a reported change, the cabinet shall determine the month the overissuance initially occurred as follows:

4. [1] For an IHE [inadvertent household error] claim, if the household failed to report a change in a circumstance within the required time frame:

5. [a] The first month affected by the household's failure to report shall be the first month that the change would have been effective had it been timely reported; and (1) 2. [b] The first month of the established overissuance shall not be a [any] month later than two (2) months from the month that the change in a household's circumstance occurred; (1) 3. [b] For an AE [agency error] claim, if the household timely reported a change, but the cabinet did not act on the change within the required time frame:

6. [a] The first month affected by the cabinet's failure to act shall be the first month the cabinet would have made the change effective had it timely acted; and (1) 2. [b] The first month of the established overissuance shall not be a [any] month later than two (2) months from the month that the change in a household's circumstance occurred; (1) 3. [c] If a notice of action was required by the cabinet but was not provided, the cabinet shall assume for the purpose of calculating the claim that the household would have been allowed the maximum advance notice period to expire without the household requesting a fair hearing, including:

7. [a] Ten (10) days to report the change; (b) [iii] Ten (10) days for the caseworker to act on the change; and
8. [ii] Ten (10) days for the client to respond to the notice of action.

9. If the household received a larger allotment than it was entitled to receive, the cabinet shall:

1. For an inadvertent household error claim, not apply the twenty (20) percent earned income deduction to that portion of earned income that the household failed to report; or
2. For an agency error claim, establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(e) For a categorically eligible household as specified in 521 KAR 3:02, Section 4, a claim shall only be determined when it can be computed on the basis of changed household net income and household size.

(f) After calculating the amount of the inadvertent household error or agency error claim:

1. The cabinet shall offset the amount of the claim against any amount that has not yet been restored to the household pursuant to Section 2 of this administrative regulation.
2. The cabinet shall then initiate collection action for the remaining balance, if any:

2. Intentional program violation claim.

(a) For each month that a household received an overissuance due to an intentional program violation, the cabinet shall determine the correct amount of food stamp benefits; if any, the household was entitled to receive:

1. The amount of the intentional program violation claim shall be calculated back to the month the act of intentional program violation occurred. The intentional program violation claim shall not be calculated more than six (6) years from the date the overissuance was discovered.
2. If it is determined that the household member committed an intentional program violation by intentionally failing to report a change in the household's circumstances, the first month affected by the household's failure to report shall be the first month that the change would have been effective had it been reported.
3. The first month of the established overissuance shall not be any month later than two (2) months from the month that the change in a household circumstance occurred.

(b) If the household received a larger allotment than it was entitled to receive:

1. The cabinet shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
2. When determining the amount of benefits the household should have received, the cabinet shall not apply the twenty (20) percent earned income deduction to that portion of earned income that the household intentionally failed to report.

(e) Once the amount of the intentional program violation claim is established, the cabinet shall offset the claim against any amount of lost benefits that have not yet been restored to the household pursuant to Section 2 of this administrative regulation.

Section 7. Notification of a Claim.

1. The cabinet shall mail a household that is suspected to have incurred a recipient claim a notice of an appointment, form "KCA-1, General Claims Notice FS-01", to discuss the potential claim to determine the classification of the claim, pursuant to Section 6 of this administrative regulation.

2. If a household contacts the cabinet within ten (10) days of the date of the notice pursuant to subsection (1) of this section, the appointment shall be rescheduled.

3. If a household fails to contact the cabinet or attend either appointment pursuant to subsections (2) or (3) of this section, the cabinet shall determine the classification and the amount of the recipient claim based on the information that is available to the cabinet.

4. For a household that is participating in the Food Stamp Program, when the cabinet has determined the amount of a household's recipient claim, pursuant to Section 5 of this administrative regulation, the cabinet shall initiate collection action by mailing to a household three (3) of the following notices, which shall include a repayment agreement:

(a) For an AE recipient claim, form "KCA-1, General Claims Notice FS-02".
(b) For an IHE recipient claim, form "KCA-1, General Claims Notice FS-04".
(c) For an IPV recipient claim that is established by a household signing a "Voluntary Waiver of Administrative Disqualification Hear-
ing", pursuant to 921 KAR 3:060, Section 8, form "KCA-1, General Claims Notice FS-06";
(d) For an IPV recipient claim that is established by a household signing a "Deferred Adjudication Disqualification Consent Agreement", pursuant to 921 KAR 3:060, form "KCA-1, General Claims Notice FS-03";
(e) For an IPV recipient claim that is established by an Administrative Disqualification Hearing, pursuant to 921 KAR 3:060, form "KCA-1, General Claims Notice FS-10";
(5) Upon receipt of a notice pursuant to subsection (4) of this section, a household shall:
(a) Select a method of collection, pursuant to Section 10 of this administrative regulation, by completing the repayment agreement;
and
(b) Return the form to the cabinet within thirty (30) days from the date of the written notification.
(6) If the household fails to timely return a completed repayment agreement pursuant to subsection (5) of this section the:
(a) Claim shall be considered delinquent, pursuant to Section 8 of this administrative regulation; and
(b) The cabinet shall initiate involuntary collection action pursuant to Section 10(1)(b) of this administrative regulation.
(7) For a household that is not participating in the Food Stamp Program, when the cabinet has determined the amount of a household's recipient claim, pursuant to Section 5 of this administrative regulation, the cabinet shall initiate collection action by mailing to a household one (1) of the following notices:
(a) For an AE recipient claim, form "KCA-1, General Claims Notice FS-03";
(b) For an IHE recipient claim, form "KCA-1, General Claims Notice FS-05";
(c) For an IPV recipient claim that is established by a household signing a "Voluntary Waiver of Administrative Disqualification Hearing", pursuant to 921 KAR 3:060, Section 8, form "KCA-1, General Claims Notice FS-03";
(d) For an IPV recipient claim that is established by a household signing a "Deferred Adjudication Disqualification Consent Agreement", pursuant to 921 KAR 3:060, Section 9, form "KCA-1, General Claims Notice FS-09"; or
(e) For an IPV recipient claim that is established by an Administrative Disqualification Hearing, pursuant to 921 KAR 3:060, form "KCA-1, General Claims Notice FS-11".
(8) If a household that is disconnected from the Food Stamp Program and owes a recipient claim resumes participation in the program, the cabinet shall mail to the household one (1) of the following notices:
(a) For an AE recipient claim:
  1. Form "KCA-1, General Claims Notice FS-20"; or
  2. Form "KCA-1, General Claims Notice FS-21";
(b) For an IHE recipient claim:
  1. Form "KCA-1, General Claims Notice FS-22"; or
  2. Form "KCA-1, General Claims Notice FS-23";
(c) For an IPV recipient claim:
  1. Form "KCA-1, General Claims Notice FS-24"; or
  2. Form "KCA-1, General Claims Notice FS-25";
(d) The cabinet shall mail to a household form "KCA-1, General Claims Notice FS-12-2", to notify a household:
  (a) If a court has classified the overpayment as an IPV recipient claim; and
  (b) Of the court ordered amount of the IPV recipient claim.
(9) If the cabinet determines through a subsequent review of the records that it has made an error in the computation of a recipient claim, the cabinet shall notify a household of the correct amount of the recipient claim by mailing to it form "KCA-1, General Claims Notice FS-20";
(10) The cabinet shall notify a household that its claim is paid in full by mailing to the household form "KCA-1, General Claims Notice FS-30".

Section 8, Delinquent Recipient Claims. (1) A recipient claim shall be considered delinquent if:
(a) The claim has not been paid by the due date and a satisfactory payment arrangement has not been made; or
(b) A payment arrangement has been established and a scheduled payment has not been made by the due date.
(2) The date of delinquency for a claim pursuant to subsection (1)(a) of this section is the due date on the initial written notification. The claim will remain delinquent until:
(a) Payment is received in full;
(b) A satisfactory payment agreement is negotiated; or
(c) Allotment reduction is invoked pursuant to Section 10(1)(b) of this administrative regulation.
(3) The date of delinquency for a claim pursuant to subsection (1)(b) of this section is the due date on the missed installment payment. The claim shall remain delinquent until:
(a) Payment is received in full; or
(b) Allotment reduction is invoked.
(4) A claim shall not be considered delinquent if:
(a) Another claim for the same household is currently being paid either through an installment agreement or allotment reduction; and
(b) The cabinet expects to begin collection on the claim once the prior claim is settled.
(5) A claim is not subject to the requirements for delinquent debts if the cabinet is unable to determine delinquency status because collection is coordinated through the court system.
(6) A claim awaiting a fair hearing decision shall not be considered delinquent.
(7) If a hearing official determines that a claim does, in fact, exist against the household, the cabinet shall:
(a) Renotify the household of the claim; and
(b) Base delinquency on the due date of the subsequent notice.
(8) If a hearing official determines that a claim does not exist, the cabinet shall:
(a) Dispose of the recipient claim pursuant to Section 9(2) of this administrative regulation; and
(b) Notify the household by mailing to it form "KCA-1, General Claims Notice FS-29".

Section 9, Compromising, Terminating, and Writing-off Claims. (1) Except for a recipient claim that is established by a court of the appropriate jurisdiction, if requested by a household, the cabinet shall compromise a claim or a portion of a claim if it is reasonably determined that a household's economic circumstances dictate that the claim shall not be paid in three (3) years.
(2) A claim shall be terminated and written off if:
(a) The cabinet finds that the claim is invalid, unless it is appropriate to pursue the overpayment as a different type of claim;
(b) The claim balance is twenty-five (25) dollars or less and the claim has been delinquent for ninety (90) days or more, unless other claims exist against the household resulting in an aggregate claim total of greater than twenty-five (25) dollars;
(c) All adult household members die;
(d) Pursuant to Section 5(4) of this administrative regulation, a recipient claim is $125 or less;
(e) The claim is delinquent for three (3) years or more, unless the cabinet is able to pursue the claim through the Treasury Offset Program;
(f) The cabinet is unable to locate the household.

Section 10, Collection Methods. (1) Allotment reduction.
(a) A household that is participating in the Food Stamp Program may voluntarily elect to pay a recipient claim by reducing its monthly food stamp benefits through allotment reduction by the following amount:
  1. For an IPV claim, the amount reduced shall be the greater of twenty (20) dollars per month or twenty (20) percent of the household's monthly allotment or entitlement, unless the household agrees to a higher amount;
  2. For an IHE or AE claim, the amount reduced shall be the greater of ten (10) dollars per month or ten (10) percent of the household's monthly allotment, unless the household agrees to a higher amount;
(b) If a household that is participating in the Food Stamp Program fails to timely return a completed repayment agreement pursuant to Section 7 of this administrative regulation, the cabinet shall invoke involuntary allotment reduction pursuant to paragraph (a) 1 or 2 of this subsection and
(c) The cabinet shall not use additional involuntary collection methods against individuals in a household that is already having its
benefit reduced unless:
1. The additional payment is voluntary or
2. The source of the payment is irregular and unexpected such as a federal or state tax refund or lottery winnings offset.

(2) A household may pay its claim using benefits from its EBT account if the household provides the cabinet:
(a) Written permission by completing form "FSEBT-6"; or
(b) Oral permission for a one (1) time reduction with the cabinet providing the household with a receipt of the transaction within ten (10) days.

(3) If the cabinet becomes aware of expended EBT benefits, the cabinet shall adjust the amount of a household's recipient claim by subtracting the expended EBT amount from the household's recipient claim balance.

(4) During the claim establishment and collection process, the cabinet shall:
(a) Reduce restored benefits owed to a household by the amount of its outstanding recipient claim; and
(b) Notify a household of the adjustment by mailing form "KCA-1, General Claims Notice FS-28".

(5) The cabinet may accept a lump sum payment for a claim, whether it represents full or partial payment. The payment may be in all of the collection methods.

(6) If a household is not participating in the Food Stamp Program, the cabinet shall accept installment payments made for a recipient claim as part of a negotiated repayment agreement. If a household fails to submit a payment pursuant to the negotiated repayment schedule, the recipient claim shall become delinquent and shall be subject to additional collection methods.

(7) The cabinet may employ other collection methods to collect a recipient claim, including:
(a) Referral to a collection or other similar private and public sector agency;
(b) Lottery offsets;
(c) Wage garnishment;
(d) State income tax refund intercept;
(8) The cabinet shall:
(a) Refrain a recipient claim that is delinquent for 180 or more days to the Treasury Offset Program (TOP), unless the debtor is a member of a participating household that is having its allotment reduced to collect a recipient claim; and
(b) Remove a recipient claim from TOP if the:
1. Food and Nutrition Service or Treasury instructs the cabinet to withdraw a recipient claim; or
2. Cabinet discovers that the:
   a. Debtor is a member of a food stamp household undergoing allotment reduction;
   b. Recipient claim is paid up;
   c. Recipient claim is disposed of through a:
      (i) Hearing;
      (ii) Termination;
      (iii) Compromise;
   d. Recipient claim was referred to TOP in error; or
   e. Debtor has made an arrangement with the cabinet to resume payment. (Collecting a Claim Against a Household). The cabinet shall initiate collection action against a household with an established claim pursuant to the following criteria:
(a) A claim identified in Section 5 of this administrative regulation, as an inadvertent household or administrative error claim, shall have collection action initiated unless the:
   (a) Claim is collected through offset; or
   (b) Claim is less than $25 and cannot be recovered by benefit reduction due to inactive status.

(b) A household member found to have committed an intentional program violation, pursuant to Section 5(3) of this administrative regulation shall have collection action initiated against the individual's household unless the:
(c) Household has repaid the overissuance;
(d) Collection action would prejudice the case against a household member referred for prosecution; or
(e) Claim is less than $25 and cannot be recovered by benefit reduction due to inactive status.

(c) A payment for a claim against the household shall be collected as follows:

1. A lump sum payment, if the household states it is financially able to pay the entire amount of the claim at one (1) time, either as cash payment or benefit, the cabinet shall collect a lump sum payment.
2. The household shall not be required to liquidate all of its resources to make this lump sum payment.
3. If the household states it is financially unable to pay the entire amount of the claim at one (1) time and prefers to make a lump sum payment of cash or benefits as partial payment of the claim, the cabinet shall accept this method of repayment.

(b) Installments.
1. The cabinet shall negotiate a payment schedule with the household for repayment of any amount of the claim not repaid through a lump sum payment.
   a. The minimum monthly payment shall be equal to the amount that would be received through benefit reduction described in paragraph (c) of this subsection.
   b. Payment shall be accepted by the cabinet in regular installments and shall be paid to the cabinet on a due date agreed upon by the household and the cabinet.
   c. The household may use benefits as full or partial payment of any installment.
   d. If the full claim or remaining amount of the claim cannot be liquidated in thirty-six (36) months, the cabinet may compromise the amount of the claim by reducing it to an amount that allows the household to pay the claim in thirty-six (36) months.
   e. The cabinet shall use the full amount of the claim, including any amount compromised, to offset benefits pursuant to Section 2 of this administrative regulation.
2. If the household fails to make a payment pursuant to the established repayment schedule, either a lesser amount or no payment, the cabinet shall allow the household an opportunity to renegotiate the payment schedule.

(c) Reduction in the food stamp allotment. For a participating household, the cabinet shall collect a payment for a claim, unless a repayment schedule has been negotiated, by reducing the household's benefits pursuant to the following criteria:
1. For an inadvertent household error or administrative error claim, the amount of reduction shall be the greater of:
   a. Ten (10) percent of the household's monthly allotment;
   b. Ten (10) dollars per month.
2. For an intentional program violation error claim, the amount of reduction shall be the greater of:
   a. Twenty (20) percent of the household's monthly allotment;
   b. Ten (10) dollars per month.
(d) Federal salary offset procedures:
1. The cabinet shall offset the salary of a federal or United States Postal Service employee who owes an:
   a. Administrative error claim;
   b. Inadvertent household error claim; or
   c. Intentional program violation claim, unless:
      (i) The claim has been paid;
      (ii) The claim is being paid under a current payment agreement; or
      (iii) The claim is not collectible.
2. The federal or United States Postal Service employee shall avoid referral for salary offset if within thirty (30) days of the date of the federal government's advance notice to attach wages:
   a. Payment of the claim is received in full; or
   b. The first installment of fifty (50) dollars or more is received by the cabinet and the debtor continues to pay installment payments of fifty (50) dollars or more on an agreed upon monthly schedule until the claim is paid in full.
3. If any monthly installment of at least fifty (50) dollars is not received by agreed upon month schedule, the claim shall be referred for salary offset with no further right to enter into a voluntary repayment agreement.
4. If a federal or United States Postal Service employee believes that he is not responsible for the claim or that the claim has been paid, he may submit documentation to the cabinet, including:
   a. Payment record; or
   b. Legal bar to collection of a claim.
5. Unless the documentation clearly shows that the claim has been paid or is not legally collectible, the cabinet shall refer the claim for collection from the debtor's salary.
6. A debtor shall have the right to a formal appeal to the Food and Nutrition Service.

(4) An individual who has defaulted on repayment of his debt shall have the debt offset through interception of his:
(a) State income tax return if his claim is identified as:
1. Noncourt established intentional program violation described in Section 5(3)(b), 1, 3, or 4 of this administrative regulation;
2. An inadvertent household error described in Section 5(1) of this administrative regulation;
3. An administrative error described in Section 5(2) of this administrative regulation;
4. Court established fraud pursuant to Section 5(3)(b) of this administrative regulation, that is out of court jurisdiction; and
(b) Federal income tax return if his claim is identified as:
1. Court established fraud as described in Section 5(3)(b) of this administrative regulation;
2. Noncourt established intentional program violation described in Section 5(3)(b), 1, 3, or 4 of this administrative regulation;
3. An inadvertent household error as described in Section 5(1) of this administrative regulation; or
4. An administrative error described in Section 5(2) of this administrative regulation.

(5) Disqualification from the Food Stamp Program shall be imposed on an individual with an intentional program violation claim pursuant to 921 KAR 3:060, Section 10.

(a) Cabinet forms necessary to collect an overpayment are incorporated into this administrative regulation by reference.

Section 11. [8.] Disclosure of Information. Use or disclosure of information including the address, Social Security number, and, if available, photograph obtained from an applicant household, exclusively for the Food Stamp Program, shall be restricted to the following individuals:

(1) A person directly connected with the administration or enforcement of the provisions of:
(a) 7 USC 2011-2025;
(b) A federal assistance program; or
(c) A federally aided state program that provides assistance, on a means-tested basis, to a low income household;
(2) An employee of the Comptroller General's Office of the United States for audit examination authorized by a provision of law; and
(3) A local, state or federal law enforcement official, upon his written request, for the purpose of investigating an alleged violation of 7 USC 2011-2025 or regulations. The written request shall include:
(a) The identity of the person requesting the information and his authority to do so;
(b) The nature of the violation being investigated including a fugitive felon or parole and probation violator; and
(c) The identity of the person about whom the information is requested.

(4) An individual directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the Systematic Alien Verification for Entitlements (SAVE) Program, to the extent the information is necessary to identify the individual for verification purposes.

(5) An individual directly connected with the administration of the Child Support Program, pursuant to 42 USC 651 et. seq., in order to assist in the administration of that program;

(6) Employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits pursuant to:
(a) 42 USC 401 et. seq.; and
(b) 42 USC 1381 et. seq.;

(7) A local, state, or federal law enforcement officer in the investigation of:
(a) A household member who is:
1. Pleading to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony; or
2. Violating a condition of probation or parole imposed under a federal or state law; or
(b) A household member who has information necessary for the apprehension or investigation of another member who meets the criteria pursuant to paragraph (a) of this subsection.

Section 12. [9.] General Program Information. 921 KAR Chapter 3 shall be maintained in the cabinet central and local office for examination by a member of the public on a regular workday during regular office hours. A copy of an administrative regulation may be obtained from the cabinet. Federal laws and regulations shall be maintained by the cabinet central office and the Food and Nutrition Services and shall be available for inspection and copying.

Section 13. [14.] Retention of Records. (1) The cabinet shall retain program records in an orderly fashion, for audit and review purposes, for a period of three (3) years from the date the claim is paid in full, unless the claim is insured for an audit.

(2) The cabinet shall retain fiscal records and accountable documents for three (3) years from the date of fiscal or administrative closure.

Section 14. [14.] Disaster Certification. The cabinet shall distribute emergency benefits to a household within a food stamp county determined to be a disaster area pursuant to:

(1) 42 USC 5122, authorized by the Food and Nutrition Service of the United States Department of Agriculture as a result of a major disaster that is determined by the President of the United States; or

(2) 7 USC 2011-2029, authorized by the Food and Nutrition Service as a result of a lesser disaster, if:
(a) The emergency has resulted either from a natural or human occurrence, which disrupted the commercial channels of food distribution; and
(b) The Food Stamp Program is operational.

Section 15. [12.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KCA-1, General Claims Notice FS-01", edition 8/01 [1998];
(b) "KCA-1, General Claims Notice FS-02", edition 8/01 [1998];
(c) "KCA-1, General Claims Notice FS-03", edition 8/01 [1998];
(d) "KCA-1, General Claims Notice FS-04", edition 8/01 [1998];
(e) "KCA-1, General Claims Notice FS-05", edition 8/01 [1998];
(f) "KCA-1, General Claims Notice FS-06", edition 8/01 [1998];
(g) "KCA-1, General Claims Notice FS-07", edition 8/01 [1998];
(h) "KCA-1, General Claims Notice FS-08", edition 8/01 [7/96];
(i) "KCA-1, General Claims Notice FS-09", edition 8/01 [7/96];
(j) "KCA-1, General Claims Notice FS-10", edition 8/01 [7/96];
(k) "KCA-1, General Claims Notice FS-11", edition 8/01 [7/96];
(l) "KCA-1, General Claims Notice FS-12.1", edition 7/96;
(m) "KCA-1, General Claims Notice FS-12.2", edition 8/01 [7/96];
(n) "KCA-1, General Claims Notice FS-12.3", edition 7/96;
(o) "KCA-1, General Claims Notice FS-20", edition 8/01 [7/96];
(p) "KCA-1, General Claims Notice FS-21", edition 8/01 [7/96];
(q) "KCA-1, General Claims Notice FS-22", edition 8/01 [7/96];
(r) "KCA-1, General Claims Notice FS-23", edition 8/01 [7/96];
(s) "KCA-1, General Claims Notice FS-24", edition 8/01 [7/96];
(t) "KCA-1, General Claims Notice FS-25", edition 8/01 [7/96];
(u) "KCA-1, General Claims Notice FS-30", edition 8/01; and
(v) "FESST-6, Claims Payment Request", edition 8/01 [7/96].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: February 20, 2001
FILED WITH LRC: February 23, 2001 at 1 p.m.
KENTUCKY STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS
(Amended After Hearing)


RELATES TO: KRS 322.340
STATUTORY AUTHORITY: KRS 322.290(13)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(13) requires the board to promulgate administrative regulations to establish rules for the use of electronic stamps, seals, [and] signatures and dates in electronic transactions. [The purpose of this administrative regulation is to prohibit the use of electronic seals, stamps and signatures until the board has investigated and adopted an encryption-protocol that will ensure the integrity of professional documents transmitted electronically. It further enables the board to establish terms for selective use by licensees in the furtherance of the investigation of available protocols.]

Section 1. Definition. "Electronic transmission" shall mean the transmission of electronic computer files over the Internet or electronic mail, and shall include the delivery of computer discs containing electronic computer files.

Section 2. A report, specification, drawing, plan or plat intended for electronic transmission shall not include, nor have embedded therein, an electronic reproduction of the stamp, seal, signature or date of the professional engineer or professional land surveyor.

Section 3. An original seal or stamp, signature, and date shall be placed on printed copies of all reports, specifications, drawings, plans or plats intended for recording or filing with public authorities.

Section 4. Every report, specification, drawing, plan or plat intended for electronic transmission shall have the following inserted in lieu of an image of a seal or stamp, signature, and date: "This shall not be considered a certified document. This document, originally issued, sealed, and signed by (name of sealer), Kentucky Professional (Engineer or Land Surveyor), No. (License Number), on (date of sealing or stamping), shall not be used in lieu of a certified document."

Section 5. This administrative regulation shall not be construed to prohibit the electronic reproduction of a seal, stamp, signature or date on any document or electronic file which is not electronically transmitted or which is not intended for filing or recording with public authorities.

Section 6. This administrative regulation shall not be construed to prohibit a professional engineer or professional land surveyor from electronically transmitting electronic files to a commercial printer or blue print service for the purpose of reproducing document.

Section 7. Under written terms, the board may designate professional engineers, professional land surveyors, or professional business entities permitted under KRS 322.060, to electronically transmit documents containing electronically-encrypted stamps, seals, signatures and dates for the purpose of evaluating encryption protocols. (1) No report, specification, drawing, plan or plat electronically transmitted shall include, or have affixed thereto, an electronic reproduction of the stamp, seal, or signature of the professional engineer or professional land surveyor.

(2) An original seal or stamp, signature, and the date shall be placed on printed copies produced by electronic media for all reports, specifications, drawings, plans or plats produced by any means.

(3) The copy produced by electronic media shall have the following inserted in lieu of an original seal or stamp, signature, and date: "This shall not be considered a certified document. This document, originally issued, sealed, and signed by (name of sealer), Kentucky Professional (Engineer or Land Surveyor), No. (License Number), on (date of sealing or stamping), shall not be used in lieu of a certified document."

(4) Nothing in this administrative regulation shall be construed as preventing the electronic reproduction of a seal on any document which is not electronically transmitted.

(5) Under written terms, the board may selectively designate professional engineers, professional land surveyors, or professional business entities permitted under KRS 322.060, to electronically transmit documents containing electronically-encrypted seals, signatures and dates for the purpose of evaluating encryption protocols]

VALERIE ANNE HUDSON, PE. Chair
APPROVED BY AGENCY: May 29, 2001
FILED WITH LRC: June 1, 2001 at 10 a.m.
CONTACT: B. David Cox, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky, 40601, Phone - (502) 573-2880, Fax - (502) 573-6687, b david.cox@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: B. David Cox, Executive Director

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation relates the electronic transmission of electronic files containing an electronic reproduction of a professional engineer’s or professional land surveyor’s seal, stamp, signature or date.
(b) The necessity of this administrative regulation: KRS 322.290(13) requires the promulgating agency to promulgate administrative regulations to establish rules for the use of electronic stamps, seals, signatures and dates in electronic transactions.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes rules for the use of electronic stamps, seals, signatures and dates in electronic transactions.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes rules for the use of electronic stamps, seals, signatures and dates in electronic transactions.
(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will apply to approximately 14,000 professional engineers and professional land surveyors licensed in this Commonwealth, and to no other entity.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: This administrative regulation is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will apply to approximately 14,000 professional engineers and professional land surveyors licensed in this Commonwealth, and to no other entity.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: There is no anticipated impact on the license governed by this administrative regulation. The use of electronic stamps, seals, signatures and dates in electronic transactions was formerly prohibited by KRS 322.340. The General Assembly, in KRS 322.290(13) has delegated the power to regulate such use. This administrative regulation will continue such prohibition until a secure protocol has been identified by the Governor’s Office on Technology.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There is no cost associated with the implementation of this administrative regulation.
(b) On a continuing basis: There will be no continuing costs associated with the implementation of this administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? The agency receives its funding through the license fees of professional engineers and professional land surveyors.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation will not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the administrative regulation applies equally to all professional engineers and professional land surveyors licensed by the board.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Amended After Hearing)

401 KAR 51:200. Regional NOx emission requirements.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR Part 75, 42 USC 7410, 7511a

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR Part 75, 42 USC 7410, 7511a

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes requirements for electric utility systems to reduce emissions of oxides of nitrogen (NOx) from electric generating units. Those emissions contribute to the formation of ground-level ozone in Kentucky counties that do not meet the one (1) hour National Ambient Air Quality Standard for ozone.

Section 1. Applicability. (1) This administrative regulation shall apply to electric utility systems with one (1) or more electric generating units that are fossil fuel fired boilers, combustion turbines, or combined cycle systems used to generate twenty-five (25) megawatts or more of electricity, if any of the electricity is offered for sale.

(2) This administrative regulation shall not apply to a cogeneration unit that is an exempted utility unit under 40 CFR 72.2.

Section 2. General Provisions. For the purposes of this administrative regulation:

An electric utility system (system) shall be one (1) or more electric generating units (EGUs): (a) Located in Kentucky; and

(b) Under common ownership or control; 

(2) The ozone season control period shall begin on May 1 and end on September 30 of each calendar year; and

(3) Heat input shall be the product (in MMBTU per unit of time) of the gross calorific value of the fuel (in BTUlb) and the fuel feed rate into a combustion device (in mass of fuel per unit of time) and shall not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

Section 3. Designation of Authorized Account Representative. Each system shall designate an authorized account representative for the purpose of: (1) Submitting compliance plans, compliance certification reports, and emergency notifications to the cabinet; and

(2) Serving as the contact person for the system in matters related to the requirements of this administrative regulation.

Section 4. NOx Emission Standard. (1) Beginning May 31, 2004 [1-1-2004] and annually thereafter, systems shall achieve a system-wide average NOx emission rate that does not exceed 0.25 lb/MMBTU heat input for the ozone season control period.

(2) To demonstrate compliance, the system shall show that the sum of the total NOx emissions from all applicable EGUs in the system, in pounds, divided by the sum of the total heat input generated by these units, in MMBTU, is less than or equal to an average NOx emission rate that does not exceed 0.25 lb/MMBTU heat input for the ozone season control period.

(3) NOx emissions shall be monitored using a method specified in Section 6 of this administrative regulation.

Section 5. Compliance Plans and Certification Reports. (1) No later than May 31, 2004 [April 1, 2003], and annually thereafter, the authorized account representative for each system shall submit a compliance plan for the current year to the cabinet that contains the following information: (a) The identification of the system;

(b) The estimated heat input for each EGU for the ozone season control period, in MMBTU;

(c) The estimated allowable NOx emissions for each EGU for the ozone season control period, in tons, calculated as follows:

\[ \text{NOx estimated allowable} = \left( \text{Heat Input estimated} \times \frac{0.25 \text{ lb}}{1 \text{ ton}} \times \frac{1 \text{ ton}}{2000 \text{ lb}} \right) \]

2. Where:

a. NOx estimated allowable is the estimated allowable NOx emissions, in tons; and

b. Heat Input estimated is the estimated heat input, in MMBTU;

d. The supporting calculations showing how the values for estimated heat input and estimated allowable NOx emissions for each EGU were determined;

e. A demonstration of how the system shall meet the system-wide average NOx emission rate of 0.25 lb/MMBTU for the ozone season control period; and

(f) A full description of any alternative monitoring methods to be used if the methods are not already described in 40 CFR Part 75; and

g. Administrative information for the authorized account representative as follows:

1. Name;

2. Address;

3. Telephone number;

4. Signature;

5. Signature date; and

6. Certification language that reads, "I certify that, following reasonable inquiry and to the best of my knowledge, the information contained in this document is complete and accurate."

(2) No later than January 31, 2005 [2004], and annually thereafter, the authorized account representative for each system shall submit a compliance certification report to the cabinet that contains the following information:

(a) The identification of the system;

(b) The actual heat input for each EGU for the ozone season control period, in MMBTU;

(c) The actual NOx emissions generated by each EGU unit during the ozone season control period, in tons;

d. The actual average NOx emission rate for the system for the ozone season control period, in lb/MMBTU, calculated as follows:

\[ \text{NOx actual} = \left( \frac{\text{NOx total actual}}{\text{Heat Input total actual}} \times \frac{2000 \text{ lb}}{1 \text{ ton}} \right) \]

1. Where:

a. NOx actual is the actual average NOx emission rate, in lb/MMBTU;

b. NOx total actual is the total actual NOx emissions, in tons; and

c. Heat Input total actual is the total actual heat input, in MMBTU;

e. The total NOx emission credits generated by the system as calculated in accordance with Section 7 of this administrative regulation, in tons;

(f) If applicable, the amount of NOx emission credits traded, in tons, and the systems:

1. To which NOx emission credits were assigned; or

2. From which NOx emission credits were acquired;

(g) The adjusted average NOx emission rate for the system after trading, in lb/MMBTU, calculated as follows:
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\[
\text{R}_{\text{adjusted}} = \left( \frac{\text{NOx total actual} - \text{NOx credits}}{\text{Heat Input total actual}} \right) \left( \frac{2000 \text{lb}}{1 \text{ ton}} \right)
\]

2. Where:
   a. \( R_{\text{adjusted}} \) is the adjusted average NOx emission rate, in lb/MMBtu;
   b. \( \text{NOx total actual} \) is the total actual NOx emissions, in tons;
   c. \( \text{NOx credits} \) is the total acquired NOx emission credits, in tons; and
   d. \( \text{Heat Input total actual} \) is the total actual heat input, in MMBtu;

   (h) The supporting calculations showing how the information listed in paragraphs (b) to (g) of this subsection [paragraph] was determined:
   (i) NOx emission monitoring data for each EGU in the system for the ozone season control period measured in accordance with Section 6 of this administrative regulation;
   (j) If the method is not described in 40 CFR Part 75, a full description of any alternative monitoring method used; and
   (k) Administrative information for the authorized account representative as follows:
      1. Name;
      2. Address;
      3. Telephone number;
      4. Signature;
      5. Signature date; and
   6. Certification language that reads, "I certify that, following reasonable inquiry and to the best of my knowledge, the information contained in this document is complete and accurate."

Section 6. Monitoring Requirements. Systems shall monitor NOx emissions during the ozone season control period using one (1) of the following methods:
   (1) A continuous emission monitoring system (CEMS) that meets the requirements of 40 CFR Part 75;
   (2) An alternative method as described in 40 CFR Part 75; or
   (3) An alternative method currently in use and approved by the cabinet.

Section 7. NOx Emission Credits and Trading. (1) Systems shall be entitled to NOx emission credits equal to the total allowable NOx emissions generated by the system minus the total actual NOx emissions for the system, where:
   (a) \( \text{NOx total allow} = \left( \frac{\text{Heat Input total actual}}{\text{NOx total actual}} \right) \left( \frac{0.25 \text{ lb}}{\text{MMBtu}} \right) \left( \frac{1 \text{ ton}}{2000 \text{ lb}} \right) \)
   where:
      1. \( \text{NOx total actual} \) is the total allowable NOx emissions, in tons; and
      2. \( \text{Heat Input total actual} \) is the total actual heat input, in MMBtu;
   (b) \( \text{NOx total actual} = \left( \frac{\text{Heat Input total actual}}{\text{R}_{\text{actual}}} \right) \left( \frac{1 \text{ ton}}{2000 \text{ lb}} \right) \)
   where:
      1. \( \text{NOx total actual} \) is the total actual NOx emissions, in tons;
      2. \( \text{Heat Input total actual} \) is the total actual heat input, in MMBtu; and
      3. \( \text{R}_{\text{actual}} \) is the actual average NOx emission rate, in lb/MMBtu.
   (2) Systems may trade NOx emission credits for the purpose of achieving a system-wide average NOx emission rate that does not exceed 0.25 lb/MMBtu for the ozone season control period.
   (3) NOx emission credits shall not be obtained from EGUs located in other states.
   (4) The balance of NOx emission credits that remains at the end of the ozone season control period, after all trading has been conducted, shall not be carried over to the next ozone season control period.

Section 8. Emergency Provisions. (1) A system may declare an emergency if one (1) or more of the system’s EGUs becomes inoperable.
   (2) If a system declares an emergency, the authorized account representative shall promptly notify the cabinet in writing of the emergency and provide the following information:
      (a) When the emergency was declared;
      (b) Why the emergency was declared;
      (c) Which EGUs were affected;
      (d) What measures will be taken to remedy the emergency situation; and
      (e) Administrative information for the authorized account representative as follows:
         1. Name;
         2. Address;
         3. Telephone number;
         4. Signature;
         5. Signature date; and
   6. Certification language that reads, "I certify that, following reasonable inquiry and to the best of my knowledge, the information contained in this document is complete and accurate."

   (3) If an emergency is declared, the tons of total actual NOx emissions generated by the system for the ozone season control period shall not exceed the tons of total estimated allowable NOx emissions that were projected to be emitted by the system if the EGU had remained in service, and this shall be demonstrated in the compliance certification report required under Section 5(2) of this administrative regulation.

Section 9. Recordkeeping. (1) Each system shall maintain the following records:
   (a) Compliance plan;
   (b) Compliance certification report;
   (c) All records relating to NOx emission monitoring methods, heat input, and NOx emissions used to verify the average NOx emission rate; and
   (d) All records related to emergency situations.
   (2) These records shall be:
      (a) Maintained on site for a period of five (5) years; and
      (b) Made available for inspection on request by the cabinet or the U.S. EPA.

Section 10. Reporting. Documents that are required to be submitted to the cabinet shall be mailed to:
   (1) Manager, Enforcement Branch, Kentucky Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382; and
   (2) The appropriate Regional Office of the Division for Air Quality listed as follows:
      (a) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2066;
      (b) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (270) 786-7475;
      (c) Florence Regional Office, 8200 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 525-4923 [626-6411];
      (d) Frankfort Regional Office, 643 Teton Trail, Suite B, Frankfort, Kentucky 40601, (502) 564-3358;
      (e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;
      (f) London Regional Office, 575 S. Main Street, London, Kentucky 40441, (606) 878-0157;
      (g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 687-7304; gr [and]
      (h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (270) 898-8468.

JAMES E. BICKFORD, Secretary
APPROVED BY AGENCY: May 18, 2001
FILED WITH LRC: May 18, 2001 at 9 a.m.
CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382 fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact person: Millie Ellis
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative
regulation establishes requirements for Kentucky's electric utility industry to reduce emissions of oxides of nitrogen (NOx) to a state-wide state average NOx emission rate of 0.25 pounds per million BTU (lb/MMBtu) heat input by May 31, 2004.

(b) The necessity of this administrative regulation: This administrative regulation reduces NOx emissions from electric generating units, which contribute to the formation of ground-level ozone in Kentucky counties that do not meet the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone. The state-wide implementation of this administrative regulation is an integral part of the cabinet's November 12, 1999, State Implementation Plan (SIP) demonstration, which Kentucky submitted to prevent the redesignation of the Louisville non-attainment area from moderate to serious for ozone.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides for the abatement and control of NOx emissions from Kentucky's electric utility industry, which contribute to the formation of ground level ozone in Kentucky counties that do not meet the 1-hour NAAQS for ozone.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is integral part of the cabinet's November 12, 1999, State Implementation Plan (SIP) demonstration, which Kentucky submitted to prevent the redesignation of the Louisville non-attainment area from moderate to serious for ozone. The proposed amendment will make this administrative regulation applicable by the U.S. EPA and will assist the Commonwealth in meeting the 1-hour NAAQS for ozone in Kentucky counties that do not meet the standard.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the existing administrative regulation by revising the compliance date for electric generating units to reduce NOx emissions to a state-wide mean of 0.25 pounds of NOx per million BTU heat input from April 1, 2003, to May 31, 2004.

(b) The necessity of the amendment to this administrative regulation: This amendment will revise the compliance date for electric generating units to reduce NOx emissions to a state-wide mean of 0.25 pounds of NOx per million BTU heat input from April 1, 2003, to May 31, 2004.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by revising the compliance date for electric generating units to reduce NOx emissions to a state-wide mean of 0.25 pounds of NOx per million BTU heat input from April 1, 2003, to May 31, 2004.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the Commonwealth in meeting the 1-hour NAAQS for ozone in counties that do not meet the standard.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. A review of the cabinet's records indicates that there are 21 utilities currently operating which are potentially affected.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation impacts all electric utility systems that own or operate 1 or more electric generating units (EGUs) located in Kentucky and subject to Kentucky's November 12, 1999, State Implementation Plan (SIP) demonstration for the Louisville ozone non-attainment area. The SIP demonstration calls for a state-wide average NOx emission rate from EGUs of 0.25 lb/MMBtu heat input to be achieved no later than the amended date of May 31, 2004. EGUs subject to the administrative regulation are those which are fossil fueled boilers, combustion turbines, or combined cycle systems used to generate 25 megawatts or more of electricity, if any of the electricity is offered for sale. The administrative regulation establishes provisions for systems to generate NOx emission credits which may be traded for the purpose of achieving a system-wide average NOx emission rate that does not exceed 0.25 lb/MMBtu for each ozone season control period. While this administrative regulation will entail significant additional costs to utilities, the trading provisions will enable subject sources to meet the require-ments of the administrative regulation more efficiently and effectively. The amended compliance date will allow EGUs subject to the administrative regulation additional time to reduce NOx emission rates.

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

(a) Initially: There are no new initial costs for the implementation of this amendment to the administrative regulation.

(b) On a continuing basis: There are no known continuing costs related to this amendment to the administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The division will absorb all costs for the implementation and enforcement of this amendment to the administrative regulation in its operating budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This amendment to the administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(g) TIERING: Is tiering applied? Tiering is not applied. In accordance with Kentucky's November 12, 1999, SIP demonstration for the Louisville ozone non-attainment area, the administrative regulation is applicable to all electric generating units meeting the applicability determination of Section 1 of the administrative regulation, and therefore tiering is not applied.

FEDERAL MANDATE ANALYSIS COMPARISON

Contact person: Millie Ellis

1. Federal statute or regulation constituting the federal mandate. The federal mandate is contained in the Clean Air Act at 42 USC 7401 to 7511a.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, and 224.20-110.

3. Minimum or uniform standards contained in the federal mandate. 42 USC 7401 to 7511a requires each state to have a State Implementation Plan (SIP) that achieves and maintains the National Ambient Air Quality Standards (NAAQS). It also provides the U.S. EPA with authority to assess the adequacy of SIPs. If the U.S. EPA finds a SIP to be inadequate, it may provide an opportunity for the state to amend its SIP or plan to make it adequate or it may replace the plan with a Federal Implementation Plan (FIP). This administrative regulation implements a requirement of Kentucky's SIP demonstration for the Louisville ozone non-attainment area that was submitted to the U.S. EPA on November 12, 1999.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation will impose no more stringent requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation would affect any unit, part or division of local government operating a unit that meets the applicability determination of Section 1 of this administrative regulation.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will affect any government-owned EGUs that generate 25 megawatts or more of electricity, some of which is offered for sale.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is in effect. If specific dollar esti-
mates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There are no known effects on current revenues. Expenditures (+/-): Although it cannot be quantified, this administrative regulation will no doubt result in a minor increase in the cost of electricity which will be absorbed by all consumers, including local governments.

Other Explanation: There is no further explanation.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Financial Management and Analysis
(Amended After Hearing)

907 KAR 1:021. Amounts payable for drugs.

RELATES TO: KRS 205.560, 205.561, 205.5631, 205.5632, 205.5633, 205.5636, 205.5639, 217.015, 311.555, 311.560, 42 CFR 440.120, 447.331, 447.332, 447.333, 42 USC 256b, 1396a-d
STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050, 205.520(3), 205.560, 205.561
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.560 authorizes the cabinet to administer the 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 administrative regulation establishes the method for determining amounts payable by the department for drugs.

Section 1. Definitions. (1) "Dispensing fee" means a professional fee paid to reimburse a pharmacy for costs associated with the dispensing of a prescribed drug.

(2) "Non-solid dosage form" means a covered drug item other than an oral tablet, [or] capsule, or [or] inhaler [form].

Section 2. Reimbursement Limits. (1) Reimbursement to a participating provider shall be comprised of a dispensing fee and the cost of the drug product.

(2) Reimbursement to a pharmacy participating in the Medicaid Program for a drug contained on the Kentucky Medicaid Program drug file, established in 907 KAR 1:019, and provided to an eligible recipient shall be determined in accordance with the following requirements:

(a) An appropriate rebate agreement shall be signed by the drug manufacturer or the drug shall be provided based on a prior authorized exemption from the rebate requirement in accordance with 907 KAR 1:020.

(b) Drug costs shall be determined in the pharmacy program using a computerized price listing service with pricing based on the actual package size utilized.

(c) Except as provided in paragraph (d) of this subsection, reimbursement for a drug cost shall be the lesser of:

1. The federal maximum allowable cost (FMAC) plus a dispensing fee and unit dose add-on as appropriate (and unit dose add-on if appropriate);

2. The estimated acquisition cost (EAC) which shall equal the average wholesale price (AWP) minus ten (10) percent plus a dispensing fee and unit dose add-on as appropriate (and unit dose add-on as appropriate);

3. The usual and customary billed charge.

(d) If a prescription has handwritten "brand medically necessary" or "brand necessary" on the prescription, the reimbursement shall be the lesser of:

1. The estimated acquisition cost (EAC) which shall equal the average wholesale price (AWP) minus ten (10) percent plus a dispensing fee and unit dose add-on as appropriate (and unit dose add-on as appropriate);

2. The usual and customary billed charge.

(e) Reimbursement shall be denied if:

1. The recipient is ineligible on the date of service;

2. The National Drug Code (NDC) number meets the criteria established in 907 KAR 1:019, Section 2(2); or

3. The prior authorization is denied; or

4. The quantity is inappropriate.

(f) For a nursing facility resident meeting Medicaid patient status criteria in accordance with 907 KAR 1:022, there shall not be more than one (1) dispensing fee allowed per drug within a calendar month for a drug classified as the Medicaid Program as a maintenance drug unless the prescriber dosage has been changed;

1. One (1) dispensing fee allowed per drug within a calendar month for a drug classified as the Medicaid Program as a maintenance drug unless the prescriber dosage has been changed;

2. Except as specified in subparagraphs 1 and 3 of this paragraph, two (2) dispensing fees allowed per drug within a calendar month for other drugs; and

3. Four (4) dispensing fees per drug within a calendar month for a non solid dosage form, [including a topical medication preparation] Schedule II, III, or IV controlled substance or a legend intravenous drug.

(g) For a nursing facility resident meeting Medicaid patient status criteria and if appropriate and in accordance with 201 KAR 2:190 and 602 KAR 55:065, an unused drug, paid for by Medicaid, shall be returned to the originating pharmacy and the department shall be credited for the cost of the drug and the unit dose packaging cost (and the unit dose packaging cost).

(h) An item not billable through the Pharmacy Program, in accordance with 907 KAR 1:019, Section 2(2)(e), shall, if otherwise allowed in accordance with 907 KAR 1:025, considered a routine cost to the nursing facility. A pharmacy may bill a nursing facility for a drug not billable through the Pharmacy Program and the nursing facility may increase the cost of the item as a routine cost on its cost report.

(i) For an outpatient or personal care recipient [for a nursing facility resident meeting Medicaid patient status criteria] established in 907 KAR 1:022 or a nonresident of a nursing facility, there shall not be more than:

1. One (1) dispensing fee allowed per drug per calendar month for a drug classified by the Medicaid Program as a maintenance drug unless there is an [a maintenance] exception [as described in subparagraph 3 of this paragraph];

2. Four (4) dispensing fees allowed per drug within a calendar month for a legend intravenous drug or a schedule II, III or IV controlled substance; or

3. a. Two (2) dispensing fees allowed per drug within a six (6) month period for a refill of a maintenance prescription requested less than thirty (30) days from the last date the medication was dispensed;

b. Four (4) dispensing fees allowed per maintenance drug in one (1) month if a prescriber requests to prescribe less than a thirty (30) day supply [an exception to the thirty (30) day supply] based on medical necessity, best practice standards, and appropriateness of care.

(j) The limitation on the number of dispensing fees shall not have the effect of placing a limit on the quantity of reimbursable drug for which the program shall pay for a patient, since the reasonable cost of the drug shall be reimbursable as a covered service in a quantity considered medically necessary for the patient.

(k) Reimbursement shall not be made for more than one (1) prescription to the same recipient on the same day for a drug with the same:

1. NDC; or

2. Generic name, strength, and dosage form.

(3) For a recipient participating in a hospice program, payment for a drug shall be in accordance with 907 KAR 1:340 [made by the hospice agency].

(4) Reimbursement to a hospital for a drug provided to an eligible recipient shall be on the basis of reasonable cost pursuant to 907 KAR 1:013.

(5) A pharmacy claim shall meet the point of sale (POS) requirements for services in accordance with 907 KAR 1:673.

(6) If a payment is made for a prescription refill for which there is no authorization, the provider shall reimburse the department.

(7)(a) A timely claim payment shall be processed in accordance with 42 CFR 447.45.

(b) A claim in which retroactive eligibility is established shall be submitted up to twelve (12) months from the issue date noted on the recipient's medical assistance identification card. If the date of service is greater than twelve (12) months old, the claim shall be submitted as a paper claim with a copy of the retroactive medical assistance identification card attached.

(8)(a) Pursuant to KRS 205.362, prior to billing the department, a
provider shall submit a bill to Medicare if the provider has knowledge that Medicare may be liable for payment.

(b) Adherence to the provision established in paragraph (a) of this subsection shall be monitored through an on-site audit or a postpayment review of the claim.

(9)(a) If the medical assistance identification card indicates that the recipient has additional insurance, the provider may submit a bill to the third party or the department.

(b) A provider who is aware that the recipient who has other insurance, but no insurance is indicated on the medical assistance identification card, shall submit a Third-party Liability Lead Form to the department’s fiscal agent.

(10) Adherence to the requirements established in this section shall be monitored through an on-site audit, postpayment review of the claim, a computer audit or an edit of the claim.

Section 3. Dispensing Fees. (1) Except as provided in subsection (2) of this section, based on the conclusion of the dispensing fee study of the annual report conducted in accordance with KRS 205.561, [1] Except as provided in subsection (2) of this section, the dispensing fee shall be four (4) dollars and fifty-nine cents (59) cents per prescription for a drug reimbursed through the outpatient program as determined by an eligible recipient, including an eligible recipient in a nursing facility meeting the appropriate patient status criteria requirements established in 907 KAR 1:012.

(a) For an eligible recipient in a nursing facility meeting the appropriate patient status criteria requirements established in 907 KAR 1:022, a unit dose addition to the usual dispensing fee shall be made for a drug dispensed through the pharmacy outpatient drug program in the amount of:

1. Two (2) cents per unit dose for a unit dose drug packaged in unit dose form by the manufacturer; and
2. Four (4) cents per unit dose for a unit dose drug packaged in unit dose form by the pharmacist.

(b) The unit dose dispensing fee amount shall be paid, as appropriate, even though the usual dispensing fee of four (4) dollars and fifty-nine (59) cents is not paid due to monthly limits on dispensing fees.

(2) For an eligible recipient in a nursing facility meeting the appropriate patient status criteria requirements established in 907 KAR 1:022, the dispensing fee shall be five (5) dollars and seventy-five (75) cents per prescription for a drug reimbursed through the Outpatient Drug Program.

(a) For a recipient identified in this subsection, a unit dose addition to the usual dispensing fee shall be made for a drug dispensed through the pharmacy outpatient drug program in the amount of:

1. Two (2) cents per unit dose for a unit dose drug packaged in unit dose form by the manufacturer; and
2. Four (4) cents per unit dose for a unit dose drug packaged in unit dose form by the pharmacist.

(b) The unit dose dispensing fee amount shall be paid, as appropriate, even though the usual dispensing fee of five (5) dollars and seventy-five (75) cents is not paid due to monthly limits on dispensing fees.

Section 4. Reimbursement to Dispensing Physicians. (1) A participating dispensing physician who practices in a county where a pharmacy is not located shall be reimbursed for the cost of the drug, with the cost computed:

(a) As the lesser of:
1. The maximum allowable cost or estimated acquisition cost established in Section 2(2) of this administrative regulation; or
2. The physician’s usual and customary charge to the general public for the drug; or
(b) In accordance with 907 KAR 3:010 For a free immunization through the Vaccine for Children’s [Vaccine] Program.

ELLEN M. HESEN, Interim Commissioner
MARcia R. MORGAN, Interim Secretary
APPROVED BY AGENCY: June 6, 2001
FILED WITH LRC: June 7, 2001 at noon

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Agency Contact Person: Sharon Rodriguez

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the method for determining amounts payable by the Department for outpatient drugs.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with federal and state laws requiring provision of medical services to Kentucky’s indigent citizenry.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides the authority for the Department for Medicaid Services to reimburse providers for outpatient drugs.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the method by which the Department for Medicaid Services will reimburse providers for outpatient drugs.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment reduces the dispensing fee payable to pharmacies for outpatient drugs.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the conclusions of the annual dispensing fee study conducted in accordance with KRS 205.561.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment implements the reduction in dispensing fees based on the conclusions of the dispensing fee study conducted in accordance with KRS 205.531.
(d) How the amendment will assist in the effective administration of the statutes: This amendment provides the authority to implement a reduction in the pharmacy dispensing fee to be reimbursed by the Department for Medicaid Services.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All Medicaid outpatient pharmacy providers (approximately 1,231 pharmacies).

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the changes it if it is an amendment: This administrative regulation will decrease the dispensing fee paid for each prescription dispensed by outpatient providers.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: There are no additional costs involved in the implementation of this regulation. The uniform dispensing fee of $4.51 established in this regulation represents a reduction of $1.41 for regular prescriptions and $1.42 for long term care prescriptions. Based on a review of this change, the Department for Medicaid Services anticipated a decrease in expenditures of $2,600,004 ($765,701 state funds and $1,834,303 federal funds) in FY 2001 and $5,200,009 ($1,563,123 state funds and $3,636,886 federal funds) in FY 2002 due to the reduction in pharmacy dispensing fees. This amount may be higher or lower based upon actual utilization.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations and collections.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation reduces dispensing fees paid to pharmacies by the Department for Medicaid Services.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as...
Sections 2 and 3 of the Kentucky Constitution.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amended After Hearing)

922 KAR 2:110. Child care facility provider requirements.

RELATES TO: KRS 17.165, 61.872 to 61.884, 199.894 to 199.898, 214.010, 214.036, EQ 2000-1104

STATUTORY AUTHORITY: KRS [194.650(2)] 199.896(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.896(2) grants authority to the Cabinet for Families and Children to establish administrative regulations and standards for day care of children. The function of this administrative regulation is to establish provider requirements for child day care facilities.


(2) Child care facility Staff shall be;
(a) Instructed by the facility's director regarding [in-the] requirements for operation; and
(b) Provided with a copy of this administrative regulation and 922 KAR 2:090 and 922 KAR 2:120 [the minimum standards shall be available for their use].

(3) Information concerning a child, his parent, or person exercising custodial control [children, their parents, relatives, or guardians] shall be kept in strict confidence by child care facility [the] staff, except as otherwise required by law.

(4) A volunteer [Volunteers] shall comply with the policies and procedures of the facility.

(5) Program policies and procedures shall;
(a) Be in writing; and
(b) [shall] include;
(1) Staff [personnel] policies;
(2) Job descriptions;
(3) An [that] organization chart;
(4) [that] Chain of command; [and]
(5) Other procedures necessary to ensure implementation of this administrative regulation, 922 KAR 2:090, 922 KAR 2:120, and KRS 199.898, pertaining to the operation of the facility.
(6) An activity of a person [Activities of person] living in a child care facility that is a [the] dwelling unit shall not interfere with the day care program.

(7) [Good personal hygiene shall be practiced by persons in the facility.]

(a) Caregivers shall wash hands with soap and warm running water after diapering or toiletting each child.

(b) Caregivers shall wash hands with soap and warm running water immediately before feeding children.

(c) Caregivers shall provide adequate supervision of children while in the care of the facility.

(d) The services to be provided within the facility shall be clearly stated when the application is made. A written statement of services, program [and] policies, and procedures shall be given to the child's parent or person exercising custodial control at the time of application for enrollment.

(8) A parent or person [parents,]

(a) Parents or person exercising custodial control of a child shall be permitted to visit the child care facility during regular hours of operation.

(b) A child care facility shall post the following in a conspicuous place available for public inspection:

(a) Each statement of deficiency issued by the Cabinet for Health Services during the current licensure year;

(b) Each plan of correction submitted by the facility to the Cabinet for Health Services during the current licensure year;

(c) A description of the services provided by the facility, including:

1. Current rates for child care; and
2. Each service charged separately and in addition to the basic rate for child care; and

(d) A copy of the rights for children and their parents, custodians, or guardians as described in KRS 199.898.

(e) Subsection (a) of this section shall not be construed to limit access to public records otherwise allowed pursuant to the provisions of KRS 61.872 through 61.884.

(f) The director of a child care facility shall be responsible for the following:

(a) Development of a child care program [that which] meets the requirements of this administrative regulation, 922 [and 906] KAR 2:090 and 922 KAR 2:120 and KAR 2:130;

(b) Development of facility plans, policies, and procedures;

(c) Supervision of staff [personnel and their] conduct to ensure implementation of program policies and procedures at the facility;

(d) [Conducting] out-of-facility management [of staff meetings];

(e) Conducting and managing [and management of staff meetings];

(f) Evaluating [evaluation of] the instructional activity of each [activity of] staff person;

(g) Ensuring [that] each additional staff of [is] available during cooking and or cleaning hours if necessary to maintain staff-to-child [staff-child] ratios pursuant to [as governed by] 922 KAR 2:120, Section 1, and

(h) Providing for the (三亚) Protection of health, safety and comfort of each child; children;

(i) Immediate notification of an accident or incident requiring medical treatment of a child to the;

1. Parent; or
2. Person exercising custodial control; or
3. If the parent or person exercising custodial control is unavailable, family physician;

(j) Assurance that a new employee or new volunteer shall not be left alone with a child if the licensee has not received the results of the new employee or volunteer's; and
1. Criminal records check conducted by the Justice Cabinet or the Administrative Office of the Courts; or

2. Child abuse or neglected check conducted by the Cabinet for Families and Children; and

(k) Assurance that each mandatory record specified in Section 2 of this administrative regulation has not been altered or falsified.

Section 2. Records. [4] The following records shall be maintained at the child care facility for five (5) years:

(1) [a] Sufficient records to;

(a) Identify each child enrolled in the facility;

(b) The individual children, and to; Enable the person in charge to contact;

1. Each child's parent or person exercising custodial control at;

2. [communicate with the parents or person designated as being responsible for the child either at home,] or

3. Place of employment; [and]

4. [in a medical emergency, with] The family physician;

(b) Each child's medical history, along with authorization for emergency medical care, signed by the parent or person exercising custodial control [guardian] and left with the facility director at enrollment;

(e) Except as provided in KRS 214.036, a current immunization certificate showing that the child is immunized pursuant to [in accordance with] 902 KAR 2:090 shall be on file within thirty (30) days of enrollment [admission];

(d) [e] Permit forms for each trip [trips] off the premises signed by the parent or person exercising custodial control [guardian];

(e) [e] Daily attendance records documenting the arrival and departure time of each child [of children];

(f) For each staff person;

[a] In [or employee] A copy of the result of a negative tuberculin skin test [or Chest X-ray] prior to employment and every two (2) years thereafter;

4. A physician's statement prior to employment and every two (2) years thereafter documenting the individual is free from tuberculosis;

4. [f] A written schedule of staff working hours;

[i] Written record [records] of training participation for each child care center staff person [employee], including the training.
source, location, date, and number of clock hours obtained; (9) (i) A written plan for staff development; (ii) A written record of quarterly, practiced [fire] earthquake and tornado drills; (11) A written record of practiced fire drills conducted in accordance with the Life Safety Code, incorporated by reference in 815 KAR 10:806; (12) (i) A written plan and [or] diagram outlining the course of action in the event of natural or manmade disaster posted in a prominent place; (13) (i) Results of the criminal records check and search by the Cabinet for Families and Children for a substantiated incident of abuse or neglect of a child pursuant to KRS 199.896(19); and (ii) Each facility shall obtain a criminal records check directly from the Justice Cabinet prior to initial employment of staff with supervisory or disciplinary authority over a minor, including cooks, bus drivers, substitues and volunteers. If the volunteer does not replace staff, is never alone with children, and has no supervising responsibility, he shall not be considered a volunteer for the purpose of criminal records checks; (14) (132) [m] A written report of complaints to the Cabinet for Health Services required in Section 4(1) of this administrative regulation; and (15) The facility shall post the following in a conspicuous place to be available for public inspection: (1) A copy of the statement of deficiencies reports the facility has received from the Cabinet and the plans of correction for the licensee year and permit interested parties to inspect facility files relating to deficiency statements and plans of correction; (2) A description of the services currently provided by the facility; (3) A listing of the rates currently charged for services provided by the facility; (4) A listing together with the charges for the services and items not included in the basic rate for which parents may be charged separately; and (5) A copy of children and parental rights pursuant to KRS 199.896. (2) Subsection (1)( ) of this section shall not be construed to limit access to public records otherwise allowed pursuant to the provisions of KRS 61.872 to 61.884.

Section 3. Staff Requirements. (1) A director of a Type I facility providing child care shall: (a) Be twenty-one (21) years of age; (b) Have a high school diploma or a General Equivalency Diploma (GED); and (c) Not be employed in a position other than an on-site [a] child care director or director of multiple facilities during the hours the day care facility is in operation; and (d) Meet one (1) of the following requirements: 1. Master's degree in Early Childhood Education and Development; 2. Bachelor's degree in Early Childhood Education and Development; 3. Master's degree or a bachelor's degree in a field other than Early Childhood Education and Development including a degree [degree] in pastoral care and counseling, plus twelve (12) clock hours of child development training; 4. Associate degree in Early Childhood Education and Development; and (e) Meet one (1) of the following requirements: a. A school-based program following Department of Education guidelines; b. An early childhood development program (head start); or c. A licensed or certified child day care; 5. Associate degree in a field other than Early Childhood Education and Development, plus twelve (12) clock hours of child development training, and [plus] two (2) years of verifiable full-time paid experience working directly with children in [a]: a. A school-based program following Department of Education guidelines; b. An early childhood development program (head start); or c. Licensed or certified child day care; 6. Good personal hygiene shall be practiced by child care facility staff; 7. A staff person's hands shall be washed with liquid soap and running water; 1. After diapering or toiletting each child; and 2. Immediately before feeding each child; 8. Three (3) years of verifiable full-time paid experience working directly with children in a: a. School-based program following Department of Education guidelines; b. An early childhood development program (head start); or c. Licensed or certified child day care; (2) A director of a Type II facility providing child care shall: (a) Meet the requirements for a Type I facility; or (b) Be twenty-one (21) years of age; and (c) Have a high school diploma or GED; and (d) Have twelve (12) hours of orientation and child development training; (e) Not be employed in a position other than a child care director during the hours the day care facility is in operation; and (f) Meet one (1) of the following requirements:

1. Certificate in child development services from Kentucky Tech or local school system (Dictionary of occupational title, child care assistant); 2. One (1) year of verifiable paid experience working directly with children in a: a. School-based program following Department of Education guidelines; b. [An] Early childhood development program (head start); or c. Licensed or certified child day care; or 3. Obtain six (6) additional hours of training in child day care program administration. (3) A director of a licensed child care facility providing child day care on the effective date of this administrative regulation shall be deemed to have met the qualifications under subsections (1) and (2) of this section. (4) The following staff requirements shall apply to a child care facility: (a) Staff shall provide adequate supervision of each child in the care of the facility; (b) A facility shall not employ a person: 1. Convicted of a crime as defined in KRS 17.165(5); or 2. Convicted of a crime involving the abuse, neglect, or exploitation of a child or adult; (c) A staff person present with the children shall be on duty who is currently certified in: 1. Infant and child cardiopulmonary resuscitation (CPR) by a training agency with acceptable standards and training material on file with the Cabinet for Health Services; and (i) The American Red Cross; (ii) The American Safety Council; or (iii) The American Heart Association; (c) Infant and child first aid by a training agency with acceptable standards and training material on file with the Cabinet for Health Services; and (d) Infant and child cardiopulmonary resuscitation (CPR) and first aid: (i) The American Red Cross; or (ii) The American Safety Council; 2. This subsection shall be enforced beginning July 1, 1994. This subsection may be revised by administrative regulation to a date prior to July 1, 1994, contingent upon accessibility of training in all areas of the Commonwealth.
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...rules shall be available in case of need. The licensee shall assure that:
(a) Each substitute meets all staff requirements of this administrative regulation; and
(b) Documentation required to verify a substitute’s compliance with this administrative regulation is on file in the facility.
(c) If a qualified substitute works in more than one (1) licensed child care center under different ownership, the substitute shall present to each facility upon employment:
1. Proof that the individual is free of tuberculosis;
2. Documentation that the individual has met the annual training requirement; and
3. A copy of the results of the individual’s:
   a. Criminal records check, conducted within the past year; and
   b. Child abuse or neglect check, conducted within the past year.
   (7) In a type II facility:
   1. At least one (1) qualified substitute shall be available in case of need; or
   2. If the operator of a type II facility is unable to provide care in accordance with this administrative regulation, 922 KAR 2:090 or 922 KAR 2:120, the type II facility shall close temporarily until the operator is able to resume compliance.
   (b) [ ]
   (e) The minimum of adult workers in a child care facility shall be sufficient to ensure that:
(a) Each child receive adequate supervision;
(b) Each staff person [minors] under eighteen (18) years of age and student trainees [trainees are] under the direct supervision of a permanent staff person; and
(c) Each [ ] person under the age of sixteen (16) shall not be counted as staff for the staff-to-child ratio,
   (9) Except for medication prescribed by a physician, a: [ ]
   (i) controlled substance [substances] or alcohol use shall not be permitted on the premises during hours of operation,
(10) [ ]
   (g) Smoking shall:
   1. Be permitted only in designated areas; and
   2. Be permitted in the presence of a child.
(11) Each staff person [away from the children];
   (h) Staff members shall remain awake while on duty except as specified in 922 KAR 2:120, Section 1(11)(h).
(12) For each adult residing at [6(9)]; and
(i) Require for a child care facility that is the full-time residence of a [the licensees] the results of the following shall be maintained that adults living in the home have on file at the facility:
   (1) Criminal records check indicating that the adult has not been convicted of a crime as defined in KRS 17:1565;
   (b) Search conducted by the Cabinet for Families and Children indicating that the adult has not been found by the cabinet to have abused or neglected a child; and
   (c) Negative (A) tuberculosis skin test or physician’s statement documenting that the adult is free of tuberculosis. The adult shall provide evidence of a negative tuberculosis skin or physician’s statement documenting that the adult is free of tuberculosis every two (2) years.
   (13) Six (6) [ , if positive, results of a chest x-ray.
   (b) Twelve [12] clock hours of orientation within the first (3) months and six (6) additional hours of child development training shall be obtained during the first year of employment in a child care facility by all staff persons who have supervisory authority over a child; and
   (c) Twelve (12) clock hours of annual training [thereafter] shall be required for each subsequent year of employment shall be documented in writing by the trainer.

Section 4. Reports [Made to the Cabinet for Families and Children]. (1) The following shall be reported to the Cabinet for Health Services and other agencies specified in this section within twenty-four (24) hours:
(a) Communicable disease to the local health department pursuant to [ ] in accordance with KRS 214.010;
(b) An accident or injury to a child that requires [ ] medical care, [ ] hospitalization, or results [ ] in death;
(c) An incident that results in legal action by or against the child care facility that affects a child or [ ] staff [ ] personnel; and
(d) An incident involving fire or other emergency.
(2) An incident of child abuse or [ ] neglect [or [ ] dependency] shall be reported to the Cabinet for Families and Children and the Cabinet for Health Services pursuant to [ ] in accordance with KRS Chapter 620.
(3) A change of director shall be reported to the Cabinet for Health Services within one (1) week.
(4) Written notification of the following shall be made to the Cabinet for Health Services to allow for approval before implementation:
(a) Change of ownership;
(b) Change of location;
(c) Increase or decrease in capacity;
(d) Change in hours of operation; and
(e) Change of services in the following categories: Infant; Toddler; Two (2) years to school-age; School-age; Nighttime care; and
(f) Transportation;
(f) Addition of a room, wing, or building to a facility’s usable space.

(5) The Cabinet for Health Services and parent of a child enrolled in a child care facility shall receive notice as soon as practicable and prior to a child care facility’s temporary or permanent closure.

DIETRA PARIS, Commissioner
HIREN DESAI, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: May 23, 2001
FILED WITH LRC: June 1, 2001 at 10 a.m.
CONTACT: Kellee Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Shirley Eldridge, Coordinator

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes general requirements for child care facility licensure, specifies how records shall be maintained, identifies staff requirements, and specifies to whom certain incidents shall be reported.
(b) The necessity of this administrative regulation: This administrative regulation establishes general requirements for child care facility licensure.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 199.859 by establishing general requirements for child care facility licensure.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This revised administrative regulation complies with the statutory intent of KRS 199.859.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This administrative regulation is being amended to require that a child care center not allow a new employee or new volunteer to be left alone with a child if the results of the new employee or volunteer’s criminal records check and child abuse or neglect check have not been received by the center. This administrative regulation is also being amended to clarify that each mandatory record kept by a child care center not be altered or falsified; clarifies that an agency with acceptable standards and training material on file with the Cabinet for Health Services may provide cardiopulmonary resuscitation (CPR) and first aid to child care center staff; clarifies that a type II facility shall have at least one qualified substitute or close temporarily if the operator is unable to provide care; and requires that a child care center notify the Cabinet for Health Services and parents as soon as practicable and prior to a facility’s temporary or permanent closure. This administrative regulation has been updated for compliance with KRS Chapter 13A.
(b) The necessity of the amendment to this administrative regulation: This administrative regulation is being amended to clarify child care policy changes and comply with the statutory intent of KRS 199.859.
(c) How the amendment conforms to the content of the authorizing statutes: This amended administrative regulation complies with KRS 199.896 by specifying general requirements for child care facility licensure.

(d) How the amendment will assist in the effective administration of the statutes: This amended administrative regulation specifies general requirements for child care facility licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The entities affected include currently licensed child care facilities. Total: 2,087

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment clarifies general requirements for licensed child care facilities.

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

(a) Initially: First year: The Cabinet for Families and Children has budgeted $2,241,100 in fiscal year 2001 for a contract with the Cabinet for Health Services to carry out responsibilities related to child care facility licensure. The budget amount specified in the contract will be used to assume any cost impact of the provisions of this amended administrative regulation.

(b) On a continuing basis: Continuing cost or savings: The Cabinet for Families and Children has budgeted $2,260,600 in fiscal year 2002 for a contract with the Cabinet for Health Services to carry out responsibilities related to child care facility licensure. The budgeted amount specified in the contract will be used to assume any cost impact of the provisions of this amended administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 100 percent federal funds from the Child Care and Development Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require an increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not address fees.

(9) TIERING: Is tiering applied? No. Tiering is not required as these policies will become effective statewide.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amended After Hearing)

922 KAR 2:120. Child care facility health and safety standards.

RELATES TO: KRS 17.165, 186.020; Chapters. 189, 189A, 199.894 to 199.898, 211.350 to 211.380, 281.600, EO 2000-1104
STATUTORY AUTHORITY: KRS [194.060,] 199.896[2]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.896[2] grants authority to the Cabinet for Families and Children to establish administrative regulations and standards for day care of children. The function of this administrative regulation is to establish requirements for health and safety standards for child day care facilities.

Section 1. Child Care Services. (1) Minimum staff-to-child ratios and group size for an operating child care facility shall be maintained as follows:

<table>
<thead>
<tr>
<th>Age of Children</th>
<th>Ratio</th>
<th>Maximum Group Size*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth - 1 year</td>
<td>[1 staff for 6 children] 42</td>
<td></td>
</tr>
<tr>
<td>1 to 2 years</td>
<td>1 staff for 6 children 12</td>
<td></td>
</tr>
<tr>
<td>2 to 3 years</td>
<td>1 staff for 10 children 20</td>
<td></td>
</tr>
<tr>
<td>3 to 4 years</td>
<td>1 staff for 12 children 24</td>
<td></td>
</tr>
<tr>
<td>4 to 5 years</td>
<td>1 staff for 14 children 28</td>
<td></td>
</tr>
<tr>
<td>5 to 7 years</td>
<td>1 staff for 15 children 30</td>
<td></td>
</tr>
</tbody>
</table>

7 and older 1 staff for 25 children (for before and after school) 30

1 staff for 20 children (for full day of care) 30

Maximum Group Size is applicable only to Type I facilities [and shall become effective July 1, 1994]. **This provision shall become effective July 1, 1994. However, the effective date may be revised by administrative regulation to January 1, 1994, or to a date prior to July 1, 1994, contingent upon the availability of additional federal funds for subsidized child care.

(a) In a Type I facility, a group shall:
1. Be separately maintained in a defined area unique to the group;
and
2. Have [with] specific staff assigned to and responsible for the group.

(b) The age of the youngest child in the group shall determine the:
1. Staff-to-child ratio; and
2. Maximum group size, if applicable.

(c) If a child care facility is accredited or affiliated by a nationally-recognized educational association that has criteria for group size and staff-to-child ratios, contrary to this subsection, this subsection and subsection (9) [4][a] of this section shall not apply during normal school hours to a facility providing early childhood education to mixed-age groups of children ranging in age from two and one-half (2 1/2) to six (6) years that is accredited or affiliated by a nationally recognized educational association which has criteria for group size and staff-to-child ratios contrary to this subsection.

(d) If a child related to the director, employee, or person under the supervision of the license is receiving [the director's or employee's own or related children receive] care in the facility, the child [they] shall be included in the staff-to-child ratio.

(2) Each facility shall maintain a child care program that [which] assures each child will be:
(a) Adequately supervised; and
(b) Protected from all those who have adequate supervision and that affirmative steps are taken to protect children from abuse or neglect, while the children are under the supervision of employees of the facility. The program shall include:
1. A procedure [procedures] to inform facility staff [employees] of the laws of the Commonwealth pertaining to child abuse or neglect pursuant to [as specified under] KRS Chapter 620; and
2. Written policy that specifies procedures taught at orientation training shall be implemented by child care facility staff.

(3) The facility shall provide a planned program of activities:
(a) Geared to the individual needs and developmental levels of each child [the children] served;
(b) That [These] activities shall [provide experiences [which] promote the individual child's physical, emotional, social and intellectual growth and well-being. The daily program shall be under adult supervision and include:
1. A variety of creative activities which may include the following:
   1. Art;
   2. Music;
   3. Dramatic play;
   4. Stories and books;
   5. Science;
   6. Building; and
   7. Tactile activity;
   8. Activities;
   9. Indoor or outdoor play in which children make use of both small and large muscles;
2. A balance of active and quiet play, including group and individual activity; and
3. A variety of activities, both indoors and outdoors. [opportunities] for a child to;
   a. Have some free choice of activities;
   b. Decide when activities take place;
   c. If the child desires.
(d) Opportunities for] Practice self-help procedures in respect to;
(a) Clothing;
(b) Use;
(ii) Handwashing; and

(iv) Feeding.

(4) Activity areas, equipment, and materials shall be arranged so that the child’s activity is visible to the supervising staff.

(b) Regularity of routines shall be implemented to afford the child familiarity with the daily schedule of activity the security of knowing what is coming next.

(c) Sufficient time shall be allowed for an activity [for activities and routines] so that a child may progress at his own developmental rate.

(7) A child shall not be required to stand or sit for a prolonged period of time:

(a) During an activity;

(b) While waiting for an activity to start;

(c) As punishment;

(d) No long-waiting periods between activities or prolonged periods during which children stand or sit.

(e) Television or video viewing by a child shall be limited to television or video viewing by a child in a structured environment.

(f) If child-age care is provided:

(a) A separate area or room shall be provided in a Type I facility;

(b) Each [A] child shall be provided a snack after school; and

(c) A separate [toilet facility] facilities shall be provided for males and females;

(d) A plan shall be implemented to use the same facility at separate times.

(10) A child shall not be subjected to:

(a) Harsh or corporal physical discipline pursuant to KRS 199.60(18);

(b) Loud, profane, threatening, frightening, or abusive language;

(c) Discipline that is associated with:

1. Rest;
2. Toileting; or
3. Food.

(11) [6] If nighttime care is provided:

(a) A child shall not be permitted to spend more than [sixteen] hours in the facility during one [twenty-four] hour period. If school-age children are served, the facility shall be included in the sixteen (16) hour limit for a school-age child served by the child care facility.

(b) At least one [1] staff member;

1. Shall be assigned responsibility; and
2. Provide adequate supervision for each sleeping room;

(c) A child [children] present for an extended period of time during [their] waking hours [the facility shall receive [provide [a program of well-balanced and constructive activity that is geared to the child’s age level and developmental needs for child];

(d) A child [children] sleeping three [5] hours or more shall sleep in;

1. Pajamas;
2. A nightgown;

(e) If a child attends school from the facility, the child [children] shall be offered breakfast; if they go to school from the facility;

(f) If employed by a Type I facility, remain awake while on duty;

2. If employed by or is the operator of a Type II facility, remain awake until every child in care is asleep.

Section 2. Health and First Aid. The needs of a child shall be met as follows:

(a) First aid supplies shall;

1. Be available to provide prompt and proper first aid treatment;

2. Be stored out of reach of a child;

(b) Children. Supplies shall be periodically inventoried to ensure the supplies [that they] are current;

(c) If reusable, be;

1. Sterilized;
2. Maintained in a sanitary manner;

(d) First-aid supplies shall include:

1. Liquid soap;
2. Adhesive bandages;
3. Sterile gauze;
4. Medical tape;
5. Scissors;
6. A thermometer;
7. Tweezers;
8. Thermometers;
9. Flashlight;
10. First aid book;
11. Disposable [latex] gloves;

A cardiopulmonary resuscitation (CPR) mouthpiece protector shall be in a readily accessible location.

(b) A child showing signs of an illness or condition that may be communicable [to others in a day care setting] shall not be admitted to the regular child care program. If a child becomes ill during the day:

(a) The child shall be placed in a supervised area isolated from the rest of the children;

(b) The parent or designee shall be contacted immediately, and

c. Arrangements shall be made to remove the child from the child care facility as soon as practicable.

(3) Except as authorized in writing by a licensed physician and with written daily request of the parent or person exercising custodial control, prescription medication shall not be given to a child.

(4) Nonprescription medication:

(a) May be given to a child only with the written daily request of the:  

1. Parent; or
2. Person exercising custodial control of the child;

(b) Shall be administered according to the instructions on the label.

(5) Except as authorized by a licensed physician and with written daily request of the parent or guardian:

(a) The child care facility shall keep a written record of the administration of [each] medication including:

1. [The medication given to the child];
2. Time;
3. Date;
4. Amount; and
5. Staff giving the medication;

(b) Medication, including refrigerated medication, shall be stored in a separate locked place out of the reach of a child [children] and shall be in the original bottle and properly labeled;

(c) Medication shall not be given to a child if the expiration date on the bottle has passed;

(d) Medication may be given to a child [child] only with written daily request of the parent or guardian;

(e) Each child shall be helped with personal care and cleanliness;

(f) A child [children] shall not return from the toilet to an activity [activities] without first washing hands. A child shall wash his hands with liquid soap and warm water; 

1. Prior to eating; and
2. After toileting.

(10) Staff shall insist that diapering and toilet training is [shall be] a relaxed, pleasant activity. Toilet training shall be coordinated with a parent or person exercising custodial control of the child;

(a) A guardian;

(b) Adequate quantity [qualities] of freshly laundered or disposable diapers and clean clothing shall be available;

(c) Washed or disposed of at least once a day; 

(d) When a child is deivered; and

(e) The child shall be placed on;
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1. A clean washable surface; or
2. Surface with a disposable covering;
   (b) [ ] Individual sanitized washcloths and towels or disposable
towels shall be used to thoroughly clean and dry the child's buttocks
unless otherwise prescribed (prescribed) by a physician;
(c) [ ] Staff shall disinfect the surface after each child is diapered;
(d) [ ] If staff wear disposable plastic gloves, gloves shall be
   changed and disposed of after each child is diapered; and
   (e) [ ] After diapering, staff shall wash their hands with liquid soap
   and running water [and disinfect the surface] before diapering another
child;
(14) [ ];
(14) If a training chair is [chairs are] used, the chair [they] shall be:
   (a) Emptied promptly; and
   (b) Sanitized after each use;
(15) An [ ];
(16) The infant's formula shall be prepared and provided by the
parent. An exception may be made for a facility that;
   (a) Participates in the Child and Adult Care Food Program
(CACFP); or
   (b) Provides formula as a fringe benefit to the parent;
(15) [ ];
(16) Bottles shall be:
   (a) Individually labeled; and
   (b) Promptly refrigerated; and
   (c) Covered when not in use;
(17) [ ];
(18) A child shall not be fed with a propped bottle;
(18) Except for an infant or toddler or if the child attends nighttime
or extended-hours care; [ ];
(18) A child shall have rest periods not to exceed two (2) hours
[except for infants and toddlers, and time periods during nighttime care
and extended hours]. A child who does not sleep shall be permitted to
play quietly after a reasonable rest period specific to the needs of the
child;
(19) [ ];
(19) Drinking water shall be freely available to a child and [if the
facilities do not have a drinking fountain] and an individual drinking
cup shall be provided;
(20) [ ] If no fountain is provided;
(20) Toilet articles like combs, towels or washcloths, brushes and
   toothbrushes used by a child shall be individual, stored so as not
touch each other, and plainly marked;
(21) [ ];
(22) The facility shall provide-and-serve nutritious snacks and
   meals;
   (a) A child present at meal or snack time [times] shall be served;
(22) The child [ ];
   (b) The facility shall [provide and] serve;
   (a) Breakfast; or
   (b) A midmorning snack;
   (c) Lunch; and
   (d) A midafternoon snack; and
   (e) If appropriate, dinner;
(23) [ ];
(23) Breakfast or a midmorning snack, lunch, and a-midafternoon
snack and dinner, if appropriate.
   (e) There shall be at least a two (2) hour lapse, but no longer than
   three (3) hours, between each meal or snack;
(24) [ ];
(24) Meals or snacks;
(d) Food [prepared] shall be served in a quantity [in quantities]
reflecting the developmental stage of the child. Additional portions
shall be provided upon request by the child;
(25) [ ]; Food requirements shall be as follows:
   (a) [ ]; Breakfast shall include;
   1. Milk;
   2. Bread; and
   3. Fruit or
   4. Vegetable; or
   5. 100 percent juice;
   (b) A snack [milk, bread, and fruit or vegetable or juice;
   2. Snacks] shall include two (2) of the following:
   1. Milk;
   2. Protein;
   3. Fruit or vegetable or 100 percent juice; or
   4. Bread; and
   (c) [milk, protein, fruit or vegetable or juice, or bread; and
   3. Lunch and dinner shall include;
   1. Milk;
   2. Protein;
   3, [milk, protein,] Two (2) vegetables or a fruit and one (1) vegetable;
   and
   4. Bread;
(26) [ ];
(f) If a parent chooses [parents choose] to provide food for his
[their own] child's meal or snack, or if food is catered, and the food
does not meet the nutritional requirements listed in subsection (25) of
this section, the facility shall provide additional food that is approved
by the parent or person exercising custodial control and necessary
to meet the [these] requirements of subsection (25) of this section;
(27) During each meal;
   (a) [ ];
   (a) A child shall be seated [at-eating-time] with sufficient room to
   manage food and tableware; and
   (b) An adult [Adult] shall be present;
(28) [ ]; with children during eating times;
   (h) Individual eating utensils shall be of size or designed for use
   by a child;
(29) A weekly menu shall be:
   (a) Prepared;
   (b) Dated;
   (c) [and design that a child can handle easily.]
   (i) Weekly menus shall be prepared, dated and posted in advance;
   in a conspicuous place;
   (d) [Menu shall be] Kec[pt on file for thirty (30) days]; and
   (e) If a substitution is made, the change [Substitutions] shall be
   noted on the menu the day of the meal service.

Section 3. Health and Sanitation. A child care facility shall meet the
provisions of this administrative regulation and if a facility is [A fa-

cility] required to have a food service permit, the facility shall be in
compliance with 902 KAR 45:005, Food Service Code and this section.
If the facility does not have a current food service permit issued under
the authority of the Department for Health Services, as governed by
902 KAR 45:005, Food Service Code, it shall be in compliance with
the requirements of this section.
(1) A facility that serves a meal shall have;
   (a) A three (3) compartment sink or other equipment; and
   (b) Procedures approved by the cabinet(s) for [the purpose of] washing
   and sanitizing dishes, silverware, eating and cooking uten-
   sils after use.
(2) Food [and-processed food are to be maintained as follows;
   (a) Food shall;
   (a) Be clean;
   (b) Be free from;
   1. Spoilage;
   2. Adulteration; and
   3. Misbranding;
   (b) Be clean, free-from spoilage, free-from adulteration and mis-
   branding and safe for human consumption;
   (d) Not be served if the food is [has] hermetically sealed, nonacidic or
   [and] low-acidic food that [which] has been processed in a place other
   than a commercial food-processing establishment;
   (e) Shall not be used. Food-served shall be from a source that
   [which] is in compliance with applicable state and local laws and ad-
   ministrative regulations;
   (f) Be considered acceptable if from an [ ] established commercial
   food store;
   (g) Stores are an acceptable source.
   (b) Food, while being served, prepared, displayed or served shall
   Be protected against contamination from;
   1. Dust;
   2. Flies;
   3. [dust flies] Rodents and other vermin;
   4. Unclean utensils and work surfaces;
   5. Unnecessary handling;
   6. Coughs and sneezes;
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7. Flooding;
8. Drainage; and

(3) Except when being prepared and served. (e) Potentially hazardous food shall be;
(a) except when being prepared and served, be kept in a safe environment for preservation;
(b) The temperature for potentially hazardous foods shall be;
Forty-five (45) degrees Fahrenheit or below;
or
(c) 140 degrees Fahrenheit or above,
(d) Except when thawed for preparation or use, except during necessary periods of preparation and service;
(e) Frozen food shall be;
(a) Kept at a temperature of zero degrees Fahrenheit or below;
(b) If so as to remain frozen, except when being thawed for preparation or use, potentially hazardous;
1. Thawed at refrigerator temperatures;
2. Thawed under cool, potable running water;
3. Quick thawed as part of the cooking process;
or
4. Thawed by another method satisfactory to the health authority.

(g) A (g) Each cold-storage facility used for storage of perishable food in a nonfrozen state shall;
(a) Have an indicating thermometer, or
(b) Other appropriate temperature measuring device.

(i) (h) Convenient and suitable sanitized utensils shall be;
(a) Provided; and
(b) Used to minimize handling of food where food is prepared.

(j) (k) Poultry, pork, and their products that [which] have not been treated to destroy bacteria, including trichinae, shall be thoroughly cooked.

(b) Fruits and vegetables shall be washed before cooking or serving.

(9) (l) Meat salads, poultry salads, and cream filled pastries shall be;
(a) Prepared with utensils that [which] are clean; and
(b) Shall] Unless served immediately, be refrigerated pending service.

(10) (m) Food shall be stored in;
(a) Clean racks;
(b) Shelves;
(c) Other clean surfaces; or
(d) If maintained in a sanitary condition, food in nonabsorbent containers may be stored on the floor,

(11) An individual portion [if it is maintained in an acceptable sanitary condition.
(i) Individual portions of food served to a child shall not be served again.

(12) Wrapped food that [which] is still wholesome and has not been unwrapped may be reserved.
(13) The following shall be inaccessible to a child in care;
(a) Toxic cleaning supplies, poisons, and insecticides;
(b) Knives and sharp objects;
(c) Matches, cigarettes, lighters and flammable liquids;
(d) Plastic bags;
(e) Litter and rubbish; and
(f) Gun and ammunition, which shall also be stored in a locked area.

(14) (k) Poisonous and toxic materials shall be properly identified and stored in cabinets which are used for no other purpose, or stored in a place outside food storage, food preparation, and utensil storage areas.

(3) Health and disease controls shall be in place as follows:
(a) If a person is suspected to be infected with a communicable disease for which a reasonable probability for transmission exists due to the individual's job duties, the individual shall not perform these duties until the infectious condition can no longer be reasonably expected to be transmitted. Disagreement regarding this requirement between the provider and the individual involved shall be resolved by the individual's physician or the local health department; [1]
(b) An employee shall;
1. Maintain personal cleanliness;
2. [And] Conform to hygienic practices while on duty;
3. Wash hands in running water with liquid soap;
a. [Hands shall be washed] Thoroughly before starting work;
b. [-and] As often as may be necessary to remove soil and contamination; and
4. [An employee] Not resume work after toileting [visiting the toilet-room] without first washing his hands; [1]
(c) A facility shall have lavatories located in or immediately adjacent to toilet rooms; [1]
(d) Food contact surfaces of equipment and utensils used in a facility shall be;
1. Smooth;
2. Free of;
a. Breaks;
b. Open seams;
c. Cracks;
d. Chips;
3. Accessible for cleaning, and
4. Nontoxic;
(e) The following shall be clean and sanitary;
1. Smooth, free of breaks, open seams, cracks, chips, be accessible for cleaning, and nontoxic;
(e) Eating and drinking utensils;
2. [shall be cleaned for each usage.] Kitchenware;
3. Food contact surfaces of equipment;
4. [Excluding] Cooking surfaces of equipment, and; Food storage utensils;
5. Used in preparation or serving of food or drink shall be cleaned after each use. Cooking surfaces of equipment, and;
6. [shall be kept clean.] Nonfood contact surfaces of equipment;
(f) A single-service article shall be cleaned to keep them in a clean and sanitary condition. Single-service articles shall be;
1. Stored;
2. Handle [stored, handled] and dispensed in a sanitary manner;
and
3. [Be] Used only once;
(g) An effective control measure is;
(f) Effective control measures shall be utilized to minimize the presence of;
1. Rodents;
2. Flies;
3. Roaches; and
4. [Red ants, flies, roaches, and] Other vermin on the premises.
(b) An opening to the outer air shall be effectively protected against the entrance of [the] insects by;
1. Self-closing doors;
2. Closed windows;
3. Screening;
4. Controlled air current; or
5. Other effective means;
(i) [-]

(h) Floors, walls and ceilings shall be smooth and constructed to be easily cleanable. Walls, windows and ceilings shall be kept clean and in good repair;
(i) A kitchen, [1]
(i) Kitchens] shall be adequately ventilated to the outside air;
(k) [-]
(i) The water supply shall be;
1. Properly located;
2. Protected;
3. Adequate; and
4. Of a source approved by the local health department;
(b) Groundwater supplies for a facility [facilities] caring for;
1. More than twenty-five (25) children shall meet the specifications of the Cabinet for Natural Resources and Environmental Protection; or
2. [Facilities caring for] Twenty-five (25) children or less shall be approved by the Cabinet for Natural Resources and Environmental Protection;

b.) Local health department;
(c) Sewage [1]
(k) Sewage and solid waste] shall be properly disposed of and solid waste shall be kept in suitable receptacles in accordance with local, county and state laws as governed by KRS 214.350 to 214.980. Sewage shall be disposed of by a method approved by the Cabinet for Natural Resources and Environmental Protection.
or
2. [the] Cabinet for Health Services;
   (b) If the adequacy of the plumbing is questioned, [Families and
   Children] consultation shall be sought from the;
   1. Cabinet for Natural Resources and Environmental Protection;
   or
   2. [the] Local sanitarian having jurisdiction over a child care
   facility;
   (c) Solid waste shall be kept in a suitable receptacle in accord-
   ance with local, county and state laws as governed by KRS 211.350
   to 211.380;
   (d) A child care [in-which-the-adequacy-of-the-plumbing-is-ques-
   tioned, (i) Each] facility shall be provided with adequate and conveniently
   located toilet and handwashing accommodations;
   (a) A [?]
   1. Each toilet shall;
   1. Be kept in clean condition;
   2. Be kept in good repair;
   3. Be in a lighted room and
   4. Have ventilation to outside air;
   (b) [?]
   2. A supply of toilet paper shall be available;
   (c) A lavatory [?]
   3. Lavatories shall have hot and cold running water under pres-
   sure that [which] allows washing of hands under warm water;
   (i) [?]
   4. Water temperature at a lavatory [lavatories] used for hand
   washing shall not exceed 110 degrees Fahrenheit;
   (ii) [?]
   5. soap and a sanitized [approved] individual cloth or paper towels
   shall be provided;
   (v) An [?]
   6. easily cleanable, covered waste receptacle [receptacles] shall
   be available in a toilet and handwashing area [areas].

Section 4. Transportation. (1) [There shall be] Documentation
shall be available to indicate conformance to federal and state laws
pertaining to;
   (a) Vehicles;
   (b) Drivers; and
   (c) [vehicles, drivers—] Insurance as governed by KRS
   281.600, 185.020 and Chapters 189 and 189A.
   (2) A facility providing or arranging transportation service shall
   have a;
   (a) Written plan; and
   (b) [a written plan and] Statement of transportation policies and
   procedures.
   (3) Transportation provided by licensed public transportation or a
   school bus shall;
   (g) Meet Transportation Cabinet safety inspection requirements;
   and
   (b) [shall be] Required to comply with subsections (1) and (2) of
   this section.
(4) The following are requirements for a facility-owned vehicle and
its [facility-owned vehicle and their] usage;
   (a) A twelve (12) or more passenger van or bus [vans and buses]
   shall display a current certification of inspection from the Transpor-
   tation Cabinet on the designated window;
   (b) A vehicle that requires [used to transport children and requiring]
   traffic to stop while loading and unloading a child [children at their
   various homes along public roads] shall be equipped with a system of;
   1. Signal lamps;
   2. Identifying colors; and
   3. Words [?]
   (c) A car or van shall be equipped with seat belts for a [each] child
   to be individually secured;
   (d) A vehicle used to transport children shall not carry hazardous
   materials aboard.
   (5) The staff-to-child ratios set forth in Section 1(1) of this admin-
   istrative regulation shall apply if not inconsistent under special requi-
   rements or exceptions in this section. The maximum number of
   children under the age of five (5) a driver shall supervise alone is four
   (4).
   (6) A [Each] child shall;
   (a) Have a seat;
   (b) Be individually seat-belted; and
   (c) Remain seated while the vehicle is in motion.
   (7) A child under forty (40) inches in height shall be transported
   restrained in an approved safety seat.
   (8) [F] A vehicle containing a child [children] shall not be left un-
   attended.
   (9) [F] A child shall not be left unattended at the site of aftercare
delivery.
   (10) [F] If the parent[?] or a person designated by the parent to
   accept the child[?] is not present upon delivery of the child, a pre-
   arranged written plan known to the parties shall designate where the
   child can be picked up.
   (11) [F] If a person other than the [designated person designated]
   to receive the child is arranged, the arrangements shall be;
   (a) Made by the parent or person exercising custodial control of
   the child; [guardian] and
   (g) Documented.
   (12) [F] A child shall not be picked up at or delivered to a location
   that (which) requires crossing the street or highway unless accompa-
   nympanied by an adult.
   (13) [F] A vehicle transporting a child [children] shall have the
   headlamps on.
   (14) [F] A vehicle shall be refueled when not being used to trans-
   port a child [children]. If emergency refueling or repair is neces-
   sary during transporting, a child [children] shall be removed and sup-
  ervised by an adequate number of adults while refueling or repair is
   occurring.
   (15) If the driver is not in the driver's seat;
   (a) [F] The engine shall be turned off;
   (b) Keys removed; and
   (c) Brake set if [the driver is not in the driver's seat].

Section 5. Physical Facilities. (1) The building shall be suitable for
the purpose intended.
(2) Exclusive of the kitchen, bathroom, hallway, and storage area,
there shall be a minimum of thirty-five (35) square feet of space per
child used for play and the entire child care facility [exclusive of the kitchen, bathrooms, hallways, and storage areas—] shall be kept
and in good repair.
(3) [F] If a portion of the building is used for a purpose [purposes]
other than day care, necessary provisions shall be made to avoid in-
ference with the day care program.
(4) [F] The building shall be [so] constructed;
   (a) So that the building is;
   1. Dry;
   2. [that it is dry,] Adequately heated;
   3. Ventilated; and
   4. Lighted;
   (b) To ensure the following are protected;
   1. [that] Windows;
   2. Doors;
   3. Stoves;
   4. Heaters;
   5. Furnaces;
   6. Pipes; and
   7. Stairs.
   (5) An open window or door shall have a screen.
(6) A draft-free temperature of sixty-five (65) degrees Fahrenheit
to seventy-five (75) degrees Fahrenheit shall be maintained in an oc-
cupied area during winter conditions. A draft-free temperature of sixty-
eight (68) degrees Fahrenheit to eighty-two (82) degrees Fahrenheit
shall be maintained in an occupied area during summer conditions.
(7) A facility shall have [are protected; that screening is provided
on windows and doors which are left open.]
(8) There shall be a minimum of one (1) toilet and one (1) wash
basin for each twenty (20) children. In a boys' bathroom, [boys' bathrooms] urinals may be substituted for up to one-half (1/2) of the num-
ber of toilets required. A toilet facility [Toilet facilities] shall be cleaned
and sanitized daily.
(9) [F] The kitchen shall;
   (a) Be clean; and
(b) Be equipped for the proper;
1. Preservation;
2. Storage;
3. Preparation; and
4. Serving of food;
(c) Except in a Type II facility when a meal is not being prepared,
(1) The kitchen shall not be used for the activity of a child.
(5) The facility shall have adequate hands on the premises.
(6) The facility shall be equipped with a telephone accessible to a
room used by a child.
(10) If only the rooms used by the
(11) A kitchen for the facility is an afternoon snack is served to the school-age children, a kitchen shall not be required if adequate refrigeration is available.
(12) A kitchen area for infants and toddlers shall be separate from an area provided for those children used by older children. The kitchen may not be used in activities with older children for a short period (short periods) of time.
(13) A kitchen area for infants and toddlers shall be separate from a changing area (changing room) for children and older children. A kitchen area for infants and toddlers shall be separate from a child care
(14) If a child care license is held, a facility must provide an outdoor play area for children and toddlers, the outdoor area shall be;
(a) Shaded;
(b) Away from the general traffic patterns of the facility.
(15) [ ] The Department of Health, Buildings and Construction, [and the] State Fire Marshal's Office and Department of Highway shall be contacted concerning a planned new building, addition, or major renovation before construction.
(16) [ ] Grounds shall be provided as follows:
(a) An on-site outdoor play area shall be;
1. Except for an after-school care program located on the premises of a public or state-licensed nonpublic school, in the safety of the children;
2. Except for an after-school care program located on the premises of a public or state-licensed nonpublic school, each school shall be required to have the outdoor playground area surrounded by a fence. Outdoor play area shall be A minimum of sixty (60) square feet per child [using the area], separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (2) as described in subsection (1)(a) of this section;
(b) If a child care facility does not have access to an outdoor play area, an indoor space shall;
1. Be used as a play area;
2. Have a minimum of sixty (60) square feet per child [using the area], separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (2) as described in subsection (1)(a) of this section;
3. Include gross motor equipment; and
4. Be well-ventilated and heated.
(17) Equipment shall be;
(a) Clean, safe; and
(b) Equipment needed within the facility shall be as follows:
(18) A child care license is held, each child shall have enough toys, play apparatus, and age-appropriate developmental materials to provide a child with a variety of activities during the day pursuant to subsection (1)(a) of this section of this administrative regulation. Toys shall be;
(a) Used according to the manufacturer's safety specifications [Too large to swallow];
(b) Durable; and
(c) Without sharp points or edges.
(19) [ ] Tables and chairs shall be of suitable size for children.
(20) [ ] Storage space shall be provided.
(a) In the form of open shelves accessible to the children; and
(b) For a child;
(c) Storage space for each child's clothing shall be provided.
(21) [ ] An individual cot, crib, baby bed or two (2) inch thick mat shall be provided for a child in attendance for more than three and one-half (3 1/2) hours per day. A crib shall have a firm, comfortable waterproof mattress. [For sanitary reasons] individual sheets and covers shall be provided for a child and shall be laundered a minimum of once per week or as needed. If mats are used, floors shall be free from drafts and dampness. A cot [cots] and other equipment and furnishings shall be properly spaced so as to allow free and safe movement by a child or adult [children and adults].
(22) [ ] Cots shall not be used.
(23) [ ] Supplies shall be stored so that the adult can reach them without leaving the child unattended.
(24) [ ] Chairs shall be provided for use when feeding, holding or playing with a child [children].

DIETRA PARIS, Commissioner
HIREN DESAI, Attorney
VIOLETTA MILLER, Secretary
APPROVED BY AGENCY: May 23, 2001
FILED WITH LRC: June 1, 2001 at 10 a.m.
CONTACT: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7500, (502) 564-9125 (Fax).

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Shirley Eldridge, Coordinator
(1) Provide a brief summary of:
(a) What this administrative regulation does; This administrative regulation establishes staffing ratios and requirements for child care services. It also establishes health and safety, first aid, sanitation, transportation, and child care facility environmental standards.
(b) The necessity of this administrative regulation: This administrative regulation establishes child care facility health and safety standards.
(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation complies with KRS 199.896 by establishing child care facility health and safety standards.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This revised administrative regulation complies with the statutory intent of KRS 199.896.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation:
This administrative regulation is being amended to clarify that refrigerated medication shall be stored in a locked place; if juice is served during a meal service, the juice shall be 100 percent juice; and a range of temperatures from 65 to 75 degrees Fahrenheit shall be required in an area occupied by children during winter conditions and a range of temperatures from 68 to 82 degrees Fahrenheit shall be required in an area occupied by children during summer conditions. Additionally, this administrative regulation clarifies that a child shall not be subjected to corporal discipline pursuant to KRS 199.896(18); loud, profane, threatening, frightening, or abusive language; or discipline that is associated with rest, toileting, or food. This administrative regulation has also been updated for compliance with KRS Chapter 13A.
(b) The necessity of the amendment to this administrative regulation: This administrative regulation is being amended to clarify child care policy changes and comply with the statutory intent of KRS 199.896.
(c) How the amendment conforms to the content of the authorizing statute: This amended administrative regulation complies with KRS
199.896 by establishing child care facility health and safety standards.

(d) How the amendment will assist in the effective administration of the statutes: This amended administrative regulation specifies requirements for child care facility health and safety standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The entity affected include currently licensed child care facilities. Total: 2,087

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This amendment clarifies child care facility health and safety standards.

(a) Who has estimated how much it will cost to implement this administrative regulation:

(i) Initially: First year: The Cabinet for Families and Children has budgeted $2,241,100 in fiscal year 2001 for a contract with the Cabinet for Health Services to carry out responsibilities related to child care facility licensure. The budgeted amount specified in the contract will be used to assume any cost impact of the provisions of this amended administrative regulation.

(ii) On a continuing basis: Continuing cost or savings: The Cabinet for Families and Children has budgeted $2,260,600 in fiscal year 2002 for a contract with the Cabinet for Health Services to carry out responsibilities related to child care facility licensure. The budgeted amount specified in the contract will be used to assume any cost impact of the provisions of this amended administrative regulation.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 100 percent federal funds from the Child Care and Development Fund.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require an increase of fees or funding.

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

(10) TIERING: Is tiering applied? No. Tiering is not required as these policies will become effective statewide.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amended After Hearing)

922 KAR 5:110. Adult guardianship services.


STATUTORY AUTHORITY: KRS 1948.050(1), 210.290

NECESSITY, FUNCTION, AND CONFORMITY: KRS 210.290 and 387.600 authorize the Cabinet for Families and Children to be appointed guardian or conservator by the district court of jurisdiction for an adult who has been adjudged wholly or partially disabled, due to functional inability, and is therefore, incapable of making an informed decision regarding personal or financial affairs and for whom no other able, willing or suitable person or entity is available to serve.

Section 1. Definitions. (1) "Adult" is defined at KRS 209.020(4)(a).

(2) "Cabinet" is defined at KRS 209.020(2).

(3) "Conservator" is defined at KRS 387.510(1).

(4) "Department" is defined at KRS 209.020.

(5) "Disabled" is defined at KRS 387.510(9).

(6) "Guardian" is defined at KRS 387.510(3).

(7) "Interested person or entity" is defined at KRS 387.510(12).

(8) "Less restrictive intervention" means an alternative that is less intrusive to meet the needs of the individual while maintaining the individual's safety and security based on the professional assessment pursuant to 922 KAR 5:070, Section 10.

(9) "Limited guardian" is defined at KRS 387.510(4).

(10) "Limited conservator" is defined at KRS 387.510(2).

(11) "Partially disabled" is defined at KRS 387.510(9).

(12) "Ward" is defined at KRS 387.510(15).

Section 2. Application and Appointment Process for Guardianship Services. (1) A request for guardianship services for an adult shall be referred for an assessment to the cabinet to determine the need for guardianship services pursuant to 922 KAR 6:076, Section 10.

(2) When there is no other alternative or other suitable person or entity available, the cabinet shall serve as guardian, limited guardian, conservator or limited conservator after a verified application for appointment of fiduciary has been filed by the cabinet with the court of jurisdiction for an adult.

(a) Who has been determined wholly or partially disabled pursuant to KRS 387.590(1); or

(b) Whose appointment was a result of an emergency guardianship hearing pursuant to KRS 387.740(1).

(3) Unless a less restrictive intervention has been explored, the cabinet shall not accept a referral for a guardian, limited guardian, conservator, and limited conservator of last resort.

(4) Limited guardianship, conservatorship, or limited conservatorship by the cabinet shall [may] include the powers and duties listed as designated by the court.

(5) Guardianship and conservatorship for a disabled individual shall be used only as is necessary to:

(a) Promote his well-being;

(b) Protect him from neglect, exploitation or abuse; and

(c) Encourage development of his maximum self-reliance and independence.

(6) The powers and duties of a guardian shall [may] include the following as designated by the court:

(a) Securing health services and making medical decisions pursuant to KRS 387.660 or 311.631;

(b) Securing protection and permanency services and living arrangements;

(c) Securing and giving consent for needed support services necessary for the well-being of the adult; or

(d) Assuring that the personal, civil and human rights of the adult shall be preserved and protected to the fullest extent possible.

Section 3. Restoration of Rights. (1) The cabinet shall assist a ward in restoration of his rights after it has been determined through an assessment by the cabinet to be in his best interest by completing and filing a petition for relief, modification or termination pursuant to Administrative Office of the Courts, when requested by:

(a) A ward; or

(b) The cabinet.

(2) If it is determined through an assessment by the cabinet that restoration is not in a ward’s best interest, the cabinet shall advise a ward who has requested rights restoration, of his right to contact the court of appropriate jurisdiction to request restoration pursuant to KRS 387.620.

Section 4. Securing Successor Guardian or Conservator. When the cabinet receives a request from an individual or other entity that is willing to assume the role of guardian or conservator for the ward, the cabinet shall advise the interested person or entity of the appropriate procedure to obtain a successor guardian or conservator.

Section 5. Renewal of Limited Guardianship Appointment. (1) Pursuant to KRS 387.610, a limited guardian or limited conservator shall not be appointed for more than five (5) years. Guardianship and a conservatorship may be for unlimited duration.

(2) The cabinet shall, prior to expiration of any limited appointment, file a petition for renewal, modification or termination pursuant to KRS 387.610 and 387.620.

Section 6. Court Report. (1) Pursuant to KRS 387.670, the cabinet shall file an annual report of a ward's current personal status including a case plan with the district court of jurisdiction.

(2) The cabinet shall be responsible for filing a court mandated financial status report pursuant to KRS 387.710.

Section 7. General Guardianship Services. The cabinet shall [may] conduct an announced or unannounced visit with a ward to as-
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sess suitability of placement to:
(1) Ascertain his needs and safety;
(2) Secure available services and participate in a ward's care planning session; and
(3) Consult with any personnel providing care pertaining to a ward's well-being, maintenance and development of maximum independence.

Section 8. Fiduciary Responsibility. (1) The cabinet shall be responsible for:
(a) Filing an application and maintaining state and federal benefits if applicable;
(b) Managing financial affairs and assets as ordered by the court; and
(c) Establishing and maintaining accurate accounting procedures and records pursuant to KRS 353.220, 387.680, 387.690, 387.700, 389.030 and 389.032.

(2) A ward's personal escrow account is available for benefit of a ward to the extent that the ward's expenditures do not exceed his income or conserved funds.

Section 9. Confidentiality of Records. A case record shall be maintained in accordance with KRS 387.770 and 209.140(2), (3) and (4).

DIETRA PARIS, Commissioner
HIREN DESAI, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: May 24, 2001
FILED WITH LRC: June 1, 2001 at 10 a.m.
CONTACT: Kellie Peace, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Shirley Eldridge, Coordinator

(1) Provide a brief summary of:
(a) What this administrative regulation does: This new administration regulation places in topical form adult guardianship services and policy as follows: Application and appointment process for guardianship services for an adult who is at risk of abuse, neglect, or exploitation, and has functional inability and therefore is incapable of making an informed decision and to provide the necessary services to promote his well-being, secure health services and make medical decisions pursuant to KRS 311.631 and 387.660; restoration of a ward's rights; services to determine if there is an interested and appropriate person or entity to assume the role of successor guardian for a ward; renewal of limited guardianship; annual court report of a ward's current status; services provided by the cabinet to promote well-being, protect and encourage development of a ward; fiduciary responsibility for a ward to establish and maintain accurate accounting procedures and records; and address confidentiality of records.

(b) The necessity of this administrative regulation: KRS 210.290 and 387.600 authorizes the Cabinet for Families and Children to be appointed guardian or conservator by the district court of jurisdiction for an adult who has been adjudged wholly or partially disabled, due to functional inability, and therefore, incapable of making an informed decision regarding personal or financial affairs and for whom no other able, willing or suitable person or entity is available to serve.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This proposed administrative regulation outlines the application and appointment process for guardianship services, sets standards for services, restoration of rights, court reports and fiduciary responsibilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets uniform standards and policy for implementation of KRS 210.290 and 387.600.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: This is not an amendment to an existing regulation, but is a new administrative regulation. Therefore, this section does not apply.

(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing regulation, but is a new administrative regulation. Therefore, this section does not apply.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing regulation, but is a new administrative regulation. Therefore, this section does not apply.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing regulation, but is a new administrative regulation. Therefore, this section does not apply.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing regulation, but is a new administrative regulation. Therefore, this section does not apply.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of September 2000, there were 2,595 adult citizens appointed by the district court that the cabinet serves as guardian, conservator, limited guardian, and limited conservator.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This proposed regulation will assist in protecting vulnerable adult citizens from neglect, exploitation and abuse.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: This administrative regulation will not result in any additional cost above the biennial budget.
(b) On a continuing basis: Continuing costs included in biennial budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation places in topical form adult guardianship services which the cabinet is currently administering. This regulation does not require additional funding beyond the existing budgeted amount.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This proposed administrative regulation will not result in any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not required, the cabinet will implement this policy statewide.
COUNCIL ON POSTSECONDARY EDUCATION
(AMENDMENT)

13 KAR 2:090. Kentucky Educational Excellence Scholarship (KEES) Program.

RELATES TO: KRS 154A.130(4), 156.070, 164.7871, 164.7874, 164.7877, 164.7879, 164.7881, 164.7885, 164.7889.

STATUTORY AUTHORITY: KRS 164.020(28), 164.7874, 164.7877(3), 164.7879(1), (3), 164.7881(4)(a), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7877(3) requires the council to administer the Kentucky Educational Excellence Scholarship (KEES) Program. KRS 164.7877(3) requires the council to administer the funds appropriated to the trust fund for the program. KRS 164.7874(13) requires the council to develop and implement standards for high school curriculum as they relate to eligibility for participation in the program. KRS 164.7877(3)(c) requires the council to determine the eligibility of a noncertified, nonpublic high school graduate and for a GED recipient for a supplemental award. KRS 164.7874(3) requires the council to establish a table to convert an SAT score to an ACT standard. KRS 164.7881(6) requires the council to establish a five (5) year postsecondary education program standard. KRS 164.7881(4)(a) requires the council to establish overall award levels for the program. This administrative regulation establishes those requirements relating to the Kentucky Educational Excellence Scholarship (KEES) Program.

Section 1. Definitions. (1) "Academic term" means the fall or spring semester or their equivalent under a trimester or quarter system at a postsecondary education institution and shall not include summer sessions.

(2) "Academic year" is defined in KRS 164.7874(2).

(3) "ACT" means the test: (a) Administered to a student for entrance to a Kentucky postsecondary education institution; and

(b) Owned by the ACT Corporation of Iowa City, Iowa.

(4) "Advanced Placement" means a cooperative educational endeavor between secondary schools and colleges and universities administered by the College Board of the Educational Testing Service and recognized by KDE.

(5) "Authority" or "KHEAA" is defined in KRS 164.7874(4).

(6) "Council" or "CPE" is defined in KRS 164.7874(6).

(7) "Eligible high school student" is defined in KRS 164.7874(7).

(8) "Enrolled" means the status of a student who has completed the registration requirements, except for the payment of tuition and fees, at a participating institution that a student is attending.

(9) "GED" means a general educational development diploma awarded to a student.

(10) "High school" is defined in KRS 164.7874(11).

(11) "International baccalaureate course" means a course in a secondary education program sponsored by the International Baccalaureate Organization and recognized by the KDE in 704 KAR 3:340, Section 2(3)(b).

(12) "KDE" means the Kentucky Department of Education authorized and established pursuant to KRS 156.010.

(13) "KEES curriculum" is defined in KRS 164.7874(13).

(14) "Participating institution" is defined in KRS 164.7874(17).

(15) "SAT" means the test: (a) Administered to a student for entrance to a Kentucky postsecondary education institution; and

(b) Owned by the college board.

Section 2. High School Grade Point Average Calculation and Reporting. (1) An eligible student’s grade point average, as defined in KRS 164.7874(10), for an academic year shall be calculated using each grade awarded for all courses taken during an academic year.

(2)(a) Except as provided in paragraph (b) of this subsection, an eligible student’s grade point average shall be calculated by:

1. Taking the number of units in a course multiplied by the course grade as expressed on a 4.0 point grading scale where 4.0 is an "A" and 0.0 is an "F;"

2. Adding the total number of points accumulated for an academic year; and

3. Dividing the total number of points accumulated in subparagraph 2 of this paragraph by the total number of units for the academic year.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for an eligible high school student taking an advanced placement international baccalaureate course during the academic year, the grade assigned shall be calculated using a 5.0 point scale where 5.0 is an "A" and 1.0 is an "F;"

(3) The grade point average reported for an eligible high school student for each academic year shall include all information as set forth in KRS 164.7885(1) and in the manner as the KDE or the KHEAA shall require.

Section 3. KEES. (1) A student shall complete the KEES curriculum established in this section to qualify for the base scholarship award.

(a) Except as provided in paragraphs (b) and (c) of this subsection, the KEES curriculum shall consist of the courses and electives required by this paragraph.

1. For a student enrolled in a high school during the 1998-1999 academic year, the curriculum required in 704 KAR 3:305, Section 1 or 2, as appropriate without restriction on the type of electives taken.

2. For a student enrolled in high school during the 1999-2000 and 2000-01 academic years and who is required to meet the curriculum standards in 704 KAR 3:305, Section 1, the eight (8) electives required by 704 KAR 3:305, Section 1, shall be taken in the areas and according to the standards established in subparagraph 4 of this paragraph.

3. For a student enrolled in high school during 1999-2000 and for each year thereafter who is required to meet the curriculum standards in 704 KAR 3:305, Section 2, five (5) of the seven (7) electives required by 704 KAR 3:305, Section 2 shall be taken in the areas and according to the standards established in subparagraph 4 of this paragraph.

4. The following subject areas and standards shall be applicable for electives. An elective in:

a. Social studies, science, mathematics, English/language arts, or arts and humanities shall be a course whose academic content is as rigorous as the content established for courses in this area in 703 KAR 4:060.

b. Physical education or health shall be a course whose academic content is as rigorous as the content established for courses in this area in 703 KAR 4:060, and shall be limited to one-half (1/2) academic unit of credit for each area.

c. Foreign languages shall be a course whose academic content includes teaching the spoken and written aspects of the language.

d. Agriculture, industrial technology education, business education, marketing education, family and consumer sciences, health sciences, technology education or career pathways shall be a course whose academic content is beyond the introductory level in the vocational education areas of study as established in 703 KAR 4:060.

(b) A high school may substitute an integrated, applied, interdisciplinary or higher level course for a required course or required elective if:

1. The course provides the same or greater academic rigor and the course covers the minimum required content areas or exceeds the minimum required content areas established in 703 KAR 4:060 and the document "Academic Expectations"; or

2. The course is an honors course, cooperative education course, advanced placement course, international baccalaureate course, dual credit course, or a course taken at a postsecondary education institution.

(c) The grade point average of a high school student who maintains Kentucky residency and completes the academic courses required for a Kentucky Educational Excellence Scholarship while participating in an approved educational high school foreign exchange program or while participating in the United States Congressmen Page School shall be included in the base calculation for that academic year. The grade point average shall be reported by the student’s Kentucky home high school, based on an official transcript from
the school that the student attended during the out-of-state educational experience. This provision shall apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(2) A high school annually shall provide written documentation to a student on whether the student's schedule of coursework meets the requirements of the KEES curriculum.

Section 4. Eligible Postsecondary Education Programs. (1) An eligible program shall be a certificate or degree program offered by a participating institution and recognized by the council.

(2) An eligible program at an out-of-state participating institution shall be limited to those programs that qualify through the Academic Common Market administered by the Southern Regional Education Board.

Table C-2

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This table can be used to relate SAT I V+M scores to ACT Composite scores.

The estimates are based on the test scores of 103,525 students from fourteen (14) universities and two (2) states who took both the ACT and the SAT I between October 1994 and December 1996. Because the ACT and the SAT I have different content, students' actual scores on the ACT could differ significantly from the concordance estimates in the table.

Source: ACT, Inc. Questions about the concordance study may be directed to ACT's Research Division (319)337-1471.

January 1998

Section 7. Criteria for Supplemental Award to Noncertified, Nonpublic High School Students and to GED Students. (1) A Kentucky resident who is a citizen, national or permanent resident of the United States and who graduates from a nonpublic Kentucky high school not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

(a) The student is not a convicted felon;
(b) The student's graduation is May 1999 or thereafter;
(c) The student takes the ACT or SAT and has at least a minimum score as established by KRS 164.7879(3) and
(d) The student is enrolled in a participating institution within five (5) years after graduation from high school.

(2) A Kentucky resident who is a citizen, national or permanent resident of the United States and who has not graduated from either a certified Kentucky high school or a nonpublic Kentucky high school that is not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

(a) The student is not a convicted felon;
(b) The student's eighteenth (18) birthday occurs on or after January 1, 1999;
(c) The student takes and receives a GED diploma in Kentucky within five (5) years of attaining eighteen (18) years of age;
(d) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and
(e) The student enrolls in a participating institution after July 1, 1999, and within five (5) years of receiving the GED diploma.

(3) A student requesting a supplemental award under this section shall notify the participating institution where the student has or intends to enroll.

(4) A residency shall be determined by a participating institution in accordance with 13 KAR 2:045.

(a) A participating institution shall determine a student's eligibility for a supplemental award under this section and shall notify KHEAA of the student's eligibility.

Section 8. Supplemental Award. An eligible high school student who receives a supplemental award as a result of taking and receiving a GED within five (5) years of obtaining eighteen (18) years of age shall have a maximum of five (5) years eligibility beyond the date the GED is received.

Section 9. Administrative Responsibilities and Expenses of Pro-
VOLUME 28, NUMBER 1 – JULY 1, 2001

(1) The CPE annually shall determine the level of funding for expenses associated with the program and shall allocate funds from the "Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund" described in KRS 164.7877(1) and (3).

(2) The KDE and the KHEAA annually, by June 15, shall provide to the CPE a budget proposal indicating the amount of funds requested and a detailed listing of the expenditures necessary to operate the program.

(3) The CPE shall notify the KDE and the KHEAA of the amount of funds available for the next fiscal year no later than April 30 of the fiscal year preceding the fiscal year that funds are to be made available.

(4) The CPE shall develop an allotment schedule for the release of the administrative funds and shall notify the KDE and the KHEAA of that schedule.

GORDON K. DAVIES, President
DENNIS L. TAULBEE, General Counsel
APPROVED BY AGENCY: June 5, 2001
FILED WITH LRC: June 12, 2001 at 11 a.m.

PUBLIC HEARING: A public hearing on administrative regulation 13 KAR 2:090, Kentucky Education Excellence Scholarship (Kees) will be held on July 25, 2001 at 10 a.m. at 1024 Capitol Center Drive, Suite 320, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the Council on Postsecondary Education in writing by phone, fax or by e-mail by July 19, 2001. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the administrative regulation. A transcript of the public hearing will be made unless requested in writing. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the new administrative regulation to: Barbara Cook, Associate, Academic Affairs, Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, (502) 573-1555, FAX (502) 573-1535.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. Taulbee, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: The Kees Program provides scholarships for graduates of Kentucky high schools who earn certain grade point averages.
(b) The necessity of this administrative regulation: This regulation is mandated by KRS 164.7874 through 164.7881.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statutes.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation provides details to students, parents, local schools, KHEAA and KDE in support of implementing the statutory scholarship program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment makes changes to conform with statutory changes adopted during the 2000 regular session, specifically that high school students participating in internships out-of-state can continue to earn the KEEES money.
(b) The necessity of the amendment to this administrative regulation: An amendment is necessary to incorporate legislative changes made in the 2000 regular session.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms explicitly to the authorizing statutes.
(d) How the amendment will assist in the effective administration of the statutes: The statute requires that high school students participating in internships and page programs out-of-state be given credit for that activity and can earn the KEEES money while they are participating. The amendment to the regulation conforms to the regulation to that statutory change.

KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:215. Contact hours, recordkeeping and reporting requirements for renewal of licensure

RELATES TO: KRS 314.011(12), 314.073, 314.991(1) to (3)
STATUTORY AUTHORITY: KRS 314.073, 314.131(1), (2), 314.991(1) to (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1), (2), and 314.073 provide that the board shall establish continuing competency requirements for nurses. This administrative regulation establishes the fees, procedures, and requirements for continuing competency for nurses.

Section 1. Definition. (1) "Earning period" means November 1 through October 31 of a current licensure period.
(2) "Contact hour" means fifty (50) minutes of an approved, organized learning experience.

Section 2. (1) A licensee shall choose a method from Section 3 of this administrative regulation to validate their continued competency in nursing for each earning period.
(2) A licensee shall maintain the documentation of the method chosen.
(3) A licensee shall provide the documentation when directed by the board.

Section 3. Methods for continued competency validation are as follows:
(1) Thirty (30) contact hours of continuing education earned during the licensure period which shall include the continuing education required by Section 5 of this administrative regulation; or
(2) Current national certification or recertification in effect during the licensure period related to the nurse’s practice role and the continuing education required by Section 5 of this administrative regulation; or
(3) Fifteen (15) contact hours of continuing education earned during the licensure period which shall include the continuing education required by Section 5 of this administrative regulation and at least one (1) of the following during the licensure period:
(a) Completion of a nursing research project as principal investigator, coinvestigator or project director;
(b) Publication of a nursing-related article in a refereed professional publication;
(c) A professional nursing presentation that is:
1. An educational presentation that is made to other health professionals;
2. At least one (1) hour in length;
3. Not a part of the licensee's primary job function; and
4. Evidenced by a program brochure, course syllabi, or a letter from the offering provider identifying the licensee's participation as the presenter in the offering;
(d) A nursing employment evaluation that is satisfactory for continued employment; or
(e) A successfully completed employment competency validation.

Section 4. (1) A licensee shall provide documentation of the methods used to validate continued competency if the licensee is the subject of a disciplinary complaint.
(2) A licensee shall provide documentation of the methods used to validate continued competency if requested by the board pursuant to a random audit of licensees.

Section 5. (1) A licensee may complete thirty (30) contact hours of continuing education activities from an approved provider during the earning period.
(2) Registered nurses and licensed practical nurses shall earn a minimum of two (2) contact hours of HIV/AIDS education approved by the Cabinet for Health Services pursuant to 902 KAR 2:160. These contact hours shall be earned at least one (1) time every ten (10) years.
(3)(a) Partial credit for attendance at a continuing education activity shall not be given.
(b) A licensee who attends a continuing education activity, whether as a teacher, participant or student, shall attend the entire offering to be eligible to receive the number of contact hours for which the activity has been approved.
(4) A licensee shall determine whether a continuing education activity is offered by an approved provider.
(5) Advanced registered nurse practitioners shall earn a minimum of five (5) contact hours in pharmacology for each credit hour of the activity.
(6) Sexual assault nurse examiners shall earn the continuing education required by 201 KAR 20:411, Section 8.

Section 6. (1)(a) A licensee shall maintain records to substantiate methods used to validate competency.
(b) All records shall be retained for at least five (5) years following the current licensure period, except for HIV/AIDS education records which shall be maintained for twelve (12) years.
(2)(a) A licensee shall, upon request, furnish to the board or its staff, legible copies of the records required to be maintained by subsection (1) of this section.
(b) Copies shall be furnished within thirty (30) days of the date a written request is mailed by first class to the last known address of the licensee or applicant.
(c) Failure to furnish records as required by this administrative regulation shall be cause for the issuance of a complaint pursuant to 201 KAR 20:161 for failure to comply with KRS 314.073(2).
(3)(a) Except as provided by paragraph (b) of this subsection, if the board determines that a licensee has failed to comply with continuing competency requirements, he shall be allowed to cure the non-compliance if he:
1. Meets continuing competency requirements within ninety (90) days of notification of noncompliance;
2. Enters a consent decree with the board; and
3. Pays a civil penalty imposed by the board pursuant to KRS 314.991.
(b) The board shall issue a complaint pursuant to 201 KAR 20:161 if:
1. A licensee fails to furnish records as requested pursuant to subsection (2) of this section; or
2. There is evidence of fraud or deceit in procuring or attempting to procure a license to practice nursing.

Section 7. (1) Successful completion of a postlicensure academic course at a college, university or postsecondary vocational institution shall qualify as a continuing education activity obtained from an approved provider if relevant to nursing practice.
(2) Contact hours shall be calculated as follows:
(a) One (1) semester or trimester hour of academic credit shall equal fifteen (15) contact hours.
(b) One (1) quarter hour of academic credit shall equal twelve (12) contact hours.

(3) The following courses shall be relevant to nursing practice:
(a) A nursing course, designated by a nursing course number, and beyond the prelicensure curriculum of the individual licensee.
(b) An academic course that is:
1. Applicable to nursing practice; and
2. Appropriate for the nurse engaged in clinical practice, administration, education, or research; and
3. Beyond the prelicensure curriculum of the individual licensee.
(4) A licensee may request course review for approval of applicable nursing content pursuant to Section 8 of this administrative regulation.

Section 8. (1) A licensee may request an individual review of a nonapproved continuing education activity completed during the earning period if, within thirty (30) days after the expiration of the immediate past licensure period, he has:
(a) Requested the review by submitting an "Application for Individual Review"; and
(b) Paid a fee of ten (10) dollars.
(2) The review shall be based on the standards established by:
(a) This administrative regulation; and
(b) 201 KAR 20:220.
(3) Approval by the board of a nonapproved continuing education activity shall:
(a) Qualify it as having been obtained from an approved provider for the licensee requesting the review; and
(b) Be limited to the particular offering upon which the request for individual review is based.

(2) This document may be reviewed, inspected, or copied, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m.

TENA PAYNE, EdD, RN, President
APPROVED BY AGENCY: April 20, 2001
FILED WITH LRC: June 12, 2001 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on July 23, 2001, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing by July 16, 2001, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 323-7009, Fax: (502) 696-3939. Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: It sets out the continuing competency requirements for renewal.
(b) The necessity of this administrative regulation: Required by statute.
(c) How this administrative regulation conforms to the content of the authorizing statute: The statute allows the board to set continuing competency requirements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements for competency.
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(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: It will require HIV/AIDS continuing education once every 10 years.
(b) The necessity of the amendment to this administrative regulation: Required by HB 140.
(c) How the amendment conforms to the content of the authorizing statute: HB 140.
(d) How the amendment will assist in the effective administration of the statutes: By setting the time allowed by HB 140 for HIV/AIDS continuing education.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All nurses, approximately 55,000.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: They will not have to have the HIV/AIDS continuing education as often as before.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: 0
(b) On a continuing basis: 0
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fee or funding will be necessary.
(8) Whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not.
(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:220. Nursing continuing education provider approval.

RELATES TO: KRS 314.011(12), 314.073, 314.131(1), (2)
STATUTORY AUTHORITY: KRS 314.131(1), (2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(2)
and 314.073 require the board to establish continuing competence requirements and approve providers of continuing education. This administrative regulation establishes requirements for providers of continuing education.

Section 1. (1) A provider applicant shall submit an:
(a) “Application for Provider Approval”; and
(b) Application fee as set forth in 201 KAR 20:240.
(2) If an application is approved, the board shall issue a provider number to the applicant.
(3) Provider approval shall initially expire:
(a) For a health care agency, on June 30 of the next even-numbered year;
(b) For a nonhealth care agency, on June 30 of the next odd-numbered year.
(4) On or before March 30 of the year in which an approval period expires, an approved provider shall submit a:
(a) "Request for Renewal"; and
(b) Fee as set forth in 201 KAR 20:240.
(5) Renewal shall be for two (2) years.
(6) A provider applicant may establish compliance by submitting evidence of approval by an organization listed in the board’s "List of Recognized Organizations".
(7)(a) An organization that approves nursing continuing education may request that it be added to the "List of Recognized Organizations".
(b) An organization shall be included in the "List of Recognized Organizations" if the board determines that its standards are comparable to the standards established by the provisions of this administr-ative regulation.

Section 2. (1) The board may review a provider's continuing education activities or approval status at any time.
(2) Except as provided in subsection (3) of this section, if after a review of a provider it is determined that the provider does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny or limit the provider's approval status.
(3) If after a review of a continuing education activity it is determined that the activity does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny approval status for subsequent offerings of that specific continuing education activity.
(4)(a) A request for a hearing before the board shall be filed within ten (10) days of receipt of the board's notice.
(b) If a provider fails to submit a request for a hearing within the time specified in paragraph (a) of this subsection, the board shall implement the action proposed in its notice.

Section 3. Providers shall comply with the following standards:
(1)(a) A nurse who meets the qualifications established in paragraph (b) or (c) of this subsection shall be administratively responsible for continuing education activities, including:
1. Planning;
2. Development;
3. Implementation; and
4. Evaluation
(b) A nurse administrator shall:
1. Hold a current active license;
2. Have experience in adult and continuing education; and
3. Hold a baccalaureate or higher degree, in nursing.
(c) The nurse administrator of continuing education for licensed practical nursing groups shall hold a diploma, or its equivalent, from an approved school of practical nursing.
(2) Organized learning activities shall be based upon systematic needs assessment, and shall support quality continuing education that:
(a) Enhances the quality, safety and effectiveness of care provided by nurses; and
(b) Contributes directly to the competence of a nurse.
(3) The content of nursing continuing education shall be designed to:
(a) Present current theoretical knowledge to enhance and expand nursing skills; and
(b) Promote the development, or change in attitudes, necessary to make competent judgments and decisions in nursing.
(4) Objectives for continuing education activities shall be:
(a) Related to nursing practice and interventions;
(b) Stated in clearly defined expected learner outcomes; and
(c) Consistent with needs assessment data.
(5) The continuing education activity shall reflect cooperative planning between the nurse administrator, faculty and content experts.
(6) The content for each educational activity shall include and be documented in provider files as follows:
(a) An agenda indicating a presentation schedule, presenters, topics, meals, breaks.
(b) Topical outline, teaching methods, and corresponding time frames sufficient to support relevance and value of the educational activity to safe, effective nursing practice.
(7) Teaching methods shall be consistent with the content and learning objectives, and shall reflect the use of adult learning principles.
(8) Faculty for continuing education activities shall demonstrate content knowledge and expertise.
(9) The name, title and credentials identifying the educational and professional qualifications for each faculty member shall be retained in the provider offering files.
(10) Resources allocated for the continuing education activity shall be adequate in terms of education unit organization, with fiscal support for adequate staff, facilities, equipment and supplies to ensure quality teaching-learning in a comfortable environment that is accessible to the target audience.
(11) Participants shall be provided with essential information for review prior to registration. This information shall include:
(a) Learning objectives;
(b) Content overview;
(c) Date, time, and presentation schedule;
(d) Presenter;
(e) Number of contact hours;
(f) Fee and refund policy; and
(g) Requirements for successful completion.
(12) Published information about continuing education activities offered by providers approved by the board shall include the:
(a) Provider number; and
(b) Following statement: "Kentucky Board of Nursing approval of an individual nursing continuing education provider does not constitute endorsement of program content;".
(13) A provider shall notify the board in writing within one (1) month of any changes in its administration, such as nurse administrator, mailing address, telephone number or other relevant information.
(14) A provider shall designate and publish the number of hours of any portion of an offering dedicated to pharmacology.
(15) Records of continuing education activities shall be maintained for a period of five (5) years, including the following:
(a) Title, date and site of the activity;
(b) Name of the person responsible for coordinating and implementing the activity;
(c) Purpose, documentation of planning committee activities, learner objectives, content outline, faculty, teaching and evaluation methods;
(d) Participant roster, with a minimum of:
1. Name and
2. [Social Security number or [and] license number, if held];
(e) Summary of participant evaluations;
(f) Number of continuing education contact hours awarded;
(g) Master copy of certificate awarded.
(16) Participants shall receive a certificate of attendance that documents participation with the following:
(a) Name of participant;
(b) Offering title, date and location;
(c) KBN’s provider’s name, approval number and expiration date;
(d) Name and signature of authorized provider representative;
(e) Number of continuing education contact hours awarded.
(17) There shall be a clearly defined method for evaluating the continuing education activity which includes the following:
(a) An evaluation tool that includes participant appraisal of achievement of the stated learning objectives; teaching effectiveness of each presenter; relevance of content to stated objectives; effectiveness of teaching methods; and appropriateness of physical facilities.
(b) A mechanism for periodic, systematic evaluation of the provider’s total program of educational activities.
(18) An action plan with time lines for resolution of identified deficiencies shall be maintained.
(19) The provider shall have current policies and procedures for the management of the provider’s program that demonstrate compliance with the required standards.
(20) The continuing education provider shall be a recognizable function within the sponsoring organization.

Section 4. (1) A continuing education provider applicant may request limited offering approval for no more than three (3) continuing education courses.
(2) All standards specified in this administrative regulation shall apply with the exception of Section 3(1) of this administrative regulation.
(3) A continuing education provider of limited offerings shall be administered by a healthcare professional with credentials supporting content expertise in the subject matter of the proposed limited offerings.

Section 5. (1) The following forms are incorporated by reference:
(a) "Application for Provider Approval (1992);"
(b) "List of Recognized Organizations (1992);" and
(c) "Request for Renewal (1992);"
(2) They may be obtained from the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.
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KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:230. Renewal of licenses.

RELATES TO: KRS 314.041, 314.051, 314.071, 314.073
STATUTORY AUTHORITY: KRS 314.131(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1)

The board shall promulgate administrative regulations to implement the provisions of KRS Chapter 314. This administrative regulation establishes requirements and procedures for the renewal of licenses.

Section 1. Eligibility for Renewal of Licenses. To be eligible for renewal of licenses, applicants shall:

(1) Hold a valid and current license issued by the board;
(2) Submit completed application form to board office, postmarked no later than the last day of the licensure period;
(3) Submit current fee;
(4) Have current continuing education credits or have completed the required number of hours by the date of submission;
(5) Submit certified copies of court records of any misdemeanor or felony convictions with a letter of explanation;
(6) Submit certified copies of any disciplinary actions taken in other jurisdictions with a letter of explanation or report any disciplinary actions by means other than the mail or internet;
(7) Have paid all monies due to the board; and
(8) Submit copy of an official name change document (court order, marriage certificate, divorce decree), if applicable.

Section 2. An applicant for a current inactive license and an applicant who is renewing for the first time an original Kentucky license issued by examination or endorsement shall be exempt from meeting the following competency requirements of 201 KAR 20:215.

Section 3. (4) An applicant for renewal of current active registered nurse licenses shall earn thirty (30) contact hours of approved continuing education during the period of November 1 through October 31 of the second succeeding year for renewal of registered nurse licenses expiring on October 31 of a current licensure period.

(b) Two (2) of the thirty (30) contact hours shall be in HIV/AIDS education approved by the Cabinet for Health Services.

(2) An applicant for renewal of current active licensed practical nurse licenses shall earn thirty (30) contact hours of approved continuing education during the period of November 1 through October 31 of the second succeeding year for renewal of licensed practical nurse licenses expiring on October 31 of a current licensure period. Two (2) of the thirty (30) contact hours shall be in HIV/AIDS education approved by the Cabinet for Health Services.

Section 4. (1) The licensure period for current active and inactive registered nurse licenses shall be for a biennial period of November 1 through October 31 of even years.

(2) The licensure period for current active and inactive licensed practical nurse licenses shall be for a biennial period of November 1 through October 31 of uneven years.

Section 4. (5) Valid and current licenses issued by the board may be renewed on either an active or inactive status.

TENA PAYNE, EdD, RN, President
APPROVED BY AGENCY: April 20, 2001
FILED WITH LRC: June 12, 2001 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on July 23, 2001, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 16, 2001, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, Fax: (502) 696-3538, Email: nathan.goldman@mail.state.ky.us

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: It sets requirements for renewal of licenses.
(b) The necessity of this administrative regulation: To implement the statute.
(c) How this administrative regulation conforms to the content of the statute: By setting renewal requirements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: By setting renewal requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: It will delete reference to the HIV/AIDS continuing education requirement and replace it with the requirement to complete 201 KAR 20:215.
(b) The necessity of the amendment to this administrative regulation: To implement HB 140.
(c) How the amendment conforms to the content of the statute: HB 140.
(d) How the amendment will assist in the effective administration of the statute: HB 140.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All nurses, approximately 65,000.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: It will change how often nurses have to obtain HIV/AIDS continuing education for renewal.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: 0
(b) On a continuing basis: 0

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

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

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:450. Alternative program.

RELATES TO: KRS 314.085, 314.091, 314.171
STATUTORY AUTHORITY: KRS 314.131(1), (2), 314.171(3)
NECESSITY, FUNCTION AND CONFORMITY: KRS 314.171

The board shall promulgate administrative regulations to implement the provisions of KRS Chapter 314. This administrative regulation establishes requirements and procedures for the renewal of licenses.

Section 1. Definitions. (1) "Approved treatment provider" means...
an alcohol or drug treatment provider that meets the standards as set out in Section 6 of this administrative regulation.

(2) "Board" means the Board of Nursing.

(3) "Chemically-dependent individual" means a nurse or applicant for a credential issued by the board whose ability to practice according to acceptable and prevailing standards of care is or may be impaired by reason of alcohol or drug abuse.

(4) "Program" means the Kentucky Alternate Recovery Effort for Nurses which is the alternative program operated by the board for nurses or applicants for a credential issued by the board.

Section 2. Admission and Denial to the Program. (1) In order to gain admission to the program, an individual shall:

(a) Be a registered nurse or a licensed practical nurse licensed in the Commonwealth of Kentucky or an applicant for a credential issued by the board;

(b) Request participation in the program regardless of whether referred by the board, self, or another person;

(c) Be licensed as a registered nurse or licensed practical nurse current in a state-approved alternative program, if requesting licensure by endorsement from another state;

(d) Admit in writing to being a chemically-dependent individual;

(e) Agree in writing to the terms set forth in the program agreement;

(f) Obtain a current chemical dependency assessment, which includes a complete physical and psychosocial evaluation performed by a licensed or certified medical, mental health or psychological specialist in the field of drug, alcohol, or other chemical dependency;

(g) Provide any evaluation and treatment information, disclosure authorizations, and releases of liability as may be requested by the program staff;

(h) Agree to not be employed in any capacity in a patient care setting or one which requires licensure unless approved to do so by the program staff; and

(i) Have attended an approved treatment provider program.

(2) Admission to the program shall be denied if the applicant:

(a) Does not meet the eligibility requirements for admission as set by subsection (1) of this section;

(b) Is not eligible for licensure in Kentucky;

(c) Diverted scheduled substances for other than self-administration;

(d) In the opinion of the program staff, will not substantially benefit from participation in the program;

(e) Has a criminal conviction related to the sale or distribution of scheduled substances or legend prescription drugs; or

(f) Has been terminated from alternative program participation in Kentucky or any other state.

Section 3. Requirements for Participation in the Program. (1) A participant shall:

(a) Enter into a program agreement; and

(b) Comply with all of the terms and conditions of the program agreement for the time period specified in the agreement.

(2) The program agreement shall be updated and modified as needed to address the participant's progress in recovery and may include any of the following:

(a) A requirement that the participant undergo and successfully complete chemical dependency treatment by an approved treatment provider;

(b) A requirement that the participant agree not to practice in any capacity in a patient care setting or one which requires licensure until approved to do so by the program;

(c) A requirement that the participant undergo and successfully complete the continuing care program recommended by the approved treatment provider and designated in the program agreement. The continuing care program may include individual or group counseling or psychotherapy;

(d) A requirement that the participant remain free of alcohol, over-the-counter medications, mood-altering substances including herbal preparations, over-the-counter medications containing alcohol, or mood-altering substances, and any other medication except for substances prescribed by a practitioner authorized by law to prescribe for a specific medical condition;

(e) A requirement that the participant inform all treating health care practitioners of the participant's chemical dependency and recovery status prior to receiving a prescription for any medication, mood-altering substance, or herbal preparation;

(f) A requirement, when a participant must take any substance prescribed or recommended by a practitioner, that the participant provide the program written documentation from the practitioner that the use of the substance does not impair the participant's ability to practice nursing in a safe and effective manner and will not interfere with the participant's recovery program. The substance is used in accordance with the prescription or recommendation;

(g) A requirement that if the participant is prescribed, recommended, or dispensed any medication by a practitioner, the participant shall cause the practitioner to complete a medication report form provided by the program. The medication report form shall include the diagnosis and a copy of any prescription from any physician, and shall be submitted to the program within the time specified in the program agreement. Consultation with a physician addictionologist may be required by the program and the participant shall agree to abide by any determination made by the physician addictionologist;

(h) A requirement that the participant cause all treatment providers and counselors to provide any reports as may be required by the program at the intervals specified in the program agreement;

(i) A requirement that the participant submit to random alcohol and drug testing when requested by the program, and that the participant comply with all requirements of the program concerning random alcohol and drug testing;

(j) A requirement that the participant attend health professionals' support group and twelve (12) step group meetings as specified by the program agreement, and that the participant verify attendance at these meetings by signature of a group or meeting representative and submit the signatures to the program;

(k) A requirement that the participant comply with the employment restrictions specified by the program agreement;

(l) A requirement that the participant sign a waiver which would allow the program to communicate with the participant's treatment providers, counselors, employers, work site monitors, law enforcement officials and health professionals' support group facilitators, if applicable;

(m) A requirement that the participant be responsible for paying the costs of the physical and psychosocial assessment, chemical dependency treatment, and random alcohol and drug testing, or any other costs incurred in complying with the program agreement;

(n) A requirement that the participant submit a written personal report to the program at the intervals specified by the program agreement;

(o) A requirement that the participant meet in person with a program representative at the intervals specified by the program agreement; and

(p) A requirement that the participant obey all federal, state, and local laws and administrative regulations including all laws and administrative regulations regulating the practice of nursing in Kentucky, and

(q) A requirement that the participant comply with all other terms and conditions specified in the program agreement which the program staff determines are necessary to ensure that the participant is able to practice nursing in accordance with acceptable and prevailing standards of safe nursing care.

Section 4. Successful Completion of the Program. (1) A participant successfully completes the program when the participant fully complies with all of the terms of the program agreement for the period as specified in the agreement.

(2) When a participant successfully completes the program, the program shall notify the participant of the successful completion in writing. Once the participant receives this written notification of successful completion of the program, the participant shall no longer be required to comply with the program agreement.

(3) A participant who successfully completes the program shall not be reported to the National Council of State Boards of Nursing's disciplinary data bank.

Section 5. Causes for Termination from the Program. A participant shall be terminated from the program for the following causes:

(1) Noncompliance with any aspect of the program agreement;
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(2) [Any violation of KRS Chapter 314; (3) Receipt of information by the board which, after investigation, results in disciplinary action by the board other than a reprimand; or (4) Being unable to practice according to acceptable and prevailing standards of safe nursing care (due to chemical-dependency).

Section 6. Standards for Approved Treatment Providers. In order to be an approved treatment provider, the treatment provider shall:
(1) Be accredited by the Joint Commission for the Accreditation of Healthcare Organizations or be state-certified and shall have operated as a chemical dependency treatment program for a minimum of one year;
(2) Provide inpatient or outpatient care;
(3) Be based on a twelve (12) step program of Alcoholics Anonymous/Narcotics Anonymous or equivalent support group;
(4) Provide development of an individualized treatment and aftercare program to satisfy the specific needs of the patient and make recommendations regarding an ongoing rehabilitation plan;
(5) Be based on evaluation by a multidisciplinary team, which includes a psychiatrist, addictionologist, licensed counseling staff, and a core of referral specialists;
(6) Provide adequate detoxification services, including medical support and motivational support with no use of mood-altering drugs; this is to be carried out by a practitioner consistent with Section 3 of this administrative regulation;
(7) Provide clearly-stated costs and fees for services, and offer fee schedules and flexibility in payment plans to accommodate participants who are underinsured or experiencing financial difficulties;
(8) Demonstrate willingness to provide information to the alternative program regarding the status of the participant after appropriate cooperation to release information is obtained;
(9) Work closely with the alternative program staff to assure proper implementation and administration of policies and procedures related to the program;
(10) Maintain timely and accurate communication with program staff, including assessments, diagnosis, prognosis, discharge summary and follow-up recommendations as well as reports on significant events which occur in treatment that are related to impairment and the ability to practice safely;

Section 7. Incorporation by Reference. (1) "Medication Report Form", 9/00, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

TENA PAYNE, EdD, RN, President
APPROVED BY AGENCY: April 20, 2001
FILED WITH LRC: June 12, 2001 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on July 23, 2001, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 16, 2001, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard has the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, Fax: (502) 696-3938, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: Implement the alternative program.
(b) The necessity of this administrative regulation: To implement the alternative program.
(c) How this administrative regulation conforms to the content of the authorizing statute: By setting out procedures for the alternative program.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By implementing the alternative program.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: By making several administrative changes to improve the program.
(b) The necessity of the amendment to this administrative regulation: Certain deficiencies were noted in the administrative regulation which are being corrected.
(c) How the amendment conforms to the content of the authorizing statute: The statute gives the board the authority to implement the program.
(d) How the amendment will assist in the effective administration of the statutes: By improving the program.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Nurses with substance abuse problems, number unknown.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The program should be improved.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: 0
(b) On a continuing basis: 0
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General agency funds.
(d) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.
(e) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It will not.
(f) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

BOARD OF PHYSICAL THERAPY

Amendment


RELATES TO: KRS 327.040, 327.070
STATUTORY AUTHORITY: KRS 327.040(11), (12)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(11) and (12) authorize the Board of Physical Therapy to establish by administrative regulation a code of ethical standards and standards of practice for physical therapists and physical therapist's assistants. This administrative regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070(9).

Section 1. As used in this administrative regulation, unless the context requires otherwise:
(1) "Board" means the Kentucky State Board of Physical Therapy.
(2) "Full time" means employment for forty (40) hours a week.
(3) "On-site supervision" means immediate physical accessibility within the same building.
(4) "Supportive personnel" means a person assisting in direct patient care who is not licensed or certified by the board to provide physical therapy.
Section 2. Code of Ethical Standards for the Physical Therapist and Physical Therapist's Assistant. Physical therapists and physical therapist's assistants shall:
(a) Respect the rights and dignity of all individuals;
(b) Maintain the confidentiality of patient information unless the patient or his appointed representative consents to its release;
(c) Provide accurate information to the consumer; and
(d) Report unethical, incompetent or illegal acts to the board.

Section 3. Standards of Practice for the Physical Therapist. When engaged in the practice of physical therapy, a physical therapist shall:
(1) Evaluate each patient. The patient shall be evaluated:
(a) Prior to initiation of any treatment;
(b) Upon receipt of a patient from another physical therapy service, facility or agency; and
(c) When requested by a referring professional.
(2) Refer the patient to other professionals or services when the treatment or service is beyond his scope of practice;
(3) Be responsible for the physical therapy record of each patient;
(4) Provide services that meet or exceed the generally accepted practice of the profession;
(5) Explain the plan of care to the patient, to others designated by the patient, and to appropriate professionals;
(6) Make it clear to the patient that the patient has the right to choose any qualified professional or equipment supply companies if the physical therapist makes recommendations for such;
(7) Disclose in writing to each patient any financial interest or compensation or other value to be received by the referral source:
(a) For services provided by the physical therapist;
(b) For equipment rental or purchase; and
(c) For other services the physical therapist might recommend for the patient;
(8) Unless prohibited by law, as members of a business entity be allowed to pool or apportion fees received in accordance with any business agreement.

Section 4. Standards of Practice for the Physical Therapist's Assistant. When engaged in the practice of physical therapy, the physical therapist's assistant shall:
(1) Provide services only under the supervision and direction of a physical therapist;
(2) Refuse to carry out procedures that he believes are not in the best interest of the patient or that he is not competent to provide by training or skill level;
(3) Initiate treatment only after evaluation by the physical therapist;
(4) Upon direction from the physical therapist, gather data relating to the patient's disability, but not determine the significance of the data as it pertains to the development of the plan of care;
(5) Refer to the physical therapist inquiries that require an interpretation of patient information related to rehabilitation potential;
(6) Comply with the plan of supervision established by the physical therapist; and
(7) Communicate with the physical therapist any change or lack of change which occurs in the patient's condition which may indicate the need for reassessment and
(8) Discontinue physical therapy services if reassessments are not done in compliance with 201 KAR 22:053, Section 5(3)(f), (g), (l), and (l), and communicate to the appropriate parties.

Section 5. Standards for Supervision. When supervising the physical therapist's assistant and supportive personnel, the physical therapist shall:
(1) Prepare a written plan for the training and supervision of supportive personnel. The plan shall be reviewed annually and revised as necessary. The plan shall be readily available for review by all physical therapists and physical therapist's assistants who work with the supportive personnel and shall include:
(a) A list of clinical competencies of each supportive personnel;
(b) The method for monitoring and supervising care provided by supportive personnel; and
(c) The date and signature of the supervisor and supportive personnel governed by the plan.
(2) At all times, including all work locations, be limited to:
(a) Supervising no more than four (4) full-time physical therapist's assistants or supportive personnel; or
(b) The number of those persons providing part-time patient care for a period equivalent to that provided by four (4) full-time providers of patient care; except
(c) Temporary failure to abide by the maximum staffing ratio of physical therapists to physical therapist's assistants or supportive personnel required in this section for a period not in excess of seven (7) consecutive work days shall not constitute a violation of this standard.
(3) Be responsible for:
(a) Interpreting any referral;
(b) Conducting the initial physical therapy evaluation;
(c) Establishing reporting procedures to be followed by the physical therapist's assistant and supportive personnel;
(d) Evaluating the competency of physical therapist's assistants and supportive personnel;
(e) Supervising the physical therapist's assistant and supportive personnel;
(f) Reassessing inpatients in either a hospital or comprehensive rehabilitation facility every fourteen (14) days;
(g) Reassessing every ninety (90) days, with the physical therapist's assistant present, patients in:
   1. A facility defined in 902 KAR 20:086 as an intermediate care facility (ICF) for the mentally retarded (MR) and developmentally disabled (DD); or
   2. A school system. A forty-five (45) day grace period will be allowed upon transfer from another school district or from the start of the school year. During this grace period treatment may continue based upon the previous reassessment or initial evaluation.
(h) Reassessing each patient not otherwise noted after the earlier of every:
   1. Twenty (20) physical therapy visits; or
   2. Thirty (30) days following the initial evaluation or subsequent reassessment.
(i) Reassessing a patient whose medical condition has changed;
(j) Establishing discharge planning for patients who require continued physical therapy;
(k) Altering, extending, refusing or discontinuing treatment by the physical therapy service;
(l) Insuring that when supportive personnel provide direct patient care that there is on-site supervision by a physical therapist or physical therapist's assistant; and
(m) Insuring that physical therapist students and physical therapist's assistant students fulfilling the clinical education requirements of an CAPTA accredited program in physical therapy shall receive on-site supervision by a physical therapist.

Section 6. Standards for Documentation. The physical therapist is responsible for the physical therapy record of a patient. The physical therapy record shall consist of:
(1) The initial evaluation, a written report signed and dated by the physical therapist performing the evaluation which shall include:
(a) The patient's name, age and sex;
(b) Referral source, if appropriate;
(c) Pertinent medical and social history;
(d) Symptoms and date of onset;
(e) Medical diagnosis, if available;
(f) Subjective information;
(g) Appropriate objective testing;
(h) Precautions and contraindications;
(i) Problems, interpretation, assessment;
(j) Plan of care, including:
   1. Treatment to be rendered;
   2. Frequency and duration of treatment;
   3. Referral to other professionals, if indicated;
   4. Patient education and instruction; and
   5. Measurable goals.
(2) Progress notes, which are written, signed and dated by the person rendering treatment, and countersigned and dated by the physical therapist when written by supportive personnel, physical therapist students, physical therapist's assistant students, or examination candidates. The progress notes shall include:
(a) A current record of treatment;
(b) Patient's response to treatment;
(c) Any factors affecting treatment; and
(d) Data obtained by all objective tests performed.
(3) Reassessment, which is written, signed and dated by a physical therapist. This reassessment shall be in compliance with 201 KAR 22:053, Section 5(3)(f) and (g). If the physical therapist is treating the patient, these reports may be incorporated into the progress notes. If a physical therapist’s assistant or supportive personnel are treating the patient, the report shall be a separate entry into the record. A reassessment shall include directly observed objective, subjective, and medical data necessary for the revision or reaffirmation of the plan of care and measurable goals.

(4) Discharge summary, which is the written, signed, and dated statement of the patient’s physical therapy status upon discharge, including reference to previously established goals and program plan. A physical therapist’s assistant may write the discharge summary which shall be countersigned by the responsible physical therapist. The discharge summary shall include:
   (a) Data and reason for discharge;
   (b) Objective data related to the initial evaluation and subsequent review;
   (c) A complete and accurate summary of the patient’s status at the time of discharge. Status includes functional ability, increase or limitation of range of motion, decrease or increase of pain, muscle power, general physical and mental condition including tolerance; and
   (d) Discharge plan, which means any recommendations the physical therapist has regarding the need for continuing physical therapy.

(5) The correct designation following the signature of the person who has entered a statement(s) into the patient record shall be as follows:
   (a) If written by a physical therapist or a physical therapist candidate granted a temporary permit by the board: “PT”;
   (b) If written by a physical therapist’s assistant or a physical therapist’s assistant examination candidate granted a temporary permit by the board: “PTA”;
   (c) If written by supportive personnel: “PT Aide”, or “Physical Therapy Aide” or “PT Tech”; and
   (d) If written by students: “Physical Therapist Student” or “PT Student”; “Physical Therapists Assistant Student” or “PTA Student”.

JOAN S. DALTON, Chairman
APPROVED BY AGENCY: May 17, 2001
FILED WITH LRC: June 7, 2001 at 11 am.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001 at 9 a.m. (EST) at 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5159. Individuals interested in being heard at this hearing shall notify this agency in writing by July 16, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Rebecca Klusch, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5159. (502) 327-8497. Fax: (502) 423-0934.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Becky Klusch, Executive Director
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation describes the code of ethical standards and the standards of practice for physical therapists and physical therapist’s assistants.
   (b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 327.040 and 327.070.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: It provides the standards and clarification of code of ethical standards and standards of practice for physical therapists and physical therapist’s assistants.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statues: It provides clarification for the standards of practice for physical therapists and physical therapist assistants.
   (e) If this is an amendment to an existing administrative regulation, provide a brief summary of:
      (a) How the amendment will change this existing administrative regulation: The amendment clarifies the standards of practice for physical therapists and physical therapist’s assistants.
      (b) The necessity of the amendment to this administrative regulation: To clarify the standards of practice for physical therapists and physical therapist’s assistants.
      (c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to promulgate a code of ethical standards and standards of practice.
      (d) How the amendment will assist in the effective administration of the statutory: By clarifying the code of ethical standards and standards of practice.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximate 3200.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: It will clarify the regulations to better understand the regulations.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: There will be no additional costs to the agency in implementing this administrative regulation.
   (b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency General Government Funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or indirectly increase any fee.

(9) Tiering: Is tiering applied? Tiering was not used since it does so would be unconstitutional.

KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS
(Amendment)

201 KAR 31:010. Fees.

RELATES TO: KRS 322A.050, 322A.060, 322A.070
STATUTORY AUTHORITY: KRS 322A.030(5), 322A.050, 322A.060(1), 322A.070(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary by KRS 322A.050 and sets forth the fees charged by the board to apply for registration, sit for the examination, and renew reinstates registration.

Section 1. Application Fee. The application fee for registration as a professional geologist shall be fifty ($50) twenty-five ($25) dollars.

Section 2. Examination Fees. The following fees shall be paid in connection with the licensure examinations required by the board:
   (1) The fee for the fundamentals in geology (FG) portion of the examination shall be $125 ($125).
   (2) The fee for the principles and practice of geology (PG) portion of the examination shall be $150 ($150).

Section 3. Renewal Fees and Penalties. The following fees shall be paid in connection with licensure renewals and late renewal penalties:
   (1) The renewal fee for registration shall be fifty ($50) twenty-five ($25) dollars;
(2) The late renewal fee, including penalty, for late renewal during the ninety (90) sixty-(60) day grace period shall be seventy-five (75) fifty-five-(55) dollars; and
(3) The reinstatement fee for registration renewal after the end of the ninety (90) sixty-(60) day grace period shall be $110 (seventy-five-(75) dollars).

Section 4. [Duplicate-Registration-Fees.] The fee for a duplicate of the original registration certificate shall be ten (10) dollars.

JOHN C. PHILLEY, Chairman
APPROVED BY AGENCY: June 13, 2001
FILED WITH LRC: June 14, 2001 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001, at 9:30 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nancy Black
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets forth in detail all fees charged by the board.
(b) The necessity of this administrative regulation: To inform the public of the fees to be charged by the board for application, examination, and renewal of a registration.
(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 322A.030(5) authorizes the board to promulgate administrative regulations consistent with the provisions of KRS Chapter 322A which are appropriate and necessary to carry out its responsibilities and duties. KRS 322A.050 authorizes the board to establish an application fee. KRS 322A.080(1) enables the board to establish a renewal fee. KRS 322A.070(1) and (3) respectively allow the board to charge a registration and reinstatement fee. These fees generate the board’s operating costs, enabling the board to review applicants for registration and renewal, as well as take appropriate disciplinary action when necessary.
(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation clearly delineates the fees to be assessed by the board. It assists the board by providing answers to commonly asked questions, and as such should reduce the number of inquiries to the board administrator.
(e) How the amendment will change the existing administrative regulation: This amendment increases the application, renewal and reinstatement fees. It decreases the examination fees to reflect a reduction in costs.
(f) The necessity of the amendment to this administrative regulation: The decrease in the cost of the examination needs to be passed on to the registrants. In addition, the board expects that the number of geologists registered in the Commonwealth will continue to decline. This will necessitate the need to raise fees to provide the board with the funding necessary to carry out its statutory duties.
(g) How the amendment conforms to the content of the authorizing statute: The board is authorized by KRS 322A.030(5) to promulgate administrative regulations, including regulations that delineate fees to be charged by the board. KRS 322A.050 authorizes the board to establish an application fee. KRS 322A.080(1) enables the board to establish a renewal fee. KRS 322A.070(1) and (3) respectively allow the board to charge a registration and reinstatement fee without placing any limits on the amount of the fees.
(h) How the amendment will assist in the effective administration of the statutes: The board is charged with registration and enforcement. The fees generated through this administrative regulation will help the board carry out its basic functions.
(i) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: In excess of 1860 registered geologists in the Commonwealth of Kentucky.
(j) Assessment of how the above groups will be impacted by the implementation of this administrative regulation: This amendment will have a minor impact on applicants as the initial application fee is increased $25, while the examination fees are decreased a total of $75. In addition it increases the renewal and reinstatement fees each by $25.
(k) Estimate of how much it will cost to implement this administrative regulation: (a) Initially: There are no costs associated with the initial implementation of this regulation.
(b) On a continuing basis: There are no continuing costs associated with implementation of this regulation.
(c) The source of funding for the implementation and enforcement of this administrative regulation: General board funds.
(d) Assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: The board does not anticipate any increase in fees or funding to implement this administrative regulation.
(e) This administrative regulation does establish fees, and it directly increases some fees while reducing others.
(f) TIERING: Is tiering applied? No. This administrative regulation applies equally to all registered geologists throughout the Commonwealth of Kentucky.

KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS
(Amendment)

201 KAR 31:050. Renewals.

RELATES TO: KRS 322A.060
STATUTORY AUTHORITY: KRS 322A.030(5), 322A.060
NECESSITY, FUNCTION, AND CONFORMITY: KRS 322A.060 establishes conditions for the renewal, suspension, and revocation of certificates of registration. KRS 322A.030(5) authorizes the board to promulgate administrative regulations required to perform its duties. This administrative regulation establishes procedures for the renewal of certificates of registration.

Section 1. (1) A registered professional geologist shall annually, before October 1, pay to the board the renewal fee established by 201 KAR 31:010, Section 3(2).
(2) A certificate of registration that is not renewed before October 1 of each year shall expire provided by KRS 322A.000(1).

Section 2. A ninety (90) day grace period shall be allowed beginning October 1, during which a registered professional geologist may:
(1) Continue to practice; and
(2) Renew his certificate of registration upon payment of the renewal fee as provided by 201 KAR 31:010, Section 3(2)(d).

Section 3. (1) A certificate of registration that is not renewed before December 29 shall be suspended for failure to renew.
(2) Upon suspension, the registered professional geologist shall:
(a) Not be eligible to practice geology in the Commonwealth; and
(b) Be notified [notify] at the last known address available to the board of his suspension; and
(c) Instructed to cease and desist practice.

Section 4. After the ninety (90) day grace period and before the end of two (2) years, a professional geologist suspended for failure to renew, may have his certificate of registration reinstated upon:
(1) Payment of the reinstatement fee as provided by 201 KAR 31:010, Section 3(3).
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(2) Completion of the reinstatement form; and
(3) Documentation of employment from the time of suspension until the present.

JOHN C. PHILLEY, Chairman
APPROVED BY AGENCY: June 13, 2001
FILED WITH LRC: June 14, 2001 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001, at 9:30 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4318.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nancy Black
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes procedures for the renewal of certificates of registration by the board.
(b) The necessity of this administrative regulation: To inform the public of the process for renewal.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 322A.080 establishes conditions for the renewal of suspension, and revocation of certificates of registration. KRS 322A.030(5) authorizes the board to promulgate administrative regulations required to perform its duties.
(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation clearly delineates the process to be followed by the board. It assists the board by providing answers to commonly asked questions, and as such shall reduce the number of inquiries to the board administrator.
(2) How the amendment will change the existing administrative regulation:
(a) How the amendment conforms to the content of the authorizing statutes: The board is authorized by KRS 322A.030(5) to promulgate administrative regulations, including regulations that pertain to applications for renewal of a registration.
(b) How the amendment will assist in the effective administration of the statutes: Applicants for renewal of a registration will be aware of the amount of the fee to renew a registration.
(c) How the amendment conforms to the content of the authorizing statutes: Applicants for renewal of a registration will be aware of the amount of the fee to renew a registration.
(d) How the amendment will change the existing administrative regulation: In excess of 1800 registered geologists in the Commonwealth of Kentucky.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: In excess of 1800 registered geologists in the Commonwealth of Kentucky.
(4) Assessment of how the above groups will be impacted by the implementation of this administrative regulation: This amendment will have a minor impact as the number of applicants for reinstatement each year is minimal.
(5) Estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There are no costs associated with the initial implementation of this regulation.
(b) On a continuing basis: There are no continuing costs associated with implementation of this regulation.
(6) The source of funding for the implementation and enforcement of this administrative regulation: General board funds.
(7) Assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: The board does not anticipate any increase in fees or funding to implement this administrative regulation.
(8) This administrative regulation does not establish fees. It references another administrative regulation that establishes the amount of the renewal fee.

KENTUCKY BOARD OF LICENSURE OF MARRIAGE AND FAMILY THERAPISTS
(AMENDMENT)

201 KAR 32:030. Fees.

RELATES TO: KRS 335.330, 335.340(1),(3) [66]
STATUTORY AUTHORITY: KRS 335.320[67], 335.330, 335.340(1),(3) [66]
NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation sets all fees for licenses as a marriage and family therapist and marriage and family therapist associate. KRS 335.330 requires the board to promulgate an administrative regulation establishing the initial fee for licensure [certification] required to be paid by an applicant for licensure [certification] and requires an applicant to pass a written examination prescribed by the board. KRS 335.340(1)(a) requires that all licenses issued under KRS 335.330 shall be renewable annually, and that the board [66] promulgate an administrative regulation establishing the fee for licensure [certification] renewal. KRS 335.320(4) [73] authorizes the board to promulgate administrative regulations necessary to implement KRS Chapter 335. KRS 335.340(3) requires the board to promulgate an administrative regulation establishing the late renewal fee. KRS 335.340(3) requires the board to establish procedures for reinstatement of expired licenses. This administrative regulation establishes those fees.

Section 1. Initial Application [Certification] Fee. [41] The initial application [certification] fee for licensure [certification] as a marriage and family therapist shall be sixty ($60) dollars. [66]

Section 2. Initial Licensure Fee. The initial fee for licensure as a marriage and family therapist shall be $150.

Section 3. Examination Fee. An applicant must pass the "National Marital and Family Therapy Examination" administered and verified by the Professional Examination Service. The applicant shall pay the required examination fee directly to the Professional Examination Service. [66]

Section 4. [3.] Renewal Fee. The fee for renewal of licensure as a marriage and family therapist [certification] shall be $110 annually [$250 for a three (3)-year period].

Section 5. Late Renewal Fee. Any licensee who renewes his license during the ninety (90) day grace period provided by KRS 335.340(3) shall pay a late renewal fee of fifty ($50) dollars in addition to the payment of the renewal fee as set forth in Section 4 of this administrative regulation.

Section 6. Reinstatement of Expired License. [1.] An expired license may be reinstated by:
(a) Submitting a complete "License Reinstatement form";
(b) Payment of the renewal fee as set forth in Section 4 of this administrative regulation for each year since the date of last active licensure;
(c) Payment of a reinstatement fee of $100; and
(d) Meeting all other requirements of this section.
Section 7. Incorporation by Reference. (1) "License Reinstatement Form" (2001) Kentucky Board of Licensure for Marriage and Family Therapists, is incorporated by reference.
(2) It may be inspected, copied, or obtained, subject to applicable state law, at the Kentucky Board of Licensure for Marriage and Family Therapists, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001, at 1:30 p.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nancy Black
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the fees charged by the board to become licensed, to renew, and reinstate a license.
(b) The necessity of this administrative regulation: To advise and inform applicants of the fees associated with obtaining, renewing, and reinstating a license.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.320(4) and 335.330 authorize the board to charge a fee for an applicant to become licensed. KRS 335.340(1) authorizes the board to establish a fee no greater than $150 for an applicant to renew a license. KRS 335.340(3) allows the board to charge a late renewal fee.
(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation establishes the amount of the fees to be charged by the board to issue an initial license, renew and reinstate a license.
(2) How the amendment will change the existing administrative regulation:
(a) This amendment increases the fees charged by the board, requires examination applicants to pay the examination fee charged by the testing company, and incorporates by reference the reinstatement form.
(b) The necessity of the amendment to this administrative regulation: To place applicants on notice of the fees to be paid to obtain and renew a license. Also the amendment establishes a reinstatement procedure and the fee associated with reinstating a license.
(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized by KRS 335.330 to promulgate administrative regulations, including regulations that pertain to administrative regulations, including regulations for reinstatement. KRS 335.320(4) and 335.330 authorize the board to charge a fee for an applicant to become licensed. KRS 335.340(1) authorizes the board to establish a fee no greater than $150 for an applicant to renew a license. KRS 335.340(3) allows the board to charge a late renewal fee.
(d) How the amendment will assist in the effective administration of the statutes: The board is charged with registration and enforcement. Incorporating the reinstatement form into the administrative regulation will increase the information available to the public.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 400 marriage and family therapists in the Commonwealth.
(4) Assessment of how the above groups will be impacted by the implementation of this administrative regulation: This amendment will increase the renewal fee, create a late and reinstatement fee and have examination applicants pay the examination fee to the testing agency rather than to the board.
(5) Estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There are no costs associated with the initial implementation of this regulation.
(b) On a continuing basis: There are no continuing costs associated with implementation of this regulation.
(c) The source of funding for the implementation and enforcement of this administrative regulation: General board funds.
(7) Assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: The board does not anticipate any increase in fees or funding to implement this administrative regulation.
(8) This administrative regulation does establish a late fee to renew a license and to reinstate a license. The regulation also increases fees.
(9) TIERING: Is tiering applied? No. This administrative regulation applies equally to all marriage and family therapists throughout the state.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)


RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Northpoint Training Center.

Section 1. (1)(a) Northpoint Training Center policies and procedures, June 13, 2001 [September 13, 2000], are incorporated by reference.
(b) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the General Counsel, Department of Corrections, 2438 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40601-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Northpoint Training Center policies and procedures include:
NCT 01-05-01 Extraordinary Occurrence Reports
NCT 01-10-01 Legal Assistance for Corrections Staff
NCT 01-11-01 Political Activities of Merit Employees
NCT 01-15-01 Establishment of the Warden as Chief Executive Officer
NCT 01-17-01 Relationships with Public, Media and Other Agencies
NCT 02-02-02 Warden's Participation in the Agency Budgeting Process
NCT 02-03-01 Accounting for Appropriations and Expenditures of Funds
NCT 02-04-01 Internal Control and Monitoring of Accounting Procedures
NCT 02-07-02 Institutional Religious Center Fund
NCT 02-08-01 Inmate Canteen
NCT 02-10-01 Insurance Coverage
NCT 02-12-01 Inmate Accounts [(Amended 9/14/00)]
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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 08-04-01 Transition from Three (3) Eight (8) Hour Shifts to Two (2) Twelve (12) Hour Shifts (Added 6/13/01)
[NTC 08-06-04 Fire Prevention Officer (Deleted 6/13/01)]
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 08-07-01 Safety Standards
NTC 09-05-03 Accounting for Inmates (Added 6/13/01)
NTC 09-06-01 Searches and Contraband Procedures; Disposition of Contraband (Added 6/13/01)
NTC 09-07-01 Entry and Exit of the Parole Board (Added 6/13/01)
NTC 09-14-01 Inmate Death (Added 6/13/01)
NTC 09-16-01 Restricted Areas (Added 6/13/01)
NTC 09-23-01 Security Activity Logs (Added 6/13/01)
NTC 09-29-01 Prohibiting Inmate Authority Over Other Inmates (Added 6/13/01)
NTC 09-32-01 Vehicle Usage (State and Private) (Added 6/13/01)
NTC 09-33-01 Use of the Electronic Identification Card Scanner, Metal Detector and X-ray Machine (Added 6/13/01)
NTC 10-01-01 Special Management Unit (Amended 6/13/00)
NTC 11-03-01 Food Services: General Guidelines
NTC 11-04-02 Meal, Nutrition and Special Diets
NTC 11-05-02 Health Standards and Regulations for Food Service Employees
NTC 11-08-01 Inspection and Sanitation
NTC 11-09-01 Purchasing and Storage of Food Products
NTC 12-01-01 Institutional Inspection
NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens (Amended-6/14/00)
NTC 12-02-02 Issuance of Personal Hygiene Products (Amended-6/14/00)
[NTC 12-04-04 Sanitation and Pest Control Officer-Post-Orders (Deleted-6/14/00)]
NTC 12-06-01 Housekeeping Procedures
NTC 12-07-01 Grooming and Hair Care Standards
NTC 13-01-01 Emergency Medical Care Plan
NTC 13-02-01 Emergency and Specialized Health Services
NTC 13-02-01 Administration and Authority for Health Services
NTC 13-03-01 Sick Call and Pill Call (Amended 6/14/00)
NTC 13-04-01 Utilization of Pharmaceutical Products (Amended 6/14/00)
NTC 13-05-01 Dental Services
NTC 13-05-03 Dental Radiation Levels
NTC 13-05-04 Attest Steam Incubator
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 (Amended 6/14/00)
NTC 13-09-01 Special Diets
NTC 13-11-01 Inmate Health Screening and Evaluation (Amended 6/14/00)
NTC 13-12-01 Special Care Programs (Amended 6/14/00)
NTC 13-13-01 Inmate Self-administration of Medication
NTC 13-17-01 Inmates Assigned to Health Services
NTC 13-19-01 Mental Health Care Program
NTC 13-19-03 Suicide Prevention and Intervention Program
NTC 13-20-01 Infectious Disease
NTC 13-20-02 Infection Control
NTC 13-20-03 Disposal of Biohazard Waste
NTC 13-21-01 Vision Care and Optometry Services
NTC 13-22-01 Informed Consent
NTC 13-23-01 Special Inmates
NTC 14-01-01 Legal Services Program
NTC 14-01-02 Receiving, Viewing, Handling and Storage of Video Tapes
NTC 14-02-01 Inmate Grievance Procedure
NTC 14-03-01 Inmate Rights and Responsibilities
NTC 14-03-02 Board of Claims
NTC 15-01-01 Restoration of Forfeited Good Time
NTC 15-02-01 Due Process/Disciplinary Procedures
NTC 15-02-02 Extra Duty Assignments
NTC 15-03-03 Hearing Officer
NTC 15-03-01 Rules for Inmates Assigned to Outside Detail
NTC 15-03-02 Rules and Regulations for General Population Dormitories
NTC 15-03-03 Nonsmoking Dormitory
NTC 15-04-01 Inmate Identification
NTC 15-05-01 Drug Abuse and Intoxicants Testing
NTC 16-01-01 Mail Regulations
NTC 16-02-01 Visiting
NTC 16-02-02 Extended and Special Visits
NTC 16-02-03 Honor Dorm and Outside Detail Dorm Visiting
NTC 16-02-04 Controlled Visitation
NTC 16-02-05 Inmate Sanitation
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
NTC 17-01-05 State Issue and Required Inmate Clothing
NTC 17-03-01 Assessment and Orientation
NTC 18-01-01 Preparatory Progress Report
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 (Amended 6/94/00)
NTC 19-01-03 Temporary Leave from Job Assignment
NTC 19-02-01 Correctional Industries
NTC 19-02-02 Guidelines for Correctional Industries
NTC 20-01-01 Educational Programs (Amended 6/94/00)
NTC 20-02-02 Work Projects in Vocational School Classes (Amended 6/13/00)
NTC 21-01-01 Library Services
NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01 Religious Services
NTC 23-03-01 Marriage of Inmates
NTC 24-04-01 Honor Housing
NTC 24-05-01 Unit Management
NTC 25-01-01 Release Preparation Program
NTC 25-01-02 Temporary and Community Center Release
NTC 25-01-03 Graduated Release
NTC 25-02-01 Funeral Trips and Bedsides Visits
NTC 25-03-01 Inmate Release Program
NTC 26-01-01 Citizen Involvement and Volunteer Services Program

TOM D. CAMPBELL, Commissioner

APPROVED BY AGENCY: June 11, 2001
FILED WITH LRC: June 14, 2001 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 16, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack T. Darron, Deputy General Counsel, Department of Corrections, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40622-2400, Phone (502) 564-2024, Fax (502) 564-0494.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jack Damon, Deputy General Counsel

1. Provide a brief summary of:
   (a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures of the Department of Corrections (Corrections) governing the operation of Northpoint Training Center and Corrections, which directs institutional employees in the safe and appropriate control of the inmate population and security of the institution.
   (b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs every aspect of the operations of this institution.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By providing clear and concise direction and information to institutional employees as to their duties and responsibilities to ensure the safety and secure operation of the institution.

2. If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: The amendments will bring the policies and procedures in compliance with state and federal law, including KRS Chapter 13A, and ACA Standards.
   (b) The necessity of the amendment to this administrative regulation: To conform to the requirement of KRS 196.035 and 197.020.
   (c) How the amendment conforms to the content of the authorizing statutes: It permits the commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of Northpoint Training Center.
   (d) How the amendment will assist in the effective administration of the statutes: It will make minor changes to conform to KRS Chapter 13A, to assist in better understanding of the policies by institutional employees, thereby impacting the safety and security of the institution and the public.

3. Type and number of individuals, businesses, organizations, state and local governments affected by this administrative regulation: 290 employees and 1129 inmates of the Northpoint Training Center.

4. Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, new, or by the change if it is an amendment: To ensure a clearer understanding of the policies by employees, thereby impacting the safety and security of Northpoint Training Center and the public.

5. Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: None
   (b) On a continuing basis: None
   (c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds budgeted for this 2000 - 2002 biennium.
   (d) Provide and assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None
   (e) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None
   (g) TIERING: Is tiering applied: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions or arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

JUSTICE CABINET
Kentucky Law Enforcement Council
(Amendment)

503 KAR 1:40. Peace officer professional standards.

RELATES TO: KRS 15.330(1)(g)
STATUTORY AUTHORITY: KRS 15.330(1)(g), 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.560 authorizes the Kentucky Law Enforcement Council (Secretary of the Justice Cabinet) to promulgate administrative regulations. This administrative regulation establishes the guidelines and procedures necessary to implement and administer peace officer certification.

Section 1. Approval of agency's validated job task analysis and associated agency testing.

1. Application. If an agency desires to use its own job task analysis and any associated agency testing, the agency shall submit to POPS completed KLECs POPS Forms J and Q, and a copy of the proposed job task analysis. The agency shall supply the name of the entity who completed the analysis, the date when the analysis was completed, a curriculum vitae or resume, or a company profile of the entity who completed the analysis, and a listing of all job task analyses previously completed by the entity including the dates of the analyses.

2. Criteria for assessment. The submitted job task analysis shall be assessed based upon the following criteria:
   (a) Credentials and history of the entity conducting the analysis:
      1. Education, with a preference given to degrees in law enforcement, statistics, or a related area.
      2. Work experience, with a preference given to emphasis in law enforcement, statistics, or a related area.
   (b) Number and quality of job task analyses completed.
   (c) Methodological approach:
      1. Reasonable, standardized format of the study and the report.
      2. Relative reliability and validity of the study's sampling techniques and practice.
      3. Other considerations that reflect sound practice of the scientific method.

4. Specificity of the analysis. The job task analysis shall establish minimum entry qualifications, specific training requirements and description of duties of officers.

5. Initial review. Within five (5) business days of receipt of the application POPS shall mail a notification to the agency that either:
   (a) The application has been received and is complete; or
   (b) The application is incomplete and the specific information which shall be supplemented in order to present the application.

6. Review. POPS shall receive the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application shall be considered abandoned and the agency shall resubmit an application for reconsideration of their job task analysis and associated agency testing.

7. POPS Recommendation. Within thirty (30) days of receipt of the completed application, POPS shall forward the application to KLEC along with a recommendation to approve or reject the job task analysis and associated agency tests, and the specific reasons supporting a recommendation to reject.

8. KLEC Review. The KLEC Committee on Certification shall review the application and POPS' recommendation and forward their recommendation to KLEC for final review. Within sixty (60) days of receipt of the application KLEC shall issue written notice to the agency indicating whether the application has been approved or found to be insufficient or erroneous.

9. If an application is found to be insufficient or erroneous, the KLEC shall notify the agency of:
   1. The reasons for the finding; and
   2. The requirement that the council file a declaratory action in accordance with KRS 15.394(1).

Section 2. Agency Testing Procedures. (1) POPS shall receive completed KLEC POPS Form Q from each agency participating in certification as of December 1, 1998 prior to any applicant testing. If an agency initiates participation in certification after December 1, 1998, KLEC POPS Form Q shall be submitted to POPS with KLEC POPS Form E.

2. Initial review. Within fifteen (15) business days of receipt of KLEC POPS Form Q POPS shall mail a notification to the agency that either:
   (a) The form has been received and is complete; or
   (b) The form is incomplete and the specific information which shall be supplemented in order to process the form. POPS shall receive the necessary information within ten (10) business days of the agency's
receipt of the notice of insufficiency. No applicants shall be tested or certified by KLEC until the form is complete.

3. POPS review of requests for agency testing. Within thirty (30) days of receipt of the completed form, POPS shall review requests for agency testing from those agencies without a validated job task analysis to determine if the proposed tests are consistent with the minimum standards for KLEC testing as established in Section 4 of this administrative regulation. POPS shall mail a notice to the agency if the proposed testing is acceptable. If POPS determines that the minimum standards are not met, POPS shall forward the form to KLEC, along with the specific reasons supporting a recommendation to reject the agency testing.

4. KLEC Review. The KLEC Committee on Certification shall review the form and POPS’ recommendation and forward their recommendation to KLEC for final review. Within sixty (60) days of their receipt of the form KLEC shall issue written notice to the agency indicating whether the request for agency testing has been approved or rejected, and the specific reasons supporting the rejection.

5. (a) An agency may appeal a decision made by KLEC to reject an agency test by filing a written notice of appeal:
   1. With the Secretary of the Justice Cabinet; and
   2. Within thirty (30) days of receipt of the notice of rejection.
   (b) The notice of appeal shall be submitted:
      1. On KLEC POPS Form S; and
      2. With a copy of the notice of rejection of agency testing attached.
   (c) A copy of the notice of appeal shall be mailed to POPS by certified mail.
   (d) The Secretary of the Justice Cabinet shall schedule a hearing within thirty (30) days of receipt of the notice of appeal.
   (e) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 3. Certification of Exempt Officers. (1) Officers exempted from certification requirements pursuant to KRS 15.380(5) who are requesting certification shall submit KLEC POPS Form E to POPS.

(2) State peace officers employed pursuant to KRS 15.380(2) who have had certification requirements adopted pursuant to KRS 15.380(2) shall submit KLEC POPS Form E to POPS.

(3) An agency may request that agency officers exempted pursuant to KRS 15.380(4) participate in certification by submitting KLEC POPS Form E to POPS.

(4) Officers entitled to certified status pursuant to the grandfather provision of KRS 15.400(1) shall submit KLEC POPS Form C.

Section 4. Suitability Minimum Requirements: The following minimum requirements and procedures are established for KLEC testing:

(1) The background investigation as specified in KRS 15.382(12) shall consist of the following minimum requirements:
   (a) Biographical history;
   (b) Family history;
   (c) Education;
   (d) Employment history;
   (e) Interview with the applicant’s references;
   (f) Criminal history including domestic violence protective orders;
   (g) Credit history.
   (h) Fingerprinting. An applicant shall be fingerprinted and a criminal background check shall be conducted as specified in KRS 15.382(5) through the following procedure: The agency shall submit two (2) completed FBI fingerprint cards and all required fees to the Kentucky State Police, who shall complete a state records check, then forward the card to the FBI. The FBI shall forward the results of its records check to the employing agency. Final certification shall not be issued until results consistent with certification requirements and acceptable to the agency are received from the FBI. The agency may employ the peace officer contingent upon the pending FBI results.
   (i) Psychological screening as specified in KRS 15.382(15) shall consist of the following minimum requirements:
      1. Screening shall measure a broad spectrum of abilities, personality characteristics, and related constructs such as integrity, conscientiousness, and vocational preference, which are relevant to job-related duties.
      2. Screening shall contain a minimum of two (2) independent and objectively scored psychometric measures which shall be constructed and validated in accordance with the "Standards for Educational and Psychological Testing", Part IV - Standards for Administrative Procedures, (1985 Edition), American Psychological Association.

3. Assessment results and predictions shall include a recommendation and summary statement regarding the applicant’s overall suitability for employment as a peace officer. The summary statement shall classify applicants as "suitable", "not suitable", or borderline. In the case of borderline and not suitable the report shall contain specific concerns and negative indicators for investigation and reconciliation by the employing agency;


(2) Physical agility testing as specified in KRS 15.382(12) shall consist of the following minimum requirements:
   (a) The applicant shall successfully complete each of the following events as instructed and evaluated by KLEC personnel who shall administer the test in conformity with the Validation of Physical Fitness Standards for the Kentucky Department of Criminal Justice Training, Appendix I - Procedures for Physical Fitness Testing Procedures for Manditory Physical Fitness Tests, September 25, 1998, Fitness Intervention Technologies:
      1. One and five-tenths (1.5) mile run in seventeen (17) minutes twelve (12) seconds;
      2. 300 meter run in sixty-five (65) seconds;
      3. Twenty (20) push ups;
      4. Sixteen (16) inch vertical jump;
      5. One (1) bench press equal to sixty-four (64) percent of the applicant’s body weight;
      6. Eighteen (18) sit ups in one (1) minute.
   (b) If an applicant passes all events when participating in the physical agility test in its entirety, he shall have met the physical agility minimum requirements.
   (c) If an applicant passes at least one (1) event when participating in the physical agility test in its entirety:
      1. He may retake the failed events no sooner than forty-eight (48) hours and no later than sixty (60) days from the date of the initial test.
      2. All failed events shall be retested on the same date.
      3. If the applicant passes all previously failed events on the date of the retest, he shall have met the physical agility minimum requirements.
   (d) If the applicant does not pass all previously failed events on the date of the retest, he shall retest the physical agility test in its entirety and shall receive no credit for events which were passed during previous tests or retests. The applicant may repeat the physical agility test no sooner than forty-eight (48) hours from the date of the retest.
   (d) If an applicant fails all events when participating in the physical agility test in its entirety, he shall repeat the physical agility test in its entirety and shall receive no credit for events which were passed during previous tests or retests.
   (e) An applicant may participate in the physical agility test in its entirety, four (4) times in a one (1) year period, which shall be calculated from the first date of testing.
   (f) An applicant may participate in one (1) physical agility retest for each physical agility test taken in its entirety.

(2) Medical screening as specified in KRS 15.382(10) shall consist of the following minimum requirements: The applicant shall complete KLEC POPS Form G-2, Medical History Statement, which along with KLEC POPS Form G-3, Medical Guidelines Implementation Manual, shall be provided to the physician, duly licensed to practice in the Commonwealth of Kentucky, who shall examine the applicant in conformity with the guidelines. The physician shall complete KLEC POPS Form G-1, Medical Examination Report and forward it to the employing agency.

(4) Drug screening as specified in KRS 15.382(11) shall consist of the following minimum requirements: The applicant shall execute KLEC POPS Form K-1 and submit a urine sample that shall be screened for: marijuana, amphetamines, cocaine, opiates, phencyclidine, barbiturates, benzodiazepines, propoxyphene, methadone, and methaqualone. The integrity of the urine sample shall be documented on KLEC POPS Form K-2, Drug Screening Chain of Custody. The
testing shall be done in compliance with Federal DOT Work Place Standards, 49 CFR §40, subparts A and B.

(5) Polygraph examination as specified in KRS 15.382(17) shall consist of the following minimum requirements: The applicant shall complete KLEC POPs Form I-1, Polygraph Waiver, and KLEC POPs Form I-2, Polygraph Applicant Questionnaire, which shall be provided to the polygraph examiner, duly licensed in the Commonwealth of Kentucky, who shall perform a polygraph examination of the applicant consisting of the questions as listed in KLEC POPs Form I-3, Polygraph Test Questions.

Section 5. KLEC Administered Testing Procedures. (1) An applicant shall execute all releases required for KLEC testing, including KLEC POPs Forms I-1 - Polygraph Waiver; K-1 - Drug Screening Applicant Consent Form; T-1 - Medical Release - Phase I Testing, and T-2 - Health Confirmation - Phase I Testing.

(2) Testing schedule. POPs shall mail to all law enforcement agencies in the Commonwealth a list of sites and dates for KLEC administered testing. Testing sites shall be statewide and accommodations shall be made where reasonable to insure testing sites are accessible based upon need. Advance notice of the schedule shall be made public at least three (3) months prior to the testing. KLEC shall reschedule testing if cancellation is necessary due to inclement weather or unforeseen circumstances. Emergency testing shall be made available when possible at the Richmond POPs office as needed.

(3) Registration for KLEC administered testing. POPs shall receive KLEC POPs Forms A from the employing agency at least five (5) business days prior to testing.

(a) Applicants shall provide current photographic identification at the time of testing.

(b) Applicants shall bring a completed copy of KLEC POPs Form H-2 at time of psychological testing.

(c) POPs shall receive the completed polygraph questionnaire KLEC POPs Form I-2 at the time of testing.

Section 6. Test Reporting. (1) Results of drug and psychological screening provided through KLEC shall be forwarded directly to the employing agency head by the entity administering the test. All other tests provided by or through KLEC will be forwarded to the employing agency head by POPs.

(2) The agency shall certify that the applicant has met all suitability requirements by submitting KLEC POPs Form D. The information from the completed form shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund, and training authorizations purposes.

(3) Length of test result validity.

(a) Physical agility: results shall be considered current and valid one (1) year from the passing date of the test.

(b) Psychological screening: results shall be considered current and valid one (1) year from the date of the screening. If the applicant experiences a significant life change during the one (1) year period, the applicant shall notify the employer who shall schedule a new psychological screening for the applicant.

(c) Polygraph examination: results shall be considered current and valid for a period of one (1) year from the date of the examination. If the applicant experiences a significant life change during the one (1) year period, the applicant shall notify the employing agency who shall schedule a new polygraph examination for the applicant.

(d) Drug screening: results shall be considered current and valid only for the agency that requested or performed the test and only during that employment process. An applicant that leaves and reenters the testing process for preselection screening shall be required to submit to another drug screening.

(4) Updating test results. It shall be the responsibility of the employing agency to update test results when necessary by submitting KLEC POPs Form D to POPs.

(5) Agency access to prior test results. It shall be at the applicant and individual agency’s discretion to allow another employing agency access and use of the initial agency’s certification testing which is still current and valid. If agencies enter into such an agreement with the written permission of the applicant, the new employing agency shall receive the medical, psychological and polygraph results directly from the entity administering the examination. Costs incurred for duplicate KLEC test results shall be the responsibility of the agency obtaining the results.

Section 7. KLEC Administered Testing Costs. (1) The employing agency shall reimburse KLEC within sixty (60) days of receipt of the invoice for the cost of KLEC administered testing provided at the agency’s request as follows:

(a) Sixty-five (65) dollars for each psychological screening;

(b) $100 for each polygraph examination;

(c) Sixteen (16) dollars for each drug screening.

(2) If an agency has scheduled KLEC testing for an applicant who fails to appear or complete the testing, the agency shall be responsible for fifty (50) percent of the cost of the test had it been completed.

(3) Financial hardship.

(a) Application. An employing agency may apply for a waiver of costs for KLEC testing pursuant to KRS 15.384(1) by demonstrating undue financial hardship. The agency shall submit to POPs the actual approved budget of the governmental unit for the current and the preceding year, the number of certification applicants for the current and preceding year, the actual revenue receipts of the governmental unit for the current and the preceding year, and a detailed explanation of why the governmental unit cannot meet the cost of providing the testing, including the reason that inadequate funding was not budgeted to cover the cost of testing.

(b) Initial Review. Within five (5) business days of receipt of the application, POPs shall mail a notification to the agency that either:

1. The application has been received and is complete; or

2. The application is incomplete and the specific information which shall be supplemented in order to process the application. POPs shall receive the necessary information within ten (10) business days of the agency’s receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application shall be considered abandoned and the agency shall resubmit an application for financial hardship.

(c) Recommendation. Within thirty (30) days of their receipt of the completed application, POPs shall forward the application to KLEC, along with a recommendation to approve or reject the application for financial hardship, and the specific reasons supporting a recommendation to reject.

(d) KLEC review. The KLEC Committee on Certification shall review the application and POPs’ recommendations and forward their recommendation to KLEC for final review. Within sixty (60) days of their receipt of the application KLEC shall issue written notice to the agency indicating whether the application has been approved or rejected, and the specific reasons supporting the rejection.

(e) Appeal. An agency may appeal a decision made by KLEC to reject an agency’s application for financial hardship by filing a written notice of appeal to the Secretary of the Justice Cabinet. The notice shall be filed within thirty (30) days of receipt of the notice of rejection. The notice of appeal shall be submitted on KLEC POPs Form S with a copy of the notice of rejection of financial hardship attached. A copy of the notice of appeal shall be delivered to POPs by certified mail. The Secretary of the Justice Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

(4) If an agency knowingly employs a person who fails to meet minimum certification standards pursuant to KRS 15.396(1) POPs shall immediately notify DOCJT.

Section 8. Employment Changes. (1) Pursuant to KRS 15.392, when a certified peace officer leaves an agency, the agency shall submit KLEC POPs Form F. If the officer is reemployed by another agency as a peace officer the employing agency shall submit KLEC POPs Form F within five (5) business days of the employment or appointment. Information from completed KLEC POPs Forms F shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund, and training authorizations purposes.

(2) A peace officer who retires pursuant to KRS 61.637, and is reemployed as a peace officer with the same agency no later than twelve (12) months from the initial retirement date, shall be considered to have remained in continuous employment of the agency. The peace officer shall have 180 days from the date of reemployment to correct any in-service training deficiency resulting from the retirement period.
Section 9. Records. (1) Records retention. KLEC shall retain all certification records in electronic or original medium consistent with the Records Retention Schedule established by the Kentucky Department of Library and Archives. KLEC shall devise and maintain a database management system that organizes records adequately to the tasks of asset preserved with certification.

(2) Security. KLEC and employing agencies shall maintain records in a manner to ensure their security.

(3) Agencies shall retain all documentation pertaining to certification for five (5) years following the cessation of certification of the peace officer, regardless of where the certified peace officer is employed in the Commonwealth.

(4) An agency that knowingly discloses confidential information in violation of KRS 15,400(3) may be denied participation in KLEC polygraph and psychological examinations.

Section 10. Applicant Conduct and Behavior. (1) An applicant who has engaged in behavior constituting dishonesty, cheating, falsification of documents, or any other fraudulent behavior for the purpose of wrongfully receiving certification shall be removed from the testing procedure and shall not be considered for certification.

(2) Use of alcohol or other intoxicants.

(a) An applicant shall not possess, consume nor be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while participating in the testing process.

(b) If an applicant has taken a controlled substance as prescribed by a physician or has taken any other medication, whether prescribed or not, he shall not participate in physical agility testing if he is under the influence thereof to the extent that the applicant may be impaired or may endanger himself or other persons or property. An applicant shall advise the KLEC test administrator in writing of the use of controlled substance or medication whether or not it has been prescribed by a physician.

(4) A termination of a dangerous or disruptive situation. If the conduct or condition of an applicant constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of, or is an immediate threat to be disruptive of testing, a KLEC staff member may take all reasonable steps necessary to terminate the situation, including removal of the applicant from testing.

(5) A copy of KLEC POPs Form R shall be mailed to the applicant and the employing agency within five (5) days following the removal statement that the applicant has been removed or barred from testing, the supporting reasons and circumstances of the removal, and whether the agency may rescind testing.

Section 11. Compliance. (1) Inspection. Test results, testing procedures and all other certification documentation shall be retained by the agency and be available for inspection and audit at any time by agents authorized by KLEC.

(2) KLEC may initiate an inspection and audit of an agency's certification documentation randomly to assure routine compliance or to investigate a specific complaint.

(3) KLEC shall have access to the services of the DOCJT Compliance and Audit Section, as coordinated through the DOCJT Commissioner, in order to audit specific applicants and agencies to assure compliance with certification requirements.

(4) If during the course of an audit conducted by the DOCJT Compliance and Audit Section a violation of certification is detected, the DOCJT Compliance and Audit Section shall report the possible violation to KLEC.

(5) Denial of Participation in KLEPF. If KLEC determines that an agency has knowingly employed or appointed a person who fails to meet minimum certification standards, KLEC shall immediately notify the administrator of KLEPF.

Section 12. Issuance of Certification. All identification cards issued to a peace officer verifying certification remain the property of KLEC and shall be returned to POPs upon the peace officer's loss of certification.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Standards for Educational and Psychological Testing", Part IV - Standards for Administrative Procedures, (1965 Edition), American Psychological Association;

(b) Federal DOT Work Place Standards, 49 CFR §40, subparts A and B;

(c) KLEC POPs Form A - Attesting to Minimum Standards/Testing Registration, revised 9/13/00;

(d) KLEC POPs Form B - Basic Training Completed (nonDOCJT), revised 1/19/99;

(e) KLEC POPs Form C - Grandfather Information, revised 1/19/99;

(f) KLEC POPs Form D - All Standards Met, revised 9/13/00;

(g) KLEC POPs Form E - Request for Certification for Exempt Officers, revised 1/19/99;

(h) KLEC POPs Form F - Status Update/Recertification, revised 9/13/00;

(i) KLEC POPs Form C-1 - Medical Examination Report, revised 1/19/99;

(j) KLEC POPs Form G-2 - Medical History Statement, revised 1/19/99;

(k) KLEC POPs Form G-3 - Medical Guidelines Implementation Manual, revised 1/19/99;

(l) KLEC POPs Form H-1 - Background Investigation, revised 1/19/99;

(m) KLEC POPs Form H-2 - Personal History Statement, revised 1/19/99;

(n) KLEC POPs Form I-1 - Polygraph Consent Form, revised 9/19/99;

(o) KLEC POPs Form I-2 - Polygraph Applicant Questionnaire, revised 1/19/99;

(p) KLEC POPs Form I-3 - Polygraph Test Questions, revised 1/19/99;

(q) KLEC POPs Form J - JTA Submission, revised 1/19/99;

(r) KLEC POPs Form K-1 - Drug Screening Applicant Consent Form, revised 1/19/99;

(s) KLEC POPs Form K-2 - Drug Screening Chain of Custody, revised 1/19/99;

(t) KLEC POPs Form L-1 - Code of Ethics, revised 1/19/99;

(u) KLEC POPs Form L-2 - Canon of Ethics, revised 1/19/99;

(v) KLEC POPs Form Q - Agency Submission Form, revised 1/19/99;

(w) KLEC POPs Form R - Removal from Testing, revised 1/19/99;

(x) KLEC POPs Form S-1 - Notice of Appeal, revised 1/19/99;

(y) KLEC POPs Form T-1 - Medical Release - Phase I Testing, revised 1/19/99;

(z) KLEC POPs Form T-2 - Health Confirmation - Phase I Testing, revised 1/19/99.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Law Enforcement Council, Office of Peace Officer Professional Standards, 415 Funderburk Building, Eastern Kentucky University, 521 Lancaster Road, Richmond, Kentucky 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBIN COOPER, Chair
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 16, 2001 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001, at 9 a.m. in Room 211, Funderburk Building, Richmond, Kentucky, 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by July 18, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person:

CONTACT PERSON: Stephanie C. Bingham, General Counsel, Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137; Telephone number (859) 622-5897, Facsimile Number (859) 622-3162.
Contact Person: STEPHANIE C. BINGHAM

(1)(a) What this administrative regulation does: Establishes the guidelines and procedures necessary to implement and administer peace officer certification.

(b) Necessity of this administrative regulation: The regulation is necessary so that the Kentucky Law Enforcement Commission may fulfill its responsibility, as established in KRS 15.330, to approve law enforcement officers as having met training requirements, administer the Kentucky Law Enforcement Foundation Program Fund (KLEFFF), and certify peace officers pursuant to KRS 15.380 through 15.404.

(c) How this regulation conforms to the content of the authorizing statute: KRS 15.330(1)(g) authorizes the Kentucky Law Enforcement Council to promulgate reasonable rules and administrative regulations to accomplish the purposes of KRS 15.310 to 15.510 and KRS 15.950 to 15.992. This administrative regulation is required to establish certification procedures.

(d) How this regulation currently assists in the effective administration of the statutes: This regulation sets clear, reasonable and consistently applied rules and procedures for peace officer certification.

(2)(a) How the proposed amendment will change the existing regulation: The present amendment is applicable to peace officers who retire, pursuant to KRS 61.637. If the officer retires, and is retired by the same law enforcement agency within 12 months of retirement, he shall be considered to have remained in continuous employment with the agency, thereby maintaining peace officer certification.

(b) Need for the proposed amendment: Changes to the provisions of KRS 61.637, enacted during the 2000 legislative session, allow certain law enforcement officers to exercise retirement options but return to law enforcement after specified periods without jeopardizing retirement benefits. The impact that the statutory change would have on the officer's certification was not anticipated. Without this amendment, a retiring officer would lose his/her certification obtained through "grandfather" provision and be required to comply with all precertification requirements, as well as have to complete the 16 week basic training course.

(c) How this amendment conforms to the content of the authorizing statutes: Please see the response contained in (1)(c) herein.

(d) How this amendment will assist in the effective administration of the statutes: Please see the response contained in (2)(b) herein.

(3) Type and number of entities affected: Those law enforcement agencies in the Commonwealth that fall within the provisions of KRS 81.637.

(4) How the aforesaid entities will be impacted by the amendment of this regulation: It is anticipated that the agencies shall benefit by this amendment, since they will be able to retire experienced officers who will maintain their peace officer certification. Additionally, the agencies should incur reduced costs related to recruiting and hiring, as well as diminished expenses and agency disruption related to an officer's completion of the 16 week basic training program.

(5) Cost to implement this amendment to the regulation:

(a) Initially: None

(b) On a continuing basis: None

(6) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEFFF).

(7) Assessment of whether an increase in fees or funding shall be necessary to implement the amendment to this regulation: No

(8) Does this administrative regulation directly or indirectly increase any fees: No

(9) TIERING: Was tiering applied: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON LOCAL GOVERNMENT

(1) Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

(2) State what unit, part or division of local government this administrative regulation will affect: Local law enforcement agencies including city, urban, county, and county police, and sheriff's departments, who are required, or may choose, to employ certified peace officers.

(3) State the aspect or service of local government to which this administrative regulation relates: KRS 15.380(1)(b) and (c) specifically require city, county, and urban-county police officers, and deputy sheriffs (with specific exceptions) to be certified.

(4) Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation: Effect on revenue is unlikely. Local law enforcement agencies that are eligible to exercise retirement options pursuant to KRS 61.637 may experience a moderate reduction in expenditures. This is due to the agencies' ability, as a result of this amendment, to rehire police officers who have retired, without incurring expenses related to recruitment and hiring, as well as expenses associated with an officer's completion of the 16 week basic training course.

JUSTICE CABINET
Kentucky Law Enforcement Foundation Program Fund (Amendment)

503 KAR 5:090. Participation: requirements; application; withdrawal.

RELATES TO: KRS 15.440
STATUTORY AUTHORITY: KRS 15.450(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.450(1) authorizes the Secretary of the Justice Cabinet or his designated representative to promulgate administrative regulations necessary to the administration of the Kentucky Law Enforcement Foundation Program Fund. [16.440 prescribes requirements to be met by a local unit of government in order to be eligible to receive salary supplement funds from the Law Enforcement Foundation Program Fund.] This administrative regulation establishes the requirements for application to participation in, and withdrawal from the fund. [expands on the statutory requirements for eligibility and establishes the procedure to be followed by a local unit in applying for admission to, or withdrawing from, the fund.]

Section 1. (1) Education requirements.

(a) To demonstrate that an officer has completed the educational requirement found in [pursuant to] KRS 15.440(3), the local unit shall send to the fund administrator:

1. A copy of the high school diploma; or

2. A copy of a general education diploma issued by a state department of education.

(b) [If] A police officer who was [is] "grandfathered" into the fund without having to meet the educational requirement found in [of] KRS 15.440(3), who subsequently experiences a separation of employment as a police officer, may regain eligibility to participate in the fund:

1. [If] his police service terminated due to resignation or dismissal, he must meet the educational requirements in order to become eligible to participate in the salary-supplement program. Upon reemployment as a police officer by a local unit which is participating in the fund, and completion of the educational requirement found in KRS 15.440(3), if the separation was as a result of resignation or dismissal;

2. Without completion of the educational requirement found in KRS 15.440(3) if the police officer:

a. Retired pursuant to KRS 61.637; and

b. Is reemployed as a police officer with the same agency no later than twelve (12) months from the initial retirement date.

(2) Basic training requirement.

(a) Time limit. A local unit that elects to participate in the fund shall require all police officers employed as of the date of the initial participation to demonstrate compliance with the basic training requirement within one (1) year of the date of initial participation. An officer em-
ployed thereafter shall demonstrate compliance with the basic training requirement within one (1) year of the date of employment. If an officer fails to demonstrate compliance with the basic training requirement within one (1) year due to extenuating circumstances beyond his control including serious injury or illness, personal tragedy, or agency emergency, the local unit shall not be considered to be in violation of this paragraph. The officer shall be required to demonstrate compliance with the basic training requirement within a reasonable time as determined by the fund administrator or his designee. The reasonable time shall not exceed one (1) year from the termination of the extenuating circumstance. The local unit shall be in violation of this paragraph if:

1. An officer fails to complete training during the one (1) year period and has not experienced an extenuating circumstance; or
2. An officer fails to complete training during the time limit established by the fund administrator following proof of an extenuating circumstance.

(b) Compliance. A police officer shall demonstrate compliance with the basic training requirement by:

1. If the officer has never completed basic training, the officer shall successfully complete:
   a. The Department of Criminal Justice Training 640 hour basic training course; or
   b. A basic training course approved and recognized by the council which consists of a minimum of 640 hours with a course content equivalent to the Department of Criminal Justice Training 640 hour basic training course;

2. If the officer has successfully completed a Department of Criminal Justice Training basic training course, or another council-approved and recognized basic training course, no additional basic training shall be required if he has:
   a. Been continuously employed as a police officer since the completion of that basic training; or
   b. Experienced a separation of employment as a police officer for no more than twelve (12) months prior to his present eligibility to participate in the fund;

3. If the officer has successfully completed a Department of Criminal Justice Training basic training course, or another council-approved and recognized basic training course, and has experienced a separation of employment as a police officer for more than twelve (12) months but less than thirty-six (36) months prior to his present eligibility to participate in the fund, he shall successfully complete the Department of Criminal Justice Training forty (40) hour penal code update course;

4. If the officer has experienced a separation of employment as a police officer for more than thirty-six (36) months prior to his present eligibility to participate in the fund and:
   a. The officer’s total number of months of service as a police officer is equal to or exceeds the total number of months of separation from service as a police officer; the officer shall successfully complete the Department of Criminal Justice Training forty (40) hour penal code update course; and
   b. The officer’s total number of months of service as a police officer exceeds the number of months of separation from service as a police officer, the officer shall successfully complete:
      (i) The Department of Criminal Justice Training 640 hour basic training course; or
      (ii) A basic training course approved and recognized by the council which consists of a minimum of 640 hours with a course content equivalent to the Department of Criminal Justice Training 640 hour basic training course;

5. When calculating the total number of months of separation and service described in subparagraph 4 of this paragraph:
   a. Calculation shall begin effective the first date employed as a police officer, and include all subsequent months.
   b. For the first or last month of a continuous period of employment or separation:
      (i) If the number of days of service for a specific month is less than the maximum possible number of regular service days for that month, the officer shall receive credit for a full month of service;
      (ii) If the number of days of separation for a specific month is less than the maximum possible number of regular service days for that month, the month shall not be calculated as a month of separation.

(c) A police officer who was "grandfathered" into the fund without having to meet the basic training requirement found in KRS 15.440(4), shall not be required to demonstrate compliance with the basic training requirement to regain eligibility to participate in the fund if the police officer:

1. Retired pursuant to KRS 61.637; and
2. Is reemployed as a police officer with the same agency no later than twelve (12) months from the initial retirement date.

(3) In-service training requirement.

(a) A local unit that elects to participate in the fund shall require all police officers employed as of the date of initial participation, and all officers employed thereafter, to successfully complete the forty (40) hour in-service training requirement each calendar year. The local unit shall not be considered to be in violation of this paragraph if an officer’s failure to meet the in-service training requirement in a calendar year is due to an extenuating circumstance including serious injury or illness, personal tragedy, or agency emergency. The officer shall be required to meet the in-service training requirement within a reasonable time as determined by the fund administrator or his designee. The reasonable time shall not exceed one (1) year from the termination of the extenuating circumstance. If an officer, under circumstances that are not extenuating, fails to successfully complete forty (40) hours of in-service training in a calendar year, the fund administrator or his designee shall notify the local unit that the officer must complete the in-service training for the year of delinquency within a reasonable time, as determined by the fund administrator or his designee, or else the local unit, if it continues to employ the officer full time, shall be in violation of this paragraph and shall lose its eligibility to participate in the fund. If an officer, under circumstances that are not extenuating, fails to successfully complete forty (40) hours of in-service training in a calendar year, he shall receive no salary supplement until he makes up the in-service training for the year of delinquency and shall not be entitled to receive back pay supplement for the period of nonpayment caused by the delinquency in training.

(b) A police officer who successfully completes a basic training course approved and recognized by the council shall be considered to have fulfilled the in-service training requirement for the calendar year in which the basic training is completed when that completion occurs in the calendar year of the present application for participation in the fund. An officer who demonstrates compliance with the basic training requirement by completion of a course approved and recognized by the council prior to the calendar year of the present application for participation in the fund, the officer shall complete a forty (40) hour in-service training course for that calendar year in order to remain eligible to participate in the fund. An officer who demonstrates compliance with the basic training requirement by completion of a course approved and recognized by the council prior to the calendar year of the present application for participation in the fund, and is required to take a minimum of forty (40) hours of additional training pursuant to Section 1(2) of this administrative regulation shall be considered to have fulfilled the in-service training requirement for the calendar year in which the additional training was completed.

(c) If a police officer who is qualified to participate in the fund has his police service terminated due to resignation or dismissal, before he meets his in-service training requirement for the calendar year, he shall still be eligible to participate in the fund for that part of the calendar year during which he was employed as a police officer.

(d) A police officer may not, for fund eligibility purposes, take the same in-service training course that he has successfully completed in a previous year for fund eligibility purposes unless at least three (3) years have passed since the earlier course was completed.

(4) Local ordinance requirement. To be eligible to participate in the fund, the local unit shall enact an ordinance or resolution requiring the local unit and police department to comply with KRS 15.410 to 15.460 and with these administrative regulations. A certified copy of this local ordinance or resolution shall be submitted by the local unit to the fund administrator along with the application for participation in the fund. If the local unit has withdrawn from, or lost eligibility to participate in the fund, the previously enacted local ordinance or resolution shall no longer be recognized by the fund administrator, and a new ordinance or resolution shall be submitted with a new application for participation
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Section 2. Application. A local unit desiring to apply for admission to the fund shall submit an application form to the fund administrator.

Section 3. Withdrawal. Tu withdraw from the fund, a local unit shall send a written notice of withdrawal to the Fund administrator. The fund administrator or his designee shall acknowledge in writing the receipt of the withdrawal notice; the withdrawal shall be effective as of the date the withdrawal notice is received by the fund administrator. Upon withdrawal, a local unit shall be obligated to return all salary supplement funds received from the fund for which its police officers have not yet become qualified.

Section 4. Audits. A participating agency shall comply with audits when requested by the fund administrator’s designee, to demonstrate compliance with all rules and administrative regulations governing participation. The audit shall include examination of records of police officer training attendance, and payroll and KLEFPF records.

JOHN W. BIZZACK, PH.D., Commissioner
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001, at 9 a.m. in Room 211, Funderburk Building, Richmond, Kentucky, 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by July 16, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephanie C. Blingham, General Counsel, Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137; Phone (859) 622-5897, Fax (859) 622-3162.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Blingham

(1)(a) What does this administrative regulation do: Establishes the requirements for participation in the Kentucky Law Enforcement Foundation Program Fund (KLEPF). (b) Necessity of this administrative regulation: The regulation is necessary so that the Secretary of the Justice Cabinet or his designated representative may fulfill his responsibilities, as established in KRS 15.450(1) to administer KLEPF. (c) How does this regulation conform to the content of the authorizing statutes: KRS 15.450(1) requires the Secretary of the Justice Cabinet or his designated representative to administer KLEPF, and promulgate administrative regulations necessary to carry out his responsibilities under KRS 15.410 to 15.510. (d) How does this regulation currently assist in the effective administration of the statutes: This administrative regulation establishes clear, reasonable and consistent rules and procedures for application and participation in KLEPF.

(2)(a) How the proposed amendment will change the existing regulation: The present amendment is applicable to a police officer who retires pursuant to KRS 61.637. If an officer retires after previously having been “grandfathered” for KLEPF participation, and is rehired by the same law enforcement agency within 12 months of that retirement, he/she may regain KLEPF eligibility without meeting the high school/GED, or law enforcement basic training requirements. (b) Necessity of the amendment: Changes to the provisions of KRS 61.637, enacted during the 2000 legislative session, allow certain law enforcement officers to exercise retirement options but return to law enforcement after specified periods without jeopardizing retirement benefits. The impact that the statutory change would have on the officer’s KLEPF eligibility was not anticipated. Without this amendment, a retiring officer would lose his/her “grandfather” status and be required to demonstrate compliance with the high school/GED, and law enforcement basic training requirements. (c) How this amendment conforms to the content of the authorizing statutes: Please see the response contained in (1)(c) herein. (d) How this amendment will assist in the effective administration of the statutes: Please see the response contained in (2)(b) herein. (3) Type and number of entities affected: Those law enforcement agencies in the Commonwealth that fall within the provisions of KRS 61.637. (4) How the aforesaid entities will be impacted by the amendment of this regulation: It is anticipated that the agencies shall benefit by this amendment, since they will be able to rehire experienced officers without jeopardizing KLEPF eligibility. Additionally, the agencies should incur reduced costs related to recruitment and hiring, as well as diminished expenses and agency disruption related to an officer’s completion of the 16 week basic training program. (5) Cost to implement this amendment to the regulation: (a) Initial: None (b) On a continuing basis: None (6) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEPF). (7) Assessment of whether an increase in fees or funding shall be necessary to implement the amendment to this regulation: No (8) Does this administrative regulation directly or indirectly increase any fees: No

FISCAL NOTE ON LOCAL GOVERNMENT

(1) Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes (2) What state unit, part or division of local government this administrative regulation will affect: Local law enforcement agencies including city, urban-county, and county police officers, and sheriff’s departments, who receive payments from the Kentucky Law Enforcement Foundation Program Fund. (3) State the aspect or service of local government to which this administrative regulation relates: KRS 15.440 establishes the requirements for participation in the Kentucky Law Enforcement Foundation Program Fund. Pursuant to KRS 15.420(2), peace officers eligible for participation include full-time city, urban-county, and county police officers, and sheriff’s departments, and state or public university police officers. (4) Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation: Effect on revenue is unlikely. Local law enforcement agencies that are eligible to exercise retirement options pursuant to KRS 61.637 may experience a moderate reduction in expenditures. This is due to the agencies’ ability, as a result of this amendment, to rehire police officers who have retired, without incurring expenses related to recruitment and hiring, as well as expenses associated with an officer’s completion of the 16 week basic training course.
EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
(AMENDMENT)


RELATES TO: KRS 160.345
STATUTORY AUTHORITY: KRS 156.070, 160.345
NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.345(8) mandates that the Kentucky Board of Education adopt a formula by administrative regulation which guides the way in which school district funds shall be allocated to each school council. This administrative regulation is designed for use by local school districts utilizing the Kentucky Education Technology System (KETS) District Administrative System Chart of Accounts per 702 KAR 3:120.

Section 1. Definitions. (1) “Categorical programs” means programs under which funding and uses for the funding are specifically set by the funding authority and are not in the general fund.

(2) “Instructional supplies and materials” means items that are consumed or worn out in the instructional process to include:

(a) Library books;
(b) Periodicals and newspapers;
(c) Office supplies;
(d) Auditory, visual and equipment;
(e) Supplementary books;
(f) Reference materials;
(g) Instructional software; and
(h) Teaching supplies to include paper products.

(3) “Instructional equipment” means initial or additional furniture, fixtures, and equipment for instruction which may be purchased, leased, or rented. “Instructional equipment” shall not mean computer laboratories, or the initial inventory of a new school plant.

(4) “Instructional travel” means travel for all personnel and their assistants, including travel in connection with everyday instructional activities and travel to conventions, meetings and workshops.

(5) “District average teacher’s salary” means the total of all teacher salaries for 185 days in noncategorical programs in the district divided by the number of teachers in the noncategorical programs in the district.

Section 2. The local school district shall provide to school councils [established by January 30] an allocation for funds and positions for Sections 4, 5, 6, and 8 of this administrative regulation for the next budget year by March 1 of each year in accordance with this administrative regulation. The local school district shall provide to school councils an allocation for Section 7 of this administrative regulation for the next budget year by May 30 of each year in accordance with this administrative regulation.

Section 3. The local school district shall calculate the funds available for distribution to school councils using only the general fund and by excluding the following proposed district-wide expenditures from the general fund proposed (in the district's draft) budget for the year being allocated:

(1) Function 1200, Home and hospital.
(2) Function 1900, Other instructional programs.
(3) Function 2100, Student support services, except for school-based employees and specified supplies.
(4) Function 2210, Instructional staff support services, improvement of instruction, central office staff and supplies only.
(5) Function 2300, District administration support services.
(6) Function 2500, Business support services.
(7) Function 2600, Plant operation and maintenance, except for school-based employees and specified supplies.
(8) Function 2700, Student transportation.
(9) Function 2800, Central Office support services.
(10) Function 3900, Noninstructional services.
(11) Function 4600, Facilities acquisition and construction services.
(12) Function 5000, Other.
(13) All expenditures for extra duty and extended employment, services, and fringe benefits in all codes.

Section 4. Allocation for Certified Staff. (1) A board staffing policy or guidelines shall be established to determine the number of allocated positions for each school. To determine the allocation to school councils for certified staff, the district shall provide sufficient funds:

(a) To meet class size caps and pupil contact hours established in KRS 157.380 based on the projected full-time equivalent enrollment for the upcoming school year; and
(b) To meet other classroom teaching and certified staff positions not included in paragraph (a) of this subsection that are generated by the local board certified staffing policy.

(2) Any revisions of staffing policy or guidelines shall be submitted to the Division of Instructional Leadership Development by March 1 of each year. [Each district shall file a copy of the staffing policy or guidelines with the Division of School based Decision Making by July 1. Any revisions shall be submitted within thirty (30) days of action.]

(3) Funds for positions allocated in subsection (1) of this section shall be based on a minimum of ninety-five (95) percent of the district’s average pay certified staff salary and associated fringe benefits except for sick, personal, or emergency leave adjusted by changes in rank, additional year of experience, and changes in the district’s salary schedule for each existing staff member.

(4) Funds for new and vacant certified staff positions shall be based on a minimum of ninety-five (95) percent of the district’s average pay certified staff salary and associated fringe benefits except for sick, personal, or emergency leave adjusted for changes in the district’s salary schedule for noncategorical staff paid in the previous year.

(5) If the actual salary of new certified personnel is less than ninety-five (95) percent of the certified district average salary, the difference shall revert to the district budget for possible reallocation under Section 7 of this administrative regulation.

(6) Any adjustments to the allocation due to increases in salary schedules, salary adjustments, or increases or decreases in enrollment shall be made by September 15. Notification to councils of adjustments is required only if adjustments represent changes in staffing due to enrollment increases or decreases.

Section 5. Allocation for Classified Staff. (1) A board staffing policy or guidelines shall be established to determine the number of allocated positions for each school. Any revisions of staffing policy or guidelines shall be submitted to the Division of Instructional Leadership Development by March 1 of each year. [Each district shall file a copy of the staffing policy or guidelines with the Division of School based Decision Making by July 1, 1995. Any revisions shall be submitted within thirty (30) days of action.] Funds shall be provided for all school-based classified positions in noncategorical programs generated by the local board classified staffing policy using the previous year’s salary adjusted for any district-wide increase.

(3) Funds shall be allocated for fringe benefit amounts except for sick, personal, or emergency leave for each classified staff member.

(4) Funds for new or vacant positions shall be based on ninety-five (95) percent of the district’s average classified salary for [last personnel job class and associated fringe benefits except for sick, personal, or emergency leave] for noncategorical staff adjusted for any district-wide increase.

(5) (6) If the actual salary of new classified personnel is less than ninety-five (95) percent of the classified district average salary for the personnel job classification, the difference shall revert to the district budget for possible reallocation under Section 7 of this administrative regulation.

(6) Any adjustments to the allocation due to increases in salary schedules, salary adjustments, or increases or decreases in enrollment shall be made by September 15. Notification to councils of adjustments shall be [6] required only if adjustments represent changes in staffing due to enrollment increases or decreases.

Section 6. Other Minimum Allocations, [Instructional Supplies, Materials, Travel, and Equipment]. (1) [For instructional supplies, materials, travel, and equipment] School councils shall receive a minimum allocation of three and one-half (3 1/2) percent of the statewide
guaranteed base funding level for Support Education Excellence in Kentucky (SEEK) based on prior year final average daily attendance.

(2) The amount generated in subsection (1) of this section shall be adjusted at the end of the second school month for changes in average daily attendance and projected funding for SEEK. Adjustments prior to the end of the second school month for the 1995-96 school year shall use enrollment data and apply to the original allocations made by March 1, 1995. Subsection (1) of this section shall not apply for the 1995-96 school year.

(3) Allocations [under subsections (1) and (2) of this section shall not include funds for operating expenses, including utilities, or for health and safety requirements of schools shall not be included in Sections 4, 5, 7, and 8 of this administrative regulation or this section. If funds are given to a school for these purposes they shall be distributed in a separate allocation.

Section 7. Distribution of the Balance. (1) The balance between the amount generated in Sections 4, 5, and 6 of this administrative regulation and the amount available for distribution to school councils from Section 3 of this administrative regulation shall be distributed in one (1) of the following manners:

(a) An amount per prior year final average daily attendance;

(b) Based on pupil needs identified by school councils in their adopted school improvement plans and designated by the local school board. Money provided under this subsection shall be used only for the needs identified by the council from its adopted school improvement plan and designated by the board;

(c) A combination of subsections (a) and (b) of this section.

(2) An adjustment may be made to allocations under subsection (1) of this section at the end of the second school month for changes in average daily attendance and projected funding for SEEK.

(3) If Sections 4, 5, and 6 of this administrative regulation generate more funds than are available in Section 3 of this administrative regulation for distribution to school councils, the local board shall make every reasonable effort to make up the deficit.

Section 8. A tentative amount for professional development shall be allocated within thirty (30) days of notification from the Kentucky Department of Education, pursuant to KRS 160.345(8). The amount allocated shall be equal to at least the minimum requirement multiplied by the average daily attendance from the prior school year. The amount of professional development allocation may be amended by September 15 to reflect the most recent annual average daily attendance. [Nothing in this administrative regulation shall prohibit the district from providing funds to school councils in excess of the allocation amounts generated by Sections 4, 5, and 6 of this administrative regulation or other operational and capital outlay items.

Section 9. Each year school councils shall review the budgets for all categorical programs and provide comments to the local board prior to the adoption of the budgets. [The district board of education shall develop allocation procedures for professional development funds pursuant to KRS 160.345(8)].

Section 10. A [No] school council allocation by the district shall not result in a proposed expenditure that would cause the district budget to hold in reserve less than the required amount set by KRS 160.470.

Section 11. The provisions of [Nothing in] this administrative regulation notwithstanding, a district shall not be prohibited [prohibit districts] from passing on to school councils any reduction in state and local revenues.

Section 12. The Kentucky Board of Education may approve requests from local school districts annually to use an alternative formula to allocate funds to schools. A local school district [districts] requesting approval to use an alternative process shall submit written documentation that the formula would generate funding equal to or greater than the amount provided to school councils under Section 3 of the administrative regulation. All requests shall be received by the Division of School Finance by October 1 preceding the allocation year. Any alternative process approved by the Kentucky Board of Education shall be subject to subsequent review.

GENE WILHOUT, Commissioner of Education
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 14, 2001 at 1:30 pm.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on July 30, 2001, at 10:00 am in the First Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing on or before the working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Mr. Kevin M. Noland, Deputy Commissioner, Operations and Support Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 160.345(8) requires the Kentucky Board of Education (KBE) to adopt a formula by administrative regulation which guides the way school district funds are allocated to each school council. This regulation provides definitions for terms used in the regulation, and indicates a framework and timelines for districts to allocate council funding.

(b) The necessity of this administrative regulation: This regulation is necessary to provide clarification to school districts and school councils of the requirements that school districts must follow in making funding allocations to school councils.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the content of the authorizing statutes by providing the specificity required by statute to guide school districts in the allocation process.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets out specific criteria that can be measured in order to determine whether compliance has been achieved.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The changes in the regulation are primarily as follows:
1. Deleting examples and definitions of instructional materials and supplies, which had been construed to limit council spending to only these items;
2. Setting a May 30 timeline for the district to provide a Section 7 allocation to allow councils to know at an earlier time the amount available to them the following year for planning purposes;
3. Changing the due date for revisions in certified staffing policy to be submitted from July 1 to March 1 so that they would be in place prior to deadlines for notification of staff assignments;
4. Requiring districts that choose to make an allocation for operating expenses to make an allocation separate from other allocations to the extent feasible to instructional allocations and allocations for operating expenses;
5. Requiring school councils that present the school board with a list of Section 7 requests to base the items on objectives adopted in the school improvement plan, in order to ensure that expenditures are closely tied to instructional needs;
6. Requiring the professional development allocation to be made within thirty days of the notification by the Kentucky Department of Education, and establishing the minimum formula and amendment process for professional development allocations;
7. Changing some language to be consistent with other current language;
8. Deleting some obsolete language;
9. Changing some language to provide clarification.
(b) The necessity of the amendment to this administrative regulation: The regulation has not been revised since February 1996. Use of the document by school districts and staff since February 1996 has raised questions and concerns that are in need of resolution.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statute requires that the Kentucky Board of Education adopt by administrative regulation a formula to guide school districts in allocating funds to school councils. The content of the amendment provides the information that the statute requires.

(d) How the amendment will assist in the effective administration of the statutes: The regulation sets out specific criteria that can be measured in order to determine whether compliance with the statute has been achieved.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: all school districts and all school councils within the state.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The primary impact on school districts will be that some timelines for submission of information to councils are earlier than in the past. These timelines should positively impact the school council's ability to effectively plan.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Existing KDE general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

EDUCATION PROFESSIONAL STANDARDS BOARD

(Amendment)


RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028, and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for his or her respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board; furthermore, a teacher education institution is required to be approved for offering a preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board, and KRS 161.020 provides that the validity and terms for the renewal of a certificate shall be determined by the laws and administrative regulations in effect at the time the certificate was issued. This administrative regulation establishes certificate renewal provisions and the requirements for successful teaching experience for certificate issuance and renewal.

Section 1. Certificate Renewals. (1) If the renewal of a [professional] teaching certificate requires the completion of additional academic course work in lieu of teaching experience, the credits shall be selected from the Planned Fifth-Year Program.

(2) [Section 2.] (1) Except as provided in KRS 161.030(3), a teaching certificate shall be issued for a duration period of five (5) years, with provision for subsequent five (5) year renewals.

(3)(a)(1) A certificate shall be renewed for subsequent five (5) year periods upon the completion of three (3) years of successful teaching experience as established in Section 2 of this administrative regulation; or

2. At least six (6) semester hours of credit or the equivalent in professional development defined in 704 KAR 20:021 [staff development units or: continuing education units as defined in 704 KAR 20:020].

(b) The requirements of this subsection shall apply to teachers who have completed the Fifth Year Program renewal requirements established in 704 KAR 20:021 and 704 KAR 20:670, Section 3.

(4) The renewal requirements shall be completed by September 1 of the year of expiration of the certificate.

[Section 3.] To provide evidence of continuing growth, a teacher shall complete the following procedures:

(1) An individual professional development plan shall be designated by the teacher around the teacher's needs with consideration given to how the needs relate to the school transformation plan.

(2) The plan shall include goals related to a minimum of five (5) of the experienced teacher standards established in 704 KAR 20:730.

(3) The teacher shall participate in a professional development experience that will assist in the accomplishment of the goals established. A professional development experience shall include a combination of graduate college credit, individual research, field experience, or professional development activities and workshops. The experiences shall be listed with the professional development plan.

(4) An activity or experience shall be:

(a) A part of the approved school professional development plan;

(b) An experience specifically needed by the teacher;

(5) The teacher shall document evidence of the accomplishment of the goals of the plan, including the impact upon student learning, and present the evidence to be reviewed; and

(6) The evidence shall be presented:

(a) In a portfolio using a variety of mediums including videotape, research data, or instruction legs;

(b) At least one (1) year in advance of the expiration date of the certificate.

Section 4. The portfolio shall be reviewed by a three (3) member school team chosen by the teacher. At least one (1) of the members of the team shall be a building administrator. This team shall provide assistance in the development of the professional plan. The school team shall:

(1) Use a scoring instrument that includes the experienced teacher standards and indicators as performance criteria when reviewing the portfolio;

(2) Provide timely feedback to the teacher regarding additional evidence that may be needed to show accomplishment of the professional development plan; and

(3) Recommend the teacher for certificate renewal to the Division of Certification prior to the expiration date of the certificate.

(5)(a) [Section 5.] Upon expiration, a regular certificate shall be extended for one (1) time for the one (1) year period immediately following the expiration date upon completion of at least one-third (1/3) of the renewal requirements and upon recommendation by the employing school superintendent. The remainder of the renewal requirements shall be completed within the one (1) year period of reinstatement.

(b) [Section 6.] (1) Application for the extension shall be made on Form TC-2.

(6)(a) [Section 6.] (4) Experience in the armed forces of the United States of America shall be accepted toward the renewal of a teaching certificate in lieu of required teaching experience as established in Section 2 of this administrative regulation, if the applicant held a valid commission prior to entering military service.

(b) [43] The validity period of a certificate held by a person at the time of entry into the armed forces of the United States of America shall be extended for the same period of time for which it was valid at the time of entry, beginning from the date of discharge.

[Section 7.] For a certificate requiring teaching experience for renewal, experience as a substitute teacher shall be accepted in lieu of required teaching experience as established in Section 2 of this administrative regulation if the holder of the certificate:

(a) [44] Was employed officially by the local board of education;

(b) [45] Was paid through the board of education; and

(c) [33] Substituted in his/her certification area no less than thirty (30) teaching days per semester.

(b) Work experience at the Education Professional Standards Board, Kentucky Department of Education, or other state or federal
educational agency with oversight for elementary and secondary edu-
cation shall be accepted toward the renewal of a teaching certificate in
lieu of teaching experience as established in Section 2 of this admin-
istrative regulation.

(9) Teaching experience at a regionally- or nationally-accredited
institution of higher education in the academic subject area for which
the teacher holds certification shall be accepted toward the renewal of
a teaching certificate in lieu of teaching experience as established in
Section 2 of this administrative regulation.

(10) Application for certification renewal shall be made on Form
TC-2.

Section 2. Successful Teaching Experience for Certificate Issu-
ance and Renewal. (1) Successful teaching experience shall be in a
position directly corresponding to the type of teaching certificate for
which the application is being made.

(2) A full year of experience shall include at least 140 teaching
days of employment performed within the academic year.

(3) A half year of experience shall include at least seventy (70)
teaching days of employment performed within an academic semes-
ter.

(4) The experience shall include employment on at least a half-
time basis as defined in 704 KAR 20:690.

(5) The experience may include employment in either a public
school or a regionally- or nationally-accredited nonpublic school.

(6) Experience as a home school teacher shall not be accepted as
successful teaching experience.

(7) The superintendent of the employing district or chief school
officer of the employing nonpublic school shall verify successful
teaching experience on the certification application, Form TC-1 for
initial certification or Form TC-2 for certificate renewal.

Section 3. Incorporation by Reference. (1)(a) Form TC-1, rev.
9/2000, Education Professional Standards Board, is incorporated by
reference.

(b) Form TC-2, rev. 9/2000, Education Professional Standards
Board, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to
applicable copyright law, at the Education Professional Standards
Board, 1024 Capital Center Drive, Frankfort, Kentucky 40602, Monday
to Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 15, 2001 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regu-
lation will be held July 26, 2001, at 1 p.m. in the Council on Post-
secondary Education Conference Room A, 1024 Capital Center Drive,
Frankfort, Kentucky. Individuals interested in being heard at this hear-
ing shall notify this agency in writing by July 19, 2001, five work days
prior to hearing, of their intent to attend. If no notification to attend the
hearing is received by that date, the hearing may be canceled. This
hearing is open to the public. Any person who wishes to be heard will
be given an opportunity to comment on the proposed administrative
regulation. If you do not wish to be heard at the public hearing, you
may submit written comments on the proposed administrative regula-
tion. Send written notification of intent to be heard at the public hearing
or written comments on the proposed administrative regulation to the
contact person.

Contact Person: Dr. Susan Leib, Education Professional Stan-
dards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601,
(502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiederwol

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation es-
establishes certificate renewal provisions and the requirements for suc-
cessful teaching experience for certificate issuance and renewal.
(b) The necessity of this administrative regulation: KRS 161.020,
161.028, and 161.030 require that a teacher and other professional
school personnel hold a certificate of legal qualifications for his or her
respective position to be issued upon completion of a program of
preparation prescribed by the Education Professional Standards
Board; furthermore, a teacher education institution is required to be
approved for offering a preparation program corresponding to a par-
ticular certificate program on the basis of standards and procedures established
by the Education Professional Standards Board, and KRS 161.020
provides that the validity and terms for the renewal of a certificate shall
be determined by the laws and administrative regulations in effect at
the time the certificate was issued.

(c) How this administrative regulation conforms to the content of
the authorizing statutes: This administrative regulation establishes
certificate renewal provisions and the requirements for successful
teaching experience for certificate issuance and renewal for certifi-
cates issued under KRS 161.028 and 161.030. This administrative
regulation establishes certificate renewal provisions and requirements for
successful teaching experience for certificate issuance and renew-
als for certificates required under KRS 161.020.

(d) How this administrative regulation currently assists or will as-
sist in the effective administration of the statutes: This administrative
regulation establishes the procedures teachers must follow to renew
their required certificate of legal qualifications issued by the Education
Professional Standards Board in accordance with KRS 161.020,
161.028, and 161.030. Additionally, this administrative regulation
establishes the requirements for successful teaching experience ac-
cepted toward certificate issuance and renewal.

(2) If this is an amendment to an existing administrative regulation,
provide a brief summary of:
(a) How the amendment will change this existing administrative
regulation: The amendment will update the certificate renewal re-
quirements by adding references to companion regulations and pro-
viding detailed information about the policy and procedures for com-
pleting the renewal process. Additionally, the amendment adds a sec-
tion on successful teaching experience; this section details the re-
quirements for the use of successful teaching experience for issuance
or renewal of a certificate.

(b) The necessity of the amendment to this administrative regula-
tion: The amendments to this administrative regulation governing cer-
tificate renewal and successful teaching experience are necessary to
update the regulation in response to other changes made in the certifi-
cation system in companion regulations. The amendment also places
into regulatory language practice on the acceptance of successful
teaching experience toward certificate issuance and renewal; the
Education Professional Standards Board and its predecessors previ-
sously applied these rules, but they were contained in old "certification
manuals" that have since been discontinued.

(c) How the amendment conforms to the content of the authorizing
statutes: This amendment updates the certificate renewal provisions and
the requirements for successful teaching experience for certificate
issuance and renewal for certificates issued under KRS 161.028 and
161.030. This amendment updates certificate renewal provisions and
requirements for successful teaching experience for certificate issu-
ance and renewal for certificates required under KRS 161.020.

(d) How the amendment will assist in the effective administration
of the statutes: This amendment will provide clarification on the certifi-
cate renewal requirements for professional school personnel certifi-
cates required under KRS 161.020. The amendment will provide pro-
cess and procedures for the acceptance of successful teaching experi-
ence toward certificate issuance and renewal for certificates issued
under KRS 161.028 and 161.030.

(3) List the type and number of individuals, businesses, organiza-
tions, or state and local governments affected by this administrative
regulation: Kentucky has approximately 47,000 active professional
school personnel in the public schools - most of whom must renew
their certificates every 5 years. The teacher certification database has
approximately another 50,000 records of teachers who are living and
holding (or held) some type of certificate, but who are not actively teach-
ing. Additionally, the Education Professional Standards Board issues
approximately 5,000 new certificates every year to recent college
graduates and out-of-state teachers.

(4) Provide an assessment of how the above group or groups will
be impacted by either the implementation of this administrative regu-
lation, if new, or by the change if it is an amendment: The amendment
will potentially affect most of the group defined in Section 3 above.
While the "requirements" for renewal have not been altered by this
amendment (i.e., once teachers have completed Rank II require-
ments, they must renew their 5 year certificate by either teaching 3 of
those 5 years, or completing 6 additional graduate semester credit
hours), the process and procedure have been updated by this
amendment to reflect changes in other companion administrative
regulations. The addition of the section on successful teaching experi-
ence will provide teachers with information on acceptance of teaching
experience towards certificate issuance and renewal. This information
had previously been contained in a manual that is now out of print.

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

(a) Initially: No additional agency funds allocated or necessary for
implementation of regulation.

(b) On a continuing basis: No additional agency funds allocated or
necessary for continuing implementation of regulation.

(6) What is the source of the funding to be used for the imple-
entation and enforcement of this administrative regulation: State
General Fund and Restricted Fund (from certification fees).

(7) Provide an assessment of whether an increase in fees or
funding will be necessary to implement this administrative regulation, if
new or by the change if it is an amendment: No increase in fees or
funding necessary for implementation.

(8) State whether or not this administrative regulation establishes
any fees or directly or indirectly increases any fees: This regulation
does NOT establish fees nor does it directly or indirectly increase fees.

(9) TIERING: Is tiering applied? No. All certificate applicants must
adhere to the same certificate issuance and renewal requirements
established in this administrative regulation.

EDUCATION PROFESSIONAL STANDARDS BOARD

(Amendment)

704 KAR 20:750. Teachers' National Certification Incentive
Trust Fund.

RELATES TO: KRS 157.395, 161.131, 161.132, 161.133,
161.134

STATUTORY AUTHORITY: KRS 161.133(3), 161.134(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.133
establishes the Teachers' National Certification Incentive Trust Fund.
KRS 161.133(3) requires the Education Professional Standards Board
to promulgate an administrative regulation to establish procedures for
the administration of the fund and the requirements for participating
teachers and local boards of education. KRS 161.134(3) requires the
Education Professional Standards Board to promulgate an administra-
tive regulation to establish the parameters for mentoring programs
utilizing national board certified teachers. This administrative regula-
tion establishes participation requirements and payment procedures
relating to this fund.

Section 1. (1) To apply to receive payments from the trust fund, a
Kentucky teacher shall:

(a) Submit a letter of intent to the Education Professional Stan-
dards Board including the name of the public school and district in
which the teacher is employed, and

(b) Submit documentation to the Education Professional Stan-
dards Board from the National Board for Professional Teaching Stan-
dards verifying registration as a candidate for national board certifica-
tion.

(2) A teacher shall submit these materials by December 31 in
each of the two (2) years in which the teacher is eligible for payments
under this fund.

(3) Upon receipt of the materials required under this section, the
Education Professional Standards Board shall notify the school district
where the teacher pursuing national board certification is employed
that the teacher is participating in the incentive program.

Section 2. (1) A teacher enrolled for participation in the incentive
program under Section 1 of this administrative regulation shall submit
a payment voucher, Form NBC-1, for the stipend of $200 per day for
two (2) days beyond the school contract year to prepare for the certifi-
cation assessments. Form NBC-1 shall be signed by:

(a) The teacher pursuing national board certification; and

(b) The superintendent, or the superintendent's designee, of the
school district where the teacher is employed.

(2) The teacher pursuing national board certification shall submit
payment voucher Form NBC-1 by May 15.

Section 3. (1) The superintendent, on behalf of the local board of
education, shall submit a payment voucher, Form NBC-2, for reim-
bursement for substitute teachers employed to allow the five (5) days
of released time for the teacher pursuing national board certification
who has been enrolled for participation in the incentive program under
Section 1 of this administrative regulation.

(2) The superintendent shall submit payment voucher Form NBC-
2 by May 15 of the school year in which the released time was used
by the teacher pursuing national board certification.

(3) The teacher pursuing national board certification shall adhere
to the local board of education policy or procedure for the procurement
of substitute teachers.

Section 4. (1) A teacher who successfully completes national
board certification shall submit a payment voucher, Form NBC-3, for
the seventy-five (75) percent reimbursement of the certification fee.

(2) The teacher shall submit Form NBC-3 within the school year in
which the teacher is notified of the successful completion of national
board certification.

Section 5. (1) A local school district or group of districts may sub-
mit a proposal to the Education Professional Standards Board for a
stipend for a national board certified teacher who serves as a mentor
to teachers.

(2) The proposal shall be submitted on or before September 1 of
the school year in which the mentoring will occur.

(3) The proposal shall be reviewed by the Education Professional
Standards Board at its next regularly scheduled meeting based upon
the following documented components:

(a) Evidence of cooperation with the applicable school-based
decision making councils;

(b) Identification of each teacher the national board certified
teacher will be mentoring;

(c) The length and structure of the mentoring program;

(d) The goals and objectives of the mentoring program;

(e) The mentoring program's impact on student learning;

(f) The mentoring program's effect on teacher participants' profes-
sional growth and development; and

(g) The stipend amount requested for the national board certified
teacher serving as the mentor.

(4) A school district mentoring program approved by the Educa-
tion Professional Standards Board shall submit a summary at the con-
clusion of the program detailing how the components identified in sub-
section (3) of this section were addressed and listing the mentoring
program's accomplishments.

(5) A national board-certified teacher who serves as a mentor in
a program approved under this section of this administrative regulation
shall receive a [minimum] stipend of $1,000 for each teacher the na-
tional board-certified teacher is mentoring.

(6) A national board-certified teacher who is teaching full time
shall not mentor more than three (3) teachers pursuing national board
certification in a school year.

Section 6. (1) Payments made from this fund under the require-
ments of this administrative regulation shall be disbursed by the
Kentucky Department of Education directly to the local school district
in which the teacher pursuing national board certification is employed.

(2) The local school district shall be responsible for deducting any
relevant withholdings prior to disbursing the funds to the teacher.

(3) The local school district shall be responsible for the salary
supplement established in KRS 157.395 for a teacher obtaining na-
tional board certification.

Section 7. Incorporation by Reference. (1) The following material
is incorporated by reference:

(a) Form NBC-1, 7/2000;

(b) Form NBC-2, 7/2000; and

(c) Form NBC-3, 7/2000.

(2) This material may be inspected, copied, or obtained, subject to
applicable copyright law, at the Education Professional Standards
VOLUME 28, NUMBER 1 – JULY 1, 2001

Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 15, 2001 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held July 26, 2001, at 1 p.m. in the Council on Post-secondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 19, 2001, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiederwohl
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation establishes the participation requirements and payment procedures for the Teachers' National Certification Incentive Trust Fund.
(b) The necessity of this administrative regulation: KRS 161.133 establishes the Teachers' National Certification Incentive Trust Fund. KRS 161.133(3) requires the Education Professional Standards Board to promulgate an administrative regulation to establish procedures for the administration of the fund and the requirements for participating teachers and local boards of education. KRS 161.134(3) requires the Education Professional Standards Board to promulgate an administrative regulation to establish the parameters for mentoring programs utilizing national board certified teachers.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the procedures and procedures for teachers who are pursuing national board certification to receive the benefits established in KRS 161.133. Additionally, this regulation establishes the process and procedures for national board certified teachers serving as mentors to receive compensation under KRS 161.134.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the process for national board certification candidates to apply to receive money from the fund established in KRS 161.133, and this regulation establishes the process for local school districts to apply to receive money from the fund for mentoring programs established in KRS 161.134.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary:
(a) How the amendment will change this existing administrative regulation: The amendment will establish a nondiscretionary stipend amount for national board certified teachers who mentor other teachers under mentoring programs established under KRS 161.134 and this administrative regulation.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to establish a fair and equal compensation system for national board certified teachers who choose to mentor other teachers in their school or district. The nondiscretionary stipend established in this amendment conforms with other additional compensation/stipend programs operated by the Education Professional Standards Board, including the Kentucky Teacher Internship Program and the payment of cooperating teachers who supervise student teachers.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes a stipend amount for national board certified teachers who mentor other teachers under a mentoring program established under KRS 161.134.
(d) How the amendment will assist in the effective administration of the statutes: This amendment establishes a nondiscretionary amount for national board certified teachers who choose to mentor other teachers. This amendment will ensure that each is compensated fairly and equally for equal or similar work in schools and districts across the Commonwealth.
(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky currently has 75 national board certified teachers and that number is expected to double each year as more teachers participate in response to the incentives offered by the Commonwealth.
(f) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment will affect all national board certified teachers who choose to be mentors under a mentoring program established under this administrative regulation. This school year (2000-2001) was the first year for the mentoring program; each district program requested $1,000 per candidate mentor (limited to three candidates per mentor). This amendment simply sets the amount ($1,000 per candidate) as a requirement rather than a minimum amount.
(3) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No additional agency funds allocated or necessary for implementation of regulation. The 2000 General Assembly allocated $900,000 in FY 2002 to cover costs for candidate incentives and mentoring.
(b) On a continuing basis: No additional agency funds allocated or necessary for continuing implementation of regulation for this biennium. The 2002-2004 Biennium Budget will need an increase in appropriation to accommodate the exponential growth of the national board certification incentive program; however, this increase would be needed regardless of the amendment to this administrative regulation.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund (Teachers' National Certification Incentive Trust Fund).
(4) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding necessary for implementation in FY 2002. The 2002-2004 Biennial Budget will need an increase in appropriation to accommodate the exponential growth of the national board certification incentive program; however, this increase would be needed regardless of the amendment to this administrative regulation.
(5) Provide an estimate of any fees or directly or indirectly increases any fees: This regulation does NOT establish fees nor does it directly or indirectly increase fees.
(6) TIERING: Is tiering applied? No. All national board candidates and mentors must adhere to the same requirements established in this administrative regulation.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Health Insurance Policy and Managed Care
(Amendment)

866 KAR 17:150. Health benefit plan rate filing requirements.

STATUTORY AUTHORITY: KRS 304.17A-095 [1998 Ky. Acts ch. 496, sec. 9(3)]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.17A-095 [1998 Ky. Acts ch. 496, sec. 9(3)] authorizes the commissioner to promulgate an administrative regulation to obtain relevant information for health benefit plan rate filings and to set forth the format of the filings. This administrative regulation establishes procedures for filing health benefit plan rates so the commissioner will have relevant information to approve or disapprove the rate filing.

Section 1. Definitions. (1) "Base new business rate" means the
premium rate for each product benefit plan for each class of business, prior to any adjustments for case characteristics or health status. (2) "Base new business rate change" means: (a) For a product benefit plan, the percentage change in the base new business rate measured from the first day of the prior rating period to the first day of the proposed rating period; and (b) For a product within a market segment class of business, equal to the premium weighted average base new business rate change for all of the product benefit plans within that market segment class of business. (3) "Base premium rate" is defined in KRS 304.17A-005(2) [1998 Ky. Acts ch. 456, sec. 1]. (4) "Class of business" means all or a distinct grouping of small employers or individuals as shown on the records of the small employer or individual insurance carrier. (5) "Covered person" is defined in KRS 304.17A-500(2). (6) "Date of filing" means the date the department confirms that the appropriate filing fee and all information required by this administrative regulation have been received by the department. (7) "Duration" means a policy year of twelve (12) months, measured from the date of issuance of a policy, with each succeeding twelve (12) month period being a new duration. (8) [46] "FFS" means a fee for service product type. (9) [47] "Guaranteed Acceptance Program" or "GAP" is defined in KRS 304.17A-005(14) [1998 Ky. Acts ch. 456, sec. 1]. (10) [48] "Health benefit plan region" or "geographic region" means each one of the eight allowable rating regions for health benefit plans identified in HIP/MC-R33 (7/00) [Form LH-33]. (11) [49] "HMO" means a health maintenance organization product type. (12) [49] "Index rate" is defined in KRS 304.17A-005(20) [1998 Ky. Acts ch. 486, sec. 1]. (13) [44] "Large group" is defined in KRS 304.17A-005(24) [1998 Ky. Acts ch. 466, sec. 1]. (14) [42] "POS" means a point of service product type. (15) [43] "PPO" means preferred provider organization product type. (16) [44] "Small group" is defined in KRS 304.17A-005(34) [1998 Ky. Acts ch. 466, sec. 1].

Section 2. Scope. (1) A health benefit plan rate filing to which the standards of KRS 304.17A-005 [1998 Ky. Acts ch. 456, sec. 1], etc., apply, shall include the information required by this administrative regulation. (2) The period in which the commissioner must affirmatively approve or disapprove the filing shall not begin until the date of filing. (3) The insurer shall not use the proposed rates for any purpose until the date of filing. (4) The filing and fee shall not be deemed received until the department confirms that: (a) All information required by this administrative regulation has been received; and (b) The appropriate fee has been paid.

Section 3. Health Benefit Plan Rate Filing Procedures. (1) The following shall be included and properly completed in a health benefit plan rate filing submission: (a) Form HIPMC-R32 [LH-32], the Health Benefit Rate Filing Information Form; (b) $100 filing fee or the domiciliary state fee, whichever is greater; (c) Form HIPMC-F1 [LH-4], Face Sheet and Verification Form; (d) Signed actuarial memorandum prepared in accordance with Sections 5, 6 and 7 [Section 6] of this administrative regulation; (e) The Income and Expense Worksheet; and (f) Except for large groups, Certification Form HIPMC-R34 [LH-34]. (2) Two (2) copies of all written material shall be submitted to the department. (3) One (1) copy of all written material shall be submitted to the Attorney General’s Office by the insurer at the same time as the submission to the Department of Insurance. This shall include: (a) An amendment; (b) An update; (c) Additional information; or (d) A response to an inquiry from the department. (4) Two (2) copies of all correspondence with the department or other state agency concerning a filing shall be submitted to the department. (5) The insurer shall provide a self-addressed, postage-paid envelope large enough to accommodate a return copy for notification of the commissioner’s decision. (6) [65] One (1) copy of the annual report to shareholders or policyholders of the company shall be attached to the filing as an exhibit.

Section 4. Filing Format. (1) A separate health benefit plan rate filing shall be submitted for each market segment class as follows: (a) Each market segment as follows: 1. Individual; 2. [66] Small group; 3. [66] Association; 4. [66] Employer-organized association; and (b) Each employer-organized association as defined in KRS 304.17A-0954(1)(c), except as otherwise authorized by employer-organized associations pursuant to KRS 304.17A-0954(2). (2) A large group rate filing may include each product type offered as follows: (a) FFS; (b) PPO; (c) POS; and (d) HMO. (3) A rate filing for a market segment other than large group may be submitted separately for each product type listed in subsection (2) of this section or in the following combinations: (a) FFS and PPO; (b) POS, HMO, and PPO.

Section 5. Employer-organized Association Rate Filings. (1) An employer-organized association rate filing shall include the name of each employer-organized association that generated the rating experience contained in the filing. Each employer-organized association that provides the insurer with written permission to have rates based on experience other than their own may have experience combined for rate determination. Proposed rates for a combination of associations shall be contained in one filing. (2) Each employer-organized association rate filing shall contain documentation demonstrating that the entity is an employer-organized association pursuant to KRS 304.17A-0954(1)(c). (3) If an insurer is proposing to begin marketing a health benefit plan to an [the] employer-organized association [market segment], a rate filing may be based on the standard plan benefits, including appropriate formulas and rate factors within the limitations outlined in KRS 304.17A-0954 [1998 Ky. Acts ch. 496, sec. 14]. The filing shall include: (a) Factors for any [a plan likely to be offered]; and (b) A detailed description of the methodology for incorporating the actual experience of an employer-organized association in determining rates for that association. (4) If the insurer receives [30] days of receiving written permission from an employer-organized association regarding combining experience with other employer-organized associations, the insurer shall submit two (2) copies of the written permission to the commissioner at the time of the rate filing. The written permission shall include the following: (a) A statement giving the insurer permission to rate the employer-organized association on experience other than the employer-organized association’s own experience; (b) Name, address, and telephone number of the employer-organized association giving permission to the insurer; (c) Name, address, and telephone number of the insurer to which permission is given; (d) Month, day, and year that permission is given to the insurer; and (e) Number of eligible association members.

Section 6. Actuarial Memorandum. (1) The actuarial memorandum for each rate filing shall be prepared in accordance with the following:
(a) American Academy of Actuaries Actuarial Standard of Practice No. 8, Regulatory Filings for Rates and Financial Projections for Health Plans; and
(b) Interpretative Opinion 3, Professional Communications of Actuaries.

(2) The actuarial memorandum for a rate filing, other than a large group rate filing, shall include the following:
(a) Qualifications of the signing actuary;
(b) A statement identifying when the company will begin using the proposed rates;
(c) A discussion of rate development which shall include a detailed explanation of the following:
   1. The effects of each of the following mandated benefits which discussion shall include the percentage cost and actual dollars attributable to the rates and the number of policyholders who are affected:
      a. Treatment of inherited metabolic disorders;
      b. For benefit plans offering pharmacy benefits, formula costs of inherited metabolic disorders;
      c. Mammograms; and
      d. For large employer groups and associations only, mental health conditions in accordance with KRS 304.17A-551. [Autism; b. Cochlear-implant; c. Diabetes; d. Cancer-drugs; e. Women's health; and f. Hospice.]
   2. The claim cost development that shall include an explanation of the following:
      a. Methodology;
      b. Any assumption including the following:
         (i) Trend, along with supporting analysis which supports the trend level selected:
            (ii) Any benefit change;
            (iii) Any utilization or cost-per-service change;
            (iv) Any demographic change;
            (v) Any change in medical management;
            (vi) Any change in provider contracts;
            (vii) Any other assumption used; and
      c. Experience by month, including exposures or members, earned premium, paid claims, incurred claims and incurred loss ratio, for the last three (3) years for this product, or for a similar product if this filing is for a new product;
   3. Development and printout of the base premium rates, index rates, and corresponding highest premium rates and, until January 1, 2003, any applicable GAP premium rates for the standard plan option by age, gender, and tier combination using the lowest industry factor and the lowest area factor, and separately using the highest industry factor and the highest area factor. If the filing contains more than one (1) product, the information required by this subparagraph shall be provided for each product separately. For any filing containing proposed rates for more than (1) one class of business, the information required in this subparagraph shall be provided separately for each class of business.
   4. Effective January 1, 2001, for a company that has existing GAP enrollees:
      a. Index rates for the non-GAP classes of business may be set by excluding the experience of the GAP enrollees;
      b. Index rates for the GAP class of business shall be set by considering the block of experience for the new GAP class of business and the former class of business which included GAP enrollees; and
      c. Rates for the GAP class of business may not exceed 150 percent of the index rates established in clause b of this subparagraph.
   5. Every factor for each case characteristic including age, gender, industry or occupation, and geographic region, with a separate summary of the maximum factor and the minimum factor for each case characteristic:
      a. A health benefit plan region other than the eight (8) identified in HIPMC-R33 (7/00) [Form-LH-33] shall not be used for a geographic region factor adjustment.
      b. Include any healthy lifestyle discount factor, along with an explanation of the determination of that factor, and where that factor is applicable;
      c. The anticipated pricing loss ratio including a detailed justification of the following load factors:
         a. The percentage allocated for the administrative expense assumption, with an explanation for any change from the factor used for existing rates. It shall be explained how these costs are allocated among each benefit plan design and attach demonstrative documentation as an exhibit;
         b. The percentage allocated for the commission assumption with an explanation for any change from the factor used for existing rates;
         c. The percentage allocated for federal, state and local government tax assumptions with an explanation for any change from the factor used for existing rates;
         d. The percentage allocated for the investment income assumption with an explanation for any change from the factor used for existing rates;
         e. The percentage allocated for the profit and contingency assumption with an explanation for any change from the factor used for existing rates; and
         f. The percentage allocated for assessments pursuant to KRS 304.17B-021; and
      d. The percentage allocated for any other identified factor;
   (d) Detailed explanation, with example, of the following:
      1. The method for determining a small group composite rate;
      2. When a small group composite rate is recalculated; and
      3. The group size that is eligible for a composite rate calculation;
   (e) Each health benefit plan description and the applicable benefit factor adjustment, or any other method of calculating rates for a different benefit plan if the method is not multiplicative, for each benefit plan to which this filing applies. Until January 1, 2001, if applicable, the two (2) individual GAP benefit plans, other than the Standard Benefit Plan, shall be identified. Any other benefit plan offered to a GAP participant shall also be identified.
   (f) Detailed discussion of the manner in which the projected amount of net assessments and refunds under KRS 304.17A-460 and 304.17A-470 [1998 Ky.-Acts ch.496, secs. 21 and 22] is included in establishing the proposed rates in the filing as required by KRS 304.17A-055 [1998 Ky.-Acts ch.496, sec. 9(6)];
   (g) Information regarding how fees are paid to providers as follows:
      1. Justification of fees paid to providers in relation to the rate requested, including any assumption used regarding provider discounts in the rate filing; and
      2. Average discount to providers during experience period and average discount for physician payments, hospital payments, laboratory payments, pharmacy payments, mental health payments and other payments for the rate filing period;
   (h) If a trend rate is used, include the time period to which the trend applies and the applicable annual trend rate and the periodicity of the factor, such as monthly or quarterly;
   (i) Explanation of the anticipated effect of the requested rates on the current policyholders, subscribers, or enrollees;
   (j) Information regarding each class of business which shall include:
      1. Identification of each class of business;
      2. Justification of each separate class of business; and
      3. A demonstration that each index rate for the class of business will be the highest index rate in within ten (10) percent of the corresponding index rate from the class of business with the lowest index rates, and effective January 1, 2001, excluding any GAP class of business; and
   (k) Prospective certification of the following, which shall be filed as an attachment to the actuarial memorandum for a rate filing other than a large group filing, and signed by the qualified actuary who prepared and signed the actuarial memorandum:
      1. That the information is prepared in accordance with American Academy of Actuaries Actuarial Standard of Practice No. 26, Compliance with Statutory and Regulatory Requirements for the Actuarial Certification of Small Employer Health Benefit Plans, applicable to the following markets:
         a. Individual;
         b. Association; and
         c. Employer-organized association; and
         d. Small group business; and
      2. That all the proposed rates are in compliance with KRS 304.17A-0562 and 304.17A-0554 [1998 Ky.-Acts ch.496, secs. 10, 11, and 16].
Section 7. Large Group Rate Filings. (1) The actuarial memorandum for a large group rate filing shall include the following information:
(a) The information provided in Section 6(2)(a), (b), (c), [1, [6]2, G [6]6], (f), (g), (h) and (i);
(b) Development of rating basis including each adjustment for the following:
   1. Age;
   2. Gender;
   3. Family composition;
   4. Benefit plan;
   5. Industry;
   6. Healthy lifestyle; and
   7. Any other adjustment;
(c) Any forms for new and renewal business including a definition of each term used in the formula;
(d) Credibility criteria used in conjunction with experience rating;
(e) Detailed explanation of any change in the manual rating formula or experience rating formula;
(f) Detailed explanation of any change in factors that would be used in any formula;
(g) Any periodic trend rate applied in the formula;
(h) The composite effect of any change in formula and formula factors; and
(i) Detailed explanation of any trend assumption used in experience rating.
(2) Certification Form HIPMC-R34 [LH-34] shall not be required for a large group rate filing.

Section 8. Guaranteed Loss Ratio. (1) A filing accompanied by a guaranteed loss ratio statement shall meet all requirements of KRS 304.17A-095(6), effective January 1, 2001;
(2) Individual market filings and small group or small group association market filings shall meet the following requirements regarding guaranteed loss ratios by duration
(a) The guaranteed loss ratio for the first duration shall not be less than sixty-five (65) percent of the guaranteed lifetime loss ratio specified in the policy;
   1. Expected loss ratios may vary by month within the first duration;
   2. The loss ratio for the first month shall not be less than thirty (30) percent of the guaranteed loss ratio for the first duration;
   3. The loss ratio for each month following the first month shall be greater than the loss ratio for the immediately preceding month; and
   4. The average of the loss ratios for all months shall be equal to the guaranteed loss ratio for the first duration;
(b) The guaranteed loss ratio for a specific duration shall not be less than the guaranteed loss ratio for the previous duration;
(c) The guaranteed loss ratio for the third duration shall not be less than the guaranteed lifetime loss ratio specified in the policy;
(d) The average of the first six (6) guaranteed loss ratios by duration shall not be less than the guaranteed lifetime loss ratio specified in the policy;
(e) The guaranteed lifetime loss ratio shall not be less than that contained in KRS 304.17A-095(6)(a)(2); and
(f) The guaranteed loss ratios by duration are guaranteed for all policies issued under the policy form and shall be specified in the policy.
(3) A refund shall be calculated as follows:
(a) Refundable premium for any year shall be the sum of the current year’s refundable premium for each duration. Each duration’s refundable premium is calculated by subtracting the three (3) items in subparagraphs 1, 2, and 3 of this paragraph from the current year’s earned premium by duration and multiplying the result by the ratio of:
   1. Earned premium by duration; and
   2. Earned premium by duration minus the items in clauses a and b of this subparagraph and any premium related expenses in clause c of this subparagraph below:
   a. State and local premium taxes allocated to that duration;
   b. Assessments pursuant to KRS 304.17B-021 allocated to that duration;
   c. The sum of incurred claims, preferred provider organization expenses, case management and utilization review expenses, and reinsurance premiums, minus reinsurance recoveries, allocated to that duration, divided by the guaranteed loss ratio in the policy, for that duration;
   (b) if the annual earned premium is less than $2,500,000, the minimum refund is calculated by refundable premium multiplied by the annual earned premium, divided by $2,500,000; and
   (c) if the annual earned premium is $2,500,000 or greater, the minimum refund is the refundable premium.
(4) The refund to be paid to a policyholder pursuant to KRS 304.17A-095(6)(d) shall be calculated by dividing the earned premium for that policyholder by the total earned premium for the year, and multiplying that percentage of the aggregate refund of the policy form by the aggregate refund.
(a) The amount of the refund shall include the computations of interest in accordance with KRS 304.17A-095(6)(d) in determining whether payment shall be made to the policyholder or to the Kentucky State Treasurer.
(b) An audit shall be conducted in accordance with KRS 304.17A-095(6)(b) which shall include the following:
   (a) Guaranteed lifetime loss ratio;
   (b) Guaranteed loss ratios by duration;
   (c) Analysis of prior year estimated items, including uncollected premiums and unpaid claim liabilities, and description of method of allocation by duration;
   (d) Earned premium by duration and description of method of allocation by duration;
   (e) State premium tax by duration and description of method of allocation by duration;
   (f) Local premium tax by duration and description of method of allocation by duration;
   (g) Assessments by duration and description of method of allocation by duration;
   (h) Incurred claims by duration and description of method of allocation by duration;
   (i) Preferred provider organization expenses and description of method of allocation by duration;
   (j) Case management and utilization review expenses and description of method of allocation by duration;
   (k) Reinsurance premiums, less reinsurance recoveries and description of method of allocation by duration;
   (l) Description of reinsurance and identity of reinsurer;
   (m) Statement that incurred claims do not include administrative expenses, late payment charges, punitive damages, legal fees or any other related administration expenses;
   (n) Statement that incurred claims have been reduced for the full amount of all provider discounts, rebates, coordination of benefits savings, subrogation savings and any other such savings;
   (o) Statement of refund checks not being issued before approval of the audit;
   (p) Calculation of minimum refundable premium, actual refundable premium and refund carryover;
   (q) Calculation of percent of earned premium that is to be refunded;
   (r) Method used to calculate a policyholder’s actual refund;
   (s) Historical experience for the policy form since inception;
   (t) Auditor’s certification; and
   (u) Actuarial certification.
(3) An initial rate filing shall be a formal filing and a subsequent rate filing may be by actuarial certification.

Section 9. Material Incorporated by Reference: (1) The following material is incorporated by reference:
(a) HIPMC-R32, [Form LH-32], "Health Benefit Plan Rate Filing Information Form [(REVISED Edition)];
(b) HIPMC-R1, [Form F-1-LH], "Face Sheet and Verification Form [(REVISED Edition)];
(c) Actuarial Standards of Practice No. 8, "Regulatory Filings for Rates and Financial Projects for Health Plans (Doc. No. 010, 1990 Edition), American Academy of Actuaries;
(d) Actuarial Standard of Practice No. 25, "Compliance with Statutory and Regulatory Requirements for the Actuarial Certification of Small Employer Health Benefit Plans (Doc. No. 052, adopted October, 1989), American Academy of Actuaries;
(e) Actuarial Standard of Practice No. 31, "Documentation in Health Benefit Plan Rate Making (Doc. No. 050, adopted October, 1977), American Academy of Actuaries;
(f) Interpretive Opinion 3, "Professional Communications of Actu-
(g) [68] Income and Expense Worksheet (1998 Edition);
(h) HIPMC-R33 (g) Form LH-33, "Health Benefit Plan Regions
(7/98 Edition)"; and
This material may be inspected, copied, or obtained subject to
applicable copyright law, at the Kentucky Department of Insurance,
215 West Main Street, Frankfort, Kentucky 40601, Monday through
Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the
department's internet web site at www.dot.state.ky.us.

JANIE A. MILLER, Commissioner
RONALD B. MCLOUD, Secretary
APPROVED BY AGENCY: May 14, 2001
FILED WITH LRC: May 22, 2001 at noon
PUBLIC HEARING: A public hearing on this administrative regu-
lation shall be held on July 23, 2001, at 9 a.m. (ET) at the Kentucky
Department of Insurance, 215 West Main Street, Frankfort, Kentucky
40601. Individuals interested in being heard at this hearing shall notify
this agency in writing by July 16, 2001, five work days prior to the
hearing of their intent to attend. If no notification of intent to attend
the hearing is received by that date, the hearing may be cancelled.
This hearing is open to the public. Any person who wishes to be heard
will be given an opportunity to comment on the proposed administrative
regulation. A transcript of the public hearing will be made unless a
written request for a transcript is made. If you do not wish to be heard
at the public hearing, you may submit written comments on the pro-
posed administrative regulation. Send written notification of intent to
be heard at the public hearing or written comments on the proposed
administrative regulation to the contact person.

CONTACT PERSON: Charlette K. Hummel, Counsel, Kentucky
Department of Insurance, 215 West Main Street, P.O. Box 517,
Frankfort, Kentucky 40602, PH: (502) 564-6032, ext. 293, FAX: (502)
564-1456.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charlette Hummel, Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative
regulation establishes procedures for filing health benefit plan rates so the
commissioner will have relevant information to approve of disapprov-
e of the rate filing.
(b) The necessity of this administrative regulation: KRS 304.17A-
095 authorizes the commissioner to promulgate an administrative
regulation to obtain relevant information for health benefit plan rate fil-
ings and to set forth the format of the filings. The need to promulgate
this administrative regulation is to ensure that health benefit plans shall
provide the commissioner the new information necessary as a result of
the health bills passed by the 2000 state legislature.
(c) How this administrative regulation conforms to the content of
the authorizing statutes: KRS 304.17A-095 authorizes the commis-
sioner to promulgate an administrative regulation to obtain relevant
information for health benefit plan rate filings and to set forth the for-
mat of the filings. The need to promulgate this administrative regu-
lation is to ensure that health benefit plans shall provide the commis-
sioner the new information necessary as a result of the health bills
passed by the 2000 state legislature.

(2) If this is an amendment to an existing administrative regulation,
provide a brief summary of:
(a) How the amendment will change this existing administrative
regulation: This amendment adds mandated benefits as passed during the 2000 regular session of the General Assembly. This amendment
establishes alternative rate filing requirements for GAP participating insurers. This amendment establishes guidelines for risk rating using the guaranteed loss ratio methodology.
(b) The necessity of the amendment to this administrative regu-
lation: This amendment is required by legislation on various mandated
benefits and the Kentucky Access Program.
(c) How the amendment conforms to the content of the authorizing
statutes: KRS 304.17A-095 authorizes the commissioner to promul-
gate an administrative regulation to obtain relevant information for
health benefit plan rates. This amendment sets forth the format of the
filings. This amendment establishes procedures for filing health benefit plan rates so the commissioner will have relevant information to approve or disapprove the rate filing in conformance with the health bills passed by the 2000 legislature which went into effect January 1, 2001.
(d) How the amendment will assist in the effective administration
of the statutes: This amendment establishes procedures for filing
health benefit plan rates so the commissioner will have relevant infor-
mation to approve or disapprove the rate filing in conformance with the
health bills passed by the 2000 legislature which went into effect
(e) List the type and number of individuals, businesses, organiza-
tions, or state and local governments affected by this administrative
regulation: This administrative regulation will affect 60 licensed insur-
ers writing health insurance in this state.

(4) Provide an assessment of how the above groups or groups will
be impacted by either the implementation of this administrative regu-
lation, if new, or by the change if it is an amendment: This amendment
will affect the existing regulation which establishes health benefit rate
filing requirements applicable to all insurers that issue, deliver or re-
new health benefit plans in Kentucky. Insurers will be required to file
information in conformity with the current law regarding health insur-
ance rates needed by the commissioner to determine whether the
rates should be approved or disapproved. The uninsured will be respon-
sible for copying and delivery costs. Because insurers are currently
required to file rate information under 806 KAR 17:50, the cost to
insurers for filing under this amendment should not increase dramati-
cally, if at all.

(5) Provide an estimate of how much it will cost to implement this
administrative regulation:
(a) Initially: The insurers will be responsible for copying and deliver-
cy costs.
(b) On a continuing basis: The insurers will be required to provide
the department with information in the event that any filed rate
is changed.
(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation:
The source of funding to be used for implementation and enforcement
of this administrative regulation will be the budget for the Department
of Insurance.

(7) Provide an assessment of whether an increase in fees or funding
will be necessary to implement this administrative regulation, if new,
or by the change if it is an amendment: The department does not
anticipate that any increase in fees or funding will be necessary to im-
plement this regulation.
(8) State whether or not this administrative regulation establishes
any fees or directly or indirectly increases any fees: No

TIERING: Is tiering applied? No. Tiering is not applied because
this administrative regulation applies to all insurers that issue, deliver
or renew health benefit plans in the state of Kentucky.
PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Racing Commission
(Amendment)

810 KAR 1:025. Licensing thoroughbred racing.


NECESSITY, FUNCTION, AND CONFORMITY: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this administrative regulation is to establish the licensing procedures and requirements for participation in thoroughbred racing.

Section 1. (1) Representations made on or with license application shall be complete and correct.
(2) Licensees (licensee) shall abide by all rulings, and decisions of the stewards and all decisions by the stewards shall remain in force unless reversed or modified only by the commission upon proper appeal.
   (a) Rulings and decisions of the stewards may be appealed to the commission, except those made by the stewards as to:
      1. Findings of fact as occurred during and incident to the running of a race; and
      2. A determination of the extent of disqualification of horses in a race for fouls committed during the race.
   (b) Excepted rulings and decisions by the stewards shall be final with no right of review by the commission.
   (3)(a) A licensee shall consent to a reasonable search of his property in his possession by the commission or its representatives, the property being restricted to that on association grounds and including tack rooms, living or sleeping quarters, motor vehicles, trunks, boxes, and containers of any sort.
   (b) A licensee shall consent to seizure of any object which may be evidence indicating a violation of an administrative regulation.
   (c) A licensee shall cooperate in every way with the commission or its representatives during the conduct of an investigation, to include responding honestly [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) 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 the horses from tampering.

Section 2. The commission may issue a license to an association which applies for a license to conduct a thoroughbred race meeting on days as the commission may deem appropriate.

Section 3. 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 other 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 the applicant was denied a license or where his license was suspended or revoked;
(2) Conviction of a crime or violation of any statute or administrative regulation [dealing with a controlled substance];
(3) Falsification, misrepresentation, or omission of required information in a license application to the commission.
   (a) Failure to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced; or
   (b) 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 or the stewards in an application for a license or 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 these activities;
(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 examinations 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 the administrative regulations to be licensed;
(11) Discontinuance of or ineligibility for activity for which license was issued;
(12) Possession on association grounds, without written permission from the commission or stewards, of:
   (a) Firearms;
   (b) Battery, buzzer, or electrical device; or
   (c) 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; or
   (b) Medication, stimulant, sedative, depressant, local anesthetic, or any foreign substance prohibited by the commission [Narcotics, medications, or drugs or substances 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 these 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 rearrangement 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 at which 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, may 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 administrative regulation of the commission, or Aiding or abetting any person in violation of any administrative regulation of the commission.
(21) A licensees's failure to satisfy a judgment rendered against him, for goods, supplies, services or fees furnished him and used in the course of his licensed occupation, constitutes a failure to meet the financial responsibility requirements of KRS 230.310. Lack of a showing of legal and just cause, and said judgment is inconsistent with the best interests of racing and the maintenance of honesty, integrity and high quality thereof and is cause for suspension of the license and denial of any renewal of same.

Section 4. License Applications for Associations. Persons or legal entities desiring to conduct thoroughbred racing in the Commonwealth shall apply to the commission for an association license. [The application shall be made in writing on application forms prescribed by the commission. Applications shall be 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.] Applications shall not be acted upon by the commission until the commission is satisfied a full disclosure has been made. The application shall contain:
(1) [Names and location of track, initial applications shall be ac-
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companied by other physical information as the commission may re-
quire:
(2) Names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the asso-
ciation with the degree of ownership or type of interest shown;
(2) (69) Names and addresses of persons capable of exercising any
control over affairs of the association as trustee or guardian or
lessee, or mortgagee, or fiduciary;
(3) [43] Corporations, partnerships, or other legal entities which
own or control 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, dir-
ectors, stockholders, and other persons owning or controlling a bene-
"cial interest in the legal entities with the degree of ownership or type
of interest pertaining to the ownership or interest;
(65) Days and hours on which racing is requested to be con-
ducted; and number of races to be run on each day;
(4) [60] Names of racing officials and persons responsible for
track security and fire protection;
(5) [73] Proposed purse schedule, showing minimum purse, aver-
age daily distribution, added money for each stake, if any;
(6) [80] An operating report on forms prescribed by the commis-
sion if the applicant is currently licensed; or
(9) Other information as the commission may require from time to time
require to ascertain the fitness of the applicant to conduct racing.

Section 5. License Application for Participants in Racing. (1)(a)
Any person owning or having an association required to be licensed by Sec-
tion 3 of this administrative regulation and desiring to participate in
thoroughbred racing in the Commonwealth may apply to the commis-
sion for a license.
(b) The 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 of (2) reputable persons who shall attest
to the good reputation of the applicant and to the capability and gen-
eral fitness of the applicant to perform the activity permitted by the
license.
(3) Applications from persons whose age is not readily ascertain-
able 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)(a) Applications from persons, corporations, partnerships, les-
sors, or other legal entities involving more than one (1) individual per-
son desiring to race horses in the Commonwealth shall, in addition to
attaching the person or persons to represent the entire ownership of
the horses, be accompanied by documents which fully disclose the
identity and degree and type of ownership held by all individual per-
sons who own or control a present or reversionary interest in the
horses.
(b) Applications shall not be acted upon by the commission until
the commission is satisfied a full disclosure has been made.
(5)(a) Applications from persons desiring to treat, or prescribe for,
or attend any horse on association grounds as a practicing veterin-
arian, shall be accompanied by evidence that the person is currently
licensed as a veterinarian by the Commonwealth of Kentucky.
(b) An accredited practicing veterinarian not licensed by the com-
mission 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 be
considered as participating in racing in this state.
(6) Applications from persons designing 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 shall att-
est to the technical competence of the applicant and under whose
sponsorship and direction the applicant shall work on association
grounds.
(7) Applications from persons not previously licensed in the ca-
capacity of farrier shall not be forwarded with recommendation to the
commission by the licensing committee until the applicant has suc-
cessfully completed a standard examination by an experienced farrier
known to the stewards so as to provide the licensing committee a rea-
sonable basis for recommendation as to the technical proficiency of the
applicant for a farrier's license.
(8) The following annual fees shall accompany the application and
shall not be refundable:
(a) $100 [Thirty-five (35) dollars] - owner (licensee), trainer, assis-
tant trainer, veterinarian, [dentist-technician, blacksmith,] farrier, [or]
apprentice farrier (licensee), jockey, jockey-agent.
(b) Fifty (50) dollars - farm manager/agent, racing official, steward, testing laboratory employee, racing depart-
ment employee (licensee), racing secretary, assistant racing secretary,
director of racing, starter and assistant starter, paddock judge, patrol
judge, placing judge, timer, claiming license, and temporary license;
(c) Fifty-five (55) dollars - Twenty-five (25) dollars - jockey apprentice;
(d) Fifteen (15) dollars - veteran assistant, dental technician, sta-
ble-association official, supply (licensors of horse feed, tack, medication,
or food vendors), mutual employee, farm manager, farm agent; persons
employed by a concern conducting with the association to provide a
service or commodity and which employment requires their presence
on association grounds during a race meeting, jockey apprentice;
(e) Forty-five (45) dollars - jockey agent;
(d) Twenty-five (25) [Ten (10)] dollars - association employee,
and occupational employee, vendor employee or any person em-
ployed by a concern contracting with the association to provide a
service or commodity and which employment requires their presence
on association grounds during a race meeting, licensees, photo finish
operator, film patrol, television production employees, [or video tape
operator and projectionist,] association security department including
[policeman, volunteers,] police, fireman, ambulance drivers, emergency medical technicians, [and attendants] track super-
intendent, [groom,] mechanic, [carpenter,] maintenance
department staff, admissions (manager and employees), admission
department manager and employees, [association] [concessions
manager and employees, parking manager and employees, all other
persons employed by the association; vendor employees;]
(e) Ten (10) dollars - stable foreman, exercise personnel, hot-
walker, groom, watchman, pony person and special event mutual em-
ployee license. The special event mutual license shall be good only for
the day of the event. [Five (5) dollars - stable employee license for
foreman, exercise-boy, groom, hotwalker, watchman, or pony boy;]
(f) Twenty (20) dollars - mutual department employee license;
(g) Thirty (30) dollars - life-colors.

Section 6. Licensing Committee. (1) The commission may appoint
a licensing committee including the executive director and commission
steward or their designated representative.
(2) The licensing committee shall review all applications for all
licenses, and forward the applications to the commission with rec-
ommendations, subject to security checks, for final action.
(3) The licensing committee may issue to a license applicant a
temporary permit to participate in the activity for which a license appli-
cation was made pending administrative processing and final action
on license application by the commission.

Section 7. The validity of a license does not preclude or infringe
on the common law rights of associations to eject or exclude persons,
licensed or unlicensed, from association grounds.

Section 8. Possession of License Required. Persons required to
be licensed by these administrative regulations shall not participate in
any activity required to be licensed on association grounds during a
race meeting without having been issued a valid license and having the
license in his possession. Except for owners, licenses specified under
Section 5(8)(a), (b), (c), (d), and (e) [10(b) through (f)] of this
administrative regulation shall include a color photograph of the licen-
see and shall be openly displayed on the bockside of association
grounds at all times.

Section 9. Applicability of Rules and Rulings to Household. Ad-
ministrative regulations pertaining to, and rulings against, licensees
shall apply in like force to the spouse and members of the immediate
family or household of the licensee, unless there is a showing on the
part of an affected spouse, or affected member of the immediate fam-
ily or household of the licensee, and the stewards in their discretion so
find, that the continuation of participation in racing by the affected person shall in no way circumvent the intent of the administrative regulation, 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 10. Incorporation by Reference. (1) "Application for Participants in Racing (2001)" is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Racing Commission, 4063 Iron Works Parkway, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. (Notice for Discontinuance of Employment). (1) Licensure: 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 his intention at least fifteen (15) days before termination.
(2) The commission shall upon notice to parties in interest conduct a hearing on the matter.
(3) If the commission finds that the cause of termination is unreasonable, unlawful, or contrary to these administrative regulations, the commission shall so advise all parties in interest and shall take appropriate action against offending parties.
(4) If the commission finds that the cause of termination is reasonable, lawful, and not contrary to these administrative regulations, the commission shall so advise all parties in interest and shall use its best efforts to settle the dispute.

C. FRANK SHoop, Chairman
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 27, 2001, 10 a.m. at the offices of the Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 20, 2001 five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notation of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Rena Elswick, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Phone (859) 246-2040, Fax (859) 246-2039.

REGULATORY IMPACT ANALYSIS

Contact Person: Rena Elswick
(1) Narrative summary of:
(a) What the administrative regulation does: This regulation establishes the conditions under which thoroughbred racing is to be conducted in Kentucky. Included within those conditions are fees to be paid by applicants for licenses, requirements to be satisfied to become licensed, and conditions that if violated could result in the denial, suspension, or revocation of a license.
(b) The necessity of the administrative regulations: In order to place individuals on notice of the conditions and fees applicants shall pay to become licensed and the conditions upon which their license may be granted, denied, suspended or revoked.
(c) How the administrative regulation conforms to the content of authorizing statutes: Various statutes authorize the commission to enact administrative regulations for issuing and regulating horse racing in this state. KRS 230.260(4) authorizes the commission to determine the amount of fees to be paid for licenses to participate in horse racing. That same provision enables the commission to require applications in the form and contain information as required by the commission.
(d) How the administrative regulation currently assists or will assist in the effective administrative of the statutes: The regulation establishes the amount of the fees and conditions to be licensed, (e) If this is an amendment of an existing administrative regulation, a brief narrative summary of:
(a) How the amendment will change the existing administrative regulation: All fees of individuals seeking a license will be increased. A few of the conditions contained in the present regulation will be deleted since the conditions have been placed in the statutes. A few of the existing conditions to receive a license or to take disciplinary action against a license are also being amended.
(b) The necessity of the amendment of the administrative regulation: Most license fees have not been increased in several years. This amendment is being proposed in order for the commission to continue to meet its proposed budget.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.310 states that all individuals participating in any manner in racing that the commission determines must be licensed by the commission. KRS 230.250(4) authorizes the commission to prescribe license fees by administrative regulation. That same provision authorizes the commission to set conditions on licenses. KRS 230.290(2) authorizes the commission to subject all licenses to conditions as set forth in administrative regulations.
(d) How the amendment will assist in the effective administration of the statutes: By listing the amount of the fees to be charged by the commission for each license. The amendment will also list all of the current conditions to become licensed and for disciplinary action to be taken against a license.
(3) The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation: In 2000 the commission issued over 13,000 licenses to individuals to participate in thoroughbred racing. Each of those licensees will be affected if they choose to renew their license in 2001. These licenses include owners, trainers, jockeys, exercise riders, grooms, plus a large number of other individual licenses licensed at a race track by the commission. Associations that represent large numbers of some of these licensees include the Kentucky Thoroughbred Association and the Horseman’s Benevolent Protection Association.
(4) An assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation: Each of these individuals will be required to pay an additional amount in order to be licensed.
(5) An estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) The source of the funding to be used for the implementation and enforcement of the administrative regulation: There will be no additional costs to the commission for implementing the amendment.
(7) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation. No, these proposed amendments are to increase the individual license fees by approximately 13,000 individuals that work at Kentucky race tracks.
(8) DISCLOSURE: Is this amendment applied? In regards to license fees there are different amounts charged based upon the type of license being issued. Tiering is not applied in regard to the granting or denial of a license.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Racing Commission
(Amendment)

811 KAR 1:100. Personnel to be licensed; fees.
STATUTORY AUTHORITY: KRS 230.260

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NECESSITY, FUNCTION, AND CONFORMITY: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this administrative regulation is to provide for the licensing of personnel and the fees to be charged for licensing.

Section 1. The following persons or entities shall furnish the commission, on demand, for its files, their fingerprints and photograph:
(1) A person who holds a permit to conduct pari-mutuel wagering in this state;
(2) A person who is a member of an association holding a permit and every person who is an officer of a corporation which holds such a permit;
(3) An employee of the holder of a permit in any capacity connected to any extent with the pari-mutuel wagering business in this state;
(4) Owners, trainers, drivers, grooms, managers, agents, farriers [blacksmiths], veterinarians, and like persons who actively participate in the racing activities of any such permit holders.

Section 2. A person shall not be permitted to enter in or around the grounds, stables or stable enclosures who does not have in his possession a license issued by the commission as owner, trainer, driver, apprentice, agent, stable manager, groom, veterinarian, or proper credentials issued by the association, and a full record of these credentials shall be compiled and open to inspection at all times.

Section 3. (1) At a pari-mutuel racing meeting persons listed in subsection (2) of this section shall procure a license from the commission:
(2) The following annual fees shall accompany the application, which is incorporated by reference in 810 KAR 1:025, Section 10, and shall not be refundable:
(a) $100 - owner, owner/trainer, owner/trainer/driver, trainer, assistant trainer, limited trainer, amateur driver, veterinarian, farrier, apprentice, farrier, farm manager, farm agent, racing officials, racing secretary, assistant racing secretary, director of racing, starter, assistant starter, paddock judge, presiding judge/steward, associate judge/steward, testing, patrol judge, timer, claiming license, and temporary owner's license;
(b) Fifty (50) dollars - veterinarian assistant, dental technician, stable area supplier (suppliers of horse feed, tack, medication, or food vendors), mutual employee, farm manager, and farm agent;
(c) Twenty-five (25) dollars - association employee, occupational employee, vendor employee or any person employed by a concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, photo finish operator, film patrol, television production employee, announcer, association security department including police, watchmen, firemen, ambulance drivers, emergency medical technicians, track superintendent, maintenance department staff, watchman admissions department manager and employees, association concessions manager and employees, parking manager and employees, association clerical staff, all other persons employed by the association, and any duplicate license.
(d) Ten (10) dollars - stable foreman, exercise personnel, groom, and watchman. The annual fee for a license shall be paid at the time of the filing of the application and shall be as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner</td>
<td>$100</td>
</tr>
<tr>
<td>Driver</td>
<td>$35</td>
</tr>
<tr>
<td>Driver-trainer</td>
<td>$35</td>
</tr>
<tr>
<td>Trainer</td>
<td>$35</td>
</tr>
<tr>
<td>Judge-date</td>
<td>$35</td>
</tr>
<tr>
<td>Judge-steward</td>
<td>$35</td>
</tr>
<tr>
<td>Judge-paddock</td>
<td>$35</td>
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<tr>
<td>Judge-patrol</td>
<td>$35</td>
</tr>
<tr>
<td>Judge-presiding</td>
<td>$35</td>
</tr>
<tr>
<td>Judge-starting</td>
<td>$35</td>
</tr>
<tr>
<td>Race-secretary</td>
<td>$35</td>
</tr>
<tr>
<td>Security.guard</td>
<td>$10</td>
</tr>
<tr>
<td>Director-of-Security</td>
<td>$10</td>
</tr>
<tr>
<td>Mutuel-Manager</td>
<td>$20</td>
</tr>
</tbody>
</table>

Section 4. Owners are not required to have a color photograph included on their license.

Section 5. Should a licensee lose a permit or should a permit in some manner be destroyed, the licensee shall apply for a duplicate permit for a fee of twenty-five ($25) [five ($5)] dollars.

Section 6. (5) If the commission, in its discretion, shall find that the experience, character and general fitness of the applicant are such that the participation of the person in harness horse racing meets will not be consistent with the public interest, convenience and necessity and with the best interests of racing generally in conformity with the purposes of the harness racing act, it shall thereon deny a license.

C. FRANK SHOOP, Chairman
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 27, 2001, 10 a.m. at the offices of the Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 20, 2001 five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Rena Elswick, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Phone (859) 240-2404, Fax (859) 246-2393.

REGULATORY IMPACT ANALYSIS

Contact Person: Rena Elswick
(1) Narrative summary of:
(a) What the administrative regulation does: This regulation establishes the conditions under which standardbred racing is conducted in Kentucky. Included within those conditions are fees to be paid by applicants for licenses, requirements to be satisfied to become licensed, and conditions that if violated could result in the denial, suspension, or revocation of a license.
(b) The necessity of the administrative regulations: In order to place individuals notice of the conditions and fees applicants shall pay to become licensed and the conditions upon which their license may be granted, denied, suspended, revoked, and revoked.
(c) How the administrative regulation conforms to the content of authorizing statutes: Various statutes authorize the commission to enact administrative regulations on harness racing in this state. KRS 230.260(4) authorizes the commission to determine the amount of fees to be paid for licenses to participate in horse racing. That same provision enables the commission to require applications in the form and contain information as required by the commission. KRS 230.260(3) authorized the commission to place conditions on licenses.
(d) How the administrative regulation currently assists or will assist in the effective administrative of the statutes: The regulation establishes the amount of the fees and conditions to become licensed.

(2) If this is an amendment of an existing administrative regulation, a brief narrative summary of:
(a) How the amendment will change the existing administrative regulation: All fees of individuals seeking a license will be increased. A few of the conditions contained in the present regulation will be deleted since the conditions have been placed in the statutes. A few of the existing conditions to receive a license or to take disciplinary action against a license are being amended.
(b) The necessity of the amendment of the administrative regulation: Most license fees have not been increased in several years. This amendment is being proposed in order for the commission to continue to meet its proposed budget.
(c) How the amendment conforms to the content of the authorizing...
statutes: KRS 230.310 states that all individuals participating in any manner of racing that requires their presence on the track must be licensed by the commission. KRS 230.260(4) authorizes the commission to prescribe license fees by administrative regulation. That same provision authorizes the commission to subject all licenses to conditions as set forth in administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: By listing the amount of the fees to be charged by the commission for each license. The amendment will also list all of the current conditions to become licensed and for disciplinary action to be taken against a license.

(3) The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation: In 2000 the commission issued approximately 6,000 licenses to individuals that participate in standardbred racing. Each of those licensees will be affected if they choose to renew their license in 2001. These licenses include owners, trainers, jockeys, exercise riders, grooms, plus a large number of other individuals licensed at a racetrack by the commission. The association that represents the majority of these licensees is the Kentucky Harness Horsemen's Association.

(4) An assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation: Each of these individuals will be required to pay an additional amount in order to be licensed.

(5) An estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None

(b) On a continuing basis: None

(6) The source of the funding to be used for the implementation and enforcement of the administrative regulation: There will be no additional costs to the commission for implementing the amendment.

(7) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation: No, these proposed amendments are to increase the individual license fees.

(8) A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: These proposed amendments in general deal with increasing the yearly individual license fees for approximately 6,000 individuals that work at Kentucky standardbred race tracks.

(9) TIERING: Is tiering applied: In regards to license fees there are different amounts charged based upon the type of license being issued. Tiering is not applied in regard to the granting or denial of a license.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(Amendment)


Relates to: KRS Chapter 13B, 194A.050, 194A.505, 194A.990, 7 CFR Part 246, 21 USC 802 sec. 102
Statutory Authority: KRS 194A.050, 211.990(3), 7 CFR Part 246, 42 USC 1786
Necessity, function, and conformity: 42 USC 1786 and 7 CFR Part 246, provide for grants for state operation of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health Services to promulgate such rules and administrative regulations as are necessary to qualify for the receipt of federal funds. This administrative regulation establishes the application and participation process for the Kentucky Special Supplemental Nutrition Program for Women, Infants and Children (WIC) for women, infants, children, vendors, including the sanction, and hearing processes.

Section 1. Definitions. (1) "Alcohol" is defined in KRS 241.010(1).

(2) "Alcoholic beverage" is defined in KRS 241.010(2).

(3) "Authorized supplemental food" means any supplemental food authorized by the state or local agency for issuance to a particular participant.

(4) "Competent" or "Certifying" professional authority means a person who is authorized to determine eligibility and certify persons for the WIC Program. It includes the following:

(a) A physician;
(b) A nutritionist with a bachelor's degree;
(c) A certified nutritionist;
(d) A licensed dietitian;
(e) A registered nurse;
(f) A licensed practical nurse;
(g) An advanced registered nurse practitioner; and
(h) A physician's assistant certified pursuant to 201 KAR 9:175.

(5) The phrase "Compliance audit" means an on-site investigation in which a representative of the WIC Program poses as a participant, parent or caretaker of an infant or child participant, or proxy and engages in a transaction involving one (1) or more food items and does not reveal during the visit that he or she is a program representative.

(6) [65] "Contract price" means the price for a WIC food item negotiated between the state agency and the vendor.

(7) "Dual participation" means simultaneous participation in the WIC Program in one (1) or more WIC clinics, or participation in the WIC Program and in the commodity supplemental food program (CSFP) during the same period of time.

(8) [66] "Food package" means, for the purpose of participant access determination, three (3) food items issued to a participant, valid for the same time period.

(9) [92] "High risk vendor" means a vendor identified as having a high probability of violating WIC Program requirements through criteria established by federal regulation and any additional criteria established by the state agency.

(10) [86] "Inventory audit" means an examination [a review] of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of authorized supplemental food to provide to participants in the quantities specified on food instruments redeemed by the vendor during a given period of time.

(11) [99] "Investigation" means a method used by the state agency to detect a WIC Program violation.

(12) [140] "Local agency" means an applying or participating WIC agency.

(13) [144] "Low variance" means the redemption of the same type of food items at the same price, or within a narrow price range.

(14) [142] "Participant" means a pregnant, breastfeeding or postpartum woman, or an infant or child, who is receiving supplemental food or food instruments, and the breastfeeding infant of a breastfeeding woman who is receiving WIC Program benefits.

(15) "Participant violation" means any intentional action of a participant, parent, or caretaker of an infant or child participant, or proxy that violates federal or state statutes, regulations, policies, or procedures governing the WIC Program.

(16) [143] "Positive compliance buy" means a compliance buy in which a violation of the WIC Program has occurred.

(17) [144] "Proxy" means a person designated by a participant, or by a parent or caretaker of an infant or child participant, to obtain and transact food instruments or to obtain supplemental foods on behalf of a participant. Authorizes to act for a participant.

(18) [145] "Routine monitoring" means oversight, on-site monitoring during which representatives of the WIC Program identify themselves to vendor personnel.

(19) [146] "Retail price" means the price displayed on the vendor's display case, on the shelf or on the food item.

(20) [147] " Staple food items" means meat, poultry, fish, bread, breadstuff, cereals, vegetables, fruit, vegetable and fruit juices, and dairy products. Items such as coffee, tea, cocoa, carbonated beverages, condiments, and spices are not included.

(21) [148] "State agency" means the Cabinet for Health Services or it's designated representative.

(22) [149] "Tracking" means the redemption of a food instrument or food instruments for cash.

(23) [149] "Vendor" means a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one (1) or more stores authorized through an agreement or contract with the state agency to participate by providing authorized supple-
mental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and must be authorized separately from other stores operated by the business entity. Each store must have a single, fixed location. [Vendor of food items who applies for participation in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) or who, by contract, participates in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)]

(24) "Vendor authorization" means the process by which the state agency assesses, selects, and enters into an agreement or contract with a store that applies or subsequently reapplies to be authorized as a vendor.

(25) [249] "Vendor violation" means any [an] intentional or unintentional act of a vendor's current owners, officers, managers, agents, or employees [vendor] with or without management knowledge, that [which] violates the vendor agreement or federal or state statutes, regulations, policies or procedures governing the WIC Program [federal regulations or this administrative regulation].


Section 2. Eligibility. To be certified as eligible to participate in the WIC Program, a person shall:

1. Be categorically eligible as follows:
   a. A pregnant woman;
   b. A postpartum woman, up to six (6) months after termination of pregnancy;
   c. A breastfeeding woman, up to the infant's first birthday;
   d. An infant, birth to one (1) year of age; or
   e. A child, one (1) to five (5) years of age;
2. Provide proof of residence and be a resident of the Commonwealth of Kentucky;
3. Provide proof of identity;
4. Provide proof of household income and meet the income criteria; and
5. Meet one (1) of the following nutritional risk criteria:
   a. A detrimental or abnormal nutritional condition detectable by biochemical or anthropometric measurements, such as:
      1. Anemia;
      2. Underweight;
      3. Overweight;
      4. Abnormal pattern of weight gain in pregnant women;
      5. Low weight gain in an infant; or
      6. Stunting in an infant or child.
   b. Other documented nutritionally related medical condition, such as:
      1. Clinical signs of nutritional deficiency;
      2. Metabolic disorder;
      3. Pre-eclampsia in a pregnant woman;
      4. Failure to thrive in an infant;
      5. Chronic infections;
      6. Alcohol or drug abuse or mental retardation in a woman;
      7. Lead poisoning;
      8. History in a pregnant woman of high risk pregnancies or associated factors such as:
         a. Smoking;
         b. Conception before sixteen (16) months postpartum;
         c. Low birth weight, premature birth, or neonatal loss;
         d. Adolescent pregnancy; or
         e. Current multiple pregnancy; or
         f. Congenital malformation in an infant or child; or
         g. Infant born of a woman with alcohol or drug abuse history or mental retardation; or
         h. A dietary deficiency that impairs or endangers health, such as inadequate dietary patterns assessed by:
            1. A twenty-four (24) hour dietary recall;
            2. Dietary history; or
            3. Food frequency checklist; or
            4. A condition that predisposes a person to an inadequate nutritional pattern or nutritionally related medical condition, such as homelessness or migrancy;
            5. An infant under six (6) months of age shall be determined to be at risk if, during her pregnancy, the infant's mother:
               1. Was a WIC Program participant; or
               2. Met risk criteria; or
               3. A participant previously certified for the WIC Program shall be considered to be at nutritional risk in the next certification period if the certifying professional authority determines there is a possibility of regression in nutritional status without the supplemental foods.

Section 3. Certification Periods. WIC Program benefits shall be based upon certifications established in accordance with the following time frames:

1. A pregnant woman shall be certified for the duration of her pregnancy and for up to six (6) weeks postpartum.
2. A postpartum woman shall be certified for up to six (6) months postpartum.
3. A breastfeeding woman shall be certified at intervals of approximately six (6) months and ending with the breastfeeding infant's first birthday.
4. An infant shall be certified at intervals of approximately six (6) months, except an infant under six (6) months of age shall be certified for a period extending up to the first birthday if the quality and accessibility of health care services is not diminished.
5. A child shall be certified at intervals of approximately six (6) months and ending with the end of the issuance month in which a child reaches the fifth birthday.

Section 4. Priority System: Vacancies in the WIC Program shall be filled as they occur unless maximum participation has been reached. At that time, vacancies shall be filled by a priority system based upon the nutritional risk of the patient.

Section 5. Food instruments shall be provided at the time of notification of certification.

Section 6. Time Frames for Processing Applicants: Pregnant and breastfeeding women, infants and migrants shall be screened and notified of WIC Program eligibility or ineligibility within ten (10) days. All other applicants shall be screened and notified of WIC Program eligibility or ineligibility within twenty (20) days.

Section 7. Nutrition Education. Nutrition education shall be made available to the participant and shall relate in a practical manner to the nutritional needs, household situation and cultural preferences. Along with nutrition education, tobacco, drug and other harmful substance abuse information will be provided to each participant. Breastfeeding information and encouragement to breastfeed shall be provided to each pregnant participant unless contraindicated.

Section 8. Participant Abuse of the Program. (1) The cabinet or a local agency shall issue a written warning for the following suspected acts for which a complaint is received concerning a participant or the participant's parent, guardian, caretaker or other authorized proxy:
   a. Purchasing unauthorized foods;
   b. Redeeming food instruments at an unauthorized store;
   c. Attempting to sell or exchange supplemental food or a WIC food instrument or food instruments with another individual, group, or vendor;
   d. Returning supplemental foods to a vendor for cash.
   e. The cabinet or a local agency shall take the following specified action for an intentional [a proven or documented] act by a participant or the participant's parent, guardian, caretaker or other authorized proxy, that is proven or documented [as follows]:
      1. Redeeming a food instrument before the "first day to use" or after the "last day to use."
         a. First offense: written warning.
         b. Second offense: monthly pickup of food instruments.
         c. Third offense: one (1) month suspension.
   f. The cabinet or a local agency shall take the following specified action for a participant who has previously been reported to the local (WIC) agency as being lost or stolen and which has been replaced by another food instrument:
      1. First offense: written warning.
      2. Second offense: claim for amount of food instruments redeemed.
      c. Purchasing unauthorized food.
1. First offense: written warning.
2. Second offense: one (1) month suspension.
(d) Redeeming a food instrument at an unauthorized store.
1. First offense: written warning.
2. Second offense: one (1) month suspension.
(e) Threatening physical abuse or verbal abuse of clinic or vendor staff.
1. First offense: Written warning - if possible, another staff member may serve the participant.
2. Second offense: one (1) month suspension.
(f) Physical abuse of clinic or vendor staff.
1. First offense: three (3) month suspension.
2. Second offense: three (3) month suspension.
(g) Exchanging or selling supplemental food or a WIC food instrument with another individual, group, or vendor.
1. First offense: three (3) month suspension.
2. Second offense: three (3) month suspension.
(h) Exchanging food instruments or supplemental foods for credit, nonfood items or supplemental food in excess of those listed on the food instrument.
1. First offense: three (3) month suspension.
2. Second offense: three (3) month suspension.
1. (i) Dual [Simultaneous] participation in more than one (1) WIC Program or participation in both the WIC Program and the CSFP [Commodity Supplemental Food Program (CSFP)].
1. First offense: written warning and immediate termination from one (1) of the programs. The continuing WIC agency shall be chosen based upon the participant's residence or services.
2. Second offense: one (1) year disqualification [three-(3)-month suspension and claim for food instruments received.
(iii) Knowingly and deliberately making false or misleading statements, misrepresenting, concealing or withholding a fact in order to obtain program benefits.
1. First offense: three (3) month disqualification and claim for improperly issued benefits.
2. Second offense: one (1) year [three-(3)-month] disqualification and claim for improperly issued benefits.
(3) Mandatory disqualification. Except as provided in subsections (4)(a), (b), (c) and (5)(a), (b), (c) of this section a participant is disqualified for one (1) year whenever the state or local agency assesses:
(a) A claim of $100 or more; or
(b) A claim for dual participation; or
2. (c) A second or subsequent claim of any amount.
(4) A mandatory disqualification may not be imposed if, within thirty (30) days of receipt of the claim letter demanding repayment:
(a) Full restitution is made; or
(b) A repayment schedule is agreed on; or
2. (c) In the case of a participant who is an infant, child, or under age eighteen (18), the state or local agency approves the designation of a proxy.
(5) A participant may be permitted to reapply for the WIC Program before the end of a mandatory disqualification period if:
(a) Full restitution is made; or
(b) A repayment schedule is agreed upon; or
2. (c) In the case of a participant who is an infant, child, or under age eighteen (18), the state or local agency approves the designation of a proxy.
(6) The amount of a claim will be determined by the value of the food instruments redeemed. If the claim is not paid, the participant will be denied application to the WIC Program for the number of months of benefits which were used to calculate the claim amount—(not-to-exceed three-(3)-months).
(7) [66] Activities prohibited by KRS 194A.505 apply to participants, vendors, and agency personnel. Penalties in KRS 194A.990 apply to participants, vendors, and agency personnel who have violated KRS 194A.505.

Section 9. Fair Hearing Procedures for Participants. (1) A local agency shall inform a person, in writing, of the right to a fair hearing and the method by which a hearing may be requested at the time the person is:
(a) Ineligible for the program;
(b) Disqualified or suspended during a certification period; and
(c) Issued a claim.
(2) The first level of hearing for a person is with the local [WIC] agency that has taken the adverse action against the person.
(3) A person requesting a fair hearing shall contact the appropriate WIC agency within sixty (60) days from the date of the letter notifying the person of the adverse action. The hearing shall be held within three (3) weeks from receipt by the local [WIC] agency of the hearing request. The local [WIC] agency shall provide the person with at least ten (10) days advance written notice of the time and place of the hearing.
(a) The local [WIC] agency shall provide the person or the person's representative an opportunity to:
1. Review prior to and during the hearing documents and records presented to support the decision under appeal;
2. Be assisted or represented by an attorney or other persons, if desired;
3. Bring witnesses to testify;
4. Present oral or documentary evidence and agreement supporting their position and question or refute any testimony or other evidence; and
5. Confront and cross-examine an adverse witness.
(b) The hearing officer shall decide the case based upon the record of the hearing and the relevant statutory and regulatory provisions governing the WIC Program.
(c) The basis of the decision shall be in writing and shall be the final decision of the local [WIC] agency.
(d) A decision shall be reached and written notification of the decision forwarded to the person no later than forty-five (45) days from receipt of the request for hearing.
(e) A person may appeal the hearing officer's decision to the secretary within fifteen (15) days of the mailing date of the hearing decision notice, pursuant to Section 15 of this administrative regulation and KRS 13B.030.

Section 10. Vendor Authorization Criteria. (1) Only a vendor authorized by the cabinet shall redeem a food instrument.
(2) Food vendors shall be authorized in sufficient numbers and with distribution adequate to assure:
(a) Participant convenience and access; and
(b) Effective management of vendor review by the cabinet and the local [WIC] agency.
(3) In order to be an authorized WIC vendor, a vendor shall:
(a) Provide all information, including sales volume, requested by the state agency;
(b) Stock, at all times, minimum inventory in accordance with the "Quantified Minimum Inventory Requirements" outlined in the WIC Information Manual for Vendor Applicants [Prospective Vendors], incorporated by reference;
1. The stock shall be in the store or in the store's stockroom.
2. Expired foods do not count towards meeting the minimum inventory requirement.
3. A pharmacy shall supply formula within forty-eight (48) hours of the WIC agency request.
(c) As appropriate, be in compliance with the Kentucky Retail Market, Sanitation Regulations 802 KAR 45:005, and have a valid Retail Food Establishment or Retail Food Store Permit in the current owner's name;
(d) Have prices commensurate with the area's authorized WIC vendors. Prices are compared according to state agency policy, outlined in the WIC Information Manual for Vendor Applicants [Prospective Vendors] and the WIC Vendor Manual, incorporated by reference;
(e) Be in compliance with other Food and Nutrition Service (FNS) [Consumer Service (FCS)] Programs, as follows:
1. Not be disqualified or withdrawn by the United States Department of Agriculture (USDA) from participation in another Food and Nutrition Service (FNS) [Consumer Service (FCS)] Program;
2. Not be denied application to participate in the Food Stamp Program;
3. Not be currently paying a civil money penalty to the Food Stamp Program; or
4. Not having been assessed a civil money penalty for hardship by
the Food Stamp Program and the disqualification period that would otherwise have been imposed has not expired [within the last two (2) years].

(f) Be requesting authorization for a business whose primary purpose is to be a retail grocery.

1. A direct distribution outlet or wholesale food establishment is not eligible.

2. A retail grocery shall:
   a. Have a separate and distinct grocery department in a stationary location which stocks staple food items in addition to WIC approved foods; and
   b. Have fifteen (15) percent of gross sales in nontaxable food sales excluding specialty items such as bakery goods for bakery, produce for fruit and vegetable stands.

3. A dairy or home delivery service shall not be approved if it operates solely as a mobile operation.

(g) Be open for business year round on a full-time basis at least eight (8) hours per day, six (6) days per week;

(h) Be accessible to monitors by state and federal officials without prior notice; and

(i) Not in debt to the WIC Program for an unpaid claim or a civil money penalty against a store owned or previously owned by the applying

(4) The WIC Program may not authorize a vendor applicant if, during the last six (6) years, the vendor applicant's current owners, officers, or managers have been convicted of or had a civil judgment

[ Determination of the business integrity and reputation of the applying vendor shall be based upon the following]

(a) Fraud;

(b) Antitrust violation;

(c) Embezzlement, theft, or forgery;

(d) Bribery;

(e) Falsification or destruction of records;

(f) Making false statements or claims;

(g) Receiving stolen property;

(h) Obstruction of justice;

(i) Criminal conviction or records reflecting on the honesty or integrity of officers or managers of the applicant firm;

(j) Official records of removal from other federal, state, or local programs;

(k) Judicial determination in civil litigation reflecting on the integrity of officers or employees of the applicant firm;

(l) Evidence of an attempt to circumvent a period of disqualification from the WIC Program;

(m) Evidence of prior fraudulent behavior of an officer, manager, or employee of the applicant firm; and

(n) Other evidence reflecting on the business integrity and reputation of the applicant;

(o) Official records of removal from other federal, state, or local programs.

(5) The WIC Program shall not authorize a store that has attempted to circumvent a period of disqualification from the program. This includes a store that has undergone a sale or change of operation if the transaction involves the following parties:

(a) The seller or transferor is an owner, operator, or manager who is currently suspended, sanctioned, or disqualified from the WIC Program or the Food Stamp Program; and

(b) The buyer or transferee is related to the seller by marriage or consanguinity within the fourth degree, or was a manager or employee of the seller at the time the sanction, suspension, or disqualification was issued or the violation occurred.

(6) A contract shall not be entered into with a vendor if the contract would cause a conflict of interest, real or apparent.

(7) The WIC Program shall terminate a vendor contract if it determines the vendor or vendor's employees provided false information in connection with the vendor application.

Section 11. Vendor Right to a Hearing. (1) A vendor shall be informed in writing of the right to a hearing and the method by which a hearing may be requested, for the following adverse actions:

(a) Denial of application to participate in the program;

(b) Disqualification; or

(c) Other adverse action which affects participation during the agreement performance period.

(2) The following actions are not subject to appeal:

(a) Expiration of an agreement with a vendor;

(b) The WIC Program's determination of participant access; or

(c) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

(3) A vendor aggrieved by a qualifying adverse action shall request a hearing in accordance with Section 15 of this administrative regulation.

Section 12. Vendor Violations and Sanctions. (1) In addition to any criminal penalty imposed pursuant to KRS 194A.990, the cabinet shall impose one (1) or more of the following civil sanctions for designated violations committed by a vendor, his employee or agent:

(a) Vendor violation: failure to record actual purchase price on a WIC food instrument at the time of purchase.

(b) Pattern of incidence and length of disqualification:

(1) First investigation. Two (2) positive compliance buys out of three (3) shall result in a written warning.

(2) Second investigation. Two (2) positive compliance buys out of three (3) shall result in a three (3) month disqualification.

(3) Third investigation. Two (2) positive compliance buys out of three (3) shall result in a six (6) month disqualification.

(b)1. Vendor violation: failure to pay a claim made by the state agency. The state agency shall request payment as follows:

(a) Mail a letter to the vendor requesting payment by a specified date;

(b) If payment is not received, contact vendor by telephone requesting payment; and

(c) If payment is not received, mail a second letter by certified mail, return receipt requested.

(c) Pattern of incidence and length of disqualification: three (3) months shall be added to the previously established disqualification period.

(d) A first offense shall be removed from a vendor's record if three (3) federal fiscal years elapsed without recurrence of a violation described in paragraph (a), (b), or (c) of this subsection.

(e) Vendor violation: convicted of trafficking in a food instrument or instruments or selling a firearm, ammunition, an explosive, or controlled substance, as defined in 21 USC 802 section 102, in exchange for a food instrument or instruments.

2. Pattern of incidence and length of disqualification: one (1) occurrence (one (1) time) of this violation shall result in a permanent disqualification.

(f) Vendor violation: trafficking in a food instrument or instruments or selling a firearm, ammunition, an explosive, or controlled substance, as defined in 21 USC 802 section 102, in exchange for a food instrument or instruments.

2. Pattern of incidence and length of disqualification: one (1) positive compliance buy shall result in a six (6) year disqualification.

(g) Vendor violation: sale of alcohol or alcoholic beverage or tobacco product in exchange for a food instrument or instruments.

2. Pattern of incidence and length of disqualification: one (1) positive compliance buy shall result in a three (3) year disqualification.

(h) Vendor violation: charging reimbursement for the sale of an amount of a specific supplemental food item, which exceeds the vendor's documented inventory of that supplemental food item for a specific period of time.

2. Pattern of incidence and length of disqualification:

(1) An inventory audit for a thirty (30) day period which results in twenty-five (25) percent or more WIC sales than to the documented inventory; shall result in a three (3) year disqualification; or

(2) An inventory audit for a ninety (90) day period which results in ten (10) percent or more WIC sales than the documented inventory, shall result in a three (3) year disqualification.

(i) Vendor violation: charging a participant more for supplemental food than:
a. A non-WIC customer is charged;
b. The current shelf price; or
c. The contract price.
2. Pattern of incidence and length of disqualification:
a. Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification if:
   (i) The vendor has exhibited a prior pattern of overcharging based upon routine monitoring visits which have resulted in two (2) letters for price discrepancies; or
   (ii) The vendor has exhibited a pattern of two (2) out of four (4) quarters of low variance in the prior federal fiscal year.
b. The state agency shall:
   (i) Require a vendor who has received two (2) letters for price discrepancies during the federal fiscal year to receive training provided by the state agency.
   (ii) Notify a vendor who exhibits a pattern of low variance for two (2) or more quarters during the federal fiscal year.
   c. Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification for a vendor who does not meet the conditions in clause a(1) or b(2) of this subparagraph.
   (j)1. Vendor violation: receiving, transacting or redeeming a food instrument by an unauthorized vendor through an authorized store.
   2. Pattern of incidence and length of disqualification: two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.
   (k)1. Vendor violation: charging for supplemental food not received by the participant, such as charging for one (1) food item or more listed on the food instrument but not purchased by the WIC participant.
   2. Pattern of incidence and length of disqualification: three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification.
   (m)1. Vendor violation: providing credit, an IOU, a rain check, a due bill, or a store credit;
   b. Providing a nonfood item other than cash, alcohol, tobacco, firearms, ammunition, explosives or controlled substances, as defined in 21 USC 802 section 102, in exchange for food instruments.
   2. Pattern of incidence and length of disqualification: two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.
   (n)1. Vendor violation: providing an unauthorized food item or items in exchange for a food instrument.
   2. Pattern of incidence and length of disqualification: five (5) positive compliance buys out of five (5) shall result in a one (1) year disqualification.
   (o)1. Vendor violation: charging for supplemental food provided in excess of those listed on the food instrument.
   2. Pattern of incidence and length of disqualification: five (5) positive compliance buys out of five (5) shall result in a one (1) year disqualification.
   (p) A vendor who has been disqualified from the Food Stamp Program shall be disqualified from the WIC Program for the same length of time as the Food Stamp Program disqualification.
   (q) A vendor who has been assessed a civil money penalty by the Food Stamp Program, as provided under 7 CFR 278.6, shall be disqualified from the WIC Program for the same length of time for which the vendor would have been disqualified from the Food Stamp Program unless the WIC Program determines that disqualification would result in inadequate participant access, in which case a penalty shall not be assessed.
   (2) If multiple vendor violations are found during an investigation, the length of the disqualification shall be determined by the most serious violation.
   (3) If a vendor who has previously received two (2) or more of the mandatory sanctions designated in subsection (1)(e) through (o) of this section receives another sanction for a violation designated in subsection (1)(e) through (o) of this section, the third and all subsequent sanctions shall be doubled. A civil money penalty shall not be assessed for a third or subsequent sanction.

Section 13. Participant Access Determination and Civil Money Penalty. (1) Except for a violation specified in Section 12(1)(e) of this administrative regulation, prior to disqualifying a vendor for a violation specified in Section 12 of this administrative regulation, the WIC Program vendor manager shall determine if disqualification of the vendor will result in inadequate participant access.

   (2) The determination and documentation of adequate participant access shall be made using the criteria provided in subsections (4) and (5) of this section.
   (3) Mileage shall be measured by automobile odometer.
   (4) There is adequate participant access if:
      (a) There is another vendor within seven (7) miles of the vendor; or
      (b) There is another vendor between the subject vendor and a health department service site, and the other vendor is within seven (7) miles of the health department service site;
      (c) There is no geographic barrier, such as an impassable mountain or river, between the subject vendor and the next accessible vendor;
      (d) The subject vendor is redeeming food instruments for formulas classified as special formulas and there is another vendor within seven (7) miles that can obtain the formula.
      (5) If five (5) or more total food packages are redeemed by the subject vendor in the calendar month period immediately preceding the issuance of a sanction letter, then the WIC coordinator shall be consulted to determine if special cases exist which will result in inadequate participant access.

   (6) If inadequate participant access is determined, a civil money penalty shall be assessed for the violations listed in Section 12 of this administrative regulation. The civil money penalty shall be calculated in accordance with the procedures outlined in the vendor Manual, incorporated by reference.
   (7) The WIC Program shall negotiate an installment plan for the collection of a civil money penalty.

   (8) A vendor that fails to pay, partially pays, or fails to timely pay a civil money penalty, shall be disqualified for the length of time corresponding to the most serious violation.

Section 14. Local Agency Right to a Hearing. If a local agency is denied application, is disqualified from the WIC Program, or in reverse action affecting participation is taken, then any appeal taken shall be in accordance with Section 15 of this administrative regulation.

Section 15. Administrative Appeal. (1) A person appealing a local agency hearing officer's decision or, a vendor or a local agency aggrieved by a decision of the cabinet to impose a sanction authorized by law may file a written request for a hearing with the cabinet no later than fifteen (15) days after receipt of notice of adverse action. The hearing shall be conducted in accordance with KRS Chapter 13B.

   (2) Within fifteen (15) days of a request for a hearing, the cabinet shall issue a notice of hearing.

   (3) A decision assessing the validity of the violation and sanction imposed shall be based upon the record of the hearing and the relevant statutory and regulatory provision governing the WIC Program.
   (4) The final order of the cabinet shall be forwarded to the appellate no later than ninety (90) (sixty-90) days from the date of receipt of the written request for hearing, unless the appellant waives this date in writing.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) "WIC Information Manual for Vendor Applicants" May, 2001 [Prospective Vendors]-August, 1999; and
   (b) "WIC Vendor Manual" May, 2001 [August, 1999].

   (2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department for Public Health, 275 West Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

NICHOLAS Z. KAFOGLIS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARCIA R. MORGAN, Interim Secretary
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on July 23, 2001 at 9 a.m., in the Cabinet for Health Services Auditorium, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by July 16, 2001. If no notice of intent to attend the hearing is received by that date the hearing may be canceled. The hearing is open to the public. Any person who attends will be given the opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Jill Lewis, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 5-W-B, Frankfort, Kentucky 40621, (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Fran Hawkins

(1) Provide a brief summary of:
(a) What this administrative regulation does: Amends the existing regulation in order to comply with amended federal regulation, 7 CFR Part 246 affecting the authorization of vendors and participant sanctions.
(b) The necessity of this administrative regulation: To conform to 7 CFR Part 246, revised January 1, 2000.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The amended regulation incorporates the changes to the federal regulations governing the WIC Program which establishes mandatory criteria for vendor authorization and mandatory sanctions for participants.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendment assists the requirements for the state to develop mandatory authorization criteria for vendors to ensure vendor applicants can adequately meet the needs of participants and to establish mandatory sanctions for participants who abuse the WIC Program.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change the existing administrative regulation: The amendment makes the following:
1. Adds definitions for "authorized supplemental food", "dual participation", "participant violation", and "vendor authorization".
2. Expands the definitions for "high risk vendor", "inventory audit", "proxy", "vendor", and "vendor violation".
3. Adds mandatory disqualification for participant abuse.
4. Adds mandatory authorization criteria for vendors.
(b) The necessity of the amendment to this administrative regulation: To conform to 7 CFR Part 246, revised January 1, 2000.
(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation incorporates the changes to the federal regulations governing the WIC Program which establishes mandatory criteria for vendor authorization and mandatory sanctions for participants.
(d) How the amendment will assist in the effective administrations of the statutes: The amendment assists the requirements for the state to develop mandatory authorization criteria for vendors to ensure vendor applicants can adequately meet the needs of participants and to establish mandatory sanctions for participants who abuse the WIC Program.
(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: All pregnant and breastfeeding and postpartum women, infants and children applying for and participating in the WIC Program as well as applying and authorized vendors are affected by this administrative regulation.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: All applying and authorized vendors would be affected if they did not meet the authorization criteria. Participants would be affected if they or their parent, caretaker or proxy committed a violation which necessitated the imposition of a mandatory sanction.
(5) Provide an estimate of how much it will cost to implement this regulation:
(a) Initially: There is not a cost increase. The activities associated with the changes are 100% federally funded and are minor changes to current policies and procedures.
(b) On a continuing basis: The cost will vary based upon the number of applicants (both participants and vendors), the number of disqualifications and the number of hearings. This is not a cost increase, however, since these activities are 100% federally funded and are minor changes to current policies and procedures.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement will be financed by 100% WIC Program federal funding.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Increase in funding is not necessary to implement this regulation.
(8) State whether this administrative regulation establishes any fees or directly or indirectly increases any fees: Not applicable.
(9) TIERING: Is tiering applied? Tiering was not applied because 7 CFR 246 applies to all eligible participants and vendors.

FEDERAL MANDATE ANALYSIS COMPARISON

2. State compliance standards. The federal mandate outlines eligibility criteria for participants, outlines eligibility criteria for vendors, establishes mandatory vendor sanctions for specific violations but allows the state the discretion to set the patterns of incidence prior to disqualification, allows the state to establish state agency sanctions for vendors, requires the state to establish procedures to control participant abuse, establishes mandated sanctions for participants to have procedures for hearings for participants, vendors, and agencies.
3. Minimum or uniform standards contained in the federal mandate. The federal mandate outlines eligibility criteria for participants, outlines eligibility criteria for vendors, establishes mandatory vendor sanctions for specific violations but allows the state the discretion to set the patterns of incidence prior to disqualification, allows the state to establish state agency sanctions for vendors, requires the state to consider participant access, requires the state to establish procedures to control participant abuse, establishes mandated sanctions for vendors and to have procedures for hearings for participants, vendors, and agencies.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal regulations require the state to establish authorization criteria for vendors, establish procedures to control participant abuse as well as patterns of incidences for certain vendor sanctions and the determination of participant access. In order to establish authorization criteria for vendors, procedures to control participant abuse, participant access determination procedures, the pattern of incidence for the violations and state agency sanctions for vendors, the WIC Program met with a committee consisting of members of the vendor community, representatives of local WIC agencies, and legislators.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal regulations require the state to establish authorization criteria for vendors, establish procedures to control participant abuse as well as patterns of incidences for the certain sanctions and the determination of participant access. In order to establish authorization criteria for vendors, procedures to control participant abuse, participant access determination procedures, the pattern of incidence for the violations and state agency sanctions for vendors, the WIC Program met with a committee consisting of members of the vendor community, representatives of local WIC agencies, and legislators.
CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amendment)


STATUTORY AUTHORITY: KRS 1948.050(1), 205.705, 205.795, 405.520, 610.170, 42 USC 651 et seq.[EO 98-734]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children shall administer the Child Support Program in accordance with the provisions of KRS 205.710 to 205.800. KRS 1948.050(1), (KRS 205.712(2) requires the cabinet to establish and enforce child support obligations and laws. KRS 205.795 and 405.520 provide that the secretary shall develop administrative regulations to operate the CSP in accordance with federal law and regulations. This administrative regulation specifies the process by which an individual may apply for child support services, and the scope of services available, and the process for an interstate case.

Section 1. Kentucky Transitional Assistance Program (K- TAP) and Kinship Care Process for Child Support Services. (1) An [Each] applicant for, or recipient of K- TAP or Kinship Care shall make an assignment of rights to the state for the support that the applicant or recipient may have from any other person in accordance with KRS 205.720(1).

(a) [The assignment shall Include members of the case for whom support rights apply; and]

(b) [The assignment shall Be completed at the time of application for K-TAP or Kinship Care benefits.]

(2) An applicant or recipient shall cooperate in all phases of child support activity that [which] may include the following:

(a) Providing the name of [Identifying] the noncustodial parent or obligor;

(b) Providing the Social Security number of the noncustodial parent or obligor.

(c) Providing information to assist in the:

1. Location of the noncustodial parent or obligor;
2. Enforcement of a child support order;
3. Review or modification of a child support order;
4. Establishing paternity, if required;
5. Establishing child support or medical support orders;
6. Enforcing child support or medical support orders; and
7. The child for whom child support has been ordered resides with the spouse or former spouse; and
8. The spousal support obligation has been established for that spouse and

(d) [Forwarding any child support payment received to the child support enforcement collection unit.]

(3) If the client states that "good cause" for noncooperation exists, he shall have the opportunity to establish his claim according to criteria pursuant to 921 KAR 2:006, Section 16.

(4) The CSP shall not attempt location, establishment, modification or enforcement if it has reason to believe the disclosure of allegations of child abuse or domestic violence could be harmful to the custodial parent or the child pursuant to KRS 205.730(1).

(5) The CSP shall open a case and determine needed action within twenty (20) calendar days of receipt of a referral from the public assistance agency.

(6) Services [A-service] provided to a K- TAP or Kinship Care recipient through the CSP shall include:

(a) Location of the noncustodial parent, or obligor; and
(b) Establishment of paternity based upon the receipt of either:
   (1) A court order; or
   (2) An affidavit from the Office of Vital Statistics that a signed, notarized voluntary acknowledgement of paternity has been registered; and
(c) Establishment of child support and medical support obligations; and
(d) Review and modification, when appropriate, of child support and medical support orders; and
(e) Enforcement of child support and medical support obligations; and
(f) Enforcement of a spousal support obligation if the:
   (i) Client is the spouse or ex-spouse; and
   (ii) Child lives with the spouse or ex-spouse; and
   (iii) Cabinet is collecting support on behalf of the child; and
   (g) Collection and distribution of:
   (i) Child support amounts; and
   (ii) Medical support amounts; and
   (h) Spousal support amounts if the:
   (i) Client is the spouse or ex-spouse; and
   (ii) Child lives with the spouse or ex-spouse; and
   (j) Cabinet is collecting support on behalf of the child.

Section 2. Foster Care Process for Child Support Services. (1) The CSP shall collect and disburse child support on behalf of a child for whom:

(a) The state is making a foster care maintenance payment as required by 42 USC 657 and an assignment of rights has been made; and

(b) The cabinet has custody and there is an order for the parent or parents to pay child support to the cabinet pursuant to KRS 610.170.

(2) The children's [benefits] [benefit] worker with responsibility for the foster care child shall:

(a) Cooperate with the CSP;

(b) [Review and approve [Complete] a foster care child support referral provided by the Division of Permanency and Protection;]

(c) [Forward the referral to the appropriate child support staff;]

(d) Complete a change of status when a change occurs that relates to the child support process; and

(e) [Notify] Forward to the CSP a copy of court documents pertaining to the child support process.

(3) Good cause for nonenforcement of child support for a foster care child exists if criteria pursuant to 921 KAR 2:006, Section 16 are met.

(4) Evidence for determination of good cause shall be pursuant to 921 KAR 2:006, Section 16(5).

(5) The CSP shall not attempt location, establishment, modification or enforcement if it has reason to believe the disclosure of allegations of child abuse or domestic violence could be harmful to the custodial parent or the child pursuant to KRS 205.730(1).

(6) The CSP shall open a case and determine needed action within twenty (20) calendar days of receipt of a foster care referral.

(7) Services [A-service] available to a foster care recipient shall include:

(a) Location of the noncustodial parent, or obligor;

(b) Establishment of paternity;

(c) Establishment of child support and medical support obligations;

(d) Enforcement of child support and medical support obligations;

(e) Review and modification when appropriate of child support and medical support orders; and

(f) Collection and disbursement of a child support payment to the foster care agency for distribution.

Section 3. Medicaid Only Process for Child Support Services. (1) If a Medicaid-only referral is received, the CSP shall obtain the following information, if available:

(a) The Medicaid case number;

(b) The name of the noncustodial parent, or obligor;

(c) The Social Security number of the noncustodial parent, or obligor;

(d) The name and Social Security number of the child;

(e) The home address of the noncustodial parent, or obligor; and

(f) The name and address of the noncustodial parent's, or obligor's place of employment.

(2) An application for Medicaid shall include an assignment of rights for medical support, pursuant to 907 KAR 1:011, Section 9.

(3) Except for a custodial parent who is pregnant or in her postpartum period pursuant to 907 KAR 1:011, Section 10, a custodial parent shall cooperate in all phases of medical support activity.

(4) If the Medicaid client states that "good cause" for noncooperation exists, he shall have the opportunity to establish the claim pursuant to 921 KAR 2:006, Section 16.
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(5) Evidence for determination of good cause shall be pursuant to 921 KAR 2:006, Section 16(5).
(6) The CSP shall not attempt location, establishment, modification or enforcement if it has reason to believe the disclosure of an allegation of child abuse or domestic violence could be harmful to the custodial parent or the child pursuant to KRS 205.730(1).
(7) The CSP shall open a case and determine needed action within twenty (20) calendar days of the receipt of a referral from a public assistance agency.
(8) Services to a Medicaid only client shall include:
(a) Location of the noncustodial parent, or obligor;
(b) Establishment of paternity;
(c) Establishment of medical support obligation;
(d) Enforcement of a medical support obligation;
(e) Review and modification when appropriate of the medical support order;
(f) Modification of a medical support order, when appropriate;
(g) Application for health insurance coverage through an employer for the child if court or administratively ordered but not acquired by either parent; and
(h) Collection and disbursement of a medical support payment if ordered.
(9) A Medicaid-only recipient desiring full child support services, pursuant to Section 1(6) of this administrative regulation, in addition to the medical support services pursuant to subsection (8) of this section, shall complete and submit to the CSP an assignment of rights and authorization to collect support.

Section 4. Services to an Individual Not Receiving Public Assistance. (1) Child support services shall be made available to any individual who:
(a) Assigns rights for medical support only, or
(b) Files a nonpublic assistance application for services with the CSP; or
(c) Has been receiving child support services as a public assistance recipient and is no longer eligible for public assistance.
(2) Notification shall be made within five (5) working days to the family no longer eligible for public assistance that child support services shall continue unless the CSP is notified to the contrary by the family.

Section 5. Application Process for a Nonpublic Assistance Individual. (1) Upon the request of a nonpublic assistance applicant, an application packet shall be given to the applicant if the request is:
(a) [If the request is] Made in person, the packet shall be provided the same day; or
(b) [If the request is] Not made in person, the packet shall be sent to the applicant within five (5) working days of the request.
(2) The application packet shall include:
(a) CS-33, Non-K-TAP Application: [Nonpublic assistance application form];
(b) CS-37, Child Support Services Fact Sheet: [Nonpublic assistance services fact sheet];
(c) CS-168, Application for Direct Deposit and [deposit];
(d) CS-11, [Notarized] Authorization and Acknowledgment of No Legal Representation [form];
(e) Civil rights information pamphlet.
(3) In order to receive child support services, the applicant shall complete and return:
(a) CS-33, Non-K-TAP Application: [A nonpublic assistance application form] and
(b) CS-11, [Notarized] Authorization and Acknowledgment of No Legal Representation [form].
(4) Except for putative father and location-only cases, services provided to a nonpublic assistance client through the CSP shall be those services listed in Section 1(6) of this administrative regulation.
(5) For putative fathers cases, services provided shall be:
(a) Location of the custodial parent; and
(b) Establishment of paternity.
(6) Services provided in location-only and parental kidnapping cases are described in Section 6 of this administrative regulation.
(7) The CSP shall obtain, if available, the following information from a nonpublic assistance applicant for child support services:
(a) The name of the custodial and noncustodial parent, or obligor;
(b) The Social Security number of the custodial and noncustodial parent, or obligor;
(c) The date of birth of the custodial and noncustodial parent, or obligor;
(d) The Social Security number of the child;
(e) The home address or last known address of the custodial and noncustodial parent, or obligor; and
(f) The name and address of the custodial and noncustodial parents, or obligors, employer, or last known employer.
(8) The CSP shall open a case within twenty (20) calendar days of receipt of a nonpublic assistance application.
(9) The CSP shall absorb the cost of the one (1) dollar application fee for nonpublic assistance cases.

Section 6. Parent Locator Service and Associated Fee for Service. (1) For a public assistance case referred to the CSP or a nonpublic assistance case for which child support services are being provided, the CSP shall attempt to locate a noncustodial parent, or obligor, or a noncustodial parent(s), or obligor(s), sources of income, assets, property and debt if location is necessary to take the next appropriate action. Location shall be attempted for a public assistance case referred to the CSP or a nonpublic assistance case for which child support services are being provided, unless the cabinet has reason to believe that disclosure of an allegation of child abuse or domestic violence could be harmful to the custodial parent or child pursuant to 921 KAR 2:006 and KRS 205.730(1).
(2) Location services may be provided upon application by a putative father pursuant to KRS 205.730(2), (4).
(3) Upon the request of a putative father, location services shall be provided unless requested for the purpose of establishing paternity pursuant to KRS 205.730(2), (4).
(4) Location services shall be provided in a parental kidnapping case to enforce state and federal law and to make or enforce a child custody or visitation order pursuant to KRS 205.730(4).
(5) For a nonpublic assistance case in which location is the only service requested, a one (1) dollar application fee shall be charged. For a parental kidnapping request, a one (1) dollar application fee shall be charged. The CSP shall absorb the cost of these application fees.

Section 7. Interstate Process for Child Support Services. (1) The CSP shall extend to an interstate child support case the same services available to an intrastate case. These services shall include:
(a) Location of the noncustodial parent, or obligor;
(b) Location of the custodial parent for establishment of paternity;
(c) Establishment of paternity;
(d) Establishment of a child support obligation for a:
1. Public assistance, including a foster care case;
2. Medicaid only case with the consent of the recipient; and
3. Nonpublic assistance case;
(e) Establishment of a medical support obligation for a:
1. Public assistance, including a foster care case;
2. Medicaid-only case with [the consent of the recipient]; and
3. Nonpublic assistance case;
(f) Enforcement of support orders;
(g) Review and modification when appropriate of child support and medical support orders; and
(h) Collection and disbursement of current and past due support payments.
(2) To enforce child support laws between states the CSP shall:
(a) Receive, distribute, and monitor an incoming interstate case and apprise other states of a change in an interstate case; and
(b) Establish an interstate central registry responsible for:
1. Receiving, processing and distributing an incoming interstate request; and
2. Responding to an inquiry received from another state on an interstate case;[4]
(c) issue an administrative subpoena, pursuant to KRS 205.712(2)(k) and 405 KAR 430(10) [405-KAR-430(10)], to any individual or entity to secure information needed to establish, modify or enforce a support obligation.
(3) Within ten (10) working days of receipt of an interstate case, the central registry shall:
(a) Ensure review of submitted documentation for completeness;
(b) Forward the case to the appropriate functional unit for case processing;
(c) Acknowledge receipt of the case and request missing documentation from the initiating state, if needed; and
(d) Inform the initiating state of where the case has been forwarded for action.

(4) If case documentation is inadequate, the case shall be forwarded to the responsible child support worker for any necessary action pending additional information from the initiating state.

(5) The responding state shall respond to other state inquiries within five (5) working days of receipt of request.

(6) The initiating state agency shall:
(a) Use long-arm statutory authority to establish paternity and child support if statutory authority exists;
(b) Within twenty (20) calendar days of determining that the non-custodial parent, or obligor, is in another state, forward necessary information and the case to the responding state’s central registry for action;
(c) Provide the agency in the responding state sufficient and accurate information and documentation on the appropriate interstate transmittal form;
(d) Provide the CSP or central registry in the responding state with any additional requested information or notify the responding state when the information will be provided within thirty (30) calendar days of receipt of the request;
(e) Notify the agency in the responding state within ten (10) working days of receipt of new information by submitting an updated form or additional information; and
(f) Send a request for a review of a child support order to another state within twenty (20) calendar days of determining that a request for review of the order is needed.

(7) The responding state agency shall establish and use caseload procedures that ensure provision of necessary services including maintenance of a case record. The agency shall periodically review program performance on an interstate case to evaluate the effectiveness of responding state procedures.

(8) The state shall ensure that the organizational structure and agency staff are adequate to provide administration and supervision to provide the following functions:
(a) Intake;
(b) Establishment of paternity;
(c) Establishment of a child support obligation or medical support obligation, or both;
(d) Location;
(e) Collection of current and past due child support and medical support payments;
(f) If the client is the spouse or ex-spouse, the child lives with the spouse or ex-spouse and the cabinet is collecting support for the child, collection of spousal support payments;
(g) Certification for state tax refund intercept, when requested by the initiating state;
(h) Monitoring;
(i) Enforcement of a child support obligation, medical support obligation, and spousal support obligation; and
(j) Review and modification when appropriate of child support and medical support orders.

(9) Within seventy-five (75) calendar days of receipt of interstate forms and documentation, a responding state shall:
(a) Provide location services if requested; or
(b) If documentation is inadequate:
1. Notify the initiating state of a necessary addition or correction; and
2. Process the interstate case to the extent possible pending initiating state action;
(c) Within ten (10) working days of locating a noncustodial parent, or obligor, in a different jurisdiction within the state, the agency shall forward appropriate forms and documentation to that jurisdiction and notify the initiating state and the central registry of its action;[6]
(d) Within ten (10) working days of locating a noncustodial parent, or obligor, in a different state, the agency shall return the forms and documentation to the initiating state’s central registry, or, at the direction of the initiating state, forward forms and documentation to the central registry of the state where the noncustodial parent, or obligor, has been located. The initial responding state’s central registry shall be notified where the case has been sent; and
(e) The responding state shall provide necessary service as it would in an intrastate case by:
1. Establishing paternity and obtaining judgment for a prenatal cost, birthing expense, and genetic test upon establishment;
2. Establishing a child support obligation or medical support obligation, or both;
3. Reviewing a case for possible modification;
4. Processing and enforcing an order referred by another state;
5. Collecting and monitoring any support payment from a non-custodial parent, or obligor and forwarding a collection to a location specified by the initiating state not later than fifteen (15) calendar days from the initial date of receipt;
6. Providing sufficient information to identify the case and date of collection or information that the payment was made through state income tax refund offset and including the responding state’s identifying code;
7. Providing timely notice to the initiating state in advance of a formal hearing to establish or modify a child support order;
8. Notifying the initiating state within ten (10) working days of receipt of new information; and
9. Notifying the interstate central registry in the responding state when a case is closed.

(10) The CSP in the responding state shall pay the cost it incurred in processing a state agency interstate case. However, the CSP of the initiating state shall pay the cost of genetic testing to establish paternity.
(a) If the responding state is successful in establishing paternity, that state’s CSP shall attempt to obtain a judgment for the cost of a genetic test from the party who denied paternity.
(b) If the cost is recovered, the responding state shall reimburse the initiating state.
(c) The responding state shall identify a fee and a cost deducted from a support payment when forwarding a payment to the initiating state.

Section 8. Public Awareness. The CSP shall publicize the availability of its services and encourage their use pursuant to KRS 205.712(2)(j). This effort may include:
(1) Public service announcements;
(2) Posters;
(3) Press releases;
(4) Videos;
(5) Annual reports;
(6) Newsletters;
(7) Mail inserts;
(8) Pamphlets; and
(9) Letters.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) KIM-100 Supplement PP, AP Referral, edition 11/02 [12/06];
(b) PA-121 "Good Cause Claim/Determination", edition 5/98;
(c) CS-11 "Authorization and Acknowledgement of No Legal Representation", edition 8/01 [4/98];
(d) CS-33 "Non-K-TAP Application", edition 8/01 [4/98];
(e) CS-37 "Child Support Services Fact Sheet", edition 8/01 [8/00];
(f) DCBS-1260 [DSS-1260] "Title IV-E and Child Support Referral", edition 8/01 [14/98];
(g) DCBS-1293 [DSS-1268] "Title IV-E and Child Support Change of Status", edition 8/01 [14/98];
(h) CS-65 "Statement of Income and Resources", edition 10/98;
(i) CS-98 "General Testimony", edition 8/01 [6/98];
(j) CS-100 "Uniform Support Petition", edition 8/01 [6/98];
(k) CS-103 "Child Support Enforcement Transmittal #1 - Initial Request", edition 8/01 [4/99];
(l) CS-136 "Health Insurance Information Request", edition 8/01 [2/97];
(m) CS-140 "Assignment of Rights and Authorization to Collect Support", edition 8/01 [10/98]; and
(n) CS-168 "Application for Direct Deposit", edition 8/01 [8/00].
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday
through Friday, 3 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: June 6, 2001
FILED WITH LRC: June 7, 2001 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001, at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 16, 2001, of their intent to attend. If no request for public hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Kellie Peace, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Shirley Eldridge
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation specifies the process by which an individual may apply for child support services, the scope of services available, and the process for an interstate case.
(b) The necessity of this administrative regulation: KRS 205.72(2) specifies that the Child Support Program or its agent shall provide child support services.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the services to be provided, the application process for those services as well as the services and process for interstate cases.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation specifies the process by which an individual may apply for child support services, the scope of services available, and the services and process for an interstate case.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will update the content incorporated by reference, clarify language concerning the establishment of medical support in Medicaid-only cases and make technical changes in language throughout the regulation to comply with KRS Chapter 13A.
(b) The necessity of the amendment to this administrative regulation: This amendment will update material incorporated by reference, clarify language concerning the establishment of medical support in Medicaid-only cases and make technical changes in language throughout the regulation to comply with KRS Chapter 13A.
(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation establishes the application process for Child Support services and provides the process for interstate cases.
(d) How the amendment will assist in the effective administration of the statutes: Updated forms will assist in the effective administration of the statutes by providing correct information to program participants.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will have no direct effect on any entity or individual except in the instance of updated forms, which will improve the quality of information and service provided by the cabinet.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The changes incorporated within this amendment are changes in language and will have no effect on the services provided.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment does not affect funding.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if now, or by the change if it is an amendment: This amendment does not affect funding.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation establishes no fees and does not increase any fees.
(9) TIERING: Is tiering applied? No. Tiering was not applied because the Child Support Program requires uniformity in the application of policy as specified in 45 CFR 302.33(i)(5).

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes
2. State what unit, part or division of local government this administrative regulation will affect. Although county attorneys and special prosecutors judicially provide child support enforcement services, this amendment will have no effect on them because the changes are in language only.
3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to the child support services provided by a local government and the application process for these services; however, this amendment does change those services or processes.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulations is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation will have no effect on the expenditures and revenues of a local government.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 654(4)(6)
2. State compliance standards. There are no differing or additional state compliance standards.
3. Minimum or uniform standards contained in the federal mandate. None
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amendment)

921 KAR 2:006. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

RELATES TO: KRS 205.010, 205.020, 205.030, 205.720(1), 45 CFR Parts 260 through 265, 8 USC 1811-1845, 42 USC 601 et seq,
NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 205 requires the Cabinet for Families and Children to administer the
assistance program, the Kentucky Transitional Assistance Program, the block grant program funded pursuant to 42 USC 601 et seq. KRS 205.200(2) requires that the conditions of eligibility to receive assistance be prescribed by administrative regulations in conformity with 42 USC 502 and federal regulations. This administrative regulation establishes the technical requirements of school attendance, residence, citizenship, deprivation, living with a relative, age, one (1) category of assistance, cooperation in child support activities, strikers, minor teenage parent provisions, time limits and potential entitlement for other programs for eligibility for benefits from the Kentucky Transitional Assistance Program.

Section 1. Definitions. (1) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.31.
(2) "Battered or subjected to extreme cruelty" means an individual who has been subjected to:
(a) A physical act that resulted in, or threatened to result in, physical injury to the individual;
(b) Sexual abuse;
(c) Sexual activity involving a dependent child;
(d) Being forced as the caretaker relative of a dependent child to engage in a nonconsensual sexual act or activity;
(e) Threat of, or an attempt at, physical or sexual abuse;
(f) Mental abuse; or
(g) Neglect or deprivation of medical care.
(3) "Cabinet" means the Cabinet for Families and Children.
(4) "Child" means an individual:
(A) Age fifteen (15) or under;
(B) Age sixteen (16), seventeen (17), or eighteen (18) in regular full-time attendance in elementary, junior high, or high school or equivalent level of vocational or technical school; or
(C) Under age eighteen (18) and a high school graduate.
(5) "Concerns" means a hardship the individual shall overcome to become employed and self-sufficient.
(6) "Domestic violence" means the same as the definition for "battered or subjected to extreme cruelty" pursuant to subsection (2) of this section.
(7) "Employed" means a person who performs a physical or mental activity in exchange for direct monetary compensation.
(8) "Kentucky Transitional Assistance Program (K-TAP)" means Kentucky's Temporary Assistance for Needy Families (TANF) money payment program for a child who is deprived of parental support or care due to:
(a) Death of one (1) parent; or
(b) Continued voluntary or involuntary absence of one (1) parent; or
(c) If both parents are in the home:
1. Physical or mental incapacity of one (1) parent; or
2. Unemployment of at least one (1) parent.
(9) "Kentucky Works" means a program that assists a: (a) Recipient of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or
(b) Former K-TAP recipient with job retention service.
(10) "Minor teenage parent" means an individual who:
(a) Has not attained eighteen (18) years of age;
(b) Is not married or is married and not living with the spouse; and
(c) Has a minor child in the applicant's or recipient's care.
(11) "Parent" means the natural, adoptive, or adjudicated (including administrative establishment of relationship) parent of the child.
(12) "Prior labor market attachment (PLMA)" means the parent has earned not less than $1,000 during the twenty-four (24) months prior to the application for K-TAP benefits based on the deprivation of unemployment pursuant to Section 9 of this administrative regulation.
(13) "Qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive K-TAP, is:
(a) Lawfully admitted for permanent residence pursuant to 8 USC 1101 at seq.;
(b) Granted asylum pursuant to 8 USC 1158;
(c) A refugee who is admitted to the United States pursuant to 8 USC 1157;
(d) Paroled into the United States pursuant to 8 USC 1182(d)(5) for a period of at least one (1) year;
(e) An alien whose deportation is being withheld pursuant to 1.8 USC 1253(h), as in effect prior to April 1, 1997; or
2. 8 USC 1231(b)(3); (f) Granted conditional entry pursuant to 8 USC 1153(a)(7) as in effect prior to April 1, 1980; or
(g) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 USC 1522;
(h) Battered or subjected to extreme cruelty in the United States by
1. Spouse or parent; or
2. Member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, the battery or cruelty; or
3. Provisions in this paragraph shall apply only if a. The alien no longer resides in the household with the individual responsible for the battery or cruelty;
b. There is a substantial connection between the battery or cruelty and the need for the benefit; and
c. The alien has been approved or has a petition pending for:
1. Status as a spouse or child of a United States citizen pursuant to clause ii, iii, or iv of 8 USC 1154(a)(1)(A);
2. Classification pursuant to clause ii or iii of 8 USC 1154(a)(1)(B);
(iii) Suspension of deportation and adjustment of status pursuant to 8 USC 1254(a)(3); or
4. The alien, a child of an alien or a child who is an alien who has been battered or subjected to extreme cruelty in the United States by
a. Spouse or parent of the alien without the active participation of the alien in the battery or cruelty; or
b. Member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced in the battery or cruelty;
5. [il] Provisions in this paragraph (h) and (i) of this subsection shall apply only if:
[a] The alien no longer resides in the household with the individual responsible for the battery or cruelty;
b. There is a substantial connection between the battery or cruelty and the need for the benefit; and
c. The alien has been approved or has a petition pending for:
1. Status as a spouse or child of a United States citizen pursuant to clause ii, iii, or iv of 8 USC 1154(a)(1)(A);
2. Classification pursuant to clause ii or iii of 8 USC 1154(a)(1)(B); or
(i) [es] Suspension of deportation and adjustment of status pursuant to 8 USC 1254(a)(3); or
6. An alien who is lawfully residing in Kentucky and is:
(a) A veteran pursuant to 33 USC 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of a minor teenage parent;
(b) On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements pursuant to 38 USC 5303A(d); or
3. The spouse or unmarried surviving spouse if the marriage fulfills the requirements in 38 USC 1304, or unmarried dependent child of an individual pursuant to subparagraph 1 or 2 of this paragraph [clause e of this subparagraph].
8. An alien who is admitted to the United States as an Amerasian immigrant pursuant to 8 USC 1101.
14. "Qualifying parent" means the parent who meets PLMA.
15. "Second chance home" means an entity that:
(a) Provides a minor teenage parent a supportive and supervised living arrangement; and
(b) Requires a minor teenage parent to learn:
1. Parenting skills, including child development;
2. Family budgeting;
3. Health and nutrition; and
4. Other skills to promote long-term economic independence and the well-being of the child of the minor teenage parent.
16. "Striker" means an employed individual who is participating in:
(a) A work stoppage;
(b) A concerted slowdown of work; or
(c) An interruption of operations at his place of employment.
17. "Supplemental Security Income (SSI)" means a monthly cash
payment made pursuant to:
(a) 42 USC 1381 to 1385 to the aged, blind and persons with a
  disability;
(b) 42 USC 1382e; or
(c) 42 USC 1382.
(16) "Unemployed parent" (UP) case means K-TAP benefits paid
to a family if both parents are in the home and at least one (1) parent
is unemployed.
(19) "Work" means participation in a Kentucky Works component
pursuant to 921 KAR 2:370, Section 2(2)(c).

Section 2. Age and School Attendance. (1) The definition of a
"child", pursuant to Section (14) of this administrative regulation shall
be met for at least one (1) person in the home.
(a) Verification of school attendance shall be required for a:
(b) (1) Child who is sixteen (16), seventeen (17), or eighteen (18)
  years of age, in order to determine his continuing eligibility; or
(c) Minor teenage parent pursuant to Section 18(1) of this adminis-
  trative regulation.
(3) Full- and part-time school attendance shall be defined pursuant
to 921 KAR 2:016, Section 1(a)(3).
(4) Unless the parent states the child shall not reenter school, a
child shall be considered in regular attendance in a month he is not
attending because of:
(a) Official school or training program vacation;
(b) Illness;
(c) Convalescence; or
(d) Family emergency.
(5) Verification of a high school diploma for a child under age
eighteen (18) who is a high school graduate shall be required.

Section 3. Enumeration. (1) A person included in the K-TAP case
shall furnish his Social Security number or apply for a number if one
(1) has not been issued.
(a) Refusal to furnish the Social Security number or apply for a
  number shall result in the ineligibility of the person whose Social Secu-
  rity number is not furnished.
(3) The cabinet shall assist an individual in making application for
a Social Security number, if needed.

Section 4. Residence and Citizenship. (1) Residence. A resident
shall be an individual who:
(a) is living in the state voluntarily and not for a temporary pur-
  pose; or
(b) Entered the state with a job commitment or seeking employ-
  ment; and
(c) is not receiving assistance funded by a block grant program
  pursuant to 42 USC 601 et seq. from another state.
(2) Citizenship.
(a) Except as provided in paragraph (b) and (c) of this subsec-
  tion, K-TAP shall be provided only to a United States citizen.
(b) A qualified alien, pursuant to Section 1(13) of this administra-
  tive regulation, who entered the United States before August 22, 1996,
  who is otherwise eligible for K-TAP, shall be eligible for assistance.
(3) A qualified alien, pursuant to Section 1(13) of this administra-
  tive regulation, who entered the United States on or after August 22,
  1996, shall not be eligible for K-TAP for a period of five (5) years begin-
  ning on the date of the alien's entry into the United States. The fol-
  lowing exceptions shall apply to this provision:
  1. An alien who is admitted to the United States as a refugee pursu-
  ant to 8 USC 1157;
  2. An alien who is granted asylum pursuant to 8 USC 1158;
  3. An alien whose deportation is being withheld pursuant to:
     a. 8 USC 1253(h), as in effect prior to April 1, 1997; or
     b. 8 USC 1225(b);
  4. An alien who is lawfully residing in Kentucky and is:
     a. A veteran pursuant to 38 USC 101, 107, 1101, or 1301 with a
        discharge characterized as an honorable discharge and not on
        account of alienage;
     b. On active duty other than active duty for training in the Armed
        Forces of the United States and who fulfills the minimum active
duty service requirements pursuant to 38 USC 5303A(a); or
     c. The spouse or unmarried surviving spouse if the marriage
        fulfills the requirements in 38 USC 1304, or unmarried dependent child
of an individual described in clause a or b of this subparagraph;
5. An alien who is a Cuban and Haitian entrant pursuant to 8 USC
  1522; or
6. An alien who is admitted to the United States as an Amerasian
  immigrant pursuant to 8 USC 1101.
(d) Failure of the parent or other adult, applying for or receiving
benefits, to sign a citizenship or alien status declaration shall cause
the needs of the parent or other adult to be removed from the case.

Section 5. Deprivation. (1) To be eligible for K-TAP, a child shall
be in need and shall be deprived of parental support or care pursuant
to Section (6) of this administrative regulation.
(a) A specific deprivation factor shall be verified for a child for
whom assistance is approved.

Section 6. Deprivation Due to Death. The death of either parent
shall qualify a child as deprived due to death.

Section 7. Deprivation Due to Absence. (1) To be considered de-
prived due to absence, a needy child shall be physically separated
from the parent.
(a) Absence may be voluntary or involuntary.
surrounded by
(b) Voluntary absence shall include:
  1. Divorce;
  2. Legal separation;
  3. Marriage annulment;
  4. Desertion of:
     a. Thirty (30) days or more if the parent:
        (i) Voluntarily leaves; or
        (ii) Refuses to accept the child into his home; or
     b. Less than thirty (30) days:
        (i) The child leaves the parent because the parent was requiring
            the child to live under a circumstance hazardous to the health or mor-
            als of the child; or
        (ii) One (1) of the parents in the home is required by the court to
            leave the home because that parent was requiring the child to live un-
            der a circumstance hazardous to the health or morals of the child; or
        (iii) The child is voluntarily placed with a relative following a finding
            by the cabinet that the home is unsuitable; or
        (iv) The child is placed by the court with a specified relative other
            than the parent; or
        (v) The child is eligible and receiving benefits based on the unem-
            ployment or the incapacity of a parent and one (1) of the parents sub-
            sequently leaves the home; or
        (vi) Both parents are absent from the home;
        5. Forced separation; or
(b) Involuntary absence shall include:
  1. Commitment to a penal institution for thirty (30) days or more;
  2. Long-term institutionalization;
  3. Deportation; or
(3) A parent who is a convicted offender but is permitted to live at
home while serving a court-imposed sentence by performing unpaid
public work or unpaid community service during the workday shall be
considered absent from the home.

Section 8. Deprivation Due to Incapacity. (1) A determination of a
deprivation of incapacity shall be based on a full consideration and
assessment of the following factors affecting the claimant:
(a) Medical;
(b) Social; and
(c) Economic.
(2) If a verified medical condition exists, then all relevant social
and economic factors shall be considered to determine whether the
parent's condition is the cause of and results in the parent's inability to
support or care for the child.
(3) Incapacity shall exist in a case if the following criteria are met:
(a) It is medically determined that one (1) parent has a physical or
  mental disability, illness or impairment that:
  1. Was present at the time of application; and
  2. Has continued or is expected to last for a period of at least thirty
     (30) calendar days; [1]
(b) The thirty (30) day period may include a period the claimant is
undergoing:
1. Planned diagnostic study; or
2. Evaluation of rehabilitation potential; and
(c) It is determined by nonmedical evaluation that the disability, illness or impairment is debilitating to the extent of reducing substantially or eliminating the parent's ability to support or care for an otherwise eligible child.
(4) A determination regarding incapacity shall be made by:
(a) Field staff if the following criteria are met:
1. The parent declares physical inability to work;
2. The worker observes some physical or mental limitation; and
3. The parent:
   a. Is receiving SSI; or
   b. Is age sixty-five (65) or over; or
   c. Has been determined to meet the definition of blindness pursuant to 42 USC 1382c or 42 USC 416 by the Social Security Administration; or
   d. Has been determined to meet the definition of permanent and total disability pursuant to 42 USC 1382c or 42 USC 416 by either the:
      (i) Social Security Administration; or
      (ii) Medical review team of the cabinet; or
   e. Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction with no reexamination requested and there is no visible improvement in condition; or
   f. Is receiving Retirement, Survivors and Disability Insurance, federal black lung benefits, or railroad retirement benefits based on disability as evidenced by an award letter; or
   g. Is receiving Veterans Administration benefits based on 100 percent disability, as verified by an award letter; or
   h. Is currently hospitalized and a statement from the attending physician indicates that incapacity will continue for at least thirty (30) days. If application was made prior to the admission, a statement from the physician shall be requested to indicate if incapacity existed as of application date; or
   i. Is recovering from surgery, illness, or injury that requires a period of time for recovery, up to six (6) weeks, as specified by a physician statement. A period longer than six (6) weeks shall be determined through the medical review team; or
   j. Is on approved sick leave recovering from surgery, illness or injury for the duration of the approved sick leave if the employer is holding the job for the individual's return, as verified by the employer; or
   k. Is a woman in a high risk pregnancy, during the duration of the pregnancy, as verified by physician statement;]
(b) The medical review team, consisting of a licensed physician and a social worker employed by the cabinet, if a determination by field staff is included.
(5) The factors to be considered by the medical review team in making the medical determination shall include:
(a) The claimant's medical history and subjective complaint regarding an alleged physical or mental disability, illness or impairment; and
(b) Competent medical testimony relevant to whether:
1. A physical or mental disability, illness or impairment exists; and
2. The disability, illness or impairment is:
   a. Sufficient to reduce the parent's ability to support or care for a child; and
   b. Likely to last thirty (30) days.
(6) The factors to be considered in making the nonmedical evaluation shall include:
(a) The claimant's:
1. Age;
2. Employment history;
3. Vocational training;
4. Educational background; and
5. Subjective complaint regarding the alleged effect of the physical or mental condition on the claimant's ability to support or care for the child; and
(b) The extent and accessibility of employment opportunity available in the claimant's area of residence.
(7) In determining the extent and accessibility of available employment opportunity, the limited employment opportunity of an individual with a disability shall be taken into account; [and]
(a) Available printed materials that provide information regarding available employment opportunity shall be researched;
(b) The local Department for Employment Service office shall be contacted regarding accessible employment opportunity within the claimant's area of residence; and
(c) The claimant shall be referred, if necessary, for further appraisal of his abilities.
(8) A written report shall be made of the determination under this subsection.
(9) A claimant shall be provided timely and adequate notice of and an opportunity for a fair hearing pursuant to 921 KAR 2:055.

Section 9. Deprivation Due to Unemployment. (1) The determination that a child is deprived of parental support due to the unemployment of a parent if both parents are in the home shall be based on the determination that the qualifying parent meets the criteria of unemployment pursuant to subsection (3) of this section and has a PLMA, pursuant to Section 1(12) of this administrative regulation.
(2) The qualifying parent designation shall remain with the same parent as long as assistance is received on the basis of the same application.
(3) A parent shall be considered to be unemployed if employed:
(a) Less than 100 hours in a calendar month; or
(b) In excess of 100 hours in a particular month if the employment is intermittent and the excess is of a temporary nature if the parent:
1. Was under the 100 hour standard in the prior two (2) months, from the month of application for K-TAP; and
2. Is expected to be under the 100 hour standard in the following month of application for K-TAP;
(4)
(e) The 100 hour requirement for unemployment in [paragraphs (a) and (b) of this] subsection (3) of this section shall apply to a K-TAP applicant.
(5) [4(4)] PLMA shall be established if the parent:
(a) Attends to the amount of earnings pursuant to Section 1(12) of this administrative regulation;
1. Gross income from self-employment and farming qualify as earned income in determining PLMA; and
2. The self-employed individual does not have to realize a profit to meet this requirement; [‡]
(b) Within twelve (12) months prior to application, received unemployment compensation; or
(c) Is currently receiving unemployment compensation or if potentially eligible, has made application for and complies with the requirements to receive unemployment insurance benefits.
(b) [6(6)] In determining whether or not criteria in subsection (4) of this section is met, two (2) semesters of full-time school attendance, as defined by the school or institution, may be substituted for $500 of the $1000 earnings.
(7) [6(6)] Unemployment shall not exist if the qualifying parent:
(a) Is on strike;
(b) Is temporarily unemployed:
1. Due to weather condition or lack of work;
2. If there is a job to return to; and
3. Return can be anticipated within thirty (30) days or at the end of a normal vacation period,
(c) Is unavailable for full-time employment;
(d) Is under contract for employment, unless a written statement from the employer verifies that the individual is subject to release from the contract if full-time employment is secured;
(e) Has not met the criteria of unemployment for at least thirty (30) days;
(f) Is not:
1. Registered for work pursuant to 921 KAR 2:370, Section 4(3); or
2. Subject to Kentucky Works, pursuant to 921 KAR 2:370; or
(g) Has refused a bona fide offer of employment or training for employment without good cause, pursuant to 921 KAR 2:370, Section 6(1), in the thirty (30) days prior to UP eligibility or during the course of receipt of UP benefits.

Section 10. Living with a Specified Relative. (1) To be eligible for K-TAP a needy child shall be living in the home of a relative as follows:
(a) A blood relative, including a relative of the half-blood;
(b) A person listed in paragraph (a) of this subsection if the alleged father has had a relationship established through the administrative determination process pursuant to Section 11 of this administrative regulation;
(c) An adoptive parent, the natural and other legally adopted child and other relatives of the adoptive parent;
(d) A relative by marriage, even if the marriage may have terminated, providing termination occurred after the birth of the child:
1. A couple that has been considered married by a state with a common-law marriage provision shall be considered married in Kentucky for K-TAP eligibility purposes; and
2. The statement of the applicant or recipient that the couple's marriage recognized from another state as a common-law marriage shall be accepted as verification by the cabinet.
(2) Cash assistance shall not be provided for a child who is absent, or expected to be absent, from the home for a period of thirty (30) consecutive days or more unless good cause exists. Good cause for absence, or expected absence, of the child from the home for a period of a birth (30) consecutive days or more, shall exist if the parent continues to exercise care and control of the child and the child is absent due to:
(a) Medical care;
(b) Attendance at school including boarding school;
(c) College or vocational school;
(d) Emergency foster care, as verified by the cabinet; or
(e) It is intended that the child will return to the home and the parent or specified relative maintains parental control of the child, short visit with a friend or relative if it is intended that the child will return to the home and the parent or specified relative maintains parental control of the child.
(3) A child shall be removed from the benefit group the first administratively feasible month following thirty (30) consecutive days from the date the child is placed in emergency foster care. If the only eligible child in the benefit group is absent due to emergency foster care, the otherwise eligible parent or parents in the benefit group shall:
(a) Remain eligible for sixty (60) days from the date the child is placed in emergency foster care; and
(b) If no other eligible child is in the benefit group, be discontinued the first administratively feasible month following sixty (60) days from the date the child is placed in emergency foster care.
(4) If a specified relative fails to notify the cabinet of a thirty (30) consecutive day or more absence of the child for a reason other than one (1) of the good cause reasons listed in subsection (3) of this section, the specified relative shall not be eligible for his share of K-TAP benefits during the period of the child's unreported absence of thirty (30) consecutive days or more. Ineligible benefits received by the specified relative and child during the period of the child's unreported absence of thirty (30) consecutive days or more shall be recouped pursuant to Section 10 of 921 KAR 2:016.

Section 11. Administrative Establishment of Relationship. (1) An administrative determination of relationship as established in this administrative regulation shall be used only to establish relationship for K-TAP eligibility if the following type of evidence is present:
(a) A birth certificate listing the alleged parent; or
(b) Legal document which shall include:
1. Hospital record;
2. Juvenile court record;
3. Will;
4. Other court record that clearly indicates the relationship of the alleged parent or relative; or
(c) Receipt of statutory benefits as a result of the alleged parent's circumstance; or
(d) VS-8 "Declaration of Paternity"; or
(e) VS-8B "Voluntary Acknowledgment"; or
(f) VS-SC "Three Way Paternity Affidavit"; or
(g) A sworn statement or affidavit of either parent acknowledging relationship plus one (1) of the following:
1. School record;
2. Bible record;
3. Immigration record;
4. Naturalization record;
5. Church document, such as baptismal certificate;
6. Passport;
7. Military record;
8. U.S. Census record; or
9. Notarized statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.
(2) Rebuttal of administrative relationship may occur if:
(a) The parent or, in the absence of the parent, the caretaker relative;
(b) Alleges the evidence pursuant to subsection (1)(a) or (b) of this section is erroneous; and
(c) Provides substantiation of the erroneous information; and
(d) The parent or caretaker relative Provides a notarized statement or affidavit:
1. Acknowledging the erroneous information; and
2. Containing the correct information on the actual alleged parent.
(3) Presence of the notarized statement or affidavit pursuant to subsection (2)(b) of this section shall serve as rebuttal to the evidence present in subsection (1)(a) or (b) of this section and a determination of relationship shall not be acknowledged.

Section 12. One (1) Category of Assistance. (1) A child or adult relative shall not be eligible for K-TAP if receiving SSI.
(2) If a child who receive SSI meets the K-TAP requirements of age, deprivation and living in the home of a specified relative, the specified relative may be approved for K-TAP if all other eligibility factors are met.
(3) If a child who receives foster care benefits meets the K-TAP requirements of age, deprivation and living in the home of a specified relative, the specified relative may be approved for K-TAP if all other eligibility factors are met.

Section 13. Strikers. (1) A family shall be ineligible for benefits for a month the parent, with whom the child is living on the last day of the month, is participating in a strike; and
(2) A specified relative other than the parent shall be ineligible for benefits for a month if, on the last day of the month, the relative is participating in a strike.

Section 14. Work Registration. An adult applicant or recipient of the K-TAP benefit group shall register for work pursuant to 921 KAR 2:370, Section 4(3).

Section 15. Kentucky Works. The technical requirements for participation in the Kentucky Works Program are pursuant to 921 KAR 2:370.

Section 16. Cooperation in Child Support Activities. (1) The Department for Community Based Services shall attempt to secure parental support, and if necessary establish paternity, for a child receiving assistance pursuant to Section 11(1) of this administrative regulation, who has a parent absent from the home due to:
(a) Divorce;
(b) Desertion;
(c) Birth out-of-wedlock;
(d) Legal separation;
(e) Forced separation; or
(f) Marriage annulment.
(2) With the exception of a good cause reason, pursuant to subsection (4) of this section, avoidance of the twenty-five (25) percent reduction of the amount of the payment maximum in K-TAP benefits pursuant to subsection (7) of this section shall be dependent upon the applicant's or recipient's cooperation in child support activities that shall include:
(a) Identifying the noncustodial parent or obligor;
(b) Providing information to assist in the:
1. Location of the noncustodial parent or obligor;
2. Enforcement of a child support order; or
3. Review or modification of a child support order;
(c) Establishing paternity, if required;
(d) Establishing, modifying or enforcing a child support order; and
(e) Forwarding a child support payment received to the state's centralized collection agency.
(3) The cabinet shall provide written notice to the applicant or re
plaint that he may claim good cause for refusing to cooperate in a child support activity.

4. The applicant or recipient shall be excused from penalty for failure to cooperate with a child support activity, pursuant to subsection (a) of this section, if one of the following criteria is met:

  (a) Cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child;
  (b) The Caretaker relative to an extent that it would reduce the capacity to care for the child adequately;
  (c) The child was conceived as a result of incest or forcible rape and the applicant believes it would be detrimental to the child to require the applicant's or recipient's cooperation;
  (d) The applicant is being assisted by a public or licensed private social service agency;
  (e) To resolve whether to keep the child or release him for adoption if:

    1. [item missing]
    2. [item missing]

2. [item missing]

3. The cabinet believes it would be detrimental to the child to require the applicant's or recipient's cooperation.

4. Unless an extension is granted, the applicant or recipient shall have twenty (20) days from the date the good cause claim is filed to provide evidence to substantiate the claim.

5. Evidence used to determine good cause shall include:

   a. Birth certificate, medical information, or law enforcement record indicating that the child was conceived as a result of incest or forcible rape;
   b. Court document or other record indicating legal proceedings for adoption of the child by a specific family is pending before a court of competent jurisdiction;
   c. Record or other evidence indicating the noncustodial parent or obligor, or the alleged parent might inflict physical or emotional harm on the child or caretaker relative;
   d. A written statement from a public or licensed private social service agency that assistance is being given to the applicant or recipient to resolve the issue of whether to keep the child or relinquish the child for adoption and the issue has not been pending more than three (3) months; or
   e. Notarized statement from an individual, other than the applicant or recipient, with knowledge of the circumstance that provides the basis for the good cause claim.

6. In each good cause determination based upon anticipation of serious emotional harm to the child or caretaker relative, the following shall be considered:

   a. The present emotional state of the individual subject to emotional harm;
   b. The emotional health history of the individual;
   c. The extent and probable duration of the individual's emotional impairment; and
   d. The extent of involvement required by the individual in establishing paternity or enforcing a support obligation.

7. If the good cause claim is based on the anticipation of physical harm to the child or caretaker relative, and corroborative evidence is not submitted:

   a. The cabinet shall conduct an investigation if it is believed that:

      i. The court has jurisdiction to grant the child to the child;
      ii. The claim is not based on any corroborative evidence.

   b. The claim is not based on any corroborative evidence.

8. If the cabinet conducts an investigation of a good cause claim, it shall not contact the noncustodial parent or obligor, or the alleged parent regarding support unless the contact is necessary to establish the good cause claim.

9. If it is necessary for the cabinet to contact the noncustodial parent or obligor, or the alleged parent during the investigation of a good cause claim, the worker shall notify the applicant or recipient of the proposed contact to either:

   a. Obtain permission for the contact; or
   b. Enable the applicant or recipient to:

    1. [item missing]
    2. [item missing]

10. [item missing]

11. [item missing]

12. [item missing]

13. [item missing]

14. [item missing]

15. [item missing]

16. [item missing]

17. [item missing]

18. [item missing]
whereabouts is known; or
2. Living parent, legal guardian, or other appropriate adult relative pursuant to Section 10 of this administrative regulation who otherwise meets applicable state criteria to act as the legal guardian of the minor teenage parent, who would allow the minor teenage parent to live in the home of the parent, guardian, or relative pursuant to Section 10 of this administrative regulation; or
(b) Cabinet determines:
1. The minor teenage parent or the minor child of the teenage parent is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the minor teenage parent's own parent or legal guardian; or
2. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the minor teenage parent and the minor child lived in the same residence with the minor teenage parent's own parent or legal guardian.
(4) The requirement in subsection (2) of this section shall be waived if the cabinet determines:
(a) Living in the place of residence maintained by the parent, legal guardian, or adult relative pursuant to Section 10 of this administrative regulation is not in the best interest of the minor child taking into consideration the needs of the minor child; or
(b) The minor teenage parent's current living arrangement is appropriate.
(5) If a circumstance changes and the current arrangement ceases to be appropriate based on the needs and concerns of the minor teenage parent, the cabinet shall assist the minor teenage parent in finding another appropriate arrangement.
(6) The minor teenage parent shall complete a "Teen Parent Personal Responsibility Plan", form PA-202TP.
(7) If the minor teenage parent is determined to be ineligible for K-TAP as a result of not complying with a provision found in this section of this administrative regulation, payment to a protective payee shall continue for the eligible child of the minor teenage parent.
(8) Even if exemption criteria is met and the cabinet determines the minor teenage parent's current living arrangement is appropriate, a minor teenage parent and his child, who do not reside in a place of residence maintained by a parent, legal guardian, or adult relative pursuant to Section 10 of this administrative regulation, second chance home or maternity home, shall be considered an adult regarding benefit time limitations pursuant to Section 19 of this administrative regulation.

Section 19. Benefit Time Limits. (1) K-TAP shall not be provided to a benefit group, pursuant to Section 1(2) of 921 KAR 2:016, that includes an adult, or minor teenage parent pursuant to Section 18(8) of this administrative regulation, who has received assistance for sixty (60) months from a federally-funded program funded pursuant to 42 USC 601 et seq., whether or not consecutive.
(2) After assistance has been received for sixty (60) months, an otherwise eligible benefit group containing one (1) of the following individuals shall be allowed an extension of the sixty (60) months time limit, during the period the individual:
(a) Is battered or subjected to extreme cruelty. During the extension period the individual shall have an individual service plan pursuant to Section 23(1)(b) of this administrative regulation.
(b) Has a physical or mental disability as defined in Section 8(9)(a), (b) and (c) of this administrative regulation, prohibiting work as determined by the cabinet. During the extension period, the individual shall comply with:
1. Treatment or other activity recommended by the referral source and approved by the cabinet, as required by the Kentucky Works Program pursuant to 921 KAR 2:370, Sections 2(2)(c), 13 and 4(2); and
2. Child support cooperation requirements pursuant to Section 16 of this administrative regulation;
(c) Is required to provide constant care for at least six (6) hours daily for [a] household member who is a parent, spouse or child with a disability and no alternative care arrangement is available. During the extension period, the individual shall comply with child support cooperation requirements pursuant to Section 16 of this administrative regulation;
(d) Is a grandparent or other relative except for a parent caring for an eligible child who would otherwise be placed in foster care. The caretaker relative shall continue to comply with:
1. Child support cooperation requirements pursuant to Section 16 of this administrative regulation; and
2. Kentucky Works requirements pursuant to 921 KAR 2:370 if the caretaker relative is included in the benefit group; or
(e) Is an adult with insufficient employment opportunities, as determined by the cabinet, who;
1. Has complied with;
(a) All program requirements including participation in Kentucky Works requirements pursuant to 921 KAR 2:370; and
b. Child support cooperation requirements pursuant to Section 16 of this administrative regulation; and
2. During the extension period shall:
(a) Comply with:
(i) Kentucky Works requirements pursuant to 921 KAR 2:370;
(ii) Child support cooperation requirements pursuant to Section 16 of this administrative regulation; and
(iii) Employment opportunities and activities listed on the KW-202, Transitional Assistance Agreement, pursuant to 921 KAR 2:370, Section 4(2); and
(iv) Work registration requirements pursuant to 921 KAR 2:370, Section 4(3); and
b. Not quit or refuse a job without good cause pursuant to 921 KAR 2:370, Section 6; and
3. Shall be limited to an extension period of six (6) consecutive months.
(3) If otherwise eligible, a benefit group containing a member who has lost a job, through no fault of the recipient, within thirty (30) days of reaching the sixty (60) month time limit shall receive a three (3) consecutive month extension of the time limitation.
(4) A benefit group that receives an extension to the sixty (60) months time limit shall be reviewed:
(a) Every six (6) months for an extension pursuant to subsection (2)(e) and (c) of this section;
(b) Every three (3) months for an extension pursuant to subsection (2)(e) of this section;
(c) Every three (3) months or the medical review team review period for an extension pursuant to subsection (2)(b) of this section; or
(d) Annually for an extension pursuant to subsection (2)(b) of this section.
(5)(a) Within twenty-four (24) months of receiving K-TAP assistance, whether or not consecutive, a parent or caretaker relative receiving assistance, shall work or participate in an approved work activity, if available, pursuant to Section 1(19) of this administrative regulation.
(b) The twenty-four (24) month limitation shall not be applied until the individual has been penalized for failure to participate in Kentucky Works, pursuant to 921 KAR 2:370, Section 7, for a period of six (6) consecutive months.
(6) [b] Time limitations shall apply to a:
(a) Sanctioned individual pursuant to 921 KAR 2:016, Section 12(4)(26); or
(b) Penalized individual pursuant to 921 KAR 2:016, Section 12(21)(23).

Section 20. Receiving Assistance in Two (2) or More States. (1) K-TAP assistance shall be denied for ten (10) years to a person who has been convicted in federal or state court of having made a fraudulent statement or representation committed after August 22, 1996, with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states for:
(a) A program pursuant to:
1. 42 USC 601 et seq.;
2. Every three (3) months; or
3. 7 USC 2011 et seq.; or
b. Benefits received under supplemental security income.
(2) The requirement in subsection (1) of this section shall not apply to a conviction for a month beginning after the granting of a pardon by the President of the United States with respect to the conduct that was the subject of the conviction.

Section 21. Fugitive Felons. (1) K-TAP assistance shall not be provided to an individual:
(a) [An individual] Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or an attempt to commit a crime,
committed or attempted to be committed after August 22, 1998, that is a felony; or
(b) Violating a condition of probation or parole imposed under federal or state law.
(2) Subsection (1) of this section shall not apply with respect to conduct of an individual for a month beginning after the President of the United States grants a pardon with respect to the conduct.

Section 22. Denial of Assistance for a Drug Felon. (1) An individual convicted under federal or state law of an offense committed after August 22, 1998, classified as a felony by the law of the jurisdiction involved and that has as an element the possession, use or distribution of a controlled substance pursuant to 21 USC 802(6), shall not be eligible for K-TAP benefits, except pursuant to KRS 205.2005.
(2) An individual applying for K-TAP benefits shall be required to state in writing whether the individual or a member of the household has been convicted of a crime pursuant to subsection (1) of this section.

Section 23. Domestic Violence. (1)(a) A K-TAP applicant or recipient shall be screened for a history of domestic violence.
(b) If the applicant or recipient is identified as a victim of domestic violence or has a history of domestic violence, an appropriate services plan shall be required for the individual. The plan shall:
1. Be developed by a person trained in domestic violence;
2. Reflect the individualized assessment and a revision made by a redetermination;
3. Include appropriate referral to counseling and supportive services based on the needs and concerns identified in the individualized assessment, as determined by the cabinet;
4. Be designed to lead safely to employment; and
5. Be completed no less often than every six (6) months.
(2) If the following K-TAP requirements would make it more difficult for an individual receiving K-TAP to escape domestic violence or unfairly penalize the individual who is or has been victimized by domestic violence, the individual shall not be required to:
(a) Residency requirements pursuant to Section 4 of this administrative regulation;
(b) Child support cooperation requirements pursuant to Section 16 of this administrative regulation;
(c) Time limitations, for so long as necessary and otherwise eligible, pursuant to Section 19 of this administrative regulation; or
(d) Participation in Kentucky Works requirements pursuant to 921 KAR 2:370.

Section 24. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) PA-1C Supplement D, "Qualifying Parent Eligibility, edition 5/00/";
(b) PA-14, "Declaration of citizenship or Alien Status, edition 10/01 [660];
(c) PA-33D, "Child's Certification of School Enrollment/Attendance, edition 5/00/;
(d) PA-221, "Good Cause Claim/Determination, edition 5/99/;
(e) PA-202TP, "Teen Parent Parental Responsibility Plan, edition 5/00/;
(f) PA-219, "Kentucky Works Program Fact Sheet, edition 11/98/;
(g) CS-333, "Facts About the Child Support Program for K-TAP and Kinship Care Recipients, edition 8/01 [640]; and
(h) CS-333.1, "Facts About the Right to Claim Good Cause, edition 4/99/.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: June 12, 2001
FILED WITH LRC: June 13, 2001 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001, at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 16, 2001, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to Kellee Peace, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Shirley Eldridge
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes technical requirements for the Kentucky Transitional Assistance Program (K-TAP).
(b) The necessity of this administrative regulation: This administrative regulation is needed to establish uniform conditions and requirements regarding technical eligibility for K-TAP.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 205.200(2) requires the Cabinet for Families and Children to prescribe by regulation the conditions of eligibility for public assistance in conformity with federal statutes and regulations. This administrative regulation establishes the requirements for technical eligibility for K-TAP, the assistance program funded by the Temporary Assistance for Needy Families (TANF) block grant authorized by 42 USC 601, and the administrative regulations sets these standards in conformity with the Title IV-A State Plan.
(d) How this administrative regulation currently assists or will assist in the effective administrative of the statutes: This administrative regulation establishes K-TAP technical eligibility requirements. The administrative regulation establishes the technical requirements of school attendance, residency: citizenship, deprivation, living with a relative, age, cooperation in child support activities, minor teenage parent provisions, and time limitations for eligibility for K-TAP benefits.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Section 19 will be amended to clarify policy for the extensions to the 60 month lifetime limit to receive assistance. We are clarifying that for eligibility to continue for an individual who is battered or subjected to extreme cruelty, an individual service plan must be completed no less than every 6 months; an individual who has a physical or mental disability prohibiting work, must comply with treatment or other activities recommended by the referral source approved by the Cabinet for Families and Children and comply with Kentucky Works and child support requirements; an individual, who is providing constant care for a household member, must provide care for at least 6 hours a day and must continue to comply with child support requirements; a grandparent or other relative (other than a parent), who is caring for a child, must continue to comply with child support requirements and if on the grant, must continue to comply with Kentucky Works; and an adult with insufficient employment opportunities, for an extension period up to 6 months, must continue to take advantage of all employment opportunities and activities listed on the Transitional Assistance Agreement (TAA), not quit or refuse a job without good cause and must register for work. We are clarifying an individual who has lost a job and is allowed a 3 month extension must have lost the job through no fault of the recipient.
(b) The necessity of the amendment to this administrative regulation: It is necessary to amend Section 19 of the administrative regulation in order to clarify the requirements to be met for recipients who receive assistance past the 60 month time limitations. Additional information to clarify policy has been added to the existing hardship reasons.
(c) How the amendment conforms to the content of the authorizing statutes: It is necessary to clarify the hardship extensions to the 60
month time limitation that are allowed pursuant to 42 USC 608(a)(7)(C)(i) and the Title IV-A State Plan.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation sets out the guidelines to determine eligibility for K-TAP. Section 19 establishes the hardship reasons for extending the 60 month time limitations pursuant to 42 USC 608(a)(7)(C) and the Title IV-A State Plan. The amendments to this administrative regulation clarifies policy for K-TAP recipients who may meet one of these hardship reasons.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect families who are receiving assistance from K-TAP. As of April 2001, there were 33,946 families receiving K-TAP.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendments to this administrative regulation will clarify policy regarding the existing extensions to the 60 month lifetime limit. Beginning in November 2001, the first K-TAP recipients will reach the 60 month time limit. There will be no additional impact to K-TAP recipients as a result of these amendments since the current hardship reasons established for extending the lifetime limit did not change. The number of recipients who may receive an extension is established by 42 USC 608(a)(7)(C)(i) which extends the hardship extension to no more than 20% of the average monthly number of families in Kentucky receiving K-TAP.

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

(a) Initially: The amendments to this administrative regulation will not create an additional impact to the Cabinet for Families and Children to implement. This amendment clarifies existing policy. These amendments will create no additional increase or decrease in the number of recipients who may receive an extension to the time limitation.

(b) On a continuing basis: Same as (5)(a).

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Funds were projected and included in the SFY 2002 budget.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate, 42 USC 602(a)(1); 608(a)(7)(C)
2. State compliance standards, KRS 205.200
3. Minimum or uniform standards contained in the federal mandate, 42 USC 602(a)(1); 608(a)(7)(C)
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No. This amendment is in compliance with the Title IV-A State Plan.
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services Division of Policy Development (Amendment)

921 KAR 2:016. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

RELATES TO: KRS 205.200(2), 205.210(1), 205.211, 205.201, 45 CFR Parts 260-265, 25 USC 1408, 42 USC 602

STATUTORY AUTHORITY: KRS 194B.050(1), 205.200(2), 42 USC 601 et seq.; [42 USC 607-73] NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Kentucky Transitional Assistance Program (K-TAP), the block grant program funded by 42 USC 601 et seq. This administrative regulation sets forth the standards of the need for and the amount of a Kentucky Transitional Assistance Program payment.

Section 1. Definitions. (1) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.31.
(2) "Benefit group" means a group composed of one (1) or more children and may include as specified a relative or a person pursuant to 921 KAR 2:006, Section 10.
(a) The benefit group shall include:
1. The dependent child;
2. The child's parent living in the home with the needy child who is:
   a. Eligible for K-TAP; or
   b. Ineligible for K-TAP due to benefit time limitations pursuant to 921 KAR 2:006, Section 19.
3. Except for a sibling who is an applicant or recipient of the Kinship Care Program pursuant to 922 KAR 1:130. [All eligible siblings living in the home with the needy child.
   b. If the benefits to the household would be greater by excluding an otherwise eligible child related by subsidized adoption to the other members, this child shall not be included in the benefit group.
   c. If the dependent child's parent is a minor living in the home with his eligible parent, the minor's parent shall also be included in the benefit group if the minor's parent applied for assistance.
   d. The incapacitated or unemployed natural or adoptive parent of the child who is living in the home shall be included as second parent if the technical eligibility factors are met.
(3) "Beyond the control" means:
(a) Loss or theft of the money;
(b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inapplicable;
(c) Expenditure of the lump sum income to meet an extraordinary expense that is not included in the K-TAP Standard of Need;
(d) "Burial space" means a space and a related service used for the remains of a deceased person that may include:
   (a) A grave site;
   (b) Cost to open and close the grave;
   (c) A crypt;
   (d) A mausoleum space;
   (e) A casket;
   (f) A vault;
   (g) An urn; and
   (h) A headstone.
(5) "Cabinet" means the Cabinet for Families and Children.
(6) [60] "Change in circumstances" means a change in income or dependent care expense affecting the ongoing K-TAP payment that shall include:
(a) Beginning or ending employment;
(b) Change in an employer or obtaining additional employment;
(c) Increase or decrease in the number of work hours;
(d) Increase or decrease in the rate of pay;
(e) Increase or decrease in the dependent care expense due to a change in provider, number of hours of care, number of individuals for whom care is given, or amount charged; or
(f) Change in farm cropping arrangement or type of self-employment activity.
(5) [73] "Claimant" means the individual responsible for an overpayment.
(6) [69] "Countable income" means income that remains after excluded income and appropriate deductions are removed from gross income.
(7) [49] "Deduction" means an amount subtracted from gross income to determine countable income.
(8) [149] "Employed" means a person performs a physical or mental activity in exchange for direct monetary compensation.
"Excluded income" means income that is received but not counted in the gross income test.
"Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.
"Full-time school attendance" means a workload of at least:
(a) The number of hours required by the individual program for participation in:
   1. An adult basic education program;
   2. A general educational development program; or
   3. A literacy program; or
(b) Twelve (12) semester hours or more in a college or university; or
   six (6) semester hours or more during the summer term; or
   the equivalent in a college or university if other than a semester system is used; or
(c) The number of hours required by the individual high school or vocational school to fulfill their definition of full time.
"Gross income limitation standard" means 185 percent of the assistance standard, as set forth in Section 8 of this administrative rule.
"Job-Training-Partnership Act Program (JTPA)" means a program that prepares a youth and unskilled adult for entry into the labor force. Only an individual who is certified as eligible for the program may benefit from JTPA funds.
"Kentucky Transitional Assistance Program (K-TAP)," Kentucky's Temporary Assistance for Needy Families (TANF) Program, means a payment program for a child who is deprived of parental support or care pursuant to 521 KAR 2:006, Section 1.
"Kentucky Works" means a program that assists a:
(a) Recipient of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or
(b) Former K-TAP recipient with job retention service.
"Lump sum income" means income that does not:
(a) Occur on a regular basis; or
(b) Represent accumulated monthly income received in a single sum.
"Minor" means a person who is under the age of eighteen (18).
"Minor teenage parent" means an individual who:
(a) Has not attained eighteen (18) years of age;
(b) Is not married or is married and not living with the spouse; and
(c) Has a minor child in the applicant's or recipient's care.
"Part-time employment" means employment of:
(a) Less than thirty (30) hours per week;
(b) Less than 130 hours per month; or
(c) Not employed throughout the entire month.
"Part-time school attendance" means a workload that is less than "full-time school attendance."
"Penalized individual" means a person who is required to be included in the benefit group but fails to fulfill an eligibility requirement that causes a pro rata reduction in benefits of the benefit group. If otherwise eligible, a penalized individual remains a member of the benefit group.
"Prospective budgeting" means computing the amount of assistance based on income and circumstances that will exist in the month the payment is made.
"Recoupment" means recovery of an overpayment of an assistance payment.
"Sanctioned individual" means a person who is required to be included in the benefit group but who is excluded from the benefit group due to failure to fulfill an eligibility requirement.
"Self-employment income" means income from a business enterprise if taxes are not withheld prior to receipt of the income by the individual.
"Supplemental security income (SSI)" means a monthly cash payment made pursuant to:
(a) 42 USC 1381 to 1385 to the aged, blind and disabled;
(b) 42 USC 1382a; or
(c) 42 USC 1382.
"Unavailable" means that the income is not accessible to the K-TAP benefit group for use toward basic food, clothing, shelter, and utilities.
"WIA" means Workforce Investment Act which is a program to assist adults, dislocated workers, and youth with entering, retrain-
2. Cash surrender value of all burial insurance policies per family member;
7. Principal of a verified loan;
8. Up to $12,000 to Aleutians and $20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for hardship experienced during World War II;
9. Payment made from the Agent Orange Settlement Fund issued by Aetna Life and Casualty to a veteran or his survivor;
10. Earned income tax credit payment in the month of receipt and the following month;
11. A payment received from the Radiation Exposure Compensation Trust Fund;
12. A nonrecurring lump sum SSI retroactive payment that is made to a K-TAP recipient who is not ongoing eligible for SSI, in the month paid and the next following month;
13. Up to a total of $5,000 in individual development accounts, excluding interest accruing, pursuant to subsection (7) of this section;
14. A payment received from the National Tobacco Growers Settlement Trust Fund.
15. A Tobacco Loss Assistance Program payment pursuant to 7 CFR 1464.201.

(4) Disposition of resources.
(a) An applicant or recipient shall not have transferred or otherwise disposed of a liquid asset (divested himself of property without fair compensation) in order to qualify for assistance.
(b) The household's application shall be denied, or assistance discontinued if:
  1. It is determined by the cabinet that the transfer was made expressly for the purpose of qualifying for assistance; and
  2. The amount of the transfer (uncompensated equity value of the transferred property), when added to total resources, exceeds the resource limit.
(c) The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer.
(d) If the amount of excess transferred resources does not exceed $500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every $500 increment up to a maximum of twenty-four (24) months.

(5) Lifetime care agreement.
(a) The existence of a valid agreement between the applicant or recipient and another individual or organization that the applicant or recipient has surrendered his resources in exchange for lifetime care shall make the case ineligible.
(b) The agreement shall be considered valid if the individual or organization with whom the agreement was made provides a written statement that the resources have been exhausted.

(6) Resources held jointly by more than one (1) person.
(a) A bank account requiring one (1) signature for withdrawal.
(b) Unless the other owner is a recipient of SSI, the total balance of the account shall be considered available to the K-TAP applicant or recipient.
2. If the other owner receives SSI, the balance shall be divided evenly by the number of owners and the K-TAP applicant or recipient's share shall be considered available.
(c) If a bank account requires more than one (1) signature for withdrawal, the K-TAP applicant or recipient's share shall be determined by obtaining a written statement from the other owners as to the division.
(d) If there is no predetermined allocation of shares from a business enterprise, the applicant or recipient's available share shall be determined by dividing the value of the business enterprise by the number of owners.
2. A written statement regarding ownership, who may deposit and withdraw; and
3. A written statement from each of the other owners that corroborates the applicant's or recipient's statement, unless the account holder is a minor or is incompetent; and
3. Verification that the applicant's or recipient's name has been removed from the resource.
(7) To be considered an exempt resource, the individual development account shall have been established on or after May 1, 1997, funded through periodic contributions by a member of the benefit group using funds derived from earned income that was earned after May 1, 1997, for a qualified purpose.
(b) A qualified purpose to establish an individual development account shall be for:

1. Postsecondary educational expense that shall include:
   a. Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution; and
   b. Fees, books, supplies and equipment required for a course of instruction at an eligible educational institution; and
   c. An eligible educational institution shall be:
      (i) Institution pursuant to 20 USC 1083(a) or 1141(a); or
      (ii) Area vocational education school pursuant to 20 USC 24714(c) or (d).
   1. First home purchase that includes:
      a. Costs of acquiring, constructing, or reconstructing a residence; and
      b. Usual or reasonable settlement, financing, or other closing costs.
   3. A business capitalization expenditure for a business that does not contravene a law or public policy, as determined by the cabinet, pursuant to a qualified plan. A qualified plan shall:
      a. Include capital, plant, equipment, working capital, and inventory expenses;
      b. Be approved by a financial institution; and
      c. Include a description of a service or a good to be sold, a marketing plan, and projected financial statement. Assistance of an experienced entrepreneurial advisor may be required; or
   4. Other purpose allowed by a federal regulation or clarification.
(c) Funds held in an individual development account shall not be withdrawn except for one (1) or more of the qualified purposes pursuant to paragraph (b) of this subsection.
(d) To be considered an exempt resource, an individual development account shall be matched by funds from:
1. A nonprofit organization; or
2. Funding permitting, a state or local government agency acting in cooperation with an organization pursuant to subparagraph 1 of this paragraph.

Section 3. Income Limitations. In determining eligibility for K-TAP, the following shall apply:
(1) Gross income test.
(a) The total gross non-K-TAP income shall not exceed the gross income limitation standard. This income shall include:
   1. Income of the benefit group;
   2. Income of a parent who does not receive SSI or state supplementation pursuant to 231 KAR 2:015;
   3. Income of a sanctioned or penalized individual; and
   4. An amount deemed available from:
      a. The parent of a minor parent living in the home with the benefit group;
      b. A stepparent living in the home;
      c. The spouse of a minor dependent child living in the home; or
      d. An alien's sponsor and sponsor's spouse if living with the sponsor;
(2) Excluded income types pursuant to Section 4(1) of this administrative regulation shall apply and:
(c) If total gross income exceeds the gross income limitation standard, the benefit group shall be ineligible;
(2) Benefit calculation;
(a) If the benefit group meets the criteria pursuant to subsection (1) of this section, benefits shall be determined by subtracting excluded income and applicable deductions pursuant to Section 4(1), (2), and (3) of this administrative regulation;
(b) If the benefit group's income, after subtracting excluded income and applicable deductions, exceeds the standard of need for the appropriate benefit group size pursuant to Section 8 of this administrative regulation, the benefit group shall be ineligible; and
(c) Amount of assistance shall be determined prospectively;
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(3) Ineligibility period; [ ]
   (a) A period of ineligibility shall be established for a benefit group
   whose income in the month of application or during a month the
   assistance is paid exceeds a limit pursuant to subsection (2) of this
   section due to receipt of lump sum income; [ ]
   (b) The ineligibility period shall be:
       1. The number of months that equals the quotient of the division of
          total, countable income by the standard of need pursuant to Section 8
          of this administrative regulation for the appropriate benefit group size;
       and
       2. Effective with the month of receipt of the nonrecurring lump sum
          amount; and [ ]
   (c) The ineligibility period shall be recalculated if:
       1. The standard of need pursuant to Section 8 of this administrate
          regulation increases and the amount of grant the benefit group
          would have received also changes;
       2. Income, that caused the calculation of the ineligibility period,
          has become unavailable for a reason that was beyond the control of
          the benefit group;
       3. The benefit group incurs and pays a necessary medical ex-
          pense not reimbursable by a third party;
       4. An individual, who is required to be a member of the benefit
          group, joins the K-TAP household during an established ineligibility
          period; or
       5. The benefit group reapplies during an established ineligibility
          period and the cabinet determines that policy has changed to exclude
          the criteria originally used to establish the ineligibility period.

Section 4. Excluded Income and Deductions. Gross non-K-TAP income received or anticipated to be received by the benefit group, sanctioned or penalized individual, natural parent, spouse of a dependent child and parent of a minor parent living in the home with the benefit group and stepparent living in the home, shall be considered with the application of excluded income and deduction policy pursuant to the following subsections:

(1) Gross income test. An income listed in this subsection shall be excluded:
   (a) A deduction applicable to stepparent income, income of the
       spouse of a minor dependent child, or income of the parent of a
       minor parent in the home with the benefit group, pursuant to Section 6 of
       this administrative regulation;
   (b) A deduction applicable to an alien sponsor's Income, pursuant
       to Section 7 of this administrative regulation;
   (c) A deduction applicable to self-employment income;
   (d) A deduction applicable to employment income;
   (e) A deduction applicable to employment income;
   (f) Reimbursement for transportation in performance of an em-
       ployment duty, if identifiable;
   (g) The value of Kentucky Works supportive services payment
       pursuant to 921 KAR 2:017;
   (h) Nonemergency medical transportation payment;
   (i) Payment from a nonexempt program if no duplication exists
       between the other assistance and the assistance provided by the K-
       TAP program;
   (j) A deduction applicable to child support income received in a
       month the K-TAP payment is suspended;
   (k) Kind income;
   (i) Income of a technically ineligible child;
   (j) Payment made from the Agent Orange Settlement Fund;
   (k) K-TAP payment including back payment;
   (l) Income of legal guardian of a minor parent, unless the guard-
       ian meets the degree of relationship pursuant to 921 KAR 2:005, Section
       10.
   (m) Payment made from the Radiation Exposure Compensation
       Trust Fund;
   (n) Up to $2,000 per year of income received by individual Indi-
       ans denied from a lease or other use of individually-owned trust or
       restricted lands;
   (o) Payment made to an individual because of his status as a
       victim of Nazi persecution;
   (p) Income received from temporary employment from the United
       States Department of Commerce, Bureau of the Census;
   (q) A payment received from the National Tobacco Growers Set-
       tlement Trust; and
   (r) A Tobacco Loss Assistance Program payment pursuant to 7
       CFR 1464.201; [ ]
   (s) A payment received from a crime victim compensation pro-
       gram according to the Antiterrorism and Effective Death Penalty Act of

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1996 pursuant to 42 USC 10602(c); and
(ii) A payment received from the Kinship Care Program, pursuant to 922 KAR 1:130, including back payment.

(2) Benefit calculation. Excluded income pursuant to subsection (1) of this section and an applicable deduction listed in this subsection shall be applied:
(a) Standard work expense deduction of ninety (90) dollars for full-time and part-time employment; and
(b) On or after November 1, 1995, if the caregiver is not the parent, legal guardian or a member of the benefit group, the dependent care disregard shall:
1. Be allowed as a work expense for:
   a. An able bodied child age thirteen (13) or over and not under court supervision;
   b. An incapacitated adult living in the home and receiving K-TAP;
   c. A sanctioned individual whose earned income is considered available to the K-TAP household;
   d. [At the option of the recipient] A K-TAP case that would otherwise be ineligible for K-TAP without the benefit of the disregard for child care, at the option of the recipient;
   e. The month of application for K-TAP benefits; and
2. (Shall Not exceed:
   a. $175 per month per individual for full-time employment or
   b. $150 per month per individual for part-time employment or
   c. $200 per month per individual for child under age two (2); and
   (c) Child support payment received and retained until notification of eligibility for K-TAP is received;
   (d) Child support payment assigned and actually forwarded or paid to the custodian, or
   (e) [First thirty (30) dollars and one-third (1/3) of the remainder of earned income not already deducted for each member of the benefit group;]
   1. The one-third (1/3) portion of this deduction shall be applied to each member's earned income for four (4) months;
   2. The thirty (30) dollar portion of this deduction shall be applied concurrently with the one-third (1/3) deduction for an additional eight (8) consecutive months following the expiration of the concurrent period; and
3. Until the individual has earnings, reported timely, from new employment, the deductions shall not be available to the individual after expiration of the time limits; and
   (f) [If new employment, or increased wages, acquired after approval and reported timely, a one (1) time only disregard per employed adult member of the benefit group, the amount of two (2) full calendar months earnings;]
   1. The two (2) months earnings disregard shall be consecutive, and at the option of the recipient; and
   2. If otherwise eligible, a sanctioned or penalized member of the benefit group may receive the two (2) months earnings disregard;[1]
   (3) Deductions from earnings pursuant to subsection (2)(a), (b) and (g) (d) of this section shall not apply for a month the individual;
   (a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists pursuant to 921 KAR 2:370, Section 6(1).
   (b) [Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (2)(d) of this section;
   (e) Fails to report an increase in earnings, that impacts eligibility, within ten (10) days of the change, unless good cause exists as follows:
   1. The benefit group has been directly affected by a natural disaster;
   2. An immediate family member living in the home was institutionalized or died during the ten (10) day report period; or
   3. The responsible relative in the case, and if different, the member employed, is out of town for the entire ten (10) day report period;
   (4) Changes in income and resources of the benefit group that contains a member who is participating in the wage supplementation component of Kentucky Works pursuant to 921 KAR 2:370 shall be disregarded for the first six (6) months of wage supplementation component participation.

Section 5. Child Care Expense [Payments]. With the exception of those circumstances pursuant to Section 4(2)(b) of this administrative regulation, a child care expense incurred as a result of employment shall be paid pursuant to 922 KAR 2:160.

Section 6. Income and Resources of an Individual Not Included in the Benefit Group. (1) The income provisions of this section shall apply to the following individuals, living in the home but not included in the benefit group, pursuant to subsection (2) of this section:
(a) A stepparent;
(b) The spouse of a minor dependent child;
(c) The spouse of a specified relative other than a parent;
(d) A parent barred from receiving assistance due to failure to meet alien status; or
(e) A parent of a minor parent.
(2) Income. The gross income of the individual shall be considered available to the benefit group, subject to the following deductions:
(a) The first ninety (90) dollars of the gross earned income; and
(b) An amount equal to the K-TAP standard of need for the appropriate family size, pursuant to Section 8 of this administrative regulation:
1. The support of the individual; and
2. A person living in the home if:
   a. The needs of the person are not included in the K-TAP eligibility determination; and
   b. He is or may be claimed as a dependent for the purpose of determining his federal personal income tax liability by the individual;
   (c) An amount actually paid to a person not living in the home who is or may be claimed by him as a dependent for the purpose of determining his personal income tax liability by the individual;
   (d) Payment for alimony or child support to a person not living in the home by the individual;
   (e) Income of an SSI recipient who is listed in subsection (1) of this section or
   (f) A retroactive SSI payment, that is counted in determining eligibility and the amount of payment to the K-TAP unit in the month received, in a subsequent month.
(3) Sanction exception. The income of a sanctioned individual shall not be eligible for a deduction listed in this section.
(4) A resource shall not be considered in determining eligibility of the parent, minor dependent child, or specified relative other than a parent or the benefit group that belongs solely to the:
(a) Stepparent;
(b) Spouse of a minor dependent child;
(c) Spouse of a specified relative other than a parent; or
(d) Parent of a minor parent.

Section 7. Alien Income and Resources. (1) For the purpose of this section, the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor. This subsection and subsections (2), (3), (4), (5), and (6) of this section shall apply to an immigrant who has an agreement executed other than an agreement pursuant to 8 USC 1183a.
(2) The gross non-K-TAP income and resources of an alien's sponsor shall be deemed available to the alien, subject to a deduction set forth in this section, for a period of three (3) years following entry into the United States.
(3) If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens.
(4) A sponsored alien shall be ineligible for a month in that adequate information on the sponsor or sponsor's spouse is not provided.
(5) If an alien is sponsored by an agency or organization, that has executed an affidavit of support, the alien shall be ineligible for benefits for a period of three (3) years from date of entry into the United States; unless it is determined that the sponsoring agency or organization:
   (a) Is no longer in existence; or
   (b) Does not have the financial ability to meet the alien's needs.
(6) The provisions of this subsection shall not apply to an alien pursuant to subsection (5) or (7) of this section.
(a) Income. The gross income of the sponsor shall be considered available to the benefit group subject to the following deductions:
1. Twenty (20) percent of the total monthly gross earned income, not to exceed $175; and
2. An amount equal to the K-TAP standard of need for the appro-
private family size pursuant to Section 8 of this administrative regulation
of:
a. The sponsor; and
b. Other person living in the household:
   (i) Who is or may be claimed by the sponsor as a dependent in
determining his federal personal income tax liability; and
   (ii) The person's needs are not considered in making a determina-
tion of eligibility for K-TAP;
3. An amount paid by the sponsor to nonhousehold member who
   is or may be claimed as a dependent in determining his federal per-
   sonal tax liability;
4. Actual payment of alimony or child support paid to a nonhouse-
   hold member; and
5. Income of a sponsor receiving SSI or K-TAP.
(b) Resources. Resources deemed available to the alien shall be
the total amount of the resources of the sponsor and sponsor's spouse
determined as if he were a K-TAP applicant in this state, less $1,500.
(7)(a) For a sponsored alien who enters the United States on or
after December 19, 1997, who is required to complete a sponsorship
agreement pursuant to 8 USC 1183a, the total gross income and re-
sources of an alien's sponsor and sponsor's spouse shall be deemed
available to the alien. The sponsor's obligation shall be available until:
1. The immigrant:
a. Becomes a United States citizen;
b. Is credited with forty (40) quarters of work; or
c. Ceases to hold the status of an alien lawfully admitted for per-
   manent residence; or
2. The sponsor dies.
(b) The immigrant shall provide the sponsorship agreement pur-
suant to 8 USC 1183a.
(8) If an amount less than the amount in the sponsorship agree-
ment is made available to the immigrant, the actual amount provided
by the sponsor shall be considered for a period up to twelve (12)
months from the month of the determination if an alien is determined
income eligible. An alien shall be determined income eligible if:
(a) The amount of the sponsor's income and resources given to
the alien is less than the amount in the agreement; and
(b) Without K-TAP assistance and after consideration of the
alien's own income, cash, food, housing or assistance provided by an
individual including the sponsor, the alien is unable to obtain food and
shelter; [ ]
(9) Deeming of the sponsor's income shall not apply for twelve
(12) months if the:
(a) Alien or alien's child has been subjected to extreme cruelty or
battery while living in the United States and the individual commit-
ting the battery or extreme cruelty does not live with the child or parent if
committed by a:
1. Spouse or parent; or
2. Spouse or parent's family living with the alien or alien's child
and the spouse or parent allows the cruelty or battery;
(b) Alien is a child who lives with a parent who has been subjected
to extreme cruelty or battery while living in the United States and the
individual committing the battery or extreme cruelty does not live with
the child or parent if committed by a:
1. Spouse; or
2. Member of the spouse's family living in the same household
and the spouse allows the cruelty or battery.
Section 8. Payment Maximum. (1) The K-TAP payment maximum
includes an amount for food, clothing, shelter, and utilities.
(2)(a) Countable income, pursuant to Section 9 of this administra-
tive regulation, shall be subtracted in determining eligibility for and the
amount of the K-TAP assistance payment as follows:

<table>
<thead>
<tr>
<th>Number of Eligible Persons</th>
<th>Payment Maximum</th>
<th>Standard of Need</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 person</td>
<td>$186</td>
<td>$401</td>
</tr>
<tr>
<td>2 persons</td>
<td>$225</td>
<td>$460</td>
</tr>
<tr>
<td>3 persons</td>
<td>$262</td>
<td>$526</td>
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<tr>
<td>4 persons</td>
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<td>5 persons</td>
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<tr>
<td>6 persons</td>
<td>$432</td>
<td>$724</td>
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<tr>
<td>7 or more persons</td>
<td>$482</td>
<td>$790</td>
</tr>
</tbody>
</table>
(b) The gross income limit shall be as follows for the appropriate

(3) Since the payment maximum does not meet full need, effective
July 1, 1989, a forty-five (45) percent ratable reduction shall be applied
to the deficit between the family's countable income and the standard
of need for the appropriate family size.
(4)(a) The assistance payment shall be the lesser amount of ei-
ther:
1. Fifty-five (55) percent of the deficit pursuant to subsection (3)
of this section; or
2. The payment maximum pursuant to subsection (2)(a) of this
   section.
(b) As a result of applying the forty-five (45) percent ratable reduc-
tion pursuant to subsection (3) of this section, an eligible payment to an
otherwise eligible family with no income shall be calculated pursuant
to KRS 205.200(2).

Section 9. Best Estimate. (1) The benefit shall be computed by
using a best estimate of income that may exist in the payment month.
(2) The following method shall be used to calculate a best esti-
mate:
(a) For a case with earned income, other than self-employment
earned income:
1. Cents shall:
   a. Not be rounded to the nearest dollar before adding or multiply-
      ing hourly or daily earnings; and
   b. Be rounded to the nearest dollar before adding or multiplying
      weekly, biweekly, semimonthly, monthly, quarterly, or annual
      amounts.
   2. Unless it does not represent the ongoing situation, income from
      all pay periods in the preceding two (2) calendar months shall be
      used.
   3. A monthly amount shall be determined by:
      a. Adding gross income from each pay period;
      b. Dividing by the total number of pay periods considered;
      c. Converting the pay period figure to a monthly figure by multi-
         plying a:
            (i) Weekly amount by four and one-third (4 1/3);
            (ii) Biweekly amount by two and one-sixth (2 1/6); or
            (iii) Semimonthly amount by two (2); and
         d. Rounding to the nearest dollar; [ ]
   4. If income has recently been received and the applicant or recipient has
      not received two (2) calendar months of earned income, the antici-
      pated monthly income shall be computed by:
      a. Multiplying the hourly rate by the estimated number of hours to
         be worked in a pay period; or
      b. Multiplying the daily rate by the estimated number of days to be
         worked in the pay period; and
      c. Converting the resulting pay period figure to a monthly amount
         pursuant to subparagraph 3c of this paragraph; and
      d. Rounding to the nearest dollar; [ ]
(b) For a case with unearned income, other than unearned self-
employment income, a monthly amount shall be determined by:
1. Rounding cents to the nearest dollar;
2. Using the gross monthly amount of continuing, stable unearned
income received on a monthly basis; and
3. Unless it does not represent the ongoing situation, averaging the
   amount of nonstable unearned income received in the three (3)
prior calendar months; [ ]
(c) For a case with self-employment income:
1. If the self-employment enterprise has been in operation for at
   least a year, the income shall be prorated by dividing the income from
   the last calendar year by twelve (12); and
2. If the self-employment enterprise has been in operation for less
   than a year, the income shall be prorated by dividing by the number of
   months the business has been in existence; and [ ]
3. Profit shall be determined by:
   a. Rounding the total gross income to the nearest dollar;
   b. Rounding the total amount of allowable expenses to the nearest dollar;
   c. Dividing each by twelve (12), or the appropriate number of months, and rounding to the nearest dollar; and
   d. Subtracting the rounded monthly expense from the rounded monthly income.

   (3) The best estimate shall be recalculated:
      (a) At six (6) month intervals for a case with:
          1. Earned or unearned income other than self-employment; or
          2. Income from a self-employment venture that has not been in existence for at least one (1) year;
      (b) At twelve (12) month intervals for a case with a self-employment venture that has been in existence for at least one (1) year;
      (c) If the agency becomes aware of a change in a circumstance; or
      (d) To reflect a mass change in the standard of need or payment required by the 1995 standard.

Section 10. K-TAP Recoupment. Except for an overpayment in administrative regulation 921 KAR 2:017, the following provisions are effective for an overpayment discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup an overpayment. (2) An overpayment, including interest paid pending a hearing decision, shall be recovered from the individual member responsible for the overpayment:

   (a) The claimant;
   (b) The overpaid benefit group;
   (c) A benefit group that a member of the overpaid benefit group has subsequently become a member of; or
   (d) An individual member of the overpaid benefit group whether or not currently a recipient.

(3) An overpayment shall be recovered through:

   (a) Repayment by the individual to the cabinet; or
   (b) Reduction of future K-TAP benefits, that result in the benefit group retaining, for the payment month, family income and financial resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income pursuant to Section 8 of this administrative regulation; or
   (c) Civil action in the court of appropriate jurisdiction.

(4) In a case that has both an overpayment and an underpayment, they shall be offset one against the other in correcting the payment to a current recipient.

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing pursuant to 921 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned.

Section 11. Avoiding an Overpayment. (1) A K-TAP recipient may voluntarily return a benefit check to avoid an overpayment if the:

   (a) Case is totally ineligible for the month the check is issued; and
   (b) Check has not been reduced for recoupment of a previous overpayment.

(2) If a check is voluntarily returned, a determination shall be made whether or not the recipient is due a refund as described in Section 12 of this administrative regulation.

Section 12. Refund. A recipient shall be due a refund in the following situations:

   (1) An amount in excess of the actual overpayment is recouped;
   (2) An overpayment and an underpayment is offset and a balance is owed to the recipient; and
   (3) A K-TAP check that is voluntarily returned to avoid an overpayment is compared to the current month obligation of child support collected by the cabinet during the month the K-TAP check was intended to cover, leaving a balance owed to the recipient.

Section 13. Correction of Underpayments. The following provisions shall apply to a K-TAP payment:

   (1) An underpayment shall be promptly corrected to:
      (a) A current K-TAP recipient; and
      (b) One (1) who would be a current recipient if the error causing the underpayment had not occurred;
   (2) The difference between the payment received by the recipient and the actual entitlement amount shall be issued to the underpaid assistance group; [4]
   (3) In a determination of ongoing eligibility, the corrective payment to the assistance group shall not be considered as income or a resource:
      (a) The month the payment is paid; or
      (b) The next following month.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

   (a) PA-30.2, "Payment Receipt, edition 5/00"; and
   (b) PA-35, "Sale of Property, Real and Personal, to Repay K-TAP Benefits to the Commonwealth of Kentucky, edition 5/00";
   (c) FA-1, "Transitional Assistance Self Assessment, edition 5/99".

   (2) This material [these forms] may be inspected, [and] copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, [Office hours are] 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: June 12, 2001
FILED WITH LRC: June 13, 2001 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 25, 2001, at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 16, 2001, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Kellie Peace, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 554-7900, (502) 564-9128 (Fax).

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Shirley Eldridge
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes financial requirements for the Kentucky Transitional Assistance Program (K-TAP).
   (b) The necessity of this administrative regulation: This administrative regulation is needed to establish uniform conditions and requirements regarding financial eligibility for K-TAP.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 205.202(2) requires the cabinet for Families and Children to prescribe by regulation the conditions of eligibility for public assistance in conformity with federal statutes and regulations. This administrative regulation establishes the requirements for financial eligibility for K-TAP, the assistance program funded by the Temporary Assistance for Needy Families (TANF) block grant authorized by 42 USC 601 et seq. This administrative regulation sets forth these standards in conformity with the Title IV-A State Plan.
   (d) How this administrative regulation currently assists or will assist in the effective administrative of the statutes: This administrative regulation establishes the K-TAP financial eligibility requirements. The administrative regulation establishes the resource limitations, excluded income types, and deductions from income. Also, this administrative regulation establishes the maximum payment amounts, standard of need and gross income scale for K-TAP.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This administrative regulation will exclude real and personal property from the $2,000 resource limit which will only include liquid assets. A payment from a crime victim compensation program will be excluded from consideration as income or a resource to comply with 42 USC 10602(c). All interest and dividend income will be excluded since this income is negligible based on the $2,000 resource limit. The first $50 of child support income will be excluded from the gross income limit and all child support income excluded in benefit calculations, until notification of approval for K-TAP is received, if the gross income test is met. The definition of "benefit group" will exclude a Kinship Care child from being included as an eligible sibling for K-TAP, so income from the Kinship Care Program will be disregarded in a K-TAP case. Repayment of an overpayment will be pursued only from the individual responsible for the overpayment.
(b) The necessity of the amendment to this administrative regulation: It is necessary to amend the administrative regulation in order to disregard all resources from consideration except for liquid assets. Also, it is necessary to amend the administrative regulation in order to change the method of collecting an overpayment to only collect from the individual responsible for the overpayment instead of from the benefit group.
(c) How the amendment conforms to the content of the authorizing statutes: It is necessary to comply with 42 USC 10602(c) in order to disregard a payment from a crime victim compensation program as income or a resource in K-TAP. It is necessary to comply with the Kinship Care Program, pursuant to 922 KAR 1:130, to exclude from the definition of "benefit group" a child who is receiving Kinship Care Program payment and to exclude this payment from K-TAP.
(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation sets out the guidelines to determine financial eligibility for K-TAP, establishes guidelines for determination of resource considerations, and excludes certain income types from consideration in eligibility determinations.
(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: This administrative regulation will affect families who are applying for or receiving assistance from K-TAP. As of April 2001, there were 33,946 families receiving K-TAP.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The consideration of liquid assets as the only type of countable resources in the K-TAP case will simplify the application process for the K-TAP applicant or recipient. Information about personal and real property, vehicles, or life insurance will not have to be provided or verified. Excluding all interest and dividend income will also simplify the application process for the K-TAP applicant or recipient. Allowing an eligible Kinship Care Program child living in the home with a sibling receiving K-TAP to be excluded from the K-TAP case will comply with 922 KAR 1:130 which allows an eligible child to receive Kinship Care instead of requiring the child to receive K-TAP in the same case with the sibling.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The amendments to this administrative regulation will not create an additional impact to the Cabinet for Families and Children to implement. Considering only liquid assets in the $2,000 asset test will create an insignificant increase in the number of eligible K-TAP recipients. This is based on a previous number of recipients who have been denied or discontinued due to excessive resources. The estimated number of families who were previously denied and discontinued for SFY 2000 based on excess resources was 222 denials and discontinuances. An estimate of 5 to 10 percent of the total denials and discontinuances was due to excessive real and personal property which is approximately 11 to 22 additional recipients who may become eligible K-TAP during the year. This insignificant increase can be absorbed in the current budget.
(b) On a continuing basis: Same as (5)(a).
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: TANF federal funds.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Funds were projected and included in the SFY 2002 budget.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increases any fees.
(9) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
   42 USC 602(a)(1)
2. State compliance standards. KRS 205.210
3. Minimum or uniform standards contained in the federal mandate. 42 USC 602(a)(1)
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No. This amendment is in compliance with the Title IV-A State Plan.
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None
Section 2. Burial Honor Guard Trust Fund. (1) Money derived from the fund established in 2000 Ky. Acts ch. 378, sec. 2(1) shall be expended for an approved program that:
(a) Funds activities of the State Military Funeral Honors Program for costs incurred or deemed necessary by the Department of Military Affairs, State Military Funeral Honors Program Coordinator.
(b) Provides for honorable military burials for Kentuckians who have served their state and nation in the Armed Forces IAW with 2000 Ky. Acts ch. 378, sec. 1(1).
(c) Encourages and assists veterans organizations and other MFH authorized providers in the rendering of military funeral honors.
(d) Works with the public and private sectors to honor and recognize the service and sacrifice of veterans.
(2) Fund raising.
(a) The fund shall accept appropriated funds, gifts, donations, or grants from an individual, a corporation, or government entity.
(b) Solicitation of funds for fundraising on behalf of the fund shall not be made unless specifically approved by the Adjutant General of Kentucky.
(c) Donations shall be accepted by the fund.
1. Checks must be made out to: Kentucky Treasurer for Military Burial Trust Fund.
2. Checks must be sent to: The Adjutant General of Kentucky, Attention: State Military Funeral Honors Coordinator, Bldg. 100, Boone National Guard Center, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168.
(3) Incidental costs. Program encumbrances and disbursements shall be approved by the State Military Funeral Honors Program Coordinator prior to the conduct of any funeral detail subject to the availability of funds. Program expenditures shall not be made for any commodities or services otherwise provided by existing federal or state entitlement or program.
Section 3. State Military Funeral Honors Program. (1) Policy.
(a) The State Military Funeral Honors Program shall be the burial honor guard program mandated by 2000 Ky. Acts ch. 378, sec. 3(1) for the rendering of military funeral honors, which is the ceremonial paying of respect and the final demonstration of the country and state’s gratitude to those Kentuckians who, in times of war and peace, have faithfully defended our state and nation in the Armed Services.
(b) All Kentuckians shall be entitled to military funeral honors under this program if they are deemed eligible under the MFH program eligibility criteria listed above and subject to the availability of funds.
(c) The State Military Funeral Honors Program shall supplement the "minimum", two (2) person, flag presentation ceremony of the 10 USG 1491 federal military honors program support provided to Kentuckians; not supplant it.
(2) Standards. The State Military Funeral Honors Program and all activities thereof, shall comply with all standards established by DoD guidance in the conduct of ceremonies and the DoD Military Funeral Honors Program defined in 10USC 1491.
(3) Responsibilities.
(a) Department of Military Affairs, State Military Funeral Honors Program Coordinator. The Adjutant General has designated the Chief, Plans, Operations and Military Support Branch of the Office of the Deputy Chief of Staff Operations, as the State Military Funeral Honors Program Coordinator. The State Military Funeral Honors Program Coordinator shall:
1. Implement the policies and procedures, herein, to conduct Military Funeral Honors support by the Kentucky National Guard and other MFH authorized providers.
2. Ensure proper decorum for funeral honors including appropriately-trained personnel and proper equipment, standardized procedures and quality control of funeral honors details consistent with Department of Defense guidance.
3. Validate requests for MFH support received from the CAO and task MFH authorized providers with providing MFH details to render approved honors under the State Military Funeral Honors Program.
4. Ensure adequate funding is requested to support the State
Military Funeral Honors Program.

5. Coordinate with active and reserve military, veterans service organizations, and/or other civil MFH authorized providers concerning their support and assistance in the conduct of a military funeral honors detail.

6. Serve as the primary coordinating agency and single point of contact for all matters relating to the conduct of MFH details by the Kentucky National Guard.

7. Collect standardized data on all military funeral honors rendered by the Kentucky National Guard and supported by the State Military Funeral Honors Program.

8. Receive and coordinate all requests for MFH support from the CAO and coordinate support with funeral directors, family members or other authorized sources.

(b) Department of Veterans Affairs, IAW with 2000 Ky. Acts ch. 376, sec. 3(3), The Kentucky Department of Veterans Affairs shall:

1. Support the Department of Military Affairs in the implementation and maintenance of the State Military Funeral Honors Program.

2. Coordinate the DoD required training of all Veteran’s service organizations as MFH authorized providers.

3. Assist MFH authorized providers in procuring sufficient training aide and equipment to conduct MFH.

4. Maintain a list of all MFH authorized providers who have successfully completed the DoD required training and have been recognized by DoD as MFH authorized providers.

5. Provide a copy of this list to the Department of Military Affairs, State Military Funeral Honors Program Coordinator at least quarterly.

(c) MFH authorized providers. MFH authorized providers shall perform, augment and supplement state MFH details. The Department of Veterans Affairs General shall establish on-going liaison and formal agreements with any DoD recognized MFH authorized provider or other entity within the state to assist them with obtaining DoD recognition, training, and support or to further the understanding of the sacrifices made by the deceased Kentucky veterans being honored.

(d) State Military Funeral Honors Program procedures.

(a) Requested military funeral honor support:

1. Civil funeral directors, rather than families, shall contact the appropriate DoD Casualty Assistance Office to request military funeral honors support. Military funeral honors shall be requested; they are not provided automatically.

2. All requests from funeral directors for MFH support shall be directed to the DoD centralized toll free access system at 1-877-MIL-HONR (1-877-645-4667). This DoD component shall then coordinate with the Army, Air Force, Navy, or Coast Guard component to provide the requested support to eligible veterans. Military funeral directors shall provide the service component that the deceased was a veteran member of, i.e. Kentucky National Guard, other selected reserve element, U.S. Army, Air Force, Navy, Marine Corps, or Coast Guard.

3. All requests for MFH support shall be a minimum of forty-eight (48) hours in advance of the requested burial ceremony.

(b) Additional information on MFH and the funeral honors process is available to funeral directors, veterans and family members at the DoD Web site www.militaryfuneralhonor.osd.mil.

JOHN R. GROVES, Major General
GARY D. PAYNE, Lieutenant Colonel
APPROVED BY AGENCY: May 18, 2001
FILED WITH LRC: June 1, 2001 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, July 25, 2001, at 10 a.m., Eastern Time, at The Office of the Adjutant General, EOC Conference Room 202, Building 100, Boone National Guard Center, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168. Individuals interested in being heard at this hearing shall notify this agency in writing by July 18, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you wish to be heard regarding the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Larry C. Barker, Executive Director, Office of Management and Administration, Bldg. 100 (EOC) BNGC, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, (502) 607-1529, (502) 607-1240 (FAX).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry C. Barker, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new state administrative regulation implements a state burial honor guard program and trust fund, as directed in 2000 Ky. Acts ch. 376, which complies with and supplements the model United States Department of Defense, Military Funeral Honors Program, as prescribed by 10 USC 1491. Furthermore, it establishes the requirements, polices, procedures and operational criteria for the Commonwealth of Kentucky’s State Military Funeral Honors Program (SMFHP).

(b) The necessity of this administrative regulation: This state administrative regulation is necessary to comply with the directives of 2000 Ky. Acts ch. 376 as well as for the proper implementation, coordination, and administration of the State Military Funeral Honors Program between state agencies, various veterans’ service organizations, and eligible veterans.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This state administrative regulation complies with the directives contained in 2000 Ky. Acts ch. 376. It specifically:

1. Implements the Commonwealth of Kentucky’s Military Funeral Honors Trust Fund directed in 2000 Ky. Acts ch. 376, sec. 2(1); and

2. Implements the authority of the Kentucky Department of Military Affairs to implement and administer this fund as directed in 2000 Ky. Acts ch. 376, sec. 1(3); and

3. Implements oversight and coordination responsibilities of the Kentucky Department of Military Affairs of the state burial honor guard program financed by the proceeds and interest derived from this fund as is directed in 2000 Ky. Acts ch. 376, sec. 1(3) and 52(2).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This state administrative regulation will assist all parties that participate in the State Military Funeral Honors Program by identifying the process and procedures for requesting support from the federal and state military funeral honors program, as well as coordinating the various operational, fiscal, and support functions within the program.

(2) This is not an amendment to an existing administrative regulation.

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

(a) Individuals, families, or funeral directors requesting military funeral honors support; exact numbers are unknown.

(b) State government agencies (the Kentucky Department of Military Affairs and the Kentucky Department of Veterans Affairs).

(c) Veteran service organizations who participate in the military funeral honors program; exact number is unknown. A recent listing from the Kentucky Department of Veterans Affairs identified 25 veteran service organizational posts which have been heavily involved in providing military funeral honors support.

(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this new administrative regulation.

(a) There will be little impact to the individuals, families, or civil funeral directors requesting state or federal military funeral honors support other than to clarify the fact that all requests for support, either from the state or federal programs, are to be processed through the channels already established by the United States Department of Defense at their toll-free hotline or Casualty Assistance Offices.

(b) State government agencies. The two state government agencies impacted by this new regulation will be required to implement the directives contained in 2000 Ky. Acts, c. 376 for their agencies and implemented by this new state regulation.

(c) Veteran service organizations. Veteran service organizations will be required to file their eligible costs for federal and with either the federal program, IAW federal criteria, or with the State Military Fu
nernal Honors Program utilizing this regulation and various other state regulatory and procedural processes.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: $100,000 over the current biennium.
(b) On a continuing basis: At a minimum, the continuation of the above budgetary levels. However, projected costs are dependent on the number of military funeral honors performed and this is expected to rise sharply as the World War II and Korean War era veterans age.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The current biennial appropriations were taken from currently existing appropriations of the Department of Military Affairs. Future funding from the Burial Honor Guard Trust Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this new administrative regulation: It is currently envisioned that no fees will ever be charged as part of the Military Funeral Honors Program support. However, additional funding may be necessary due to the fact that current estimates are projecting that the natural death rate of World War II era/Korean War veterans will escalate dramatically over the next few years.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This new administrative regulation does not establish any direct or indirect fees.

(9) TIERING: Is tiering applied? Tiering was not used or necessary due to the required uniformity in the federal 10 USC 1491, Funeral honors functions at funerals for veterans and 2000 Ky. Acts ch. 378, sec. 1(3) which directs compliance with the federal program.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 10 USC 1491, Funeral honors functions at funerals for veterans.
2. State compliance standards. A delineated list of compliance standards for state government participation in the 10 USC 1491 veteran’s military funeral program is not specified in the federal statute. However, ‘other organization’ is identified in 10 USC 1491(2) as having a functional role in the federal, statutory program. The federal program requirements stated in 10 USC 1491 are mandatory for all elements which participate in this federal program, 2000 Ky. Acts ch. 378 (HB 276) established state statutory authority to supplementally fund and coordinate veteran’s military funeral honors functions within the Commonwealth of Kentucky which, by federal statute, must be conducted under the federal statutory authority of 10 USC 1491, Funeral honors functions at funerals for veterans. 2000 Ky. Acts ch. 378, sec. 1(3) specifically requires compliance with the 10 USC 1491 federal military funeral honors program.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This state administrative regulation implements the different requirements for state procedures to support the costs, beyond federal reimbursements, that are deemed necessary in providing and supporting the 2000 Ky. Acts ch. 378 military funeral honors program. This state administrative regulation also establishes additional responsibilities for a state military funeral honors coordinator, who is an individual within the Kentucky Department of Military Affairs and who is designated by the Adjutant General of Kentucky, to implement the overall military funeral honors program. Furthermore, this state administrative regulation imposes a stricter requirement for eligibility than is contained in 10 USC 1491.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. State procedures must be followed for the disbursement of state funds in support of the 2000 Ky. Acts ch. 378 military funeral honors program. State procedures must also be used to provide reasonable assurance to prevent dual compensation/reimbursement of eligible costs. 2000 Ky. Acts ch. 378 requires the liability of the Department of Military Affairs to implement and administer the state fund, oversee a state burial honor guard program, coordinate the state military burial honors program, and to promulgate regulations for the state military burial honors program. These statutory directives involve several state agencies and numerous Veteran's Service Organizations as well as compliance with federal statutory and regulatory requirements. A stricter eligibility is needed to preclude rendering state military honors to persons convicted, by federal or state law, of capital offenses.

KENTUCKY REAL ESTATE COMMISSION
(201 KAR 11:450. Broker management course.
RELATES TO: KRS 324.046(1)(a)
STATUTORY AUTHORITY: KRS 324.2816(5), 324.282
NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.046(1)(a) gives the commission the authority to promulgate a regulation outlining a brokerage management skills course for all broker applicants. KRS 324.2816(5), 324.282 gives the commission the authority to promulgate the regulations. This administrative regulation outlines the requirements of the brokerage management skills course and incorporates the curriculum by reference.

Section 1. Every applicant for a broker’s license must first attend a three (3) academic credit hour brokerage management skills course as part of their twelve (12) hours of broker real estate courses.

Section 2. The brokerage management skills course shall:
(1) Satisfy three (3) hours of the applicant’s twelve (12) hours of real estate courses required to become a broker; and
(2) Be a three (3) hour comprehensive review of all the skills necessary to run a brokerage office in accordance with KRS Chapter 324, 201 KAR Chapter 11, common law and federal law relating to real estate, and the standards of practice for a real estate broker pertaining to adequate supervision of all sales associates affiliated with that broker.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

RON K. SMITH, Chairperson
APPROVED BY AGENCY: May 24, 2001
FILED WITH LRC: June 13, 2001 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001 at 10 a.m., at the Kentucky Real Estate Commission, Hearing Room, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lee B. Harris, Attorney for the Commission, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone: (502) 425-4273, Fax: (502) 425-2717.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Lee B. Harris
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation sets out the guidelines and hours for a brokerage management skills
course.
(b) The necessity of this administrative regulation: This regulation is necessary to outline the components of the brokerage management skills course.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation details the content of the course as mandated by the authorizing statute.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides details related to the authorizing statute.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation;
(b) The necessity of the amendment to this administrative regulation;
(c) How the amendment conforms to the content of the authorizing statutes;
(d) How the amendment will assist in the effective administration of the statutes:
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect all applicants for a broker's license in Kentucky.
(4) Provide an assessment of the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The above group of broker applicants will not be impacted at all, since the course fits into the 12 hours already required by law and is not an additional-hour requirement.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no initial cost.
(b) On a continuing basis: There will be no ongoing cost.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase will be necessary to implement this regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There will be no fee established or increased.
(9) TIERING: Is tiering applied? Tiering is not applicable. No disproportionate impact on any class of regulated entities will result. This requirement will affect all licensees alike.

KENTUCKY REAL ESTATE COMMISSION
(Effective Administrative Regulation)

201 KAR 11:460. Minimum rating requirements for instructors.

RELATES TO: KRS 324.085
STATUTORY AUTHORITY: KRS 324.281(5), 324.282
NECESSITY, AUTHORITY, AND CONFORMITY: KRS 324.085 gives the commission authority to require a minimum rating of all instructors approved to teach continuing education courses. KRS 324.281(5) gives the commission the authority to promulgate administrative regulations. This administrative regulation outlines the minimum rating required of all instructors and the means of dealing with instructors who received ratings below the required minimum.

Section 1. The following criteria must be met by all approved continuing education instructors in order to continue teaching commission-approved courses which count towards a licensee's continuing education fulfillment requirements:
(1) All instructors must be approved by the Kentucky Real Estate Commission and be in compliance with the provisions of 201 KAR 11:175.
(2) Instructors shall also enforce the Guidelines for Classroom Management as developed by the commission as part of the continuing education program.
(3) All instructors of continuing education courses must be in compliance with the General Acceptance Principles of Education (GAPE) developed by the Real Estate Educators Association and adopted by the Kentucky Real Estate Commission as the standard for classroom presentation.
(4) All continuing education forms will be reviewed and closely monitored by the commission. An eighty-five (85) percent approval rating is required in the categories of "Instructor Knowledge" and "Instructor Presentation". In addition, the comments section of the evaluation form will be reviewed for other remarks concerning the instructor's performance.
(5) After a second rating lower than eighty-five (85) percent, the commission will notify the instructor and the course provider of the deficiency. The third class will then have to be monitored by a commission representative. Based on the recommendation of the monitor, the evaluation score and the comments from the third class, a recommendation will be made to the commission to take no further action, to suspend the approval of the instructor or to place the instructor on probation pending the evaluation and review of a future class. The commission will issue a preprobationary order, outlining the length and terms of the probationary period as well as the date of the class to be monitored. Once the probation has ended satisfactorily, the instructor's approval will be reinstated. The instructor and the provider will be notified in writing of the commission's decision.
(6) In any class with ten (10) or fewer participants for which the instructor receives at least one (1) evaluation below eighty-five (85) percent, the commission will throw out the highest and lowest evaluations in order to ensure greater accuracy in the rating.
(7) The annual recertification of instructors and continuing education courses will include an in-depth review of the evaluations completed by the students and those of any monitor that may have been present for the class.
(8) Any instructor who has been suspended from teaching continuing education courses can be reinstated by:
(a) Submitting an application for approval to the commission;
(b) If the deficiency is in presentation, the instructor must attend an instructor development workshop approved by the commission upon request;
(c) If the deficiency is in the subject matter, the instructor must attend a prescribed number of credit hours in that subject area approved by the commission upon request;
(d) Submitting proof of attendance at the required course;
(e) Providing written documentation of other steps taken to improve the instructor's knowledge and skills; and
(f) After submission of the above documents, the commission has the discretion to approve or deny the instructor's request for reinstatement.

RON K. SMITH, Chairperson
APPROVED BY AGENCY: May 24, 2001
FILED WITH LRC: June 13, 2001 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001 at 10 a.m., at the Kentucky Real Estate Commission, Hearing Room, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless requested in writing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lee B. Harris, Attorney for the Commission,
VOLUME 28, NUMBER 1 – JULY 1, 2001

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Lee B. Harris

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation sets out the guidelines necessary to maintain a minimum rating for instructors of continuing education courses.
(b) The necessity of this administrative regulation: This regulation is necessary to outline the manner in which instructors will be rated and the effect of a below-minimum rating.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation details the means by which a rating is obtained and the effects of a below-minimum rating as set out in the authorizing statute.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides details related to the authorizing statute.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation;
(b) The necessity of the amendment to this administrative regulation;
(c) How the amendment conforms to the content of the authorizing statute;
(d) How the amendment will assist in the effective administration of the statutes:
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect all continuing education instructors in Kentucky.
(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment: The above group of continuing education instructors will only be affected if their rating falls below the minimum acceptable rating.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no initial cost.
(b) On a continuing basis: There will be no ongoing cost.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase will be necessary to implement this regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There will be no fees established or increased.
(9) TIERING: Is tiering applied? Tiering is not applicable. No disproportionate impact on any class of regulated entities will result. This requirement will affect all licensees alike.

KENTUCKY BOARD OF LICENSURE OF MARRIAGE AND FAMILY THERAPISTS
(New Administrative Regulation)

201 KAR 32:070. Complaint procedure.

RELATES TO: KRS 335.348
STATUTORY AUTHORITY: KRS 335.325, 335.350
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.348 delineates the causes for which disciplinary action may be taken against a licensee. This administrative regulation establishes procedures for the filing, evaluation, and disposition of administrative complaints.

Section 1. Definitions. (1) "Chairman" means the chairman or vice-chairman of the board.
(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 335, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.
(3) "Complaint" means any written allegation of misconduct by a credentialed individual or other person which might constitute a violation of KRS Chapter 335, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.
(4) "Complaint screening committee" means a committee consisting of three (3) persons on the board appointed by the chairman of the board to review complaints, investigative reports, and to participate in informal proceedings to resolve a formal complaint. In addition to board members the executive director of the board or another staff member may be appointed to serve on this committee.
(5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.
(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a disposition of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.
(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

Section 2. Receipt of Complaints. (1) A complaint:
(a) May be submitted by an:
1. Individual;
2. Organization; or
3. Entity.
(b) Shall be:
1. In writing; and
2. Served by the person offering the complaint.
(c) May be filed by the board based upon information in its possession.
(2) Upon receipt of a complaint:
(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.
(b) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant. The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any other relevant material available and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.
(2) If the board determines before formal investigation that a complaint is without merit, it shall:
(a) Dismiss the complaint; and
(b) Notify the complainant and respondent of the board's decision.
(3) If the board determines that a complaint warrants a formal investigation, it shall:
(a) Authorize an investigation into the matter; and
(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS Chapter 335 or the administrative regulations promulgated thereunder and a complaint should be filed.
(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:
(a) Dismiss the complaint; and
(b) Notify the complainant and respondent of the board’s decision.

(3) If the board determines that a violation has occurred but is not serious, the board may issue a written admonishment to the licensee. A copy of the written admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response in writing to the admonishment within thirty (30) days of its receipt and may have it placed in his permanent file. Alternatively, the licensee may file a request for a hearing with the board within thirty (30) days of the admonishment. Upon receipt of the request, the board shall set aside the matter of the admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(4) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint which states clearly the charges or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(5) If the board determines that a person may be in violation of KRS 335.305(1), it shall:
(a) Order the individual to cease and desist from further violations of KRS 335.305(1);
(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 335.305(1) with a request that appropriate action be taken under KRS 335.355(5); or
(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 335.305.

Section 5. Settlement by Informal Proceedings. (1) The board through counsel and the complaint screening committee may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 6. Notice and Service of Process. A notice required by KRS Chapter 335 or this administrative regulation shall be issued pursuant to KRS Chapter 13B.

Section 7. Notification. The board shall make public:
(1) Its final order in a disciplinary action under KRS 335.350 with the exception of a written admonishment issued pursuant to Section 4(3) of this administrative regulation; and
(2) An action to restrain or enjoin a violation of KRS 335.305(1).

JOHN P. SOHAN, Chair
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001, at 1:30 p.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nancy Black

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the procedures the board will follow to review complaints filed against persons licensed by the board.
(b) The necessity of this administrative regulation: To advise and inform the public of the process for to file a complaint against a licensee and how the review of that complaint will be handled.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.320(7) authorizes the board to enact procedures in order to carry out the purpose and scope of KRS 335.300 to 335.399. Under KRS 335.325(2) the board is authorized to institute and maintain actions to restrain or enjoin violations of KRS 335.300 to 335.399. This administrative regulation establishes the procedures the board will follow to investigate alleged violations of those statutes.
(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation clearly delineates the procedures to be followed by the board when investigating complaints filed against licensees.

(a) How the amendment will change the existing administrative regulation: There is no administrative regulation that currently deals with this process.
(b) The necessity of the amendment to this administrative regulation: This is a new regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 400 marriage and family therapists in the state.

(4) Assessment of how the above groups will be impacted by the implementation of this administrative regulation: This amendment will advise all marriage and family therapists that the process will be used to review and consider complaints filed against them.

(5) Estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There are no costs associated with the initial implementation of this regulation.
(b) On a continuing basis: There are no continuing costs associated with implementation of this regulation.

(6) The source of funding for the implementation and enforcement of this administrative regulation: General board funds.

(7) Assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: The board does not anticipate any increase in fees or funding to implement this administrative regulation.

(8) This administrative regulation does not establish fees.

(9) TIERING: Is tiering applied? No. This administrative regulation applies equally to all marriage and family therapists throughout the Commonwealth of Kentucky.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water
(New Administrative Regulation)

401 KAR 5:074. KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations.

RELATES TO: KRS 224.10-100, 224.16-050, 224.16-060, 224.20-100, 224.20-110, 224.20-120, 224.70-100, 224.70-110, 33 USC 1342

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.20-100, 224.20-110, 224.70-100, 33 USC 1342

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under
such conditions as the cabinet may prescribe permits to discharge into any waters of the Commonwealth. KRS 224.16-050 further empowers the cabinet to issue federal permits pursuant to 33 USC Section 1342(b) of the Federal Water Pollution Control Act. KRS 224.20-110 authorizes the cabinet to regulate the emission or discharge of air contaminants into the air under the jurisdiction of the Commonwealth. This administrative regulation establishes certain conditions applicable to KPDES permits for beef, dairy, poultry, and swine concentrated animal feeding operations.

Section 1. Applicability. This administrative regulation establishes KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations.

Section 2. Operators of Concentrated Animal Feeding Operations. (1) A person who exercises substantial operational control over a concentrated animal feeding operation shall be considered an operator of the concentrated animal feeding operation. A person exercises substantial operational control if the person:

(a) Directs the activities of persons working at the concentrated animal feeding operation either through a contract, or direct supervision, or on-site participation, in activities at the concentrated animal feeding operation;

(b) Owns all, or a significant percentage of, the animals; or

(c) Specifies how the animals are grown, fed, or medicated.

(2) An operator of a concentrated animal feeding operation shall apply for a KPDES permit and comply with its conditions. The operator may apply for the KPDES permit alone or together as a co-permittee with the owner of the concentrated animal feeding operation.

Section 3. Best Management Practices. (1) A livestock barn, poultry house, lagoon, or land application area constructed or expanded after February 14, 2000 shall not be located in:

(a) A state or national park, state or national forest, or nature preserve;

(b) A wetland protection area approved by the cabinet pursuant to 401 KAR 4:220.

(2) A livestock barn, poultry house, or lagoon constructed or expanded after February 14, 2000 shall not be located in:

(a) A 100-year floodplain unless permitted pursuant to 401 KAR 4:050;

(b) A jurisdictional wetland as determined by the Natural Resources Conservation Service; or

(c) A sinkhole or other enclosed depression where subsidence is evident.

(3) The setback requirements established by this subsection shall apply as follows:

(a) A barn, lagoon, poultry house, litter storage structure, composting site, or waste-handling structure constructed or expanded after February 14, 2000 at a concentrated animal feeding operation;

(b) A barn, lagoon, poultry house, litter storage structure, or composting site constructed or expanded after February 14, 2000 at an animal feeding operation, if the construction or expansion will cause the animal feeding operation to become a concentrated animal feeding operation; and

(c) Land application of waste at a concentrated animal feeding operation.

### BEEF SITING CRITERIA

<table>
<thead>
<tr>
<th>SETBACK FEATURE</th>
<th>BARN, LAGOON</th>
<th>LAND APPLICATION AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling not owned by applicant, church, school, school yard, business, other structure to which the general public has access, or park</td>
<td>3,000 feet</td>
<td>Injection 500 feet, Other Method 1,000 feet</td>
</tr>
<tr>
<td>Incorporated city limit</td>
<td>1,500 feet</td>
<td>Injection 500 feet, Other Method 1,000 feet</td>
</tr>
<tr>
<td>Lake, river, blue-line stream, karst feature</td>
<td>300 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
<tr>
<td>Water well not owned by applicant</td>
<td>150 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
<tr>
<td>Downstream, water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water</td>
<td>1 mile</td>
<td>Injection 750 feet, Other Method 1,500 feet</td>
</tr>
<tr>
<td>Downstream, public water supply surface water intake</td>
<td>5 miles</td>
<td>Injection 1 mile, Other Method 1 mile</td>
</tr>
<tr>
<td>Roadways, primary (state and federal)</td>
<td>150 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
<tr>
<td>Roadways, secondary (county)</td>
<td>150 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
</tbody>
</table>

1. Measured along gradient
2. Designated outstanding state resource waters are listed in 401 KAR 5:026
3. Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature
4. Existing at the time the first KPDES permit is issued
5. For existing operations, land application setbacks do not apply

### DAIRY SITING CRITERIA

<table>
<thead>
<tr>
<th>SETBACK FEATURE</th>
<th>BARN, LAGOON</th>
<th>LAND APPLICATION AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling not owned by applicant, church, school, schoolyard, business, other structure to which the general public has access, or park</td>
<td>3,000 feet</td>
<td>Injection 500 feet, Other Method 1,000 feet</td>
</tr>
<tr>
<td>Incorporated city limit</td>
<td>1,500 feet</td>
<td>Injection 500 feet, Other Method 1,000 feet</td>
</tr>
<tr>
<td>Lake, river, blue-line stream, karst feature</td>
<td>300 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
<tr>
<td>Water well not owned by applicant</td>
<td>150 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
<tr>
<td>Downstream, water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water</td>
<td>1 mile</td>
<td>Injection 750 feet, Other Method 1,500 feet</td>
</tr>
<tr>
<td>Downstream, public water supply surface water intake</td>
<td>5 miles</td>
<td>Injection 1 mile, Other Method 1 mile</td>
</tr>
<tr>
<td>Roadways, primary (state and federal)</td>
<td>150 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
<tr>
<td>Roadways, secondary (county)</td>
<td>150 feet</td>
<td>Injection 75 feet, Other Method 150 feet</td>
</tr>
</tbody>
</table>

1. Measured along gradient
2. Designated outstanding state resource waters are listed in 401 KAR 5:026
3. Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature
4. Existing at the time the first KPDES permit is issued
5. For existing operations, land application setbacks do not apply
## POULTRY SITING CRITERIA

<table>
<thead>
<tr>
<th>SETBACK FEATURE, LAND APPLICATION AREA</th>
<th>POULTRY HOUSES, LITTER STORAGE, OR COMPOSTING SITE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling not owned by applicant, church, school, school yard, business, other structure to which the general public has access, park</td>
<td>1,500 feet</td>
</tr>
<tr>
<td>Incorporated city limits</td>
<td>2,000 feet</td>
</tr>
<tr>
<td>Lake, river, blue-line stream, karst feature</td>
<td>150 feet</td>
</tr>
<tr>
<td>Water well not owned by applicant</td>
<td>300 feet</td>
</tr>
<tr>
<td>Downstream 1 water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water, or outstanding state resource water</td>
<td>1 mile</td>
</tr>
<tr>
<td>Downstream 1 public water supply surface water intake</td>
<td>1 mile</td>
</tr>
<tr>
<td>Roadways, primary (state and federal)</td>
<td>150 feet</td>
</tr>
<tr>
<td>Roadways, secondary (county)</td>
<td>100 feet</td>
</tr>
</tbody>
</table>

-measured along gradient

-Designated outstanding state resource waters are listed in 401 KAR 5:026

-Existing at the time the first KPDES permit is issued

-For existing operations, land application setbacks do not apply

## SWINE SITING CRITERIA

<table>
<thead>
<tr>
<th>SETBACK FEATURE, LAND APPLICATION AREA</th>
<th>BARN, LAGOON, LAND APPLICATION AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling not owned by applicant, church, school, school yard, business, other structure to which the general public has access, park</td>
<td>1,500 feet</td>
</tr>
<tr>
<td>Incorporated city limits</td>
<td>3,000 feet</td>
</tr>
<tr>
<td>Lake, river, blue-line stream, karst feature</td>
<td>150 feet</td>
</tr>
<tr>
<td>Water well not owned by applicant</td>
<td>300 feet</td>
</tr>
<tr>
<td>Downstream 1 water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water, or outstanding state resource water</td>
<td>1 mile</td>
</tr>
<tr>
<td>Downstream 1 public water supply surface water intake</td>
<td>5 miles</td>
</tr>
<tr>
<td>Roadways, primary (state and federal)</td>
<td>150 feet</td>
</tr>
<tr>
<td>Roadways, secondary (county)</td>
<td>150 feet</td>
</tr>
</tbody>
</table>

-measured along gradient

-Designated outstanding state resource waters are listed in 401 KAR 5:026

-Existing from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature

-For existing operations, land application setbacks do not apply

(d) The cabinet may grant a variance from the setbacks in this section for a dwelling or church not owned by the applicant, if the applicant obtains from the owner of the property in question an easement, properly filled of record, granting the applicant a permanent exemption from the distance requirements in this administrative regulation. A certified copy of this easement shall be submitted to the cabinet with the permit application.

(4)(a) Poultry concentrated animal feeding operations shall provide permanent litter storage structures by October, 2001.

(b) The requirements of subsection (3) of this section shall not apply to the siting of permanent litter storage structures on poultry concentrated animal feeding operations in existence prior to February 14, 2000.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: June 13, 2001

FILED WITH LRC: June 14, 2001 at 10 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation is scheduled for Monday, July 23, 2001, at 6:30 p.m. (Central Time) at the Byrnes Auditorium, Madisonville Technical College, 750 North Laffoon Drive, Madisonville, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by July 16, 2001, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the hearing will not be made unless a written request for a transcript is received. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the proposed administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing, or by 4:30 p.m. (Eastern Time) on July 23, 2001, if the hearing is not held. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, must be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Jack A. Wilson, Director, Division of Water, Department for Environmental Protection, 14 Reilly Road, Frankfort, Kentucky 40601, Telephone: (502) 564-3410. Fax: (502) 564-0111.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jack A. Wilson, Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes certain conditions applicable to KPDES permits for beef, dairy, poultry and swine concentrated animal feeding operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to regulate the operations of beef, dairy, poultry and swine concentrated animal feeding operations for the purpose of protecting the air quality and water quality of the Commonwealth, as well as public health.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 224.10-100, 224.16-050, 224.20-110, 224.70-110, and 33 USC 1342, by establishing certain conditions applicable to KPDES permits for beef, dairy, poultry and swine concentrated animal feeding operations.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes certain conditions applicable to KPDES permits for beef, dairy, poultry and swine concentrated animal feeding operations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation is not an amendment.

(b) Necessity of the amendment to this administrative regulation: This administrative regulation is not an amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation is not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation is not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will apply only to beef, dairy, poultry, and swine concentrated animal feeding operations defined in 401 KAR 5:002. It is currently estimated that there are:

Beef: 5 operations with more than 1000 animal units (2 greater than 1500 animal units)
Poultry: 176 operations with more than 1000 animal units (54 greater than 1500 animal units)
Swine: 64 operations with more than 1000 animal units (41 greater than 1500 animal units)

Total: 250 operations (96 of which have more than 1500 animal units)

It should be noted that even if an operation has more than the requisite number of animals to qualify as a CAFO, it does not automatically designate the operation as a CAFO. Most beef operations in Kentucky, for example, are grazing operations rather than confined feedlot operations.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: There will be an increase in the cost of doing business in the agricultural sector if a beef, dairy, poultry or swine operation meets the definition of a concentrated animal feeding operation (CAFO) per 401 KAR 5:002. For existing operations, meeting the CAFO definition, there may be an increase in labor costs, waste storage/handling, and a minimal administrative cost. Initial siting of new or expanding operations will be a key aspect related to compliance with the regulation. However, the average farm in Kentucky is 151 acres (90,000 farms total - according to Kentucky Agricultural Statistics Services), and this is sufficient to meet setback requirements in most instances, dependent upon the placement of buildings. For poultry operations that are defined as a CAFO, permanent litter storage structures will be required. This requirement to install such structures is consistent with the requirements of the Agriculture Water Quality Plan. As a result, the increase in costs to poultry producers in negligible as a result of this regulation. Otherwise, cost increases would be estimated at $20,000 to $30,000 for each litter storage structure for an estimated 176 producers. This would equate to a $3.5 to $5 million investment (the value could be significantly less, depending upon the number of actual poultry CAFOs).

During fiscal year 2000 alone, over $3.6 million in cost share dollars was awarded for the construction of 185 litter storage structures for both CAFO and smaller non-CAFO poultry operations. It should be noted that, in addition to protecting the environment, benefits of such structures include retention of litter nutrient value and easing litter handling and poultry house cleanout. Cost share dollars, available to producers, will reduce some of the economic burden imposed by the Agriculture Water Quality Plan and this administrative regulation. Finally, there could be additional costs to operators as they share responsibility for complying with permit conditions. Distribution of costs will be case by case as permit holders develop respective responsibilities. The range of options extends from complete control of operation by operator, to complete control of operation by owner.

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

(a) Initially: There will be an increase in costs to the administrating agency in order to implement the permitting program for CAFO operations. This includes the issuance of an estimated 250 KPDES permits to existing operations. All new or expanding CAFOs would need to be perceived as well. The agency estimates that one person-year would be dedicated to permitting of CAFOs. A typical person-year cost would be $63,341 per year. In addition, enforcement/compliance costs would increase due to the need to inspect each CAFO operation. The administering agency estimates that an additional person-year would be necessary for CAFO oversight, with an additional three person-years necessary for AFO and Agriculture Water Quality Plan oversight. At a typical person-year cost of $63,341 per year, this would equate to $253,364 per year.

(b) On a continuing basis: KPDES permits are typically issued/re-issued on a 5-year cycle. In addition, new and/or expanding CAFOs where need to be permitted as well. Enforcement/compliance activities would similarly be conducted throughout the life of the operation. The above person-year estimates take into account continuing or ongoing costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The funds to support the implementation and enforcement of this administrative regulation will come from a combination of federal sources (Clean Water Act Section 106 funds) and state funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in funding will be necessary to implement this administrative regulation (see above estimate of costs). This increase in funding will be solicited through Clean Water Act Section 106 funds. There will be no increase in permit fees.

(8) Statement of whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Fees for KPDES permits, including those for CAFOs, are already set by KRS 224.70-120.

(9) TIERING: Is tiering applied? Tiering is applied. Smaller producers, who are thought to have less of an impact on public health and the environment, are not affected by this emergency regulation, unless they expand their operation to the size of a CAFO. In addition, the administrative regulation applies only to beef, dairy, poultry and swine CAFOs.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 33 USC 1342.
2. State compliance standards. KRS 224.10-100, 224.18-050, 224.16-060, 224.20-100, 224.20-110, 224.20-120, 224.70-100, 224.70-110.
3. Minimum or uniform standards contained in the federal mandate. 33 USC 1342 establishes conditions for states to administer National Pollutant Discharge Elimination System (NPDES) permit programs.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No.
2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will not affect any unit, part, or division of local government.
3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to local government.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the
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fiscal impact of the administrative regulation. Revenues (+/): There is no anticipated effect on current revenues. Expenditures (+/-): There is no anticipated effect on current expenditures. Other Explanation: None

JUSTICE CABINET
Department of Criminal Justice Training (New Administrative Regulation)

503 KAR 3:050. Telecommunications academy: graduation requirements; records.

RELATES TO: KRS 15.550, 15.560(1)
STATUTORY AUTHORITY: KRS 15.590
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.590 authorizes the Commissioner of the Department of Criminal Justice Training to promulgate administrative regulations regarding telecommunications practices. This administrative regulation establishes the course and graduation requirements of the Telecommunications Academy.

Section 1. Definition. "Academy" means the 160 hour Telecommunications Academy course conducted by the department.

Section 2. Academy Content. The academy shall consist of the following five (5) areas:
1. Basic telecommunications;
2. Criminal justice information system (CJIS);
3. Emergency medical dispatch and CPR;
4. Family violence; and
5. Crisis negotiations.

Section 3. Academy Graduation Requirements. To graduate from the academy, a trainee shall:
1. Successfully complete a minimum of 160 hours of KLEC approved training.
2. (a) Attain a passing score on all examinations for which a numerical score is assigned, as follows:
   1. Eighty (80) percent on the Emergency Medical Dispatch written examination; and
   2. Seventy (70) percent on all other examinations for which a numerical score is assigned.
   (b) A trainee who does not achieve a passing score shall be considered to have failed the academy.
   (c) Pass all examinations for which a pass or fail designation is assigned. A trainee who fails a pass or fail examination shall be considered to have failed the academy.
   (d) Successfully complete all other assignments, exercises, and projects included in the academy. After-hours assignments may be required, and shall be successfully completed in order to pass the training area for which they were assigned.

Section 4. Reexaminations. (1) A trainee shall be permitted one (1) reexamination.
   (2) A trainee who fails an examination shall not be reexamined: (a) Earlier than forty-eight (48) hours from the original examination; or (b) Later than the last scheduled day of the telecommunications academy.
   (3) A trainee shall be considered to have failed the academy if the trainee fails a reexamination.

Section 5. Failure and Repetition of Academy. (1) A trainee who has failed an academy shall be permitted to repeat one (1) academy in its entirety during the following twelve (12) months.
   (2) The trainee or his agency shall pay all fees for the repeated academy.

Section 6. Absence. (1) A trainee may have excused absences from the academy with approval of the In-Service Training Branch Manager or Telecommunications Training Section Supervisor.

(2) An excused absence from the academy which causes a trainee to miss any of the 150 hours of training shall be made up through an additional training assignment.

Section 7. Circumstances Preventing Completion of the Telecommunications Academy. If a trainee is prevented from completing the telecommunications academy due to extenuating circumstances beyond the control of the trainee, including injury, illness, personal tragedy, or agency emergency, he shall be permitted to complete the unfinished areas of the academy within 180 days immediately following the termination of the extenuating circumstance, if the:
   (1) Extenuating circumstance preventing completion of the academy does not last for a period of longer than one (1) year;
   (2) Failure to complete is not caused by a preexisting physical injury or preexisting physiological condition.

Section 8. Termination of Employment While Enrolled. If while enrolled in the telecommunications academy, a trainee's employment as a telecommunicator is terminated by resignation or dismissal and he is unable to complete the academy, he may complete the remaining training within one (1) year of reemployment as a telecommunicator. The trainee shall repeat the telecommunications academy in its entirety if:
   (1) The break in employment exceeds one (1) year; or
   (2) The termination of employment is a result, directly or indirectly, of disciplinary action taken by the department against the trainee while enrolled in the telecommunications academy.

Section 9. Maintenance of Records. All training records shall be:
   (1) Available to the council and the secretary for inspection or other appropriate purposes; and
   (2) Maintained in accordance with applicable standards in KRS Chapter 171.

JOHN W. BIZZACK, Ph.D, Commissioner
APPROVED BY AGENCY: June 15, 2001
FILED WITH LRC: June 15, 2001 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001, at 9 a.m. in Room 211, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by July 16, 2001, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephanie C. Bingham, General Counsel, Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137; Phone (859) 622-5897, Fax (859) 622-3162.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1)(a) What this administrative regulation does: Establishes the guidelines and procedures for graduation from the Department of Criminal Justice Training (DOCJT) Telecommunications academy.
   (b) Necessity of this administrative regulation: The regulation is necessary so that the Commissioner of the Department of Criminal Justice Training can fulfill his responsibility, as established in KRS 15.590, to promulgate administrative regulations necessary for the proper training of law enforcement telecommunicators.
   (c) How this regulation conforms to the content of the authorizing statutes: KRS 15.590 authorizes the Commissioner of the Department of Criminal Justice Training to promulgate administrative regulations regarding telecommunications practices. This administrative regulation is necessary to establish graduation requirements for the DOCJT Telecommunications Academy.
(d) How this regulation currently assists in the effective administration of the statutes: This regulation sets clear, reasonable and consistent rules and procedures for graduation from DOCJT Telecommunications Academy.

(2) This is not an amendment to an existing administrative regulation.

(3) Type and number of entities affected: all law enforcement agencies in the Commonwealth that utilize DOCJT Telecommunications Academy training, which is presently approximately 200 agencies, including most state, county and local agencies.

(4) How the aforementioned entities will be impacted by the implementation of this administrative regulation: It is anticipated that agencies and the general public should experience positive results from this administrative regulation due to the advanced training received by participants in the 4 week Telecommunications Academy. Telecommunicators will be trained in 5 areas: basic telecommunications, criminal justice information system (CJIS), emergency medical dispatch and CPR, family violence, and crisis negociations.

(5) Cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None

(6) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEPPF).

(7) Assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation: No

(8) Does this administrative regulation directly or indirectly increase any fees: No

(9) TIERING: Was tiering applied: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

TRANSPORTATION CABINET
Department of Highways
Division of Multimodal Programs
(New Administrative Regulation)

603 KAR 7:090. Railroads.

RELATES TO: KRS 174.057, 174.130, 177.120, 277.060, 277.070, 277.170, 277.240, 277.300

STATUTORY AUTHORITY: KRS 174.057, 174.130

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 174.057, the Transportation Cabinet has authority to regulate railroads and assume powers previously vested with the Railroad Commission. This administrative regulation establishes reporting requirements that will provide a means for review of railroad activity within the Commonwealth of Kentucky.

Section 1. Definition of Railroad. "Railroad" means any person or entity engaged in the transportation of persons or property for compensation within this state by rail except street, suburban or interurban railway companies.

Section 2. Financial Reports. (1) Any entity or person owning or operating a railroad that passes on rail within this Commonwealth shall file financial reports with the Office of Intermodal Programs in the Transportation Cabinet.

(2) Financial reports shall be filed on or before March 31 of each year.

(3) Financial reports shall include the following information:
(a) A copy of the company’s annual report to the United States Surface Transportation Board or other proper federal agency; and
(b) A copy of the Kentucky form State Statistics, incorporated by reference.

Section 3. Railroad Routes. (1) Railroads shall file a map of all active routes in the state on or before March 31 of each year.

(2) When an owner or operator of a railroad in the Commonwealth of Kentucky discontinues service on any rail located within the state, the owner or operator of that railroad shall send written notice of discontinuance to the Office of Intermodal Programs within thirty (30) days of filing an application for federal authority for abandonment, or after 365 consecutive days pass without any use of the rail, whichever occurs first.

Section 4. Accident Reports. (1) If a railroad is involved in an accident within this state that results in loss of life, the owner or operator of the railroad involved shall notify the cabinet of the accident.

(2) Notice shall be given on or before the fifth day after the accident occurred. The day on which the accident occurred shall not be counted in determining the fifth day.

(3) Notice shall consist of the following:
(a) A copy of any and all accident report forms filed with the Surface Transportation Board or other proper federal agency pursuant to 49 USC 201 or pursuant to the Federal Railway Safety Act shall be mailed to the Office of Intermodal Programs within five (5) days of the accident;
(b) A list of the name, address, and telephone number of all other persons involved in the accident.

Section 5. Penalty. (1) If a person or entity subject to this administrative regulation fails to file any of the forms or notices required in this administrative regulation, the cabinet may collect a penalty.

(a) The cabinet shall give the violator written notice of its intent to collect a penalty which shall:
1. State the amount of the penalty;
2. Identify the specific documents which were not filed; and
3. State that the violator has thirty (30) days to file the documents and avoid any penalty.

(b) The penalty shall not exceed $500.

(c) The penalty shall be waived if the violator complies with this administrative regulation within thirty (30) days of the date of the notice.

(2) Filing of incomplete forms shall be deemed a failure to file for purposes of this section. The notice and penalty requirements set forth in subsection (1)(a) of this section shall apply to incomplete filings.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) SC-330, Road and Equipment Property within the State, revised 1985;
(b) SC-330A, Improvements on Leased Property within the State, revised 1985;
(c) SC-210, Railway Operating Revenues Earned within the State, revised 1985;
(d) SC-410, Railway Operating Expenses within the State, revised 1985;
(e) SC-700, Mileage Operated at Close of Year within the State, revised 1985;
(f) SC-931, Statistics of Rail-Line Operations within the State, revised 1985;
(g) SC-941, Revenue Freight Carried During the Year within the State, revised 1985; and
(h) SC-760, Grade Crossing within the State, revised 1985.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Division of Multimodal Programs, State Office Building Annex, 3rd Floor, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
HOLLIE SPADE, Office of General Counsel/Legislative Affairs
APPROVED BY AGENCY: May 15, 2001
FILED WITH LRC: May 15, 2001 at 1 p.m.
PUBLIC HEARING: A public comment hearing on this administrative regulation will be July 23, 2001, at 10 a.m., local prevailing time in the Transportation Cabinet, State Office Building, 10th Floor, General Counsel Conference Room, 501 High Street, Frankfort, Kentucky 40622. Persons wishing to attend this meeting must notify this agency in writing by July 16, 2001. If no notification of intent to attend the
HEARING PROFESSIONAL STANDARDS BOARD
(New Administrative Regulation)

704 KAR 20:760. Local educator assignment data.

RELATES TO: 161.020, 161.028, 161.030, 161.1221
STATUTORY AUTHORITY: 161.1221

NECESSITY, FUNCTION, AND CONFORMITY: 161.020, 161.028, and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for his or her respective position to be issued by the Education Professional Standards Board. KRS 161.1221 requires that the Education Professional Standards Board identify all professional school personnel assigned out-of-field. This administrative regulation establishes the requirements for public school districts for reporting educator assignment data used to determine out-of-field teaching.

Section 1. Definitions. (1) "Content area" means an academic area as defined in the Kentucky Program of Studies established in 704 KAR 3:303 or the Curriculum Framework established by the Kentucky Department of Education.

(2) "Course" means a unit of study created by a district or school, involving one (1) or more academic content areas, intended to be provided to one (1) or more population types.

(3) "Course Identifier" means a number that uniquely identifies a unit of study provided by a public school or district.

(4) "Grade" means a code supplied by the Kentucky Department of Education.

(5) "Organization ID" means a unique number that identifies a school or district across data systems or within the same data system.

(6) "Population" means a group of students defined by similar demographic or disability criteria.

(7) "Unique Staff ID" means a number that identifies a particular person across data systems or within the same data system.

(8) "Work assignment" means a job function requiring certification by the Education Professional Standards Board.

Section 2. Public school districts shall report information about course offerings and assignments of all certified staff to the Education Professional Standards Board.

Section 3. Courses shall be identified by providing the Education Professional Standards Board with the following information:

(1) The name and course identifier of each course;

(2) The content area or areas covered by the course;

(3) The student population or populations for which the course is intended; and

(4) The lowest and highest grades for which the course is intended.

Section 4. (1) Teacher assignment information shall include the following information:

(a) The name and unique staff ID of the teacher;

(b) The teacher work assignment;

(c) The organization ID of the district or school of the assignment;

(d) The course identifier for each course established in Section 3 of this administrative regulation;

(e) The lowest and highest grade of students enrolled in each course;

(f) The number of students enrolled in each course; and

(g) The total number of hours of staff time devoted to the assignment over the school year.

(2) Administrator assignment information shall include the following information:

(a) The name and unique staff ID of the administrator;

(b) The administrator work assignment;

(c) The organization ID of the district or school of the assignment;

(d) The total number of hours of staff time devoted to the assignment over the school year.

Section 5. Assignment reports shall be provided to the Education Professional Standards Board no later than October 1 of each school year.
Section 6. (1) The school districts shall submit all required data electronically via software selected by the district and approved by the Kentucky Department of Education under requirements established in KRS 159.670 and 701 KAR 5:110.
(2) The school districts shall conform to the content and format selected by the Education Professional Standards Board.
(3) The Education Professional Standards Board shall work with the Kentucky Department of Education to create a seamless data reporting system for school districts.
(4) The Education Professional Standards Board or its designee shall provide school districts with technical assistance and support necessary to collect the required information.

Section 7. (1) Education Professional Standards Board shall maintain a publicly-available set of data-reporting standards, which shall be updated yearly. These shall include:
(a) A list or downloadable file of content areas;
(b) A list or downloadable file of population types; and
(c) A set of standards for course and assignment reporting.
2. Any list of courses and work assignments shall be available as a downloadable file.
(2)(a) These standards shall be available on the Education Professional Standards Board website at www.kde.state.ky.us/oetec/epsb.
(b) These standards shall be available in "Education Professional Standards Board Local Educator Assignment Data Reporting Standards and Procedures".

Section 8. Incorporation by Reference. (1) "Education Professional Standards Board Local Educator Assignment Data Reporting Standards and Procedures", 2001-2002 School Year, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 15, 2001 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation will be held July 26, 2001, at 1 p.m. in the Council on Post-secondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 19, 2001, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
Contact Person: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact person: Mary Ellen Wiedenwold
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for public school districts for reporting teacher assignment data used to determine out-of-field teaching.
(b) The necessity of this administrative regulation: KRS 161.020, 161.028, and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualifications for his or her respective position to be issued by the Education Professional Standards Board. KRS 161.1221 requires that the Education Professional Standards Board identify all professional school personnel assigned out-of-field.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the standards and procedures for reporting the local assignment data for professional school personnel who are required to hold a certificate of legal qualifications for the respective position to be issued by the Education Professional Standards Board. KRS 161.1221 issued by the Education Professional Standards Board (EPSB) under KRS 161.028 and 161.030. KRS 161.1221 requires the EPSB to determine any professional school personnel assigned out of their field of certification.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the data reporting standards and procedures for local school districts to report professional school personnel assignments. KRS 161.1221 requires these reports to be completed by October 1 of each year. The collection of this data will ensure that professional school personnel are assigned in accordance with their certificate of legal qualifications required under KRS 161.020 and issued under KRS 161.028 and 161.030.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statutes: N/A
(d) How the amendment will assist in the effective administration of the statutes: N/A
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 176 Kentucky public school districts.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation establishes the reporting requirements for local school districts in submitting assignment information for all professional school personnel. The "LEAD system" established in this administrative regulation is part of the KETS technology system and uses software already mandated by the Kentucky Department of Education. The Education Professional Standards Board has sought to accommodate the data reporting abilities of local school districts, including considerations of hardware, software, and staff training.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No additional agency funds allocated or necessary for implementation of regulation; the Education Professional Standards Board is utilizing bond funds appropriated by the 2000 General Assembly to streamline education data systems, including the reporting of local educator assignment data established in this administrative regulation. The 176 school districts are implementing the new software (STI) from the Kentucky Department of Education as part of the KETS technology system and its master plan.
(b) On a continuing basis: No additional agency funds allocated or necessary for continuing implementation of regulation; the Education Professional Standards Board should be able to maintain the data reporting/collecting function of the new data system via recurring agency funds. The 176 school districts must adhere to Kentucky Department of Education regulations and KETS funding regarding required software and any future upgrades, which cannot be foreseen at this point beyond the current JOE/KETS master plan.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund, and in the case of the local school districts, KETS technology funds (used to purchase the STI software required by the Kentucky Department of Education).
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding necessary for implementation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish fees nor does it directly or indirectly increase fees.
(9) TIERING: Is tiering applied? No. All local school districts must adhere to the same requirements established in this administrative regulation for reporting assignments of professional school personnel.
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CABINET FOR PUBLIC PROTECTION AND REGULATION
Department of Insurance
Division of Health Insurance Policy and Managed Care
(New Administrative Regulation)

805 KAR 17:310. Prompt payment of claims reporting requirements.

RELATES TO: KRS 304.17A-722
STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-722(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17A-722(1), requires that the department promulgate administrative regulations establishing reporting requirements regarding the prompt payment of claims by insurers. This administrative regulation establishes those requirements.

Section 1. Definitions. (1) "Claims paid" means health care claims paid during a calendar year with a date of service on or after July 14, 2000.
(2) "Insurer" is defined in KRS 304.17A-005(23).
(3) "Paid" means the postmark date of a payment received by a provider.

Section 2. Insurer Reporting Requirements. (1) Within the time frames set forth in subsection (2) of this section, an insurer shall submit to the department for each of the yearly quarters the following reports:
(a) Claim Report 1 - Percentages Paid, Paid Within Time Frames, and Interest Paid;
(b) Claim Report 2 - Total Claims Paid; and
(c) Claim Report 3 - Total Amount Paid for Claims.
(2) Reports required by subsection (1) of this section shall be due according to the following schedule:
(a) The due date for the quarter ending March 31 shall be June 1;
(b) The due date for the quarter ending June 30 shall be September 1;
(c) The due date for the quarter ending September 30 shall be December 1; and
(d) The due date for the quarter ending December 31 shall be March 1 of the following calendar year.
(3) If an insurer is unable to meet a timeframe established in subsection (2) of this section because of unforeseen computer system problems, an extension of time may be granted upon written request to the commissioner.
(4) The reports required pursuant to subsection (1) of this section are contained in the Claim Reporting Manual, HIPMC-CP-1 (06/01) which is incorporated by reference in this administrative regulation, and the reports shall:
(a) Be submitted in an electronic format; and
(b) Contain the prescribed data elements and information in the order prescribed by the Claim Reporting Manual.
(5) An insurer shall submit to the department, with all quarterly reports, an Affidavit, HIPMC-CP-2 (06/01), which is incorporated by reference in this administrative regulation, signed by the chief executive officer, certifying that the information submitted is true and correct.

Section 3. Claims Payment Time Frame. (1) Except for claims involving organ transplants, an insurer shall be considered in compliance with the KRS 304.17A-702(1) time frame if the postmark date of a claim payment received by a provider is within:
(a) Thirty (30) days of receipt of the claim; or
(b) Three (3) business days of the check date if the check is dated on the 28th, 29th, or 30th day after the claim is received.
(2) For claims involving organ transplants, an insurer shall be considered in compliance with the KRS 304.17A-702(1) time frame if the postmark date of a claim payment received by a provider is within:
(a) Sixty (60) days of receipt of the claim; or
(b) Three (3) business days of the check date if the check is dated on the 58th, 59th, or 60th day after the claim is received.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Claim Reporting Manual, HIPMC-CP-1 (06/01); and
(b) Affidavit, HIPMC-CP-2 (06/01).
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4:30 p.m. Forms may also be obtained on the department’s internet web site at www.doi.state.ky.us.

JANIE A. MILLER, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 14, 2001 at 2 p.m.
COMMENCEMENT OF PUBLIC HEARING: This administrative regulation shall be held on July 25, 2001, at 9 a.m. (ET) at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by July 18, 2001, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Charlotte K. Hummel, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, PH: (502) 564-6032, ext. 293, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charlotte K. Hummel, Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the reporting requirements regarding prompt payment of claims.
(b) The necessity of this administrative regulation: KRS 304.17A-722(1) mandates that the department promulgate administrative regulations which establish the reporting requirements regarding prompt payment of claims.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.17A-722(1) mandates that the department promulgate administrative regulations which establish the reporting requirements regarding prompt payment of claims. This administrative regulation establishes the reporting requirements regarding prompt payment of claims.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes reporting requirements regarding the prompt payment of claims by insurers. This administrative regulation establishes a form that insurers will be required to use in annual claims reporting which will aid the department in efficiently monitoring insurers’ claims payments.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.
(d) How the amendment will assist in the effective administration of the statutes: Not applicable.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all insurers authorized to issue group health policies in Kentucky. Currently there are 40 individual insurers.
(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regula-
tion, if new, or by the change if it is an amendment: This administrative regulation will require insurers to report the percentage of clean claims paid within the allotted claims payment time frame, the percentage of clean claims not paid within the claims payment time frame and the number of days required for final payment of claims for hospitals, physicians, and all other providers, excluding pharmacies, and the total amount of interest paid for clean claims not paid within the required claims payment time frame. This data information is in all likelihood kept by the insurers, but now will need to be collected and reported to the department annually in a prescribed format.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No direct or indirect costs.
(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The department will use its existing budget to fund the implementation and enforcement of this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The department does not anticipate an increase in fees or funding necessary to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not used because the regulation applies to all insurers as defined in KRS 301.17A-005(22) who pay health claims.

CABINET FOR PUBLIC PROTECTION AND REGULATION
Department of Insurance
Division of Health Insurance Policy and Managed Care
(New Administrative Regulation)

806 KAR 17:320. Kentucky Access requirements.

RELATES TO: KRS 304.17A-230(2), 304.17B-001 to 304.17B-031.

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17B-031(1).
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-031(1) requires that the department promulgate administrative regulations regarding Kentucky Access. This administrative regulation establishes eligibility, application process, effective dates of coverage, and premium payment requirements for Kentucky Access.

Section 1. Definitions. (1) "Agent" means a licensed agent or a licensed agency.
(2) "COBRA" is defined in KRS 304.17A-005(5).
(3) "Creditable coverage" is defined in KRS 304.17A-005(5).
(4) "Department" means the department of insurance.
(5) "Eligible individual" is defined in KRS 304.17B-005(7).
(6) "Enrollee" is defined in KRS 304.17B-001(9).
(7) "Future effective date" means a date no earlier than the first day of the month following the month of application and no later than a date three (3) months after the month of application.
(8) "Government" means any political unit, including local, city, county, state and federal authority.
(9) "Guaranteed Acceptance Program" or "GAP" is defined in KRS 304.17B-001(11).
(10) "Guaranteed Acceptance Program qualified individual" is defined in KRS 304.17A-005(15).
(11) "Insurer" is defined in KRS 304.17A-005(22).
(12) "Kentucky Access" is defined in KRS 304.17B-001(17).
(13) "Month of application" means the month in which the date of receipt is logged by the third-party administrator for the application except that an application having a postmark date before the last three (3) days of the month prior to its receipt shall be treated as having been received during the month of its postmark date.
(14) "Third-party administrator" means the administrator selected by the department pursuant to KRS 304.17B-011(1) to administer Kentucky Access.

Section 2. Applicant Eligibility Requirements. (1) An individual applying for Kentucky Access shall meet the following eligibility requirements:
(a) The applicant shall be an eligible individual in accordance with KRS 304.17B-015(1);
(b) The applicant shall be eligible as a GAP qualified individual pursuant to KRS 304.17B-015(4)(a); or
(c) The applicant shall be determined eligible for coverage pursuant to KRS 304.17B-015(2).
(2) Proof of eligibility for Kentucky Access shall be submitted to the third-party administrator at the time of application:
(a) An eligible individual pursuant to KRS 304.17B-015(1) shall submit documentation of creditable coverage provided by a previous insurer or employer;
(b) An individual who is determined eligible pursuant to KRS 304.17B-015(2) shall submit one (1) of the following:
  1. A copy of a notice of rejection from two (2) insurers for health care coverage substantially similar to the Kentucky Access coverage for which the individual is applying, dated within the ninety (90) day period immediately preceding the application date for Kentucky Access;
  2. A copy of a notice of a premium rate offered by an insurer that exceeds the Kentucky Access premium rate for substantially-similar coverage, dated within the ninety (90) day period immediately preceding the application date for Kentucky Access;
  3. Documentation from a physician stating the diagnosis of a high-cost condition as listed in KRS 304.17B-001(14);
(c) An individual who is automatically eligible as a GAP-qualified individual pursuant to KRS 304.17B-015(4)(a) shall submit documentation from the GAP participating insurer identifying the applicant as a GAP-qualified individual.
(3) Proof of residency, required by KRS 304.17B-015(2), shall be established by submitting documentation to the third-party administrator at the time of application, which shall include a copy of:
(a) A valid Kentucky driver's license, dated twelve (12) months or more prior to the date of application for Kentucky Access;
(b) A Kentucky personal identification card issued by the Kentucky Department of Transportation, dated twelve (12) months or more prior to the date of application for Kentucky Access;
(c) A resident Kentucky income tax return for the most recent twelve (12) month tax period; or
(d) Two (2) receipts in the applicant's name for dwelling expenses in Kentucky:
  1. One (1) of the receipts shall be dated twelve (12) months or more before the date of application for Kentucky Access;
  2. The other receipt shall be dated within the most recent three (3) months before the date of application for Kentucky Access; and
  3. Both receipts shall be for one (1) of the following payments:
   a. Mortgage;
   b. Rent; or
   c. Utility bill.
(4) An individual who is eligible for coverage under Kentucky Access pursuant to KRS 304.17B-015(2) or (4) shall be subject to a pre-existing condition exclusion for any mental or physical condition for which medical advice, diagnosis, care or treatment was recommended or received within the last six (6) month period ending on the individual's enrollment date:
(a) The exclusion time period shall not exceed a period of twelve (12) months following the enrollment date; and
(b) The exclusion shall not apply to:
   1. Genetic information described as a condition in the absence of a diagnosis;
   2. Domestic violence;
   3. Newborn children if added to Kentucky Access within thirty-one (31) days of the date of birth; and
   4. Adopted children if added to Kentucky Access on the date the child was legally placed for adoption or the date the child was legally adopted.
(5) An individual who is not an eligible individual, but is eligible pursuant to KRS 304.17B-05(2) or (4), may submit documentation of creditable coverage, if any, to reduce the pre-existing condition exclusion time period in subsection (4) of this section by the number of
months of his creditable coverage.

(9) If an individual terminated Kentucky Access coverage within the past twelve (12) months, he may demonstrate a good faith reason for the termination as permitted by KRS 304.178-015(4)(c) to reestablish eligibility, by submitting documentary proof of:

(a) Loss of employment;
(b) Moving out of state and returning; or
(c) Change in family status.

(7) An individual who is eligible for COBRA continuation coverage or state continuation pursuant to KRS 304.18-11O shall not be eligible for Kentucky Access until:

(a) The election period for COBRA or state continuation of coverage has expired;
(b) Coverage under COBRA or state continuation is exhausted; or
(c) Coverage under COBRA or state continuation becomes unavailable.

(8) A noneligible individual eligible for conversion coverage pursuant to KRS 304.18-11O shall not be eligible for Kentucky Access until:

(a) The election period for conversion coverage has expired; or
(b) Coverage under conversion becomes unavailable.

(9) An individual shall not be eligible for Kentucky Access if his premiums are partially or entirely paid for or reimbursed by any entity, including:

(a) A government-funded or sponsored program;
(b) A government agency;
(c) A health care provider;
(d) A public or private foundation;
(e) A church or church-affiliated organization;
(f) An employer of the individual; or
(g) A person except for the individual's:
   1. Parent;
   2. Adult child; or
   3. Guardian.

Section 3. Dependent Eligibility. (1) A spouse or a child who is a twelve (12) month Kentucky resident, may receive coverage as a dependent of an enrollee.

(2) A child shall be an eligible dependent if he is unmarried and:

(a) Under the age of nineteen (19);
(b) A student;
   1. Under the age of twenty-five (25);
   2. Enrolled full-time at an accredited educational institution; and
   3. Chiefly dependent upon the enrollee for support; or
(c) A child of any age who is:
   1. Incapable of self-sustaining employment by reason of mental or physical disability; and
   2. Chiefly dependent upon the enrollee for support.

(3) An enrollee shall submit to the third-party administrator documentation of dependent eligibility:

(a) For eligibility pursuant to subsection (3)(b) of this section:
   1. Federal or state income tax records for the most recent twelve (12) month tax period; and
   2. Letter of verification of full-time student status.
(b) For eligibility pursuant to subsection (3)(c) of this section:
   1. Federal or state income tax records for the most recent twelve (12) month tax period; and
   2. Letter of determination of disability from the Social Security Administration.

(4) An enrollee shall submit documentation of dependent eligibility pursuant to subsection (4) of this section within 120 days after a child covered as a dependent of the enrollee reaches the age of nineteen (19).

(5) Proof may be requested that the disability creating eligibility pursuant to subsection (3)(c) of this section is continuing, but the request shall be no more than once per calendar year after the two (2) year period following enrollment of the dependent.

Section 4. Application Process. (1) An applicant for Kentucky Access:

(a) May select one (1) of the following types of coverage:
   1. Individual; or
   2. Family; and
(b) Shall submit to the third-party administrator:
   1. A completed:
      a. Application form HIPMC-KA-1 (06/01), incorporated by reference in this administrative regulation if the person is applying for Kentucky Access pursuant to Section 2 of this administrative regulation;
      b. Section III of application form HIPMC-KA-1 (06/01), incorporated by reference in this administrative regulation, if the person is applying for dependent coverage at the time of an initial application for coverage; or
      c. Application form HIPMC-KA-2 (06/01), incorporated by reference in this administrative regulation, if the person is applying for dependent coverage after the enrollee is enrolled in Kentucky Access.
   2. Premium payment for at least two (2) months or more, depending upon the premium payment option selected pursuant to Section 8(3) of this administrative regulation.
   3. Application processing shall be performed as follows:
      a. Upon the receipt of an application, the third-party administrator's mail room shall log the date of receipt of the application and process applications in order of their receipt.
      b. The third-party administrator shall review each application to determine if the application is complete.
      c. If an application for the third-party administrator shall determine within fifteen (15) business days of receipt of the application if applicant is eligible for Kentucky Access coverage.
      d. If an application is not complete, the third-party administrator shall:
         1. Pend the application; and
         2. Notify the applicant in writing that the application is incomplete.
   The written notification shall:
   a. Identify the missing information needed to complete the application; and
   b. Give the applicant thirty (30) days to provide the information.
   (e) If an applicant provides the information within thirty (30) days, the third-party administrator shall, within fifteen (15) business days of receipt of the information, determine if the applicant is eligible for Kentucky Access.
   (f) If an application fails to provide the information within thirty (30) days, the third-party administrator shall determine the applicant ineligible and send written notice of the determination of ineligibility, which shall include:
      1. The reason for ineligibility; and
      2. The right to appeal the determination in accordance with Section 5 of this administrative regulation.
   (3) A determination of ineligibility in accordance with subsection (2)(f) of this section shall not preclude the applicant from filing a new application for Kentucky Access.
   (4) Upon a determination of eligibility, the third-party administrator shall send to the applicant:
      a. An identification card; and
      b. A health benefit plan coverage document.
   (5) Upon a determination of ineligibility, the third-party administrator shall send to the applicant a letter of notification of the:
      a. Determination of ineligibility; and
      b. Right to appeal the determination in accordance with Section 5 of this administrative regulation.

Section 5. Appeal of Determination of Ineligibility. (1) An applicant may request a reconsideration of a determination of ineligibility by filing a written explanation of the basis for the request for reconsideration with the third-party administrator, within thirty (30) days of a determination of ineligibility.

(2) The third-party administrator shall render a decision within thirty (30) days of receipt of the request for reconsideration.

(3) An applicant may appeal the third-party administrator's adverse decision on reconsideration by filing a written request for an administrative hearing with the department within thirty (30) days of the adverse determination.

(4) The department shall schedule an administrative hearing upon an appeal to be held within sixty (60) days of receipt of the appeal. Notice of the hearing and conduct of the proceedings shall be in accordance with the requirements of KRS Chapter 13B.

Section 6. Effective Dates of Coverage. (1) Unless a future effective date is requested by an applicant, coverage for Kentucky Access shall be effective the first day of the month following the month of application in accordance with KRS 304.17B-019(5).

(2) If a determination of ineligibility is overturned on appeal pursu-
ant to Section 5 of this administrative regulation, coverage for Kentuck y Access shall be effective in accordance with subsection (1) of this section and this subsection.

(3) A dependent child added to a family plan under Kentucky Access shall have coverage effective:

(a) From moment of birth for a newborn child of an otherwise eligible Kentucky Access enrollee, in accordance with KRS 307.17-042;

(b) On the date of filing of a petition for adoption of a child, in accordance with KRS 304.17A-140;

(c) On the date of filing an application for appointment as a court-appointed custodial guardian of a minor child, in accordance with KRS 304.17A-140; and

(d) On the first day of the month following the month of application to add to Kentucky Access a dependent child not described in paragraphs (a), (b), or (c) of this subsection.

Section 7. Termination of Eligibility. (1) An enrollee who ceases to meet the eligibility requirements of Section 2 of this administrative regulation may be terminated at the end of the month in which written notice of termination is given by the third-party administrator; and

(2) Coverage under Kentucky Access shall cease when the first of the following circumstances occurs:

(a) On the date an enrollee gives written notice that he is no longer a resident of Kentucky;

(b) On the date an enrollee requests coverage to end;

(c) Upon the death of the enrollee;

(d) On the date the lifetime limit of KRS 304.17B-015(4)(d) is met.

Section 8. Premium Notice. (1) Premiums for Kentucky Access shall be billed by the third-party administrator by the first day of each month for the following month’s coverage.

(2) Premiums not received by the 14th day of the month in which the premium is billed shall result in termination of Kentucky Access coverage effective the first day of the month for which the premium is applicable, subject to the grace period contained in KRS 304.17-070.

(3) Premiums may be paid in advance by arrangement with the third-party administrator as follows:

(a) Monthly;

(b) Quarterly;

(c) Semiannually; or

(d) Annually.

(4) Premium amounts for any dependent added to Kentucky Access shall be prorated based on the effective date of coverage.

Section 9. Nonduplication of Benefits. (1) Pursuant to KRS 304.17B-019(6), Kentucky Access shall be the payer of last resort whenever any other benefit or source of third-party payment is payable. Benefits otherwise payable under Kentucky Access shall be reduced by all amounts paid or payable through:

(a) Other health insurance; or

(b) Hospitalization and medical expense benefits covered under:

1. Workers’ compensation coverage;

2. Automobile medical payment or liability insurance; or

3. Any state or federal law or program.

(2) Pursuant to KRS 304.17B-007(3), the department shall have a cause of action against an enrollee for the recovery of the amount of benefits paid by Kentucky Access that are not for covered expenses.

Section 10. Agent Referral Fee. (1) An agent referral fee of fifty dollars shall be paid to an agent who refers an applicant who is subsequently enrolled in Kentucky Access, pursuant to KRS 304.17B-007(13).

(2) Section IX of application form HIPMC-KA-1 (06/01) shall be completed designating the referring agent.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Application form HIPMC-KA-1 (06/01); and

(b) Application form HIPMC-KA-2 (06/01).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's Internet web site at www.doi.state.ky.us.
100 new individuals per month, the projected cost will be:
For year 2002 - 1.4 million dollars;
For year 2003 - 1.9 million dollars;
For year 2004 - 2.5 million dollars.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? The source of funding to be used for implementation and enforcement of this administrative regulation primarily includes premiums paid by Kentucky Access enrollees; funds designated for Kentucky Access in the Kentucky Health Care Improvement Fund; tobacco settlement receipts; and assessments from insurers and stop loss carriers.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The department does not anticipate that any increase in fees or funding will be necessary to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation applies to all insurers licensed to engage in health insurance activities in the state of Kentucky.

CABINET FOR PUBLIC PROTECTION AND REGULATION
Department of Insurance
Division of Health Insurance Policy and Managed Care
(Renewable Administrative Regulation)


RELATES TO: KRS 304.178-001 to 304.178-031
STATUTORY AUTHORITY: KRS 304.2-110(1), 304.178-031(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.178-031(1) requires that the department promulgate administrative regulations regarding Kentucky Access. This administrative regulation establishes health benefit plan requirements for Kentucky Access.

Section 1. Definitions. (1) "FFS" means a fee-for-service product type.
(2) "Kentucky Access" is defined in KRS 304.178-001(17).
(3) "PPO" means a preferred provider organization product type.
(4) "Rider" means an endorsement to a health benefit plan that modifies clauses and provisions of the health benefit plan, including or excluding coverage, in the manner set forth in the rider.
(5) "Standard health benefit plan" means the format, cost-sharing levels, definitions, benefits, exclusions, and supplemental benefit riders established in accordance with KRS 304.178-250 and any other health insurance benefit mandated by the General Assembly.

Section 2. Kentucky Access Health Benefit Plans. (1) Kentucky Access shall offer the following three (3) health benefit plans in accordance with KRS 304.178-019:
(a) Traditional access (FFS) plan;
(b) Premier access (PPO) plan; and
(c) Preferred access (PPO) plan.
(2) The traditional access (FFS) plan shall include the benefits, and be subject to the deductible and coinsurance amounts listed in HIPMC-KAP-1 (06/01), incorporated by reference in this administrative regulation.
(3) The premier access (PPO) plan shall include the benefits, and be subject to a choice of deductible and coinsurance amounts listed in HIPMC-KAP-2 (06/01), incorporated by reference in this administrative regulation.
(4) The preferred access (PPO) plan shall include the benefits, and be subject to the deductible and coinsurance amounts listed in HIPMC-KAP-3 (05/01), incorporated by reference in this administrative regulation.

Section 3. Kentucky Access Health Benefit Plan Riders. (1) Kentucky Access shall offer the following optional riders to the health benefit plans established in Section 2 of this administrative regulation:
(a) Pharmacy rider; and
(b) Mental health rider.
(2) The pharmacy rider shall include a copayment amount as listed in HIPMC-KAR-1 (12/00), incorporated by reference in this administrative regulation.
(3) The mental health rider shall include a coinsurance amount as listed in HIPMC-KAR-2 (12/00), incorporated by reference in this administrative regulation.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Traditional Access Plan Benefit Summary HIPMC-KAP-1 (05/01);
(b) Premier Access Plan Benefit Summary HIPMC-KAP-2 (06/01);
(c) Preferred Access Plan Benefit Summary HIPMC-KAP-3 (06/01);
(d) Pharmacy Rider Benefit Summary HIPMC-KAR-1 (12/00); and
(e) Mental Health Rider Benefit Summary HIPMC-KAR-2 (12/00).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the Department's internet website at www.doi.state.ky.us.

JANIE A. MILLER, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: June 13, 2001
FILED WITH LRC: June 14, 2001 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 2001, at 9 a.m. (ET) at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Charlotte K. Hummel, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Ph: (502) 564-6032, ext. 258, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charlotte K. Hummel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes benefit plans for Kentucky Access.
(b) The necessity of this administrative regulation: KRS 304.178-031(1) requires that the department promulgate administrative regulations concerning Kentucky Access. This administrative regulation establishes benefit plan requirements for Kentucky Access.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.178-031(1) requires that the department promulgate administrative regulations concerning Kentucky Access. This administrative regulation establishes benefit plan requirements for Kentucky Access.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes 3 benefit plans in accordance with KRS 304.178-019.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing
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(3) "Guaranteed Acceptance Program" or "GAP" is defined in KRS
304.17B-001(11).

(4) "Guaranteed Acceptance Program Electronic Report Format-
A" or HIPMC-GAPERF-A-1 means a three and five-tenths (3.5) inch
diskette in a Microsoft Excel spreadsheet format with written proce-
dural instructions for reporting annual data pertaining to insurer premi-
ums and GAP individuals.

(5) "Guaranteed Acceptance Program Electronic Report Format-
M" or HIPMC-GAPERF-M-1 means a three and five-tenths (3.5) inch
diskette in a Microsoft Excel spreadsheet format with written proce-
dural instructions for reporting monthly data pertaining to insurer pre-
miums and GAP individuals.

(6) "Guaranteed Acceptance Program participating insurer" is de-
fined in KRS 304.17B-001(12).

(7) "Health benefit plan" is defined in KRS 304.17A-005(17).

(8) "Insurer" is defined in KRS 304.17A-005(22).

(9) "Supporting Insurer" is defined in KRS 304.17B-001(27).

Section 2. GAP Participating Insurer's Monthly Report. A GAP
participating insurer shall submit a HIPMC-GAPERF-M-1 (04/01), in-
corporated by reference in this administrative regulation, to the de-
partment within thirty (30) calendar days after the end of each calen-
dar month.

Section 3. Supporting Insurer's and Stop-Loss Carrier's Quarterly
Reports. A supporting insurer and stop-loss carrier shall submit a
HIPMC-GAPQR-2 (04/01), incorporated by reference in this adminis-
trative regulation, to the department within thirty (30) calendar days
after the end of each calendar quarter.

Section 4. GAP Participating Insurer's Annual Reports. A GAP
participating insurer shall submit a HIPMC-GAPERF-A-1 (12/00), in-
corporated by reference in this administrative regulation, to the de-
partment within forty-five (45) calendar days after the end of each calen-
dar year.

Section 5. Certification. A GAP participating insurer shall complete
and attach a HIPMC-GAPC-1, incorporated by reference in this ad-
ministrative regulation, to the following reports, when submitted to the
department:

(1) HIPMC-GAPERF-M-1 (04/01); and

(2) HIPMC-GAPERF-A-1 (12/00).

Section 6. Annual Premium Verification. (1) After the end of a cal-
endar year, the department may request in writing that a supporting
insurer verify the amount of premiums reported by the insurer for that
calendar year.

(2) If a premium verification is requested pursuant to subsection
(1) of this section, a supporting insurer shall submit the following
documentation:

(a) Confirmation that the reported health benefit plan or stop-
loss premium amounts are correct or
2. Corrections of reported health benefit plan or stop-loss premium
amounts; and

(b) A HIPMC-GAPAFF-1 (06/01), incorporated by reference into
this administrative regulation.

Section 7. Material Incorporated by Reference. (1) The following
material is incorporated by reference:

(a) Guaranteed Acceptance Program Affidavit, HIPMC-GAPAFF-1
(06/01);

(b) Guaranteed Acceptance Program (GAP) Data Certification
Form, HIPMC-GAPC-1 (12/03);

(c) Guaranteed Acceptance Program Electronic Report Format -
Annual for GAP Participating Insurers, HIPMC-GAPERF-A-1 (12/00);

(d) Guaranteed Acceptance Program Electronic Report Format -
Monthly for GAP Participating Insurers, HIPMC-GAPERF-M-1 (04/01);

(e) Supporting Insurer's and Stop-Loss Carrier's Quarterly Report,
HIPMC-GAPQR-2 (04/01).

(2) This material may be inspected, copied, or obtained, subject to
applicable copyright law, at the Kentucky Department of Insurance,
215 West Main Street, Frankfort, Kentucky 40601, Monday through
Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the de-
VOLUME 28, NUMBER 1 – JULY 1, 2001

JANIE A. MILLER, Commissioner
RONALD B. MCCLoud, Secretary
APPROVED BY AGENCY: June 13, 2001
FILED WITH LRC: June 14, 2001 at 2 p.m.
PUBLIc HEARING: A public hearing on this administrative regulation shall be held on July 25, 2001, at 11 a.m. (ET) at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucy 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by July 18, 2001, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. No testimony in writing will be accepted unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Charlette K. Hummel, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, PH: (502) 564-6032, ext. 293, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charlette Hummel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation prescribes the form and the time schedule for submitting reports to the department for each calendar year.
(b) The necessity of this administrative regulation: KRS 304.2-110(1) provides that the commissioner may promulgate administrative regulations necessary or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the department for each calendar year.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110(1) provides that the commissioner may promulgate administrative regulations necessary or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the department for each calendar year.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: KRS 304.2-110(1) provides that the commissioner may promulgate administrative regulations necessary or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program. This administrative regulation prescribes the form and the time schedule for submitting reports to the department for each calendar year.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.
(d) How the amendment will assist in the effective administration of the statute: Not applicable.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect 2 GAP participating insurers, and 150 supporting insurers in the state of Kentucky.
(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This new administrative regulation requires Guaranteed Acceptance Program (GAP) participating and supporting insurers to report specific information regarding its GAP participating insureds, information about GAP participating insurers, and information about supporting insurers.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The cost will be absorbed into the department's existing budget.
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The department does not anticipate that any increase in fees or funding will be necessary to implement and enforce this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No
(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation applies to all insurers issuing health insurance benefit plans in the state of Kentucky.

PUBLIC PROTECTION AND REGULATION CABINET
Public Service Commission
(New Administrative Regulation)

807 KAR 5:080. Procedural and filing requirements and safeguards concerning nonregulated activities of utilities or utility affiliates.

RELATES TO: KRS 278.2201, 278.2203, 278.2205, 278.2213
STATUTORY AUTHORITY: KRS 278.040(3), 278.2203, 278.2205, 278.2207, 278.2213, 278.230, 278.230
NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) provides that the commission may promulgate reasonable administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.2207(1) authorizes the commission to establish proper practices to be observed in regard to a utility's practices and services. KRS 278.2201 prohibits a utility governed by KRS 278.2201 through 278.2219 from subsidizing nonregulated activities performed by the utility or an affiliate and authorizes the commission to promulgate administrative regulations to implement this section. KRS 278.2207(3) requires a utility governed by KRS 278.2201 through 278.2219 to file with the commission a statement that its cost allocation manual has been prepared and adopted, together with the manual. KRS 278.2205(4) requires a utility governed by KRS 278.2201 through 278.2219 to amend its cost allocation manual to reflect any material changes. KRS 278.230 requires a utility to file with the commission any reports, schedules, classifications or other information that the commission reasonably requires. KRS 278.2207 prescribes requirements for transactions between a utility governed by KRS 278.2201 through 278.2219 and its affiliate, and provides for deviations from those requirements. KRS 278.2213(13) requires the commission to establish specifications for a disclaimer to be used by an affiliate using the name, trademark, brand or logo of a utility governed by KRS 278.2201 through 278.2219 and requires commission approval prior to the use of any disclaimer. KRS 278.2213(15) requires a utility governed by KRS 278.2201 through 278.2219 to inform the commission of any new nonregulated activity within the time specified by the commission. KRS 278.2213(17) authorizes the commission to require a utility to file annual reports relating to its transactions with affiliates. KRS 278.2219 authorizes the commission to grant a deviation from a provision of KRS 278.2201 through 278.2213. This administrative regulation prescribes procedures, filing requirements, and safeguards relating to nonregulated activities of a utility or a utility affiliate.

Section 1. Definitions. For purposes of this regulation, "affected utility" means a utility that is not exempted by KRS 278.2215 from a requirement of KRS 278.2201 through 278.2219.

Section 2. Annual Reports Relating to a Nonregulated Activity of an Affected Utility or its Affiliate. (1) An affected utility shall file with the
commission, by March 31 of each calendar year, a report describing each nonregulated activity of itself or an affiliate. The report shall include:

(a) A description of each change in the affected utility's cost allocation manual during the preceding calendar year that has not been previously reported;
(b) A report on any incidental nonregulated activity that describes the activity and provides justification for reporting the nonregulated activity as an incidental nonregulated activity, including:
   1. Revenue per year or percentage of total revenue per year of the activity reported as an incidental nonregulated activity;
   2. A calculation demonstrating the manner in which the affected utility has determined the percentage of revenue set forth in subparagraph 1 of this paragraph;
   3. A full explanation as to why the activity reported as an incidental nonregulated activity is reasonably related to the affected utility's regulated services; and
   4. A list of all nonregulated affiliates and the activities in which each affiliate is involved.

(2) A copy of each service agreement existing on the effective date of KRS 278.2201 through 278.2219 and remaining in effect shall be filed as an attachment to the annual report required by this subsection.

Section 3. Filing of the Cost Allocation Manual and Amendments. (1) An affected utility shall file a copy of a new cost allocation manual or a new amendment to its cost allocation manual within:

(a) Sixty (60) days of a material change in matters required to be included in the cost allocation manual; or
(b) Ninety (90) days of engaging in a new nonregulated activity that is not classified as an incidental nonregulated activity pursuant to KRS 278.2203(4).

(2) If an affected utility files a new cost allocation manual or an amendment to a cost allocation manual, it shall include with its filing a cover letter containing a brief description of the activity or material change in circumstance that necessitates the filing of the cost allocation manual or amendment.

An affected utility filing under this section shall include in its filing all documents and information required by 807 KAR 5:001, Section 8, except that only one (1) copy of the cost allocation manual shall be filed.

Section 4. Notice of Establishment of New Nonregulated Activity. (1) Within ten (10) days of establishing a new nonregulated activity, an affected utility shall file with the commission a written notice that:

(a) Briefly describes the new nonregulated activity; and
(b) States whether the new nonregulated activity is proposed to be classified as an incidental nonregulated activity.

(2) If a new nonregulated activity is proposed to be classified as an incidental nonregulated activity, an affected utility shall include in the notice required by subsection (1) of this section the information required by Section 2 (1)(b) of this administrative regulation.

Section 5. Petition for Deviation. (1) To request a deviation pursuant to KRS 278.2219, an affected utility shall file with the commission the following documents and information:

(a) All documents and information required by 807 KAR 5:001, Section 8;
(b) An original and five (5) copies of the petition;
(c) All documents and information required by KRS 278.2219;
(d) A full description of the reasons that compliance with the requirements from which deviation is sought is impractical or unreasonable.

(2) To request a deviation from KRS 278.2207, an affected utility shall file with the commission the following documents and information:

(a) All documents and information required by 807 KAR 5:001, Section 8;
(b) An original and five (5) copies of the petition;
(c) All documents and information required by KRS 278.2219;
(d) The proposed price of services or products proposed by the affected utility or nonregulated affiliate;
(e) A detailed calculation demonstrating the manner in which the affected utility or nonregulated affiliate has determined the proposed price of services or products;
(f) An explanation of the reasons the affected utility believes that the proposed price of services and products is in the public interest; and
(g) A statement demonstrating good cause for the requested deviation.

Section 6. Disclaimer to be Employed When an Affiliate of an Affected Utility Uses the Utility's Name, Trademark, Brand, or Logo. The disclaimer used by an affiliate of an affected utility shall comply with the following requirements:

(1) The disclaimer shall state that "(affiliate's name) is not the same company as (utility's name). (Affiliate's name) is not regulated by the Kentucky Public Service Commission. You do not have to buy (the affiliate's) (products or services, as applicable) in order to continue to receive quality regulated services from the utility."

(2) If an affiliate of an affected utility uses the utility's name, trademark, brand, or logo in a print format, the disclaimer shall appear in capital letters on the first page or at the first point where the utility's name, trademark, logo or brand appears;

(3) If an affiliate of an affected utility uses the utility's name, trademark, brand, or logo in a televised format, the disclaimer shall appear at the first point at which the utility's name, trademark, logo, or brand appears; and

(4) If an affiliate of an affected utility uses the utility's name in an audio format, the disclaimer shall be spoken at the close of the advertisement.

MARTIN J. HUELMANN, Chairman
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: May 9, 2001
FILED WITH LRC: May 17, 2001 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, July 24, 2001, at 9 a.m. at the Public Service Commission's office, 211 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by July 17, 2001, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Stewart Douglas Hendrix, Staff Attorney, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602, Tel: (502) 564-3940, Fax: (502) 564-7279.

REGULATORY IMPACT ANALYSIS

Contact Person: Stewart Douglas Hendrix, Staff Attorney

(a) What this administrative regulation does: The proposed regulation prescribes filing requirements for manuals and other documents related to the activities of nonregulated affiliate organizations and the utilities affected by KRS 278.2201-2219 and when the utility must amend the manuals or documents. The proposed regulation prescribes the specifications under which a nonregulated affiliate may use a utility's trademark, brand or logo and the disclaimer that must accompany each use of that trademark, brand, or logo. It requires affected utilities to describe the nonregulated affiliate's activities. Affected utilities must prepare a manual to allocate the costs of the nonregulated affiliate. KRS 278.2203 allows utilities to report the affiliate's activities as regulated if the revenue from the affiliate falls within certain guidelines. The regulation requires each affected utility to set forth in a report how it determined it could report the affiliate's activities as regulated. The proposed regulation also sets forth the procedure for requesting a deviation from the proposed regulation itself and the applicable statutes.

(b) The necessity of this administrative regulation: House Bill 897, which enacted KRS 278.2201-2219 effective July 14, 2000, prohibits utilities from subsidizing nonregulated affiliates. These statutes also
set forth requirements regarding cost allocation and the use of utility trademarks, brands or logos. In addition, these statutes prescribe the guidelines for sharing of certain customer information. KRS 278.2201 specifically authorizes the Public Service Commission to promulgate regulations regarding these statutes. This proposed regulation will assist the Public Service Commission in enforcing the statutes, and is necessary to the Public Service Commission’s authority to regulate utilities and enforce KRS Chapter 278.

(c) How this administrative regulation conforms to the content of the authorizing statutes: House Bill 897, which enacted KRS 278.2201-2219, KRS 278.2201 provides that a utility may not subsidize a nonregulated affiliate. KRS 278.2213 allows the affiliate to rely upon the utility’s name, brand, logo or trademark only when coupled with a disclaimer advising consumers that the affiliate is a separate corporate entity and not the utility. KRS 278.2213 requires a utility to inform the commission of any new activities the utility or its affiliate will undertake and authorizes the commission to require utilities to file annual reports regarding affiliate transactions. KRS 278.2203 allows utilities to use current cost allocation methods set forth in service agreements or state and local governments affected by this administrative regulation. KRS 278.2215 specifies exemptions, liberalization of utilities, telecommunications services, nonprofit water or sewer utilities and water districts from KRS 278.2201-2219. This statute also exempts rural electric and rural telephone cooperatives from KRS 278.2213 only. Therefore, according to the commission’s records, 140 utilities must comply with KRS 278.2201-2219. Following is the number of exemptions of each utility: investor-owned electric - 3; gas distribution utilities - 34; private water utilities - 15; sewer utilities - 82; investor-owned gas and electric - 2; private water and sewer utilities - 4. There are 22 rural electric cooperatives and 10 rural telephone cooperatives which must comply with KRS 278.2201-2219 (excluding KRS 278.2213). This regulation will not affect any other individual, business or organization. KRS 278.2201-2219 does not apply to state or local governments.

(3) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The utilities that must comply with this regulation will incur additional costs for preparing, maintaining and filing manuals and other documents. The utilities must maintain separate accounts of the costs and revenues of nonregulated utilities. Affected utilities must also prevent the use of its trademarks, brands or logos by nonregulated affiliates without the accompanying disclaimer.

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

(a) Initially: Implementation of the proposed amendment will not involve additional costs.
(b) On a continuing basis: No additional costs are expected.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is required.
(d) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No

(8) TIERING: Is tiering applied? Tiering is not used in this proposed regulation. All affected utilities must comply with KRS 236.2201-2219 (with the exception for rural and telephone cooperatives) regardless of the affected utility’s size, business, geographic location or other defining attribute. The statute prohibits the subsidization of nonregulated affiliates by all utilities.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(New Administrative Regulation)


RELATES TO: KRS 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.990

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) requires the Kentucky Board of Housing, Buildings and Construction to adopt and promulgate a mandatory uniform statewide building code, based on the model code which establishes standards for construction of buildings in the state. This administrative regulation adopts the International Residential Code for One- and Two-Family Dwellings, 2000, First Edition, Chapters 1 through 42 with modifications, to establish the basic mandatory uniform statewide code provisions relating to construction of one (1) and two (2) family dwellings and townhouses.

Section 1. Definitions. (1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.
(2) "Building" is defined by KRS 198B.010(4).
(3) "Commissioner" is defined by KRS 198B.010(6).
(4) "Department" is defined by KRS 198B.010(11).
(5) "Roll" means property having a bona fide agricultural or horticultural use as defined by KRS 132.010(9) and (10) which is qualified by and registered with the property valuation administrator in the county in which the property is located.
(6) "KBC" means the Kentucky Building Code as established in 815 KAR Chapter 7:120.
(7) "KRS" means the Kentucky Revised Statutes.
(8) "Manufactured home" is defined by KRS 198B.010(23) and 220B.005.
(9) "Modular home" means an industrialized building system, which is designed to be used as a residence and which is not a manufactured or mobile home.
(10) "Ordinary repair" is defined by KRS 198B.010(19).
(11) "Single-family" or "one (1) family dwelling" means a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which shall not be connected to any other unit or building.
(12) "Townhouse" means a single-family dwelling unit constructed in a group of three (3) or more attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two (2) sides.
(13) "Two (2) family dwelling" means as building containing not more than two (2) family dwelling units which are connected.

(1) A single-family dwelling, two (2) family dwelling or townhouse shall not be constructed unless it is in compliance with the International Residential Code, 2000 as amended by this administrative regulation and the Kentucky Residential Code Supplement which is incorporated by reference in Section 3 of this administrative regulation.
(2) Exceptions:
(a) Permits, inspections and certificates of occupancy shall not be
required for a single-family dwelling unless required by a local ordinance.

(b) All residential occupancies which are not single, two-family or townhouses, as defined by this administrative regulation, shall comply with the Kentucky Building Code, 2002 as set forth in KAR 7:120.

(3) The International Residential Code shall be amended as set forth in the Kentucky Residential Code Supplement, June 14, 2001, incorporated by reference in Section 3 of this administrative regulation.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "International Residential Code/2000", First Edition, as adopted by the Kentucky Board of Housing, Buildings and Construction, is incorporated by reference except as amended by the Kentucky Residential Code Supplement, also incorporated; and


(3) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JUDITH G. WALDEN, Office of General Counsel
DENNIS J. LANGFORD, Commissioner
RONALD MCCLOUD, Secretary
APPROVED BY AGENCY: June 14, 2001
FILED WITH LRC: June 15, 2001 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, July 24, 2001, at 10 a.m. EDT, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by July 17, 2001, (five workdays prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

Contact person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Phone: (502) 564-8044, Fax: (502) 564-3833.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Judith G. Walden

(1) Provide a brief summary of:

(a) What this administrative regulation does. This administrative regulation establishes the building construction requirements for 1 and 2 family dwellings and townhouses.

(b) The necessity of this administrative regulation: The current building code is being upgraded, and in doing so, the International codes separate the construction requirements for single-family dwellings and other buildings into 2 documents.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This is the portion of the uniform mandatory statewide building code for single-family dwellings as authorized by KRS Chapter 198B.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation contains all the enforcement requirements and technical standards for small residential construction.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Home builders and purchasers as well as local governments, but only if they elect to have a building inspection program for single-family dwellings are affected.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change it it is an amendment: The new residential code is more comprehensive and understandable than the current code.

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

(a) Initially: This administrative regulation will be implemented at the option of local government.

(b) On a continuing basis:

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees for plan review and inspection.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Fees must be established by local governments if they choose to have an enforcement program.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish fees.

(9) TIERING: Is tiering applied? No, this administrative regulation applies equally to all homes, townhouses, duplexes, except manufactured homes and farm homes.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect a part of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will affect local government where there is a local building inspection program and ordinance extended to cover single-family dwellings. KRS 199B.050 requires local government to provide for building officials to enforce the uniform mandatory statewide building code on certain statutorily defined buildings; but enforcement in terms of inspections, permits and certificates of occupancy on single-family homes of the Residential Code is a local option.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There is no increased fiscal impact created by this administrative regulation, nor does it increase the number of persons needed by local government. State revenues are neither increased nor decreased by this administrative regulation.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(New Administrative Regulation)


RELATES TO: KRS 205.560, 620.020(4)
STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1),

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VOLUME 28, NUMBER 1 – JULY 1, 2001

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. The administrative regulation establishes the provider requirements and the reimbursement by the Medicaid program for services provided by a specialized children's services clinic.

Section 1. Definitions. (1) "Affiliation agreement" means a written agreement between a provider and a children's advocacy center to perform a child sexual abuse medical examination.

(2) "Child sexual abuse medical examination" means an examination to determine child sexual abuse that includes:
(a) A medical history taken from the child and a nonimplicated parent, guardian or primary caretaker;
(b) A physical examination with detailed attention to the anogenital area;
(c) If clinically indicated, a colposcopic examination; and
(d) A mental health screening, provided on the same day and at the same location as the physical examination, to determine the impact of the alleged abuse on the mental health status of the child and the need for mental health services.

(3) "Children's advocacy center" is defined in KRS 620.020(4).

(4) "Department" means the Department for Medicaid Services or its designated agent.

(5) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(6) "Mental health professional" means:
(a) A psychologist as defined in KRS 319.010(5);
(b) A licensed clinical social worker as defined in KRS 335.100;
(c) An advanced registered nurse practitioner as defined in KRS 314.011(7);
(d) A licensed marriage and family therapist as defined in KRS 335.030(2);
(e) A certified professional counselor as defined in KRS 335.500(2); or
(f) A certified professional art therapist as defined in KRS 309.130(2).

(7) "Specialized children's services clinic" means a clinic enrolled with the Kentucky Medicaid Program that provides child sexual abuse medical examinations and that meets the requirements of Section 3 of this administrative regulation.

(8) "Usual and customary charge" means the amount a provider bills to the general public.

Section 2. Covered Services. (1) A child sexual abuse medical examination provided as a clinic service by a specialized children's services clinic shall be covered if medically necessary and provided to a recipient who is under the age of eighteen (18) years.

(2) A child sexual abuse medical examination shall be performed by:
(a) A licensed physician who:
1. Completes the medical history and physical examination;
2. Is employed by, under contract, or has an affiliation agreement with a specialized children's services clinic;
3. Has received specialized training approved by the department in the medical examination of sexually-abused children;
4. Has received specialized training approved by the department in the use of a colposcope and has access to a colposcope in the specialized children's services clinic; and
5. Shall make reports resulting from child sexual abuse medical examinations available for peer review and maintain confidentiality in accordance with Section 6 of this administrative regulation; and
(b) A mental health professional who:
1. Performs a mental health screening to determine the mental health status of the child and the need for further mental health services;
2. Is directly supervised by the physician who performs the medical examination;
3. Is employed by, under contract, or has an affiliation agreement with a specialized children's services clinic; and
4. Has received specialized training approved by the department in the mental health screening and assessment of sexually-abused children.

Section 3. Provider Requirements. (1) A provider shall be enrolled with the department as a specialized children's services clinic.

(2) A specialized children's services clinic shall be a children's advocacy center whose providers are employed, under contract, or have a signed affiliation agreement with the clinic.

Section 4. Billing for Services. (1) A child sexual abuse medical examination shall be billed by a specialized children's services clinic as a comprehensive clinic service which shall include:
(a) The services of the physician;
(b) Mental health screening services provided by a mental health professional;
(c) Services and supplies furnished as an incidental part of the physician's professional services in the course of diagnosis and treatment; and
(d) Medical services provided by other clinic employees under the direct supervision of the physician.

(2) Services provided by a physician or mental health professional employed, under contract, or having a signed affiliation agreement with a specialized children's services clinic shall be billed under the clinic's provider number using a single reimbursement code designated by the department.

Section 5. Reimbursement. (1) The department shall establish a statewide reimbursement rate based on a review of cost data and a consideration of rates paid to providers for similar services.

(2) The initial rate of reimbursement for a child sexual abuse medical examination shall be the lesser of:
(a) An all-inclusive statewide rate of $338 per examination; or
(b) The provider's usual and customary charge for the service.

(3) The department shall determine the statewide rate using updated cost data submitted on an annual cost report from the center.

Section 6. Medical Records and Confidentiality. (1) Except to the department, duly authorized representatives of federal or state agencies, multisdisciplinary team members acting pursuant to KRS 620.050 or a physician participating in a peer review of a specific child sexual abuse case, a specialized children's services clinic shall not disclose any information concerning an eligible recipient without:
(a) Written consent of:
1. The recipient; or
2. If the recipient is a minor, the recipient's parent, legal guardian, or attorney; or
(b) A subpoena from a court of appropriate jurisdiction.

(2) A specialized children's services clinic shall:
(a) Maintain a recipient's medical records in accordance with 907 KAR 1:572;
(b) Maintain up-to-date recipient medical records at the site where the medical services are provided;
(c) Ensure that a recipient's medical record shall be readily retrievable, complete, organized, and legible and shall reflect sound medical recordkeeping practices; and
(d) Safeguard medical records against loss, destruction, and unauthorized use.

Section 7. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid recipient shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:571.

ELLEN M. HESSEN, Interim Commissioner
MARICA R. MORGAN, Interim Secretary
APPROVED BY AGENCY: June 8, 2001

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FILED WITH LRC: June 8, 2001 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 2001 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 16, 2001, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, (502) 564-7505, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Sharon Rodriguez

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the provider requirements and reimbursement by the Medicaid Program for services provided by a specialized children’s services clinic.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to allow the Department for Medicaid Services to establish a method for determining provider requirements and reimbursement for services provided by a specialized children’s services clinic.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides a method for the Department for Medicaid Services to establish requirements and payments for services provided by a specialized children’s services clinic as directed by 2000 Kys. Acts ch. 549, Part IX, 2, h.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the guidelines for operating the program as directed by 2000 Kys. Acts ch. 549, Part IX, 2, h.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation, not an amendment.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation, not an amendment.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation, not an amendment.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation, not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All Medicaid recipients under the age of 18 and all providers who are employed, under contract or have a signed affiliation agreement with a specialized children’s services clinic.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Child victims of alleged sexual abuse will have accessibility to physicians and mental health professionals trained in child sexual abuse exams through specialized children’s services clinics.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: This administrative regulation will be revenue neutral and will have no impact on the budget.
(b) On a continuing basis: This administrative regulation will be revenue neutral and will have no impact on the budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and Title XXI and matching funds of general fund appropriations from the Justice Cabinet, Medical Examiners Office, via a Memorandum of Agreement (M-00333283). Federal funds of $301,022 (69.94%) and state matching funds of $129,378 (30.06%) are estimated to be expended in FY 2002.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.
The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 12, 2001 at 10:00 a.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the May 8, 2001 meeting were approved.

Present were:
Members: Representative John Arnold, Chairman; Senators Joey Pendleton, Richard "Dick" Roeding, and Marshall Long; Representatives Woody Allen, and James Bruce.

LRC Staff: Dave Nicholas, Donna Little, Edna Lowery, Karen Smith, Susan Wunderlich, Donna Valencia, Ellen Steinberg, Biff Baker.

Guests: John R. Steffen, Kimberly D. Williams, Andrew Griffin, Kentucky Telehealth Board; Mary SueTiehn, State Board of Elections; Christy Bradford, Scott C. Sutherland, Office of the Attorney General; Angela Robinson, Beth Jurek, Finance and Administration Cabinet; Bill Schmidt, Lloyd Vest, Board of Medical Licensure; LaDawn L. Nix, Clay L. Moore, Board of Respiratory Care; Scott Porter, Ellen Banzing, Tom Bence, Division for Fish and Wildlife Resources; Barbara Foster, Natural Resources and Environmental Protection Cabinet; Larry Lour, Leah W. MacSwords, Steven Kuhl, Division of Forestry; Barbara Jones, Karon Quinn, Justice Cabinet; David W. Jones, Tracey S. Corey, Kentucky State Medical Examiner's Office; Brenda Pratsley, Jack Damon, Department of Corrections; Allison Weber, Education Professional Standards Board; Bob McWilliam, Tony DeNante, Division of Unemployment Insurance; Brian K. Staples, Suetta Dickinson, Department of Insurance; Randy Smith, Kentucky Racing Commission; Judith G. Walden, Department of Housing, Buildings and Construction; Sandra Davis, Alex Reese, Edward A. Wilson, Floyd Parrish, Cabinet for Health Services; Rosanne Barkley, Sharon L. Chisley, Joyce Lea, Shirley Eldridge, Lance Kemp, Cabinet for Families and Children; Rommy Pryor, Wade Helm, Kentucky Conservation Committee, Dan Walton, KADA - KMHI.

The following administrative regulation was declared void by the Franklin Circuit Court (Civil Action No. 00-CI-00706) on May 25, 2001.

Natural Resources And Environmental Protection Cabinet: Department for Environmental Protection: Division of Water: Water Quality
401 KAR 5:074E. KPDES permit conditions for beef, dairy, poultry, and swine concentrated animal feeding operations.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Governor's Office: Telehealth Board
10 KAR 3:020 & E. Establishing and funding telehealth network training centers. John Steffen, Attorney, Dr. Kimberly Williams, Chair, and Andrew Grinn, Technical Advisor, represented the Board.

In response to questions by Senator Roeding, Dr. Williams stated that the training centers would be located at the University of Kentucky, University of Louisville, as well as two sites located by the Board in eastern and western Kentucky. The Board selected Trover at Madisonville and St. Clair Medical Center at Morehead as the other two training centers. The network was established to provide a statewide distribution to telehealth. Northern Kentucky would be included in the statewide distribution. The Board's goal was to provide equal distribution of the rural sites across the state.

Mr. Steffen stated that the statute required the location of the training centers at the two universities and one each in eastern and western Kentucky. The Board was not authorized to change the locations of the training centers absent statutory changes. Some of the areas in Northern Kentucky throughout the state would qualify as a rural site under the requirements established in statute and 10 KAR 3:030.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Section 1 was amended to comply with the drafting requirements of KRS 13A.224(4)(b).

10 KAR 3:030 & E. Establishing and funding telehealth network rural sites. This administrative regulation was amended as follows: (1) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A; and (2) Section 2(1)(c) was amended to specify that a rural site shall comply with federal and state laws and regulations relating to healthcare facilities.

State Board Of Election: Forms and Procedure
31 KAR 4:070. Recanvass procedures. Mary Sue Helm, Acting Director, and Christina Bradford, Assistant Attorney General, represented the Board.

In response to questions by Senator Roeding, Ms. Helm stated that this administrative regulation established the procedure for conducting a recanvass. Counties that printed paper ballots and did not use a central tabulating system would retabulate those ballots and absentee ballots if there was a recanvass. Legislation regarding voter intent would most likely be introduced during the 2002 Regular Session of the General Assembly.

In response to a question by Chairman Arnold, Ms. Helm stated that the Board had not approved any voting system in Kentucky that used chads or punch cards.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections through 5 were amended to comply with the drafting and format requirements of KRS Chapter 13A; and (2) a new Section 6 was created to incorporate by reference required material, as required by KRS 13A.2251.

Office Of The Attorney General: Division of Consumer Protection
40 KAR 2:270. Professional solicitor registration statement forms. Scott Sutherland, Assistant Attorney General, represented the Division.

In response to questions by Senator Roeding, Mr. Sutherland stated that the Division submitted a revised Regulatory Impact Analysis which included an estimated cost for implementation of this administrative regulation of $500 per year, which was the cost for printing the forms based on the current number of registered solicitors and consultants. The Kentucky State Police charged $10 for a criminal background record check. This administrative regulation incorporated by reference forms that all solicitors were required to submit. The applicable statutes could be amended by the General Assembly to provide different classes of solicitors, but currently solicitors were an individual, partnership, or corporation.

This administrative regulation was amended as follows: (1) the TITLE was amended to add the names of the forms; (2) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (4) Section 1 was amended to: (a) delete provisions that repeated the statute, as prohibited by KRS 13A.120(2)(e) and (i); and (b) consolidate all forms required to implement KRS 367.682 into one administrative regulation.

Finance And Administration Cabinet: Statewide Accounts
200 KAR 24:020 & E. Allocation of driving under the influence service fees. Angela Robinson, Assistant General Counsel, and Beth Juricek Office of the State Budget Director, represented the Cabinet.

In response to a question by Senator Roeding, Ms. Robinson stated that the funds would be distributed to the counties based on the number of drunk driving convictions in each county.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNC-
TION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Section 3, which established provisions applicable prior to the promulgation of this administrative regulation, was deleted to comply with KRS 10A.222(4)(a).

Board of Respiratory Care
201 KAR 29:010. Activities under limited mandatory certification. LaDawn Neary, Acting Executive Director, and Christina Bradford, Assistant Attorney General, represented the Board.

This administrative regulation was amended as follows: (1) Section 2 was amended to require: (a) enrollment in an accredited program as defined by KRS 314A.010(5); and (b) application on the appropriate form; (2) a new Section 2 was created to require application for temporary certification upon completion of the accredited program; and (3) a new Section 5 was created to incorporate by reference required material.

201 KAR 29:020. Code of ethics; unprofessional conduct. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1, 2, and 3 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

201 KAR 29:030. Complaint processing procedures. This administrative regulation was amended as follows: Sections 4 and 6 were amended to: (1) cross-reference the applicable statute, KRS 13B.050, relating to hearing notices; (2) delete provisions that repeated KRS 13B.050, as required by KRS 13A.220(2)(e) and (f); and (3) comply with the drafting and format requirements of KRS Chapter 13A.

201 KAR 29:050. Continuing education requirements. In response to questions by Senator Roeding, Ms. Neary stated that the Board approved providers of the continuing education programs but did not conduct the programs itself. Continuing education programs were available on-line, in hospital-settings, at conferences, or through home-study programs.

This administrative regulation was amended as follows: (1) Sections 1, 3, 4, and 5 were amended to comply with the drafting and format requirements of KRS Chapter 13A; (2) Section 2 was amended to require use of the specified form; and (3) a new Section 9 was created to incorporate by reference the required material.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game
301 KAR 2:049. Small game and fur bearer hunting on public hearings. Tom Bennett, Commissioner, Roy Grimes, and Scott Porter, Assistant Attorney General, represented the Department.

This administrative regulation was amended as follows: Section 3 was amended to comply with the drafting requirements of KRS Chapter 13A.

301 KAR 2:132 & E. Elk depredation permits and quota hunts. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Section 3 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

301 KAR 2:178. State park deer hunts. This administrative regulation was amended as follows: Sections 1 and 3 were amended to comply with the drafting requirements of KRS Chapter 13A.

301 KAR 2:222 & E. Waterfowl hunting requirements. This administrative regulation was amended as follows: Sections 1, 3, 4, 5, and 6 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

Hunting and Fishing
301 KAR 3:010. Public use of wildlife management areas. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Sections 1, 2, and 5 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

Natural Resources And Environmental Protection Cabinet: Department for Natural Resources: Division of Forestry
402 KAR 3:030. Best management practices for timber harvesting operations. Leah MacSwords, Deputy Commissioner, and Larry Lour, Division of Forestry, represented the Department.

In response to questions by Senator Roeding, Ms. MacSwords stated that the previous administrative regulation incorporated by reference the Agriculture Water Quality Best Management Practices Plan for Silviculture. Because the Agriculture Water Authority amended the plan to clarify provisions, the Department had amended this administrative regulation and the material incorporated by reference to comply with the clarification changes. The best management practices in silviculture were the same for loggers and operators as for agricultural operations. Kentucky farmers worked with local conservation districts and the Division of Conservation to obtain information about agricultural operations.

In response to questions by Representative Allen, Ms. MacSwords stated that a landowner who wanted to cut timber on his own property for his own use was exempt from the requirements of this administrative regulation. "The administrative regulation governed commercial timber harvesting operations, loggers and operators, and required use of the appropriate best management practices. KRS Chapter 149 exempted an individual landowner who harvested timber on his own property himself and defined commercial timber harvesting operations. If a logger went bankrupt, the landowner would be held responsible for environmental damage under the environmental protection statutes in KRS Chapter 224, not under KRS Chapter 149.

In response to a question by Chairman Arnold, Ms. MacSwords stated that KRS Chapter 149 did not require loggers or operators to be bonded.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

Justice Cabinet: Office of the Medical Examiner
501 KAR 12:010. Duplicate records; request fee schedule. Barbara Jones, General Counsel, Karen Quinn, Deputy General Counsel, and Dr. Tracey Corey, Chief Medical Examiner, represented the Office.

In response to questions by Senator Roeding, Ms. Jones stated that the public defender's office was authorized to request records from the Commonwealth's Attorney under the Rules of Criminal Procedure. The Justice Cabinet Office of the Medical Examiner, was authorized by a statute to promulgate an administrative regulation to establish a fee to recover the actual costs of reproducing the documents or photographs. This administrative regulation did not require permissions to travel to Frankfort or Louisville to request a copy of the form; rather, it required persons to mail the form and required fees to their office. Once the form and fee were received, the office would mail the requested documentation or photographs to the requesting person.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Sections 1, 2, and 4 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

Department of Corrections: Office of the Secretary
501 KAR 6:999. Corrections; secured policies and procedures. Pursuant to KRS 61.615(2) and KRS 61.810(1)(k) and (k), and KRS 197.025(6), the Subcommittee went into closed session to review this administrative regulation.

Workforce Development Cabinet: Department for Employment Services: Unemployment Insurance
787 KAR 1:230 & E. Due dates. Tony DeName, Director, and Bob McWilliams, Assistant Director, represented the Department.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 through 3 were amended to comply

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with the drafting and format requirements of KRS Chapter 13A.

Department of Insurance: Agents, Consultants, Solicitors and Adjusters
806 KAR 9:310. Viatical settlement broker license. Suetta Dickinson, Commissioner's Office, and Brian Staples, Director of the Life Division, represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 were amended to comply with the drafting and format requirements of KRS Chapter 13A; and (3) Sections 2 and 3 were amended to specify the name of the required forms.

806 KAR 9:320. Viatical settlement provider license. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 were amended to comply with the drafting and format requirements of KRS Chapter 13A; and (3) Sections 2 and 3 were amended to specify the name of the required forms.

806 KAR 9:330. Termination or revocation of viatical settlement broker and viatical settlement provider licenses. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the drafting and format requirements of KRS Chapter 13A; and (2) Section 2 was amended to clearly establish the due process requirements.

Life Insurance and Annuity Contracts
806 KAR 15:041. Repeal of 806 KAR 15:040. Suetta Dickinson, Commissioner's Office, and Brian Staples, Director of the Life Division, represented the Department.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f).

806 KAR 15:050. Reporting and general requirements for viatical settlement providers and brokers. In response to questions by Senator Roeding, Mr. Staples stated that the viatical industry purchased life insurance policies from the policyholders and sold them to investors. With forty-nine (49) licensees in Kentucky, there were only 9 viatical settlement provider companies operating in Kentucky, which was consistent with the nationwide figures. Kentucky was a leader in this industry in consumer protection.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 4, 5, 6, and 8 were amended to comply with the drafting and format requirements of KRS Chapter 13A; and (2) Section 3 was amended to clarify that the required disclosure shall be in writing.

Department of Housing, Buildings and Construction: Plumbing
815 KAR 20:020. Parts or materials list. Judith Walden, General Counsel, represented the Department.

This administrative regulation was amended as follows: Section 5 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

Cabinet For Health Services: Office of Administrative Services: Vital Statistics
901 KAR 5:010. State registrar. Sandra Davis, State Registrar, represented the Office.

This administrative regulation was amended as follows: (1) the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 were amended to correct statutory citations; (2) Section 1 was amended to comply with the drafting requirements of KRS Chapter 13A; and (3) Sections 2 and 3, relating to birth certificate data, were deleted.

Department for Public Health: Health Services and Facilities
902 KAR 20:008 & E. License procedures and fee schedule. Alex Reese, Office of Inspector General, Floyd Parrish, Director of Community Health Services, and Ed Wilson, Director of Long-Term Care, represented the Department.

In response to questions by Senator Roeding, Mr. Reese stated that the licensure fees for the bedded institutions, including hospitals and nursing facilities, had not been increased in ten years. This administrative regulation increased the fees to an amount that factored in normal consumer price index inflation rates for the last ten years. A public hearing was held on the notice of intent to promulgate this administrative regulation, but a public hearing was not requested on the ordinary administrative regulation. The Department did not receive negative comments on the amounts of the fees. The Inspector General visited each institution and affected agency and association to discuss the need for the fee increases and the method of computing the amount of the fee increases.

In response to questions by Representative Allen, Mr. Reese stated that he did not know the percentage increase for the fees. He did have documentation showing the inflation index for each of the ten years since the last fee increase. He did not know why the Department had not previously increased the fees.

This administrative regulation, as amended, was approved on a roll call vote, with Senator Pendleton, Representative Bruce, and Chairman Arnold voting in support of this administrative regulation, and with Senator Roeding and Representative Allen voting in opposition to this administrative regulation.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 through 7 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

Cabinet For Families And Children: Department for Community Based Services: Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation
921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. Joyce Lea and Rosanne Barkley represented the Department.

This administrative regulation was amended as follows: Section 7 was amended to increase the standard of need levels by one dollar effective August 1, 2001, to comply with changes in the federal law.

Food Stamp Program
921 KAR 3:010. Definitions. Rosanne Barkley represented the Department.

In response to questions by Senator Roeding, Ms. Barkley stated that the electronic benefits transfer card had been implemented statewide. The Department had not been informed of any major problems with the cards. While the federal government has looked at using the smart-card format for Social Security and Veterans Administration benefits, she was not aware of any plans to expand the use of smart cards in Kentucky to other programs. This administrative regulation was amended to add new definitions for terms not previously defined.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

921 KAR 3:030. Application process. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of KRS Chapter 13A.

921 KAR 3:050. Claims and additional administrative provisions. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 were amended to comply with the drafting format requirements of KRS Chapter 13A.

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Board of Medical Licensure
201 KAR 9:105E. Repeal of 201 KAR 9:101, 201 KAR 9:111, 201
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In response to a question by Representative Bruce, Mr. Schmidt stated that these administrative regulations were repealed because the authority for this subject matter had been transferred to the Kentucky Board of Emergency Services.

Board of Respiratory Care
201 KAR 29:040. Posthearing procedures. LaDawn Neary, Acting Executive Director, and Christina Bradford, Assistant Attorney General, represented the Board.

201 KAR 29:060. Continuing education requirements for persons on inactive status; waiver.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game
301 KAR 2:172. Deer hunting seasons and requirements. Tom Bennett, Commissioner, Roy Grimes, and Scott Porter, Assistant Attorney General, represented the Department.

301 KAR 2:221 & E. Waterfowl seasons and limits.

Education Professional Standards Board

704 KAR 20:300. Part-time adjunct instructor certificate. In response to questions by Senator Roeding, Ms. Weber stated that a subcommittee of the Board reviewed applications for certification based on exceptional life or work experience and made recommendations to the Board. The Board made the final determination whether to provide the alternative certification to the applicant.

Cabinet For Families And Children: Department for Community Based Services: Family Support: Food Stamp Program
921 KAR 3:060. Administrative disqualification hearings and penalties. Rosanne Barkley represented the Department.

The Subcommittee and the promulgating administrative agencies agreed to defer consideration of the following administrative regulations to the next meeting of the Subcommittee:

Governor's Office: Office of Agricultural Policy: Kentucky Aquaculture Production System Grant Program
10 KAR 4:025E. Disbursement of monies from the Kentucky Aquaculture Production System (KAPS) Grant Program for the construction of commercial aquaculture ponds.

Department Of Treasury: Commonwealth Postsecondary Education Prepaid Tuition Trust Board of Director
20 KAR 2:040. Applying for a prepaid tuition contract.

Board of Optometric Examiners
201 KAR 5:010. Application for licensure; endorsement.
201 KAR 5:030. Annual courses of study required.
201 KAR 5:037. Advertising.
201 KAR 5:040. Unprofessional conduct.
201 KAR 5:050. Office locations.
201 KAR 5:039. Repeal of 201 KAR 5:060.
201 KAR 5:050. Annual renewal fees.

Board of Emergency Medical Services (Deferred from April)
202 KAR 7:030E. Fees.
202 KAR 7:050E. Requirements for examination, certification and recertification of the emergency medical technician-basic.
202 KAR 7:060E. Emergency medical technician-basic course requirements.
202 KAR 7:070E. Emergency medical technician-basic instructors and EMT-instructor trainers.
202 KAR 7:080E. Emergency medical technician-basic authorized procedures.
202 KAR 7:090E. Disciplinary actions of emergency medical technicians.
202 KAR 7:092E. Emergency medical technician first responder training, examination, and certification.
202 KAR 7:094E. Emergency medical services educational institutions and emergency medical services testing agencies.
202 KAR 7:100E. Rules of practice and procedure for the board, committees of the board and subcommittees of the board.
202 KAR 7:102E. Committees and subcommittees of the board.
202 KAR 7:110E. Referral of matters for criminal prosecution.
202 KAR 7:120E. Mental or physical examination of Licensee or applicant, suspension or denial of application until person submits to examination.
202 KAR 7:130E. Procedure for immediate temporary suspension of license or certification against which disciplinary action or investigation is pending.
202 KAR 7:140E. Investigation and disposition of complaints.
202 KAR 7:150E. Procedures for disciplinary hearings pursuant to KRS 311.652 to 311.658.
202 KAR 7:160E. Offenses.
202 KAR 7:405E. Requirements to become a paramedic student.
202 KAR 7:407E. Paramedic training requirements.
202 KAR 7:408E. Educational institution.
202 KAR 7:413E. Continuing education.
202 KAR 7:426E. The paramedic license.
202 KAR 7:433E. Out-of-state paramedic not licensed in Kentucky.
202 KAR 7:436E. Procedure for licensing paramedic who is licensed or certified in another state or territory under the jurisdiction of the United States or who is nationally registered.
202 KAR 7:461E. Scope of practice matters.
202 KAR 7:465E. Medical director for an advanced life support ambulance service or other organization providing advanced life support.
202 KAR 7:491E. Establishes a fee schedule.
202 KAR 7:493E. Discontinuance of resuscitation by a paramedic.
202 KAR 7:495E. Determination of death by a paramedic.
202 KAR 7:520E. Allocation of funding assistance for purchase of ambulances and equipment for emergency medical services.
202 KAR 7:570E. License procedures and fee schedule for ambulance providers.
202 KAR 7:580E. Class I ground ambulance providers.
202 KAR 7:582E. Class II ground ambulance providers.
202 KAR 7:584E. Class III ground ambulance providers.
202 KAR 7:590E. Air ambulance service providers.
202 KAR 7:595E. Advanced life support (ALS) medical first responder providers.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game
301 KAR 2:050E. Land Between the Lakes hunting requirements.
301 KAR 2:142E. Spring wild turkey hunting.

Hunting and Fishing
301 KAR 3:022E.

Natural Resources And Environmental Protection Cabinet: Department for Environmental Protection; Division for Air Quality: Attainment and Maintenance of the National Ambient Air Quality Standards
401 KAR 51:001. Definitions for 401 KAR Chapter 51.
401 KAR 51:160. NOx requirements for large utility and industrial boilers.
401 KAR 51:170. NOx requirements for cement kilns.
401 KAR 51:180. NOx credits for early reduction and emergency.
401 KAR 51:190. Banking and trading NOx allowances.
401 KAR 51:195. NOx opt-in provisions.
Education, Arts, And Humanities Cabinet: Kentucky Board of Education: Department of Education: Office of Learning Programs Development: Office of Instruction
704 KAR 3:500E. Professional Development Leadership and Mentor Fund.

Education Professional Standards Board
704 KAR 20:690. Kentucky Teacher Internship Program.

Department of Alcoholic Beverage Control: Licensing
804 KAR 4:360E. Restaurant drink licenses for fifth and sixth class cities.

Department of Insurance: Health Insurance Contracts
806 KAR 17:150E. Health benefit plan rate filing requirements.
806 KAR 17:310E. Prompt payment of claims reporting requirements.
806 KAR 17:320E. Kentucky Access requirements.
806 KAR 17:330E. Kentucky Access health benefit plans.
806 KAR 17:350E. Guaranteed Acceptance Program (GAP) reporting requirements.

Cabinet For Health Services: Department for Public Health: Health Services and Facilities
902 KAR 20:370E. Operations and services; private duty nursing agencies.

Department for Medicaid Services: Services
907 KAR 1:013E. Payments for hospital inpatient services.
907 KAR 1:015E. Payments for hospital outpatient services.
907 KAR 1:044E. Mental health center services.
907 KAR 1:145E. Supports for community living services for an individual with mental retardation or a developmental disability.
907 KAR 1:155E. Payments for supports for community living services for an individual with mental retardation or a developmental disability.
907 KAR 1:320E. Kentucky Patient Access and Care System (KenPAC).

Payment and Services
907 KAR 3:005E. Physicians' services.
907 KAR 3:030E. Coverage and payments for IMPACT Plus services.
907 KAR 3:160E. Specialized children's services clinic.

Department for Mental Health and Mental Retardation Services: Institutional Care
908 KAR 3:050E. Per diem rate pursuant to the "Patient Liability Act of 1978".

Cabinet For Families And Children: Department for Community Based Services: Protection and Permanency: Day Care
922 KAR 2:110. Child care facility provider requirements.
922 KAR 2:120. Child care facility health and safety standards.

Disabilities Determinations
922 KAR 5:110. Adult guardianship services.

The Subcommittee adjourned at 11 a.m. until July 10, 2001, at 10 a.m. in Room 149 of the Capitol Annex.
CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

The Locator Index lists all administrative regulations published in VOLUME 28 of the Administrative Register from July, 2001 through June, 2002. It also lists the page number on which each administrative regulation is published, the effective date of the administrative regulation after it has completed the review process, and other action which may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 27 are those administrative regulations that were originally published in Volume 27 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2001 bound Volumes were published.

KRS Index

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 28 of the Administrative Register.

Subject Index

The Subject Index is a general index of administrative regulations published in VOLUME 28 of the Administrative Register, and is mainly broken down by agency.
### LOCATOR INDEX - EFFECTIVE DATES

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| 202 KAR 7:431E    | 2359             | 2-15-2001     | **ORDINARY ADMINISTRATIVE REGULATIONS**

### THE ADMINISTRATIVE REGULATIONS LISTED UNDER VOLUME 26 ARE THOSE ADMINISTRATIVE REGULATIONS THAT WERE ORIGINALLY PUBLISHED IN VOLUME 26 (LAST YEAR’S) ISSUES OF THE ADMINISTRATIVE REGISTER BUT HAD NOT YET GONE INTO EFFECT WHEN THE 2000 BOUND VOLUMES WERE PUBLISHED.

- **EMERGENCY ADMINISTRATIVE REGULATIONS:** (Note: Emergency regulations expire 170 days from publication; or 170 days from publication plus number of days of requested extension; or upon replacement or repeal, whichever occurs first)

- **ORDINARY ADMINISTRATIVE REGULATIONS:**

  - 2 KAR 2:010
    - Amended 3288
  - 2 KAR 2:040
    - Amended 3289
  - 10 KAR 2:020
    - As Amended 3233
  - 10 KAR 3:020
    - As Amended 3181
  - 10 KAR 3:030
    - As Amended 3182
  - 10 KAR 5:010
    - As Amended 3389
  - 11 KAR 3:100
    - Amended 3290
  - 11 KAR 5:036
    - Amended 3303
  - 11 KAR 5:121
    - Amended 3389
  - 11 KAR 5:140
    - Amended 3305
  - 11 KAR 5:145
    - Amended 3306
  - 11 KAR 5:170
    - Amended 3308
  - 11 KAR 8:030
    - Amended 3310
  - 11 KAR 8:040
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