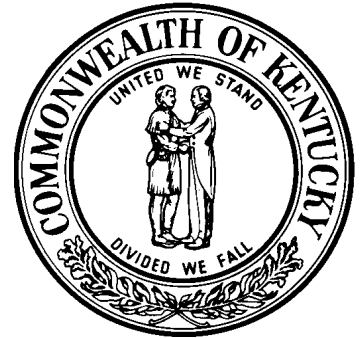


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 41, NUMBER 8
SUNDAY, FEBRUARY 1, 2015

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, January 15, 2015.

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MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet Monday, February 9, 2015, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **1739-1740** of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2014 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

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

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

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VOLUME 41, NUMBER 8 – FEBRUARY 1, 2015

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, FEBRUARY 9, 2015, at 1:00 p.m., Room 149 Capitol Annex**

EDUCATION PROFESSIONAL STANDARDS BOARD

Assessment

16 KAR 6:010. Examination prerequisites for teacher certification.

**FINANCE AND ADMINISTRATION CABINET
Office of the Secretary**

Fleet Management

200 KAR 40:010. Motor pool procedure.

200 KAR 40:020. Purchase, use, lease, maintenance, and disposal of state-owned motor vehicles.

**GENERAL GOVERNMENT CABINET
Board of Medical Licensure**

Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. (Amended After Comments)(Deferred from January)

Board of Licensure for Occupational Therapy

Board

201 KAR 28:010. Definitions and abbreviations. (Deferred from January)

201 KAR 28:020. General provisions. (Deferred from January)

201 KAR 28:030. Short-term practice of occupational therapy for persons practicing under KRS 319A.090(1)(e). (Deferred from January)

201 KAR 28:060. Requirements for licensure. (Deferred from January)

201 KAR 28:070. Examination. (Deferred from January)

201 KAR 28:090. Renewals. (Deferred from January)

201 KAR 28:110. Fees. (Deferred from January)

201 KAR 28:130. Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders. (Deferred from January)

201 KAR 28:140. Code of ethics and unprofessional conduct. (Deferred from January)

201 KAR 28:170. Deep physical agent modalities. (Deferred from January)

201 KAR 28:180. Temporary permits. (Deferred from January)

201 KAR 28:200. Continuing competence. (Deferred from January)

201 KAR 28:220. Per diem of board members. (Deferred from January)

Board of Licensed Diabetes Educators

Board

201 KAR 45:110. Supervision and work experience.

201 KAR 45:120. Renewal, reinstatement, and inactive status.

201 KAR 45:170. Application procedures.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources**

Game

301 KAR 2:049. Small game and furbearer hunting and trapping on public areas.

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers. (Amended After Comments)

**JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council**

Council

503 KAR 1:090. Approval of course curriculums. (Deferred from October)

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

Motor Carriers

601 KAR 1:112 & E. Transportation network company. ("E" expires 6/3/2015.)

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education**

School Administration and Finance

702 KAR 3:320. Finance officer certification requirements.

Instructional Programs

705 KAR 4:250. Energy technology engineering career pathway. (Amended After Comments)(Deferred from January)

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health**

Maternal and Child Health

902 KAR 4:030. Newborn screening program. (Not Amended After Comments)

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Department for Medicaid Services Division of Policy and Operations

Behavioral Health

907 KAR 15:040 & E. Coverage provisions and requirements regarding targeted case management for individuals with a substance use disorder. ("E" expires 4/15/2015) (Amended After Comments)

907 KAR 15:045 & E. Reimbursement provisions and requirements for targeted case management services for individuals with a substance use disorder. ("E" expires 4/15/2015) (Amended After Comments)

907 KAR 15:050 & E. Coverage provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues. ("E" expires 4/15/2015) (Amended After Comments)

907 KAR 15:055 & E. Reimbursement provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues. ("E" expires 4/15/2015) (Amended After Comments)

907 KAR 15:060 & E. Coverage provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability. ("E" expires 4/15/2015) (Amended After Comments)

907 KAR 15:065 & E. Reimbursement provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability. ("E" expires 4/15/2015) (Amended After Comments)

Department for Aging and Independent Living Division of Quality Living

Brain Injury

910 KAR 3:030. Traumatic brain injury trust fund operations program. (Not Amended After Comments)

Department for Income Support Child Support Enforcement

Family Support

921 KAR 1:410. Child support collection and distribution.

Department for Community Based Services Division of Family Support

Supplemental Nutrition Assistance Program

921 KAR 3:030. Application process.

921 KAR 3:060. Administrative disqualification hearings and penalties.

Department for Community Based Services Division of Child Care

Day Care

922 KAR 2:160 & E. Child Care Assistance Program. ("E" expires 5/14/2015) (Not Amended After Comments)

REMOVED FROM FEBRUARY 2015 AGENDA

JUSTICE AND PUBLIC SAFETY CABINET Kentucky Law Enforcement Council

Council

~~503 KAR 1:111. Repeal of 503 KAR 1:110. (Expired, SOC not filed by deadline)~~

General Training Provision

~~503 KAR 3:120. Department of Criminal Justice training basic training graduation requirements records. (Expired, SOC not filed by deadline)~~

TRANSPORTATION CABINET Office of the Secretary Kentucky Bicycle and Bikeways Commission

Motorcycle and Bicycle Safety

601 KAR 14:020. Bicycle safety standards. (Not Amended After Comments) (Deferred from June)

Department of Highways Division of Maintenance

Billboards

603 KAR 10:001. Definitions. (Amended After Comments) (Deferred from May)

603 KAR 10:010. Static advertising devices. (Amended After Comments) (Deferred from May)

603 KAR 10:020. Electronic advertising devices. (Amended After Comments) (Deferred from May)

603 KAR 10:030. Removal of vegetation related to advertising devices. (Amended After Comments) (Deferred from May)

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Policy and Operations

Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement. (Amended After Comments) (Deferred from April)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE - OVERVIEW
(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing and comment period information, regulatory impact analysis and tiering statement, fiscal note, federal mandate comparison, and incorporated material information. Those administrative regulations received by the deadline established in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on proposed administrative regulations which shall not be held before the 21st day or later than the last workday of the month of publication. Written comments shall also be accepted until the end of the calendar month in which the administrative regulation was published.

The administrative regulation shall include: the place, time, and date of the hearing; the manner in which persons may submit notification to attend the hearing and written comments; that notification to attend the hearing shall be sent no later than 5 workdays prior to the hearing date; the deadline for submitting written comments; and the name, position, address, and telephone and fax numbers of the person to whom notification and written comments shall be sent.

The administrative body shall notify the Compiler, by phone and letter, whether the hearing was held or cancelled and whether written comments were received. If the hearing was held or written comments were received, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the month of publication.

A transcript of the hearing is not required 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

After the public hearing and public comment period processes are completed, 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 30 days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS

STATEMENT OF EMERGENCY
103 KAR 3:040E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representative to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient, because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
THOMAS B. MILLER, Commissioner

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Income Taxation
(Emergency Amendment)

103 KAR 3:040E. Income Tax Forms Manual.

RELATES TO: KRS 131.041, 131.051, 131.061, 131.081, 131.110, 131.130, 131.155, 131.170, 131.180, 131.190, 131.250, 131.340, 131.500, 131.510(1), (2)(a), 131.540, 141.010, 141.0101, 141.011, 141.016, 141.020, 141.0202, 141.030, 141.040, 141.0401, 141.0405, 141.041, 141.042, 141.044, 141.062, 141.065, 141.066, 141.067, 141.068, 141.069, 141.070, 141.071, 141.120, 141.121, 141.160, 141.170, 141.180, 141.200, 141.205, 141.206, 141.207, 141.208, 141.300, 141.310, 141.325, 141.330, 141.335, 141.347, 141.370, 141.381, 141.382, 141.383, 141.384, 141.385, 141.386, 141.390, 141.392, 141.395, 141.400, 141.401, 141.402, 141.403, 141.405, 141.407, 141.412, 141.415, 141.418, 141.420, 141.421, 141.423, 141.424, 141.4242, 141.4244, 141.428, 141.430, 141.433, 141.434, 141.436, 141.437, 141.438, 141.985, 141.990, 154.12-2086, 154.20-050, 154.22-060, 154.23-035, 154.24-110, 154.25-030, 154.26-090, 154.28-090, 154.32-010, 154.34-080, 154.48-025, 155.170, 164.0062

STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: December 31, 2014

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue forms used in the administration of income taxes by the Department of Revenue.

Section 1. Corporation Income Taxes. (1) Revenue Form 41A720, "Form 720, 2014[2013] Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to determine its corporation income tax due in accordance with KRS 141.040 and its limited liability entity tax due in accordance with KRS 141.0401 for tax years beginning in 2014[2013].

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both within and without Kentucky to apportion and allocate its net income to Kentucky in accordance with KRS 141.120 or 141.206.

(3) Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both

within and without Kentucky that is also a partner or member of a pass-through entity to determine the sales, property and payroll amounts to be entered on Revenue Form 41A720A.

(4) Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", shall be used by a corporation filing a mandatory nexus consolidated return to show the Kentucky and total sales, property, and payroll of the corporation and each subsidiary included in the apportionment factor.

(5) Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", shall be used by a taxpayer who is a biodiesel producer, biodiesel blender, or renewable diesel producer to report the biodiesel gallons produced or used by the blender and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.423.

(6) Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", shall be used by a corporation to compute the tax credit allowed by KRS 141.041 for coal used or substituted for other fuels in an eligible heating facility as described by KRS 141.041(1).

(7) Revenue Form 41A720-CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", shall be used by a taxpayer to request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.428 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(8) Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", shall be used by a taxpayer who is a producer of cellulosic ethanol to report the number of cellulosic ethanol gallons and request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.4244.

(9) Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", shall be used by a taxpayer to request approval for the amount of tax credit allowed by KRS 141.0405 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(10) Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", shall be used by a taxpayer to compute its Kentucky cost of goods sold and its total costs of goods sold from all sources for purposes of computing its limited liability entity tax based on gross profits.

(11) Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", shall be used by a C corporation filing a consolidated return to show its federal pro forma consolidated return.

(12) Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a consolidated return as a continuation of Revenue Form 41A720CR.

(13) Revenue Form 41A720ES, "Form 720-ES Kentucky, 2015[2014] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(14) Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(15) Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", shall be used by a taxpayer who is a producer of ethanol to report ethanol gallons produced and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.4242.

(16)[(15)] Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", shall be used by a taxpayer who provides edible agricultural products to a nonprofit food program operating

in Kentucky to determine the credit allowed by KRS 141.392.

(17)(16) Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", shall be used by an individual, corporation, fiduciary, or pass-through entity to determine the deduction allowed by KRS 141.0202.

(18)(17) Revenue Form 41A720(I), "Instructions, 2014[2013] Kentucky Corporation Income Tax and LLET Return", shall be used by a corporation to file its 2014[2013] Kentucky Corporation Income Tax and LLET Return and related schedules.

(19)(18) Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", shall be used by a C corporation filing a nexus consolidated return showing the income or loss of each entity included in the nexus consolidated tax return.

(20)(19) Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", shall be used by a C corporation filing a nexus consolidated return as a continuation of Revenue Form 41A720KCR.

(21)(20) Revenue Form 41A720KESA, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of a Corporation)", shall be used by a corporation which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

(22)(21) Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

(23)(22) Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", shall be used by a company which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to maintain a record of the approved costs and tax credits for the duration of the agreement.

(24)(23) Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", shall be used by a corporation or a limited liability pass-through entity to determine the limited liability entity tax in accordance with KRS 141.0401.

(25)(24) Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by a corporation or a limited liability pass-through entity that is a partner in a general partnership organized or formed as a general partnership after January 1, 2006, or a partner or member in a limited liability pass-through entity to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET.

(26)(25) Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by limited liability pass-through entities with economic development projects to determine the limited liability entity tax in accordance with KRS 141.0401.

(27)(26) Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by a limited liability pass-through entity with an economic development project that is a partner or member of a limited liability pass-through entity or a general partnership organized or formed as a general partnership after January 1, 2006, to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET(K).

(28)(27) Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", shall be used by a C corporation with a current year net operating loss or net operating loss carry-forward.

(29)(28) Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry Forward Schedule", shall be used by a corporation filing a nexus consolidated income tax return as provided by KRS 141.200, in addition to Revenue Form

41A720NOL, to show the Kentucky net operating loss (KNOL) carry forward balance for each new member of the affiliated group.

(30)(29) Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", shall be used by a corporation filing Kentucky Form 720 to show other additions to and subtractions from federal taxable income on Revenue Form 41A720, Part III, Lines 9 and 16, respectively.

(31)(30) Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.395.

(32)(31) Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.390 for the purchase and installation of recycling or composting equipment or a major recycling project. This form shall also be used by an individual, corporation, fiduciary, or pass-through entity to substantiate and keep a record of the amount of approved credit claimed on their tax return.

(33)(32) Revenue Form 41A720RC-C, "Schedule RC-C, Schedule RC - Part I Continuation", shall be used by an individual, corporation, fiduciary, or pass-through entity, in addition to Revenue Form 41A720RC, to list additional equipment for which approval of the credit allowed by KRS 141.390 is being requested.

(34)(33) Revenue Form 41A720RC(I), "Instructions for Schedule RC", shall be used by taxpayers filing Revenue Form 41A720RC and Revenue Form 41A720RC-C requesting approval of a tax credit for recycling equipment, composting equipment, or a major recycling project.

(35)(34) Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", shall be used by a taxpayer disposing of recycling or composting equipment before the end of the recapture period to compute the tax credit recaptured to be reported on the applicable tax return.

(36)(35) Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement", shall be used by an entity to report related party expenses and the exceptions to the required disallowance of related party expenses as provided by KRS 141.205.

(37)(36) Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", shall be used by a corporation or pass-through entity requesting approval of a railroad expansion tax credit allowed by KRS 141.386.

(38)(37) Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.385.

(39)(38) Revenue Form 41A720S, "Form 720S, 2014[2013] Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to determine the amount of tax due in accordance with KRS 141.040 and 141.0401 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2014[2013].

(40)(39) Revenue Form 41A720S(I), "Instructions, 2014[2013] Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to file its 2014[2013] Kentucky S Corporation Income Tax and LLET Return and related schedules.

(41)(40) Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", shall be used for tax years beginning in 2014[2013] by S Corporations with economic development projects to determine the shareholders' shares of income, credit, deductions, etc., excluding the economic development projects.

(42)(41) Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2014[2013] Shareholder's Share of Income, Credits, Deductions, Etc.", shall be used by an S corporation to report to each of its shareholders the amount of income, credit, deduction, etc., that the shareholder shall report for Kentucky income tax purposes.

(43)(42) Revenue Form 41A720S-O, "Schedule O-PTE, Other

Additions and Subtractions To/From Federal Ordinary Income", shall be used by a pass-through entity filing Revenue Form 41A720S, Form 41A765, or Form 42A765-GP to show other additions to and subtractions from federal ordinary income on Revenue Form 41A720S, Part III, Lines 5 and 9, or 41A765, or 42A765-GP Part I, Lines 5 and 9, respectively.

~~(44) [(43)]~~ Revenue Form 41A720SL, "~~Application for Six-Month~~ Extension of Time to File Kentucky Corporation/LLET ~~[or Limited Liability Pass-Through Entity]~~ Return", shall be used by a corporation or a limited liability pass-through entity to request a six (6) month extension of time to file a tax return or an LLET return or to submit payment of unpaid tax.

~~(45) [(44)]~~ Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", shall be used by a corporation or a limited liability pass-through entity to summarize tax credits claimed and shall be attached to the tax return.

~~(46) [(45)]~~ Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", shall be used by an entity claiming a tax credit provided by KRS 141.418.

~~(47) [(46)]~~ Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income and License Tax Return for tax periods beginning prior to January 1, 2005, as previously filed.

~~(48) [(47)]~~ Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax Return for periods beginning on or after January 1, 2005 and before January 1, 2007, as previously filed.

~~(49) [(48)]~~ Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax and LLET Return for periods beginning on or after January 1, 2007 and before January 1, 2009, as previously filed.

~~(50) [(49)]~~ Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", shall be used by a corporation filing a consolidated Kentucky income tax return on Revenue Form 41A720 to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax paid.

~~(51) [(50)]~~ Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", shall be used by a corporation or limited liability pass-through entity required by KRS 141.042 and 141.044 to file a declaration of estimated tax, to compute the underpayment penalty as provided by KRS 131.180(3) and 141.990, and to compute the interest on any late payment or underpayment of an estimated tax installment as provided by KRS 141.985.

~~(52) [(51)]~~ Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", shall be used by a taxpayer to claim a tax credit for installation of energy efficiency products for residential and commercial property as provided by KRS 141.436.

~~(53) [(52)]~~ Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", shall be used by a taxpayer as a declaration document and signature authorization for an electronic filing of a Kentucky income or LLET return.

~~(54) [(53)]~~ Revenue Form 41A720-S9, "Form 8903-K, Kentucky Domestic Production Activities Deduction", shall be used by a corporation to determine the Domestic Production Activities Deduction amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return.

~~(55) [(54)]~~ Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", shall be used by a taxpayer to claim a tax credit for the construction of an ENERGY STAR home or the sale of an ENERGY STAR manufactured home as provided by KRS 141.437.

~~(56) [(55)]~~ Revenue Form 41A720-S12, "Form 720-V, Electronic Filing Payment Voucher, 2014", shall be used by an entity filing an electronic Kentucky tax return to pay the balance of tax due.

~~(57) [(56)]~~ Revenue Form 41A720-S16, "Schedule KREDA, Tax

Credit Computation Schedule (For a KREDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

~~(58) [(57)]~~ Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", shall be used by a company which has a Kentucky Rural Economic Development Act (KREDA) project to maintain a record of the debt service payments, wage assessment fees and tax credits for the duration of the project.

~~(59) [(58)]~~ Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

~~(60) [(59)]~~ Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

~~(61) [(60)]~~ Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", shall be used by a company which has a Kentucky Industrial Development Act (KIDA) project to maintain a record of the debt service payments and tax credits for the duration of the project.

~~(62) [(61)]~~ Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

~~(63) [(62)]~~ Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

~~(64) [(63)]~~ Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", shall be used by a company which has a Kentucky Industrial Revitalization Act (KIRA) project to maintain a record of the approved costs, wage assessment fees and tax credits for the duration of the project.

~~(65) [(64)]~~ Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

~~(66) [(65)]~~ Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

~~(67) [(66)]~~ Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", shall be used by a company which has a Kentucky Jobs Development Act (KJDA) project to maintain a record of the approved costs, wage assessment fees, in-lieu-of credits and tax credits for the duration of the project.

~~(68) [(67)]~~ Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)" shall be used by a pass-through entity which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

~~(69) [(68)]~~ Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a

Corporation)", shall be used by a corporation which has entered into a Kentucky Reinvestment Act (KRA) project to compute the allowable KRA credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(70)[(69)] Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Reinvestment Act (KRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(71)[(70)] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule For a KRA Project", shall be used by a company which has entered into a Kentucky Reinvestment Act (KRA) project to maintain a record of the balance of approved costs and tax credits for the duration of the agreement.

(72)[(71)] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to compute the allowable KEOZ credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

(73)[(72)] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

(74)[(73)] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", shall be used by a company which has entered into an agreement for a Kentucky Economic Opportunity Zone (KEOZ) Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and tax credits for the duration of the agreement.

(75)[(74)] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", shall be used by a company which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

(76)[(75)] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule For a KJRA Project", shall be used by a company which has entered into an agreement for a Kentucky Jobs Retention Act (KJRA) project to maintain a record of the debt service payments, wage assessment fees, approved costs, and tax credits for the duration of the agreement.

(77)[(76)] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

(78)[(77)] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

(79)[(78)] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to maintain a record of the balance of approved costs, wage assessments, and tax credits for the duration of the agreement.

(80)[(79)] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with

KRS 141.421.

(81)[(80)] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Business Investment (KBI) project to compute the allowable KBI credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(82)[(81)] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Business Investment (KBI) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(83)[(82)] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", shall be used by a company which has entered into an agreement for a Kentucky Business Investment (KBI) project to maintain a record of approved costs, wage assessments, and tax credits for the duration of the agreement.

(84)[(83)] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", shall be used by a corporation which has a Farm Operation Networking Project (FON) to compute the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(85)[(84)] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Farm Operation Networking Project (FON) to determine the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(86)[(85)] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", shall be used by a company with a Farm Operation Networking Project (FON) to maintain a record of approved costs and the tax credits taken for the duration of the project.

(87)[(86)] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", shall be used by a qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment eligible for the tax credit provided by KRS 141.434.

(88)[(87)] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", shall be used by a qualified community development entity to provide proof to the Kentucky Department of Revenue of the receipt of cash for a taxpayer's qualified equity investment.

(89)[(88)] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", shall be used by the Kentucky Department of Revenue to notify a taxpayer of a recapture of the New Markets Development Program tax credit.

(90) Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", shall be used by a qualified community development entity to request a refund of the performance fee provided by KRS 141.1433.

(91)[(89)] Revenue Form 41A725, "Form 725, 2014 [2013] Kentucky Single Member LLC Individually Owned Income and LLET Return", shall be used by a single member individually-owned LLC to file an LLET return in accordance with KRS 141.0401 for tax years beginning in 2014[2013].

(92)[(90)] Revenue Form 41A725CP, "Schedule CP, Form 725, 2014[2013] Kentucky Single Member LLC Individually Owned Composite Return Schedule", shall be used by a single member individual with multiple LLC entities to file LLET returns in accordance with KRS 141.0401 for tax years beginning in 2014[2013].

(93)[(94)] Revenue Form 41A725(I), "Instructions, 2014[2013] Kentucky Single Member LLC Individually Owned LLET Return", shall be used by a single member LLC individually owned to file its 2014[2013] Kentucky Income and LLET return and related schedules.

(94)[(92)] Revenue Form 41A750, "Form 750, 2014 Business Development Corporation Tax Return", shall be used by a corporation organized under the provisions of KRS Chapter 155 to determine its excise tax due in accordance with KRS 155.170 for tax years beginning in 2014[2013].

(95)[(93)] Revenue Form 41A765, "Form 765, 2014[2013] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP or LP to file its Kentucky income and LLET return in accordance with KRS 141.0401 and 141.206 for tax years beginning in 2014[2013].

(96)[(94)] Revenue Form 41A765(I), "Instructions, 2014[2013] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to file its 2014[2013] Kentucky income and LLET return and related schedules.

(97)[(95)] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", shall be used for tax years beginning in 2014[2013] by partnerships with economic development projects to determine the partners' share of income, credits, deductions, etc., excluding the economic development projects.

(98)[(96)] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2014[2013] Partner's Share of Income, Credits, Deductions, Etc.", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to report to its partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes.

(99)[(97)] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nexus with the Commonwealth of Kentucky.

(100)[(98)] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nondeductible related party expense.

Section 2. Individual Income and Withholding Taxes. (1) Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", shall be submitted to the Department of Revenue to request an installment agreement to pay tax due.

(2) Revenue Form 40A100, "Application for Refund of Income Taxes", shall be presented to the Department of Revenue to request a refund of income taxes paid.

(3) Revenue Form 40A102, "2014[2013] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", shall be submitted to the Department of Revenue by individuals, partnerships, and fiduciaries prior to the date prescribed by law for filing a return to request a six (6) month extension to file the return or to remit payment of tax prior to the date the return is due.

(4) Revenue Form 40A103, "Application for New Home Tax Credit", shall be submitted to the Department of Revenue by individuals to request approval for the new home tax credit.

(5) Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", shall be used by a pass-through entity doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual or corporate partner doing business in Kentucky only through its ownership interest in the pass-through entity.

(6) Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", shall be used by a pass-through entity doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual and corporate partners.

(7) Revenue Form 40A201ES, "Form 740NP-WH-ES,

Instructions – 2015[2014] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", shall be used by every pass-through entity for the declaration and payment of estimated tax if required.

(8) Revenue Form 40A201NP-WH-SL, "~~Form 740NP-WH-SL, Application for Six-Month~~ Extension of Time to File Kentucky Form 740NP-WH", shall be used by a pass-through entity to request a six (6)-month extension to file Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(9) Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", shall be used by a pass-through entity to compute the interest and penalty on the underpayment and late payment of estimated tax on Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(10) Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", shall be used by a taxpayer or tax preparer to order individual income tax forms.

(11) Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", shall provide instructions for employers and shall contain forms used for withholding and reporting Kentucky income tax withholding.

(12) Revenue Form 42A003(T), "2015[2014] Withholding Tax Tables Computer Formula", shall be used by an employer for computing employees' Kentucky income tax withholding each pay period.

(13) Revenue Form 42A740, "Form 740, 2014[2013] Kentucky Individual Income Tax Return, Full-Year Residents Only", shall be completed by a resident individual to report taxable income and income tax liability for taxable years beginning in 2014[2013], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(14) Revenue Form 42A740-A, "Schedule A, Form 740, 2014[2013] Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2014[2013].

(15) Revenue Form 42A740ES, "Form 740-ES, 2015[2014] Individual Income Tax Kentucky Estimated Tax Voucher", shall be submitted to the Department of Revenue by individuals with payment of quarterly estimated tax.

(16) Revenue Form 42A740-EZ, "Form 740-EZ, 2014[2013] Kentucky Individual Income Tax Return for Single Persons with No Dependents", shall be completed by resident individuals to report taxable income and income tax liability for taxable years beginning in 2014[2013], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(17) Revenue Form 42A740(I), "2014[2013] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", shall be used by resident individuals to file the 2014[2013] Kentucky Individual Tax Return and related schedules.

(18) Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", shall be completed by individuals and attached to Form 740 to compute tax liability by averaging farm income for taxable years beginning after December 31, 1997.

(19) Revenue Form 42A740-KNOL, "Schedule KNOL, 2014[2013] Kentucky Net Operating Loss Schedule", shall be used by individuals to compute and carry forward a net operating loss to subsequent years.

(20) Revenue Form 42A740-M, "Schedule M, 2014[2013] Kentucky Federal Adjusted Gross Income Modifications", shall be completed by individuals and attached to Form 740 in support of additions to and subtractions from federal adjusted gross income.

(21) Revenue Form 42A740-NP, "Form 740-NP, 2014[2013] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", shall be completed by part-year or full-year nonresident individuals to report taxable income and income tax liability for taxable years beginning in 2014[2013], and shall be filed within three and one-half (3 1/2) months after the close of the taxable year.

(22) Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2014[2013] Kentucky Schedule A Itemized Deductions", shall be

completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support the itemized deductions claimed for 2014[2013].

(23) Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2014[2013] Moving Expense and Reimbursement", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support moving expenses and reimbursement by employers for moving expenses for 2014[2013].

(24) Revenue Form 42A740-NP(I), "Instructions for 2014[2013] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be used by nonresident or part-year resident individuals to file the 2014[2013] Kentucky Form 740-NP and related schedules.

(25) Revenue Form 42A740-NP-R, "Form 740-NP-R, 2014[2013] Kentucky Income Tax Return Nonresident - Reciprocal State", shall be completed by resident individuals of reciprocal states to request a refund of Kentucky withholding for 2014[2013].

(26) Revenue Form 42A740-NP(P), "2014[2013] Kentucky Income Tax Return, Nonresident or Part-Year Resident", shall be a packet containing forms and instructions and shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2014[2013].

(27) Revenue Form 42A740(PKT), "2014[2013] Kentucky Individual Income Tax Forms", shall be a packet containing forms and instructions and shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2014[2013].

(28) Revenue Form 42A740-P, "Schedule P, 2014[2013] Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2014[2013].

(29) Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", shall be completed by individuals and attached to Form 740 or Form 740-NP to provide the Office of Employment and Training Certificate Numbers in support of credit claimed for hiring an unemployed person.

(30) Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2005 or future years.

(31) Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2004 or prior years.

(32) Revenue Form 42A740-S1, "Form 2210-K, 2014[2013] Underpayment of Estimated Tax by Individuals", shall be filed by individuals to request a waiver of estimated tax penalty or to compute and self assess an estimated tax penalty for a tax year beginning in 2014[2013].

(33) Revenue Form 42A740-S4, "2015[2014] Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2015[2014].

(34) Revenue Form 42A740-S18, "Form 8582-K, 2014[2013] Kentucky Passive Activity Loss Limitations", shall be completed by an individual taxpayer and attached to the individual tax return in support of an allowable passive loss deduction and carryover of a passive activity loss.

(35) Revenue Form 42A740-S21, "Form 4972-K, 2014[2013] Kentucky Tax on Lump-Sum Distributions", shall be completed by an individual taxpayer to compute tax liability on a lump sum distribution and attached to the taxpayer's individual income tax return.

(36) Revenue Form 42A740-S22, "Form 8879-K, 2014[2013] Kentucky Individual Income Tax Declaration for Electronic Filing", shall be completed, signed by the individual taxpayer or taxpayers and maintained by the preparer or taxpayer in support of an electronically filed return.

(37) Revenue Form 42A740-S23, "Form 740-V, 2014[2013] Kentucky Electronic Payment Voucher", shall be used by the individual taxpayer or taxpayers for the payment of additional tax due on an electronically filed return and submitted to the Department of Revenue.

(38) Revenue Form 42A740-S24, "Form 8863-K, 2014[2013]

Kentucky Education Tuition Tax Credit", shall be used by an individual taxpayer or taxpayers to claim a tuition tax credit on the taxpayer's individual Kentucky income tax return.

(39) Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", shall be used by the preparer to indicate the reason the return is not being filed electronically.

(40) Revenue Form 42A741, "Form 741, 2014[2013] Kentucky Fiduciary Income Tax Return", shall be used by a fiduciary of an estate or trust to report income and tax liability of an estate or trust and be filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year.

(41) Revenue Form 42A741-D, "Schedule D, Form 741, 2014[2013] Kentucky Capital Gains and Losses", shall be completed and attached to Form 741 by a fiduciary to report income from capital gains and losses.

(42) Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", shall be the instruction guide provided by the Department of Revenue for completing the 2014[2013] Form 741.

(43) Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2014[2013] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", shall be filed by the fiduciary with Form 741 to report each beneficiary's share of income, deductions, and credits.

(44) Revenue Form 42A765-GP, "Form 765-GP, 2014[2013] Kentucky General Partnership Income Return", shall be completed and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year by a general partnership to report income, deductions, and credits of a general partnership for 2014[2013].

(45) Revenue Form 42A765-GP(I), "Instructions, 2014[2013] Kentucky General Partnership Income Return", shall be provided to assist the general partnership in completing a general partnership income return.

(46) Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2014[2013] Partner's Share of Income, Credits, Deductions, etc.", shall be filed by the general partnership with Form 765-GP to report each general partner's share of income, deductions, and credits.

(47) Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", shall be used by a general partnership which has one (1) or more economic development projects to determine the total general partners' share of income, credits, deductions, etc., excluding the amount of each item of income, credit, deduction, etc., attributable to the projects.

(48) Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and taxes withheld for the filing period.

(49) Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", shall be used by employers to correct wages and taxes reported for the filing period.

(50) Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers who remit taxes withheld electronically to report wages and tax withheld for the filing period.

(51) "Form W-2, 2014[2013] Wage and Tax Statement", shall be used by an employer to report each of its employees' wages and Kentucky tax withheld for the calendar year 2014[2013].

(52) Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and tax withheld for the filing period and annually reconcile wages and taxes reported.

(53) Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", shall be used by employers to amend wages and taxes reported for the filing period and the annual reconciled wages and taxes reported.

(54) Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers to report wages and tax withheld for the filing period and to annually reconcile wages and taxes reported.

(55) Revenue Form 42A804, "Form K-4, Kentucky Department

of Revenue Employee's Withholding Exemption Certificate", shall be used by an employee to inform the employer of the number of exemptions claimed in order to determine the amount of Kentucky tax to withhold from wages each pay period.

(56) Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", shall be used by an employee to determine additional withholding exemptions.

(57) Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", shall be used by employees to inform employers of special tax exempt status.

(58) Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", shall be used by employees to inform employers of special tax exempt status as a nonresident military spouse.

(59) Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", shall be used by employers annually to submit Form W-2 Wage and Tax Statements.

(60) Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", shall be completed by nonresident employees working at Fort Campbell, Kentucky, to inform employers of special tax exempt status.

(61) Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", shall be used by employers to request authorization to annually submit wage and tax statements via the Kentucky Department of Revenue Web site.

(62) Revenue Form 42A809, "Certificate of Nonresidence", shall be used by employees to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(63) Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", shall be used by individuals to submit a sworn statement concerning residency status.

(64) Revenue Form 42A811, "KREDA Annual Report", shall be completed by employers to report KREDA employee wage assessment fee information to the Department of Revenue.

(65) Revenue Form 42A812, "KIDA Annual Report", shall be completed by employers to report KIDA employee wage assessment fee information to the Department of Revenue.

(66) Revenue Form 42A813, "KJDA Annual Report", shall be completed by employers to report KJDA employee wage assessment fee information to the Department of Revenue.

(67) Revenue Form 42A814, "KIRA Annual Report", shall be completed by employers to report KIRA employee wage assessment fee information to the Department of Revenue.

(68) Revenue Form 42A815, "Withholding Tax Refund Application", shall be completed by employers to request a refund of withholding tax paid.

(69) Revenue Form 42A816, "KEOZ Annual Report", shall be completed by employers to report KEOZ employee wage assessment fee information to the Department of Revenue.

(70) Revenue Form 42A817, "KJRA Annual Report", shall be completed by employers to report KJRA employee wage assessment fee information to the Department of Revenue.

(71) Revenue Form 42A818, "KBI Annual Report", shall be completed by employers to report KBI employee wage assessment fee information to the Department of Revenue.

(72) Revenue Form 42D003, "2014[2013] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", shall be used by employers to order wage and tax statements.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Corporation income taxes - referenced material:

1. Revenue Form 41A720, "Form 720, 2014[2013] Kentucky Corporation Income Tax and LLET Return", 2014[2013];

2. Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", October 2014[2013];

3. Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)",

October 2014[2013];

4. Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", October 2014[2013];

5. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", October 2014[2013];

6. Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", October 2014[2013];

7. Revenue Form 41A720-CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", October 2014[2013];

8. Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", October 2014[2013];

9. Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", October 2014[2013];

10. Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", October 2014[2013];

11. Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", October 2014[2013];

12. Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", October 2014[2013];

13. Revenue Form 41A720ES, "Form 720-ES Kentucky, 2015[2014] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2014[2013];

14. Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2014;

15. Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", October 2014[2013];

16.[145.] Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", June 2014[2013];

17.[146.] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October 2014[2013];

18.[147.] Revenue Form 41A720(I), "Instructions, 2014[2013] Kentucky Corporation Income Tax and LLET Return", November 2014[2013];

19.[148.] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", October 2014[2013];

20.[149.] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", October 2014[2013];

21.[20.] Revenue Form 41A720KESA, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of a Corporation)", October 2014[2013];

22.[24.] Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", October 2014[2013];

23.[22.] Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", October 2014[2013];

24.[23.] Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", October 2014[2013];

25.[24.] Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", October 2014[2013];

26.[25.] Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2014[2013];

27.[26.] Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2014[2013];

28.[27.] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", October 2014[2013];

29.[28.] Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", October 2014[2013];

30.[29.] Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", December 2014[2013];

31.[30-] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October 2014[2013];

32.[34-] Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", October 2014[2013];

33.[32-] Revenue Form 41A720RC-C, "Schedule RC-C, Schedule RC - Part I Continuation", October 2014[2013];

34.[33-] Revenue Form 41A720RC(I), "Instructions For Schedule RC", October 2014[2013];

35.[34-] Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", October 2014[2013];

36.[35-] Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement", June 2014[2013];

37.[36-] Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", October 2014[2013];

38.[37-] Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", October 2014[2013];

39.[38-] Revenue Form 41A720S, "Form 720S, 2014[2013] Kentucky S Corporation Income Tax and LLET Return", 2014[2013];

40.[39-] Revenue Form 41A720S(I), "Instructions, 2014[2013] Kentucky S Corporation Income Tax and LLET Return", November 2014[2013];

41.[40-] Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", October 2014[2013];

42.[44-] Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2014[2013] Shareholder's Share of Income, Credits, Deductions, Etc.", 2014[2013];

43.[42-] Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", November 2014[2013];

44.[43-] Revenue Form 41A720SL, "[Application for Six Month] Extension of Time to File Kentucky Corporation/LLET[or Limited Liability Pass-Through Entity] Return", June 2014[2013];

45.[44-] Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", October 2014[2013];

46.[45-] Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", October 2014[2013];

47.[46-] Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", October 2011;

48.[47-] Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", October 2011;

49.[48-] Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", October 2011;

50.[49-] Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", October 2014[2013];

51.[50-] Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", October 2014[2013];

52.[54-] Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", October 2014[2013];

53.[52-] Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", October 2014[2013];

54.[53-] Revenue Form 41A720-S9, "Schedule 8903-K, Kentucky Domestic Production Activities Deduction", October 2014[2013];

55.[54-] Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", October 2014[2013];

56.[55-] Revenue Form 41A720-S12, "720-V, Electronic Filing Payment Voucher, 2014", October 2014[2013];

57.[56-] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", October 2014[2013];

58.[57-] Revenue Form 41A720-S17, "Schedule KREDA-T,

Tracking Schedule for a KREDA Project", October 2014[2013];

59.[58-] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", October 2014[2013];

60.[59-] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", October 2014[2013];

61.[60-] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project" October 2014[2013];

62.[64-] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", October 2014[2013];

63.[62-] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", October 2014[2013];

64.[63-] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", October 2014[2013];

65.[64-] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", October 2014[2013];

66.[65-] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", October 2014[2013];

67.[66-] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", October 2014[2013];

68.[67-] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)", October 2014[2013];

69.[68-] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", October 2014[2013];

70.[69-] Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", October 2014[2013];

71.[70-] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for a KRA Project", October 2014[2013];

72.[74-] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", October 2014[2013];

73.[72-] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", October 2014[2013];

74.[73-] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", October 2014[2013];

75.[74-] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", October 2014[2013];

76.[75-] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule for a KJRA Project", October 2014[2013];

77.[76-] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", October 2014[2013];

78.[77-] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", October 2014[2013];

79.[78-] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", October 2014[2013];

80.[79-] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", October 2014[2013];

81.[80-] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", October 2014[2013];

82.[84-] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", October 2014[2013];

83.[82-] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", October 2014[2013];

84.[83-] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", October 2014[2013];

85.[84-] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through

Entity)", October 2014[2013];

86.[85-] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", October 2014[2013];

87.[86-] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", May 2014[June-2010];

88.[87-] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", May 2014[June-2013];

89.[88-] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", May 2014[June-2013];

90. Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", May 2014;

91.[89-] Revenue Form 41A725, "Form 725, 2014[2013] Kentucky Single Member LLC Individually Owned Income and LLET Return", 2014[2013];

92.[90-] Revenue Form 41A725CP, "Schedule CP, Form 725, 2014[2013] Kentucky Single Member LLC Individually Owned Composite Return Schedule", 2014[2013];

93.[91-] Revenue Form 41A725(I), "Instructions, 2014[2013] Kentucky Single Member LLC Individually Owned LLET Return", October 2014 [2013];

94.[92-] Revenue Form 41A750, "Form 750, 2014 Business Development Corporation Tax Return", September 2014[2013];

95.[93-] Revenue Form 41A765, "Form 765, 2014[2013] Kentucky Partnership Income and LLET Return", 2014[2013];

96.[94-] Revenue Form 41A765(I), "Instructions, 2014[2013] Kentucky Partnership Income and LLET Return", November 2014[2013];

97.[95-] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", October 2014[2013];

98.[96-] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2014[2013] Partner's Share of Income, Credits, Deductions, Etc.", 2014[2013];

99.[97-] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", December 2014[2013]; and

100.[98-] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", June 2014[2013]; and

(b) Individual income and withholding taxes - referenced material:

1. Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", November 2014[2013];

2. Revenue Form 40A100, "Application for Refund of Income Taxes", October 2014[2013];

3. Revenue Form 40A102, "2014[2013] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", November 2014[2013];

4. Revenue Form 40A103, "Application for New Home Tax Credit", June 2010;

5. Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", October 2014[2013];

6. Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", October 2014[2013];

7. Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2015[2014] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", October 2014[2013];

8. Revenue Form 40A201NP-WH-SL, "[Form 740NP-WH-SL, Application for Six-Month Extension of Time to File Kentucky Form 740NP-WH", October 2014[2013];

9. Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", October 2014[2013];

10. Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", October 2014[2013];

11. Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", August 2011;

12. Revenue Form 42A003(T), "2015[2014] Withholding Tax Tables Computer Formula", September 2014[2013];

13. Revenue Form 42A740, "Form 740, 2014[2013] Kentucky Individual Income Tax Return, Full-Year Residents Only", 2014[2013];

14. Revenue Form 42A740-A, "Schedule A, Form 740, 2014 [2013] Kentucky Itemized Deductions", 2014[2013];

15. Revenue Form 42A740ES, "Form 740-ES, 2015[2014] Individual Income Tax Kentucky Estimated Tax Voucher", September 2014[2013];

16. Revenue Form 42A740-EZ, "Form 740-EZ, 2014[2013] Kentucky Individual Income Tax Return for Single Persons with No Dependents", 2014[2013];

17. Revenue Form 42A740(I), "2014[2013] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", October 2014[2013];

18. Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", October 2014[2013];

19. Revenue Form 42A740-KNOL, "Schedule KNOL, 2014[2013] Kentucky Net Operating Loss Schedule", 2014[2013];

20. Revenue Form 42A740-M, "Schedule M, 2014[2013] Kentucky Federal Adjusted Gross Income Modifications", 2014[2013];

21. Revenue Form 42A740-NP, "Form 740-NP, 2014[2013] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", 2014[2013];

22. Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2014[2013] Kentucky Schedule A Itemized Deductions", 2014[2013];

23. Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2014[2013] Moving Expense and Reimbursement", 2014[2013];

24. Revenue Form 42A740-NP(I), "Instructions for 2014[2013] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", October 2014[2013];

25. Revenue Form 42A740-NP-R, "Form 740-NP-R, 2014[2013] Kentucky Income Tax Return Nonresident - Reciprocal State", 2014[2013];

26. Revenue Form 42A740-NP(P), "2014[2013] Kentucky Income Tax Return Nonresident or Part-Year Resident", October 2014[2013];

27. Revenue Form 42A740(PKT), "2014[2013] Kentucky Individual Income Tax Forms", October 2014[2013];

28. Revenue Form 42A740-P, "Schedule P, 2014[2013] Kentucky Pension Income Exclusion", 2014[2013];

29. Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", October 2014[2013];

30. Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", November 2014[2013];

31. Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", November 2008;

32. Revenue Form 42A740-S1, "Form 2210-K, 2014[2013] Underpayment of Estimated Tax by Individuals", 2014 [2013];

33. Revenue Form 42A740-S4, "2015[2014] Instructions for Filing Estimated Tax Vouchers", October 2014[2013];

34. Revenue Form 42A740-S18, "Form 8582-K, 2014[2013] Kentucky Passive Activity Loss Limitations", 2014[2013];

35. Revenue Form 42A740-S21, "Form 4972-K, 2014[2013] Kentucky Tax on Lump-Sum Distributions", 2014[2013];

36. Revenue Form 42A740-S22, "Form 8879-K, 2014[2013] Kentucky Individual Income Tax Declaration for Electronic Filing", 2014[2013];

37. Revenue Form 42A740-S23, "Form 740-V, 2014[2013] Kentucky Electronic Payment Voucher", November 2014[2013];

38. Revenue Form 42A740-S24, "Form 8863-K, 2014[2013] Kentucky Education Tuition Tax Credit", 2014[2013];

39. Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", October 2014[2013];

40. Revenue Form 42A741, "Form 741, 2014[2013] Kentucky Fiduciary Income Tax Return", 2014[2013];

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41. Revenue Form 42A741-D, "Schedule D, Form 741, 2014[2013] Kentucky Capital Gains and Losses", 2014[2013];

42. Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October 2014[2013];

43. Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2014[2013] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2014[2013];

44. Revenue Form 42A765-GP, "Form 765-GP, 2014[2013] Kentucky General Partnership Income Return", 2014[2013];

45. Revenue Form 42A765-GP(I), "Instructions, 2014[2013] Kentucky General Partnership Income Return", November 2014[2013];

46. Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2014[2013] Partner's Share of Income, Credits, Deductions, etc.", 2014[2013];

47. Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October 2014[2013];

48. Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", November 2014[March 2007];

49. Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", April 2008;

50. Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014[March 2007];

51. "Form W-2, 2014[2013] Wage and Tax Statement", 2014[2013];

52. Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", November 2014[March 2007];

53. Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", April 2008;

54. Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014[March 2007];

55. Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", November 2013;

56. Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", April 2008;

57. Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", April 2014[May 2013];

58. Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", November 2010;

59. Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", August 2014[July 2013];

60. Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", August 2006;

61. Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", March 2006;

62. Revenue Form 42A809, "Certificate of Nonresidence", March 2007;

63. Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April 1989;

64. Revenue Form 42A811, "KREDA Annual Report", December 2007;

65. Revenue Form 42A812, "KIDA Annual Report", December 2007;

66. Revenue Form 42A813, "KJDA Annual Report", December 2007;

67. Revenue Form 42A814, "KIRA Annual Report", December 2007;

68. Revenue Form 42A815, "Withholding Tax Refund Application", August 2006;

69. Revenue Form 42A816, "KEOZ Annual Report", December 2007;

70. Revenue Form 42A817, "KJRA Annual Report", October 2010;

71. Revenue Form 42A818, "KBI Annual Report", October 2010; and

72. Revenue Form 42D003, "2014[2013] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", July 2014[August 2013].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: December 30, 2014

FILED WITH LRC: December 31, 2014 at 10 a.m.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9826, fax (502) 564-2541.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting and paying corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2014; withholding taxes for calendar year 2014; and installments of estimated tax for tax years beginning in 2015.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to provide taxpayers necessary tax forms for reporting and paying their corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2014; withholding taxes for calendar year 2014; and installments of estimated tax for tax years beginning in 2015.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating forms by reference.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes forms to be used by taxpayers to report and pay corporation taxes, limited liability entity taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

(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 contains income and limited liability entity tax forms to be used for tax years beginning in 2014, and estimated tax forms to be used for tax years beginning in 2015.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms to the current tax laws in effect for years beginning in 2014.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay income taxes, limited liability entity taxes, and individual withholding taxes for tax years beginning in 2014.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individual, pass-through entity and corporate tax filers are affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individual, pass-through entity, and corporate tax filers will use the forms contained in this

administrative regulation to report, pay, and withhold taxes due pursuant to KRS Chapter 141 for tax years beginning in 2014.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of filing tax returns contained in this administrative regulation with the Commonwealth of Kentucky should be comparable to filing tax returns with surrounding states.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The forms contained in this administrative regulation should simplify and expedite the reporting and paying of taxes required by KRS Chapter 141.

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

(a) Initially: The cost of printing and designing the forms.

(b) On a continuing basis: Forms are updated each year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds will be provided by the Department of Revenue.

(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 funding will be required to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied as the forms included in this administrative regulation apply to all taxpayers taxed pursuant to KRS Chapter 141.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 131.130(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not increase revenues or expenses for the Commonwealth, but will expedite the collection of taxes provided by KRS Chapter 141.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue will be collected as a result of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? A very small increase in expenditures will occur in the administrative regulation process that will be absorbed by the department operating budget.

(d) How much will it cost to administer this program for subsequent years? No costs for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY 200 KAR 15:010E

This emergency administrative regulation is being promulgated in order to comply with the state ceiling for private activity bonds as provided for in KRS 103.286. During the 2014 Session, the General Assembly passed Senate Bill 153. As it relates to this emergency regulation, this Act, relating to energy efficiency, amended KRS 103.286, which established the Kentucky Private Activity Bond Allocation Committee. Specifically, SB 153 requires that ten (10) percent of Kentucky's private activity cap be reserved for small to medium-sized manufacturing facilities' energy efficiency bonds issued pursuant to KRS 103.282. This emergency regulation is necessary to comply with KRS 103.286, which requires the new ten (10) percent reserve for each calendar year commencing January 1, 2015. This emergency administrative regulation shall be replaced by an ordinary administrative regulation being filed with the Administrative Regulations Compiler contemporaneously with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
LORI FLANERY, Secretary

FINANCE AND ADMINISTRATION CABINET Office of the Secretary (Emergency Amendment)

200 KAR 15:010E. Formula for allocation of private activity bonds.

RELATES TO: KRS 103.200(1)(k), (l), (m), (n), (2), 103.2101, 103.282, 103.286, Pub.L. 111-5

STATUTORY AUTHORITY: KRS 103.286(3), 26 U.S.C. sec. 146

EFFECTIVE: December 19, 2014

NECESSITY, FUNCTION, AND CONFORMITY: KRS 103.286(3) requires the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations to provide for the allocation of the state ceiling for the issuance of private activity bonds. This administrative regulation establishes the formula for that allocation. This administrative regulation also establishes the Commonwealth's role in the allocation of volume cap received as a result of the American Recovery and Reinvestment Act of 2009.

Section 1. Definitions. (1) "Affected bonds" means "private activity bonds" as defined by 26 U.S.C. sec. 146, excluding any obligations not subject to the state ceiling under the Code.

(2) "Allocation" means the amount of volume cap that was approved by the Kentucky Private Activity Bond Allocation Committee for a local issuer or state issuer.

(3) "ARRA" means the American Recovery and Reinvestment Act of 2009, Pub.L. 111-5.

(4) "Available volume cap" means the amount of unallocated volume cap remaining ~~[from the local issuer pool]~~ at the close of business on June 30.

(5) "Bonds" is defined by KRS 103.200(2).

(6) "Committee" means the Kentucky Private Activity Bond Allocation Committee.

(7) "Eligible volume cap applicants" means issuers and local issuers~~[state issuers and local project applicants]~~ who file a notice of intent to issue bonds relating to [available] volume cap.

(8) "Energy efficiency project" means a project meeting the requirements of KRS 103.282.

(9) "Energy efficiency project reserve" means the percentage of the state ceiling that shall be reserved for an energy efficiency project through June 30.

(10) "Issued" means delivered and paid for.

~~(11) [(9)]~~ "Issuer" means the public or authorized governmental body which issues the bonds.

~~(12) [(40)]~~ "Local issuer" means a public or authorized

governmental body which issues bonds on behalf of a local project.

(13)[(14)] "Local issuer pool" means the portion of the state ceiling from which allocations for local projects are made to issuers of affected bonds issued on behalf or for the benefit of an entity which is not a state agency.

(14)[(12)] "Local project" means a project, other than a project for creation or financing of residential single family or multifamily affordable housing which are included under the "state projects", for which bonds are issued on behalf or for the benefit of an entity which is not a state agency.

(15)[(13)] "Lottery" means any process of random selection utilized to allocate available volume cap and which is conducted:

(a) By staff at a public meeting of the Committee; and

(b) In accordance with Section 4[3] of this administrative regulation.

(16)[(14)] "Staff" means the Office of Financial Management of the Finance and Administration Cabinet.

(17)[(15)] "State ceiling" means the cap imposed by 26 U.S.C. sec. 146 on private activity bonds issued within the Commonwealth of Kentucky.

(18)[(16)] "State project" means a project, including creation or financing of residential single family or multifamily affordable housing projects and student loans, for which bonds are issued by, on behalf, or for the benefit of a state agency.

(19)[(17)] "Year" means calendar year.

Section 2. Evaluation of Local Projects. Local projects seeking allocation from the state ceiling shall be allocated according to rankings based on the following factors:

(1) Creation of new jobs, as well as preservation of existing jobs, by the project;

(2) Average hourly wage and benefits of new employees proposed for the project;

(3) Capital investment in Kentucky being made as a result of the project;

(4) Unemployment rate in the county of the project;

(5) Any state economic development incentives awarded to the company; and

(6) Previous state ceiling allocated to the benefited borrower within the last ten (10) years.

Section 3. Evaluation of Energy Efficiency Projects. Energy efficiency projects seeking allocation from the state ceiling under the Energy Efficiency Project Reserve shall be allocated according to rankings based on the following factors:

(1) Annual energy savings associated with the project;

(2) Capital investment in Kentucky being made as a result of the project;

(3) Unemployment rate in the county of the project;

(4) Any state economic development incentives awarded to the company; and

(5) Previous state ceiling allocated to the benefited borrower within the last ten (10) years.

Section 4. Allocation of Available Volume Cap. (1) Allocations from the available volume cap shall be made to eligible volume cap applicants[in the local issuer pool,] as follows:

(a) First, a lottery shall be conducted to determine the order of disbursement to local projects which did not receive an allocation from the local issuer pool;

(b) Second, to the extent there is remaining available volume cap, a lottery shall be conducted to determine the order of disbursement to local projects which received an allocation from the local issuer pool, whether the allocation was issued or not; and

(c) Finally, any remaining available volume cap shall be allocated by the committee to one (1) or more state issuers for use during the year or as carry forward.

(2) The committee shall choose a reasonable method of random selection for the lottery process.

Section 5[4]. Committee Meetings. The committee shall meet as necessary to allocate the state ceiling. Special meetings may be held on the call of the committee chairman.

Section 6[5]. An issuer shall obtain a confirmation authorizing the issuance of affected bonds by filing with the committee a written notice of intent to issue bonds[bond] ("Notice of Intent" form). The committee shall issue a confirmation ("Confirmation of Allocation of State Ceiling" form) allocating to the issuer a portion of the state ceiling. Affected bonds shall not be issued by any issuer prior to receiving confirmation by the committee of an allocation under the state ceiling. Confirmations shall be dated and numbered in the order issued.

Section 7[6]. Notice of Issuance. Local Projects and Energy Efficiency Projects. Confirmation Effective for Ninety (90) Days. A confirmation shall expire ninety (90) calendar days from the date of allocation by the committee, or December 15, whichever is earlier. The issuer shall deliver to the committee a notice that the affected bonds have been issued ("Notice of Issuance" form). The notice of issuance may be sent by any means but the committee shall receive it by the close of business on the 90th day after the confirmation. If the notice period ends on a Saturday, Sunday, or other day upon which state offices are closed for business, the notice period shall be extended to the next business day.

Section 8[7]. Notice of Issuance. State Projects. Confirmation effective until December 15. The issuer shall deliver to the committee a notice of issuance. The notice of issuance may be sent by any means but the committee shall receive it by the close of business on or before December 15. If the notice period ends on a Saturday, Sunday, or other day upon which state offices are closed for business, the notice period shall be extended to the next business day.

Section 9[8]. Issuance of Bonds in Lesser Amounts than Confirmation. Eighty-five (85) Percent Requirement. A confirmation of affected bonds shall be effective if issued in amounts less than the confirmation; if the face amount of the issued bonds is not less than eighty-five (85) percent of the original confirmation. The issuer shall notify the committee if the bonds issued are within the eighty-five (85) percent requirement and the unused part of the allocation shall revert to the local issuer pool, or if this reversion occurs after June 30 of any year, the amount shall become available volume cap.

Section 10[9]. Carry Forward Allocations. (1) In any year, the committee shall allocate any remaining state ceiling as carry forward allocations if the aggregate amount of affected bonds issued during the year is less than the state ceiling on December 15th. An issuer shall, in order to receive a carry forward allocation, file with the committee by December 15th:

(a) A notice of intent; and

(b) A carry forward election of unused private activity bond volume cap (U.S. Treasury Department Form 8328).

(2) The carry forward of any unallocated portion of the state ceiling may be for any purpose authorized by 26 U.S.C. sec. 146(f).

(3) The committee shall issue a confirmation of the notice and election to carry forward ("Confirmation of Carry Forward Allocation of State Ceiling" form).

(4) The committee may consider, but shall not be required to allocate, a carry forward notice or election filed after December 15th.

Section 11[10]. The committee shall not confirm a notice of intent after the aggregate amount of bond confirmations, including carry forwards, have reached the state ceiling for that year.

Section 12[11]. Form and Manner. (1) The notice and confirmation forms required to be filed with and issued by the committee are incorporated by reference in Section 15[14] of this administrative regulation.

(2) An issuer of a local project or energy efficiency project shall not:

(a) File a notice of intent unless the issuance will be made within the ninety (90) day confirmation period established in

Section 7[6] of this administrative regulation; or

(b) Seek an allocation of the state ceiling in excess of the amount necessary to finance all costs of a local project.

(3) An issuer of a state project shall not:

(a) File a notice of intent unless the issuance will be made by December 15; or

(b) Seek allocation of the state ceiling in excess of the amount necessary to finance all costs of a state project.

Section 13[42]. Delegation of Functions. The committee shall review and allocate all requests for state ceiling. The committee shall not delegate authority to make allocations of the state ceiling to staff except if there are surplus or carry forward allocations. Any delegation of authority and the limit of that authority shall be recorded verbatim in the minutes of the committee meeting at which the delegation is made.

Section 14[43]. Volume Cap Allocations under ARRA. (1) Through the ARRA, the federal government has made and may continue to make allocations of volume cap to state and local governments for the issuance of bonds, such as has been made for Recovery Zone Bonds and Qualified Energy Conservation Bonds. If the federal regulations governing these allocations allocate volume cap directly to the Commonwealth or allow for transfer or waiver of any direct volume cap allocation to a local government back to the Commonwealth, the committee shall:

(a) Accept any notice of waiver of volume cap as authorized by the local governing body on behalf of the Commonwealth;

(b) Accept applications of eligible volume cap recipients consistent with federal regulation; and

(c) Rank each application and allocate volume cap based upon:

1. Any federally mandated standards and objectives; and
2. Expected value to the Commonwealth.

(2) Notice of Issuance. The issuer shall deliver to the committee a notice that the affected bonds have been issued within the time constraints established in the applicable federal regulation, if any.

Section 15[44]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Notice of Intent" application, December 2014~~[March 2006]~~;

(b) "Confirmation of Allocation of State Ceiling", March 1998;

(c) "Confirmation of Carry-forward Allocation of State Ceiling", March 1998;

(d) "Notice of Issuance", March 1998; and

(e) "U.S. Treasury Department Form 8328".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Financial Management, 76 Capitol Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

LORI FLANERY, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 19, 2014 at noon

CONTACT PERSON: Doug Hendrix, Deputy General Counsel, Finance and Administration Cabinet, 702 Capitol Avenue, Frankfort, Kentucky 40601, phone (502) 564-6660, fax (502) 564-9875.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Doug Hendrix

(1) Provide a brief summary of:

(a) What this administrative regulation does: Ensures compliance with federal regulations relative to debt ceiling on "private activity" bonds and the allocation of the state ceiling for the issuance of private activity bonds. This administrative regulation establishes the formula for that allocation.

(b) The necessity of this administrative regulation: KRS 103.286 requires the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations to provide for the allocation of the state ceiling for the issuance of private activity

bonds. This administrative regulation establishes that formula.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Describes criteria for efficient allocation of the resource with the parameters established by federal tax law and the authorizing statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Changes allow for statutes to be adhered to and creates an evaluation process to award the envisioned new applicants with Private Activity Volume Cap.

(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 create a third potential pool to allow for the projects described in the new statute KRS 103.282, effective July 15, 2014, to access Private Activity Volume Cap.

(b) The necessity of the amendment to this administrative regulation: The regulation currently does not single out projects identified in the new statute KRS 103.282 and does not reserve volume cap for such projects as the revised KRS 103.286, effective July 15, 2014, statute requires.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the amended authorizing statute by reserving ten (10) percent of the Private Activity Volume Cap for the first six (6) months of the calendar year, as required by KRS 103.286 and adds a third pool to accommodate the type of projects specifically described in the new statute KRS 103.282.

(d) How the amendment will assist in the effective administration of the statutes: The amendment creates the pool and reserves a defined amount for projects envisioned in legislation that are codified in KRS 103.282 and KRS 103.286.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Since projects that are specifically designated in KRS 103.282 and specifically reserved for in KRS 103.286 were already eligible applicants under the previous provisions of the existing Federal Code and state statutes and regulations, the impact of these changes is expected to be minimal or non impactful.

(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:

In the current environment where the state has an abundance of Private Activity Volume Cap, the implementation will have very little impact on the current process. However, should Private Activity Volume Cap demand return to previous levels of demand, the additional restrictions due to the changes could cause some projects to delay implementation due to the six (6) month reservation period for the new applicant pool.

(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: Not Applicable

(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: None

(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 may be determined to be applied, as dictated by the amended statute KRS 103.286, related to the initial reduction and the delay of available volume cap to local issuers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? The Office of Financial Management

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required pursuant to KRS 103.286.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

STATEMENT OF EMERGENCY 900 KAR 7:030E

This emergency administrative regulation is being promulgated to incorporate by reference new data reporting manuals for use by hospitals and ambulatory facilities when submitting administrative claims data to the Cabinet for Health and Family Services, Office of Health Policy. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014. Failure to enact this administrative regulation on an emergency basis will compromise the data necessary to provide data related to the cost, quality, and outcomes of health care services provided in the Commonwealth. This emergency administrative regulation shall be replaced by an ordinary administrative regulation to be concurrently filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
AUDREY TAYSE HAYNES, Secretary

CABINET FOR FAMILY AND HEALTH SERVICES Office of Health Policy (Emergency Amendment)

900 KAR 7:030E. Data reporting by health care providers.

RELATES TO: KRS Chapter 13B, 216.2920-216.2929

STATUTORY AUTHORITY: KRS 216.2923(3), 216.2925

EFFECTIVE: December 31, 2014

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2925 requires that the Cabinet for Health and Family Services promulgate administrative regulations requiring specified health care providers to provide the cabinet with data on cost, quality, and outcomes of health care services provided in the Commonwealth. KRS 216.2923(3) authorizes the cabinet to promulgate administrative regulations to impose fines for failure to report required data. This administrative regulation establishes the required data elements, forms, and timetables for submission of data to the cabinet and fines for noncompliance.

Section 1. Definitions. (1) "Agent" means any entity with which

the cabinet may contract to carry out its statutory mandates, and which it may designate to act on behalf of the cabinet to collect, edit, or analyze data from providers.

(2) "Ambulatory facility" is defined by KRS 216.2920(1).

(3) "Cabinet" is defined by KRS 216.2920(2).

(4) "Coding and transmission specifications", "Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals", or "Kentucky Data Coordinator's Manual for Ambulatory Facilities" means the document containing the technical directives the cabinet issues concerning technical matters subject to frequent change, including codes and data for uniform provider entry into particular character positions and fields of the standard billing form and uniform provider formatting of fields and character positions for purposes of electronic data transmissions.

(5) "Hospital" is defined by KRS 216.2920(6).

(6) "Hospitalization" means the inpatient medical episode identified by a patient's admission date, length of stay, and discharge date, that is identified by a provider-assigned patient control number unique to that inpatient episode, except for:

(a) Inpatient services a hospital may provide in swing, nursing facility, skilled, intermediate or personal care beds; or

(b) Hospice care.

(7) "National Provider Identifier" or "NPI" means the unique identifier assigned by the Centers for Medicare and Medicaid Services to an individual or entity that provides health care services and supplies.

(8) "Outpatient services" means services performed on an outpatient basis in a hospital in accordance with Section 3(2) of this administrative regulation or services performed on an outpatient basis by an ambulatory facility in accordance with Section 4 of this administrative regulation.

(9) "Provider" means a hospital, ambulatory facility, clinic, or other entity of any nature providing hospitalizations, mammograms, or outpatient services as defined in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals or the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(10) "Record" means the documentation of a hospitalization or outpatient service in the format prescribed by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals or the Kentucky Data Coordinator's Manual for Ambulatory Facilities as approved by the Statewide Data Advisory Committee on a computer readable electronic medium.

(11) "Standard Billing Form" means the uniform health insurance claim form pursuant to KRS 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare and Medicaid Services, or the HCFA 1500 for use by hospitals and other providers in billing for hospitalizations and outpatient services.

Section 2. Medicare Provider-Based Entity. A licensed outpatient facility that is a Medicare provider-based entity of a hospital and reports under the hospital's provider number shall be separately identifiable through a facility-specific NPI.

Section 3. Data Collection for Hospitals. (1) Inpatient hospitalization records. A hospital shall document every hospitalization it provides on a Standard Billing Form and shall, from every record, copy and provide to the cabinet the data specified in Section 12 of this administrative regulation.

(2) Outpatient services records.

(a) A hospital shall document on a Standard Billing Form the outpatient services it provides and shall from every record, copy and provide to the cabinet the data specified in Section 12 of this administrative regulation.

(b) A hospital shall submit records that contain the required outpatient services procedure codes specified in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(3) Data collection on patients. A hospital shall submit required data on every patient as provided in Section 12 of this administrative regulation, regardless of the patient's billing or payment status.

Section 4. Data Collection for Ambulatory Facilities. (1) Outpatient services records.

(a) An ambulatory facility shall document on a Standard Billing Form the outpatient services it provides and shall, for every record, copy and provide to the cabinet the data specified in Section 13 of this administrative regulation.

(b) An ambulatory facility shall submit records that contain the required outpatient services procedure codes specified in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(2) Data collection on patients. An ambulatory facility shall submit required data on every patient as provided in Section 13 of this administrative regulation, regardless of the patient's billing or payment status.

Section 5. Data Finalization and Submission by Providers. (1) Submission of final data.

(a) Data shall be final for purposes of submission to the cabinet as soon as a record is sufficiently final that the provider could submit it to a payor for billing purposes, regardless of whether the record has actually been submitted to a payor.

(b) Finalized data shall not be withheld from submission to the cabinet on grounds that it remains subject to adjudication by a payor.

(c) Data on a hospitalization shall not be submitted to the cabinet before a patient is discharged and before the record is sufficiently final that it could be used for billing.

(2) Data submission responsibility.

(a) If a patient is served by a mobile health service, specialized medical technology service, or another situation where one (1) provider provides services under contract or other arrangement with another provider, responsibility for providing the specified data to the cabinet shall reside with the provider that bills for the service or would do so if a service is unbilled.

(b) Charges for physician services provided within a hospital shall be reported to the cabinet.

1. Responsibility for reporting the physician charge data shall rest with the hospital if the physician is an employee of the hospital.

2. A physician charge contained within a record generated by a hospital shall be clearly identified in a separate field within the record so that the cabinet may ensure comparability when aggregating data with other hospital records that do not contain physician charges.

(3) Transmission of records.

(a) Records submitted to the cabinet by a hospital shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(b) Records submitted to the cabinet by an ambulatory facility shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(c) Each provider shall submit data by electronic transmission as specified by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(d) Each provider shall provide back-up security against accidental erasure or loss of the data until all incomplete or inaccurate records identified by the cabinet have been corrected and resubmitted.

(4) Verification and audit trail for electronic data submissions.

(a) Each provider shall maintain a date log of data submissions and the number of records contained in each submission, and shall make the log available for inspection upon request by the cabinet.

(b) The cabinet shall, within twenty-four (24) hours of submission, verify by electronic message to each provider the receipt of the provider's data transmissions and the number of records in each transmission.

(c) A provider shall immediately notify the cabinet of a discrepancy between the provider's date log and a verification notice.

Section 6. Data Submission Timetable for Providers. (1)

Quarterly submissions. Each provider shall submit data at least once for each calendar quarter. A quarterly submission shall:

(a) Contain data, which during that quarter became final as specified in Section 5(1) of this administrative regulation; and

(b) Be submitted to the cabinet not later than forty-five (45) days after the last day of the quarter.

1. If the 45th day falls on a weekend or holiday, the submission due date shall be the next working day.

2. Calendar quarters shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(2) Submissions more frequent than quarterly. A provider may submit data after records become final as specified in Section 5(1) of this administrative regulation and at a reasonable frequency convenient to a provider for accumulating and submitting batch data.

Section 7. Data Corrections for Providers. (1) Editing. Data received by the cabinet shall, upon receipt, be edited to ensure completeness and validity of the data. Computer editing routines shall identify for correction every record in which the submitted contents of required fields are not consistent with the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(2) Submission of corrections. The cabinet shall allow a provider thirty (30) days in which to submit corrected copies of initially submitted data the cabinet identifies as incomplete or invalid as a result of edits.

(a) The thirty (30) days shall begin on the date of the cabinet's notice informing the provider that corrections are required.

(b) A provider shall submit to the cabinet corrected data by electronic transmission within thirty (30) days.

(c) Corrected data submitted to the cabinet shall be uniformly completed and formatted according to the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(3) Percentage error rate.

(a) When editing data upon its initial submission, the cabinet shall identify and return to the provider for correction every record in which one (1) or more of the required data elements fails to pass the edit.

(b) When editing data that a provider has submitted, the cabinet shall check for an error rate per quarter of no more than one (1) percent of records or not more than ten (10) records, whichever is greater.

(c) The cabinet may return for further correction any submission of allegedly corrected data in which the provider fails to achieve a corrected error rate per quarter of no more than one (1) percent of records or not more than ten (10) records, whichever is greater.

Section 8. Fines for Noncompliance for Providers. (1) A provider failing to meet quarterly submission guidelines as established in Sections 6 and 7 of this administrative regulation shall be assessed a fine of \$500 per violation.

(2) The cabinet shall notify a noncompliant provider by certified mail, return receipt requested, of the documentation of the reporting deficiency and the assessment of the fine.

(3) A provider shall have thirty (30) days from the date of receipt of the notification letter to pay the fine which shall be made payable to the Kentucky State Treasurer and sent by certified mail to the Kentucky Cabinet for Health and Family Services, Office of Health Policy, 275 East Main Street 4 W-E, Frankfort, Kentucky 40621.

(4) Fines during a calendar year shall not exceed \$1,500 per provider.

Section 9. Extension or Waiver of Data Submission Timelines.

(1) A provider experiencing extenuating circumstances or a hardship may request from the cabinet, in writing, a data

submission extension or waiver.

(a) A provider shall request an extension or waiver from the Office of Health Policy on or before the last day of the data reporting period to receive an extension or waiver for that period.

(b) An extension or waiver shall not exceed a continuous period of greater than six (6) months.

(2) The cabinet shall consider the following criteria in determining whether to grant an extension or waiver:

(a) Whether the request was made due to an event beyond the provider's control, such as a natural disaster, catastrophic event, or theft of necessary equipment or information;

(b) The severity of the event prompting the request; and

(c) Whether the provider continues to gather and submit the information necessary for billing.

(3) A provider shall not apply for more than three (3) extensions or waivers during a calendar year.

Section 10. Appeals for Providers. (1) A provider notified of its noncompliance and assessed a fine pursuant to Section 8(1) of this administrative regulation shall have the right to appeal within thirty (30) days of the date of the notification letter.

(a) If the provider believes the action by the cabinet is unfair, without reason, or unwarranted, and the provider wishes to appeal, it shall appeal in writing to the Secretary of the Cabinet for Health and Family Services, 5th Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(b) An appeal shall be filed in accordance with KRS Chapter 13B.

(2) Upon receipt of the appeal, the secretary or designee shall issue a notice of hearing no later than twenty (20) days before the date of the hearing. The notice of the hearing shall comply with KRS 13B.050. The secretary shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(3) The hearing officer shall issue a recommendation in accordance with KRS 13B.110. Upon receipt of the recommended order, following consideration of any exceptions filed pursuant to KRS 13B.110(4), the secretary shall enter a final decision pursuant to KRS 13B.120.

Section 11. Working Contacts for Providers. (1) On or before the last day of the data reporting period, a provider shall report by electronic transmission to the cabinet the names and telephone numbers of a designated contact person and one (1) back-up person to facilitate technical follow-up in data reporting and submission.

(a) A provider's designated contact and back-up shall not be the chief executive officer unless no other person employed by the provider has the requisite technical expertise.

(b) The designated contact shall be the person responsible for review of the provider's data for accuracy prior to the publication by the cabinet.

(2) If the chief executive officer, designated contact person, or back-up person changes during the year, the name and telephone number of the replacing person shall be reported immediately to the cabinet.

Section 12. Required Data Elements for Hospitals. (1) A hospital shall ensure that each record submitted to the cabinet contains at least the data elements identified in this section and as provided on the Standard Billing Form.

(2) A single asterisk identifies elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(3) Double asterisks identify elements that shall not be blank if present on the record and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(4) Additional data elements, as specified in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals, shall be required by the cabinet to facilitate proper collection and identification of data.

Required	DATA ELEMENT LABEL
Yes	*Provider Assigned Patient Control Number
Yes	**Provider Assigned Medical Record Number
Yes	*Type of Bill (inpatient, outpatient or other)
Yes	**Federal Tax Number or Employer Identification Number (EIN)
Yes	*Facility-specific NPI
Yes	*Statement Covers Period
Yes	*Patient City and Zip Code
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Admission/Start of Care Date
Yes	**Admission Hour
Yes	*Type of Admission
Yes	*Source of Admission
Yes	*Patient Status (at end of service or discharge)
No	Occurrence Codes & Dates
Yes	**Value Codes and Amounts, including birth weight in grams
Yes	*Revenue Codes/Groups
Yes	*HCPCS/Rates/Hipps Rate Codes
Yes	*Units of Service
Yes	*Total Charges by Revenue Code Category
Yes	*Payor Identification - Payor Name
Yes	*National Provider Identifier
Yes	*Diagnosis Version Qualifier - ICD version 9.0 or 10.0
Yes	*Principal Diagnosis Code
Yes	*Principal Diagnosis Code present on admission identifier for non-Medicare claims
Yes	*Principal Diagnosis Code present on admission identifier for Medicare claims
Yes	**Secondary and Other Diagnosis Codes
Yes	**Secondary and Other Diagnosis code present on admission identifier for non-Medicare claims
Yes	**Secondary and Other Diagnosis code present on admission identifier for Medicare claims
Yes	*Inpatient Admitting Diagnosis
Yes	**Outpatient reason for visit
Yes	*External Cause of Injury Code (E-code) if present
Yes	*External Cause of Injury (E-code) present on admission identifier on non-Medicare claims if present
Yes	*External Cause of Injury (E-code) present on admission identifier on Medicare claims if present
Yes	*Principal Procedure Code & Date if present
Yes	**Secondary and Other Procedure Codes & Date if present
Yes	*Attending Physician NPI/QUAL/ID
Yes	*Operating Clinician ID Number/NPI
Yes	**Other Physician NPI/QUAL/ID
Yes	*Race
Yes	*Ethnicity

Section 13. Required Data Elements for Ambulatory Facilities. (1) An ambulatory facility shall ensure that each record submitted to the cabinet contains at least the data elements identified in this section and as provided on the Standard Billing Form.

(2) A single asterisk identifies elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(3) Double asterisks identify elements that shall not be blank if present on the record and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(4) Additional data elements, as specified in the Kentucky Data Coordinator's Manual for Ambulatory Facilities, shall be required by the cabinet to facilitate proper collection and identification of data.

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Required	DATA ELEMENT LABEL
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Zip Code
Yes	*1st Individual Payer ID#
Yes	*Admission/Start of Care Date
Yes	*Type of Bill
Yes	*Principal Diagnosis Code
Yes	**Secondary and Other Diagnosis Codes if present
Yes	*Principal Procedure Code & Date
Yes	**Secondary and Other Procedure Codes & Date if present
Yes	*1st Units of Service
Yes	*1st Charge
Yes	**Secondary and Other Units of Service and Charge
Yes	*Total Charges for the Case
Yes	*Attending Clinician NPI
Yes	*Provider Assigned Patient ID#
Yes	**1st Insurer Group #
Yes	**2nd Insurer Group #
Yes	*Operating Clinician NPI
Yes	*Billing Facility-specific NPI
Yes	**Federal Tax Number or Employer Identification Number (EIN)
Yes	*Statement Covers Period
Yes	*Primary Payor Name
Yes	**Secondary Payor Name
Yes	*Race
Yes	*Ethnicity
Yes	*HCPCS/Rates/Hipps Rate Codes

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals", revised December[August] 1, 2014; and

(b) "Kentucky Data Coordinator's Manual for Ambulatory Facilities," revised December[August] 1, 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

EMILY WHELAN PARENTO, Executive Director

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 31, 2014 at 11 a.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Diona Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides clarification and instruction to specified health care providers on the process necessary to submit copies of administrative claims data to the Cabinet.

(b) The necessity of this administrative regulation: This administrative regulation is necessary so that health care providers have a uniform mechanism with timeframes and instructions with which to submit the required data. The administrative regulation contains the updated data submission manuals for hospitals and ambulatory care facilities. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary to ensure that health care providers have a uniform mechanism with timeframes and instructions with which to submit

the required data to enable the Cabinet to publish the data and reports as required by KRS 216.2925.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides detailed instructions to specified health care providers relating to the data elements, forms and timetables necessary to comply with the 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: This administrative regulation incorporates by reference updated data reporting manuals. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide new data submission manuals to facilities to ensure accuracy of the submitted data.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statute by providing a standardized method of reporting by hospitals and ambulatory care facilities.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes as it provides detailed instructions for submission of required data elements.

(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 232 hospitals and ambulatory facilities which submit data to the Cabinet.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will collect and submit data as required. Entities are already required to submit data. This administrative regulation incorporates by reference updated data reporting manuals. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each entity will collect and submit data as required. Entities are already required to submit data. This regulation incorporated by reference manuals that were revised to provide detailed submission requirements. Therefore, no additional cost will be incurred by entities to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Data integrity is improved as all applicable payor codes are now included in the manuals and instructions have been provided related to the addition of the requirement to report all outpatient procedures.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation. The Office of Health Policy currently collects data and has the necessary data collection system in place.

(b) On a continuing basis: No additional costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding for the implementation and enforcement of this administrative regulation will be the Office of Health Policy's existing budget. No new funding will be needed to implement the provisions of the amended 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: No

increase in fees or funding is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

(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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment may impact any government owned, controlled or proposed hospitals and ambulatory care facilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The authorizing statutes are KRS 216.2920-216.2929.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None
Expenditures (+/-): None
Other Explanation: None

STATEMENT OF EMERGENCY 907 KAR 1:045E

This emergency administrative regulation is being promulgated to establish a new reimbursement methodology for community mental health center services. This action must be taken on an emergency basis to comply with a federal mandate (Centers for Medicare and Medicaid Services) and to prevent the loss of federal funds. This emergency administrative regulation differs from the emergency administrative regulation that was filed with the Legislative Research Commission on December 30, 2013 in that it establishes: a new reimbursement methodology for community mental health center services; and reimbursement for primary care services provided in community mental health centers. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation differs from this emergency administrative regulation in that it: establishes interim reimbursement for injectable drugs, defines "injectable drug", and defines "rebatable drug"; establishes interim reimbursement for primary care services and establishes unit durations for primary care services; does not establish an interim reimbursement for the period beginning January 1, 2015 and ending June 30, 2015 as the ordinary administrative regulation is not anticipated to be in effect during that period; does not contain the requirement that a cost report be submitted by each CMHC to the Department for Medicaid Services by April 1, 2015 as the ordinary administrative regulation

will not be in effect on April 1, 2015; and addresses interim reimbursement beginning July 1, 2016.

STEVEN L. BESHEAR, Governor
AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Community Alternatives (Emergency Amendment)

907 KAR 1:045E. Reimbursement provisions and requirements regarding community mental health center services.

RELATES TO: KRS 205.520(3), 210.370

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6313, 42 C.F.R. 447.325, 42 U.S.C. 1396a-d
EFFECTIVE: December 31, 2014

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family 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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding community mental health center services provided to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. Definitions. (1) "Community board for mental health or individuals with an intellectual disability" means a board established pursuant to KRS 210.380.

(2) "Community mental health center" or "CMHC" means a facility which meets the community mental health center requirements established in 902 KAR 20:091.

(3) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(4) [(2)] "Department" means the Department for Medicaid Services or its designee.

(5) [(3)] "Enrollee" means a recipient who is enrolled with a managed care organization.

(6) [(4)] "Federal financial participation" is defined by 42 C.F.R. 400.203.

(7) "Federal Register" means the official journal of the United States federal government that publishes government agency rules and public notices.

(8) "Healthcare Common Procedure Coding System code" means a billing code:

(a) Recognized by Medicare; and

(b) Monitored by the Centers for Medicare and Medicaid Services.

(9) "Interim reimbursement" means a reimbursement:

(a) In effect for a temporary period of time; and

(b) That does not represent final reimbursement for services provided during the period of time.

(10) [(5)] "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(11) "Medicaid allowable costs" means the costs:

(a) Associated with the Medicaid-covered services:

1. Listed in Section 10 of this administrative regulation;

a. Rendered to recipients who are not enrollees; and

b. Not rendered as a 1915(c) home and community based waiver services provider; and

2. Covered pursuant to 907 KAR 1:046;

a. Rendered to recipients who are not enrollees; and

b. Not rendered as a 1915(c) home and community based waiver services provider; and

(b) Determined to be allowable costs by the department.

(12) "Medical Group Management Association (MGMA) Physician Compensation and Production Survey Report" means a report developed and owned by the Medical Group Management Association that:

(a) Highlights the critical relationship between physician salaries and productivity;

(b) Is used to align physician salaries and benefits with provider production; and

(c) Contains:

1. Performance ratios illustrating the relationship between compensation and production; and

2. Comprehensive and summary data tables that cover many specialties.

(13) "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(14) "Medicare Economic Index" means a measure of inflation:

(a) Associated with the costs of physicians' practices; and

(b) Published in the Federal Register.

(15) "Payment plan request" means a request to pay an amount owed to the department over a period of time approved by the department.

(16) [(6)] "Provider" is defined by KRS 205.8451(7).

(17) [(7)] "Recipient" is defined by KRS 205.8451(9).

(18) "State fiscal year" means the period beginning on July 1 of a year and ending on June 30 of the following year.

Section 2. General Reimbursement Provisions. (1) The department shall reimburse a participating in-state community mental health center under this administrative regulation for services:

(a) If the services are:

1. Covered pursuant to:

a. 907 KAR 1:044; or

b. 907 KAR 1:046;

2. Not provided by the CMHC acting as a 1915(c) home and community based waiver services provider;

3. Provided to recipients who are not enrolled with a managed care organization; and

4. Medically necessary; and

(b) Based on the community mental health center's Medicaid allowable costs.

(2) The department's reimbursement shall include reimbursing:

(a) On an interim basis during the course of a state fiscal year; and

(b) A final reimbursement for the state fiscal year that results from a reconciliation of the interim reimbursement amount paid to the CMHC by the department compared to the CMHC's Medicaid allowable costs for the state fiscal year.

Section 3. Interim Reimbursement for Behavioral Services Spanning January 1, 2015 through June 30, 2015. The department shall reimburse a CMHC on an interim basis for a Medicaid-covered behavioral health service:

(1) Rendered:

(a) To a recipient who is not enrolled with a managed care organization; and

(b) Anytime from January 1, 2015, through June 30, 2015; and

(2) At the rate in effect for the service on December 31, 2014.

Section 4. Interim Reimbursement for Behavioral Health Services Spanning July 1, 2015 through June 30, 2016. (1) By April 1, 2015, a CMHC shall submit a cost report to the department:

(a) In a format that has been approved by the Centers for Medicare and Medicaid Services; and

(b) That states all of the:

1. CMHC's Medicaid allowable costs for Medicaid-covered services rendered to recipients during the period beginning July 1, 2013, and ending June 30, 2014;

2. CMHC's costs associated with Medicaid-covered services rendered to enrollees during the period beginning July 1, 2013, and ending June 30, 2014;

3. Costs of the community board for mental health or

individuals with an intellectual disability under which the CMHC operates for the period beginning July 1, 2013, and ending June 30, 2014; and

4. CMHC's costs associated with services rendered to individuals:

a. That were reimbursed by an insurer or party other than the department or a managed care organization; and

b. During the period beginning July 1, 2013, and ending June 30, 2014.

(2) The department shall:

(a) Review the cost report referenced in subsection (1) of this section; and

(b) Establish interim rates for Medicaid-covered behavioral health services:

1. To be effective July 1, 2015;

2. Based on Medicaid allowable costs as determined by the department through its review; and

3. Intended to result in a reimbursement for Medicaid-covered behavioral health services:

a. Provided to recipients who are not enrollees;

b. For the period July 1, 2015, through June 30, 2016; and

c. That equals the department's estimate of behavioral health services' costs for the CMHC for the period.

Section 5. Final Reimbursement for Services Provided from January 1, 2015 through June 30, 2015. (1) By December 31, 2015, a CMHC shall submit a cost report to the department:

(a) In a format that has been approved by the Centers for Medicare and Medicaid Services;

(b) That has been audited by an independent auditing entity; and

(c) That states all of the:

1. CMHC's Medicaid allowable costs for Medicaid-covered services rendered to recipients during the period beginning July 1, 2014, and ending June 30, 2015;

2. CMHC's costs associated with Medicaid-covered services rendered to enrollees during the period beginning July 1, 2014, and ending June 30, 2015;

3. Costs of the community board for mental health or individuals with an intellectual disability under which the CMHC operates for the period beginning July 1, 2014, and ending June 30, 2015; and

4. CMHC's costs associated with services rendered to individuals:

a. That were reimbursed by an insurer or party other than the department or a managed care organization; and

b. During the period beginning July 1, 2014, and ending June 30, 2015.

(2) The department shall:

(a) Review the cost report referenced in subsection (1) of this section;

(b) Determine the amount of Medicaid allowable costs for the dates of service beginning January 1, 2015, through June 30, 2015; and

(c) Compare the amount of Medicaid allowable costs referenced in paragraph (b) of this subsection to the department's interim reimbursement for Medicaid-covered services provided during the dates of service beginning January 1, 2015, through June 30, 2015.

(3)(a) After the department compares a CMHC's interim reimbursement with the CMHC's Medicaid allowable costs for the period referenced in subsection (2) of this section, if the department determines that the interim reimbursement:

1. Was less than the CMHC's Medicaid allowable costs for the period, the department shall send a payment to the CMHC equal to the difference between the CMHC's total interim reimbursement and the CMHC's Medicaid allowable costs; or

2. Exceeded the CMHC's Medicaid allowable costs for the period, the:

a. Department shall send written notification to the CMHC requesting the total amount of the overpayment; and

b. CMHC shall, within thirty (30) days of receiving the department's written notice, send a:

- (i) Payment to the department equal to the excessive amount;
or
(ii) Payment plan request to the department.
(b) A CMHC shall not implement a payment plan unless the department has approved the payment plan in writing.
(c) If a CMHC fails to comply with the requirements established in paragraph (a)2 of this subsection, the department shall:
1. Suspend payment to the CMHC; and
2. Recoup the amount owed by the CMHC to the department.

Section 6. Final Reimbursement for a State Fiscal Year Beginning with State Fiscal Year 2016. (1)(a) Beginning with the state fiscal year that begins July 1, 2015, and ends June 30, 2016, by December 31 following the end of the state fiscal year, a CMHC shall submit a cost report to the department:

1. In a format that has been approved by the Centers for Medicare and Medicaid Services;
2. That has been audited by an independent auditing entity;
and
3. That states all of the:
a. CMHC's Medicaid allowable costs:
(i) For Medicaid-covered services rendered to recipients during the prior state fiscal year; and
(ii) For Medicaid-covered injectable drugs rendered to recipients during the prior state fiscal year if the CMHC administered injectable drugs to recipients during the time period;
b. CMHC's costs associated with:
(i) Medicaid-covered services rendered to enrollees during the prior state fiscal year; and
(ii) Medicaid-covered injectable drugs rendered to enrollees during the prior state fiscal year if the CMHC administered injectable drugs to enrollees during the time period;
c. Costs of the community board for mental health or individuals with an intellectual disability under which the CMHC operates for the prior state fiscal year; and
d. CMHC's costs associated with services rendered to individuals:
(i) That were reimbursed by an insurer or party other than the department or a managed care organization; and
(ii) During the prior state fiscal year.
(b) To illustrate the timeline referenced in paragraph (a) of this subsection, an independently audited cost report stating costs associated with services and injectable drugs provided during the state fiscal year spanning July 1, 2015, through June 30, 2016, shall be submitted to the department by December 31, 2016.

(2) By April 1 following the department's receipt of a CMHC's completed cost report submitted to the department by the prior December 31, the department shall:

- (a) Review the cost report referenced in subsection (1) of this section;
(b) Determine the amount of Medicaid allowable costs on the cost report; and
(c) Compare the amount of Medicaid allowable costs referenced in paragraph (b) of this subsection to the department's interim reimbursement for Medicaid-covered services and injectable drugs rendered during the same state fiscal year.
(3)(a) After the department compares a CMHC's interim reimbursement with the CMHC's Medicaid allowable costs for the period, if the department determines that the interim reimbursement:
1. Was less than the CMHC's Medicaid allowable costs for the period, the department shall send a payment to the CMHC equal to the difference between the CMHC's total interim reimbursement and the CMHC's Medicaid allowable costs; or
2. Exceeded the CMHC's Medicaid allowable costs for the period, the:
a. Department shall send written notification to the CMHC requesting the amount of the overpayment; and
b. CMHC shall, within thirty (30) days of receiving the department's written notice, send a:
(i) Payment to the department equal to the excessive amount;
or
(ii) Payment plan request to the department.

(b) A CMHC shall not implement a payment plan unless the department has approved the payment plan in writing.

(c) If a CMHC fails to comply with the requirements established in paragraph (a)2 of this subsection, the department shall:

1. Suspend payment to the CMHC; and
2. Recoup the amount owed by the CMHC to the department.

Section 7. New Services. (1) Reimbursement regarding a projection of the cost of a new Medicaid-covered service or expansion shall be made on a prospective basis in that the costs of the new service or expansion shall be considered when actually incurred as an allowable cost.

(2)(a) A CMHC may request an adjustment to an interim rate after reaching the mid-year point of the new service or expansion.

(b) An adjustment shall be based on actual costs incurred.

Section 8. Auditing and Accounting Records. (1)(a) The department shall perform a desk review of each cost report to determine whether an audit is necessary and, if so, the scope of the audit.

(b) If the department determines that an audit is not necessary, the cost report shall be settled without an audit.

(c) A desk review or audit shall be used for purposes of verifying costs to be used in setting the interim behavioral health services rate or for purposes of adjusting interim behavioral health services rates which have been set based on unaudited data.

(2)(a) A CMHC shall maintain and make available any records and data necessary to justify and document:

1. Costs to the CMHC;
2. Services provided by the CMHC;
3. Drugs provided, if any, by the CMHC;
4. Cost allocations utilized including overhead statistics and supportive documentation; and
5. Any amount reported on the cost report.

(b) The department shall have unlimited on-site access to all of a CMHC's fiscal and service records for the purpose of:

1. Accounting;
2. Auditing;
3. Medical review;
4. Utilization control; or
5. Program planning.

(3) A CMHC shall maintain an acceptable accounting system to account for the:

- (a) Cost of total services provided;
(b) Charges for total services rendered; and
(c) Charges for covered services rendered to eligible recipients.

(4) An overpayment discovered as a result of an audit or desk review shall be settled through recoupment or withholding.

Section 9. Allowable and Non-allowable Costs. (1) The following shall be allowable costs:

(a) Services' or drugs' costs associated with the services or drugs;

(b) Depreciation as follows:

1. A straight line method shall be used;
2. The edition of the American Hospital Association's useful life guidelines currently used by the Centers for Medicare and Medicaid Services' Medicare program shall be used;
3. The maximum amount for expensing an item in a single cost report shall be \$500; and

4. Only the depreciation of assets actually being used to provide services shall be recognized;
(c) Interest costs;
(d) Costs incurred for research purposes;
(e) Costs incurred for transporting recipients to services;
(f) Costs of motor vehicles used by management personnel up to \$25,000;

(g) Costs for training or educational purposes outside of Kentucky including transportation costs to travel to the training or education;
(h) Costs associated with any necessary legal expense

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incurred in the normal administration of the CMHC:

(i) The cost of administrative staff salaries, which shall be limited to the average salary for the given position as established for the geographic area on www.salary.com; and

(j) 1. The cost of practitioner salaries shall be limited to the median salary for the southern region as reported in the Medical Group Management Association (MGMA) Physician Compensation and Production Survey Report, if available.

2. A per visit amount using MGMA median visits shall be utilized.

3. The most recently available MGMA publication that relates to the cost report period shall be used.

(2)(a) The allowable cost for a service or good purchased by a facility from a related organization shall be in accordance with 42 C.F.R. 413.17.

(3) The following shall not be allowable costs:

(a) Bad debt;

(b) Charity;

(c) Courtesy allowances;

(d) Political contributions;

(e) Costs associated with an unsuccessful lawsuit against the department or the Cabinet for Health and Family Services;

(f) Costs associated with any legal expense incurred related to a judgment granted as a result of an unlawful activity or pursuit;

(g) The value of services provided by non-paid workers;

(h) Travel or related costs or expenses associated with attending:

1. A convention;

2. A meeting;

3. An assembly; or

4. A conference; or

(i) Costs related to lobbying.

(4) A discount or other allowance received regarding the purchase of a good or service shall be deducted from the costs of the good or service for cost reporting purposes.

(5)(a) Maximum allowable costs shall be the maximum amount which may be allowed as reasonable cost for the provision of a service or drug.

(b) To be considered allowable, any cost shall:

1. Be necessary and appropriate for providing services; and

2. Not exceed usual and customary charges [as established in this subsection:

(a) The payment rate that was in effect on June 30, 2002, for the community mental health center for community mental health center services shall remain in effect and there shall be no cost settling.

(b) Allowable costs shall not:

1. Exceed customary charges which are reasonable; or

2. Include:

a. The costs associated with political contributions;

b. Travel or related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities);

c. The costs of motor vehicles used by management personnel which exceed \$20,000 total valuation annually (unless the excess cost is considered as compensation to the management personnel); or

d. Legal fees for unsuccessful lawsuits against the cabinet.

(c) Costs (excluding transportation costs) for training or educational purposes outside the state shall be allowable costs.

(2) To be reimbursable, a service shall:

(a) Meet the requirements of 907 KAR 1:044, Section 4(2); and

(b) Be medically necessary].

Section 10. Units of Service[3. Implementation of Payment System]. (1)(a) Interim payments shall be based on units of service.

(b) One (1) unit for each behavioral health service shall be defined as follows:

Service	Unit of Service
Individual Outpatient Therapy	15 minutes
Group Outpatient Therapy	15 minutes
Family Outpatient Therapy	15 minutes
Collateral Outpatient Therapy	15 minutes
Psychological Testing	15 minutes
Therapeutic Rehabilitation	15 minutes
Medication Prescribing and Monitoring	15 minutes
Physical Examinations	15 minutes
Screening	15 minutes
Assessment	15 minutes
Crisis Intervention	15 minutes
Service Planning	15 minutes
Screening, Brief Intervention, and Referral to Treatment	15 minutes
Mobile Crisis Services	1 hour
Assertive Community Treatment	Per Diem
Intensive Outpatient Program Services	Per Diem
Residential Crisis Stabilization Services	Per Diem
Residential Services for Substance Use Disorders	Per Diem
Partial Hospitalization	Per Diem
Day Treatment	1 hour
Comprehensive Community Support Services	15 minutes
Peer Support Services	15 minutes

(2) An initial unit of service which lasts less than:

(a) Fifteen (15) minutes for a service in which fifteen (15) minutes is the unit amount may be billed as one (1) unit; or

(b) The minimum amount for the service if the minimum amount is more than fifteen (15) minutes may be billed as one (1) unit.

(3) Except for an initial unit of a service, a service that is:

(a) Less than one-half (1/2) of one (1) unit shall be rounded down; or

(b) Equal to or greater than one-half (1/2) of one (1) unit shall be rounded up.

(4) An individual provider shall not exceed four (4) units of service in one (1) hour.

(5) An overpayment discovered as a result of an audit shall be settled through recoupment or withholding.

[(6) A community mental health center shall maintain an acceptable accounting system to account for the:

(a) Cost of total services provided;

(b) Charges for total services rendered; and

(c) Charges for covered services rendered eligible recipients.

(7) A community mental health center shall make available to the department all recipient records and fiscal records:

(a) At the end of each fiscal reporting period;

(b) Upon request by the department; and

(c) Subject to reasonable prior notice by the department.

(8) Payments due a community mental health center shall be made at least once a month.

Section 4. Nonallowable Costs. The department shall not reimburse:

(1) Under the provisions of this administrative regulation for a service that is not covered by 907 KAR 1:044; or

(2) For a community mental health center's costs found unreasonable or nonallowable in accordance with the Community Mental Health Center Reimbursement Manual.].

Section 11.[5.] Reimbursement of Out-of-state Providers. Reimbursement to a participating out-of-state community mental health center shall be the lesser of the:

(1) Charges for the service;

(2) Facility's rate as set by the state Medicaid Program in the other state; or

(3) Upper limit for that type of service in effect for Kentucky providers.

Section 12.[6.] Appeal Rights. A community mental health

center may appeal a Department for Medicaid Services decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 13.[7-] Not Applicable to Managed Care Organization. A managed care organization shall not be required to reimburse for community mental health center services in accordance with this administrative regulation.

Section 14.[8-] Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 31, 2014 at 11 a.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

- (1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding community mental health center services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's reimbursement provisions and requirements regarding community mental health center services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing DMS's reimbursement provisions and requirements regarding community mental health center services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assist in the effective administration of the authorizing statutes by establishing DMS's reimbursement provisions and requirements regarding community mental health center services.

- (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 introduces a new cost-based reimbursement methodology. Via the cost-based model the Department for Medicaid Services (DMS) will ultimately reimburse for services rendered during a given year based on Medicaid allowable costs after a thorough review of cost data reported by each CMHC to determine such costs for each CMHC. As a given CMHC's costs for a year is reported after the year concludes and DMS must review the cost data before determining the CMHC's total Medicaid allowable costs for the year, DMS reimburses each CMHC on an interim basis during the course of the year. After completing the review and determination of a CMHC's Medicaid allowable costs for a year, DMS will compare its interim reimbursement paid to the CMHC during the course of the year to the CMHC's actual Medicaid allowable costs for the year. If DMS's interim reimbursement to the CMHC exceeded the CMHC's Medicaid allowable costs, the CMHC will send the overpayment amount to DMS. If DMS's interim reimbursement was less than the CMHC's Medicaid allowable costs for the year, DMS will issue a lump sum payment to the CMHC equaling the amount owed. The reimbursement established in this administrative regulation only applies to services rendered to Medicaid "fee-for-service" recipients. These are Medicaid recipients who are not enrolled with

a managed care organization. Managed care organizations are not required to reimburse for CMHC services in accordance with this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment establishing a new cost-based reimbursement methodology is necessary as the Centers for Medicare and Medicaid Services (CMS) mandated that the Department for Medicaid Services (DMS) terminate its current CMHC services' reimbursement (effective January 1, 2015) and replace it with either a cost-based model or reimburse as Medicare does for the services. The mandate results in part from an audit of a CMHC by the Kentucky Auditor of Public Accounts. DMS shared the two (2) options with the chief executive officers (CEOs) of the CMHCs and the CEOs elected the cost-based reimbursement model.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments conform to the content of the authorizing statutes by revising Medicaid reimbursement for community mental health centers in a manner that complies with a federal mandate.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effective administration of the authorizing statutes by revising Medicaid reimbursement for community mental health centers in a manner that complies with a federal mandate.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Community mental health centers - there are fourteen (14) - will be affected by the amendment as will physicians, physician assistants, and advanced practice registered nurses who wish to provide primary care services in a CMHC.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. CMHCs will have to submit to DMS a cost report in a format approved by the Centers for Medicare and Medicaid Services (CMS) stating all of the CMHCs Medicaid allowable costs, costs associated with care provided to recipients who are enrolled with a managed care organization, costs experienced by the Community Board for Mental Health or Individuals with an Intellectual Disability which oversees the CMHC; and costs associated with services covered by another payor/party.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). CMHCs will experience administrative costs associated with tracking and reporting costs data (including employing or contracting with personnel capable of accurately tracking and reporting the data).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). CMHCs will benefit by receiving reimbursement from DMS for services to Medicaid recipient who are not enrolled with a managed care organization.

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

(a) Initially: DMS does not anticipate a substantial change in costs associated with implementing the new cost-based reimbursement methodology mandated by CMS but won't know the full impact until after receiving cost reports from CMHCs in the future.

(b) On a continuing basis: The response in paragraph (a) also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid.) Expanding the primary care provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? DMS does not anticipate a substantial change in costs associated with implementing the new cost-based reimbursement methodology mandated by CMS but won't know the full impact until after receiving cost reports from CMHCs in the future.

(d) How much will it cost to administer this program for subsequent years? The response in (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative

regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY 907 KAR 3:017E

This emergency administrative regulation is being promulgated to increase reimbursement for wellness and preventive care services. The increased reimbursement will be made for the services provided from January 1, 2015 through June 30, 2016. This action must be implemented on an emergency basis to ensure Medicaid recipient access to such services by providing an incentive for more providers of the services to participate in the Medicaid Program. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor

AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Provider Operations (New Emergency Administrative Regulation)

907 KAR 3:017E. Enhanced Reimbursement for Preventive and Wellness Services.

RELATES TO: KRS 205.520, 205.560

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1), 42 U.S.C. 1396a(a)(30).

EFFECTIVE: December 31, 2014

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family 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 to qualify for federal Medicaid funds. This administrative regulation establishes the policies and requirements regarding the Department for Medicaid Services' enhanced reimbursement for certain preventive services and wellness services provided to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "CPT code" means a code used for reporting procedures and services performed by physicians and published annually by the American Medical Association in Current Procedural Terminology.

(3) "Currently enrolled with the Medicaid Program" means:

(a) Currently enrolled with the Medicaid Program pursuant to 907 KAR 1:672; and

(b) Currently participating with the Medicaid Program pursuant to 907 KAR 1:671.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(6) "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(7) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Physician" is defined by KRS 311.550(12).

(9) "Physician assistant" is defined by KRS 311.840(3).

(10) "Provider" is defined by KRS 205.8451(7).

- (11) "Provider group" means a group of at least:
- (a) Two (2) individually licensed physicians who:
 - 1. Are currently enrolled with the Medicaid Program individually and as a group; and
 - 2. Share the same Medicaid group provider number;
 - (b) Two (2) individually licensed APRNs who:
 - 1. Are currently enrolled with the Medicaid Program individually and as a group; and
 - 2. Share the same Medicaid group provider number;
 - (c) At least one (1) APRN and at least one (1) physician who:
 - 1. Are currently enrolled with the Medicaid Program individually and as a group; and
 - 2. Share the same Medicaid group provider number.
- (12) "Recipient" is defined in KRS 205.8451(9).

Section 2. Qualifying Requirements. To qualify as a service to be reimbursed at the amount established on the Medicaid Preventive and Wellness Enhanced Fee Schedule, the service shall:

- (1) Be medically necessary;
- (2) Meet the criteria established for the service on the Medicaid Preventive and Wellness Enhanced Fee Schedule; and
- (3) Be provided:
 - (a) To a recipient who is not enrolled with a managed care organization; and
 - (b) By:
 - 1. A physician who is:
 - a. Currently enrolled with the Medicaid Program; or
 - b. Participating with a provider group that is currently enrolled with the Medicaid Program;
 - 2. An APRN who is:
 - a. Currently enrolled with the Medicaid Program; or
 - b. Participating with a provider group that is currently enrolled with the Medicaid Program; or
 - 3. A physician assistant who is employed by or under contract with:
 - a. A physician who is currently enrolled with the Medicaid Program;
 - b. An APRN who is currently enrolled with the Medicaid Program; or
 - c. A provider group that is currently enrolled with the Medicaid Program.

Section 3. Enhanced Reimbursement for Preventive and Wellness Services. (1) The department shall reimburse for a preventive or wellness service listed on the Medicaid Preventive and Wellness Enhanced Fee Schedule:

- (a) If the service meets the qualifying requirements established in Section 2 of this administrative regulation;
 - (b) In accordance with the requirements and limits established on the Medicaid Preventive and Wellness Enhanced Fee Schedule; and
 - (c) The amount corresponding to the service as listed on the Medicaid Preventive and Wellness Enhanced Fee Schedule.
- (2) The department's reimbursement referenced in subsection (1)(c) of this section shall:
- (a) Apply to services rendered from January 1, 2015 through June 30, 2016; and
 - (b) Not apply to services rendered July 1, 2016 going forward.

Section 4. Auditing Authority. The department shall have the authority to audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 5. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to implement the reimbursement established in this administrative regulation.

Section 6. Federal Approval and Federal Financial Participation. The department's reimbursement for services

pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 7. Supersede. If any reimbursement provision stated in 907 KAR 3:010 or 907 KAR 1:104 contradicts a provision stated in this administrative regulation or in the Medicaid Preventive and Wellness Enhanced Fee Schedule, the provision stated in this administrative regulation or in the Medicaid Preventive and Wellness Enhanced Fee Schedule shall supersede the provision stated in 907 KAR 3:010 or 907 KAR 1:104.

Section 8. Incorporation by Reference. (1) The "Medicaid Preventive and Wellness Enhanced Fee Schedule", December 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 31, 2014 at 2 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS And Tiering Statement

Contact Person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes enhanced Medicaid reimbursement for preventive and wellness services provided by a physician's individual or practice, advanced practice registered nurse's individual or group practice, physician and APRN group practice, or community mental health center that provides primary care services. The enhanced reimbursement applies to services provided from January 1, 2015 through June 30, 2016.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to enhance Medicaid recipient access to preventive and wellness services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by enhancing Medicaid recipient access to preventive and wellness services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by enhancing Medicaid recipient access to preventive and wellness services.

(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.

(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 state and local government affected by this administrative regulation: The administrative regulation will affect physicians and APRNs enrolled in the Medicaid Program.

(4) Provide an analysis of how the entities identified in question

(3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required other than to bill for preventive or wellness services rendered.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Providers will benefit by receiving an enhanced reimbursement for preventive or wellness services. Medicaid recipients will benefit by having enhanced access to such services due to the expected increase in providers providing the services.

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

(a) Initially: The Department for Medicaid Services (DMS) estimates that increasing the preventive and wellness reimbursement rates from January 1, 2015 through June 30, 2015 will cost DMS approximately \$400,000 (state and federal funds combined.)

(b) On a continuing basis: DMS estimates that increasing the preventive and wellness reimbursement rates for the period spanning July 1, 2015 through June 30, 2016 will cost DMS approximately \$900,000 (state and federal funds combined.)

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 state matching funds from restricted and/or 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: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases 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.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30).

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Each state's Medicaid program is required (for the services it covers) to ensure recipient access to those services. 42 U.S.C. 1396a(a)(30) requires a state's Medicaid program to "provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Increasing reimbursement for preventive and wellness services comports with the requirement to ensure

Medicaid recipient access to preventive and wellness services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter, additional or different 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 requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1), 42 U.S.C. 1396a(a)(30).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? If a practice that is owned and operated by a government entity provides the preventive and wellness services, the entity could receive revenues but DMS cannot predict how many will do so.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response in (a) also applies here.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) estimates increasing the preventive and wellness reimbursement rates from January 1, 2015 through June 30, 2015 will cost DMS approximately \$450,000 (state and federal funds combined).

(d) How much will it cost to administer this program for subsequent years? DMS estimates that increasing the preventive and wellness reimbursement rates for the period spanning July 1, 2015 through June 30, 2016 will cost DMS approximately \$900,000 (state and federal funds combined.)

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No additional expenditures are necessary to implement this amendment.

STATEMENT OF EMERGENCY 908 KAR 2:220E

This emergency administrative regulation is being promulgated to assure that Adult Peer Support Specialists working within the behavioral health system are appropriately trained and supervised, and to establish the minimum requirement for adult peer support specialist position, specifying qualifications, training, and supervision requirements. This action must be implemented on an emergency basis to ensure that Medicaid is expanding the provider network and billable services. This regulation must be implemented as an emergency, to ensure that there is an adequate supply of service providers to meet the increased Medicaid recipient demand for care as federally required. 42 U.S.C. 1396a (a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any

given area. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and
Intellectual Disabilities
Division for Behavioral Health
(Emergency Amendment)

908 KAR 2:220E. Adult peer support specialist[services].

RELATES TO: KRS[200.503(2), 202A.011(12), 210.005(2), (3),] 210.010, 210.040, 210.370-485

STATUTORY AUTHORITY: KRS 12.455, 194A.030, 194A.050, 210.450

EFFECTIVE: January 7, 2015

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 210.450 authorizes the secretary[~~of the Cabinet for Health and Family Services~~] to promulgate administrative regulations governing qualifications of personnel, standards for personnel management operations and consultation in ascertaining local needs for community programs for mental health or individuals with an intellectual disability[~~and mental retardation programs~~]. KRS 222.211 authorizes the secretary of the cabinet to promulgate administrative regulations to assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of addiction to alcohol and other drug abuse within individuals, families, and communities. This administrative regulation establishes the minimum eligibility[~~and~~] training, and supervision requirements for peer support specialists.

Section 1. Definitions. (1) "Adult peer support" means emotional support that is provided by an adult peer support specialist to others with similar mental health, substance use, or co-occurring mental health and substance use disorders in order to achieve a desired social or personal change.

(2) "Adult peer support services" means structured and scheduled non-clinical, therapeutic activities provided to a consumer by an adult peer support specialist in accordance with this administrative regulation.

(3) "Adult peer support specialist" means a self-identified consumer of mental health, substance use, or co-occurring mental health and substance use disorder services who has successfully completed the adult peer support specialist training.

(4) "Applicant" means an individual seeking to complete the peer support specialist training.

(5) "Consumer" means an individual who receives peer support services.

(6) "Department" or "DBHDID" means the Department for Behavioral Health, Developmental and Intellectual Disabilities.

(7) "Recovery" means a process of change through which a consumer improves in health and wellness, lives a self-directed life, and strives to reach full potential.

(8) "Regional community mental health center" or "CMHC" means the board established by KRS 210.380 and governed by KRS 210.370 to 210.485[(2) "Application" means completing the Kentucky Peer Specialist Training Application form and the Kentucky Peer Specialist Training Short Essay Form and submitting them to the Department for Mental Health and Mental Retardation Services.

(3) "Certificate" means a document verifying completion of the training requirements for peer specialists as outlined in this administrative regulation.

(4) "Child with a severe emotional disability" is defined by KRS 200.503(2).

(5) "Client" means an individual who receives services from any organization outlined in Section 8 of this administrative regulation.

(6) "Community Mental Health-Mental Retardation Board" means the board established by KRS 210.380 and governed by KRS 210.370 to 210.485.

(7) "Department" means the Department for Mental Health and Mental Retardation Services (DMHMRS).

(8) "Paraprofessional" means an individual who does not meet the educational requirement for a mental health professional and who is working under the supervision of a Qualified mental health professional.

(9) "Peer specialist" means a paraprofessional who has fulfilled the requirements of this administrative regulation.

(10) "Qualified mental health professional" or "QMHP" is defined by KRS 202A.011(12).

(11) "Severe mental illness" means the conditions defined by KRS 210.005 (2) and (3)].

Section 2. Eligibility. An adult peer support specialist[applicant] shall:

(1) Be eighteen (18) years of age or older;

(2) Have a current or past diagnosis of a mental health, substance use, or co-occurring mental health and substance use disorders[severe mental illness or a severe emotional disability];

(3)[(2)] Have received or be receiving treatment;

(4)[and (3)] Have a minimum educational requirement of a high school diploma or General Equivalence Diploma[Educational Development] (GED) certificate;

(5) Establish signs of recovery from a mental health, substance use, or co-occurring mental health and substance use disorders;

(6) Successfully complete the adult peer support specialist training approved by the department; and

(7) Successfully complete, maintain, and submit to the department documentation of a minimum of six (6) hours of related training or education in each subsequent year.

Section 3. Department[Department's] Responsibilities. The department shall:

(1) Approve the adult peer support specialist training;

(2) Approve at least a thirty (30) hour training curriculum from a nationally recognized curriculum, which shall include modules on the following:

(a) Problem solving;

(b) Wellness recovery action plan;

(c) Stages in the recovery process;

(d) Effective listening skills;

(e) Establishing recovery goals; and

(f) Using support groups to promote and sustain recovery;

(3) Maintain a record of all approved adult peer support training providers on the department's Web site;

(4) Maintain a record of adult peer support specialists who have successfully completed the adult peer support specialist training; and

(5) Maintain a record of approved adult peer support specialists[Make application forms available through:

(a) Written or verbal request to DMHMRS;

(b) The DMHMRS website;

(c) Community Mental Health-Mental Retardation Boards;

(d) DMHMRS state-operated or contracted facilities; and

(e) Consumer and family organizations;

(2) Provide notification of trainings to include:

(a) Date;

(b) Time; and

(c) Place;

(3) Provide training from a standard curriculum with the following core competencies:

(a) The shift from maintenance to recovery;

(b) The emergence of psychosocial rehabilitation as the road to recovery;

(c) The role and conduct of a peer specialist in the recovery

process;

- (d) Using one's recovery story;
- (e) The power of negative program environments;
- (f) Creating program environments that promote recovery;
- (g) Beliefs and values that promote and support recovery;
- (h) Impact of diagnosis on one's self-image;
- (i) Mental illness, diagnosis and medications;
- (j) Dissatisfaction as an avenue for change;
- (k) Facing one's fears;
- (l) Combating negativity;
- (m) Problem solving;
- (n) The role of spirituality in recovery and stress reduction

exercises;

- (o) Creating a wellness recovery action plan;
- (p) Stages in the recovery process;
- (q) Power, conflict, and integrity in the workplace;
- (r) Effective listening and the art of asking questions;
- (s) Determining one's recovery goals;
- (t) Using support groups to promote and sustain recovery;
- (u) Accomplishing one's recovery goals;
- (v) The building blocks of the recovery process; and
- (w) Co-occurring mental health and substance use disorders;

(4) Provide each peer specialist a certificate of successful completion of the program;

(5) Maintain documentation of the:

- (a) Application;
- (b) Competency examinations; and
- (c) Examination results; and

(6) Maintain a database of names of peer specialists].

Section 4. Adult Peer Support Specialist Responsibilities. An adult peer support specialist shall:

(1) Use relevant personal stories to assist other consumers through experience;

(2) Serve as a role model to a consumer;

(3) Encourage consumer voice and choice during development and implementation of plans;

(4) Support a consumer by:

(a) Attending team meetings on behalf of the consumer at the request of the consumer; or

(b) Accompanying the consumer to meetings upon the consumer's request;

(5) Empower a consumer to have the confidence to be a self-advocate;

(6) Help providers understand the importance of integrating consumer voice and choice in services and support within a system of care;

(7) Promote socialization, recovery, self-advocacy preservation, and enhancement of community living skills for consumers; and

(8) Complete a minimum of six (6) contact hours of ongoing related training and education each year after successful completion of the adult peer support specialist training[To become a peer specialist, an applicant shall:

(1) Complete and submit an application for training to DMHMRS;

(2) Complete the DMHMRS peer specialist training program;

(3) Successfully complete the DMHMRS peer specialist examination; and

(4) Complete and maintain documentation of a minimum of six (6) hours of job-related training or education in each subsequent year of employment].

Section 5. Request to Waive the Adult Peer Support Specialist[DMHMRS] Training[Program]. (1) An applicant requesting[may request] to waive the adult peer support specialist[DMHMRS] training shall:

(a) Provide documentation of successful completion of an adult peer support specialist training sponsored by a federal entity or by another state that is comparable to the adult peer support specialist training in this administrative regulation; and

(b) Provide[Program. An applicant requesting a waiver shall provide the following:

(a) Completion of the application;

(b) Documentation of completion of a peer specialist program sponsored by another state with the core competencies of the DMHMRS training; and

(c) documentation to show that the training has occurred within five (5) years of the application date.

(2) The department[DMHMRS] shall review all requests to waive the training requirement and may:

(a) Approve[Grant], in writing, the request based on the documentation provided by the applicant; or

(b) Deny, in writing, the request if[should] the applicant fails[fail] to demonstrate compliance with any portion of this administrative regulation.

(3) If an applicant is denied a training waiver, he or she may apply to complete the adult[DMHMRS] peer support specialist training in accordance with the requirements in Section 2[3] of this administrative regulation.

Section 6. Supervision of Adult Peer Support Specialist. (1) Adult peer support specialist services shall be provided under the supervision of one (1) of the following professionals:

(a) Physician;

(b) Psychiatrist;

(c) Advanced practice registered nurse;

(d) Physician assistant;

(e) Licensed psychologist;

(f) Licensed psychological practitioner including a certified psychologist or a certified psychologist with autonomous functioning;

(g) Licensed clinical social worker;

(h) Licensed professional clinical counselor;

(i) Licensed marriage and family therapist;

(j) Licensed psychological associate;

(k) Marriage and family therapy associate;

(l) Certified social worker;

(m) Licensed professional counselor associate;

(n) Licensed professional art therapist;

(o) Licensed professional art therapy associate working in a CMHC;

(p) Professional equivalent working within a CMHC;

(q) Certified alcohol and drug counselor; or

(r) Psychiatric nurse working in a CMHC.

(2) Individual supervision meetings shall:

(a) Be conducted face-to-face;

(b) Occur no less than once a week for the first year and monthly thereafter; and

(c) Be at least thirty (30) minutes in length.

(3) The supervising professional shall maintain a written record for supervision that:

(a) Is dated and signed by the adult peer support specialist and the supervisor for each meeting; and

(b) Includes a description of the encounter that specifies:

1. The topic discussed;

2. Specific action to be taken;

3. An update for any issue previously discussed that required follow-up; and

4. A plan for additional training needs if any were identified[a QMHP; and Face-to-face supervisory meetings shall occur no less frequently than once every two (2) weeks.

Section 7. Scope of Services. A peer specialist shall:

(1) Be a paraprofessional whose primary responsibility is to help clients achieve their own needs and goals;

(2) Provide services which are structured scheduled activities that promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for adults with severe mental illness or a child with a severe emotional disability; and

(3) Openly share their recovery stories with clients.

Section 8. Employment. A peer specialist may be employed by a:

(a) Community Mental Health – Mental Retardation Board; or

(b) State operated or contracted facility.

~~Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Kentucky Peer Specialist Training Application", 2007 edition; and~~

~~(b) "Kentucky Peer Specialist Training Short Essay Form", 2007 edition.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Mental Health and Mental Retardation Services, 100 Fair Oaks Lane, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.].~~

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: January 7, 2015 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Ky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Natalie Kelly or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirement for an adult peer support specialist position, specifying qualifications, training, and supervision requirements to behavioral health system providers who may employ an adult peer specialists.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that peer support specialists working within the behavioral health system are appropriately trained and supervised. This administrative regulation is also necessary to comply with a federal mandate and to enhance recipient access to services, and to assist with ensuring compliance to the Interim Settlement Agreement.

(c) How this amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by means of the Secretary of the Cabinet for Health and Family Services responsible for promulgating policies and regulations through the DBHDID regarding services to individuals with disabilities and by involving individuals with disabilities in issues related to services.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statute by establishing criteria whereby peer support specialists can be trained and supervised to meet the behavioral health needs of individuals in 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 integrates the peer support service for individuals with mental health, substance use, or co-occurring mental health and substance use disorders. This amendment also ensures conformity with the new guidelines from the Department for Medicaid Services regarding the service and the expanded provider network.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that peer support specialists across the state are appropriately trained and supervised and will assist with ensuring compliance with the Interim Settlement Agreement between the Cabinet for Health and Families and Kentucky Protection and Advocacy.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by means of the Secretary of the Cabinet for Health and Family Services responsible for promulgating policies and regulations through the DBHDID regarding services to individuals with disabilities, and by involving individuals with disabilities in issues related to services.

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

requirements for community providers regarding the provision of peer support services across the Commonwealth.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The fourteen (14) Regional Community Boards for Mental Health or/and Individuals with an Intellectual Disability (which serve all 120 counties of the Commonwealth). Additional behavioral health providers approved by the Department for Medicaid Services.

Individuals seeking to become adult peer support specialists (estimated at 100 per year). Individuals who may receive services from adult peer support specialists (estimated at 1,500 per year).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Regional CMHC Boards and additional behavioral health providers will be required to establish systems for recruiting, hiring, and supervising peer support specialists. Individuals seeking to become peer support specialists will be required to complete the required training and continuing education.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regional CMHC Boards and other behavioral health providers will incur expenses to provide either approved peer support specialist trainings or the cost of sending their potential peer support specialists to an approved training. In addition, CMHC Boards and other behavioral health providers will be providing salary/benefit costs for the peer support specialists. It may cost individuals who become peer support specialists some expenses associated with obtaining continuing education requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Citizens of the Commonwealth who have behavioral health issues will benefit from the increased availability of qualified individuals who can provide services and supports. Regional CMHC Boards and other behavioral health providers will benefit by having additional staff to fulfill their mission to serve individuals with behavioral health issues in their regions. CMHC Boards and other behavioral health providers may also become approved providers of the training and collect revenue from others. Individuals who become peer support specialists will benefit from new employment opportunities. Individuals receiving services from peer support specialists will benefit through access to individuals who may have similar experiences and background and from access to a service that is an evidenced based practice.

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

Initially: No additional costs will be incurred to implement this administrative regulation on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

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

(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.

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified applicant has an equal chance of applying to become a Department approved Kentucky Peer Support Specialist.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? This administrative regulation will impact the Regional CMHC Boards (Community Mental Health Centers) and additional Behavioral Health Providers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation:

KRS 200.010; 210.040; 210.370-485; 12.455; 210.450; 194A.050; 194A.030

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenues for state or local government in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate new revenues for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. Not Applicable

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY 908 KAR 2:230E

This emergency administrative regulation is being promulgated to assure that Kentucky Family Peer Support Specialists working within the behavioral health system are appropriately trained and supervised, and to establish the minimum requirement for a family peer support specialist position, specifying qualifications, training, and supervision requirements. This action must be implemented on an emergency basis to ensure that Medicaid is expanding the provider network and billable services, Medicaid recipients have access to services statewide, and to reduce or prevent the lack of availability of services. This emergency administrative regulation shall be replaced by an ordinary administrative regulation to be filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor

AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Behavioral Health, Developmental and Intellectual Disabilities Division for Behavioral Health (Emergency Amendment)

908 KAR 2:230E. Kentucky Family Peer Support Specialist.

RELATES TO: KRS 200.505[12.455, 194A.030, 200.501, 200.503(2), 202.505, 202.508, 202.509, 210.005(2)], 210.010, 210.040, 210.370-485, 222.211[EO 2010-431]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450[EO 2010-431]

EFFECTIVE: January 7, 2015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and

Family Services to promulgate administrative regulations necessary to protect[, develop, and maintain] the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds[, personal dignity, integrity, and sufficiency of citizens of the Commonwealth and to operate programs and fulfill responsibilities vested in the cabinet]. KRS 210.450 requires the secretary[of the Cabinet for Health and Family Services] to promulgate administrative regulations governing qualifications of personnel and[, standards for personnel management for community programs for mental health or individuals with an intellectual disability. KRS 222.211 authorizes the secretary of the cabinet to promulgate administrative regulations to assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of addiction to alcohol and other drug abuse within individuals, families, and communities]operations and consultation in ascertaining local needs for community mental health and mental retardation programs. EO 2010-431, effective June 15, 2010, changed the name of the department from Department for Mental Health and Mental Retardation Services to Department for Behavioral Health, Developmental and Intellectual Disabilities]. This administrative regulation establishes the minimum eligibility[,and] training, and supervision requirements for a Kentucky family peer support specialist.

Section 1. Definitions. (1) "Applicant" means an individual seeking to complete the Kentucky family peer support specialist core competency training.

(2) "Child-serving agency" means an agency represented by the State Interagency Council.

(3) "Application" means completing the Kentucky Family Peer Support Specialist Training Application Form and the Kentucky Family Peer Support Specialist Short Essay Form and submitting them to the department.

(3) "Certificate" means a document verifying completion of the training requirements for Kentucky Family Peer Specialists as outlined in this administrative regulation.

(4) "Child with a severe emotional disability" is defined by KRS 200.503(2).

(5) "Client" means a child or youth with a mental health, substance use, or co-occurring mental health and substance use disability whose parent or family member is receiving family peer support services on behalf of the child or youth[with a severe emotional disability as defined by KRS 200.503(2)].

(6) "Community Mental Health – Mental Retardation Board" is defined by KRS 210.370 to 485].

(4) [(7)] "Core competency[competencies]" means the [established] knowledge and skills in Section 3(4) of this administrative regulation that an applicant[all applicants] must demonstrate in order to successfully complete the Kentucky family peer support specialist training.

(5) [(8)] "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities[is defined by KRS 194A.030(4)].

(6) [(9)] "Kentucky Family Leadership Academy" or "KFLA" means a prerequisite training to the KFPSS core competency training designed for parents, family members, caregivers, and youth leaders that fosters initial leadership development.

(7) [(10)] "Kentucky family peer support specialist" or "KFPSS" means an eligible parent, or other family member[caregiver] who has fulfilled the requirements in Section 2 of this administrative regulation[and who is working under the supervision of a mental health professional].

(8) "Lived Experience" means the experience of a parent or other family member in navigating the receipt of services and supports for a child or youth that are directly related to that child's or youth's mental health, substance use, or co-occurring mental health and substance use disability as defined in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM).

(9) "State[(11)] "Mental Health Professional" means a psychiatrist, psychologist, master's level social worker (MSW),

master's level clinical counselor, master's level marriage and family therapist, psychiatric nurse or professional equivalent (a minimum of a bachelor's degree in a human services field with two (2) years of experience in mental health related children's services).

(12) "State Interagency Council" is defined by KRS 200.505.

13 Statewide family organization" means an organization with whom the department contracts to carry out the activities associated with statewide advocacy and support for children and youth with mental health, substance use, or co-occurring mental health and substance use[severe emotional] disabilities.

(10) "State Interagency Council" is defined by KRS 200.505.

Section 2. Eligibility Criteria. An applicant shall:

(1) Be a self-identified parent or other family member who has lived experience with a client who has received services related to the mental health, substance use, or co-occurring mental health and substance use disability from at least one (1) child serving agency[biological parent, adoptive parent, or relative caregiver with permanent legal custody who is raising, or has raised, a child with a severe emotional disability who has been or is a client of at least one state funded service];

(2) Have a minimum educational requirement of a high school diploma or General Equivalency Diploma[Educational Development] (GED) certificate;[and]

(3) Have successfully completed the KFLA training approved by the department;

(4) Successfully complete the KFPSS core competency training approved by the department; and

(5) Successfully complete, maintain, and submit to the department documentation of a minimum of six (6) hours of related training or education in each subsequent year.

Section 3. Department's Responsibility. The department shall[assure the following]:

(1) Approve the KFLA training based on a standard curriculum that includes at a minimum:

- (a) Leadership roles;
- (b) Communication skills;
- (c) Decision making skills;
- (d) Dealing with conflict;
- (e) Effective advocacy; and
- (f) Collaboration and partnership; and

(2) Maintain a record of all approved training providers on the department's Web site[Application forms are available to eligible applicants through:

- (a) Written or verbal request to the department;
- (b) The department's Web site;
- (c) Member agencies of the State Interagency Council; and
- (d) The Statewide Family Organization;
- (2) Provision of state level KFLA training;
- (3) Notification of Kentucky Family Peer Support Specialist training shall include:

- (a) Date(s) of the training;
- (b) Time(s) of the training; and
- (c) Location of the training];

(3) Approve the KFPSS core competency training based on [(4) Provision of the state Kentucky Family Peer Support Specialist training from] a standard curriculum that includes[with] the following core competencies:

- (a) Problem solving;
- (b) Wellness recovery action plan;
- (c) Stages in the recovery process;
- (d) Effective listening skills;
- (e) Establishing recovery goals; and
- (f) Using support group to promote and sustain

recovery[Theoretical Knowledge;

- (b) System of Care expertise;
- (c) Family Support Skills;
- (d) Cultural Competence;
- (e) Communication Skills;
- (f) Organizational Skills;
- (g) Advocacy Skills; and
- (h) Ethics and Values];

(4) Maintain a record of an applicant's successful completion of the KFPSS training; and

(5) Maintain a record of approved family peer support specialists[(5) Receipt of documentation of successful completion of the Kentucky Family Peer Support Specialist training;

(6) Maintenance of the following documents:

- (a) Application;
- (b) Completion of the KFLA;
- (c) Competency Examinations; and
- (d) Examination results; and

(7) The maintenance of a database with the names of Kentucky Family Peer Support Specialists].

Section 4. Kentucky Family Peer Support Specialist Responsibilities. A Kentucky family peer support specialist shall:

(1) Use relevant personal stories to teach through experience;

(2) Serve as a role model for clients and their families;

(3) Encourage client and family voice and choice during development and implementation of plans;

(4) Support clients and their families by attending team meetings with them upon request;

(5) Empower a client and family to have the confidence to be self-advocates;

(6) Help individuals who are working with a client's family understand the importance of integrating family and youth voice and choice in services and supports within a system of care;

(7) Help clients and families enhance relationships with community partners; and

(8)[An individual seeking to provide family peer support services shall:

(1) Complete and submit an application for training to the department;

(2) Complete the department approved Family Peer Support Specialist training;

(3) Successfully complete the examination following the training; and

(4) Complete and maintain documentation of a minimum of six (6) hours of related training or education in each subsequent year.

Section 5. Request to Waive the Family Peer Support Specialist Training. (1) An applicant may request to waive the Family peer support specialist training with documentation[under the following provisions]:

(a)[Completion of the application;

(b) Documentation] Of completion of a family peer support specialist training sponsored by a federal entity or by another state with core competencies consistent with that of the Kentucky family peer support specialist training; and

(b)[(c) Documentation] To show that the training has occurred within five (5) years before[ef] the application date.

(2) The department shall review all requests to waive the training requirement and may:

(a) Approve, in writing, the request based on the documentation provided by the applicant; or

(b)[Approve pending successful completion of the Kentucky Family Peer Support Specialist Core Competency Training exam; or

(c) Deny the request in writing if, should the applicant fails[fail] to demonstrate compliance with any portion of this administrative regulation.

(3) If an applicant is denied a training waiver, the applicant may apply to complete the Kentucky family peer support specialist core competency training in accordance with the requirements in Section 3(3) of this administrative regulation.

Section 6. Supervision of Family Peer Support Specialists. (1) Kentucky family peer support services shall be provided under the supervision of one (1) of the following professionals[a mental health professional who shall complete]:

- (a) Physician;
- (b) Psychiatrist;
- (c) Advanced practice registered nurse;
- (d) Physician assistant;

(e) Licensed psychologist;
(f) Licensed psychological practitioner including certified psychologist and certified psychologist with autonomous functioning;

(g) Licensed clinical social worker;
(h) Licensed professional clinical counselor;
(i) Licensed marriage and family therapist;
(j) Licensed psychological associate;
(k) Marriage and family therapy associate;
(l) Certified social worker;
(m) Licensed professional counselor associate;
(n) Licensed professional art therapist;
(o) Licensed professional art therapist associate working in a Community Mental Health Center;

(p) Professional equivalent working in a Community Mental Health Center;

(q) Certified alcohol and drug counselor; or
(r) Psychiatric nurse working in a Community Mental Health Center.[Department approved children's targeted-case management training; or

(b) The KFLA; and]
(2) An[face-to-face] individual supervision meeting shall:
(a) Be conducted face-to-face;
(b) Occur no less than once a month; and
(c) Be documented in accordance with subsection (3) of this section.

(3) The supervising professional shall maintain a written record that:

(a) Is dated and signed by the KFPSS and supervisor for each meeting; and

(b) Includes a description of the encounter that specifies:
1. The topic discussed;
2. Specific action to be taken;
3. An update for an issue that required follow-up; and
4. A plan for additional training needs if any were identified [occur no less than once a month.

~~Section 7. Scope of Service and Employment. (1) A Family Peer Support Specialist shall:~~

~~(a) Be responsible to assist parents or primary caregivers of a client to voice their opinion, needs and goals to benefit the client;~~

~~(b) Provide services and structured scheduled activities that:~~
~~1. Promote advocacy skills;~~
~~2. Increase understanding of the client's disability or disabilities;~~

~~3. Enhance the parent or caregiver's ability to participate in the client's treatment team; and~~

~~4. Decreases client isolation; and~~

~~(c) Share their relevant experiences with other parents and primary caregivers.~~

~~(2) A Family Peer Support Specialist may be employed by a:~~

~~(a) Community Mental Health – Mental Retardation Board;~~

~~(b) State operated or contracted facility; or~~

~~(c) Member agency of the State Interagency Council.~~

~~Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Kentucky Family Peer Support Specialist Training Application Form", 2010 edition; and~~

~~(b) "Kentucky Peer Support Specialist Short Essay Form", 2010 edition.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copy right law, at the Department for Behavioral Health, Developmental and Intellectual Disabilities at 100 Fair Oaks Lane, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or via the Statewide Family Organization affiliated with the department].~~

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: January 7, 2015 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services,

275 East Main Street 5 W-B, Frankfort, Ky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Natalie Kelly or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirement for a family peer support specialist position, specifying qualifications, training, and supervision requirements to behavioral health system providers who may employ peer specialists.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that family peer support specialists working within the behavioral health system are appropriately trained and supervised.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 210.450, in that it establishes qualifications and standards for personnel who participate in meeting behavioral health needs of the citizens of the Commonwealth KRS 200.501.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statute by establishing criteria whereby family peer support specialists can be trained and supervised to meet the behavioral health needs of children and families 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 integrates the family peer support service for individuals with mental health, substance use, or co-occurring mental health and substance use disorders. This amendment also ensures conformity with the new guidelines from the Department for Medicaid Services regarding the service and the expanded provider network.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that family peer support specialists across the state are appropriately trained and supervised and will assist with ensuring compliance with the Interim Settlement Agreement between the Cabinet for Health and Families and Kentucky Protection and Advocacy.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by means of the Secretary of the Cabinet for Health and Family Services responsible for promulgating policies and regulations through the DBHDID regarding services to individuals with disabilities, and by involving individuals with disabilities in issues related to services.

(d) How the amendment will assist in the effective administration of the statutes: The Amendment will provide requirements for community providers regarding the provision of peer support services across the Commonwealth.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DBHDID operated and contracted the fourteen (14) Regional Behavioral Health/Intellectual Disabilities Boards (which serve all 120 counties of the Commonwealth). Individuals seeking to become family peer support specialists (estimated at 100 per year).

Newly contracted Medicaid group behavioral health providers that would like to offer the service. Individuals who may receive services from family peer support specialists estimated at 1,000 the first year with a 1,000 increase in each subsequent year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Regional Community Mental Health Boards and other providers will be required to establish systems for recruiting, hiring, and supervising family peer support

specialists. Individuals seeking to become family peer support specialists will be required to complete the DBHDID application process and training.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regional Community Mental Health Boards will incur the expense necessary to pay salaries and associated costs if they choose to hire a family peer support specialist. It may cost individuals who become family peer support specialists some expenses associated with obtaining continuing education requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals will benefit by increased availability of qualified persons who can provide services and supports to families of youth who have behavioral health issues in the Commonwealth. Regional Community Mental Health Boards and other providers will benefit by having additional staff to fulfill their mission to serve individuals with behavioral health issues in their regions. Individuals who become family peer support specialists will benefit from new employment opportunities. Individuals receiving services from family peer support specialists will benefit through access to individuals who may have similar experiences and background.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is state 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: An increase in fees or funding will not be necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified applicant has an equal chance of applying to become a Department approved Kentucky Family Peer Support Specialist.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Division of Behavioral Health within the Department for Behavioral Health, Developmental and Intellectual Disabilities and the Regional Behavioral Health and Intellectual Disabilities Boards (Community Mental Health Centers).

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation: KRS 200.503(2), 202A.011(12), 210.005(2) & (3), 210.010, 210.040, 210.370-485.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenues in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate new

revenues in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY 908 KAR 2:260E

This emergency administrative regulation is being promulgated in conjunction with emergency regulations recently filed by the Department for Medicaid Services (DMS). DMS is expanding the network of eligible Kentucky Medicaid providers for targeted case management services, to ensure that there is an adequate supply of providers to meet the increased Medicaid recipient demand for care – as federally required through the Affordable Care Act (ACA). DMS has specified in its regulations that the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) shall approve initial training and continuing education for targeted case managers throughout the Commonwealth. This is anticipated to affect approximately 2000 individuals who either are Behavioral Health Targeted Case Management (TCM) providers or wish to be in the future. This action must be taken on an emergency basis to ensure that providers are adequately trained and supervised, to prevent a loss of federal Medicaid funds to Kentucky, and to avoid delayed provision of services to individuals in need of targeted case management services. This action is also taken to meet a deadline for the promulgation of an administrative regulation necessary under federal law and regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Behavioral Health, Developmental and Intellectual Disabilities Division for Behavioral Health (New Emergency Administrative Regulation)

908 KAR 2:260E. Targeted case manager: eligibility and training.

RELATES TO: KRS 200.503(3), 210.005(2), (3)

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450

EFFECTIVE: January 7, 2015

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 210.450 requires the secretary to promulgate administrative regulations governing qualifications of personnel and standards for personnel management for community programs for behavioral health or individuals with an intellectual disability. KRS 222.211 authorizes the secretary of the cabinet to promulgate administrative regulations to assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of addiction to alcohol and other drug abuse within individuals,

families, and communities. This administrative regulation establishes the minimum eligibility and training requirements for individuals providing behavioral health targeted case management services to the targeted behavioral health population.

Section 1. Definitions. (1) "Behavioral health professional" means:

- (a) An advanced practice registered nurse;
- (b) A licensed clinical social worker;
- (c) A licensed marriage and family therapist;
- (d) A licensed professional clinical counselor;
- (e) A licensed psychological practitioner;
- (f) A licensed psychologist;
- (g) A licensed professional art therapist;
- (h) A physician;
- (i) A psychiatrist;
- (j) A behavioral health practitioner under supervision except for a certified alcohol and drug counselor;
- (k) A registered nurse working under the supervision of a physician or advanced practice registered nurse; or
- (l) An individual with a bachelor's degree in a behavioral science program or other human service degree program approved by the department who:

- 1. Is working under the supervision of a billing supervisor; and
- 2. Has at least five (5) years of documented full-time experience providing specialized case management services for the target population.

(2) "Behavioral science" means:

- (a) Psychology;
- (b) Sociology;
- (c) Social work;
- (d) Family studies;
- (e) Human services;
- (f) Counseling;
- (g) Nursing; or
- (h) Another human service degree program approved by the department.

(3) "Case load" means the number of distinct individuals for whom a targeted case manager bills for services from any payor (Medicaid, managed care organization, or DBHDID), per month.

(4) "Certification" means successful completion of the training requirements in this administrative regulation as documented by the receipt of a certificate of training completion.

(5) "Chronic or complex physical health condition" means that:

(a) Significant symptoms of a physical health condition have persisted in a client for a continuous period of at least six (6) months;

(b) The symptoms of the physical health condition significantly impair the client's ability to function:

- 1. Socially, or
- 2. Occupationally which, for individuals under the age of twenty-one (21), includes impairment in an educational setting; and

(c) The physical health conditions include disorders under the following categories:

- 1. Cardiovascular disorders;
- 2. Respiratory disorders;
- 3. Genito-urinary disorders;
- 4. Endocrine disorders;
- 5. Musculoskeletal disorders;
- 6. Neurological disorders;
- 7. Immune system disorders;
- 8. Obesity;
- 9. Cancer;
- 10. Deaf or hard of hearing; or
- 11. Blindness.

(6) "Client" means an individual identified within a target population.

(7) "Core components" means the minimum knowledge and skills listed in Section 3(4) of this administrative regulation that an applicant shall demonstrate in order to successfully complete the training and meet eligibility requirements to provide targeted case management services.

(8) "Department" means the Department for Behavioral Health,

Developmental and Intellectual Disabilities (DBHDID).

(9) "Face-to-face" means in person, in the same location, and not through an electronic method.

(10) "Recertification" means successful completion of the on-going training requirements every three (3) years after the date of certification.

(11) "Serious mental illness", "severe mental illness", or "SMI" means a diagnosis of a major mental disorder as included in the current edition of the Diagnostic and Statistical Manual of Mental Disorders under:

- (a) Schizophrenia spectrum and other psychotic disorders;
- (b) Bipolar and related disorders;
- (c) Depressive disorders; or
- (d) Post-traumatic stress disorders (under trauma and stressor related disorders).

(12) "Severe emotional disability" or "SED" is defined by KRS 200.503(3).

(13) "Substance use disorder" or "SUD" means a primary moderate or severe substance use disorder diagnosis or co-occurring moderate to severe substance use disorder and mental health diagnosis as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(14) "Targeted case management services" means services furnished to assist clients in gaining access to needed medical, social, educational, or other needed services and supports, including:

- (a) Assessment of the client's medical, social, and functional status and identification of client's strengths and needs;
- (b) Arranging for service delivery from the client's chosen provider to insure access to required services;
- (c) Facilitating access to needed services by explaining the need and importance of services in relation to the client's condition;
- (d) Facilitating access, quality, and delivery of necessary services; and
- (e) Preparation and maintenance of case record documentation to include care plans, forms, reports, and narratives as appropriate.

(15) "Targeted case manager" means an individual who is:

(a) Trained and supervised to perform targeted case management services;

(b) Responsible for conducting a comprehensive assessment and a periodic reassessment of an individual's strengths and needs; and

(c) Responsible for assisting an individual to gain access to identified medical, social, educational, and other service needs.

(16) "Targeted population" means an individual who meets the criteria through diagnosis, duration, and disability for:

- (a) SMI;
- (b) SED;
- (c) SUD; or
- (d) SMI, SED, or SUD and a co-occurring chronic or complex physical health condition.

Section 2. Targeted case manager requirements. (1) A targeted case manager for individuals with SMI, SED, or SUD shall meet the following educational, experience, and training requirements:

(a) Possess a bachelor of arts or science degree in a behavioral science;

(b) Have at least one (1) year of full-time employment experience after completing the educational requirements in:

- 1. Working directly with adults in a human service setting; or
- 2. Working directly with individuals under the age of twenty-one (21) in a human service setting;

(c) Have successfully completed the department approved targeted case management training within six (6) months of employment as a targeted case manager; and

(d) Have successfully completed the department approved recertification requirements every three (3) years thereafter.

(2) A master's degree in a behavioral science may substitute for the one (1) year of experience.

(3) A targeted case manager for individuals with SMI, SED, or SUD and a co-occurring chronic or complex physical health

conditions shall be an individual with:

(a) A master's degree in a behavioral science and two (2) years of experience working with SMI, SED, or SUD and a co-occurring chronic or complex physical health condition; or

(b) A bachelor of arts or science degree in a behavioral science and who has:

1. At least five (5) years of full-time employment experience working with an individual with SMI, SED, or SUD and a co-occurring chronic or complex physical health condition;

2. Successfully completed the department approved targeted case management training within six (6) months of employment as a case manager; and

3. Successfully completed the department approved recertification requirements every three (3) years thereafter.

(4) Case managers who are serving individuals with SED, SMI, or SUD shall have:

(a) Individual face-to-face supervision which shall be provided at least monthly for at least one (1) year by a behavioral health professional who has completed the targeted case management training approved by the department; and

(b) Group supervision which shall be provided at least monthly for the duration of employment as a targeted case manager.

(5) The supervisor of a targeted case manager shall maintain documentation of the supervision.

(6) Targeted case managers who are serving an individual with an SED, SMI, or SUD and a co-occurring chronic or complex physical health issue shall have:

(a) Individual face-to-face supervision which shall be provided at least two (2) times per month for at least three (3) years by a behavioral health professional who has completed the targeted case management training approved by the department; and

(b) Group supervision which shall be provided at least monthly for the duration of employment as a targeted case manager.

(7) A targeted case manager shall not exceed a caseload size of twenty-five (25) unique clients when serving the targeted populations.

(8) A targeted case manager shall:

(a) Only provide targeted case management services to the targeted population for which the targeted case manager meets the educational, experimental, and training requirements; and

(b) Not provide other behavioral health services in addition to targeted case management services.

Section 3. Training Requirements. (1) To receive certification to provide behavioral health targeted case management services, a targeted case manager shall successfully complete the following department approved training and recertification requirements:

(a) The core components of the targeted case management curriculum shall be at least twelve (12) hours and shall include:

1. Core targeted case management functions and guiding principles;

2. Engaging consumers and family members;

3. Behavioral health crisis management;

4. Strengths-based case management;

5. Ethics;

6. Behavioral health diagnosis and understanding treatment;

7. Integrated care;

8. Advocacy skills and empowering consumers and families;

9. Cultural awareness;

10. Developmental perspectives across the life span; and

11. Documentation and billing; and

(b) At least six (6) hours of specialized training for the target population he or she is serving, which shall include the skills required to address the specific needs of each respective target population.

(2) A targeted case manager shall complete recertification requirements every three (3) years.

(3) Recertification shall consist of acquiring at least six (6) hours of approved continuing education each year in training topics directly related to:

(a) Case management;

(b) Behavioral health; or

(c) Each respective target population.

(4) To be recertified, a targeted case manager shall submit a list of all trainings in which the targeted case manager participated, the provider or presenter of the training, and the number of hours of each training to the Department every three (3) years. The submission due date shall be the last day of the month of which the targeted case manager's initial certification was completed.

(5) Targeted case managers certified prior to September 2014 shall be required to submit continuing education documentation for recertification prior to September 2017.

Section 4. Department responsibilities: The department shall:

(1) Approve training curricula submitted by providers wishing to provide training to a targeted case manager or a prospective targeted case manager;

(2) Maintain a record of approved targeted case management training curricula, including contact information for providers of the trainings;

(3) Maintain a record of targeted case managers who have received a certificate of successful completion of the department approved targeted case management training;

(4) Create and make available a process for recertification of targeted case managers; and

(5) Maintain a record of targeted case managers who have been certified or recertified to provide targeted case management services.

Section 5. Supervision of a targeted case manager. (1) A targeted case manager shall provide services under the supervision of a behavioral health professional in accordance with 907 KAR 15:040, 907 KAR 15:050, and 907 KAR 15:060.

(2) The supervising behavioral health professional shall complete the training requirements as described in Section 3(1) and (2) of this administrative regulation.

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: January 7, 2015 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Ky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Natalie Kelly or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirement for a behavior health case manager position, specifying qualifications, pre-service training, continuing education and supervision requirements to behavioral health system providers who may employ targeted case managers who work with targeted populations of individuals with severe mental illnesses (SMI), severe emotional disabilities (SED), moderate to severe substance use disorders (SUD), or co-occurring SMI, SED, SUD and chronic or complex physical health disorders.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that targeted case managers working within the behavioral health system are appropriately trained and supervised. This administrative regulation is necessitated by the references in 907 KAR 15:040, 907 KAR 15:050, and 907 KAR 15:060, that DBHDID approve pre-service and continuing education training requirements for case managers of targeted case management services. This administrative regulation is also necessary to comply with a federal mandate and to enhance recipient access to services. Providers must be trained in order for the services to be accessible.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 210.450 in that it establishes qualifications and standards for personnel who participate in meeting behavioral health needs of the citizens of the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statute by establishing criteria whereby case managers of targeted case management services can be trained and supervised to meet the behavioral health needs of citizens 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: 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: An estimated 1,000 individuals that are currently working as targeted case managers and an additional 1,000 individuals that will seek employment as case managers; Fourteen (14) Community Mental Health Centers (serving all 120 counties of the Commonwealth), enrolled providers of Medicaid targeted case management services (approximately 150), and businesses or organizations planning to apply become behavioral health providers of targeted case management services within the Commonwealth (approximately 100); and Individuals who may receive services from case managers of targeted case management services (estimated at 40,000 per year).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Regional CMHC Boards and additional behavioral health providers will be required to establish systems for recruiting, hiring, and supervising targeted case managers.

Individuals seeking to become targeted case managers will be required to meet the DBHDID pre-service and continuing education training requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regional CMHC Boards and other behavioral health providers will incur the expense necessary to pay salaries and associated costs if they choose to hire and train case managers. For individuals who currently are or are seeking to become targeted case managers, there will likely be some minimal expenses associated with obtaining continuing education requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Individuals with behavioral disorders and their families will benefit by increased availability of qualified persons who can provide services and supports. More individuals with mental health and substance use disorders will experience recovery, thus increasing their employment and decreasing their reliance on public assistance and their rates of hospitalization and incarceration. More youth will experience increased attendance and success in the school system and less involvement with the juvenile justice and child welfare systems. Regional CMHCs and other behavioral health providers will benefit by having additional staff to fulfill their mission to serve individuals with behavioral health disorders in their regions. Individuals who become targeted case managers will benefit from new employment opportunities. Individuals receiving targeted case management services will benefit by having increased access to professionals who will assist them in achieving their treatment goals.

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

(a) Initially: No additional costs will be incurred to implement

this administrative regulation on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is state 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 to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified applicant has an equal chance of applying to become a Department approved Case Manager of Targeted Case Management services.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact individuals seeking training as targeted case managers, the Regional Community Mental Health Centers (CMHCs), and other Behavioral Health Providers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation: KRS 200.503(2), 210.005(2) (3) 210.370-485.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenues for state or local government in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate new revenues for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY 921 KAR 2:015E

The proposed emergency administrative regulation is necessary to comply with the agreement between the Commonwealth of Kentucky and the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, to pass along the cost of living adjustment in Supplemental Security Income (SSI) benefits to State Supplementation Program recipients. Failure to comply with this agreement jeopardizes the state's Medicaid funds pursuant to 20

C.F.R. 416.2099. The Social Security Administration announced the amount of the Supplemental Security Income (SSI) cost of living adjustment mid-October 2014. An ordinary administrative regulation would not allow the agency sufficient time to implement the mandated provisions of 20 C.F.R. 416.2099 by January 1, 2015, to prevent the loss of federal Medicaid funds. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support
(Emergency Amendment)

921 KAR 2:015E. Supplemental programs for persons who are aged, blind, or have a disability.

RELATES TO: KRS Chapter 194A, 202A.011(12), 209.020(4), 216.530, 216.557(1), 216.750(2), 216.765(2), Chapter 216B, 514, 20 C.F.R. 416.120, 416.212, 416.2030, 416.2095, 416.2096, 416.2099, 8 U.S.C. 1621, 1641, 42 U.S.C. 1381-1383

STATUTORY AUTHORITY: KRS 194A.050(1), 205.245, 42 U.S.C. 1382e-g

EFFECTIVE: December 30, 2014

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the citizens of the Commonwealth and to operate the programs and fulfill the responsibilities of the cabinet. 42 U.S.C. 1382 authorizes the cabinet to administer a state funded program of supplementation to all former recipients of the Aid to the Aged, Blind, and Disabled Program as of December 13, 1973, and who were disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 establishes the mandatory supplementation program and the supplementation to other needy persons who are aged, blind, or have a disability. In addition, any state that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement in effect with the Commissioner of the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, shall be determined by the commissioner to be ineligible for payments under Title XIX of the Social Security Act in accordance with 20 C.F.R. 416.2099. This administrative regulation establishes the provisions of the supplementation program.

Section 1. Definitions. (1) "Adult" is defined by KRS 209.020(4).

(2) "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.

(3) "Care coordinator" means an individual designated by a community integration supplementation applicant or recipient to fulfill responsibilities specified in Section 6(2) of this administrative regulation.

(4) "Department" means the Department for Community Based Services or its designee.

(5) "Full-time living arrangement" means a residential living status that is seven (7) days a week, not part time.

(6) "Private residence" means a dwelling that meets requirements of Section 4(2)(d) of this administrative regulation.

(7) "Qualified alien" means an alien who, at the time the person applies for, receives, or attempts to receive state supplementation, meets the U.S. citizenship requirements of 907 KAR 20:001.

(8) "Qualified mental health professional" is defined by KRS 202A.011(12).

(9) "Serious mental illness" or "SMI" means a mental illness or disorder in accordance with Section 6(1) of this administrative regulation.

(10) "Specialized personal care home" means a licensed personal care home that receives funding from the Department for Behavioral Health, Developmental and Intellectual Disabilities to employ a mental health professional who has specialized training in the care of a resident with mental illness or intellectual disability[~~mental retardation~~].

(11) "Supplemental security income" or "SSI" means a monthly cash payment made pursuant to 42 U.S.C. 1381 to 1383f to the aged, blind, or disabled.

Section 2. Mandatory State Supplementation. (1) A recipient for mandatory state supplementation shall include a former Aid to the Aged, Blind and Disabled Program recipient who became ineligible for SSI due to income but whose special needs entitled the recipient to an Aid to the Aged, Blind and Disabled Program payment as of December 1973.

(2) A mandatory state supplementation recipient shall be subject to the same payment requirements as specified in Section 4 of this administrative regulation.

(3) 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; and

(b) 1. The total of the SSI payment; or

2. The total of the SSI payment and other income for the current month.

(4) A mandatory payment shall discontinue if:

(a) The needs of the recipient as recognized in December 1973 have decreased; or

(b) Income has increased to the December 1973 level.

(5) The mandatory payment shall not be increased unless:

(a) Income as recognized in December 1973 decreases;

(b) The SSI payment is reduced, but the recipient's circumstances are unchanged; or

(c) The standard of need as specified in Section 9 of this administrative regulation for a class of recipients is increased.

(6) If a husband and wife are 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 Program. (1) Except as established in Sections 7, 8, and 9 of this administrative regulation, optional state supplementation shall be available to a person who meets technical requirements and resource limitations of the medically needy program for a person who is aged, blind, or has a disability in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:005, Sections 5(2), (3), (4), (7), 10, and 11;

(c) 907 KAR 20:020, Section 2(4)(a);

(d) 907 KAR 20:025; and

(e) 907 KAR 20:040, Section 1.

(2) A person shall apply or reapply for the state supplementation program in accordance with 921 KAR 2:035 and shall be required to:

(a) Furnish a Social Security number; or

(b) Apply for a Social Security number, if a Social Security number has not been issued.

(3) If potential eligibility exists for SSI, an application for SSI shall be mandatory.

(4) The effective date for state supplementation program approval shall be in accordance with 921 KAR 2:050.

Section 4. Optional State Supplementation Payment. (1) An optional supplementation payment shall be issued in accordance with 921 KAR 2:050 for an eligible individual who:

(a) Requires a full-time living arrangement;

(b) Has insufficient income to meet the payment standards specified in Section 9 of this administrative regulation; and

(c) 1. Resides in a personal care home and is eighteen (18) years of age or older in accordance with KRS 216.765(2);

2. Resides in a family care home and is at least eighteen (18) years of age in accordance with 902 KAR 20:041, Section 3(14);

3. Receives caretaker services and is at least eighteen (18) years of age; or

4. a. Resides in a private residence;
b. Is at least eighteen (18) years of age; and
c. Has SMI.

(2) A full-time living arrangement shall include:

(a) Residence in a personal care home that:

1. Meets the requirements and provides services established in 902 KAR 20:036; and

2. Is licensed under KRS 216B.010 to 216B.131;

(b) Residence in a family care home that:

1. Meets the requirements and provides services established in 902 KAR 20:041; and

2. Is licensed under KRS 216B.010 to 216B.131;

(c) A situation in which a caretaker is required to be hired to provide care other than room and board; or

(d) A private residence, which shall:

1. Be permanent housing with:

a. Tenancy rights; and

b. Preference given to single occupancy; and

2. Afford an individual with SMI choice in activities of daily living, social interaction, and access to the community.

(3) A guardian or other payee who receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

1. Discharge to a:

a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation; or

b. Residence other than a private residence pursuant to subsection (2)(d) of this section; or

2. Death of the state supplementation recipient; and

(b) Notify a local county department office within five (5) working days of the death or discharge of the state supplementation recipient.

(4) Failure to comply with subsection (3)(a) of this section may result in prosecution in accordance with KRS Chapter 514.

(5) If there is no guardian or other payee, a personal care or family care home that receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

1. Discharge to a:

a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation;

b. Another personal care or family care home; or

c. Residence other than a private residence pursuant to subsection (2)(d) of this section; or

2. Death of the state supplementation recipient; and

(b) Notify a local county department within five (5) working days of the:

1. Death or discharge of the state supplementation recipient; or

2. Voluntary relinquishment of a license to the Office of Inspector General.

(6) If a personal care or family care home receives a state supplementation check after voluntary relinquishment of a license, as specified in subsection (5)(b)2 of this section, the personal care or family care home shall return the check to the Kentucky State Treasurer.

(7) Failure to comply with subsections (5)(a) or (6) of this section may result in prosecution in accordance with KRS Chapter 514.

Section 5. Eligibility for Caretaker Services. (1) Service by a caretaker shall be provided to enable an adult 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) Service by a caretaker shall be provided at regular intervals

by:

- (a) A live-in attendant; or
 - (b) One (1) or more persons hired to come to the home.
- (3) Eligibility for caretaker supplementation shall be verified annually by the cabinet with the caretaker to establish how:
- (a) Often the service is provided;
 - (b) The service prevents institutionalization; and
 - (c) Payment is made for the service.
- (4) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if the:
- (a) Client is taken daily or periodically to the home of the caretaker; or
 - (b) 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
 3. Adult child of a parent who is aged, blind, or has a disability.

Section 6. Eligibility for Community Integration Supplementation. (1) Eligibility for the community integration supplementation shall be based upon a diagnosis of SMI by a qualified mental health professional. SMI shall:

- (a) Not include a primary diagnosis of Alzheimer's disease or dementia;
 - (b) Be described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), fourth (4th) edition or edition currently in use;
 - (c) Impair or impede the individual's functioning in at least one (1) major area of living such as inability to care for or support self, communicate, or make and maintain interpersonal relationships; and
 - (d) Be unlikely to improve without treatment, services, or supports.
- (2) Eligibility for the community integration supplementation shall be verified annually by the cabinet with the applicant, recipient, or [recipient's] care coordinator to establish how:
- (a) Often services are provided;
 - (b) The services prevent institutionalization and support private residence in accordance with Section 4(2)(d) of this administrative regulation; and
 - (c) Payment is made for the services.
- (3) Unless criteria in Section 10 of this administrative regulation are met by the applicant or recipient, SMI supplementation shall not be available to a resident of a home, facility, institution, lodging, or other establishment:
- (a) Licensed or registered in accordance with KRS Chapter 216B; or
 - (b) Certified in accordance with KRS Chapter 194A.

Section 7. Resource Consideration. (1) Except as stated in subsection (2) of this section, countable resources shall be determined according to policies for the medically needy in accordance with:

- (a) 907 KAR 20:001;
 - (b) 907 KAR 20:020, Section 2(4)(a);
 - (c) 907 KAR 20:025; and
 - (d) 907 KAR 20:040, Section 1.
- (2) An individual or couple shall not be eligible if countable resources exceed the limit of:
- (a) \$2,000 for an individual; or
 - (b) \$3,000 for a couple.

Section 8. Income Considerations. (1) Except as noted in subsections (2) through (8) of this section, income and earned income deductions shall be considered according to the policy for the medically needy in accordance with:

- (a) 907 KAR 20:001;
 - (b) 907 KAR 20:020, Section 2(4)(a);
 - (c) 907 KAR 20:025; and
 - (d) 907 KAR 20:040, Section 1.
- (2) The optional supplementation payment shall be determined by:
- (a) Adding:

1. Total countable income of the applicant or recipient, or applicant or recipient and spouse; and

2. A payment made to a third party on behalf of an applicant or recipient; and

(b) Subtracting the total of paragraph (a)1 and 2 of this subsection from the standard of need in Section 9 of this administrative regulation.

(3) Income of an 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 SSI standard for an individual for:

1. The applicant or recipient; and

2. Each minor dependent child.

(4) Income of an eligible individual shall not be conserved for the needs of the ineligible spouse or minor dependent child.

(5) Income of a child shall be considered if 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 ineligible 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 treating a husband and wife who reside in the same personal care or family care home as living apart prevents them from receiving state supplementation, the husband and wife may be considered to be living with each other.

(8) The SSI twenty (20) dollar general exclusion shall not be an allowable deduction from income.

Section 9. Standard of Need. (1) To the extent funds are available, the standard of need is as follows:

(a) For a resident of a personal care home on or after:

1. ~~January 1, 2013, \$1,230; or~~

2. ~~January 1, 2014, \$1,241; or~~

2. ~~January 1, 2015, \$1,253;~~

(b) For a resident of a family care home on or after:

1. ~~January 1, 2013, \$882; or~~

2. ~~January 1, 2014, \$893; or~~

2. ~~January 1, 2015, \$905;~~

(c) For individuals who receive caretaker services:

1. A single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability on or after:

a. ~~January 1, 2013, \$772; or~~

b. ~~January 1, 2014, \$783; or~~

b. ~~January 1, 2015, \$795;~~

2. An eligible couple, both aged, blind, or have a disability and one (1) requiring care on or after:

a. ~~January 1, 2013, \$1,127; or~~

b. ~~January 1, 2014, \$1,143; or~~

b. ~~January 1, 2015, \$1,161;~~

3. An eligible couple, both aged, blind or have a disability and both requiring care on or after:

a. ~~January 1, 2013, \$1,181; or~~

b. ~~January 1, 2014, \$1,197; or~~

b. ~~January 1, 2015, \$1,215;~~

(d) For an individual who resides in a private residence and has SMI on or after:

1. ~~November 14, 2013, \$1,230; or~~

2. ~~January 1, 2014, \$1,241; or~~

2. ~~January 1, 2015, \$1,253.~~

(2)(a) In a couple case, if both are eligible, the couple's income shall be combined prior to comparison with the standard of need.

(b) One-half (1/2) of the deficit shall be payable to each.

(3) A personal care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a sixty (60) dollar personal needs allowance that shall be retained by the client.

(4) A 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) dollar personal needs allowance that shall be retained by the client.

Section 10. Temporary Stay in a Medical Facility. (1) An SSI

recipient who receives optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if the:

(a) SSI recipient meets eligibility for medical confinement established by 20 C.F.R. 416.212;

(b) Social Security Administration notifies the department that the admission shall be temporary; and

(c) Purpose shall be to maintain the recipient's home or other living arrangement during a temporary admission to a health care facility.

(2) A non-SSI recipient who receives mandatory or optional state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if:

(a) The non-SSI recipient meets the requirements of subsection (1)(c) of this section;

(b) A physician certifies, in writing, that the non-SSI recipient is not likely to be confined for longer than ninety (90) full consecutive days; and

(c) A guardian or other payee, personal care home, or family care home, receiving a state supplementation check for the state supplementation recipient, provides a local county department office with:

1. Notification of the temporary admission; and

2. The physician statement specified in paragraph (b) of this subsection.

(3) A temporary admission shall be limited to the following health care facilities:

(a) Hospital;

(b) Psychiatric hospital; or

(c) Nursing facility.

(4) If a state supplementation recipient is discharged in the month following the last month of continued benefits, the temporary absence shall continue through the date of discharge.

Section 11. Citizenship requirements. An applicant or recipient shall be a:

(1) Citizen of the United States; or

(2) Qualified alien.

Section 12. Requirement for Residency. An applicant or recipient shall reside in Kentucky.

Section 13.[.] Mental Illness or Intellectual Disability (MI/ID) Supplement Program. (1) A personal care home:

(a) May qualify, to the extent funds are available, for a quarterly supplement payment of fifty (50) cents per diem for a state supplementation recipient in the personal care home's care as of the first calendar day of a qualifying month;

(b) Shall not be eligible for a payment for a Type A Citation that is not corrected; and

(c) Shall meet the following certification criteria for eligibility to participate in the MI/ID Supplement Program:

1. Be licensed in accordance with KRS 216B.010 to 216B.131;

2. Care for a population that is thirty-five (35) percent mental illness or intellectual disability clients in all of its occupied licensed personal care home beds and who have a:

a. Primary or secondary diagnosis of intellectual disability including mild or moderate, or other ranges of intellectual disability whose needs can be met in a personal care home;

b. Primary or secondary diagnosis of mental illness excluding organic brain syndrome, senility, chronic brain syndrome, Alzheimer's, and similar diagnoses; or

c. Medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis;

3. 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;

4. 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;

5. Be verified by the Office of Inspector General in accordance with Section 15(2) through (4) of this administrative regulation; and

6. File an STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits, with the department by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter.

a. Quarters shall begin in January, April, July, and October.

b. Unless mental illness or intellectual disability supplement eligibility is discontinued, a new application for the purpose of program certification shall not be required.

(2) A personal care home shall provide the department with its tax identification number and address as part of the application process.

(3) The department shall provide an STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home, to a personal care home following:

(a) Receipt of verification from the Office of Inspector General as specified in Section 15(6) of this administrative regulation; and

(b) Approval or denial of an application.

(4) A personal care home shall:

(a) Provide the department with an STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form, that:

1. Lists every resident of the personal care home who was a resident on the first day of the month;

2. Lists the resident's Social Security number; and

3. Annotates the form, in order to maintain confidentiality, as follows with a:

a. Star indicating a resident has a mental illness or intellectual disability diagnosis;

b. Check mark indicating a resident receives state supplementation; and

c. Star and a check mark indicating the resident has a mental illness or intellectual disability diagnosis and is a recipient of state supplementation; and

(b) Submit the STS-3 to the department on or postmarked by the fifth working day of the month by:

1. Mail;

2. Fax; or

3. Electronically.

(5) The monthly report shall be used by the department for:

(a) Verification as specified in subsection (4)(a) of this section;

(b) Payment; and

(c) Audit purposes.

(6)(a) A personal care home shall notify the department within ten (10) working days if its mental illness or intellectual disability percentage goes below thirty-five (35) percent for all personal care residents.

(b) A personal care home may be randomly audited by the department to verify percentages and payment accuracy.

Section 14.[-] Mental Illness or Intellectual Disability (MI/ID)[Basic] Training. (1)(a) To the extent cabinet funds are available to support the training, a personal care home's licensed nurse or individual who has successfully completed certified medication technician training shall attend the mental illness or intellectual disability[Basic] training workshop provided through the Department for Behavioral Health, Developmental and Intellectual Disabilities.

(b) Other staff may attend the[Basic] training workshop in order to assure the personal care home always has at least one (1) certified staff employed for certification purposes.

(2) The mental illness or intellectual disability[Basic] training shall be provided through a one (1) day workshop. The following topics shall be covered:

(a) Importance of proper medication administration;

(b) Side effects and adverse medication reactions with special attention to psychotropics;

(c) Signs and symptoms of an acute onset of a psychiatric episode;

(d) Characteristics of each major diagnosis, for example,

paranoia, schizophrenia, bipolar disorder, or intellectual disability;

(e) Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or intellectual disability; and

(f) Instruction in providing a necessary activity to meet the needs of a resident who has a diagnosis of mental illness or intellectual disability.

(3) Initial[Basic] training shall:

(a) Include the licensed nurse or the individual who has successfully completed certified medication technician training and may include the owner or operator; and

(b) Be in the quarter during which the STS-1 is filed with the department.

(4) To assure that a staff member who has received[Basic] training is always employed at the personal care home, a maximum of five (5) 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 four (4) other staff have been trained, the personal care home shall request in writing to the department an exemption of the five (5) staff maximum, in order to train another staff member.

(b) A personal care home shall have on staff a licensed nurse or individual who:

1. Has successfully completed certified medication technician training; and

2.a. Has received mental illness or intellectual disability[Basic] training; or

b. Is enrolled in the next scheduled mental illness or intellectual disability[Basic] training workshop at the closest location.

~~(5)[The Department for Behavioral Health, Developmental and Intellectual Disabilities may provide advanced level training for a personal care home.~~

~~(a) Advanced level training shall be provided through a one (1) day workshop.~~

~~(b) Each advanced level workshop shall consist of two (2) sessions per day, and each session shall be three (3) hours in duration.~~

~~(c) Each three (3) hour session shall cover a topic appropriate for staff who work with a resident who has a diagnosis of mental illness or intellectual disability.~~

~~(d) Attendance of an advanced level training workshop shall be optional.~~

~~(6)[The Department for Behavioral Health, Developmental and Intellectual Disabilities shall provide within five (5) working days a:~~

~~(a) Certificate to direct care staff who complete the training workshop; and~~

~~(b) Listing to the department of staff who completed the training workshop.~~

~~(6)[(7)] Unless staff turnover occurs as specified in subsection (4)(a) of this section, the department shall pay twenty-five (25) dollars, to the extent funds are available, to a personal care home:~~

~~(a) That has applied for the MI/ID Supplement Program; and~~

~~(b) For each staff member receiving[Basic or advanced level] training up to the maximum of five (5) staff per year.~~

~~(7)[(8)] Attendance of the[Basic] training workshop shall be optional for a specialized personal care home.~~

Section 15. MI/ID Supplement Program Certification. (1) The Office of the Inspector General shall visit a personal care home to certify eligibility to participate in the MI/ID Supplement Program.

(a) The personal care home's initial MI/ID Supplement Program Certification Survey:

1. May be separate from an inspection conducted in accordance with KRS 216.530; and

2. Shall be in effect until the next licensure survey.

(b) After a personal care home's initial MI/ID Supplement Program Certification Survey is completed, the personal care home may complete any subsequent certification survey during the licensure survey as specified in paragraph (a)2 of this subsection.

(c) The department shall notify the Office of Inspector General that the personal care home is ready for an inspection for eligibility.

(2) During the eligibility inspection, the Office of Inspector

General shall:

- (a) Observe and interview residents and staff; and
- (b) Review records to assure the following criteria are met:
 1. Except for a specialized personal care home, certification is on file at the personal care home to verify staff's attendance off[base] training, as specified in Section 14(1) through (4) of this administrative regulation;
 2. The personal care home:
 - a. Has certified staff training all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or intellectual disability[base] training workshop; and
 - b. Maintains documentation of attendance at the in-service training for all direct care staff;
 3. Medication administration meets licensure requirements and a licensed nurse or individual who has successfully completed certified medication technician training:
 - a. Demonstrates a knowledge of psychotropic drug side effects[affects]; and
 - b. Is on duty as specified in Section 13(1)(c)3 of this administrative regulation; and
 4. An activity is being regularly provided that meets the needs of a resident.
 - a. If a resident does not attend a group activity, an activity shall be designed to meet the needs of the individual resident, for example, reading or other activity that may be provided on an individual basis.
 - b. An individualized care plan shall not be required for the criteria in clause a. of this subparagraph.
- (3) The Office of Inspector General shall review the personal care home copy of the training certification prior to performing a record review during the MI/ID Supplement Program Certification Survey process.
- (4) If thirty-five (35) percent of the population is mental illness or intellectual disability clients, as specified in Section 13(1)(c)2 of this administrative regulation, on the day of the visit, a personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification as specified in subsection (1)(c) of this section.
- (5) If the mental illness or intellectual disability population goes below thirty-five (35) percent of all occupied personal care beds in the facility, the personal care home shall notify the department as specified in Section 13(6)(a) of this administrative regulation.
- (6) The Office of Inspector General shall provide the department with a completed STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey, within fifteen (15) working days of an:
 - (a) Initial survey; or
 - (b) Inspection in accordance with KRS 216.530.
- (7) The Office of Inspector General shall provide a copy of a Type A Citation issued to a personal care home to the department by the fifth working day of each month for the prior month.
- (8) 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 Office of Inspector General, in accordance with 921 KAR 2:050.
- (9) If a criterion for certification is not met, the department shall issue an STS-2 to a personal care home following receipt of the survey by the Office of Inspector General as specified in subsection (6) of this section.
- (10) The personal care home shall provide the department with the information requested on the STS-2:
 - (a) Relevant to unmet certification criteria specified on the STS-4; and
 - (b) Within ten (10) working days after the STS-2 is issued.
- (11) If a personal care home fails to provide the department with the requested information specified in subsection (10) of this section, assistance shall be discontinued or decreased, pursuant to 921 KAR 2:046.
- (12) If a personal care home is discontinued from the MI/ID Supplement Program, the personal care home may reapply for certification, by filing an STS-1 in accordance with Section 13(1)(c)6 of this administrative regulation, for the next following

quarter.

Section 16. Hearings and Appeals. An applicant or recipient of benefits under a program described in this administrative regulation who is dissatisfied with an action or inaction on the part of the cabinet shall have the right to a hearing under 921 KAR 2:055.

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits", 01/15[04/44];
 - (b) "STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home", 01/15[04/44];
 - (c) "STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form", 01/13/14; and
 - (d) "STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey", 01/13/14.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

TERESA C. JAMES, LCSW, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 30, 2014 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573, tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a program for supplemental payments to persons who are aged, blind, or have a disability in accordance with KRS 205.245 and the Mental Illness or Intellectual Disability (MI/ID) Supplement Program.

(b) The necessity of this administrative regulation: This administrative regulation is needed to establish conditions and requirements regarding the State Supplementation Program and the MI/ID Supplement Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes through its establishment of a supplemental program for persons who are aged, blind, or have a disability and its compliance with the agreement with the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, to maintain the state's eligibility for federal Medicaid funding.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the eligibility requirements and standards of need for the State Supplementation Program for persons who are aged, blind, or have a disability.

(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 to this administrative regulation will increase the standards of need in the State Supplementation Program to reflect the cost of living adjustment (a.k.a., COLA) to be implemented in calendar year 2015 by the Social Security Administration for Supplemental Security Income (SSI) recipients. In addition, the amendment updates training for the MI/ID supplement and terminology within the body of the administrative regulation and its incorporated materials. Other technical corrections were made in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the

agreement between the Commonwealth of Kentucky and the U.S. Department of Health and Human Services to pass along the cost of living adjustment in Supplemental Security Income benefits to State Supplementation Program recipients. Failure to comply with this agreement jeopardizes the state's Medicaid funds pursuant to 20 C.F.R. 416.2099. The Social Security Administration notified the Department for Community Based Services of the amount of the Supplemental Security Income cost of living adjustment in October 2014. Technical corrections were necessitated to promote clarity and reflect training and organizational changes.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to authorizing statutes by complying with an agreement between Kentucky and the U.S. Department of Health and Human Services to pass along the cost of living adjustment for Supplemental Security Income to State Supplementation Program through an increase in the program's standard of need for all recipients.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by passing along the 2015 1.7 percent cost of living adjustment for the Supplemental Security Income benefit by modifying the standards of need for all levels of care for the State Supplementation Program and making other technical corrections.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of October 2014, there were 2,919 recipients receiving State Supplementation Program benefits.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Effective January 1, 2015, all regulated entities will realize an increase in the standards of need for each level of care in the State Supplementation Program. There is no new or additional action required on the part of regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no new or additional cost to the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will realize an increase in the standards of need for each level of care in the State Supplementation Program effective January 1, 2015. The increase reflects the actual dollar amount of the 1.7 percent Supplemental Security Income cost of living adjustment.

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

(a) Initially: There will be a negligible fiscal impact to the Cabinet for Health and Family Services to implement the mandated pass-through of the 2015 cost of living adjustment. Not complying with the federal pass-through mandate would jeopardize the state's federal Medicaid funding.

(b) On a continuing basis: There will be a negligible fiscal impact to the Cabinet for Health and Family Services to implement the mandated pass-through of the 2015 cost of living adjustment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds/Agency Funds are used to fund the State Supplementation Program.

(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 this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner

statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1382 e-g, 20 C.F.R. Part 416

2. State compliance standards. KRS 194A.050 (1), 205.245

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1382 e-g, 20 C.F.R. Part 416

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 does not impose stricter requirements, or additional or different 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. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Community Based Services will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 (1), 205.245, 42 U.S.C. 1382e-g, 20 C.F.R. Part 416

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate additional revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are projected to administer this program during the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are projected to administer this program during subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, January 13, 2015)

201 KAR 9:310. Continuing medical education.

RELATES TO: KRS 214.610, 214.615, 214.620, 218A.205,
311.565(1)(b), 311.601, 620.020

STATUTORY AUTHORITY: KRS 311.565(1)(a), (b),
311.601(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.601(1) authorizes the board to promulgate an administrative regulation that establishes requirements to insure the continuing professional competency of licensees. This administrative regulation establishes continuing medical education requirements for physicians in Kentucky, including requirements for courses relating to the use of KASPER, pain management, and addiction disorders required for physicians who prescribe or dispense controlled substances in the Commonwealth of Kentucky.

Section 1. Continuing Medical Education. Except as provided in Section 4 of this administrative regulation, at the time a licensee seeks to renew his or her license, the licensee shall submit verification of satisfactory completion of a program of continuing medical education using the Continuing Medical Education Certification Form by the renewal deadline established in 201 KAR 9:051.

Section 2. In order to meet the continuing medical education requirements, a licensee shall:

(1) Submit evidence that thirty (30) of the sixty (60) hours were certified in Category I by an organization accredited by the:

- (a) Accreditation Council on Continuing Medical Education; or
- (b) The American Osteopathic Association;

(2) Submit evidence that:

(a) The licensee has received the American Medical Association's "physician recognition award", or the American Osteopathic Association's "osteopathic physicians' recognition award"; and

(b) The award is in effect at the time the license is renewed;

(3) Submit verification that the:

(a) Licensee has completed continuing medical education requirements of any specialty organization which is recognized by the American Medical Association or American Osteopathic Association as at least equivalent to their recognition awards; and

(b) Certification is in effect at the time a license is renewed; or

(4) Submit verification that the licensee is in, or has been in, an approved postgraduate training program. Each year of postgraduate training shall be equivalent to fifty (50) hours of continuing medical education.

Section 3. Required Hours of Continuing Education. (1)(a) For each three (3) year continuing education cycle, a licensee shall complete a total of sixty (60) hours of continuing medical education, if his or her license has been renewed for each year of a continuing medical education cycle.

(b) If the license has not been renewed for each year of a continuing medical education cycle, a licensee shall complete twenty (20) hours of continuing medical education for each year for which the license has been renewed.

(c) A licensee whose initial licensure was granted the first year of the continuing education cycle for which verification is submitted shall complete sixty (60) hours of continuing medical education before the end of the cycle.

(d) A licensee whose initial licensure was granted the second year of the continuing education cycle for which verification is submitted shall complete forty (40) hours of continuing medical

education before the end of the cycle.

(e) A licensee whose initial licensure was granted the third year of the continuing education cycle for which verification is submitted shall complete twenty (20) hours of continuing medical education before the end of the cycle.

(2) Upon renewal of licensure following the end of a three (3) year continuing education cycle, a licensee shall certify that he or she has met the continuing medical education requirements for the cycle as provided by this section.

(3) Verification of completion of continuing medical education requirements shall be submitted upon request by the board.

Section 4. Extensions of Time. (1) To request an extension of time, the licensee shall submit:

(a) A completed Request for Extension to Complete Required CME Hours; and

(b) The fee required by 201 KAR 9:041, Section 1(17).

(2) The board may grant an extension of time to a physician who for sufficient cause has not yet received continuing medical education certification, following the submission of the items required by subsection (1) of this section.

Section 5. During each ten (10) year period of practice, each licensee shall complete a minimum of one (1) hour~~two (2) hours~~ of continuing medical education in HIV/AIDS courses approved pursuant to KRS 214.610, 214.615 and 214.620.

Section 6. (1) For each three (3) year continuing education cycle beginning on January 1, 2015, a licensee who is authorized to prescribe or dispense controlled substances within the Commonwealth at any time during that cycle shall complete at least four and one-half (4.5) hours of approved continuing education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects. A licensee may satisfy this requirement by completing a single approved program of four and one-half (4.5) hours or longer or by completing multiple approved programs for a total of four and one-half (4.5) hours or longer for that cycle.

(2) Each physician licensed to practice medicine or osteopathy within the Commonwealth of Kentucky who is authorized to prescribe or dispense controlled substances within the Commonwealth from July 20, 2012 through the end of the three (3) year continuing education cycle beginning on January 1, 2012 and ending on December 31, 2014 shall complete at least four and one-half (4.5) hours of approved Category I Credit continuing medical education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects on or before December 31, 2014. The licensee may satisfy this requirement by completing a single approved program of four and one-half (4.5) hours or longer or by completing multiple approved programs for a total of four and one-half (4.5) hours or longer for this cycle.

(3) Each physician licensed to practice medicine or osteopathy within the Commonwealth of Kentucky who is authorized to prescribe or dispense controlled substances during the calendar years 2013 and 2014, but not during any portion of 2012, shall complete at least three (3) hours of approved Category I Credit continuing medical education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects on or before December 31, 2014. The licensee may satisfy this requirement by completing a single approved program of three (3) hours or longer or by completing multiple approved programs for a total of three (3) hours or longer for those two (2) years.

(4) Each physician licensed to practice medicine or osteopathy within the Commonwealth of Kentucky who is authorized to prescribe or dispense controlled substances during calendar year

2014, but not during any portion of 2012 or 2013, shall complete at least one and one-half (1.5) hours of approved Category I Credit continuing medical education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects on or before December 31, 2014. The licensee may satisfy this requirement by completing a single approved program of one and one-half (1.5) hours or longer or by completing multiple approved programs for a total of one and one-half (1.5) hours or longer for that calendar year.

(5)(a) To qualify as approved continuing education under this section, the educational program shall have been approved in advance for the specified number of continuing education hours by the board.

(b) The board may approve an educational program that:

1. Consists of a live presentation;
2. Is presented by a live or recorded webinar; or
3. Is presented through an online module.

(c) The board shall maintain a current listing of approved continuing education programs on its official Web site, www.kbml.ky.gov.

(6)(a) In order to lawfully prescribe or dispense controlled substances within the Commonwealth of Kentucky, a licensee shall complete the required number of continuing education hours for each period designated in this section.

(b) Failure to complete the required number of continuing education hours for the required period or to submit the required written verification within the time specified shall constitute a violation of KRS 311.595(9) and (12), which shall constitute an immediate danger to the public health, safety, or welfare, for the purposes of KRS 311.592 and 13B.125.

(c) If the board determines that a licensee has failed to complete the required continuing education hours within the time specified or has failed to provide the written verification of completion within the time specified, the appropriate inquiry panel or its chair shall promptly issue an emergency order restricting that licensee from prescribing or dispensing controlled substances within the Commonwealth of Kentucky until the licensee has completed the required continuing education hours for that period and has provided written verification of completion to the board.

(d) An emergency order restricting a licensee from prescribing or dispensing controlled substances within the Commonwealth of Kentucky issued pursuant to paragraph (c) of this subsection shall remain valid and in effect until the board has received written verification that the licensee has successfully completed the required continuing education hours for the time period specified. Upon receipt of the written verification, the panel or its chair shall immediately issue an order terminating the emergency order issued pursuant to this section.

(e) If a licensee who is affected by an emergency order issued pursuant to this section requests an emergency hearing pursuant to KRS 13B.125(3), the hearing officer conducting the emergency hearing shall affirm the emergency order if presented with written notification on board letterhead stating that the board has not received the required written verification that the licensee completed the required continuing education hours for the period specified by the time specified.

(7) If a licensee prescribes or dispenses a controlled substance within the Commonwealth of Kentucky during any period after the licensee has failed to complete the required continuing education hours within the time specified or has failed to provide written verification of completion within the time specified, each instance of prescribing or dispensing of a controlled substance shall constitute a separate violation of KRS 311.595(12) and (9), as illustrated by KRS 311.597(1)(b) and shall serve as the basis for disciplinary sanctions pursuant to KRS 311.595.

Section 7. Each licensee practicing in the specialty of pediatrics, radiology, family medicine, or emergency medicine and each licensee practicing in an urgent care practice environment shall complete at least one (1) hour of continuing medical education regarding the recognition and prevention of pediatric abusive head trauma in a course approved by the board pursuant to KRS 620.020, prior to December 31, 2017, or within five (5)

years of initial licensure.

Section 8. The board may randomly require physicians submitting certification of continuing medical education to demonstrate satisfactory completion of the continuing medical education requirements stated in the certification.

Section 9.[8.] (1) A licensee shall be fined a minimum of \$200, if he or she fails to:

- (a) Timely complete the continuing medical education requirements; or
- (b) Obtain an extension of time for completion of the continuing medical education requirements.

(2)(a) A licensee subject to subsection (1) of this section shall be granted a period of six (6) months to come into compliance.

(b) If a licensee has not completed the continuing medical education requirements within the six (6) month period established by this subsection, his or her license shall:

1. Be immediately suspended; and
2. Remain suspended until the licensee has submitted verifiable evidence that he or she has completed the continuing education requirements.

Section 10.[9.] A waiver of the requirements established by the provisions of this administrative regulation shall not be granted.

Section 11.[10.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Continuing Medical Education Certification Form", January 2013; and

(b) "Request for Extension to Complete Required CME Hours", January 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, 8 a.m. to 4:30 p.m., Monday through Friday.

PRESTON P. NUNNELLEY, M.D., President

APPROVED BY AGENCY: October 8, 2014

FILED WITH LRC: October 9, 2014 at 2 p.m.

CONTACT PERSON: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7118.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, January 13, 2015)**

201 KAR 9:460. Written plan.

RELATES TO: KRS 311.671, 311.673(1), 311.680

STATUTORY AUTHORITY: KRS 311.673(1), **311.680(1)**

NECESSITY, FUNCTION, AND CONFORMITY: KRS **311.680(1) requires each licensed acupuncturist to develop a written plan for consultation, emergency transfer, and referral and requires the board to promulgate an administrative regulation establishing requirements for the plan**[311.673(1) ~~authorizes the board to promulgate administrative regulations necessary to the licensure~~](certification)[~~and regulation of acupuncturists~~]. This administrative regulation establishes **requirements for the written plan**[a written plan required by KRS 311.680].

Section 1. ~~[Pursuant to requirements of KRS 311.680,]~~ The written plan developed by each licensed[certified] acupuncturist shall include the following information:

(1) Consultation.

(a) The acupuncturist shall identify the protocol to be used to determine whether a potential patient suffers from one of the potentially serious disorders or conditions listed in KRS 311.680(3), and to determine the identity of the physician treating the patient

for the disorder or condition.

(b) The acupuncturist shall identify the telephone, facsimile, letter, or electronic mail as the means of communication to be used to:

1. Notify the treating physician that the patient is seeking treatment by acupuncture and has disclosed that he or she is being treated for a potentially serious disorder or condition; and

2. Obtain verification that the patient is under the care of the physician.

(c) The acupuncturist shall identify the method that will be used to document the consultation and verification made pursuant to ~~paragraph (b)2 of this subsection~~~~[Section 1(1)(b)2 of this administrative regulation]~~. If notification and verification are accomplished by telephone, the documentation shall include, at a minimum, the name of the staff member in the physician's office providing the verification.

(d) The acupuncturist shall specify how many attempts he or she will make to obtain verification from the treating physician that the patient is under the care of before initiating treatment by acupuncture. A minimum of two (2) attempts is required before treatment is initiated, but the acupuncturist may choose a higher number of attempts.

(e) While verifying whether the patient is under the physician's care for a potentially serious disorder or condition, if the physician identifies possible contraindications for the use of acupuncture in the particular patient or recommends against the use of acupuncture, the acupuncturist may use her or his professional judgment to determine if it is reasonable to provide acupuncture treatment to that particular patient, considering all available facts.

(f) A potential patient shall be considered to be "under the care of a physician" if receiving regular or recurring treatment from the physician or from a physician assistant being supervised by the physician or from an advanced registered nurse practitioner who is practicing in association with the physician.

(2) Emergency transfer.

(a) The ~~licensed~~~~[certified]~~ acupuncturist shall identify the nearest emergency room facility by name, address and telephone number.

(b) The ~~licensed~~~~[certified]~~ acupuncturist shall identify the protocol for emergency transfer of patients which shall include, at a minimum, the requirement that the acupuncturist will utilize the "911" emergency notification system to arrange for emergency transfer of the patient.

(3) Referral to appropriate health-care facilities or practitioners.

(a) The acupuncturist shall identify, by name, address and telephone number, at least two (2) physicians who have agreed to consult with and accept referrals from the acupuncturist.

(b) If applicable, the acupuncturist shall also identify health-care facilities~~;~~ that have agreed to accept referrals from the acupuncturist.

PRESTON P. NUNNELLEY, M.D., President

APPROVED BY AGENCY: October 13, 2014

FILED WITH LRC: October 15, 2014 at 9 a.m.

CONTACT PERSON: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7118.

GENERAL GOVERNMENT CABINET

Board of Nursing

(As Amended at ARRS, January 13, 2015)

201 KAR 20:220. Nursing continuing education provider approval.

RELATES TO: KRS 314.011(12), 314.073, 314.131(1), (2)

STATUTORY AUTHORITY: KRS ~~314.073(3)~~, 314.131(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(2) and 314.073(3) require the Board of Nursing to promulgate administrative regulations establishing requirements for board to establish continuing competency and

~~approval off requirements and approve~~ providers of continuing education. This administrative regulation establishes requirements for providers of continuing education.

Section 1. Definitions. (1) "Continuing education activity" means an offering given by a provider of continuing education who has been approved by the board and that relates to the practice of nursing or contributes to the competency of a nurse extending knowledge beyond that obtained in initial nursing preparation or pertinent to specific work requirements.

(2) "Refresher course" means an organized learning experience, designed, planned, and evaluated to meet behavioral outcomes designed to update knowledge of nursing theory and practice competencies by licensure category.

Section 2. (1) A provider applicant who wants to offer a continuing education activity or a refresher course shall submit an:

(a) Application for Provider Approval; and

(b) Application fee as established 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 on December 31 of the second year following initial approval.]~~

~~(4) [On or before September 30 of the year in which an approval period expires, an approved provider shall submit the:~~

(a) Application for Provider Renewal; and

(b) Fee as established in 201 KAR 20:240.

~~(4) [(5)]~~ Renewal shall be for two (2)~~[five (5)]~~ years.

~~(5) [(6)]~~ (a) A provider applicant may establish compliance by submitting evidence of approval by one (1) of the following organizations:

1. American ~~Association~~~~[Academy]~~ of Nurse Practitioners;

2. American Association of Critical Care Nurses;

3. American Association of Nurse Anesthetists;

4. American College of Nurse Midwives;

5. American Nurses Credentialing Center;

6. Association of Women's Health, Obstetrical and Neonatal Nurses;

7. National Association of Nursing Practitioners in Women's Health;

8. National Association Pediatric Nurses Associates and Practitioners;

9. National Association for Practical Nurses Education and Service;

10. National Federation of Licensed Practical Nurses;

11. National League for Nursing; or~~and~~

12. State Boards of Nursing.

(b) Paragraph (a) of this subsection shall include a provider that offers a continuing education activity related to the pharmacology requirement established in 201 KAR 20:215, Section 5(2).

~~(6) [(7)]~~ (a) An organization that approves nursing continuing education may request that it be added to this administrative regulation.

(b) An organization shall be included in this administrative regulation if its standards are comparable to the standards established by the provisions of this administrative regulation.

Section 3. (1) The board may review a provider's continuing education activities, refresher courses, 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 or refresher course 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 established in paragraph (a) of this subsection, the board shall implement the action proposed in its notice.

Section 4. Providers shall comply with the standards in this section.~~following standards:~~

(1)(a) A registered nurse who meets the qualifications established in paragraph (b) 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 or privilege to practice;
2. Have experience in adult and continuing education; and
3. Hold a baccalaureate or higher degree, in nursing.

(c) The provider shall designate an alternate nurse administrator who shall meet the requirements established in paragraph (b) of this subsection.

(2) Organized learning activities shall be based upon a reasonable justification supporting the need for the 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 competence in decision making~~the development, or change in attitudes, necessary to make competent judgments and decisions in nursing~~.

(4) Outcomes 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 evidence of a need for the continuing education activity or refresher course.

(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:

(a) An agenda indicating a presentation schedule, presenters, topics, meals, breaks; and

(b) An outline format with corresponding time frames and teaching methods indicated for each content area.

1. The content shall be related to and consistent with the outcome.

2. The outcomes shall provide statements of observable behaviors that present a clear description of the competencies to be achieved by the learner.

(7) Teaching methods shall be consistent with the content and learning objectives, and shall reflect the use of adult learning principles. Activities of both the teacher and the learner shall be specified in relation to the content outline.

(8) Faculty for continuing education activities and refresher courses shall have:

(a) Documented expertise in the subject matter; and

(b) Experience in presenting to adult learners and facilitating adult learning.

(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 or refresher course shall be adequate in terms of education unit organization, with fiscal support for adequate staff, facilities, equipment, and supplies to ensure quality teaching and learning~~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) Learner outcomes;

(b) Content overview;

(c) Date, time, and presentation schedule;

(d) Presenter;

(e) Number of contact hours;

(f) Fee and refund policy;

(g) Target audience and any prerequisites; and

(h) Requirements for successful completion that shall be clearly specified and shall include a statement of policy regarding candidates who fail to successfully complete the continuing education activity.

(12) Published information about continuing education activities offered by providers approved by the board shall include the provider number.

(13)(a) A provider shall notify the board in writing within one (1) month of any changes in its administration, such as nurse administrator, mailing address, or telephone number.

(b) Information relevant to the qualifications of the new nurse administrator as established in subsection (1)(b) of this section shall be sent to the board.

(c) If a qualified nurse is not available to serve in the capacity of the administrator, the provider shall not offer any continuing education activity or refresher course until a qualified nurse administrator is appointed.

(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, except for HIV/AIDS education, which shall be maintained for at least twelve (12) 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 outcomes, content outline, faculty, teaching, and evaluation methods;

(d) Participant roster, with a minimum of:

1. Name; and

2. Social Security number or license number;

(e) Summary of participant evaluations;

(f) Number of continuing education contact hours awarded:

1. Contact hours shall be calculated by taking the total number of minutes that the participants will be engaged in the learning activities, excluding breaks, and divide by fifty (50); and

2. Partial hours shall be permissible after one (1) contact hour is earned;

(g) Master copy of certificate awarded; and

(h) Identification of~~All~~ required instructional materials and references~~shall be identified~~.

(16) Participants shall receive a certificate of completion that documents participation with the following information:

(a) Name of participant;

(b) Offering title, date, and location;

(c) The provider's name, address, telephone number, approval number, and expiration date of the providership;

(d) Name and signature of authorized provider representative; and

(e) Number of continuing education contact hours awarded.

(17) There shall be a clearly defined method for evaluating the continuing education activity, which shall include:

(a) An evaluation tool that includes participant appraisal of achievement of each outcome, teaching effectiveness of each presenter, relevance of content to stated outcomes, effectiveness of teaching methods, and appropriateness of physical facilities; and

(b) A mechanism for periodic, systematic evaluation of the provider's total program of educational activities.

(18) There shall be a summary of the participants' evaluations for each continuing education activity or refresher course with an action plan with time lines for resolution of identified deficiencies.

(19) The provider shall have current policies and procedures for the management of the providership that demonstrate compliance with the required standards.

(20) For an offering that includes clinical practice, the

instructor-student ratio for the clinical experience shall not exceed one (1) to ten (10).

(21) The following constitute in-service education and shall not be considered as a continuing education activity for purposes of this administrative regulation:

(a) An activity that is part of an employing agency's staff development program designed to provide information related to the work setting;

(b) On the job training;

(c) Orientation;

(d) Basic cardiopulmonary resuscitation; and

(e) Equipment demonstration.

Section 5. (1) The following forms are incorporated by reference:

(a) "Application for Provider Approval", 10/2012, Kentucky Board of Nursing; and

(b) "Application for Provider Renewal", 10/2012, Kentucky Board of Nursing.

(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.

SALLY BAXTER, President

APPROVED BY AGENCY: October 1, 2014

FILED WITH LRC: October 20, 2014 at 3 p.m.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Kentucky Fire Commission

(As Amended at ARRS, January 13, 2015)

739 KAR 2:060. Certification and qualifications of fire ~~protection~~~~[service]~~~~[protection]~~ instructors.

RELATES TO: KRS 75.400(2), 95.010(1)(c), 95A.040(3)(b)1, 95A.210(1)~~[95A.040(2)(b)]~~

STATUTORY AUTHORITY: KRS 95A.050(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.040(3)(b)~~[95.040(b)]~~ authorizes the Commission on Fire Protection Personnel Standards and Education to certify fire ~~protection~~~~[service]~~~~[protection]~~ instructors. This administrative regulation sets forth the criteria for instructor certification, including the training and educational requirements of applicants for certification~~[prerequisite for and justification of those instructors]~~.

Section 1. Definitions. (1) "Bridge course" means an educational program provided by the commission to update out-of-state fire ~~protection~~~~[service]~~ instructors seeking Kentucky instructor certification through reciprocity on paperwork and legal requirements specific to fire ~~protection~~~~[service]~~ instructors certified in the Commonwealth of Kentucky.

(2)[A] "Certified professional firefighter" means a firefighter who meets the requirement of KRS 95A.210 and 95A.230.

(3)[(2)] "Certified volunteer firefighter" means an individual who has received at least 150 hours of certified training as recognized by the Commission on Fire Protection Personnel Standards and Education and who receives at least twenty (20) hours of certified training annually to maintain certification.

(4)[(3)] "Commission" means the Commission on Fire Protection Personnel Standards and Education~~[commission]~~ as defined by KRS 95A.210(1).

[(4)] "Educational methodology course" means a course meeting the objectives of NFPA 1041 and conducted by:

(a) KCTCS;

(b) a Kentucky college or university;

(c) The National Fire Academy;

~~(d) A governmental entity authorized by the National Fire Academy to train within its jurisdiction and approved by the Fire Commission; or~~

~~(e) An agency approved by the Fire Commission to train within its jurisdiction.]~~

(5) "Fire protection instructor" means an individual trained and certified pursuant to KRS 95A.040(2)(b), this administrative regulation, and the International Fire Service Training Association, as a person qualified to instruct fire protection personnel or supervise the training of fire protection personnel. This term is synonymous with the term "fire service instructor" as referenced in the International Fire Service Training Association curricula and the National Fire Protection Association 1041 standard.

(6) "Fire department" means a fire department recognized by the commission as defined by KRS 75.400(2) and KRS 95.010(1)(c)~~[in KRS 75.400 and Chapter 95]~~.

~~(7)[(6)]~~ "Firefighter I" means an individual who has demonstrated the knowledge and skills to function as an integral member of a firefighting team under direct supervision in hazardous conditions and is certified by the commission through the International Fire Service Accreditation Congress in the Commonwealth of Kentucky.

~~(8)[(7)]~~ "Firefighter II" means an individual who has demonstrated the skills and depth of knowledge to function under general supervision and is certified by the commission through the International Fire Service Accreditation Congress in the Commonwealth of Kentucky.

~~[(8)] "Fire service instructor" [(7)] "Fire protection instructor" or "fire service training officer"] means a person certified pursuant to KRS 95A.040(2)(b) and this administrative regulation as qualified to instruct fire protection personnel or oversee the training of fire protection personnel.]~~

(9) "IFSAC" means the International Fire Service Accreditation Congress.

(10)[(8)] "KCTCS" means the Kentucky Community and Technical College System.

(11) "MOI" means an educational methodology course meeting the objectives of NFPA 1041 and conducted by:

(a) KCTCS;

(b) A Kentucky college or university;

(c) The National Fire Academy;

~~(d) A governmental entity authorized by the National Fire Academy to train within its jurisdiction and approved by the commission; or~~

~~(e) An agency approved by the commission to train within its jurisdiction.~~

(12) "Reciprocity" means the recognition of an IFSAC certification from another state, territory, province, or nation following verification that the certification is current, valid, and without restriction.

(13) "Train the Trainer course" means a pedagogy program intended to educate certified fire ~~protection~~~~[service]~~ instructors on the primary highlights and uses of courses taught to fire protection personnel.

Section 2. Levels of Certification and Scope. (1) The commission shall certify fire ~~protection~~~~[service]~~ instructors at the following levels:

(a) Instructor Level I;

(b) Instructor Level II; and

(c) Instructor Level III.

(2) An instructor shall only teach a fire protection subject~~[Instructors may only teach fire service subjects]~~ upon meeting all requirements for certification mandated by this administrative regulation. A certified fire ~~protection~~~~[service]~~ instructor may only teach subjects within the scope of the instructor's respective fire ~~protection~~~~[service]~~ instructor level, subject to the conditions set forth in this section of this administrative regulation.

(3) An instructor~~[Persons]~~ certified as a Level I fire ~~protection instructor~~~~[service instructors]~~ shall be authorized to conduct firefighter training at any fire department or agency located

in the Commonwealth pursuant to paragraphs (a) and (b) of this subsection.~~[subject to the following:]~~

(a) Training shall only be conducted at the request of a fire department or agency.~~;~~and

(b) Upon invitation, a person certified as a Level I fire protection~~[service]~~ instructor shall conduct training using curricula approved by the commission.

(4) A person certified as a Level II fire protection~~[service]~~ instructor shall be authorized to conduct firefighter training at any fire department or agency located in the Commonwealth pursuant to paragraphs (a) through (c) of this subsection.~~[subject to the following:]~~

(a) Training shall only be conducted at the request of a fire department or agency.~~;~~and

(b)1. At a fire department of which the Level II fire protection~~[service]~~ instructor is not a member, the Level II fire protection~~[service]~~ instructor may personally conduct training using lesson plans ~~that~~~~[which]~~ he or she has developed; or

2. At a fire department of which the Level II fire protection~~[service]~~ instructor is a member, the Level II fire protection~~[service]~~ instructor may allow a Level I fire protection~~[service]~~ instructor to conduct training under the Level II fire protection~~[service]~~ instructor's direction, using lesson plans developed by the Level II fire protection~~[service]~~ instructor.

(5) A Level III fire protection~~[service]~~ instructor shall be authorized to:

(a) Develop comprehensive training curricula and programs for use by single or multiple organizations;

(b) Conduct organization needs analysis;

(c) Design record keeping and scheduling systems;

(d) Develop training goals and implementation strategies; and

(e) Conduct firefighter training and Level I and II fire protection~~[service]~~ instructor training at any fire department or agency located in the Commonwealth. Training shall only be conducted at the request of a fire department or agency.

(6) An instructor~~[instructors]~~ shall successfully complete the commission's Train the Trainer course and shall thereafter teach only from lesson plans developed by the commission or State Fire Rescue Training, or curricula approved by the commission prior to instruction~~[Level I Fire Protection Instructors. Persons certified as Level I fire protection instructors shall be authorized to deliver training to the fire department of which they are a member.~~

(1) Requirements for certification. An individual shall be certified by the commission as a Level I instructor if satisfactory written evidence is submitted to the commission that the individual meets the following criteria:

(a) Has submitted a completed application that has been approved by his fire chief;

(b) Is a high school graduate or the equivalent;

(c) Has two (2) years experience as a firefighter;

(d) Is a Kentucky-certified firefighter; and

(e) Submits proof that he has completed a sixteen (16) hour National Fire Academy Instructional Techniques class or a class that has been approved by the commission.

(2) Certification terms. Certification shall expire after a period of three (3) years, unless renewed.

(3) Certification renewal.

(a) Certification shall be renewed if an applicant has:

1. Taught at least thirty-two (32) hours, prior to the expiration of his certification; or

2. Attended a sixteen (16) hour National Fire Academy Instructor class, or an equivalent approved by the commission.

(b) It shall be the responsibility of the individual instructor and his agency to submit an application for renewal on Form KFI-1, July 14, 1998].

Section 3. Instructor Certification Requirements. (1) An~~[No]~~ instructor ~~[at any level]~~ shall not be authorized to teach without first meeting all requirements ~~[set by the commission]~~for certification established in this administrative regulation.

(2) An applicant for initial certification as a Level I fire protection~~[service]~~ instructor shall complete and submit~~[the following:]~~

(a) A completed Level I Fire Service Instructor Application signed by the applicant's fire chief or designee;

(b) Verification of two (2) years' continuous experience as a certified professional or volunteer firefighter in the Commonwealth of Kentucky, or in another state, preceding the application date for Level I fire protection~~[service]~~ instructor certification;

(c) Copies of IFSAC accredited Kentucky, or IFSAC accredited Kentucky reciprocity, Firefighter I and II certificates on which the applicant's~~[subject to the following requirements:]~~

1. ~~[The applicant's]~~Certification seal numbers shall be denoted in the designated portion of the instructor Level I application; and

2. ~~[The applicant's]~~IFSAC accredited Kentucky, or IFSAC accredited Kentucky reciprocity, certification shall provide documentation of successful completion of both written and skills performance tests; ~~or~~~~;~~

(d) A copy of the applicant's high school diploma or general equivalency diploma (GED), and one (1) of the following MOI:

1. First MOI: Certification as an IFSAC accredited Kentucky, or IFSAC accredited Kentucky Reciprocity, Instructor I;

2. Second MOI: A Bachelor's degree in education issued by an accredited institution of higher education; ~~or~~~~and~~

3. Third MOI: Holds a position as an instructor or instructional faculty member of an institution of higher education in the subject of fire service, or a related field.

(3) An applicant for initial certification as a Level II fire protection~~[service]~~ instructor shall submit~~[the following:]~~

(a) A completed Level II Fire Service Instructor Application signed by the applicant's fire chief or designee, with the applicant's IFSAC accredited Kentucky, or IFSAC accredited Kentucky Reciprocity certification seal number or numbers~~[number(s)]~~ denoted as indicated;

(b) Verification of four (4) years' continuous experience as a certified professional or volunteer firefighter in the Commonwealth of Kentucky, or in another state, preceding the application date for Level I fire protection~~[service]~~ instructor certification;

(c) Proof of two (2) years' experience as a Level I fire protection~~[service]~~ instructor; and

(d) Verification of completion of all Level I fire protection~~[service]~~ instructor renewal requirements as set forth in this administrative regulation.

(4) An individual desiring initial certification as a Level III fire protection~~[service]~~ instructor shall submit~~[the following:]~~

(a) A Level III Fire Service Instructor Application completed on the applicant's behalf by the fire department for which the applicant has served as an active member for at least six (6) consecutive years and signed by the applicant's fire chief or designee, with the applicant's IFSAC accredited Kentucky, or IFSAC accredited Kentucky Reciprocity certification seal number(s) denoted as indicated;

(b) Service as a fire protection~~[service]~~ Level II instructor for a minimum of two (2) years prior to the application date for fire protection~~[service]~~ Level III instructor certification;

(c) Positive recommendations following interviews with the commission, the Fire Commission Division Director of Operations, and the State Fire Rescue Training Division Director, or the director's designee~~[designee(s)]~~;

(d) Verification of completion of all Level II fire protection~~[service]~~ instructor renewal requirements as set forth in this administrative regulation; and

(e) Evidence of previous assistance with the delivery of at least two (2) MOI approved by the commission~~[Level II Fire Protection Instructors. Persons certified as Level II instructors shall be authorized to deliver training to a fire department within the Commonwealth upon invitation by that agency.]~~

(1) Requirements for certification. An individual shall be certified by the commission as a Level II fire protection instructor if satisfactory written evidence is submitted to the commission that the individual:

(a) Is qualified by the following:

1. Has certified firefighter status;

2. Has submitted a completed application that has been approved by his fire chief;

3. Is a high school graduate or the equivalent; and
4. Has had four (4) years experience as a firefighter; and

(b) Is further qualified by having completed one (1) of the following:

1. Has completed a minimum of thirty-two (32) hours of an educational methodology course; or
2. Holds a valid teaching certificate issued by the Kentucky Department of Education and is a certified firefighter; or
3. Is a full-time instructor or faculty member of an institution of higher education in Kentucky, teaching in a fire science or fire technology curriculum; or
4. Holds a valid instructor's certificate issued by an out-of-state fire training agency approved by this commission.

(2) Certification term. Certification shall expire after a period of three (3) years, unless renewed.

(3) Certification renewal.

(a) It shall be the responsibility of the individual instructor and his agency to submit an application for renewal on Form KFI-2, July 14, 1998.

(b) The following shall be required of an applicant seeking renewal of his certification:

1. He shall have taught a minimum of sixty (60) hours during his three (3) year certification period; or
2. He shall have taught a minimum of thirty (30) hours and shall reattend the thirty-two (32) hour educational methodology course].

Section 4. Reciprocity. Individuals seeking certification as a Level I, II, or III fire protection/service instructor through reciprocity from any state or territory in the United States shall be granted approval by the commission if the applicant meets all certification requirements for Level I, II, or III instructor certification pursuant to Section 3 of this administrative regulation, if:

(1) The two (2), four (4), or six (6) year continuous work periods mandated by Section 3(2)(b), (3)(b), and (4)(a) of this administrative regulation shall have been completed while certified by and in good standing with the certifying agency of the state in which the firefighter served for the period of time necessary to qualify for reciprocity in the Commonwealth of Kentucky;

(2) The applicant's continuous work periods mandated by Section 2(2)(b), (3)(b), and (4)(a) of this administrative regulation shall immediately precede the date on which the applicant applies for Level I, II, or III fire protection/service instructor certification in the Commonwealth of Kentucky; or]

(3) The individual shall complete the commission's bridge course prior to certification as a fire protection/service instructor by the commission[Level III Fire Protection Instructors. Persons certified as Level III fire protection instructors shall be authorized to deliver training to fire departments or to train persons for Level I and II certification and to train Level II instructors to become Level III fire protection instructors.

(1) An applicant shall be certified as a Level III instructor if the following has occurred:

(a) The fire department of which the applicant is a member applies for his recognition by the commission as a Level III instructor;

(b) The applicant interviewed with the commission, if requested; and

(c) The following written information has been submitted:

1. A completed application and resume;
2. Proof of the applicant's current certification as a Level II fire protection instructor; and
3. Sufficient evidence of having assisted with the delivery of at least one (1), thirty-two (32) hour educational methodology course or instructional technique class prior to requesting approval as a Level III instructor.

(2) Certification term. Certification shall be made for a period of three (3) years unless the commission determines that the certification shall be revoked, for cause.

(3) Certification renewal.

(a) It shall be the responsibility of the individual instructor to submit an application for renewal prior to expiration of certification. Renewal shall be on Form KFI-3, July 14, 1998.

(b) A renewal applicant shall have delivered at least one (1) educational methodology course or instructional technique class during his three (3) year certification period.

(c) A renewal applicant shall have taught a minimum of sixty (60) hours during his certification period.

(d) A renewal applicant shall attend at least one (1) instructor trainer workshop approved by the commission].

Section 5. Instructor Certification Terms and Renewal. (1) Unless renewed, certification for Levels I, II, and III fire protection/service instructors shall expire after a period of two (2) years in a cyclical pattern based upon the last number of the instructor's Kentucky fire instructor number. All instructors with a Kentucky fire instructor number ending in zero (0) or an even number shall recertify by January 1, 2017, and all instructors with a Kentucky fire protection/service instructor number ending in an odd number shall recertify by January 1 of the subsequent year.

(2) The commission shall grant certification renewal for Level I and II instructors who submit:

(a) Documentation of twenty (20) hours of instructional time using curricula developed or approved by the commission and completed prior to the expiration of the instructor's current certification period;

(b) Verification of attendance of at least twenty (20) student training hours, at least four (4) hours of which shall consist of an MOI approved by the commission; and

(c) A Fire Service Renewal Application provided by the commission and signed by both the applicant and the applicant's fire chief or designee.

(3) The forty (40) instructional and student training hours mandated by subsection (2)(a) and (b) of this section may also be used to complete the instructor's firefighter recertification hours.

(4) The commission shall grant certification renewal for Level III instructors who submit:

(a) A Fire Service Renewal Application provided by the commission and signed by both the applicant and the applicant's fire chief or designee;

(b) Documentation that the applicant has instructed a minimum of one (1) MOI or instructional technique class during the two (2) year certification period; and

(c) Verification of completion of a minimum of one (1) instructor training workshop lasting at least eight (8) hours and approved by the commission.

(5) A fire protection instructor/service instructors who obtained instructor certification prior to the effective date of this administrative regulation shall be required to meet the renewal requirements as set forth in this administrative regulation subsequent to the completion of one (1) full recertification period[Fire Protection Instructor Current Status. (1) A fire protection instructor who is certified by the commission pursuant to this administrative regulation shall be reclassified as a Level II fire protection instructor and shall conform to this administrative regulation.

(2) To retain current certified status as an instructor, an individual shall meet the renewal criteria for the level for which he is certified.

(3) If an instructor does not meet Level II requirements, he shall revert to Level I status.

(4) If an instructor does not meet the criteria for Level I status, his fire protection instructor certification shall be revoked].

Section 6. Suspension or Revocation of Certification and Appeal. (1) The commission's Education and Eligibility/State Aid Committee shall/may revoke an instructor's certification if, after reasonable notice and a hearing, it is determined that the instructor committed misconduct with regard to fire protection/service instructor certification or job duties. Examples include, for example[but are not limited to]:

(a) A material misstatement or misrepresentation in any document furnished to the commission to obtain the issuance or renewal of certification;

(b) Falsification of training records; or

(c) An act of negligence or malfeasance.

(2) A fire protection[service] instructor whose certification is subject to revocation shall be entitled to thirty (30) days' notice and a hearing before the commission's Education and Eligibility/State-Aid Committee.

(3) If the commission's Education and Eligibility/State-Aid Committee hearing results in a decision to revoke an instructor's certification, the instructor shall be notified in writing of the action and the right to appeal before the commission no later than ten (10) days following the hearing.

(4) An instructor shall request an appeal in writing within fifteen (15) days of receipt of the notification of the commission's intent to revoke the instructor's certification.

(5) If the individual appeals the commission's intent to revoke his or her instructor certification, a hearing shall be conducted at the next regular meeting of the commission, or within thirty (30) days of the appeal request, whichever is first.

(6) If the commission's hearing results in a decision to revoke an instructor's certification, the instructor shall be notified in writing of the action and the right to appeal pursuant to KRS Chapter 13B no later than ten (10) days following the hearing of the appeal.

(7) The certification of an instructor who fails to maintain active status with a Kentucky fire department or Kentucky State Fire Rescue Training shall be automatically suspended until active status with a Kentucky fire department or Kentucky State Fire Rescue Training is reinstated and all requirements for recertification are met

[Revocation of Certification. The commission may revoke certification if, after reasonable notice and a hearing, it is determined that there was: (1) A material misstatement or misrepresentation in any document furnished the commission to obtain the issuance or renewal of a certification;

(2) Falsification of training records; or

(3) An act of misconduct, negligence, malfeasance].

Section 7. Reinstatement of Certification. (1) The commission shall reinstate the certification of an instructor whose certification has lapsed for a period not exceeding one (1) year, unless the applicant has been subjected to discipline that would prevent reinstatement upon application.

(2) The commission shall reinstate the certification of an instructor whose certification has lapsed for a period of more than one (1) year but not exceeding three (3) years, provided the instructor meets all recertification requirements and has attend a commission recognized bridge course[Appeal. (1) A fire protection instructor notified of an intent to revoke his instructor certification, may request a hearing before the commission by submitting a request to be heard, in writing, within fifteen (15) days from the date of receipt of the letter of notification.

(2) A hearing shall be conducted at the next regularly scheduled meeting of the commission or within thirty (30) days, whichever is first.

(3) The decision of the commission shall be rendered in writing within ten (10) days of the termination of the hearing].

(3) The commission shall not reinstate the certification of an instructor whose certification has lapsed for a period exceeding three (3) years.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Fire and Emergency Services Instructor, Eighth Edition", 2012;

(b) "Kentucky Fire Service Instructor Level 1 Certification Application", 2014;

(c) "Kentucky Fire Service Instructor Level 2 Certification Application", 2014;

(d) "Kentucky Fire Service Instructor Level 3 Certification Application", 2014; and

(e) "Kentucky Fire Service Instructor Certification Renewal Application", 2014[Level I Certification Application and Renewal, Form KFI-1, July 14, 1998.

(b) Level II Certification Application and Renewal, Form KFI-2, July 14, 1998.

(c) Level III Certification Application and Renewal, Form KFI-3,

July 14, 1998].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Commission on Fire Protection Personnel Standards and Education, 1049 U.S. 127 South, Suite #5, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ANNE-TYLER MORGAN, Legal Counsel

APPROVED BY AGENCY: October 14, 2014

FILED WITH LRC: October 15, 2014 at 10 a.m.

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**PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS, January 13, 2015)**

804 KAR 10:031. Local government regulatory license fees.

RELATES TO: KRS 243.075

STATUTORY AUTHORITY: KRS 243.075(5)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 243.075(5)(a) requires the department to promulgate administrative regulations[states that an administrative regulation shall be promulgated] to establish a process by which a city of the third or fourth class, or a county that contains a city of the third or fourth class, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulatory, or administrative expenses incurred by that city or county that are directly and solely related to the sale of alcoholic beverages. This administrative regulation establishes what specific costs and expenses may be subject to reimbursement, and a form is incorporated by reference to calculate and document the expense.

Section 1. Definition. "Qualified city or county" means ~~[(1) Before January 1, 2015, a city of the third or fourth class, or a county containing a city of the third or fourth class; or~~

~~(2) Beginning January 1, 2015,]~~ a city on the registry maintained by the Department for Local Government under KRS 243.075(9)(b), a county containing a city on the registry, or a city or county that had been previously permitted to issue regulatory license fees [under subsection (1) of this section].

Section 2. Pursuant to KRS 243.075(1)(a), a qualified city or county may impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment therein licensed to sell alcoholic beverages.

Section 3. Allowable costs and expenses. The costs and expenses that may be subject to reimbursement through a regulatory license fee shall directly and solely relate to the discontinuance of prohibition in the qualified city or county, including reasonable costs and expenses of:

(1) Employment, salary, and benefits of the city or county alcoholic beverage control administrator and staff who administer alcoholic beverage control laws;

(2) Office supplies and equipment for the city or county to administer an alcoholic beverage control office;

(3) Office space for an alcoholic beverage control administrator and staff;

(4) Travel costs and expenses for the city or county alcoholic beverage control administrator and staff;

(5) Additional policing expenses that are directly related to the discontinuance of prohibition ~~and, For purposes of this subsection, "additional policing expenses"]~~ shall include only those costs and expenses incurred solely as a result of the discontinuance of prohibition that are over and above any policing expenses previously incurred; and

(6) Miscellaneous costs and expenses solely and directly related to the discontinuance of prohibition, if the following information is included on the Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition:

- (a) A description of the expenditure;
- (b) A detailed explanation of the necessity of the expenditure as it related to the discontinuance of prohibition; and
- (c) The cost of the expenditure.

Section 4. To the extent that a qualified city or county incurs the costs or expenses identified in Section 3 of this administrative regulation, a qualified city or county may seek reimbursement only for that portion of the costs and expenses that arise directly and solely because of the discontinuance of prohibition.

Section 5. A qualified city or county shall use the Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition to estimate permissible expenses and to establish the fee.

Section 6. The Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition used by a qualified city or county to determine permissible regulatory fees shall be retained pursuant to 725 KAR 1:061.

Section 7. Incorporation by Reference. (1) "Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition", August 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov>.

FREDERICK A. HIGDON, Chairman
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: November 7, 2014

FILED WITH LRC: November 10, 2014 at 2 p.m.

CONTACT PERSON: Sam Crain, Paralegal Consultant, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479.

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(As Amended at ARRS, January 13, 2015)

815 KAR 6:040. Home inspector preclicensing[and continuing education] providers.

RELATES TO: KRS 198B.712, 198B.722, 198B.724

STATUTORY AUTHORITY: KRS 198B.706(2), (13), (15), 198B.712(2)(c), 198B.724

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738[and to establish requirements for continuing education]. KRS 198B.712(2)(c) requires an applicant to complete a board-approved[training program or] course of study.[KRS 198B.724 requires the board to establish continuing education requirements.] This administrative regulation establishes the procedures for being approved by the board as a preclicensing[or a continuing education] provider.

Section 1. Prelcense Course Provider Approval. An applicant[Definitions. (1) "Board" is defined in KRS 198B.700(2).

(2) "Contact hours" means fifty (50) minutes of instruction, exclusive of any breaks, recesses, or other time not spent in instruction.

(3) "Continuing education provider" means the person or legal

entity who is registered pursuant to this administrative regulation and who is responsible for conducting a continuing education course approved pursuant to this administrative regulation.(4) "Preclicensing course provider" means the person or legal entity who is registered pursuant to this administrative regulation and who is responsible for conducting a course approved pursuant to this administrative regulation.

Section 2. Registration Requirements. (1) Applicants to be a preclicensing course provider shall submit ~~[the following]~~:

(1)[(a)] A ~~[properly]~~completed "[Application for Approval as a]Pre-Licensing Course Provider Application[for Home Inspectors]", Form KBHI 3;

(2) A \$500 nonrefundable application fee;

(3) A copy of the Certificate of Approval from the Kentucky State Commission for Proprietary Education, if required by KRS Chapter 165A or proof that the applicant is exempt from licensure[(b) A nonrefundable fee of \$500];

(4) A syllabus of all courses that will be offered, which shall include the physical location of each laboratory and field training portion of the courses;

(5) A list of all course instructors;

(6) A copy of each brochure used to advertise the courses; and

(7) A sample of the official transcript[(e) Information required to demonstrate that its course meets the requirements of 815 KAR 6:040, Section 2(8); and

(d) A surety bond in a form acceptable to the board and in the amount of \$50,000.

(2) Applicants to be a continuing education course provider shall submit the following:

(a) A properly completed "Application for Approval as a Continuing Education Course Provider for Home Inspectors", Form KBHI 4; and

(b) A nonrefundable fee of \$100.

Section 2.[3.] Renewals. A provider's approval[(1) Provider registration] shall expire every two (2) years.[(2)] To renew its approval[registration], each provider shall submit the application and fee required for initial approval[registration].

Section 3.[4.] Required records. (1) Each provider shall maintain ~~[the following records]~~with respect to each course:

(a) The time, date, and place each course is completed;

(b) The name, address, and qualifications of each instructor who teaches any portion of the course and ~~if~~whether each instructor has been approved by the board;

(c) The name ~~and~~[;] address[, and license number, if applicable,] of each person who registered for the course;

(d)[The original sign-in sheet used at the site of the course to register persons who attend each course. The sign-in sheet shall require every person to print their name, list their license number, if applicable, and sign their name;

(e)] The course syllabus used for each course; and

(e)[(f)] The course evaluations.

(2) The provider shall issue to each person who successfully completes an approved course, a certificate of completion containing~~[the following]~~:

(a) The name of the attendee;

(b)[The license number, if applicable, of the attendee;

(c)] The name of the provider;

(c)[(d)] The course name;

(d)[(e)] The course number;

(e)[(f)] The date of the course; and

(f)[(g)] The total number of contact hours successfully completed in each subject covered by the course.

(3) Each provider shall maintain its records for at least three (3) years after the completion of each course. These records shall be submitted to the board or its agents upon request.

(4) Each provider shall submit to the board, in writing, notice of any changes in the information provided in the initial registration of the provider. The notification shall be made within thirty (30) days following the date the change is effective.[Section 5. Approval of Continuing Education Courses. (1) A continuing education provider shall submit a request for approval of a continuing education

course which shall include the following:

- (a) The total number of contact hours;
- (b) The course syllabus;
- (c) A detailed outline of the contents of the course;
- (d) The name and qualifications of all instructors known at the time of the request for approval; and
- (e) The minimum qualifications of any instructors not known at the time of the request for approval.

(2) The fee for course approvals shall be twenty-five (25) dollars per class, per date offered. A continuing education provider shall not pay in excess of \$250 in course approval fees in any one (1) year.

(3) The board shall approve continuing education courses which:

- (a) Appropriately relate to the general business skills or the technical skills required of licensees;
- (b) Contain sufficient educational content to improve the quality of licensee performance;
- (c) Are taught by qualified instructors; and
- (d) Have a course evaluation.

(4) Continuing education course approval shall be valid for two (2) years from date of issue if no substantial change is made in the course and if the registration of the provider has not expired or been suspended or revoked. Substantial changes made in any course shall require a new approval of that course. A provider shall reapply for course approval ninety (90) days prior to the date of expiration of the previous course approval.

(5) A course which has been denied may be resubmitted to the board with modifications.

(6) If a course is approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.]

Section 4.[6.] Qualifications of Course Instructors. (1) Each[All] course instructor[instructors] shall be qualified, by education or experience, to teach the course, or parts of a course, to which the instructor is assigned.

(2) Any person with a four (4) year college degree or graduate degree, with at least two (2) years of work experience in that field, shall be qualified to teach a[continuing education or] prelicensing course in that person's[their] field of study.

(3) To qualify as an instructor based on experience, an individual shall:

(a) Be licensed and have actively practiced for at least five (5) years as a home inspector; or

(b) Have five (5) years of experience in a related field of home inspection or the building sciences.

(4) A licensee whose license is suspended or revoked as a result of board discipline shall not teach or serve as a course instructor during the time the license is suspended or revoked.

(5)[(4)] A course provider may request prior approval by the board regarding the qualifications of a particular instructor for a particular course.

Section 5.[7.] Course Syllabus. (1) Each course shall have a course syllabus that identifies:

- (a) The name of the course;
- (b) The number of the course assigned by the board;
- (c) The name and address of the provider;[and]
- (d) A description or outline of the contents of the course; and
- (e) The location of each course component.

(2) Each person who registers for a course shall be given the course syllabus prior to the beginning of the course.[The syllabus may be distributed when the person registers their attendance at the course.]

Section 6.[8.] Course Advertising. (1) A provider shall not advertise a course as [one] approved until the approval is granted by the board.

(2) A provider shall not include any false or misleading information regarding the contents, instructors, location of

classrooms or laboratory courses, or number of contact hours of any course approved under this administrative regulation.

(3) A provider shall include its provider number and course numbers in all advertising.

[Section 9. Disciplinary Matters. (1) The board may deny, suspend, or revoke the registration of any prelicensing course or continuing education provider for any of the following acts or omissions:

(a) Obtaining or attempting to obtain registration or approval through fraud, deceit, false statements, or misrepresentation;

(b) Failing to provide complete and accurate information in the initial registration or in any notification of change in information;

(c) Failing to timely notify the board of a change in the information required for registration of the provider;

(d) Falsifying of any records regarding the courses conducted by the provider or the persons who attended the courses offered;

(e) Failing to maintain any required records regarding course offerings conducted by the provider or the persons who attended the course;

(f) Failing to adequately train the staff responsible for taking attendance at any approved course;

(g) Failing to provide the board with copies of any document or other information required to be maintained by the provider pursuant to this administrative regulation;

(h) Advertising that a provider has been approved by the board prior to the date the approval is granted;

(i) Failing to include provider and course numbers in advertisements;

(j) Failing to maintain a record of instructors;

(k) Failing to resolve attendance reporting problems; and

(l) Failing to comply with any other duty imposed on providers in this administrative regulation.

(2) Disciplinary action shall be initiated by the board by written notice to the provider by certified mail, return receipt requested, to the provider's address on file with the board.

(3) A provider may appeal a proposed disciplinary action by notifying the board in writing within ten (10) days of its desire to appeal.

(4) All appeals shall be governed in accordance with KRS Chapter 13B.

(5) A provider whose registration has been revoked shall not reapply for registration for two (2) years from the date of revocation.]

Section 7.[10.] Incorporation by Reference. (1) [The following material is incorporated by reference:

(a)] "[Application for Approval as a]Prelicensing Course Provider Application[for Home Inspectors]", Form KBHI 3[11/2014/7/2014], is incorporated by reference[April 2006; and

(b)] "Application for Approval as a Continuing Education Course Provider for Home Inspectors, Form KBHI 4", April, 2006].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive[Office of Housing, Buildings and Construction, 401 Sea Hero Road, Suite 100], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Mitch Buchanan, Board Chair

APPROVED BY AGENCY: August 12, 2014

FILED WITH LRC: August 15, 2014 at 9 a.m.

CONTACT PERSON: Diana Jarboe, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 564-3296, ext. 227, fax (502) 696-4961.

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(As Amended at ARRS, January 13, 2015)

815 KAR 6:080. Continuing education provider.

RELATES TO: KRS 198B.712, 198B.722, 198B.724
STATUTORY AUTHORITY: KRS 198B.706(15),
198B.712(3)(c)(2)(e), 198B.724
NECESSITY, FUNCTION AND CONFORMITY: KRS
198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for continuing education. KRS 198B.724 requires the board to establish continuing education requirements. This administrative regulation establishes the procedures for being approved as a continuing education provider.

Section 1. Preapproval of Continuing Education Hours. (1) Any entity seeking to obtain approval of a continuing education course prior to its offering shall submit a Continuing Education – Provider Application to the board at least thirty (30) days prior to the next regularly scheduled board meeting and provide the following:

- (a) A completed Continuing Education – Course Application, KBHI 5;
- (b) A published course description;
- (c) A copy of the course agenda indicating hours of education and breaks;
- (d) The number of continuing education hours requested;
- (e) The name and address of competent instructors, as documented by academic training, professional licensure or certification, or professionally recognized experience;
- (f) An official certificate of completion; and
- (g) A \$500 fee, which shall be a two (2) year course provider approval fee.

(2) The board shall approve continuing education courses that appropriately relate to the technical skills required of licensees, containing sufficient educational content to improve the quality of licensee performance and that comply with this administrative regulation.

(3) If a course is approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

(4) The board may approve a course for hours different than the provider's request.

Section 2. Duration of Approval. (1) Continuing education course approval shall be valid for two (2) years from date of issue if no substantial change is made in the course and the board has not imposed discipline upon the provider or its instructors.

(2) Substantial changes, such as a change in the agenda, published course description, or instructor, made in any course shall require a new approval of that course. A provider shall apply for course approval forty-five (45) days prior to the date of expiration of the original course approval.

Section 3. Denial of Application. A course that has been denied may be resubmitted to the board after adopting the suggested modifications provided by the board.

Section 4. Subsequent Approval of Continuing Education Course. A licensee may request approval for continuing education activities not approved by the board. The request shall be as set forth in Section 1 of this administrative regulation. The licensee shall submit documentation of attendance and participation in the form of official documents, including transcripts, certificates, affidavits signed by instructors, and receipts for fees paid to the provider, for the board to review.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Continuing Education – Provider Application", Form KBHI 4, 11/2014; and
- (b) "Continuing Education – Course Application", Form KBHI 5, 7/2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MITCH BUCHANAN, Board Chair

APPROVED BY AGENCY: August 12, 2014

FILED WITH LRC: August 15, 2014 at 9 a.m.

CONTACT PERSON: Diana Jarboe, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 564-3296, ext. 227, fax (502) 696-4961.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Heating, Ventilation and Air Conditioning
(As Amended at ARRS, January 13, 2015)

815 KAR 8:070. Installation permits.

RELATES TO: KRS 198B.654, 198B.6673, 198B.6678[~~EO 2009-535~~]

STATUTORY AUTHORITY: KRS 198B.654, 198B.6671, 198B.6672, 198B.6673, 198B.6674, 198B.6675, 198B.6676, 198B.6677, 198B.6678[~~EO 2009-535~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations for the enforcement, administration and coordination of KRS 198B.650 through 198B.689. KRS 198B.6673 requires the board to establish a reasonable schedule of fees and charges to be paid for HVAC installation permits and inspections. ~~[EO 2009-535, effective June 12, 2009, reorganized the Office of Housing, Buildings and Construction as the Department of Housing, Buildings and Construction, and established the commissioner, rather than executive director, as the head of the department.]~~ This administrative regulation establishes the fees and charges for HVAC installation permits in Kentucky.

Section 1. Issuance of Permits. (1) A permit to construct, install, or alter a heating, ventilation, or air conditioning system shall only be issued to a licensed master heating, ventilation, and air conditioning contractor, except as provided by subsection (3) of this section.

(2) A journeyman HVAC mechanic shall not construct, install, or alter a heating, ventilation, or air conditioning system unless the work is performed under the supervision of a licensed master HVAC contractor.

(3) A permit to construct, install, or alter a heating, ventilation, or air conditioning system shall be issued to a homeowner who installs a heating, ventilation, or air conditioning system in the homeowner's legal residence or in a home constructed by a homeowner for personal residential use, if all the following requirements of this subsection are met:[]

(a) Application shall be made on the HVAC Construction Permit Application: One & Two Family Dwellings, for the permit prior to the initiation of the HVAC work.[]

(b) The homeowner shall file with the application:

- 1. An affidavit stating that the homeowner shall abide by the terms of this administrative regulation;
- 2. Proof of adequate sizing of heating, ventilation, or air conditioning system to be installed; and
- 3. A complete design plan of all related duct and piping of system.[]

(c) All work shall be performed in compliance with the

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Kentucky Residential Code and the Kentucky Building Code.

(d) All the work shall be personally performed by the owner.

(4) Only one (1) homeowner permit for construction of a new home shall be issued to an individual within a five (5) year period.

Section 2. Permit Required. (1) An application shall be made for a permit prior to installation on ~~[one (1) of] the [following forms]:~~

(a) HVAC Construction Permit Application: Commercial Buildings;

(b) HVAC Construction Permit Application: Multi-family Dwellings; or

(c) HVAC Construction Permit Application: One & Two Family Dwellings.

(2) An HVAC installation permit shall be required for the initial heating, ventilation, or air conditioning system:

(a) For all new construction installations of heating, ventilation, or air conditioning systems;

(b) For construction additions in which an additional heating, ventilation, or air conditioning system is installed;

(c) For all existing buildings in which the first heating, ventilation, or air conditioning system is being installed; and

(d) For projects in which a contractor assumes responsibility to:

1. Make corrections;

2. Test an installation performed by another contractor; or

3. Install a system for which another master contractor has obtained a permit.

Section 3. A permit shall be issued and inspections performed upon request for the replacement of ~~[the following]:~~

(1) Furnaces;

(2) Condensing units;

(3) Heat pumps;

(4) Fan coil units;

(5) Chiller systems; or

(6) Heating boiler systems not covered by KRS Chapter 236.

Section 4. HVAC Installation Permit Fees. (1) One- and Two-Family Dwelling Installations. The fee for each heating, ventilation, or air conditioning system installation permit for one- and two-family dwellings shall be \$105~~[seventy-five (75) dollars]~~ for the first system plus fifty (50) dollars for each additional system.

(2) Multi-Family Dwelling Installations. The fee for each heating, ventilation, or air conditioning system installation permit for multi-family dwellings other than duplexes, shall be \$105~~[seventy-five (75) dollars]~~ for the first system plus fifty (50)~~[twenty-five (25)]~~ dollars for each additional system.

(3) Commercial installations.

(a) The fee for each heating, ventilation, or air conditioning system installation permit other than one (1), two (2), and multi-family dwellings shall be based upon the total dollar value of each HVAC installation, either actual or estimated.

(b) 1. It shall be the obligation of the installing contractor to supply the complete value of the installation, including labor and material costs regardless of the purchaser.

2. Except as provided in subparagraph 3b of this paragraph, an exact figure does not need to be quoted or divulged to the HVAC inspector or department.

3. The permit application shall include a statement signed by the applicant affirming~~[an affirmative, signed statement]~~ that the true value of the installation lies within certain limits, as listed in the left column of the table in clause c of this subparagraph and as established in clause d of this subparagraph.

a. The fees for heating, ventilation, or air conditioning system installation are listed in the right column of the table.

b. The department may request documented proof of costs from the permit applicant if the true value is in question.

c.

Amount in dollars	Permit fee
\$2,000 or less	<u>\$125</u> [\$75]
\$2,001 to \$10,000	<u>\$180</u> [\$150]
\$10,001 to \$25,000	<u>\$270</u> [\$225]

\$25,001 to \$50,000	<u>\$330</u> [\$275]
\$50,001 to \$75,000	<u>\$390</u> [\$325]
\$75,001 to \$100,000	<u>\$500</u> [\$435]
\$100,001 to \$150,000	<u>\$630</u> [\$550]
\$150,001 to \$200,000	<u>\$760</u> [\$660]
\$200,001 to \$250,000	<u>\$885</u> [\$770]
\$250,001 to \$300,000	<u>\$1,025</u> [\$890]
\$300,001 to \$400,000	<u>\$1,150</u> [\$1,000]
\$400,001 to \$500,000	<u>\$1,500</u> [\$1,350]
\$500,001 to \$600,000	<u>\$1,725</u> [\$1,500]
\$600,001 to \$700,000	<u>\$1,900</u> [\$1,650]
\$700,001 to \$800,000	<u>\$2,125</u> [\$1,850]
\$800,001 to \$900,000	<u>\$2,355</u> [\$2,050]
\$900,001 to \$1,000,000	<u>\$2,590</u> [\$2,250]
\$1,000,001 to \$1,100,000	<u>\$2,820</u> [\$2,450]
\$1,100,001 to \$1,200,000	<u>\$3,050</u> [\$2,650]
\$1,200,001 to \$1,300,000	<u>\$3,280</u> [\$2,850]
\$1,300,001 to \$1,400,000	<u>\$3,510</u> [\$3,050]
\$1,400,001 to \$1,500,000	<u>\$3,735</u> [\$3,250]
\$1,500,001 to <u>\$1,600,000</u> [and above]	<u>\$3,965</u> [\$3,450]

d. The permit for a commercial installation valued over \$1,600,000 shall be calculated at the cost of \$3,965 plus \$200 per \$100,000 or fraction thereof in excess of \$1,600,000.

(4) Correction and Testing Permits. The permit fee shall be the base fee of seventy-five (75) dollars if the application for permit does not include any new installation, but is to make corrections or provide testing for an installation made by someone else.

Section 5. Inspection Fees. (1) Each heating, ventilation, or air conditioning system permit shall include three (3) heating, ventilation, or air conditioning system inspections at no additional cost.

(2)(a) A[All] heating, ventilation, or air conditioning system inspection~~[inspections]~~ in excess of the three (3) provided with purchase of permit shall be performed at the rate of fifty (50) dollars per inspection.

(b) Payment shall be received by the inspecting authority prior to the final inspection approval being granted.

Section 6. Expiration of Permits. (1) A[All] heating, ventilation, or air conditioning system installation permit~~[permits]~~ issued under this administrative regulation shall expire six (6) months after the date of issuance unless the permitted work has begun.

(2) If construction begins within six (6) months of permit issuance:

(a) The permit shall be effective until completion of the planned heating, ventilation, or air conditioning system inspection; or

(b) If the work ceases on a permitted project for a period exceeding twelve (12) months, the permit shall be void.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) HVAC-27, "HVAC Construction Permit Application: Commercial Buildings", September 2014~~[April 2010]~~;

(b) HVAC-28, "HVAC Construction Permit Application: Multi-family Dwellings", September 2014~~[April 2010]~~; and

(c) HVAC-29, "HVAC Construction Permit Application: One & Two Family Dwellings", September 2014~~[April 2010]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Housing, Buildings, and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412~~[5405]~~, Monday through Friday, 8:30 a.m. to 4:30 p.m.

AMBROSE WILSON IV, Commissioner

LARRY R. BOND, Acting Secretary

APPROVED BY AGENCY: October 10, 2014

FILED WITH LRC: October 14, 2014 at 10 a.m.

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero

Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, ext. 144, fax 502-573-1057.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, January 13, 2015)

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival, or reinstatement of licenses.

RELATES TO: KRS 318.010, 318.020, 318.040, 318.050, 318.054

STATUTORY AUTHORITY: KRS 318.040(1)(d), (2), (3), 318.050, 318.054(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.040(1)(d) authorizes the commissioner of the Kentucky Department of Housing, Buildings and Construction to promulgate administrative regulations establishing qualifications for a master or journeyman plumber's license. KRS 318.040(2) and (3) require the department to promulgate administrative regulations establishing examination requirements~~requires an applicant for a master or journeyman plumber's license to possess the qualifications established in KRS 318.040 and other qualifications prescribed by the commissioner. KRS 318.040(2) and (3) require an applicant to successfully complete an examination prescribed by the department~~. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for master or journeyman plumbers. This administrative regulation establishes the application and examination requirements and the application and renewal fees.

Section 1. Applications for Examination for Master or Journeyman Plumber's Licenses. (1) An application for examination for a master or journeyman plumber's license shall be submitted to the department of Housing, Buildings and Construction on:

(a) Form PLB-1, Application for License as a Master Plumber; or

(b) Form PLB-2, Application for License as a Journeyman Plumber.

(2) The application shall:

(a) Be properly signed and notarized;

(b) Be accompanied by an examination fee of:

1. \$150 to take the master plumber's examination; or

2. Fifty (50) dollars to take the journeyman plumber's examination; and

(c) Include a passport-sized, color photograph of the applicant taken within the past six (6) months~~not less than two (2) inches square nor larger than four (4) inches square taken within two (2) years of submittal~~.

(3) The application fee shall be submitted with the application.

(4) The application fee shall be paid by United States coin and currency~~[at least two (2) weeks prior to the date of examination and remitted by]~~ post office or express money order, bank draft, or certified check payable to the Kentucky State Treasurer.

(5)~~[(4)]~~ After passing the examination, an applicant for a master plumber's license shall remit a license fee of \$250.

(6)~~[(5)]~~ After passing the examination, an applicant for a journeyman's license shall remit a license fee of sixty (60) dollars.

Section 2. Examinations for Master or Journeyman Plumber's Licenses. (1) Examination of applicants.

(a) Regular examination of applicants for a master or journeyman plumber's license shall be conducted during the months of February, May, August, and November of each year.

(b) A special examination may be conducted at other times as the Department of Housing, Buildings and Construction directs.

(2) Time and place of examination. Notice of the time and place of examination shall be given by United States mail at least one (1) week prior to the date of examination to each person who has an approved application on file.

(3) An applicant who fails to attend or successfully complete an examination for which he or she has been scheduled may request to reschedule or retake the examination within one (1) year from the date of the applicant's first notice of examination as established in subsection (2) of this section. The requirements established in paragraphs (a) through (d) of this subsection shall apply to a rescheduled examination.

(a) The applicant shall complete and submit a new application form and examination fee as required by Section 1 of this administrative regulation. An applicant proceeding pursuant to this section shall not be required to resubmit:

1. The photograph required by Section 1(2)(c) of this administrative regulation; or

2. Proof of compliance with Sections 4 or 5 of this administrative regulation.

(b) An applicant for a journeyman plumber's license who has achieved a passing score on only the written or practical portion of the examination, but not both portions, may apply to retake the portion that he or she failed during the initial examination if the reexamination is completed within one (1) year from the date of the applicant's first notice of examination as established in subsection (2) of this section.

(c) An applicant for a journeyman plumber's license who has failed to achieve a passing score on the retaken portion of the examination may apply to retake the entire examination if the reexamination is completed within one (1) year from the date of the applicant's first notice of examination as established in subsection (2) of this section.

(d) The application of an applicant for a master or journeyman plumber's license who fails to successfully complete his or her examination within one (1) year from the date of the applicant's first notice of examination as established in subsection (2) of this section shall be void.

1. An applicant whose application has become void pursuant to this subsection may reapply.

2. Reapplication shall be accomplished by complying with ~~fall~~ applicable provisions of this administrative regulation as if the applicant were a first-time applicant.

(4) Materials required for journeyman plumbers' examinations. An applicant for a journeyman plumber's license shall furnish the materials required for the practical examination, which are established[specified] in the List of Required Examination Materials that is included as part of the application.

(5)~~[(4)]~~ The testing requirements shall be designed by the State Plumbing Examining Committee and shall be more complex for the master's examination than the journeyman's examination.

Section 3. Renewals of Master and Journeyman Plumber's Licenses. (1) Renewal fees. The annual license renewal fee shall be:

(a) \$250 for a master plumber; and

(b) Sixty (60) dollars for a journeyman plumber.

(2) Continuing education. The continuing education requirements established in 815 KAR 20:032 shall be met.

(3) Inactive master renewal.

(a) To place or keep a[the] master plumber's license in inactive status, ~~the~~a master plumber shall pay annually an inactive fee of \$125.

(b) An inactive master plumber shall not secure a plumbing permit, advertise,or represent himself or herself as a qualified master plumber, or otherwise engage in the work of a master plumber.

(c) To reactivate a master plumber's[plumber] license, the inactive master plumber shall first pay an additional \$125 and comply with the continuing education requirements established in 815 KAR 20:032.

(4) Inactive journeyman renewal.

(a) To place or keep a journeyman plumber's license in inactive status, the journeyman plumber shall pay annually an inactive fee

of thirty (30) dollars.

(b) An inactive journeyman plumber shall not represent himself or herself as a qualified journeyman plumber or otherwise engage in the work of a journeyman plumber.

(c) To reactivate a journeyman plumber's license, the inactive journeyman plumber shall first pay an additional thirty (30) dollars and comply with the continuing education requirements established in 815 KAR 20:032.

(5) Remittance of renewal fees. The[A] renewal fee shall be paid[remitted] by United States coin and currency, post office or express money order, bank draft, or certified check payable to the Kentucky State Treasurer.

Section 4. Requirements for Master Plumber Applicants. Pursuant to KRS 318.040(1)(d), each person shall meet the[following] requirements established in subsections (1) through (4) of this section to become licensed as a master plumber.[-]

(1)(a) An applicant shall have:

1. A valid journeyman plumber's license for a minimum of two (2) years within the past five (5) years immediately preceding application; and

2. Been actively employed in plumbing under the supervision of a licensed master plumber for a minimum of two (2) years; or

(b) The applicant shall be a Kentucky licensed engineer ~~sufficiently[registered engineer]~~ experienced in mechanical engineering. The sufficiency of experience shall be determined based upon the number and complexity of the applicant's past mechanical engineering projects.

(2) An applicant shall successfully complete the examination developed and administered by the State Plumbing Examining Committee. The examination shall be designed to demonstrate that the applicant:

(a) Understands KRS Chapter 318 and 815 KAR Chapter 20;

(b) Is capable of the design of a plumbing system; and

(c) Understands the technical and practical installation techniques and principles for a safe and sanitary plumbing system.

(3) The examination shall include:

(a) Answering written questions pertaining to basic principles of plumbing and KRS Chapter 318 and 815 KAR Chapter 20; and

(b) Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes, and vents and the plumbing fixtures connected thereto.

1. The proper sizing of main stacks shall be given more importance than other piping.

2. Deductions shall be required for oversized piping and for undersized piping.

(4) The passing grade for the total examination for a master plumber shall be eighty (80) percent, with a minimum of seventy-five (75) percent obtained for each portion of the examination established in subsection (3)(a) and (b) of this section.

Section 5. Requirements for Journeyman Plumber Applicants. Pursuant to KRS 318.040(1)(d), an applicant shall meet the[following] requirements established in subsections (1) through (3) of this section to become licensed as a journeyman plumber.[-]

(1) An applicant shall have completed two (2) consecutive years experience as an apprentice plumber.

(a) Proof of this requirement shall be satisfied by submission of:

1. A W-2 form;

2. An affidavit of a Kentucky licensed master plumber; or

3. A plumbing license issued by another state.

(b) Completion of a committee approved course shall be ~~deemed to be~~ the equivalent of one (1) year of experience. An applicant may only substitute one (1) year of experience if the applicant completes[by completing] a committee approved course.

~~[(c) Approved courses which satisfy the requirements of paragraph (b) shall be:~~

~~1. Plumbing Technology by the Kentucky Community and Technical College System; and~~

~~2. Plumbing Technology by Daymar College.]~~

(2) An applicant shall successfully complete the practical and

written examination developed and administered by the State Plumbing Examining Committee. The examination shall be designed to demonstrate the practical and technical understanding of plumbing principles and the ability to apply those principles for a safe and sanitary plumbing system. The examination shall include:

(a) Answering written questions pertaining to basic principles of plumbing and KRS Chapter 318 and 815 KAR Chapter 20;

(b) Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes, and vents and the plumbing fixtures connected thereto.

1. The proper sizing of main stacks shall be given more importance than other piping.

2. Deductions shall be required for oversized piping and for undersized piping; and

(c) Completing a practical section in which the applicant shall demonstrate the ability to properly install plumbing by engaging in certain activities such as properly installing a no hub cast-iron project and soldering copper solder connections.

(3) The passing grade for the total examination for a journeyman plumber shall be seventy-five (75) percent, with a minimum of seventy (70) percent obtained for each portion of the examination established in subsection (2)(a), (b), and (c) of this section.

Section 6. A master plumber or journeyman plumber shall notify the department of the name of the plumber's business and its address, employer, and the employer's address each time a change of employment is made.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form PLB-1, "Application for License as a Master Plumber", August 2014[October, 2007]; and

(b) Form PLB-2, "Application for License as a Journeyman Plumber", August 2014[October 2007].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[5405], Monday through Friday, 8 a.m. to 4:30 p.m.

AMBROSE WILSON IV, Commissioner

LARRY R. BOND, Acting Secretary

APPROVED BY AGENCY: October 10, 2014

FILED WITH LRC: October 14, 2014 at 10 a.m.

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, ext. 144, fax 502-573-1057.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, January 13, 2015)

815 KAR 20:195. Medical gas piping installations.

RELATES TO: KRS 198B.050, 318.010, 318.134

STATUTORY AUTHORITY: KRS 198B.050(2), (5), 318.130, 318.134(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.134(3) requires the department to establish a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. KRS 318.130 authorizes the department to promulgate a reasonable rule or administrative regulation to administer the provisions of KRS Chapter 318[KRS 318.010(4)(e) establishes the definition for "plumbing" medical gas piping. KRS 318.134 requires that a person shall obtain a permit from the department prior to the installation of plumbing and that the department shall cause inspections as necessary]. This administrative regulation establishes the requirements for medical gas piping installation.

Section 1. Definitions. (1) "Health care facility" means a hospital, nursing home, limited care facility, clinic, ambulatory care center, or office practice medical or dental office as defined in NFPA 99C.

(2) "Medical gas piping" means a permanent fixed piping system in a health care facility that is used to convey oxygen, nitrous oxide, nitrogen, carbon dioxide, helium, medical air, and mixtures of these gases from its source to the point of use. Medical gas piping includes the fixed piping associated with a medical, surgical, or gas scavenging vacuum system, as well as a bedside suction system.

(3) "NFPA" means the National Fire Protection Association.

Section 2. Standards and Procedures. (1) Installation standards. Except that Section 5.1.10.6.6, Branch Takeoffs, shall not be adopted nor enforced within the Commonwealth, a new medical gas piping installation or an addition to an existing medical gas piping system shall comply with the applicable provisions of NFPA 99C, Standard on Gas and Vacuum Systems, 2002 Edition.

(2) Permit required. A licensed master plumber shall make application for a permit to install medical gas piping prior to the installation. To obtain the permit, the master plumber shall:

(a) Pay a fee of ~~forty-five (45)~~~~[thirty-five (35)]~~ dollars base permit for the medical gas system for each building;

(b) Pay a fee of ~~fifteen (15)~~~~[five (5)]~~ dollars per opening; and

(c) Identify the person who shall perform the installation. The person making the installation shall be a certified medical gas installer as required by NFPA 99C as well as a licensed master or journeyman plumber.

(3) Supervision by the master. It shall be the responsibility of the licensed master plumber to ensure that the person doing the installation:

(a) Is properly certified as required by NFPA 99C;

(b) Uses the proper products and stores them correctly; and

(c) Requests and receives all inspections at the initial pressure test for the complete system from a certified state plumbing inspector.

(4) Final approval. Upon completion of the installation, the master plumber shall furnish the Division of Plumbing with certification from the medical gas system verifier as required by NFPA 99C.

Section 3. Incorporation by Reference. (1) "NFPA 99C Standard on Gas and Vacuum Systems", 2002 Edition, National Fire Protection Association, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[5405], Monday through Friday, 8 a.m. to 4:30 p.m.

(3) A copy may also be obtained by contacting the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

AMBROSE WILSON IV, Commissioner

LARRY R. BOND, Acting Secretary

APPROVED BY AGENCY: October 10, 2014

FILED WITH LRC: October 14, 2014 at 10 a.m.

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, ext. 144, fax 502-573-1057.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(As Amended at ARRS, January 13, 2015)

902 KAR 100:012. Fee schedule.

RELATES TO: KRS 211.840-211.852, 211.990(4), 523.100

STATUTORY AUTHORITY: KRS 194A.050(1), 211.844,

211.848(1)~~[EO 2004-726]~~

NECESSITY, FUNCTION, AND CONFORMITY:[EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health and Family Services and placed the Department for Public Health under the Cabinet for Health and Family Services.] KRS 211.848(1) requires the cabinet to establish a reasonable schedule of fees and charges by administrative regulation. This administrative regulation establishes a schedule of fees and charges for radioactive material licensees;~~licenses and~~ radiation producing machines registrants; ~~others who may receive, possess, use, transfer, or dispose of sources of radiation; and vendors, service providers, and qualified experts providing services in Kentucky~~~~and couriers or organizations responsible for the shipment of radioactive material, spent nuclear fuel, transuranic waste, or other radioactive material requiring escort through Kentucky~~.

Section 1. Radiation Producing Machine Schedule of Annual Fees and Charges. The following schedule, established in subsections (1) through (4) of this section, of annual fees shall apply to radiation producing machine registrants. An application for registration or annual renewal shall be accompanied by the appropriate fee established in subsections (1) through (4) of this section, below:

(1) A diagnostic x-ray tube; therapeutic x-ray tube capable of operating up to 150 kVp shall be- ~~]~~ \$125.~~;~~~~]~~ ~~or industrial x-ray tube —fifty (50) dollars.~~

(2) A therapeutic x-ray tube capable of operating at 150 kVp or above including particle accelerators shall be- ~~]~~ \$500.~~;~~~~]~~ ~~fifty (50) dollars.~~

(3) ~~Industrial, dental, and other~~ x-ray tubes not specified in subsections (1) and (2) of this section shall be~~above—] eighty-five (85)~~~~[fifty (50)]~~ dollars.~~;~~~~and~~~~;~~

(4) Shielding evaluation, per room:~~]~~

(a) Diagnostic facilities shall be- ~~]~~ \$600; ~~and~~~~]~~ \$200.

(b) Linear accelerator shall be- ~~]~~ \$1,500~~]~~ \$4,000.

Section 2. Radioactive Material License Schedule of Annual Fees and Charges. The following schedule, established in subsections (1) through (5)~~[(4)]~~ of this section, shall apply to radioactive material licenses. An initial and renewal application shall be accompanied by the fee established in this section.

(1) A specific radioactive material license initial and annual fee.

(a) Human use.

1. Nuclear medicine, Imaging shall be- ~~]~~ \$2,100.~~;~~~~]~~ \$790.

2. Nuclear medicine, Radiopharmaceutical therapy shall be- ~~]~~ \$2,100.~~;~~~~]~~

3. Nuclear medicine, Permanent implant shall be- ~~]~~ \$2,700.~~;~~~~]~~

4. Nuclear medicine, Temporary implant shall be- ~~]~~ \$1,500.~~;~~~~]~~

5. Nuclear medicine, Mobile imaging shall be- ~~]~~ \$2,500.~~;~~~~]~~

6. Teletherapy or Gamma Stereotactic Radiosurgery shall be- ~~]~~ \$4,000.~~;~~~~]~~ \$790.

7. Broad Scope, Medical shall be- ~~]~~ \$7,500.~~;~~~~and~~~~]~~

8.~~]~~ 3. Mobile scanning—\$450.

4.~~]~~ Other shall be- ~~]~~ \$1,250.~~;~~~~]~~ \$375.

(b) Industrial radiography shall be- ~~]~~ \$4,000.~~;~~~~]~~ \$790.

(c) Wireline service shall be- ~~]~~ \$2,500.~~;~~~~]~~ \$790.

(d) Broad scope, Academic shall be- ~~]~~ \$3,500.~~;~~~~]~~ \$1,050.

(e) Nuclear laundry shall be- ~~]~~ \$7,500.~~;~~~~]~~ \$1,580.

(f) Irradiator.

1. Self-contained shall be- ~~]~~ \$1,750.~~;~~~~and~~~~]~~ \$390.

2. Unshielded during irradiation shall be- ~~]~~ \$4,200.~~;~~~~]~~ \$1,580.

(g) Manufacturing,~~]~~ processing,~~or~~~~]~~ distribution.

1. Industrial gauging devices shall be- ~~]~~ \$4,500.~~;~~~~]~~ \$1,310.

2. In vitro~~]~~ In vivo kits shall be- ~~]~~ \$3,600.~~;~~~~]~~ \$1,050.

3. Radiopharmaceuticals shall be- ~~]~~ \$5,200.~~;~~~~and~~~~]~~ \$1,580.

4. Other shall be- ~~]~~ \$3,600.~~;~~~~]~~ \$900.

(h) Industrial gauging devices:

1. Fixed shall be- ~~]~~ \$1,100; ~~and~~

2. Portable shall be- ~~]~~ \$1,300.~~;~~~~]~~ \$390.

(i) In vitro, academic, environmental, ~~or~~~~and~~ clinical laboratory shall be- ~~]~~ \$1,250.~~;~~~~]~~ \$225.

(j) Veterinary use shall be- ~~]~~ \$2,100.~~;~~~~]~~ \$375.

(k) Services, such as leak testing shall be- \$1,200. ~~;~~ \$260.]
 (l) An application for review of a:
 1. New sealed source or device; or
 2. Custom device shall be- \$4,600 ~~;~~ \$4,050] plus the applicable fee in paragraphs (a) through (k) ~~of this subsection.~~ ~~;~~ ~~]~~

(n) An amendment for review of a sealed source or device shall be- \$1,500. ~~;~~ \$500.]

(o) A byproduct, source, or special nuclear material license or other license ~~and other approval~~ authorizing decommissioning, decontamination, reclamation, or site restoration shall be- \$7,500. ~~;~~ \$1,500.]

(p) A license specifically authorizing the receipt of prepackaged byproduct, source material, or special nuclear material from other persons. The license authorizes the disposal of the material by transfer to a person authorized to receive or dispose of the material, and the fee shall be- \$10,000. ~~;~~ ~~and~~ \$3,700.]

(q) A license specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from a person for the purpose of storage, treatment, and packaging for transfer to a person authorized to receive or dispose of radioactive material shall be- \$25,000. ~~;~~ \$10,000.]

(2) A general radioactive material license initial and annual fee.

(a) In vitro or medical use specified in 902 KAR 100:050, Sections 4 and 5 shall be- \$1,250. ~~;~~ ~~and~~ Seventy-five (75) dollars.]

(b) Measuring, gauging, or a controlling device except emergency exit signs shall be- \$300 per device not to exceed \$1,200 per use location. ~~;~~ ~~Seventy-five (75) dollars.~~]

(3) An application to amend an existing specific license shall be- \$200. ~~;~~ ~~and~~ ~~Seventy-five (75) dollars.~~]

(4) An application for initial reciprocal recognition of an out-of-state license as established by 902 KAR 100:065, The fee shall be- equal to the applicable fee for an in-state licensee. ~~;~~ ~~and~~]

(5) A licensee required to pay an annual fee pursuant to this administrative regulation may qualify as a small entity pursuant to Form RPS-526, Certification of Small Entity Status. If a licensee qualifies as a small entity and completes and submits Form RPS-526, the licensee shall pay the reduced annual fee [licensee] \$300.

Section 3. Inspection Fee. (1) The cost of a routine interval inspection shall be covered in the annual licensing renewal fee.

(2) One (1) or more additional inspections shall be conducted to ensure ongoing public health and safety if any of the following conditions established in paragraphs (a) through (d) exist:

(a) Willful neglect or careless disregard that has, or could lead to, a threat to public health and safety;

(b) Failure to take appropriate and timely action to correct documented violations of statutes, regulations, or conditions of the license or permit;

(c) A substantiated violation that indicates a lack of management oversight or that the radiation safety officer is not adequately performing duties; or

(d) Repeated violations from the previous inspection.

(3) The fee for each additional inspection shall be \$500.

Section 4. Shipment of Radioactive Material and Waste. The shipper or carrier shall provide full cost reimbursement within thirty (30) days of receipt of the invoice, for all escorts of shipments ~~escort prior to the shipment~~ of radioactive material, spent nuclear fuel, transuranic waste, radioactive waste, and other radioactive material or waste through Kentucky.

Section 5. Site Investigations, Remediation Projects, and Scoping Surveys. The licensee, remediation contractor, or other responsible party shall provide full cost reimbursement for review and oversight of site investigations, remediation projects, and scoping surveys to include project evaluation and planning, sample collection, analysis, and independent validation as applicable.

Section 6. Qualified Experts, Vendors and Service Providers.

The following schedule ~~;~~ established in subsections (1) and (2) of this section ~~;~~ shall apply to any entity or individual seeking or maintaining a designation as a qualified expert, vendor, or service provider as defined in 902 KAR 100:010. ~~;~~ ~~]~~

(1) Qualified Experts. ~~;~~

(a) Initial application shall be- \$100. ~~;~~ ~~and~~

(b) Annual fee shall be- fifty (50) dollars. ~~;~~ ~~and~~

(2) Vendors and service providers shall be- \$300.

Section 7. General Requirements. (1) A general radioactive material license shall expire on July 31 following the date of issuance.

(2) A radiation producing machine registration certificate shall expire on the last day of the month, one (1) year after the date of issuance.

(3) A general radioactive material license fee shall be paid on or before July 31.

(4) A specific radioactive material license shall be renewed annually based on the expiration date stated in the license.

(5) A renewal ~~radiation producing machine registration~~ fee shall be paid within forty-five (45) days of the bill date. A payment postmarked more than forty-five (45) days of the bill date shall be subject to a \$100 late payment penalty per license, device, or x-ray tube in addition to the renewal ~~registration~~ fee.

(6) Payment of a fee or other charge shall be submitted to the Radiation Health ~~and Toxic Agents~~ Branch, Cabinet for Health and Family Services, 275 East Main Street, Mailstop ~~HS1C A~~ ~~HS2E-D~~, Frankfort, Kentucky 40621-0001, in the form of a check or money order payable to the Kentucky State Treasurer or paid online at https://prd.chfs.ky.gov/rad_epay/.

(7) If a check issued for payment of the fee established in this administrative regulation is returned to the state treasurer due to insufficient funds, the payor shall resubmit payment by money order or cashier's check.

(8) A registration and licensing application fee shall be nonrefundable.

(9) Failure to submit an applicable fee established in this administrative regulation shall be deemed a violation and subject to the provisions of 902 KAR 100:170.

Section 8. Incorporation by Reference. (1) "RPS-526, Certification of Small Entity Status," edition 12/2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Public Health, Division of Public Health Protection and Safety, Radiation Health Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8:00 a.m. to 4:30 p.m.

STEPHANIE MAYFIELD GIBSON, MD FCAP, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 11, 2014 at 3 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5W-B, Frankfort, Kentucky 40601, phone 502/564-7905, fax 502/564-7573, tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services
 Division of Policy and Operations
 (As Amended at ARRS, January 13, 2015)

907 KAR 3:005. Coverage of physicians' services.

RELATES TO: KRS 205.520, 205.560, 42 C.F.R. 415.152, 415.174, 415.184, 440.50, 447.26, 45 C.F.R. 160, 164, 42 U.S.C. 1320 - 1320d-8, 1396a(a)(19), (30)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family 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 to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program coverage provisions and requirements relating to physicians' services.

Section 1. Definitions. (1) "Advanced practice registered nurse" or "APRN" is defined by KRS 314.011(7).

(2) "Behavioral health practitioner under supervision" means an individual who is:

- (a) A licensed psychological associate;
- (b) A licensed professional counselor associate;
- (c) A certified social worker;
- (d) A marriage and family therapy associate;
- (e) A licensed professional art therapist associate;
- (f) A licensed assistant behavior analyst;
- (g) A physician assistant **working under the supervision of a**

physician; or

- (h) A certified alcohol and drug counselor.

(3) "Common practice" means an arrangement through which a physician assistant ~~for advanced practice registered nurse~~ administers health care services under the supervision of a physician via a supervisory relationship that has been approved by the Kentucky Board of Medical Licensure.

(4)(3) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(5)(4) "Department" means the Department for Medicaid Services or its designee.

(6)(5) "Designated controlled substance provider" means the provider designated as a lock-in recipient's controlled substance prescriber:

(a) Pursuant to 907 KAR 1:677, if the recipient is not an enrollee; or

(b) As established by the managed care organization in which the lock-in recipient is enrolled, if the lock-in recipient is an enrollee.

(7)(6) "Designated primary care provider" means the provider designated as a lock-in recipient's primary care provider:

(a) Pursuant to 907 KAR 1:677, if the recipient is not an enrollee; or

(b) As established by the managed care organization in which the lock-in recipient is enrolled, if the lock-in recipient is an enrollee.

(8)(7) "Direct physician contact" means that the billing physician is physically present with and evaluates, examines, treats, or diagnoses the recipient.

(9)(8) "Early and periodic screening and diagnosis and treatment" or "EPSDT" is defined by 42 C.F.R. 440.40(b).

(10)(9) "Emergency care" means:

(a) Covered inpatient or outpatient services furnished by a qualified provider that are needed to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard; or

(b) Emergency ambulance transport.

(11)(40) "Enrollee" means a recipient who is enrolled with a managed care organization.

(12)(44) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(13)(42) "Global period" means the period of time in which related preoperative, intraoperative, and postoperative services and follow-up care for a surgical procedure are customarily provided.

(14)(43) "Graduate medical education program" or "GME Program" means:

(a) A residency program approved by:

1. The Accreditation Council for Graduate Medical Education of the American Medical Association;
2. The Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association;

3. The Commission on Dental Accreditation of the American Dental Association; or

4. The Council on Podiatric Medicine Education of the American Podiatric Medical Association; or

(b) An approved medical residency program as defined in 42 C.F.R. 413.75(b).

(15)(44) "Incidental" means that a medical procedure:

(a) Is performed at the same time as a primary procedure; and

(b) 1. Requires little additional resources; or

2. Is clinically integral to the performance of the primary procedure.

(16)(45) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(17)(46) "Lock-in recipient" means:

(a) A recipient enrolled in the lock-in program in accordance with 907 KAR 1:677; or

(b) An enrollee enrolled in a managed care organization's lock-in program pursuant to 907 KAR 17:020, Section 8.

(18)(47) "Locum tenens APRN" means an APRN:

(a) Who temporarily assumes responsibility for the professional practice of a physician participating in the Kentucky Medicaid Program; and

(b) Whose services are billed under the APRN's provider number.

(19)(48) "Locum tenens physician" means a substitute physician:

(a) Who temporarily assumes responsibility for the professional practice of a physician participating in the Kentucky Medicaid Program; and

(b) Whose services are paid under the participating physician's provider number.

(20)(49) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(21)(20) "Medicaid basis" means a scenario in which:

(a) A provider provides a service to a recipient as a Medicaid-participating provider in accordance with:

1. 907 KAR 1:671; and

2. 907 KAR 1:672;

(b) The Medicaid Program is the payer for the service; and

(c) The recipient is not liable for payment to the provider for the service other than any cost sharing obligation owed by the recipient to the provider.

(22)(24) "Medical necessity" or "medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(23)(22) "Medical resident" means:

(a) An individual who participates in an approved graduate medical education (GME) program in medicine or osteopathy; or

(b) A physician who is not in an approved GME program, but who is authorized to practice only in a hospital, including:

1. An individual with a:

a. Temporary license;

b. Resident training license; or

c. Restricted license; or

2. An unlicensed graduate of a foreign medical school.

(24)(23) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CPT codes; or

(d) Are described in Current Procedural Terminology as inappropriate coding of procedure combinations.

(25)(24) "Non-Medicaid basis" means a scenario in which:

(a) A provider provides a service to a recipient;

(b) The Medicaid Program is not the payer for the service; and

(c) The recipient is liable for payment to the provider for the service.

~~(26)~~~~(25)~~ "Other licensed medical professional" means a health care provider:

(a) Other than a physician, physician assistant, advanced practice registered nurse, certified registered nurse anesthetist, nurse midwife, or registered nurse; and

(b) Who has been approved to practice a medical specialty by the appropriate licensure board.

~~(27)~~~~(26)~~ "Other provider preventable condition" is defined in 42 C.F.R. 447.26(b).

~~(28)~~~~(27)~~ "Physician assistant" is defined in KRS 311.840(3).

~~(29)~~~~(28)~~ "Physician injectable drug" means an injectable, infused, or inhaled drug or biological that:

(a) Is not typically self-administered;

(b) Is not excluded as a noncovered immunization or vaccine;

(c) Requires special handling, storage, shipping, dosing, or administration; and

(d) Is a rebatable drug.

~~(30)~~~~(29)~~ "Podiatrist" is defined by KRS 205.510(12).

~~(31)~~ **"Provider group" means a group of at least:**

(a) Two (2) individually licensed physicians who:

1. Are enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number; or

(b) ~~(At least)~~One (1) APRN and at least one (1) physician who:

1. Are enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number.

~~(32)~~~~(30)~~ "Rebatable drug" means a drug for which the drug's manufacturer has entered into or complied with a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

~~(33)~~~~(32)~~ "Recipient" is defined by KRS 205.8451(9).

~~(34)~~~~(33)~~ "Screening" means the evaluation of a recipient by a physician to determine:

(a) If a disease or medical condition is present; and

(b) If further evaluation, diagnostic testing, or treatment is needed.

~~(35)~~~~(34)~~ "Supervising physician" is defined in KRS 311.840(4).

~~(36)~~~~(35)~~ "Supervision" is defined in KRS 311.840(6).

~~(37)~~~~(36)~~ "Timely filing" means receipt of a Medicaid claim by the department:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

~~(38)~~~~(37)~~ "Unlisted procedure or service" means a procedure or service:

(a) For which there is not a specific CPT code; and

(b) Which is billed using a CPT code designated for reporting unlisted procedures or services.

Section 2. Conditions of Participation. (1)(a) A participating physician shall:

1. Be licensed as a physician in the state in which the medical practice is located;

2. Comply with the:

a. Terms and conditions established in 907 KAR 1:005, 907 KAR 1:671, and 907 KAR 1:672; **and**

b. Requirements regarding the confidentiality of personal records pursuant to 42 U.S.C. 1320d to 1320d-8 and 45 C.F.R. Parts 160 and 164;

3. Have the freedom to choose whether to provide services to a recipient; and

4. Notify the recipient referenced in paragraph (b) of this subsection of the provider's decision to accept or not accept the recipient on a Medicaid basis prior to providing any service to the recipient.

(b) A provider may provide a service to a recipient on a non-Medicaid basis:

1. If the recipient agrees to receive the service on a non-

Medicaid basis before the service begins; and

2. ~~Whether or not~~ The[

a. Provider is a Medicaid-participating provider; or

b.] service is not a Medicaid-covered service.

(c)1. If a provider renders a Medicaid-covered service to a recipient, regardless of if the service is billed through the provider's Medicaid provider number or any other entity including a non-Medicaid provider, the recipient shall not be billed for the service.

2. The department shall terminate from Medicaid Program participation a provider who participates in an arrangement in which/where/ an entity bills a recipient for a Medicaid-covered service rendered by the provider.

(2) If a provider agrees to provide services to a recipient, the provider:

(a) Shall bill the department rather than the recipient for a covered service;

(b) May bill the recipient for a service not covered by Medicaid if the physician informed the recipient of noncoverage prior to providing the service; and

(c) Shall not bill the recipient for a service that is denied by the department on the basis of:

1. The service being incidental, integral, or mutually exclusive to a covered service or within the global period for a covered service;

2. Incorrect billing procedures, including incorrect bundling of services;

3. Failure to obtain prior authorization for the service; or

4. Failure to meet timely filing requirements.

(3)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(4)(a) A provider shall maintain a current health record for each recipient.

(b)1. A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

2. The individual who provided the service shall date and sign the health record **within seventy-two (72) hours from/en** the date that the individual provided the service.

(5)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(6) A provider shall comply with 45 C.F.R. Part 164.

Section 3. Covered Services. (1) To be covered by the department, a service shall be:

(a) Medically necessary;

(b) Clinically appropriate pursuant to the criteria established in 907 KAR 3:130;

(c) Except as provided in subsection (2) of this section, furnished to a recipient through direct physician contact; and

(d) Eligible for reimbursement as a physician service.

(2) Direct physician contact between the billing physician and recipient shall not be required for:

(a) A service provided by a:

1. Medical resident if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.174 and 415.184;

2. Locum tenens physician who provides direct physician contact;

3. Physician assistant in accordance with Section 7 of this

administrative regulation; or

4. Locum tenens APRN who provides direct APRN contact;

(b) A radiology service, imaging service, pathology service, ultrasound study, echographic study, electrocardiogram, electromyogram, electroencephalogram, vascular study, or other service that is usually and customarily performed without direct physician contact;

(c) The telephone analysis of emergency medical systems or a cardiac pacemaker if provided under physician direction;

(d) A sleep disorder service; or

(e) A telehealth consultation provided in accordance with 907 KAR 3:170.

(3) A service provided by an other licensed medical professional shall be covered if the other licensed medical professional is:

(a) Employed by the supervising physician; and

(b) Licensed in the state of practice.

(4) A sleep disorder service shall be covered if performed in:

(a) A hospital;

(b) A sleep laboratory if the sleep laboratory has documentation demonstrating that it complies with criteria approved by the:

1. American Sleep Disorders Association; or

2. American Academy of Sleep Medicine; or

(c) An independent diagnostic testing facility that:

1. Is supervised by a physician trained in analyzing and interpreting sleep disorder recordings; and

2. Has documentation demonstrating that it complies with criteria approved by the:

a. American Sleep Disorders Association; or

b. American Academy of Sleep Medicine.

Section 4. Service Limitations. (1) A covered service provided to a lock-in recipient shall be limited to a service provided by the lock-in recipient's designated primary care provider or designated controlled substance prescriber unless:

(a) The service represents emergency care; or

(b) The lock-in recipient has been referred to the provider by the lock-in recipient's designated primary care provider.

(2) An EPSDT screening service shall be covered in accordance with 907 KAR 11:034.

(3) A laboratory procedure performed in a physician's office shall be limited to a procedure for which the physician has been certified in accordance with 42 C.F.R. Part 493.

(4) An injectable drug listed on the Physician Injectable Drug List that is administered by a physician, APRN, or provider group shall be covered. Except for the following, a drug administered in a physician's office shall not be covered as a separate reimbursable service through the physicians' program:

(a) Rho (D) immune globulin injection;

(b) An injectable antineoplastic drug;

(c) Medroxyprogesterone acetate for contraceptive use, 150 mg;

(d) Penicillin G benzathine injection;

(e) Ceftriaxone sodium injection;

(f) Intravenous immune globulin injection;

(g) Sodium hyaluronate or hylan G-F for intra-articular injection;

(h) An intrauterine contraceptive device;

(i) An implantable contraceptive device;

(j) Long acting injectable risperidone; or

(k) An injectable, infused, or inhaled drug or biological that:

1. Is not typically self-administered;

2. Is not excluded as a noncovered immunization or vaccine; and

3. Requires special handling, storage, shipping, dosing, or administration].

(5) A service allowed in accordance with 42 C.F.R. 441, Subpart E **(441.200 to 441.208)** or Subpart F **(441.250 to 441.259 and the Appendix to Subpart F)**, shall be covered within the scope and limitations of 42 C.F.R. 441, Subpart E and Subpart F.

(6)(a) Except as provided in paragraph (b) of this subsection, coverage for a service designated as a psychiatry service CPT code and provided by a physician shall be limited to four (4) services, per physician, per recipient, per twelve (12) months.

(b) Coverage for a service designated as a psychiatry service CPT code that is provided by a board certified or board eligible psychiatrist or by an advanced practice registered nurse with a specialty in psychiatry shall not be subject to the limits established in paragraph (a) of this subsection.

(c) Coverage for an evaluation and management service shall be limited to one (1) per physician, per recipient, per date of service.

(d) Coverage for a fetal diagnostic ultrasound procedure shall be limited to two (2) per nine (9) month period per recipient unless the diagnosis code justifies the medical necessity of an additional procedure.

(7) An anesthesia service shall be covered if:

(a) Administered by:

1. An anesthesiologist who remains in attendance throughout the procedure; or

2. An individual who:

a. Is licensed in Kentucky to practice anesthesia;

b. Is licensed in Kentucky within his or her scope of practice; and

c. Remains in attendance throughout the procedure;

(b) Medically necessary; and

(c) Not provided as part of an all-inclusive CPT code.

(8) The following shall not be covered:

(a) An acupuncture service;

(b) An autopsy;

(c) A cast or splint application in excess of the limits established in 907 KAR 3:010;

(d) Except for therapeutic bandage lenses, contact lenses;

(e) A hysterectomy performed for the purpose of sterilization;

(f) Lasik surgery;

(g) Paternity testing;

(h) A procedure performed for cosmetic purposes only;

(i) A procedure performed to promote or improve fertility;

(j) Radial keratotomy;

(k) A thermogram;

(l) An experimental service which is not in accordance with current standards of medical practice;

(m) A service which does not meet the requirements established in Section 3(1) of this administrative regulation;

(n) Medical direction of an anesthesia service; or

(o) Medical assistance for an other provider preventable condition in accordance with 907 KAR 14:005.

(9)(a) In accordance with 42 C.F.R. 455.410, to prescribe medication, order a service for a recipient, or refer a recipient for a service, a provider shall be currently enrolled and participating in the Medicaid program.

(b) The department shall not reimburse for a:

1. Prescription prescribed by a provider that is not currently;

a. Participating in the Medicaid program pursuant to 907 KAR 1:671; and

b. Enrolled in the Medicaid program pursuant to 907 KAR 1:672; or

2. Service:

a. Ordered by a provider that is not currently;

(i) Participating in the Medicaid program pursuant to 907 KAR 1:671; and

(ii) Enrolled in the Medicaid program pursuant to 907 KAR 1:672; or

b. Referred by a provider that is not currently;

(i) Participating in the Medicaid program pursuant to 907 KAR 1:671; and

(ii) Enrolled in the Medicaid program pursuant to 907 KAR 1:672.

Section 5. Prior Authorization Requirements for Recipients Who are Not Enrolled with a Managed Care Organization. (1) The following procedures for a recipient who is not enrolled with a

managed care organization shall require prior authorization by the department:

- (a) Magnetic resonance imaging;
 - (b) Magnetic resonance angiogram;
 - (c) Magnetic resonance spectroscopy;
 - (d) Positron emission tomography;
 - (e) Cineradiography or videoradiography;
 - (f) Xeroradiography;
 - (g) Ultrasound subsequent to second obstetric ultrasound;
 - (h) Myocardial imaging;
 - (i) Cardiac blood pool imaging;
 - (j) Radiopharmaceutical procedures;
 - (k) Gastric restrictive surgery or gastric bypass surgery;
 - (l) A procedure that is commonly performed for cosmetic purposes;
 - (m) A surgical procedure that requires completion of a federal consent form; or
 - (n) A covered unlisted procedure or service.
- (2)(a) Prior authorization by the department shall not be a guarantee of recipient eligibility.
- (b) Eligibility verification shall be the responsibility of the provider.
- (3) The prior authorization requirements established in subsection (1) of this section shall not apply to:
- (a) An emergency service;
 - (b) A radiology procedure if the recipient has a cancer or transplant diagnosis code; or
 - (c) A service provided to a recipient in an observation bed.
- (4) A referring physician, a physician who wishes to provide a given service, a podiatrist, a chiropractor, or an advanced practice registered nurse:
- (a) May request prior authorization from the department; and
 - (b) If requesting prior authorization, shall request prior authorization by:
 - 1. Mailing or faxing:
 - a. A written request to the department with information sufficient to demonstrate that the service meets the requirements established in Section 3(1) of this administrative regulation; and
 - b. If applicable, any required federal consent forms; or
 - 2. Submitting a request via the department's web-based portal with information sufficient to demonstrate that the service meets the requirements established in Section 3(1) of this administrative regulation.

Section 6. Therapy Service Limits. (1) Speech-language pathology services shall be limited to twenty (20) service visits per recipient per calendar year, except as established in subsection (4) of this section.

(2) Physical therapy services shall be limited to twenty (20) service visits per recipient per calendar year, except as established in subsection (4) of this section.

(3) Occupational therapy services shall be limited to twenty (20) service visits per recipient per calendar year, except as established in subsection (4) of this section.

(4) A service in excess of the limits established in subsection (1), (2), or (3) of this section shall be:

(a) Prior authorized in accordance with subsection (5) of this section; and

(b) Approved if the additional service is determined to be medically necessary by:

1. [(a)] The department, if the recipient is not enrolled with a managed care organization; or

2. The [(b)] managed care organization in which the enrollee is enrolled, if the recipient is an enrollee.

(5) Prior authorization by the department shall be required for each service visit that exceeds the limit established in subsection (1), (2), or (3) of this section for a recipient who is not enrolled with a managed care organization.

Section 7. Physician Assistant Services. (1) Except for a service limitation specified in subsection [subsections] (2) or (3) of this section, a service provided by a physician assistant in common practice with a Medicaid-enrolled physician shall be

covered if:

(a) The service meets the requirements established in Section 3(1) of this administrative regulation;

(b) The service is within the legal scope of certification of the physician assistant;

(c) The service is billed under the physician's individual provider number with the physician assistant's number included; and

(d) The physician assistant complies with:

1. KRS 311.840 to 311.862; and

2. If applicable, Section 2(1)(b) of this administrative regulation.

(2) A same service performed by a [physician assistant and a] physician and either a physician assistant or an APRN [and a physician] on the same day within a common practice shall be considered as one (1) covered service.

(3) The following physician assistant services shall not be covered:

(a) A physician noncovered service specified in Section 4(8) of this administrative regulation;

(b) An anesthesia service;

(c) An obstetrical delivery service; or

(d) A service provided in assistance of surgery.

Section 8. Behavioral Health Services Covered Pursuant to 907 KAR 15:010. The requirements and provisions established in 907 KAR 15:010 for a service covered pursuant to this administrative regulation and 907 KAR 15:010 shall apply if the service is provided by:

(1) A physician who is the billing provider;

(2) A provider group that is the billing provider; or

(3) [An APRN who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider;

(4) A physician assistant who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider;

(5) A licensed professional clinical counselor who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider;

(6) A licensed clinical social worker who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider;

(7) A licensed marriage and family therapist who works for

a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider;

(8) A licensed professional art therapist who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider; or

(9) A licensed behavior analyst who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider;

(10) [(3)] A behavioral health practitioner under supervision

who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider.

Section 9. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a speech-language pathology service from a speech-language pathologist enrolled with the Medicaid Program, the department shall not reimburse for the same service provided to the same recipient during the same time period via the physicians' services program.

Section 10.[9:] Third Party Liability. A provider shall comply with KRS 205.622.

Section 11.[40:] Use of Electronic Signatures. (1) The creation,

transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

- (2) A provider that chooses to use electronic signatures shall:
 - (a) Develop and implement a written security policy that shall:
 1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
 2. Identify each electronic signature for which an individual has access; and
 3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;
 - (b) Develop a consent form that shall:
 1. Be completed and executed by each individual using an electronic signature;
 2. Attest to the signature's authenticity; and
 3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and
 - (c) Provide the department, immediately upon request, with:
 1. A copy of the provider's electronic signature policy;
 2. The signed consent form; and
 3. The original filed signature.

Section 12.[44-] Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with the claim or medical record.

Section 13.[42-] Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 14.[43-] Appeal Rights. An appeal of a department decision regarding:

- (1) A Medicaid recipient who is not enrolled with a managed care organization based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563; or
- (2) An enrollee based upon an application of this administrative regulation shall be in accordance with 907 KAR 17:010.

Section 15. Incorporation by Reference. (1) The "Physician Injectable Drug List", February 21, 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 11, 2014 at 3 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, January 13, 2015)

907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42

U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by residential crisis stabilization units.

Section 1. General Coverage Requirements. (1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:

- (a) Medically necessary; and
- (b) Provided:
 1. To a recipient; and
 2. By a residential crisis stabilization unit that meets the provider participation requirements established in Section 2 of this administrative regulation.
- (2)(a) Direct contact between a practitioner and a recipient shall be required for each service.
- (b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.
- (3) A service shall be:
 - (a) Stated in the recipient's **treatment** plan **of care**; and
 - (b) Provided in accordance with the recipient's **treatment** plan **of care**.

Section 2. Provider Participation. (1) To be eligible to provide services under this administrative regulation, a residential crisis stabilization unit shall:

- (a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;
- (b) Except as established in subsection **(3)/(2)** of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;
- (c) Be licensed as a residential crisis stabilization unit in accordance with 902 KAR 20:440;
- (d) Comply with the requirements established in 902 KAR 20:440;
- (e) Have:
 1. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;
 2. Demonstrated experience in serving individuals with behavioral health disorders;
 3. The administrative capacity to ensure quality of services;
 4. A financial management system that provides documentation of services and costs; and
 5. The capacity to document and maintain individual case records;
- (f) Be a community-based, residential program that offers an array of services including:
 1. Screening;
 2. Assessment;
 3. Treatment planning;
 4. Individual outpatient therapy;
 5. Group outpatient therapy;
 6. Psychiatric services;
 7. Family outpatient therapy at the option of the residential crisis stabilization unit; or
 8. Peer support at the option of the residential crisis stabilization unit;
- (g) Provide services in order to:
 1. Stabilize a crisis and divert an individual from a higher level of care;
 2. Stabilize an individual and provide treatment for acute withdrawal, if applicable; and
 3. Re-integrate an individual into the individual's community or other appropriate setting in a timely fashion;
- (h) Not be part of a hospital;

- (i) Be used when an individual:
 1. Is experiencing a behavioral health crisis that cannot be safely accommodated within the individual's community; and
 2. Needs overnight care that is not hospitalization;
- (j) **Except as established in subsection (2)(a) of this section,** not contain more than sixteen (16) beds;
- (k) **Except as established in subsection (2)(b) of this section,** not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate;
- (l) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability;
- (m) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the Act;
- (n) Have the capacity to employ staff authorized to provide treatment services in accordance with this section and to coordinate the provision of services among team members;
- (o) Have the capacity to provide the full range of residential crisis stabilization services as stated in **Section 3(2) of this administrative regulation**~~[this paragraph]~~ and on a twenty-four (24) hour a day, seven (7) day a week, every day of the year basis;
- (p) Have access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year; and
- (q) Have knowledgeable staff regarding substance use disorders.
- (2) **If every recipient receiving services in the:**
 - (a) **Single unit is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in subsection (1)(j) of this section shall not apply; or**
 - (b) **Multiple units is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in subsection (1)(k) of this section shall not apply.**
- (3) In accordance with 907 KAR 17:015, Section 3(3), a residential crisis stabilization unit which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

Section 3. Covered Services. (1)(a) Except as specified in the requirements stated for a given service, the services covered may be provided for:

- 1. A mental health disorder;
- 2. A substance use disorder; or
- 3. Co-occurring mental health and substance use disorders.
- (b) Residential crisis stabilization services shall be provided in a residential crisis stabilization unit.
- (2) Residential crisis stabilization services shall include:
 - (a) A screening provided by:
 1. A licensed psychologist;
 2. A licensed psychological practitioner;
 3. A licensed clinical social worker;
 4. A licensed professional clinical counselor;
 5. A licensed professional art therapist;
 6. A licensed marriage and family therapist;
 7. A physician;
 8. A psychiatrist;
 9. An advanced practice registered nurse; or
 10. A behavioral health practitioner under supervision except for a licensed assistant behavior analyst;
 - (b) An assessment provided by:
 1. A licensed psychologist;
 2. A licensed psychological practitioner;
 3. A licensed clinical social worker;
 4. A licensed professional clinical counselor;
 5. A licensed professional art therapist;
 6. A licensed marriage and family therapist;
 7. A physician;
 8. A psychiatrist;
 9. An advanced practice registered nurse;
 10. A licensed behavior analyst; or
 11. A behavioral health practitioner under supervision~~[except~~

for a certified alcohol and drug counselor];

(c) Individual outpatient therapy or group outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A licensed clinical social worker;
4. A licensed professional clinical counselor;
5. A licensed professional art therapist;
6. A licensed marriage and family therapist;
7. A physician;
8. A psychiatrist;
9. An advanced practice registered nurse;
10. A licensed behavior analyst; or
11. A behavioral health practitioner under supervision~~[except~~

for a certified alcohol and drug counselor];

(d) Treatment planning provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A licensed clinical social worker;
4. A licensed professional clinical counselor;
5. A licensed professional art therapist;
6. A licensed marriage and family therapist;
7. A physician;
8. A psychiatrist;
9. An advanced practice registered nurse;
10. A licensed behavior analyst; or
11. A behavioral health practitioner under supervision except

for a certified alcohol and drug counselor;

(e) Psychiatric services provided by:

1. A psychiatrist; or
2. An APRN; or
- (f) At the option of the residential crisis stabilization unit:
 1. Family outpatient therapy provided by:
 - a. A licensed psychologist;
 - b. A licensed psychological practitioner;
 - c. A licensed clinical social worker;
 - d. A licensed professional clinical counselor;
 - e. A licensed professional art therapist;
 - f. A licensed marriage and family therapist;
 - g. A physician;
 - h. A psychiatrist;
 - i. An advanced practice registered nurse; or
 - j. A behavioral health practitioner under supervision except for

a[;

(i) Certified alcohol and drug counselor; or

(ii) licensed assistant behavior analyst; or

2. Peer support provided by a peer support specialist working under the supervision of;

a. An approved behavioral health service provider; or

b. A certified alcohol and drug counselor.

(3)(a) A screening shall:

1. Establish the need for a level of care evaluation to determine the most appropriate and least restrictive service to maintain the safety of the individual who may have a mental health disorder, substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder; and

3. Establish the need for an in-depth assessment of the number and duration of risk factors including:

- a. Imminent danger and availability of lethal weapons;
- b. Verbalization of suicidal or homicidal risk;
- c. Need of immediate medical attention;
- d. Positive and negative coping strategies;
- e. Lack of family or social supports;
- f. Active psychiatric diagnosis; or
- g. Current drug and alcohol use.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the practitioner to:

- a. Establish the presence or absence of a mental health disorder, a substance use disorder, or co-occurring disorders;
- b. Determine the individual's readiness for change;
- c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the individual to develop a treatment and service plan; and

4. Not include psychological or psychiatric evaluations or assessments.

(c) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; or

b. Recovery from a substance use[related] disorder, a mental health disorder, or co-occurring[related] disorders;

2. Consist of:

a. A face-to-face, one (1) on one (1) encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified crisis treatment plan;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functioning; and

4. Not exceed three (3) hours per day unless additional time is medically necessary.

(d)1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified crisis treatment plan;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Recovery from a substance use[related] disorder, a mental health disorder, or co-occurring[related] disorders;

c. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified crisis treatment plan;

d. Be provided to a recipient in a group setting:

(i) Of nonrelated individuals; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's crisis treatment plan;

f. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h. Not exceed three (3) hours per day per recipient unless additional time is medically necessary.

2. The group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of group outpatient therapy shall relate to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

(e)1. Treatment planning shall:

a. Involve assisting a recipient in creating an individualized plan for services needed;

b. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

c. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

(f)1. Family outpatient therapy shall consist of a face-to-face behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. Family outpatient therapy shall:

a. Be provided to promote:

(i) The health and wellbeing of the individual; or

(ii) Recovery from a substance use disorder, a mental health disorder, or co-occurring[related] disorders; and

b. Not exceed three (3) hours per day per individual unless additional time is medically necessary.

(g)1. Peer support services shall:

a. Be social and emotional support that is provided by an individual who is experiencing a mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided by a self-identified consumer, parent, or family member:

(i) Of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services; and

(ii) Who has been trained and certified in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

f. Be coordinated within the context of a comprehensive, individualized treatment plan developed through a person-centered planning process;

g. Be identified in each recipient's treatment plan; and

h. Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's treatment plan.

2. To provide peer support services, a residential crisis stabilization unit shall:

a. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240;

b. Use an approved behavioral health services provider or certified alcohol and drug counselor to supervise peer support specialists;

c. Have the capacity to coordinate the provision of services among team members; and

d. Have the capacity to provide on-going continuing education and technical assistance to peer support specialists.

~~(4)[(a) The requirements established in 908 KAR 1:370 shall apply to any provider of a service to a recipient for a substance use disorder.~~

~~(b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a provider of a detoxification service.~~

~~(5)]~~ The extent and type of a screening shall depend upon the problem of the individual seeking or being referred for services.

~~(5)[(6)]~~ A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

~~(6)[(7)]~~ The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.

Section 4. Additional Limits and Non-covered Services or Activities. (1) The following services or activities shall not be covered under this administrative regulation:

(a) A service provided to:

1. A resident of:

a. A nursing facility; or

b. An intermediate care facility for individuals with an intellectual disability;

2. An inmate of a federal, local, or state:
 - a. Jail;
 - b. Detention center; or
 - c. Prison; or
3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;
 - (b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the residential crisis stabilization unit;
 - (c) A consultation or educational service provided to a recipient or to others;
 - (d) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face";
 - (e) Travel time;
 - (f) A field trip;
 - (g) A recreational activity;
 - (h) A social activity; or
 - (i) A physical exercise activity group.
- (2) Residential crisis stabilization services shall not include:
 - (a) Room and board;
 - (b) Educational services;
 - (c) Vocational services;
 - (d) Job training services;
 - (e) Habilitation services;
 - (f) Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;
 - (g) Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;
 - (h) Recreational activities;
 - (i) Social activities; or
 - (j) Services required to be covered elsewhere in the state plan.
- (3)(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation.
- (b) A third party contract shall not be covered under this administrative regulation.

Section 5. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the service is covered, during the same time period.

(2) For example, if a recipient is receiving a residential crisis stabilization service from a community mental health center, the department shall not reimburse for the same service provided to the same recipient during the same time period by a residential crisis stabilization unit.

Section 6. Records Maintenance, Documentation, Protection, and Security. A residential crisis stabilization unit shall maintain a current health record for each recipient in accordance with 902 KAR 20:440.

Section 7. Medicaid Program Participation Compliance. (1) A residential crisis stabilization unit shall comply with:

- (a) 907 KAR 1:671;
 - (b) 907 KAR 1:672; and
 - (c) All applicable state and federal laws.
- (2)(a) If a residential crisis stabilization unit receives any duplicate payment or overpayment from the department, regardless of reason, the residential crisis stabilization unit shall return the payment to the department.
- (b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:
1. Interpreted to be fraud or abuse; and
 2. Prosecuted in accordance with applicable federal or state law.
- (3)(a) When the department makes payment for a covered service and the residential crisis stabilization unit accepts the payment:
1. The payment shall be considered payment in full;
 2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the residential crisis stabilization unit.

(b)1. A residential crisis stabilization unit may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

- a. Recipient requests the service; and
 - b. Residential crisis stabilization unit makes the recipient aware in advance of providing the service that the:
 - (i) Recipient is liable for the payment; and
 - (ii) Department is not covering the service.
2. If a recipient makes payment for a service in accordance with subparagraph 1 of this paragraph, the:
- a. Residential crisis stabilization unit shall not bill the department for the service; and
 - b. Department shall not:
 - (i) Be liable for any part of the payment associated with the service; and
 - (ii) Make any payment to the residential crisis stabilization unit regarding the service.

(4)(a) ~~The signature of~~**A residential crisis stabilization unit attests by** the residential crisis stabilization unit's staff or representative shall indicate that the residential crisis stabilization unit attests~~(staff's or representative's signature)~~ that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee; or
5. United States General Accounting Office or its designee.

(c) If a residential crisis stabilization unit receives a request from the department to provide a claim, related information, related documentation, or record for auditing purposes, the residential crisis stabilization unit shall provide the requested information to the department within the timeframe requested by the department.

(d)1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a residential crisis stabilization unit shall result in the suspension or termination of the residential crisis stabilization unit from Medicaid Program participation.

Section 8. Third Party Liability. A residential crisis stabilization unit shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A residential crisis stabilization unit that chooses to use electronic signatures shall:

- (a) Develop and implement a written security policy that shall:
 1. Be adhered to by each of the residential crisis stabilization unit's employees, officers, agents, or contractors;
 2. Identify each electronic signature for which an individual has access; and
 3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;
- (b) Develop a consent form that shall:
 1. Be completed and executed by each individual using an electronic signature;
 2. Attest to the signature's authenticity; and
 3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and
- (c) Provide the department, immediately upon request, with:
 1. A copy of the residential crisis stabilization unit's electronic signature policy;
 2. The signed consent form; and
 3. The original filed signature.

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Section 10. Auditing Authority. The department shall have the authority to audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 12. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 11, 2014 at 3 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, January 13, 2015)

907 KAR 15:075. Reimbursement provisions and requirements for behavioral health services provided by residential crisis stabilization units.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program behavioral health services provided by residential crisis stabilization units to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. General Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

- (1) Medically necessary;
- (2) Provided:
 - (a) To a recipient;
 - (b) By a residential crisis stabilization unit that meets the provider participation requirements established in 907 KAR 15:070; and
 - (c) In accordance with the requirements established in 907 KAR 15:070; and
- (3) Covered in accordance with 907 KAR 15:070.

Section 2. Reimbursement. (1) The department shall reimburse a per diem rate of \$354 for services provided by a residential crisis stabilization unit to a recipient for a day.

(2) The reimbursement referenced in subsection (1) of this section shall represent total reimbursement for all services provided by a residential crisis stabilization unit to a recipient for the day.

Section 3. ~~[No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.~~

~~(2) For example, if a recipient is receiving a residential crisis stabilization service from a community mental health center, the department shall not reimburse for the same service provided to the same recipient during the same time period by a residential crisis stabilization unit.~~

Section 4.] Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

- (1) 907 KAR 15:070; and
- (2) This administrative regulation.

Section ~~4.~~**5.]** Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: August 4, 2014

FILED WITH LRC: August 20, 2014 at noon

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Community Based Services

Division of Protection and Permanency

(As Amended at ARRS, January 13, 2015)

922 KAR 5:050. Funding requirements for domestic violence shelters.

RELATES TO: KRS 205.455(4), 209.020(2), 209.030(9), 209.160(1), (2), 209A.010-080, 45 C.F.R. 74, 92

STATUTORY AUTHORITY: KRS 194A.050(1), 209.030(1), ~~[(9), 209.160(1), (2),]~~ 209A.030(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to formulate all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. ~~[KRS 209.160(1) creates a trust and agency account to receive funds from the issuance of marriage licenses, and requires the cabinet to use these funds to provide protective shelter services for domestic violence victims.]~~ KRS 209.030(1) and 209A.030(1) authorize[requires] the cabinet to promulgate administrative regulations to effect the purposes of KRS Chapter 209, governing protective services to adults, and 209A.; ~~and KRS 209A.030(1) requires the secretary to promulgate administrative regulations to effect the purposes of KRS Chapter 209A]~~ governing the protective services to victims of domestic violence. This administrative regulation establishes the requirements necessary for domestic violence shelters to receive funding.

Section 1. Definitions. (1) "Agency" means a private or public

nonprofit incorporated organization, or organization in the process of obtaining nonprofit status:

(a) That has the capacity to provide domestic violence shelter and related services to a client; and

(b) With whom the cabinet or its designee contracts for services.

(2) "Annual plan and budget" means the annual application for funding submitted to the cabinet or its designee by each domestic violence shelter.

(3) "Cabinet" is defined by KRS 209.020(2) and KRS 209A.020(2) [means Cabinet for Health and Family Services].

(4) ["Cash" means nonstate money or funds given to the agency:

(a) For use in the domestic violence shelter program; and

(b) Not for use as a match with other grants or contracts.

(5) "Certified expenditures" mean nonstate cash expenditures incurred by an agency if expenditures are:

(a) Determined to be allowable, reasonable and necessary under federal, state, and local laws, including KRS 209.160, and 45 C.F.R. Parts 74 and 92, where applicable; and

(b) Not used to match another grant or contract.

(6) "Client" means a:

(a) Domestic violence victim; and

(b) Dependent child of the domestic violence victim.

(7) "District" is defined by KRS 205.455(4).

(8) "In-kind contributions" means property or services which:

(a) Directly benefit the services purchased;

(b) Are contributed by the agency or a third party without expenditure by the agency; and

(c) Are an allowable, reasonable and necessary cost in compliance with federal, state, and local law, including KRS 209.160, and 45 C.F.R. Parts 74 and 92, where applicable, if purchased by the agency.

(9) "Match" means locally generated funds or expenditures as required to obtain state funding in the form of:

(a) Certified expenditures;

(b) In-kind contributions; or

(c) Cash provided by an agency.

(10) "Service provider" means the agency within each area development district, designated by the cabinet or its designee as the focal point of service delivery for domestic violence shelter and related services.

Section 2. General Funds. The cabinet or its designee shall annually allocate appropriated general funds to cabinet-approved service providers for the operation of domestic violence shelters.

Section 3. Service Provider. (1)(a) The cabinet or its designee shall approve one (1) service provider for each area development district to receive an allocation of general funds in accordance with KRS 209.160(2).

(b) The approval shall be in effect unless rescinded following a review of the agency's performance and its annual plan and budget proposal for the upcoming year.

(2)(a) The cabinet or its designee shall select a service provider after a determination that the service provider meets the standards set forth in 922 KAR 5:040.

(b) Each selected agency shall submit a properly executed annual plan and budget proposal which shall indicate each agency's capacity to provide domestic violence shelter and other related services for a client.

(c) The application for funding shall:

1. Specify the type and kind of services the provider proposes to perform, either as a provider or under subcontract;

2. Detail fiscal considerations;

3. Assure that the agency and subcontractors shall comply with applicable federal and state laws, including KRS Chapters 209, 209A, and 45 C.F.R. Parts 74 and 92 ~~[, where applicable]~~; and

4. Include a commitment to provide outreach services in counties of the area development district in which it is located.

(3)(a) ~~Each service provider shall provide funds at the rate of twenty-five (25) percent local match to seventy-five (75) percent~~

~~state general fund dollars.~~

~~(b) Of the required local match, five (5) percent shall be cash and the remainder may be provided in a combination of cash, certified expenditures, or in-kind contributions.~~

~~(c) Certified expenditures may be:~~

~~1. Incurred by the service provider; or~~

~~2. Certified on behalf of the service provider by a third party.~~

~~(d) A match shall not be provided by a state funded domestic violence program to or on behalf of another domestic violence contractor.~~

~~(e) A service provider may be subject to disallowances and reimbursement to the cabinet if the required local match is not documented by the provider.~~

(4)(a) The cabinet or its designee shall allocate general funds to the service provider in each area development district.

(b) The service provider:

1. Shall be limited to providing services to the area development district where the service provider is located; and

2. May provide services to a client of another area development district if:

a. Shelter space or services are available for an additional client of another area development district; or

b. An emergency situation exists, such as a temporary closure of another area development district's domestic violence shelter ~~[, exists]~~.

Section 4. Trust and Agency Funds. (1) The cabinet or its designee shall:

(a) Designate an agency as a service provider to receive trust and agency funds from the account created in KRS 209.160(1);

(b) Allocate trust and agency funds among each designated service provider at the amount approved by the cabinet or its designee for each designated service provider in accordance with the provider's approved plan and budget; and

(c) Require unencumbered funds to be returned to the cabinet if there is a change in the designated service provider.

(2) The cabinet or its designee may:

(a) Hold trust and agency funds allocated to a service provider at the beginning of each fiscal year which are not expended, to be expended by the same service provider the following year in accordance with the approved annual plan and budget; or

(b) Assign unencumbered funds returned from a designated service provider to a new designated service provider.

TERESA C. JAMES, LCSW, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 12, 2104

FILED WITH LRC: November 13, 2014 at 2 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573, tricia.orme@ky.gov

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amended After Comments)

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers.

RELATES TO: KRS 150.170, 150.180, 150.370, 150.399, 150.415, 150.416, 150.990, 150.995

STATUTORY AUTHORITY: KRS 150.025(1), 150.175(7), (9), 150.360, 150.400, 150.410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.175(7), (9) authorizes the department to issue licenses, permits, and tags for hunting and trapping. KRS 150.360 requires restrictions on the taking of wildlife and authorizes the department to promulgate administrative regulations establishing the requirements for hunting coyotes at night. KRS 150.400 authorizes the department to establish the types of traps that can legally be used by trappers. KRS 150.410 authorizes the department to regulate trap tags, trap visitation, and trap placement to protect domestic animals. ~~KRS 150.360 requires restrictions on the taking of wildlife and authorizes the department to promulgate administrative regulations establishing the requirements for hunting coyotes at night.~~ This administrative regulation establishes seasons, bag limits, ~~and~~ legal methods of take, and checking and recording requirements for hunting and trapping furbearers.

Section 1. Definitions. (1) "Body-gripping trap" means a commercially manufactured spring-loaded trap designed to kill the animal upon capture.

(2) "Dry land set" means a trap that is ~~not~~ set so that no portion of the trap touches in, or floating upon, ~~the~~ ~~to submerge an animal in~~ water of a stream, river, pond, lake, wetland, or other water course ~~upon capture~~.

(3) "Foothold trap" means a commercially manufactured spring-loaded trap with smooth, metallic or rubber soft-catch jaws that close upon an animal's foot.

(4) "Furbearer" means mink, muskrat, beaver, raccoon, opossum, gray fox, red fox, least weasel, long-tailed weasel, river otter, bobcat, coyote, or striped skunk.

(5) "Hunter" means a person legally taking ~~hunting~~ furbearers ~~with gun, gun and dog, bow and arrow, dog, or~~ by means other than trapping ~~falconry~~.

(6) "Otter Zone 1" means the following counties: Anderson, Ballard, Bath, Boone, Bourbon, Bracken, Breckinridge, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Daviess, Fayette, Fleming, Franklin, Fulton, Gallatin, Grant, Graves, Grayson, Hancock, Hardin, Harrison, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McCracken, McLean, Meade, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Pendleton, Robertson, Rowan, Scott, Shelby, Spencer, Trigg, Trimble, Union, Webster, and Woodford.

(7) "Otter Zone 2" means all Kentucky counties not included in subsection (6) of this section.

(8) "Snare" means a wire, cable, or string with a knot, loop, or a single piece closing device, the deployment of which is or is not spring-assisted, but any spring-assisted device is not for the purpose of applying tension to the closing device.

(9) "Squaller" means a hand-operated, mouth-operated, or electronic call capable of mimicking the vocalizations of furbearers.

(10) "Trap" means a body-gripping trap, box trap, deadfall, foothold trap, snare, or wire cage trap used to catch furbearers.

(11) "Water set" means a trap set in, or floating upon, ~~the~~ ~~to submerge an animal in~~ water of a river, stream, pond, lake, wetland, or other water course so that a portion of the trap body

is underwater ~~upon capture~~.

(12) "Youth" means a person who has not reached sixteen (16) years of age.

Section 2. License ~~Hunting~~ Requirements. ~~(1)~~ Unless exempted by KRS 150.170, a person shall carry proof of purchase of a:

- (1) Valid hunting license while hunting furbearers; or
- (2) Valid trapping license while trapping furbearers.

Section 3. Furbearer Hunting Seasons. Except as established in 301 KAR 2:049, a person shall only take furbearers by hunting during the seasons established in subsections (1) through (5) of this section:

(1) Bobcat, from one-half (1/2) hour before sunrise on the fourth Saturday in November through the last day of February;

(2) Coyote, year-round;

(3) Raccoon and opossum, October 1 through the last day of February;

(4) All other furbearers except as established in subsection (5) of this section, from one-half (1/2) hour before sunrise on the third day of modern gun deer season through the last day of February; and

(5) Furbearers taken by falconry, September 1 through March 30.

Section 4. Furbearer Trapping Season. Except as established in 301 KAR 2:049, a person shall only take furbearers by trapping from one-half (1/2) hour before sunrise on the third day of the modern gun deer season through the last day of February.

Section 5. License-Exempt Youth Season. For seven (7) consecutive days beginning on the Saturday after Christmas, a youth may hunt or trap furbearers without a license, but all other statewide requirements shall apply.

Section 6. Legal Hunting Weapons. Except as established in Section 7(8) of this administrative regulation ~~(2) Unless established in subsection (10) of this section,~~ a hunter shall only use the weapons established in subsections (1) ~~paragraphs (a)~~ through (6) ~~(f)~~ of this section ~~subsection~~ to hunt ~~take~~ furbearers:

(1) ~~(a)~~ Centerfire gun;

(2) ~~(b)~~ Rimfire gun;

(3) ~~(c)~~ Shotgun;

(4) ~~(d)~~ Bow and arrow;

(5) ~~(e)~~ Crossbow; or

(6) ~~(f)~~ An air gun using pellets at least .22 caliber in size.

Section 7. Hunter Restrictions (1) ~~(3)~~ Furbearers may be taken during daylight hours only, except for the following, which may also be taken after daylight hours:

(a) Coyote;

(b) Opossum; or

(c) Raccoon.

(2) ~~(4)~~ A person shall not take a raccoon or opossum during daylight hours during the modern gun deer season, as established in 301 KAR 2:172.

(3) ~~(5)~~ A person hunting ~~hunter~~ in a boat shall not use a light in conjunction with taking a raccoon or opossum.

(4) ~~(6)~~ A person shall not use the following while chasing a raccoon or opossum from noon on March 1 through September 30;

(a) A firearm;

(b) Slingshot;

(c) Tree climber; or

(d) Any device to kill, injure, or force a raccoon or opossum from a tree or den.

(5) ~~(7)~~ A person may use a squaller year-round.

(6) ~~(8)~~ There shall not be a closed season on:

(a) Chasing red and gray foxes during daylight hours for sport and not to kill; or

(b) Chasing raccoons or opossums for sport and not to kill.

~~(7)(9)]~~ A hunter may use a hand or mouth-operated call, electronic call, or any other attracting device during a furbearer hunting season.

~~(8)(40)]~~ A person may take a coyote after daylight hours, with the following restrictions:

(a) A person shall not use artificial light or other means designed to make wildlife visible at night from June 1 through January 31;

(b) Any artificial light or other means designed to make wildlife visible at night shall not be connected to or cast from a mechanized vehicle;

(c) A person shall not use any weapon other than a shotgun; and

(d) A person shall not use a shell with a single projectile.

Section ~~8.~~ Legal Traps~~[3. Trapping Methods and Requirements].~~ (1)~~[Unless exempted by KRS 150.170, a person shall carry proof of purchase of a valid trapping license while trapping furbearers.~~ (2) A person who is trapping with a dry land set shall only use traps as established in paragraphs (a) through (e) of this subsection~~[not].~~

~~(a)[Set traps closer than ten (10) feet apart; or~~

~~(b) Use any trap except for the following:~~

~~1.] Deadfall;~~

~~(b)[2.] Wire cage or box trap;~~

~~(c)[3.] Foothold trap with a maximum inside jaw spread of six (6) inches measured perpendicular to the hinges;~~

~~(d) A snare; or~~

~~(e) Except as established in 301 KAR 2:049, a[4.] body-gripping trap with a maximum inside jaw spread of seven and one-half (7.5) inches measured parallel with the trigger;~~

~~1. In the center of the trap; and~~

~~2. In the unset position; or~~

~~5.- A snare].~~

~~(2)(3)]~~ There shall be no restrictions on the size or type of trap used as a water set.

Section 9. Trapper Restrictions. (1)(4) A trap shall not be set in a trail or path commonly used by a human or a domestic animal.

(2)(5) A trapper may use lights from a boat or a vehicle in conjunction with trapping furbearers.

Section 10. Hunter Orange. A person trapping furbearers shall be exempt from hunter orange clothing requirements as established in 301 KAR 2:132, 2:172, and 2:300.

Section ~~11.~~~~[4.]~~ Trap Tags. (1) Each trap shall have a metal tag attached to it that clearly shows~~[one (1) of the following]:~~

(a) The name and address of the person setting, using, or maintaining the trap; or

(b) A wildlife identification number issued by the department and the 1-800-25ALERT department hotline phone number.

(2) A person applying for a wildlife identification number shall apply by:

(a) Completing the Wildlife Identification Number for Trap Tags – Application available on the department's Web site at www.fw.ky.gov; or

(b) Calling the department's information center at 1-800-858-1549.

(3) The following information shall be required for a person to apply for a wildlife identification number:

(a) Name;

(b) Current home address;

(c) Social Security number;

(d) Current phone number;

(e) Date of birth; and

(f) Driver's license number, if available.

(4) A person shall:

(a) Not use a trap tag that has an inaccurate or outdated address;

(b) Not use a trap tag that has a wildlife identification number that corresponds to an inaccurate or outdated address or phone

number; and

(c) Contact the department to provide updated address and phone number.

(5) A wildlife identification number shall be valid for the life of the holder.~~[Section 5. Hunting Season Dates. Except as established in 301 KAR 2:049, a person shall not take the following wildlife except during the dates established in this section:~~

~~(1) Bobcat: from one-half hour before sunrise on the fourth Saturday in November through the last day of February;~~

~~(2) Coyote: year round;~~

~~(3) Raccoon and Opossum: October 1 through the last day of February;~~

~~(4) All other furbearers except as established in subsection (5) of this section: from one-half hour before sunrise on the third day of the modern gun deer season through the last day of February; or~~

~~(5) Furbearers taken by falconry: September 1 through March 30.~~

~~Section 6. Trapping Season Dates. Except as established in 301 KAR 2:049, a person shall not take furbearers except from one-half hour before sunrise on the third day of the modern gun deer season through the last day of February.~~

~~Section 7. License-Exempt Season for Youth. For seven (7) consecutive days beginning on the Saturday after Christmas, a youth may hunt or trap furbearers without a license, but all other statewide requirements shall apply.]~~

Section ~~12.~~~~[8.]~~ Bag Limits. (1) There shall not be a bag limit on furbearers except as established in subsections (2) through (6) of this section.

~~(2)(4)]~~ A person shall not take more than five (5) bobcats per season, no more than three (3) of which shall be taken with a gun.

~~(3)(2)]~~ A person shall not take more than ten (10) river otters per season in Otter Zone 1.

~~(4)(3)]~~ A person shall not take more than six (6) river otters per season in Otter Zone 2.

~~(5)(4)]~~ The total river otter bag limit per season shall be ten (10) per person, only six (6) of which can be taken from Otter Zone 2.

~~(6)(5)]~~ A falconer hunting within the falconry season, but outside the dates specified in Section ~~3(3)(5(3))~~ and (4) of this administrative regulation, shall not take more than two (2) of any furbearer per day.

Section ~~13.~~~~[9.]~~ Harvest Recording. (1) Immediately after ~~harvesting~~~~[taking]~~ a river otter or bobcat, and ~~prior to~~~~[before]~~ moving the carcass, a person shall record in writing the~~[following information]:~~

~~(a)[The] Species;~~

~~(b)[The] Date;~~

~~(c)[The] County where taken; and~~

~~(d)[The] Sex of the river otter or bobcat.~~

(2) The information required by subsection (1)(a) through (d) of this section shall be documented on:

~~(a)[1.]~~~~[animal.]~~ (2) The information listed in subsection (1) of this section shall be recorded on one (1) of the following:

~~(a)]~~ The hunter's log section on the reverse side of a license or permit;

~~(b)[2.]~~~~[A(b)]~~ The hunter's log printed from the department's Web site at fw.ky.gov~~[section in the current hunting and trapping guide];~~

~~(c)[3.]~~~~[(e)]~~ A hunter's log available from any KDSS agent; or

~~(d)[4.]~~~~[(d)]~~ An index card or similar card.

~~(3)(2)]~~~~(3)]~~ A person shall retain and possess the completed hunter's log while hunting or trapping during the current season.

Section ~~14.~~~~[10.]~~ Checking a River Otter or Bobcat. (1) A person who ~~harvests~~~~[takes]~~ a river otter or bobcat shall check each animal by:

(a) Completing~~[Check each animal by calling]~~ the telecheck process after calling 800-245-4263 or completing the check-in process on the department's Web site at fw.ky.gov:

1. ~~Before midnight~~ [toll-free number listed in the current hunting and trapping guide] on the day the river otter or bobcat is ~~recovered~~[harvested];

2. ~~Prior to processing the carcass~~[(b) Provide the information requested by the automated check-in system]; and

3. ~~Prior to transporting the raw fur, pelt, or unskinned carcass out of Kentucky; and~~

(b) ~~Writing~~[(c) Write] the ~~check-in~~ confirmation number[provided by the automated check-in system] on the hunter's log ~~as~~ established in Section 13[9] of this administrative regulation.

(2) A person who intends to sell the raw fur of a river otter or bobcat to a licensed fur processor, fur buyer, or taxidermist or wishing to export a river otter or bobcat pelt outside the United States shall:

(a) Contact the department and request a Convention on International Trade of Endangered Species of Flora and Fauna (CITES) tag by providing:

1. A valid ~~check-in~~ confirmation number as established in subsection (1) of this section; and

2. A street address where the tag is to be mailed; or

(b) ~~Complete~~[Access the department's Web site at www.fw.ky.gov and complete and submit] the CITES tag request form on[te] the department's Web site at fw.ky.gov[department].

(3) A person who ~~is transferring~~[intends to transfer to another person] a river otter or bobcat that does not have an attached CITES tag shall attach to the carcass a handmade tag that contains the[following]:

(a)[The] Confirmation number;

(b)[The] Hunter or trapper's name; and

(c)[The] Hunter or trapper's phone number.

(4) A person shall not ~~knowingly~~ provide false information ~~when~~[while]:

(a) Completing the hunter's log;

(b) Checking a river otter or bobcat;[or]

(c) ~~Completing a CITES tag request form; or~~

(d) Creating a handmade carcass tag.

(5) A CITES tag shall be attached to the raw fur, pelt, or unskinned carcass ~~upon receipt of the tag from the department~~ per the instructions provided by the department and remain ~~attached~~[with the pelt] until it is processed or exported outside the United States.

(6) Possession of an unused CITES tag[that is] issued by the department shall be prohibited.

Section 15.[44-] Transporting and Processing a River Otter or Bobcat. (1) A person shall not sell the raw fur of a river otter or bobcat except to a licensed:

(a) Fur buyer;

(b) Fur processor; or

(c) Taxidermist.

(2) A taxidermist, fur buyer, or fur processor shall:

(a) Not accept a river otter or bobcat carcass or any part thereof[~~of a river otter or bobcat~~] without a proper carcass tag or CITES tag established in Section 14[40] of this administrative regulation; and

(b) ~~Retain~~[Keep] the[following] information ~~established in subparagraph 1. through 4. of this paragraph~~ from a hunter or trapper:

1. Name;

2. Address;

3. Confirmation number or CITES tag number; and

4. Date received for each river otter or bobcat.

Section 16.[42-] Incorporation by Reference. (1) ~~The following material is incorporated by reference:~~

(a) "Wildlife Identification Number for Trap Tags – Application", April 2014 ~~edition; and~~

(b) "CITES Tag Request" form, 2014 ~~edition~~[-is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky

40601, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern time.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 4060, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes season bag limits, legal methods of take, and checking and recording requirements for furbearer hunting and trapping.

(b) The necessity of this administrative regulation: This regulation is necessary to provide adequate furbearer hunting and trapping opportunities and to properly manage furbearer populations in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.175(7)(9) authorizes the department to issue licenses, permits, and tags for hunting and trapping. KRS 150.360 requires restrictions on the taking of wildlife and authorizes the department to promulgate administrative regulations establishing the requirements for hunting coyotes at night. KRS 150.400 authorizes the department to promulgate administrative regulations to establish the types of traps that can legally be used by trappers. KRS 150.410 authorizes the department to regulate traps tags, trap visitation, and trap placement to protect domestic animals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in administering the above statutes by defining the seasons, bag limits, and methods used to trap and hunt furbearers in Kentucky.

(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 eliminates an existing ten (10) foot spacing requirement between traps set on dry land, amends the definition for "water sets," eliminates hunter orange clothing requirements for trappers, requires CITES tags to be attached to furbearers upon receipt from the department and requires that river otters and bobcats must be telechecked before leaving Kentucky. It also contains modifications to conform to administrative regulation style requirements.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to manage hunter and trapper opportunity without negatively impacting the furbearer resource.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All those who hunt or trap furbearers may be affected by this regulatory amendment. The Department sold 3,390 trapping licenses during the 2013-14 license year. Those individuals who hunt furbearers would also be affected, but that number is unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A person trapping on private land may now set traps on dry land without a minimum spacing requirement between traps. Trappers setting traps as "water sets" will need to comply with the definition of a "water set". A person trapping furbearers will no longer be required to wear hunter orange when trapping during a modern firearm season for bear, deer, or elk. Trappers and hunters must comply with new checking requirements for river otters and bobcats.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no direct cost to hunters and trappers as a result of this amendment to the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): New trap restrictions will increase trapping efficiency and success. Elimination of the hunter orange clothing requirement for fur trappers will make trap lines less visible to the public and therefore lessen potential for theft of traps. New checking requirements for river otters and bobcats will assist in keeping fur trappers in compliance with federal restrictions that govern the sale of fur. Trappers will also benefit from the new definition of "water set", which is more inclusive of common water trapping methods.

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

(a) Initially: There will be no administrative cost to the department to implement this administrative regulation.

(b) On a continuing basis: There will be no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish 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: It will not be necessary to increase any other fees or to increase funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees were established directly or indirectly.

(9) TIERING: Is tiering applied? No. Tiering was not applied because all furbearer hunters and trappers in Kentucky must abide by the same seasons, methods of take, bag limits, harvest recording procedures, and checking requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Wildlife Division and Law Enforcement Division will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150.175, 150.360, 150.400, and 150.410.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue is expected to be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No additional revenue is expected to be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? Administrative costs for the first year are expected to remain

the same.

(d) How much will it cost to administer this program for subsequent years? Administrative costs for subsequent years are expected to remain the same.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amended After Comments)

907 KAR 15:040. Coverage provisions and requirements regarding targeted case management for individuals with a substance use disorder.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396n(g).

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for Medicaid recipients with a substance use disorder.

Section 1. General Coverage Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(1) Medically necessary; and

(2) Provided:

(a) To a recipient; and

(b) By a provider that meets the provider participation requirements established in Section 3 of this administrative regulation.

Section 2. Eligibility Criteria. To be eligible to receive targeted case management services under this administrative regulation, a recipient shall:

(1) Have a primary moderate or severe substance use disorder diagnosis or co-occurring moderate or severe substance use disorder and mental health diagnosis[diagnoses];

(2) Have:

(a) A lack of access to the supports necessary to assist the recipient in the recipient's recovery[supports];

(b) A need for assistance with access to housing, vocational, medical, social, educational, or other community services and supports; or

(c) Involvement with one (1) or more child welfare or criminal justice agencies but not be an inmate of a public institution; and

(3) Not be:

(a) Between the age of twenty-one (21) years and sixty-four (64) years while receiving services in an institution for mental diseases; or

(b) An inmate of a public institution.

(4) A moderate or severe substance use disorder shall be a moderate or severe substance use disorder as defined in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™.

(5) A mental health diagnosis shall be a diagnosis of any mental health condition included in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™.

Section 3. Provider Requirements. (1)(a) To be eligible to provide services under this administrative regulation, an individual, entity, or organization shall:

1. [(a)] Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2. [(b)] Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3. [(c)] Be:

a. [4.] A community mental health center authorized to provide services pursuant to 907 KAR 1:044;

b. [2.] An individual or provider group authorized to provide behavioral health services pursuant to 907 KAR 15:010; or

c. [3.] A behavioral health services organization authorized to provide behavioral health services pursuant to 907 KAR 15:020; and

4. [(d)] Have:

a. [4.] For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

b. Documented[2. Demonstrated] experience in serving the population of individuals with behavioral health disorders relevant to the particular services provided;

c. [3.] The administrative capacity to ensure quality of services;

d. [4.] A financial management system that provides documentation of services and costs;

e. [5.] The capacity to document and maintain individual case records;

f. Documented[6. Demonstrated] programmatic and administrative experience in providing comprehensive case management services; and

g. Documented[7. Demonstrated] referral systems and linkages and referral ability with essential social and health services agencies.

(b) The documentation referenced in paragraph (a)4.b., f., and g. of this subsection shall be subject to audit by:

1. The department;

2. The Department for Behavioral Health, Developmental and Intellectual Disabilities;

3. The Cabinet for Health and Family Services, Office of Inspector General;

4. A managed care organization, if a targeted case manager provider is enrolled in its network;

5. The Centers for Medicare and Medicaid Services;

6. The Kentucky Office of the Auditor of Public Accounts;

or

7. The United States Department of Health and Human Services, Office of the Inspector General.

(2) In accordance with 907 KAR 17:015, Section 3(3), a targeted case management services provider which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A targeted case management services provider shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the act.

Section 4. Case Manager Requirements. (1) A case manager shall:

(a) 1. Have at least a bachelor of arts or science[sciences] degree in a behavioral science including:

a. [1.] Psychology;

b. [2.] Sociology;

c. [3.] Social work;

d. [4.] Family studies;

e. [5.] Human services;

f. [6.] Counseling;

g. [7.] Nursing;

h. Behavioral analysis;

i. Public health;

j. Special education;

k. Gerontology;

l. Recreational therapy;

m. Education;

n. Occupational therapy;

o. Physical therapy;

p. Speech-language pathology;

q. Rehabilitation counseling; or

r. Faith-based education; or

2. Be a certified alcohol and drug counselor who has a bachelor of arts or science degree[8. Another human-service degree program approved by the department];

(b) Have successfully completed case management training pursuant to 908 KAR 2:260[approved by the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) within six (6) months of employment]; and

(c) Successfully complete continuing education requirements pursuant to 908 KAR 2:260[completed recertification requirements approved by DBHDID every three (3) years].

(2)(a) Supervision by a behavioral health professional who has completed case management training approved by DBHDID shall occur at least twice per month.

(b) At least one (1) of these supervisory contacts shall be on an individual basis and face-to-face.

(3)(a) Except as established in paragraph (b) of this subsection, a case manager shall have at least one (1) year of full-time employment working directly with individuals in a human service setting after completing the educational requirements established in subsection (1)(a) of this section.

(b) A master's degree in one (1) of the following behavioral science disciplines may substitute for the one (1) year of experience:

1. Psychology;

2. Sociology;

3. Social work;

4. Family studies;

5. Human services;

6. Counseling;

7. Nursing;[or]

8. Behavioral analysis;

9. Public health;

10. Special education;

11. Gerontology;

12. Recreational therapy;

13. Education;

14. Occupational therapy;

15. Physical therapy;

16. Speech-language pathology;

17. Rehabilitation counseling; or

18. Faith-based education[Another human-service degree program approved by the department].

(4) A behavioral health professional shall be:

(a) An advanced practice registered nurse;

(b) A licensed clinical social worker;

(c) A licensed marriage and family therapist;

(d) A licensed professional clinical counselor;

(e) A licensed psychological practitioner;

(f) A licensed psychologist;

(g) A licensed professional art therapist;

(h) A physician;

(i) A psychiatrist;

(j) A behavioral health practitioner under supervision;

(k) A registered nurse working under the supervision of a physician or advanced practice registered nurse; or

(l) An individual with a bachelor's degree stated in subsection (1)(a)1. of this section[in a behavioral science program or other human-service degree program approved by the department] who:

1. Is working under the supervision of a billing supervisor; and

2. Has at least five (5) years of documented full-time experience providing specialized case management services.

Section 5. Freedom of Choice of Provider. (1) A recipient shall

have the freedom to choose from which:

(a) Case manager to receive services within the recipient's geographic area identified in the recipient's care plan; and

(b) Provider of non-targeted case management Medicaid covered services to receive services.

(2) A case manager shall not have the authority to authorize or deny the provision of non-targeted case management Medicaid covered services to a recipient.

(3) A recipient shall not be required to receive targeted case management services as a condition of receiving non-targeted case management Medicaid-covered services.

Section 6. Covered Services. (1) Targeted case management services covered under this administrative regulation shall:

(a) Be services furnished to assist a recipient in gaining access to needed medical, social, educational, or other services; and

(b) Include:

1. A comprehensive assessment and periodic reassessments of the recipient's needs to determine the need for any medical, educational, social, or other services;

2. The development and periodic revision of a specific care plan for the recipient;

3. A referral or related activities to help the recipient obtain needed services;

4. Monitoring or follow-up activities; or

5. Contacts with non-recipients who are directly related to help with identifying the recipient's needs and care for the purpose of:

a. Helping the recipient access services;

b. Identifying supports necessary to enable the recipient to obtain services;

c. Providing a case manager with useful input regarding the recipient's past or current functioning, symptoms, adherence to treatment, or other information relevant to the recipient's behavioral health condition; or

d. Alerting a case manager to a change in the recipient's needs.

(2)(a) An assessment or reassessment shall include:

1. Taking the recipient's history;

2. Identifying the recipient's strengths and needs and completing related documentation; and

3. Gathering information from other sources including family members, medical providers, social workers, or educators, to form a complete assessment of the recipient.

(b) A face-to-face assessment or reassessment shall be completed:

1. At least annually; or

2. More often if needed based on changes in the recipient's condition.

(3) The development and periodic revision of the recipient's care plan shall:

(a) Specify the goals and actions to address the medical, social, educational, or other services needed by the recipient;

(b) Include ensuring the active participation of the recipient and working with the recipient, the recipient's authorized health care decision maker, or others to develop the goals; **and/or**

(c) Identify a course of action to respond to the assessed needs of the recipient.

(4) A referral or related activities shall include activities that help link the recipient with medical providers, social providers, educational providers, or other programs and services that are capable of providing needed services to:

(a) Address the identified needs; and

(b) Achieve goals specified in the care plan.

(5)(a) Monitoring and follow-up activities shall:

1. Be activities and contacts that:

a. Are necessary to ensure that the recipient's care plan is implemented;

b. Adequately address the recipient's strengths and needs; and

c. May be with the recipient, the recipient's family members, the recipient's service providers, or other entities or individuals;

2. Be conducted as frequently as necessary; and

3. Include making necessary adjustments in the recipient's care plan and service arrangements with providers.

(b) Monitoring shall:

1. Occur at least once every three (3) months;

2. Be face-to-face; and

3. Determine if:

a. The services are being furnished in accordance with the recipient's care plan;

b. The services in the recipient's care plan are adequate to meet the recipient's needs; and

c. Changes in the needs or status of the recipient are reflected in the care plan.

Section 7. No Duplication of Service. (1) The department shall not pay for targeted case management services which duplicate services provided by another public agency or a private entity.

(2)(a) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the **same** service is covered during the same time period.

(b) For example, if a recipient is receiving targeted case management service from an independent behavioral health provider, the department shall not reimburse for targeted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 8. Exclusions and Limits. (1) Targeted case management services shall not include services defined in 42 C.F.R. 440.169 if the activities:

(a) Are an integral and inseparable component of another covered Medicaid service; or

(b) Constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible recipient has been referred, including:

1. Foster care programs;

2. Research gathering and completing documentation required by the foster care program;

3. Assessing adoption placements;

4. Recruiting or interviewing potential foster care parents;

5. Serving legal papers;

6. Home investigations;

7. Providing transportation;

8. Administering foster care subsidies; or

9. Making placement arrangements.

(2) A recipient who is receiving case management services under a 1915(c) home and community based waiver program shall not be eligible to receive targeted case management services under this administrative regulation.

(3) An individual who provides targeted case management to a recipient shall not provide any Medicaid covered service other than targeted case management.

(4) The maximum number of recipients to whom a targeted case manager shall provide targeted case management services at any given time shall be as established in 908 KAR 2:260.

Section 9. Records Maintenance, Documentation, Protection, and Security. (1) A targeted case management services provider shall maintain a current case record for each recipient.

(2)(a) A case record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(b) The individual who provided the service shall date and sign the case record **within forty-eight (48) hours from[on]** the date that the individual provided the service.

(3) A case record shall:

(a) Include:

1. The recipient's name;

2. The time and date corresponding to each occasion in which a targeted case management service was provided to the recipient;

3. The name of the targeted case management services:

a. Provider agency, if an agency; and

b. Practitioner who provided the targeted case management services;

4. The nature, content, and **contacts that occurred**

regarding[units—of] the targeted case management services provided;

5. Whether or not goals in the recipient's care plan have been achieved;

6. Whether or not the recipient has declined to receive any services in the recipient's care plan;

7. A timeline for obtaining needed services; and

8. A timeline for reevaluating the recipient's care plan; and

(b) Be:

1. Maintained in an organized and secure central file;

2. Furnished upon request:

a. To the Cabinet for Health and Family Services; or

b. For an enrollee, to the managed care organization in which the recipient is enrolled or has been enrolled in the past;

3. Made available for inspection and copying by:

a. Cabinet for Health and Family Services' personnel; or

b. Personnel of the managed care organization in which the recipient is enrolled if applicable;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(4)(a) A discharge summary shall:

1. Be required, at the time a decision is made that services are terminated[upon termination of services], for each recipient who received at least three (3) service visits; and

2. Contain a summary of the significant findings and events during the course of treatment including the:

a. Final assessment regarding the progress of the recipient toward reaching goals and objectives established in the recipient's care plan; and

b. Recipient's condition upon termination and disposition.

(b) A case record relating to a recipient who was terminated from receiving services shall be fully completed within ten (10) business days following termination.

(5) If a recipient's case is reopened within ninety (90) calendar days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(6) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring targeted case management services provider shall, within ten (10) business days of awareness of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

(a) 1. The Health Insurance Portability and Accountability Act;

2. 42 U.S.C. 1320d-2 to 1320d-8; and

3. 45 C.F.R. Parts 160 and 164; or

(b) 1. 42 U.S.C. 290ee-3; and

2. 42 C.F.R. Part 2.

(7)(a) If a targeted case management services provider's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the case records of the targeted case management services provider shall:

1. Remain the property of the targeted case management services provider; and

2. Be subject to the retention requirements established in subsection (8) of this section.

(b) A targeted case management services provider shall have a written plan addressing how to maintain case records in the event of an owner's death or owners' deaths.

(8)(a) Except as established in paragraph (b) or (c) of this subsection, a targeted case management services provider shall maintain a case record regarding a recipient for at least six (6) years from the last date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or

2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17 the period established by the secretary shall be the required period.

(9)(a) A targeted case management services provider shall comply with 45 C.F.R. Part 164.

(b) All information contained in a case record shall:

1. Be treated as confidential;

2. Not be disclosed to an unauthorized individual; and

3. Be disclosed to an authorized representative of the:

a. Department; or

b. Federal government; or

c. For an enrollee, managed care organization in which the enrollee is enrolled.

(c) 1. Upon request, a targeted case management services provider shall provide to an authorized representative of the department, or federal government, or managed care organization if applicable, information requested to substantiate:

a. Staff notes detailing a service that was rendered;

b. The professional who rendered a service; and

c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department.

2. Failure to provide information referenced in subparagraph 1 of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 10. Medicaid Program Participation Compliance. (1) A targeted case management services provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)(a) If a targeted case management services provider receives any duplicate payment or overpayment from the department, regardless of reason, the targeted case management services provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(3)(a) When the department makes payment for a covered service and the targeted case management services provider accepts the payment:

1. The payment shall be considered payment in full;

2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the provider.

(b) 1. A targeted case management services provider may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

a. Recipient requests the service; and

b. Targeted case management services provider makes the recipient aware in advance of providing the service that the:

(i) Recipient is liable for the payment; and

(ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1 of this paragraph, the:

a. Targeted case management services provider shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the targeted case management services provider regarding the service.

(4)(a) A targeted case management services provider attests by the targeted case management services provider signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee;[or]

5. United States General Accounting Office or its designee; or

6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c) If a targeted case management services provider receives a request from the;

1. Department to provide a claim, related information, related documentation, or record for auditing purposes, the targeted case management services provider shall provide the requested information to the department within the timeframe requested by the department; or

2. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the targeted case management services provider shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

(d) 1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a targeted case management services provider shall result in the suspension or termination of the targeted case management services provider from Medicaid Program participation.

Section 11. Third Party Liability. (1) A targeted case management services provider shall comply with KRS 205.622.

(2) If a third party is liable to pay for targeted case management services, the department shall not pay for the services.

Section 12. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A targeted case management services provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the targeted case management services provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the targeted case management services provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 13. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(1) Claim;

(2) Medical record; or

(3) Documentation associated with any claim or medical record.

Section 14. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 15. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 13, 2015 at 3 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for Medicaid recipients with a substance use disorder. This administrative regulation is being promulgated in conjunction with 907 KAR 15:045E (Reimbursement for targeted case management service services for individuals with a substance use disorder). Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the recipient's need for services by taking the recipient's history, identifying the recipient's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the recipient; referring the recipient or related activities to help the recipient obtain needed services; and monitoring activities to ensure that the recipient's care plan is implemented effectively and adequately addresses the recipient's strengths and needs.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that recipients (who have a substance use disorder) receive necessary services and care. The targeted case manager provider is the individual or entity responsible for coordinating the recipient's services/care, facilitating access to services/care, and monitoring individual's progress or difficulties while receiving services/care. Targeted case management helps ensure that the recipient receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by helping ensure that recipients with a substance use disorder receive necessary services and care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by helping ensure that recipients with a substance use disorder receive necessary services and care.

(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 after comments clarifies what constitutes a "moderate or severe substance use disorder"; clarifies what constitutes a "mental health diagnosis"; replaces the option for providers to submit a request to the department to

authorize a given human service degree as satisfying the educational requirement for a targeted case manager with an expanded list of such degrees; clarifies that documentation of qualifications are subject to audit by various parties; replaces targeted case management training requirements with a reference to the Department for Behavioral Health, Developmental and Intellectual Disability (DBHDID) administrative regulation which establishes such requirements; revises section 6(3) by replacing the conjunction "or" with "and" to establish all of the components comprising the development and revision of a recipient's plan of care; relaxes the requirement for a note regarding a service that has been delivered from being signed and dated by the practitioner on the date of service to within forty-eight (48) hours from the date of service; establishes that the maximum number of recipients to whom a targeted case manager shall provide services at any given time shall be as established in 908 KAR 2:260 (a DBHDID administrative regulation which establishes targeted case manager requirements); contains miscellaneous other clarifications; and contains language or formatting revisions to comply with KRS 13A language and formatting standards.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to clarify provisions.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments will conform to the content of the authorizing statutes by clarifying provisions.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by clarifying provisions.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but cannot forecast a precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify and wish to provide targeted case management services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services

will benefit by having more employment opportunities in Kentucky. Medicaid recipients (with a substance use disorder) in need of targeted case management will benefit from having the option to receive these services.

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

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately \$1.05 million state funds/\$3.87 million federal funds initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for recipients eligible under "Medicaid expansion" recedes from its current 100 percent to ninety (90) percent.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Targeted case management services are not federally mandated however, substance use disorder services are federally mandated for Medicaid programs. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the targeted case management

service provider base to include targeted case management for substance use disorders will help ensure Medicaid recipient access to these services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately \$1.05 million state funds/\$3.87 million federal funds initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for recipients eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Policy and Operations (Amended After Comments)

907 KAR 15:045. Reimbursement provisions and requirements for targeted case management services for individuals with a substance use disorder.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program targeted case management services for individuals with a substance use disorder who are not enrolled with a managed care organization.

Section 1. General Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(1) Medically necessary;

(2) Provided:

(a) To a recipient;

(b) By a provider that meets the provider participation requirements established in 907 KAR 15:040; and

(c) In accordance with the requirements established in 907 KAR 15:040; and

(3) Covered in accordance with 907 KAR 15:040.

Section 2. Reimbursement. (1) The department shall reimburse a monthly rate of \$334 in total for all targeted case management services provided to a recipient during the month.

(2) **Except as established in subsection (3) or (4) of this section**, to qualify for the reimbursement referenced in subsection (1) of this section, a targeted case management services provider shall provide services to a recipient consisting of at least four (4) targeted case management service contacts including:

(a) At least two (2) face-to-face contacts with the recipient; and

(b) At least two (2) additional contacts which shall be:

1.a. By telephone; or

b. Face-to-face; and

2. With the recipient or with another individual or agency on behalf of the recipient.

(3) For a recipient who is under the age of eighteen (18) years, the contacts that a targeted case management services provider shall have shall include at least:

(a)1. One (1) face-to-face contact with the recipient; and

2. One (1) face-to-face contact with the recipient's parent or legal guardian; and

(b) Two (2) additional contacts which shall be:

1.a. By telephone; or

b. Face-to-face; and

2. With the recipient or with another individual or agency on behalf of the recipient.

(4) For a recipient who is at least eighteen (18) years of age but under the age of twenty-one (21) years, the contacts that a targeted case management services provider shall have shall include:

(a)1. At least two (2) face-to-face contacts with the recipient; and

2. At least two (2) additional contacts which shall be:

a.(i) By telephone; or

(ii). Face-to-face; and

b. With the recipient or with another individual or agency on behalf of the recipient; or

(b)1.a. At least one (1) face-to-face contact with the

recipient; and

b. One (1) face-to-face contact with the recipient's parent or legal guardian; and

2. At least two (2) additional contacts which shall be:

a.(i) By telephone; or

(ii). Face-to-face; and

b. With the recipient or with another individual or agency on behalf of the recipient.

Section 3. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the same service is covered during the same time period.

(2) For example, if a recipient is receiving targeted case management services from an independent behavioral health provider, the department shall not reimburse for the targeted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 4. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

(1) 907 KAR 15:040; and

(2) This administrative regulation.

Section 5. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 12, 2015 at 4 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for individuals with a substance use disorder. This administrative regulation is being promulgated in conjunction with 907 KAR 15:040E (Coverage provisions and requirements regarding targeted case management for individuals with a substance use disorder). Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the individual's need for services by taking the individual's history, identifying the individual's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the individual; referring the individual or related activities to help the individual obtain needed services; and monitoring activities to ensure that the individual's care plan is implemented effectively and adequately addresses the individual's needs. The Department for Medicaid Services (DMS) will pay an all-inclusive monthly rate of \$334 for all targeted case management services (covered under this administrative regulation) provided to a recipient during a given month. A Medicaid recipient who receives targeted case management services may also receive other Medicaid-covered services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that

individuals (who have a substance use disorder) receive necessary services and care. The targeted case manager provider is the individual or entity responding for coordinating the individual's services/care, facilitating access to services/care, and monitoring individual's progress or difficulties while receiving services/care. Targeted case management helps ensure that the individual receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by helping ensure that individuals with a substance use disorder receive necessary services and care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by helping ensure that individuals with a substance use disorder receive necessary services and care.

(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 after comments alters the face-to-face contact requirements to require at least one (1) monthly face-to-face contact to be with a parent or legal guardian of a recipient if the recipient is under the age of eighteen (18) years and to establish the option of at least one (1) contact being with a parent or legal guardian of a recipient if the recipient is at least eighteen (18) years of age but under twenty-one (21) years of age. The amendment also clarifies the non-duplication of service provision.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to help ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments conforms to the content of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but cannot forecast a precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify and wish to provide targeted case management services to Medicaid recipients will

need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services will benefit by having more employment opportunities in Kentucky. Medicaid recipients (with a substance use disorder) in need of targeted case management will benefit from having the option to receive these services. Providers of targeted case management services will benefit by being able to be reimbursed for the services.

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

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately \$1.05 million state funds/\$3.87 million federal funds initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(30)(A).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Substance use disorder services are federally mandated for Medicaid programs. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider

mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. Similarly, 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "...provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately (\$1.05 million state funds/\$3.87 million federal funds) initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(Amended After Comments)

907 KAR 15:050. Coverage provisions and requirements regarding targeted case management for individuals with a co-occurring mental health or substance use disorder~~disorders~~ and chronic or complex physical health issues.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396n(g).

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for Medicaid recipients with co-occurring mental health or substance use disorders and chronic or complex physical health issues.

Section 1. General Coverage Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(1) Medically necessary; and

(2) Provided:

(a) To a recipient; and

(b) By a provider that meets the provider participation requirements established in Section 3 of this administrative regulation.

Section 2. Eligibility Criteria. (1) To be eligible for targeted case management services under this administrative regulation, a recipient shall:

(a) 1. Have a:

a. Primary moderate or severe substance use disorder diagnosis; or

b. [(b) Have a] Severe mental illness;

2. [:

(c) Be a child with a severe emotional disability as defined in KRS 200.503(2);

(d)] Have a chronic or complex physical health issue;

3. [(e)] Not be:

a. [4.] Over the age of twenty-one (21) years and under the age of sixty-four (64) years while receiving services in an institution for mental diseases; or

b. [2.] An inmate of a public institution; and

4.a. [(f) 1.] Need assistance with access to:

(i) [a.] Housing; or

(ii) [b.] Vocational, medical, social, educational, or other community services or supports;

b. [2.] Have been involved with at least one (1) child welfare agency or criminal justice agency; or

c. [3.] Be:

(i) [a.] In the custody of the Department for Community Based Services;

(ii) [b.] At risk of an out-of-home placement; or

(iii) [c.] At risk of inpatient mental health treatment; or

(b) 1. Be a child with a severe emotional disability as defined in KRS 200.503(3);

2. Have a chronic or complex physical health issue; and

3.a. Need assistance with access to:

(i) Housing; or

(ii) Vocational, medical, social, educational, or other community services or supports;

b. Have been involved with at least one (1) child welfare agency or criminal justice agency; or

c. Be:

(i) In the custody of the Department for Community Based Services;

(ii) At risk of an out-of-home placement; or

(iii) At risk of inpatient mental health treatment.

(2)(a) A severe mental illness shall be a diagnosis of a major mental disorder as included in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™ under:

1. Schizophrenia spectrum and other psychiatric disorders;

2. Bipolar and related disorders;

3. Depressive disorders; or

4. Post-traumatic stress disorders (under trauma and stressor related disorders); and

5. Personality disorders].

(b) A recipient's information and history, for the purpose of determining if the recipient has a severe mental illness, shall indicate that the recipient exhibits persistent disability and significant impairment in major areas of community living.

(c) In addition to the requirements established in paragraph (a) and (b) of this subsection, to qualify as having a severe mental illness, a recipient shall:

1. Have clinically significant symptoms which have persisted for a continuous period of at least two (2) years; or

2.a. Have been hospitalized for mental illness more than once within the past two (2) years; and

b. Be significantly impaired in the ability to function socially or occupationally or both.

(3) A moderate or severe substance use disorder shall be a moderate or severe substance use disorder as defined in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™.

(4)(a) A chronic or complex physical health issue shall include:

1. A cardiovascular disorder;

2. A respiratory disorder;

3. A genito urinary disorder;

4. An endocrine disorder;

5. A musculoskeletal disorder;

6. A neurological disorder;

7. An immune system disorder;

8. Obesity;

9. Cancer;

10. Deafness; or

11. Blindness.

(b) In addition to meeting the requirement established in paragraph (a) of this subsection, to qualify as having a chronic or complex physical health issue, a recipient shall:

1. Have clinically significant symptoms which have persisted for a continuous period of at least two (2) years; or

2.a. Have been hospitalized as a result of the individual's physical health issue more than once within the past two (2) years; and

b. Be currently impaired in the ability to function socially or occupationally or both.

(c) Documentation of a recipient's chronic or complex physical health diagnosis that is signed and dated by a qualified medical professional shall be present in the recipient's medical record.

Section 3. Provider Requirements. (1)(a) To be eligible to provide services under this administrative regulation, an individual, entity, or organization shall:

1.[(a)] Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2.[(b)] Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3.[(c)] Be:

a.[1-] A community mental health center authorized to provide services pursuant to 907 KAR 1:044;

b.[2-] An individual or provider group authorized to provide behavioral health services pursuant to 907 KAR 15:010; or

c.[3-] A behavioral health services organization authorized to provide behavioral health services pursuant to 907 KAR 15:020; and

4.[(d)] Have:

a.[4-] For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

b. Documented[2- Demonstrated] experience in serving the population of individuals with behavioral health disorders relevant to the particular services provided;

c.[3-] The administrative capacity to ensure quality of services;

d.[4-] A financial management system that provides documentation of services and costs;

e.[5-] The capacity to document and maintain individual case records;

f. Documented[6- Demonstrated] programmatic and administrative experience in providing comprehensive case management services; and

g. Documented[7- Demonstrated] referral systems and linkages and referral ability with essential social and health services agencies.

(b) The documentation referenced in paragraph (a)4.b., f., and g. of this subsection shall be subject to audit by:

1. The department;

2. The Department for Behavioral Health, Developmental and Intellectual Disabilities;

3. The Cabinet for Health and Family Services, Office of Inspector General;

4. A managed care organization, if a targeted case manager provider is enrolled in its network;

5. The Centers for Medicare and Medicaid Services;

6. The Kentucky Office of the Auditor of Public Accounts;

or

7. The United States Department of Health and Human Services, Office of the Inspector General.

(2) In accordance with 907 KAR 17:015, Section 3(3), a targeted case management services provider which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A targeted case management services provider shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the act.

Section 4. Case Manager Requirements. (1) A case manager shall:

(a)**1.** Have at least a bachelor of arts or **science[sciences]** degree in a behavioral science including:

a.[1-] Psychology;

b.[2-] Sociology;

c.[3-] Social work;

d.[4-] Family studies;

e.[5-] Human services;

f.[6-] Counseling;

g.[7-] Nursing;

h. Behavioral analysis;

i. Public health;

j. Special education;

k. Gerontology;

l. Recreational therapy;

m. Education;

n. Occupational therapy;

o. Physical therapy;

p. Speech-language pathology;

q. Rehabilitation counseling; or

r. Faith-based education; or

2. Be a certified alcohol and drug counselor who has a bachelor of arts or science degree[8. Another human-service degree program approved by the department];

(b) Have successfully completed case management training pursuant to 908 KAR 2:260[approved by the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) within six (6) months of employment]; and

(c) Successfully **complete continuing education requirements pursuant to 908 KAR 2:260[completed recertification requirements approved by DBHDID every three (3) years].**

(2)(a) Supervision by a behavioral health professional who has completed case management training approved by DBHDID shall occur at least twice per month.

(b) At least one (1) of these supervisory contacts shall be on an individual basis and face-to-face.

(3)(a) Except as established in paragraph (b) of this subsection, a case manager shall have at least one (1) year of full-time employment working directly with individuals in a human service setting after completing the educational requirements **established in subsection (1)(a) of this section.**

(b) A master's degree in one (1) or more of the following behavioral science disciplines may substitute for the one (1) year of experience:

1. Psychology;

2. Sociology;

3. Social work;

4. Family studies;

5. Human services;

6. Counseling;

7. Nursing;[or]

8. Behavioral analysis;

9. Public health;

10. Special education;

11. Gerontology;

12. Recreational therapy;

13. Education;

14. Occupational therapy;

15. Physical therapy;

16. Speech-language pathology;

17. Rehabilitation counseling; or

18. Faith-based education[Another human-service degree program approved by the department].

(4) A behavioral health professional shall be:

(a) An advanced practice registered nurse;

(b) A licensed clinical social worker;

(c) A licensed marriage and family therapist;

(d) A licensed professional clinical counselor;

(e) A licensed psychological practitioner;

(f) A licensed psychologist;

(g) A licensed professional art therapist;

(h) A physician;

(i) A psychiatrist;

(j) A behavioral health practitioner under supervision except that a certified alcohol and drug counselor shall not be considered a behavioral health professional for the purpose of providing targeted case management to an individual **unless the individual has a substance use disorder[with a complex or chronic**

physical health issue];

(k) A registered nurse working under the supervision of a physician or advanced practice registered nurse; or

(l) An individual with a bachelor's degree **stated in subsection (1)(a)1. of this section** ~~in a behavioral science program or other human service degree program approved by the department~~ who:

1. Is working under the supervision of a billing supervisor; and
2. Has at least five (5) years of documented full-time experience providing specialized case management services for the target population.

Section 5. Freedom of Choice of Provider. (1) A recipient shall have the freedom to choose from which:

(a) Case manager to receive services within the recipient's geographic area identified in the recipient's care plan; and

(b) Provider of non-targeted case management Medicaid covered services to receive services.

(2) A case manager shall not have the authority to authorize or deny the provision of non-targeted case management Medicaid covered services to a recipient.

(3) A recipient shall not be required to receive targeted case management services as a condition of receiving non-targeted case management Medicaid-covered services.

Section 6. Covered Services. (1) Targeted case management services covered under this administrative regulation shall:

(a) Be services furnished to assist a recipient in gaining access to needed medical, social, educational, or other services; and

(b) Include:

1. A comprehensive assessment and periodic reassessments of the recipient's needs to determine the need for any medical, educational, social, or other services;

2. The development and periodic revision of a specific care plan for the recipient;

3. A referral or related activities to help the recipient obtain needed services;

4. Monitoring or follow-up activities; or

5. Contacts with non-recipients who are directly related to help with identifying the recipient's needs and care for the purpose of:

- a. Helping the recipient access services;
- b. Identifying supports necessary to enable the recipient to obtain services;

c. Providing a case manager with useful input regarding the recipient's past or current functioning, symptoms, adherence to treatment, or other information relevant to the recipient's behavioral health condition; or

d. Alerting a case manager to a change in the recipient's needs.

(2)(a) An assessment or reassessment shall include:

1. Taking the recipient's history;

2. Identifying the recipient's strengths and needs and completing related documentation; and

3. Gathering information from other sources including family members, medical providers, social workers, or educators, to form a complete assessment of the recipient.

(b) A face-to-face assessment or reassessment shall be completed:

1. At least annually; or

2. More often if needed based on changes in the recipient's condition.

(3) The development and periodic revision of the recipient's care plan shall:

(a) Specify the goals and actions to address the medical, social, educational, or other services needed by the recipient;

(b) Include ensuring the active participation of the recipient and working with the recipient, the recipient's authorized health care decision maker, or others to develop the goals; **and/or**

(c) Identify a course of action to respond to the assessed needs of the recipient.

(4) A referral or related activities shall include activities that help link the recipient with medical providers, social providers, educational providers, or other programs and services that are

capable of providing needed services to:

(a) Address the identified needs; and

(b) Achieve goals specified in the care plan.

(5)(a) Monitoring and follow-up activities shall:

1. Be activities and contacts that:

a. Are necessary to ensure that the recipient's care plan is implemented;

b. Adequately address the recipient's strengths and needs; and

c. May be with the recipient, the recipient's family members, the recipient's service providers, or other entities or individuals;

2. Be conducted as frequently as necessary; and

3. Include making necessary adjustments in the recipient's care plan and service arrangements with providers.

(b) Monitoring shall:

1. Occur at least once every three (3) months;

2. Be face-to-face; and

3. Determine if:

a. The services are being furnished in accordance with the recipient's care plan;

b. The services in the recipient's care plan are adequate to meet the recipient's needs; and

c. Changes in the needs or status of the recipient are reflected in the care plan.

Section 7. No Duplication of Service. (1) The department shall not pay for targeted case management services which duplicate services provided by another public agency or a private entity.

(2)(a) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the **same** service is covered during the same time period.

(b) For example, if a recipient is receiving targeted case management service from an independent behavioral health provider, the department shall not reimburse for targeted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 8. Exclusions and Limits. (1) Targeted case management services shall not include services defined in 42 C.F.R. 440.169 if the activities:

(a) Are an integral and inseparable component of another covered Medicaid service; or

(b) Constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible recipient has been referred, including:

1. Foster care programs;

2. Research gathering and completing documentation required by the foster care program;

3. Assessing adoption placements;

4. Recruiting or interviewing potential foster care parents;

5. Serving legal papers;

6. Home investigations;

7. Providing transportation;

8. Administering foster care subsidies; or

9. Making placement arrangements.

(2) A recipient who is receiving case management services under a 1915(c) home and community based waiver program shall not be eligible to receive targeted case management services under this administrative regulation.

(3) An individual who provides targeted case management to a recipient shall not provide any Medicaid covered service other than targeted case management to any recipient.

(4) The maximum number of recipients to whom a targeted case manager shall provide targeted case management services at any given time shall be as established in 908 KAR 2:260.

Section 9. Records Maintenance, Documentation, Protection, and Security. (1) A targeted case management services provider shall maintain a current case record for each recipient.

(2)(a) A case record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(b) The individual who provided the service shall date and sign the case record **within forty-eight (48) hours from[on]** the date that the individual provided the service.

(3) A case record shall:

(a) Include:

1. The recipient's name;
2. The time and date corresponding to each occasion in which a service was provided to the recipient;
3. The name of the targeted case management services:
 - a. Provider agency, if an agency; and
 - b. Practitioner who provided the targeted case management services;
4. The nature, content, and **contacts that occurred regarding[units of]** the targeted case management services provided;
5. Whether goals in the recipient's care plan have been achieved;
6. Whether the recipient has declined to receive any services in the recipient's care plan;
7. A timeline for obtaining needed services; and
8. A timeline for reevaluating the recipient's care plan; and

(b) Be:

1. Maintained in an organized and secure central file;
2. Furnished upon request:
 - a. To the Cabinet for Health and Family Services; or
 - b. For an enrollee, to the managed care organization in which the recipient is enrolled **or has been enrolled in the past if applicable**;
3. Made available for inspection and copying by:
 - a. Cabinet for Health and Family Services' personnel; or
 - b. Personnel of the managed care organization in which the recipient is enrolled if applicable;
4. Readily accessible; and
5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(4)(a) A discharge summary shall:

1. Be required, **at the time a decision is made that services are terminated[upon termination of services]**, for each recipient who received at least three (3) service visits; and
2. Contain a summary of the significant findings and events during the course of treatment including the:
 - a. Final assessment regarding the progress of the recipient toward reaching goals and objectives established in the recipient's care plan; and
 - b. Recipient's condition upon termination and disposition.

(b) A case record relating to a recipient who was terminated from receiving services shall be fully completed within ten (10) business days following termination.

(5) If a recipient's case is reopened within ninety (90) calendar days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(6) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring targeted case management services provider shall, within ten (10) business days of **awareness of** the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

- (a)1. The Health Insurance Portability and Accountability Act;
2. 42 U.S.C. 1320d-2 to 1320d-8; and
3. 45 C.F.R. Parts 160 and 164; or
- (b)1. 42 U.S.C. 290ee-3; and
2. 42 C.F.R. Part 2.

(7)(a) If a targeted case management services provider's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the case records of the targeted case management services provider shall:

1. Remain the property of the targeted case management services provider; and
2. Be subject to the retention requirements established in subsection (8) of this section.

(b) A targeted case management services provider shall have a written plan addressing how to maintain case records in the event of an owner's death or owners' deaths.

(8)(a) Except as established in paragraph (b) or (c) of this subsection, a targeted case management services provider shall maintain a case record regarding a recipient for at least six (6) years from the **last** date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or
2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17 the period established by the secretary shall be the required period.

(9)(a) A targeted case management services provider shall comply with 45 C.F.R. Part 164.

(b) All information contained in a case record shall:

1. Be treated as confidential;
2. Not be disclosed to an unauthorized individual; and
3. Be disclosed to an authorized representative of the:
 - a. Department;~~[or]~~
 - b. Federal government; **or**

c. For an enrollee, managed care organization in which the enrollee is enrolled.

(c)1. Upon request, a targeted case management services provider shall provide to an authorized representative of the department~~[or]~~ federal government, **or managed care organization if applicable**, information requested to substantiate:

- a. Staff notes detailing a service that was rendered;
- b. The professional who rendered a service; and
- c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department.

2. Failure to provide information referenced in subparagraph 1 of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 10. Medicaid Program Participation Compliance. (1) A targeted case management services provider shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(2)(a) If a targeted case management services provider receives any duplicate payment or overpayment from the department, regardless of reason, the targeted case management services provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(3)(a) When the department makes payment for a covered service and the targeted case management services provider accepts the payment:

1. The payment shall be considered payment in full;
2. A bill for the same service shall not be given to the recipient; and
3. Payment from the recipient for the same service shall not be accepted by the provider.

(b)1. A targeted case management services provider may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

- a. Recipient requests the service; and
- b. Targeted case management services provider makes the recipient aware in advance of providing the service that the:
 - (i) Recipient is liable for the payment; and
 - (ii) Department is not covering the service.
2. If a recipient makes payment for a service in accordance

with subparagraph 1 of this paragraph, the:

a. Targeted case management services provider shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the targeted case management services provider regarding the service.

(4)(a) A targeted case management services provider attests by the targeted case management services provider signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;

2. Cabinet for Health and Family Services, Office of Inspector General or its designee;

3. Kentucky Office of Attorney General or its designee;

4. Kentucky Office of the Auditor for Public Accounts or its designee;~~[or]~~

5. United States General Accounting Office or its designee; or

6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c) If a targeted case management services provider receives a request from the:

1. Department to provide a claim, related information, related documentation, or record for auditing purposes, the targeted case management services provider shall provide the requested information to the department within the timeframe requested by the department; or

2. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the targeted case management services provider shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

(d)1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a targeted case management services provider shall result in the suspension or termination of the targeted case management services provider from Medicaid Program participation.

Section 11. Third Party Liability. (1) A targeted case management services provider shall comply with KRS 205.622.

(2) If a third party is liable to pay for targeted case management services, the department shall not pay for the services.

Section 12. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A targeted case management services provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the targeted case management services provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the targeted case management services provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 13. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(1) Claim;

(2) Medical record; or

(3) Documentation associated with any claim or medical record.

Section 14. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 15. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 19, 2015

FILED WITH LRC: January 13, 2015 at 3 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for Medicaid recipients with co-occurring mental health or substance use disorders and chronic or complex physical health issues. This administrative regulation is being promulgated in conjunction with 907 KAR 15:055E (Reimbursement provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues.) Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the recipient's need for services by taking the recipient's history, identifying the recipient's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the recipient; referring the recipient or related activities to help the recipient obtain needed services; and monitoring activities to ensure that the recipient's care plan is implemented effectively and adequately addresses the recipient's needs.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that recipients (who have co-occurring mental health or substance use disorders and chronic or complex physical health issues) receive necessary services and care. The targeted case manager provider is the individual or entity responding for coordinating the individual's services/care, facilitating access to services/care, and monitoring individual's progress or difficulties while receiving services/care. Targeted case management helps ensure that the recipient receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by helping ensure that recipients with co-occurring mental health or substance use disorders and chronic or complex physical health issues receive necessary services and care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by helping ensure that recipients with co-occurring mental health or substance use disorders and chronic or complex physical health issues receive necessary services and care.

(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 after comments removes personality disorders from the disorders from the disorders that qualify as a severe mental illness; replaces the option for providers to submit a request to the department to authorize a given human service degree as satisfying the educational requirement for a targeted case manager with an expanded list of such degrees; clarifies that documentation of qualifications are subject to audit by various parties; replaces targeted case management training requirements with a reference to the Department for Behavioral Health, Developmental and Intellectual Disability (DBHDID) administrative regulation which establishes such requirements; revises section 6(3) by replacing the conjunction "or" with "and" to establish all of the components comprising the development and revision of a recipient's plan of care; relaxes the requirement for a note regarding a service that has been delivered from being signed and dated by the practitioner on the date of service to within forty-eight (48) hours from the date of service; establishes that the maximum number of recipients to whom a targeted case manager shall provide services at any given time shall be as established in 908 KAR 2:260 (a DBHDID administrative regulation which establishes targeted case manager requirements); contains miscellaneous other clarifications; and contains language or formatting revisions to comply with KRS 13A language and formatting standards.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to clarify provisions.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments will conform to the content of the authorizing statutes by clarifying provisions.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by clarifying provisions.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but cannot forecast a precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify and wish to provide services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation (complete and application and submit it to DMS) and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services will benefit by having more employment opportunities in Kentucky. Medicaid recipients in need of targeted case management will benefit from having the option to receive these services.

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

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately \$1.33 million state funds/\$5.47 million federal funds initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately \$2.28 million state funds/\$9.38 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for recipients eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(23).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Targeted case management services are not federally mandated; however, Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance

(including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the targeted case management service provider base to include targeted case management for recipients with co-occurring mental health or substance use disorders and chronic or complex physical health issues will help ensure Medicaid recipient access to these services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately \$1.33 million state funds/\$5.47 million federal funds initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately \$2.28 million state funds/\$9.38 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for recipients eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amended After Comments)

907 KAR 15:055. Reimbursement provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program targeted case management services for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues who are not enrolled with a managed care organization.

Section 1. General Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(1) Medically necessary;

(2) Provided:

(a) To a recipient;

(b) By a provider that meets the provider participation requirements established in 907 KAR 15:050; and

(c) In accordance with the requirements established in 907 KAR 15:050; and

(3) Covered in accordance with 907 KAR 15:050.

Section 2. Reimbursement. (1) The department shall reimburse a monthly rate of \$541 in total for all targeted case management services provided to a recipient during the month.

(2) **Except as established in subsection (3) of this section,** to qualify for the reimbursement referenced in subsection (1) of this section, a targeted case management services provider shall provide services to a recipient consisting of at least five (5) targeted case management service contacts including:

(a) At least three (3) face-to-face contacts with:

1. The recipient; or

2. If the recipient is **at least eighteen (18) years of age but under twenty-one (21) years of age,** with:

a. The recipient; or

b. A parent or legal guardian of the recipient; and

(b) At least two (2) additional contacts which shall be:

1.a. By telephone; or

b. Face-to-face; and

2. With the recipient or with another individual on behalf of the recipient.

(3) For a recipient who is under the age of eighteen (18) years, the contacts that a targeted case management services provider shall have shall include at least:

(a)1. One (1) face-to-face contact with the recipient's parent or legal guardian and two (2) face-to-face contacts with the recipient; and

2. Two (2) additional contacts which shall be:

a.(i) By telephone; or
(ii) Face-to-face; and
b. With the recipient or with another individual or agency
on behalf of the recipient; or
(b)1. Two (2) face-to-face contacts with the recipient's
parent or legal guardian and one (1) face-to-face contact with
the recipient; and
2. Two (2) additional contacts which shall be:
a.(i) By telephone; or
(ii) Face-to-face; and
b. With the recipient or with another individual or agency
on behalf of the recipient.

Section 3. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the same service is covered during the same time period.

(2) For example, if a recipient is receiving targeted case management services from an independent behavioral health provider, the department shall not reimburse for the targeted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 4. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

- (1) 907 KAR 15:050; and
- (2) This administrative regulation.

Section 5. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LAWRENCE KISSNER, Commissioner
 AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 12, 2015 at 4 p.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

- (1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program targeted case management services for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues. This administrative regulation is being promulgated in conjunction with 907 KAR 15:050E (Coverage provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues). Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the individual's need for services by taking the individual's history, identifying the individual's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the individual; referring the individual or related activities to help the individual obtain needed services; and monitoring activities to ensure that the individual's care plan is implemented effectively and adequately addresses the individual's needs. The Department for Medicaid Services (DMS) will pay an all-inclusive monthly rate of \$541 for all

targeted case management services (covered under this administrative regulation) provided to a recipient during a given month. A Medicaid recipient who receives targeted case management services may also receive other Medicaid-covered services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that individuals (who have co-occurring mental health or substance use disorders and chronic or complex physical health issues) receive necessary services and care. The targeted case manager provider is the individual or entity responding for coordinating the individual's services/care, facilitating access to services/care, and monitoring individual's progress or difficulties while receiving services/care. Targeted case management helps ensure that the individual receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by helping ensure that individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues receive necessary services and care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by helping ensure that individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues receive necessary services and care.

(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 after comments alters the face-to-face contact requirements to require at least one (1) monthly face-to-face contact to be with a parent or legal guardian of a recipient if the recipient is under the age of eighteen (18) years and to establish the option of at least one (1) contact being with a parent or legal guardian of a recipient if the recipient is at least eighteen (18) years of age but under twenty-one (21) years of age. The amendment also clarifies the non-duplication of service provision.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to help ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments conforms to the content of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but cannot forecast a

precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify and wish to provide targeted case management services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services will benefit by having more employment opportunities in Kentucky. Medicaid recipients (who have a substance use disorder or mental health disorder and chronic or complex physical health issues) in need of targeted case management will benefit from having the option to receive these services. Providers of targeted case management services will benefit by being able to be reimbursed for the services.

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

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately \$1.33 million state funds/\$5.47 million federal funds initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately \$2.28 million state funds/\$9.38 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(30)(A).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To

qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Targeted case management services are not federally mandated; however, Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. Similarly, 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "...provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately \$1.33 million state funds/\$5.47 million federal funds initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately \$2.28 million state funds/\$9.38 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amended After Comments)

907 KAR 15:060. Coverage provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396n(g).

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for individuals with a severe mental illness and children who have a severe emotional disability.

Section 1. General Coverage Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(1) Medically necessary; and

(2) Provided:

(a) To a recipient; and

(b) By a provider that meets the provider participation requirements established in Section 3 of this administrative regulation.

Section 2. Eligibility Criteria. (1) To be eligible for targeted case management services under this administrative regulation, a recipient shall:

(a) 1. Have a severe mental illness; or

2. Be a child with a severe emotional disability as defined in KRS 200.503(3);

(b) Not be:

1. Over the age of twenty-one (21) years and under the age of sixty-four (64) years while receiving services in an institution for mental diseases; or

2. An inmate of a public institution; and

(c) 1. Need assistance with access to:

a. Housing; or

b. Vocational, medical, social, educational, or other community services or supports;

2. Have been involved with at least one (1) child welfare agency or criminal justice agency; or

3. Be:

a. In the custody of the Department for Community Based Services;

b. At risk of an out-of-home placement; or

c. At risk of inpatient mental health treatment.

(2)(a) A severe mental illness shall be a diagnosis of a major mental disorder as included in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™ under:

1. Schizophrenia spectrum and other psychiatric disorders;

2. Bipolar and related disorders;

3. Depressive disorders; or

4. Post-traumatic stress disorders (under trauma and stressor related disorders); and

5. Personality disorders].

(b) A recipient's information and history, for the purpose of determining if the recipient has a severe mental illness, shall indicate that the recipient exhibits persistent disability and significant impairment in major areas of community living.

(c) In addition to the requirements established in paragraph (a) and (b) of this subsection, to qualify as having a severe mental illness, a recipient shall:

1. Have clinically significant symptoms which have persisted for a continuous period of at least two (2) years; or

2.a. Have been hospitalized for mental illness more than once within the past two (2) years; and

b. Be significantly impaired in the ability to function socially or occupationally or both.

Section 3. Provider Requirements. (1)(a) To be eligible to provide services under this administrative regulation, an individual, entity, or organization shall:

1.[(a)] Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2.[(b)] Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3.[(c)] Be:

a.1-] A community mental health center authorized to provide services pursuant to 907 KAR 1:044;

b.2-] An individual or provider group authorized to provide behavioral health services pursuant to 907 KAR 15:010; or

c.3-] A behavioral health services organization authorized to provide behavioral health services pursuant to 907 KAR 15:020;

4.[(d)] Have:

a.1-] For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

b. Documented[2- Demonstrated] experience in serving the population of individuals with behavioral health disorders relevant to the particular services provided;

c.3-] The administrative capacity to ensure quality of services;

d.4-] A financial management system that provides documentation of services and costs;

e.5-] The capacity to document and maintain individual case records;

f. Documented[6- Demonstrated] programmatic and administrative experience in providing comprehensive case management services; and

g. Documented[7- Demonstrated] referral systems and linkages and referral ability with essential social and health services agencies.

(b) The documentation referenced in paragraph (a)4.b., f., and g. of this subsection shall be subject to audit by:

1. The department;
 2. The Department for Behavioral Health, Developmental and Intellectual Disabilities;
 3. The Cabinet for Health and Family Services, Office of Inspector General;
 4. A managed care organization, if a targeted case manager provider is enrolled in its network;
 5. The Centers for Medicare and Medicaid Services;
 6. The Kentucky Office of the Auditor of Public Accounts;
- or
7. The United States Department of Health and Human Services, Office of the Inspector General.

(2) In accordance with 907 KAR 17:015, Section 3(3), a targeted case management services provider which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A targeted case management services provider shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the act.

Section 4. Case Manager Requirements. (1) A case manager shall:

(a) 1. Have at least a bachelor of arts or science[sciences] degree in a behavioral science including:

- a. [1.] Psychology;
- b. [2.] Sociology;
- c. [3.] Social work;
- d. [4.] Family studies;
- e. [5.] Human services;
- f. [6.] Counseling;
- g. [7.] Nursing;
- h. Behavioral analysis;
- i. Public health;
- j. Special education;
- k. Gerontology;
- l. Recreational therapy;
- m. Education;
- n. Occupational therapy;
- o. Physical therapy;
- p. Speech-language pathology;
- q. Rehabilitation counseling; or
- r. Faith-based education; or

2. Be a certified alcohol and drug counselor who has a bachelor of arts or science degree[8. Another human service degree program approved by the department];

(b) Have successfully completed case management training pursuant to 908 KAR 2:260[approved by the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) within six (6) months of employment]; and

(c) Successfully complete continuing education requirements pursuant to 908 KAR 2:260[completed recertification requirements approved by DBHDID every three (3) years].

(2)(a) Supervision by a behavioral health professional who has completed case management training approved by DBHDID shall occur at least twice per month.

(b) At least one (1) of these supervisory contacts shall be on an individual basis and face-to-face.

(3)(a) Except as established in paragraph (b) of this subsection, a case manager for a:

1. Recipient with a severe mental illness shall have at least one (1) year of full-time employment experience working directly with adults in a human service setting after completing the educational requirements established in subsection (1)(a) of this section; or

2. Child with a severe emotional disability shall have at least one (1) year of full-time employment experience working directly with individuals under the age of twenty-one (21) years in a human

service setting after completing the educational requirements.

(b) A master's degree in one (1) of the following behavioral science disciplines may substitute for the one (1) year of experience:

1. Psychology;
2. Sociology;
3. Social work;
4. Family studies;
5. Human services;
6. Counseling;
7. Nursing;~~[or]~~
8. Behavioral analysis;
9. Public health;
10. Special education;
11. Gerontology;
12. Recreational therapy;
13. Education;
14. Occupational therapy;
15. Physical therapy;
16. Speech-language pathology;
17. Rehabilitation counseling; or
18. Faith-based education[Another human service degree

program approved by the department].

(4) A behavioral health professional shall be:

- (a) An advanced practice registered nurse;
- (b) A licensed clinical social worker;
- (c) A licensed marriage and family therapist;
- (d) A licensed professional clinical counselor;
- (e) A licensed psychological practitioner;
- (f) A licensed psychologist;
- (g) A licensed professional art therapist;
- (h) A physician;
- (i) A psychiatrist;
- (j) A behavioral health practitioner under supervision except for a certified alcohol and drug counselor;
- (k) A registered nurse working under the supervision of a physician or advanced practice registered nurse; or
- (l) An individual with a bachelor's degree stated in subsection (1)(a)1. of this section[in a behavioral science program or other human service degree program approved by the department] who:

1. Is working under the supervision of a billing supervisor; and
2. Has at least five (5) years of documented full-time experience providing specialized case management services for the target population.

Section 5. Freedom of Choice of Provider. (1) A recipient shall have the freedom to choose from which:

(a) Case manager to receive services within the recipient's geographic area identified in the recipient's care plan; and

(b) Provider of non-targeted case management Medicaid covered services to receive services.

(2) A case manager shall not have the authority to authorize or deny the provision of non-targeted case management Medicaid covered services to a recipient.

(3) A recipient shall not be required to receive targeted case management services as a condition of receiving non-targeted case management Medicaid-covered services.

Section 6. Covered Services. (1) Targeted case management services covered under this administrative regulation shall:

(a) Be services furnished to assist a recipient in gaining access to needed medical, social, educational, or other services; and

- (b) Include:
 1. A comprehensive assessment and periodic reassessments of the recipient's needs to determine the need for any medical, educational, social, or other services;
 2. The development and periodic revision of a specific care plan for the recipient;
 3. A referral or related activities to help the recipient obtain needed services;
 4. Monitoring or follow-up activities; or
 5. Contacts with non-recipients who are directly related to help

with identifying the recipient's needs and care for the purpose of:

- a. Helping the recipient access services;
- b. Identifying supports necessary to enable the recipient to obtain services;
- c. Providing a case manager with useful input regarding the recipient's past or current functioning, symptoms, adherence to treatment, or other information relevant to the recipient's behavioral health condition; or
- d. Alerting a case manager to a change in the recipient's needs.

(2)(a) An assessment or reassessment shall include:

1. Taking the recipient's history;
2. Identifying the recipient's strengths and needs and completing related documentation; and
3. Gathering information from other sources to form a complete assessment of the recipient including:

- a. Family members;
- b. Medical providers;
- c. Social workers; or
- d. Educators.

(b) A face-to-face assessment or reassessment shall be completed:

1. At least annually; or
2. More often if needed based on changes in the recipient's condition.

(3) The development and periodic revision of the recipient's care plan shall:

(a) Specify the goals and actions to address the medical, social, educational, or other services needed by the recipient;

(b) Include ensuring the active participation of the recipient and working with the recipient, the recipient's authorized health care decision maker, or others to develop the goals; ~~and~~**[or]**

(c) Identify a course of action to respond to the assessed needs of the recipient.

(4) A referral or related activities shall include activities that help link the recipient with medical providers, social providers, educational providers, or other programs and services that are capable of providing needed services to:

- (a) Address the identified needs; and
- (b) Achieve goals specified in the care plan.

(5)(a) Monitoring and follow-up activities shall:

1. Be activities and contacts that:
- a. Are necessary to ensure that the recipient's care plan is implemented;

- b. Adequately address the recipient's strengths and needs; and
- c. May be with:

- (i) The recipient;
- (ii) The recipient's family members;
- (iii) The recipient's service providers; or
- (iv) Other entities or recipients;

2. Be conducted as frequently as necessary; and

3. Include making necessary adjustments in the recipient's care plan and service arrangements with providers.

(b) Monitoring shall:

1. Occur at least once every three (3) months;
2. Be face-to-face; and
3. Determine if:

a. The services are being furnished in accordance with the recipient's care plan;

b. The services in the recipient's care plan are adequate to meet the recipient's needs; and

c. Changes in the needs or status of the recipient are reflected in the care plan.

Section 7. No Duplication of Service. (1) The department shall not pay for targeted case management services which duplicate services provided by another public agency or a private entity.

(2)(a) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the **same** service is covered during the same time period.

(b) For example, if a recipient is receiving targeted case management service from an independent behavioral health

provider, the department shall not reimburse for targeted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 8. Exclusions and Limits. (1) Targeted case management services shall not include services defined in 42 C.F.R. 440.169 if the activities:

(a) Are an integral and inseparable component of another covered Medicaid service; or

(b) Constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible recipient has been referred, including:

1. Foster care programs;
2. Research gathering and completing documentation required by the foster care program;
3. Assessing adoption placements;
4. Recruiting or interviewing potential foster care parents;
5. Serving legal papers;
6. Home investigations;
7. Providing transportation;
8. Administering foster care subsidies; or
9. Making placement arrangements.

(2) A recipient who is receiving case management services under a 1915(c) home and community based waiver program shall not be eligible to receive targeted case management services under this administrative regulation.

(3) An individual who provides targeted case management to a recipient shall not provide any other Medicaid covered service to any recipient.

(4) The maximum number of recipients to whom a targeted case manager shall provide targeted case management services at any given time shall be as established in 908 KAR 2:260.

Section 9. Records Maintenance, Documentation, Protection, and Security. (1) A targeted case management services provider shall maintain a current case record for each recipient.

(2)(a) A case record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(b) The individual who provided the service shall date and sign the case record **within forty-eight (48) hours from[on]** the date that the individual provided the service.

(3) A case record shall:

(a) Include:

1. The recipient's name;
2. The time and date corresponding to each occasion in which a service was provided to the recipient;
3. The name of the targeted case management services:
 - a. Provider agency, if an agency; and
 - b. Practitioner who provided the targeted case management services;

4. The nature, content, and **contacts that occurred regarding[units-of]** the targeted case management services provided;

5. Whether goals in the recipient's care plan have been achieved;

6. Whether the recipient has declined to receive any services in the recipient's care plan;

7. A timeline for obtaining needed services; and

8. A timeline for reevaluating the recipient's care plan; and

(b) Be:

1. Maintained in an organized and secure central file;
2. Furnished upon request:
 - a. To the Cabinet for Health and Family Services; or
 - b. For an enrollee, to the managed care organization in which the recipient is enrolled;
3. Made available for inspection and copying by:
 - a. Cabinet for Health and Family Services' personnel; or
 - b. Personnel of the managed care organization in which the recipient is enrolled **or has been enrolled in the past,** if applicable;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(4)(a) A discharge summary shall:

1. Be required, at the time a decision is made that services are terminated[upon termination of services], for each recipient who received at least three (3) service visits; and

2. Contain a summary of the significant findings and events during the course of treatment including the:

a. Final assessment regarding the progress of the recipient toward reaching goals and objectives established in the recipient's care plan; and

b. Recipient's condition upon termination and disposition.

(b) A case record relating to a recipient who was terminated from receiving services shall be fully completed within ten (10) business days following termination.

(5) If a recipient's case is reopened within ninety (90) calendar days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(6) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring targeted case management services provider shall, within ten (10) business days of awareness of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

(a)1. The Health Insurance Portability and Accountability Act;

2. 42 U.S.C. 1320d-2 to 1320d-8; and

3. 45 C.F.R. Parts 160 and 164; or

(b)1. 42 U.S.C. 290ee-3; and

2. 42 C.F.R. Part 2.

(7)(a) If a targeted case management services provider's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the case records of the targeted case management services provider shall:

1. Remain the property of the targeted case management services provider; and

2. Be subject to the retention requirements established in subsection (8) of this section.

(b) A targeted case management services provider shall have a written plan addressing how to maintain case records in the event of an owner's death or owners' deaths.

(8)(a) Except as established in paragraph (b) or (c) of this subsection, a targeted case management services provider shall maintain a case record regarding a recipient for at least six (6) years from the last date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or

2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17 the period established by the secretary shall be the required period.

(9)(a) A targeted case management services provider shall comply with 45 C.F.R. Part 164.

(b) All information contained in a case record shall:

1. Be treated as confidential;

2. Not be disclosed to an unauthorized individual; and

3. Be disclosed to an authorized representative of the:

a. Department; or

b. Federal government; or

c. For an enrollee, managed care organization in which the enrollee is enrolled.

(c)1. Upon request, a targeted case management services provider shall provide to an authorized representative of the department, or federal government, or managed care organization if applicable, information requested to substantiate:

a. Staff notes detailing a service that was rendered;

b. The professional who rendered a service; and

c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department.

2. Failure to provide information referenced in subparagraph 1 of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 10. Medicaid Program Participation Compliance. (1) A targeted case management services provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)(a) If a targeted case management services provider receives any duplicate payment or overpayment from the department, regardless of reason, the targeted case management services provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(3)(a) When the department makes payment for a covered service and the targeted case management services provider accepts the payment:

1. The payment shall be considered payment in full;

2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the provider.

(b)1. A targeted case management services provider may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

a. Recipient requests the service; and

b. Targeted case management services provider makes the recipient aware in advance of providing the service that the:

(i) Recipient is liable for the payment; and

(ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1 of this paragraph, the:

a. Targeted case management services provider shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the targeted case management services provider regarding the service.

(4)(a) A targeted case management services provider attests by the targeted case management services provider signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;

2. Cabinet for Health and Family Services, Office of Inspector General or its designee;

3. Kentucky Office of Attorney General or its designee;

4. Kentucky Office of the Auditor for Public Accounts or its designee; or

5. United States General Accounting Office or its designee; or

6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c) If a targeted case management services provider receives a request from the:

1. Department to provide a claim, related information, related documentation, or record for auditing purposes, the targeted case management services provider shall provide the requested information to the department within the timeframe requested by the department; or

2. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the targeted

case management services provider shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

(d)1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a targeted case management services provider shall result in the suspension or termination of the targeted case management services provider from Medicaid Program participation.

Section 11. Third Party Liability. (1) A targeted case management services provider shall comply with KRS 205.622.

(2) If a third party is liable to pay for targeted case management services, the department shall not pay for the services.

Section 12. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A targeted case management services provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the targeted case management services provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the targeted case management services provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 13. Auditing Authority. The department **or the managed care organization in which an enrollee is enrolled** shall have the authority to audit any:

(1) Claim;

(2) Medical record; or

(3) Documentation associated with any claim or medical record.

Section 14. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 15. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 11 a.m.

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort,

Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for individuals with a severe mental illness or children with a severe emotional disability. This administrative regulation is being promulgated in conjunction with 907 KAR 15:065E (Reimbursement provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.) Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the recipient's need for services by taking the recipient's history, identifying the recipient's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the recipient; referring the recipient or related activities to help the recipient obtain needed services; and monitoring activities to ensure that the recipient's care plan is implemented effectively and adequately addresses the recipient's needs.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that children who have a severe emotional disability or individuals who have a severe mental illness receive necessary services and care. The targeted case manager provider is the individual or entity responding for coordinating the recipient's services/care, facilitating access to services/care, and monitoring recipient's progress or difficulties while receiving services/care. Targeted case management helps ensure that the recipient receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by helping ensure that children with a severe emotional disability and individuals with a severe mental illness receive necessary services and care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by helping ensure that children with a severe emotional disability and individuals with a severe mental illness receive necessary services and care.

(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 after comments removes personality disorders from the disorders from the disorders that qualify as a severe mental illness; replaces the option for providers to submit a request to the department to authorize a given human service degree as satisfying the educational requirement for a targeted case manager with an expanded list of such degrees; clarifies that documentation of qualifications are subject to audit by various parties; replaces targeted case management training requirements with a reference to the Department for Behavioral Health, Developmental and Intellectual Disability (DBHDID) administrative regulation which establishes such requirements; revises section 6(3) by replacing the conjunction "or" with "and" to establish all of the components comprising the development and revision of a recipient's plan of care; relaxes the requirement for a note regarding a service that has been delivered from being signed and dated by the practitioner on the date of service to within forty-eight (48) hours from the date of service; establishes that the maximum number of recipients to whom a targeted case manager shall provide services at any given time shall be as established in 908 KAR 2:260 (a DBHDID administrative regulation which establishes

targeted case manager requirements); contains miscellaneous other clarifications; and contains language or formatting revisions to comply with KRS 13A language and formatting standards.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to clarify provisions.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments will conform to the content of the authorizing statutes by clarifying provisions.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by clarifying provisions.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but cannot forecast a precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify and wish to provide targeted case management services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services will benefit by having more employment opportunities in Kentucky. Medicaid recipients (children with a severe emotional disability or individuals with a severe mental illness) in need of targeted case management will benefit from having the option to receive these services.

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

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately (\$1.35 million state funds/\$12.04 million federal funds) initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately \$2.32 million state funds/\$20.64 million federal funds for the second year of implementation. The federal funding will decrease somewhat when the federal matching percent for recipients eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(23).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Targeted case management services are not federally mandated however, Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the targeted case management service provider base to include targeted case management for children with a severe emotional disability or individuals with a severe mental illness will help ensure Medicaid recipient access to these services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately \$1.05 million state funds/\$3.87 million federal funds initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(Amended After Comments)

907 KAR 15:065. Reimbursement provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program targeted case management services for individuals with a severe mental illness and children with a severe emotional disability who are not enrolled with a managed care organization.

Section 1. General Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(1) Medically necessary;

(2) Provided:

(a) To a recipient;

(b) By a provider that meets the provider participation requirements established in 907 KAR 15:060; and

(c) In accordance with the requirements established in 907 KAR 15:060; and

(3) Covered in accordance with 907 KAR 15:060.

Section 2. Reimbursement. (1) The department shall reimburse a monthly rate of \$334 in total for all targeted case management services provided to a recipient during the month.

(2) Except as established in subsection (3) or (4) of this section, to qualify for the reimbursement referenced in subsection (1) of this section, a targeted case management services provider shall provide services to a recipient consisting of at least four (4) targeted case management service contacts including:

(a) At least two (2) face-to-face contacts with the recipient; and

(b) At least two (2) additional contacts which shall be:

1.a. By telephone; or

b. Face-to-face; and

2. With the recipient or with another individual on behalf of the recipient.

(3) For a recipient who is under the age of eighteen (18) years, the contacts that a targeted case management services provider shall have shall include at least:

(a)1. One (1) face-to-face contact with the recipient; and

2. One (1) face-to-face contact with the recipient's parent or legal guardian; and

(b) Two (2) additional contacts which shall be:

1.a. By telephone; or

b. Face-to-face; and

2. With the recipient or with another individual or agency on behalf of the recipient.

(4) For a recipient who is at least eighteen (18) years of age but under the age of twenty-one (21) years, the contacts that a targeted case management services provider shall have shall include:

(a)1. At least two (2) face-to-face contacts with the recipient; and

2. At least two (2) additional contacts which shall be:

a.(i) By telephone; or

(ii). Face-to-face; and

b. With the recipient or with another individual or agency on behalf of the recipient; or

(b)1.a. At least one (1) face-to-face contact with the recipient; and

b. One (1) face-to-face contact with the recipient's parent or legal guardian; and

2. At least two (2) additional contacts which shall be:

a.(i) By telephone; or

(ii). Face-to-face; and

b. With the recipient or with another individual or agency on behalf of the recipient.

Section 3. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the same service is covered during the same time period.

(2) For example, if a recipient is receiving targeted case management services from an independent behavioral health provider, the department shall not reimburse for the targeted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 4. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

(1) 907 KAR 15:060; and

(2) This administrative regulation.

Section 5. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 12, 2015 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for individuals with a severe mental illness and children with a severe emotional disability. This administrative regulation is being promulgated in conjunction with 907 KAR 15:060E (Coverage provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.) Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the individual's need for services by taking the individual's history, identifying the individual's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the individual; referring the individual or related activities to help the individual obtain needed services; and monitoring activities to ensure that the individual's care plan is implemented effectively and adequately addresses the individual's needs. The Department for Medicaid Services (DMS) will pay an all-inclusive monthly rate of \$334 for all targeted case management services (covered under this administrative regulation) provided to a recipient during a given month. A Medicaid recipient who receives targeted case management services may also receive other Medicaid-covered services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that children who have a severe emotional disability or individuals who have a severe mental illness receive necessary services and care. The targeted case manager provider is the individual or entity responding for coordinating the individual's services/care, facilitating access to services/care, and monitoring individual's progress or difficulties while receiving services/care. Targeted case management helps ensure that the individual receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by helping ensure that children who have a severe emotional disability and individuals who have a severe mental illness receive necessary services and care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by helping ensure that children who have a severe emotional disability and individuals who have a severe mental illness receive necessary services and care.

(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 after comments alters the face-to-face contact requirements to require at least one (1) monthly face-to-face contact to be with a parent or legal guardian of a recipient if the recipient is under the age of eighteen (18) years and to establish the option of at least one (1) contact being with a parent or legal guardian of a recipient if the recipient is at least eighteen (18) years of age but under twenty-one (21) years of age. The amendment also clarifies the non-duplication of service provision.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to help ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management – are involved and informed.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments conforms to the content of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management – are involved and informed.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management – are involved and informed.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but cannot forecast a precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify and wish to provide targeted case management services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services will benefit by having more employment opportunities in Kentucky. Medicaid recipients (children with a severe emotional disability or individuals with a severe mental illness) in need of targeted case management will benefit from having the option to receive these services. Providers of targeted case management services will benefit by being able to be reimbursed for the services.

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

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately \$1.05 million state funds/\$3.87 million federal funds initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(30)(A).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Substance use disorder services are federally mandated for Medicaid programs. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. Similarly, 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "...provide such

methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately \$1.05 million state funds/\$3.87 million federal funds initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately \$1.79 million state funds/\$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PROPOSED AMENDMENTS

PERSONNEL BOARD
(Amendment)

101 KAR 1:325 Probationary periods.

RELATES TO: KRS 18A.005, 18A.0751(1)(e), (4)(e); 18A.111
STATUTORY AUTHORITY: KRS 18A.005, 18A.075(1),
18A.0751(1)(e), (4)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751(1)(e) requires the Personnel Board to promulgate comprehensive administrative regulations for the classified service governing probation. KRS 18A.0751(4)(e) authorizes the Personnel Board to promulgate administrative regulations to establish an initial probationary period in excess of six (6) months for specific job classifications. KRS 18A.111 establishes requirements governing initial and promotional probationary periods for the classified service. This administrative regulation establishes the requirements relating to probationary periods.

Section 1. Initial Probationary Period. (1) The initial probationary period shall be computed from the effective date of appointment to the corresponding date in the sixth or final month, depending upon the length of initial probationary period, except as provided in KRS 18A.111.

(2) The following job classifications shall require an initial probationary period in excess of six (6) months:

Title Code	Job Classification	Length of Initial Probationary Period
20000562 [4555]	Resort Park Manager I	12 months
20000563 [4556]	Resort Park Manager II	12 months
20000564 [4557]	Resort Park Manager III	12 months
20000570 [4580]	Park Business Manager I	12 months
20000571 [4584]	Park Business Manager II	12 months
20000572 [4585]	Park Manager I/Historic Site Manager	12 months
20000573 [4586]	Park Manager II	12 months
20000574 [4588]	Park Manager III	12 months
20000609 [2004]	Conservation Officer Recruit	12 months
20000616	Veterans Benefits Field Rep I	9 months
20000618	Veterans Benefits Regional Administrator	9 months
20000638 [2204]	Correctional Officer	8 months
20000672 [2308]	Facilities Security Sergeant	12 months
20000673 [2309]	Facilities Security Lieutenant	12 months
20000676 [2313]	State Park Ranger Recruit	12 months
20000680 [2322]	Facilities Security Officer II	12 months
20000683 [2350]	Mounted Patrol Officer Recruit	12 months
20000687 [2404]	Police Telecommunicator I	12 months
20000688 [2403]	Police Telecommunicator II	12 months
20000689 [2404]	Police Telecommunications Shift Supervisor	12 months
20000690 [2405]	Police Telecommunications Supervisor	12 months
20000692 [2408]	CVE Inspector I	12 months
20000694 [2410]	CJIS (Criminal Justice Information System) Compliance Specialist I	12 months
20000695 [2411]	CJIS Compliance Specialist II	12 months
20000696 [2412]	CJIS Compliance Specialist	12 months

	III	
20000697 [2413]	CJIS Compliance Supervisor	12 months
20000698 [2415]	Transportation Operations Center Specialist I	12 months
20000703 [2433]	Polygraph Examiner II	12 months
20000704 [2434]	Polygraph Examiner I	12 months
20000713 [2460]	Driver's Test Administrator	12 months
20000716 [2468]	Fish and Wildlife Telecommunicator I	12 months
20000813 [3254]	Boiler Inspector I	12 months
20000820 [3268]	Fire Protection Systems Inspector	12 months
20000870 [3416]	Financial Institutions Examiner I	12 months
20000871 [3417]	Financial Institutions Examiner II	12 months
20000872 [3432]	Financial Institutions Examiner III	12 months
20000873 [3433]	Financial Institutions Examiner IV	12 months
20000874 [3434]	Financial Institutions Examiner Specialist	12 months
20000888 [3554]	Insurance Fraud Investigator II	12 months
20000889 [3552]	Insurance Fraud Investigator III	12 months
20000890 [3553]	Insurance Fraud Investigator Supervisor	12 months
20000938 [4056]	Forensic Firearms and Toolmark Examiner I	12 months
20000940 [4058]	Forensic Chemist I	12 months
20000941 [4059]	Forensic Chemist II	12 months
20000943 [4061]	Forensic Biologist I	12 months
20000944 [4062]	Forensic Biologist II	12 months
20000693 [4125]	Therapy Program Assistant	9 months
20000971 [4140]	Houseparent I	12 months
20000972 [4141]	Houseparent II	12 months
20000974 [4143]	Audiologist I	12 months
20001001 [4304]	Patient Aide I	9 months
20001037 [4550]	Medical Investigator I	12 months
20001038 [4551]	Medical Investigator II	12 months
20001077 [5120]	Student Development Associate	12 months
20001076 [5121]	Student Development Assistant	12 months
20001104 [5362]	KSB/KSD (Kentucky School for the Blind/Kentucky School for the Deaf) Administrator I	12 months
20001105 [5364]	KSB/KSD Administrator III	12 months
20001106 [5365]	KSB/KSD Administrator IV	12 months
20001107 [5366]	KSB/KSD Administrator V	12 months
20001108 [5367]	KSB/KSD Administrator VI	12 months
20001122 [6215]	Disability Adjudicator I	12 months
20001135 [6248]	Juvenile Facility Superintendent I	12 months
20001136 [6249]	Juvenile Facility Superintendent III	12 months
20001137 [6250]	Facilities Regional Administrator	12 months
20001138 [6251]	Youth Services Program Supervisor	12 months
20001139 [6252]	Juvenile Facility Superintendent II	12 months
20001142 [6267]	Human Rights Specialist	12 months
20001157 [6290]	Administrative Hearing Officer I	12 months
20001159 [6292]	Human Rights Enforcement	12 months

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	Branch Manager	
<u>20001162</u> [6296]	Human Rights Compliance Supervisor	12 months
<u>20001163</u> [6297]	Human Rights Housing Compliance Supervisor	12 months
<u>20001164</u> [6298]	Human Rights Employment/Public Accommodations Compliance Supervisor	12 months
<u>20001165</u> [6299]	Human Rights Compliance Enforcement Officer II	12 months
<u>20001166</u> [6304]	Probation and Parole Officer I	12 months
<u>20001171</u> [6404]	Youth Worker I	12 months
<u>20001174</u> [6404]	Youth Worker Supervisor	12 months
<u>20001175</u> [6410]	Juvenile Services District Supervisor	12 months
<u>20001480</u> [7243]	Forestry [District] Equipment Supervisor	12 months
<u>20001481</u> [7245]	Nursery Foreman	12 months
<u>20001482</u> [7247]	Nursery Superintendent	12 months
<u>20001483</u> [7222]	Forester	12 months
<u>20001484</u> [7224]	Forester Chief	12 months
<u>20001485</u> [7226]	Forester Regional [District]	12 months
<u>20001486</u> [7234]	Rural Fire Suppression Technical Advisor	12 months
<u>20001487</u> [7232]	Forestry Program Specialist	12 months
<u>20001488</u> [7235]	Forestry Program Manager	12 months
<u>20001489</u> [7236]	Forestry Program Supervisor	12 months
<u>20001492</u> [7250]	Forest Ranger Technician I	12 months
<u>20001493</u> [7254]	Forest Ranger Technician II	12 months
<u>20001494</u> [7252]	Forest Ranger Technician III	12 months
<u>20001495</u> [7253]	Forest Ranger Technician Regional [District]	12 months
[8326]	Right-of-way Agent I	12 months
<u>20001841</u> [9635]	Criminal Intelligence Analyst I	12 months
<u>20001842</u> [9636]	Criminal Intelligence Analyst II	12 months
<u>20001882</u> [9846]	Public Advocate Investigator I	12 months
<u>20001895</u> [9859]	Environmental Administrative Hearing Officer	12 months
<u>20001899</u> [9866]	Mitigation Specialist I	12 months
<u>20001904</u> [9885]	Investigator I	12 months

(3) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall serve the shorter of the initial probationary periods. When the employee is appointed, the employee's appointing authority shall advise the employee of the period of his initial probation.

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. A written notification shall be sent to the employee to advise the employee of the effective date of reversion. A copy of the notice of reversion shall be forwarded to the Secretary of Personnel on the same date notice is delivered to the employee.

(3) The promotional probationary period shall be computed from the effective date of promotion to the corresponding date in the appropriate month following promotion, as required by KRS 18A.005(27), except as provided in KRS 18A.111.

(4) The promotional probationary period shall be the same length as the initial probationary period for each job classification.

Section 3. Probationary Period Upon Reinstatement. (1) An employee who is reinstated, except an employee ordered reinstated pursuant to KRS 18A.111(3), to a position in the classified service no later than twelve (12) months after the beginning of a break in the classified service shall be reinstated with status.

(2) An employee who is reinstated to the classified service more than twelve (12) months after a break in service, except an employee ordered reinstated pursuant to KRS 18A.111(3), shall serve an initial probationary period.

MARK A. SIPEK, Executive Director

APPROVED BY AGENCY: January 12, 2015

FILED WITH LRC: January 12, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015, at 9:00 a.m. Eastern Time at the Kentucky Personnel Board, 28 Fountain Place, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by February 16, 2015, 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. Written comments shall be accepted until close of business, March 2, 2015. Send written notification of intent to be heard at the public hearing or written comments to:

CONTACT PERSON: Boyce A. Crocker, General Counsel, Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 564-1693.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Boyce A. Crocker

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation sets forth the classifications for which an initial probationary period in excess of six (6) months is required.

(b) The necessity of this administrative regulation: To establish the appropriate probationary periods for classifications throughout state government.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.0751(4)(e) requires the Personnel Board to promulgate an administrative regulation listing the job classifications for which an initial probationary period in excess of six (6) months is required. It also makes clear that a promotional probationary period shall mirror the initial promotional period for a particular job classification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth the classifications for which an initial probationary period in excess of six (6) months is required.

(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 proposed amendment provides an initial probationary period of nine (9) months for Veterans Benefits Field Representative I and Veterans Benefits Regional Administrator. The proposed amendment would also reduce the initial probationary period for Right of Way Agent I from twelve (12) months to six (6) months. Eight (8)-digit Title Codes have been substituted for all listed classifications.

(b) The necessity of the amendment to this administrative regulation: Secretary of the Personnel Cabinet has recommended changes to the classifications for which an initial probationary period in excess of six (6) months is required.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment consists of changes to the list of classifications for which an initial probationary period in excess of six (6) months is required. It also makes clear that a promotional probationary period shall mirror the initial promotional period for a particular job classification.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is necessary to meet state agency needs and allow for longer probationary periods for Veterans Benefits Field Representative I and Veterans Benefits Regional Administrator. The proposed amendment would also allow for a reduced probationary period for Right of Way Agent I.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state employees appointed to the listed classifications, and the state government agencies that employ them.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Department of Veterans Affairs will be able to more fully observe the job performance of initial probationary employees in the affected classifications to determine if those employees should gain status in the classified service. The Transportation Cabinet does not require an extended probationary period to evaluate the performance of a Right of Way Agent I, and will aid retention. The Personnel Cabinet requested the new eight-digit Title Codes which are used in the new Kentucky Human Resource Information System (KHRIS).

(5) Provide an estimate of how much it will cost the administrative body 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: Not applicable.

(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: Not applicable.

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

(9) TIERING: Is tiering applied? This regulation must apply equally to all classified employees in all state agencies with classified employees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Veterans Affairs and the Transportation Cabinet

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.0751 and KRS 18A.111

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Not applicable

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Not applicable

(c) How much will it cost to administer this program for the first year? Not applicable

(d) How much will it cost to administer this program for subsequent years? Not applicable

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FINANCE AND ADMINISTRATION CABINET Department of Revenue Office of Income Taxation (Amendment)

103 KAR 3:040. Income Tax Forms Manual.

RELATES TO: KRS 131.041, 131.051, 131.061, 131.081, 131.110, 131.130, 131.155, 131.170, 131.180, 131.190, 131.250, 131.340, 131.500, 131.510(1), (2)(a), 131.540, 141.010, 141.0101, 141.011, 141.016, 141.020, 141.0202, 141.030, 141.040, 141.0401, 141.0405, 141.041, 141.042, 141.044, 141.062, 141.065, 141.066, 141.067, 141.068, 141.069, 141.070, 141.071, 141.120, 141.121, 141.160, 141.170, 141.180, 141.200, 141.205, 141.206, 141.207, 141.208, 141.300, 141.310, 141.325, 141.330, 141.335, 141.347, 141.370, 141.381, 141.382, 141.383, 141.384, 141.385, 141.386, 141.390, 141.392, 141.395, 141.400, 141.401, 141.402, 141.403, 141.405, 141.407, 141.412, 141.415, 141.418, 141.420, 141.421, 141.423, 141.424, 141.4242, 141.4244, 141.428, 141.430, 141.433, 141.434, 141.436, 141.437, 141.438, 141.985, 141.990, 154.12-2086, 154.20-050, 154.22-060, 154.23-035, 154.24-110, 154.25-030, 154.26-090, 154.28-090, 154.32-010, 154.34-080, 154.48-025, 155.170, 164.0062

STATUTORY AUTHORITY: KRS 131.130(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue forms used in the administration of income taxes by the Department of Revenue.

Section 1. Corporation Income Taxes. (1) Revenue Form 41A720, "Form 720, 2014[2013] Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to determine its corporation income tax due in accordance with KRS 141.040 and its limited liability entity tax due in accordance with KRS 141.0401 for tax years beginning in 2014[2013].

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both within and without Kentucky to apportion and allocate its net income to Kentucky in accordance with KRS 141.120 or 141.206.

(3) Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both within and without Kentucky that is also a partner or member of a pass-through entity to determine the sales, property and payroll amounts to be entered on Revenue Form 41A720A.

(4) Revenue Form 41A720A-N, "Schedule A-N, Apportionment

Factor Schedule (For a Nexus Consolidated Tax Return)", shall be used by a corporation filing a mandatory nexus consolidated return to show the Kentucky and total sales, property, and payroll of the corporation and each subsidiary included in the apportionment factor.

(5) Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", shall be used by a taxpayer who is a biodiesel producer, biodiesel blender, or renewable diesel producer to report the biodiesel gallons produced or used by the blender and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.423.

(6) Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", shall be used by a corporation to compute the tax credit allowed by KRS 141.041 for coal used or substituted for other fuels in an eligible heating facility as described by KRS 141.041(1).

(7) Revenue Form 41A720CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", shall be used by a taxpayer to request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.428 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(8) Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", shall be used by a taxpayer who is a producer of cellulosic ethanol to report the number of cellulosic ethanol gallons and request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.424.

(9) Revenue Form 41A720CI, "Schedule CI, Application for Coal Incentive Tax Credit", shall be used by a taxpayer to request approval for the amount of tax credit allowed by KRS 141.0405 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(10) Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", shall be used by a taxpayer to compute its Kentucky cost of goods sold and its total costs of goods sold from all sources for purposes of computing its limited liability entity tax based on gross profits.

(11) Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", shall be used by a C corporation filing a consolidated return to show its federal pro forma consolidated return.

(12) Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a consolidated return as a continuation of Revenue Form 41A720CR.

(13) Revenue Form 41A720ES, "Form 720-ES Kentucky, 2015[2044] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(14) Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(15) Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", shall be used by a taxpayer who is a producer of ethanol to report ethanol gallons produced and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.4242.

(16)[(45)] Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", shall be used by a taxpayer who provides edible agricultural products to a nonprofit food program operating in Kentucky to determine the credit allowed by KRS 141.392.

(17)[(46)] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", shall be used by an individual, corporation, fiduciary, or pass-through entity to determine the deduction allowed by KRS 141.0202.

(18)[(47)] Revenue Form 41A720(I), "Instructions, 2014[2043]

Kentucky Corporation Income Tax and LLET Return", shall be used by a corporation to file its 2014[2043] Kentucky Corporation Income Tax and LLET Return and related schedules.

(19)[(48)] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", shall be used by a C corporation filing a nexus consolidated return showing the income or loss of each entity included in the nexus consolidated tax return.

(20)[(49)] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", shall be used by a C corporation filing a nexus consolidated return as a continuation of Revenue Form 41A720KCR.

(21)[(20)] Revenue Form 41A720KESA, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of a Corporation)", shall be used by a corporation which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

(22)[(24)] Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

(23)[(22)] Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", shall be used by a company which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to maintain a record of the approved costs and tax credits for the duration of the agreement.

(24)[(23)] Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", shall be used by a corporation or a limited liability pass-through entity to determine the limited liability entity tax in accordance with KRS 141.0401.

(25)[(24)] Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by a corporation or a limited liability pass-through entity that is a partner in a general partnership organized or formed as a general partnership after January 1, 2006, or a partner or member in a limited liability pass-through entity to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET.

(26)[(25)] Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by limited liability pass-through entities with economic development projects to determine the limited liability entity tax in accordance with KRS 141.0401.

(27)[(26)] Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by a limited liability pass-through entity with an economic development project that is a partner or member of a limited liability pass-through entity or a general partnership organized or formed as a general partnership after January 1, 2006, to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET(K).

(28)[(27)] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", shall be used by a C corporation with a current year net operating loss or net operating loss carry-forward.

(29)[(28)] Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", shall be used by a corporation filing a nexus consolidated income tax return as provided by KRS 141.200, in addition to Revenue Form 41A720NOL, to show the Kentucky net operating loss (KNOL) carry forward balance for each new member of the affiliated group.

(30)[(29)] Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", shall be used by a corporation filing Kentucky Form 720 to show other additions to and subtractions from federal taxable income on

Revenue Form 41A720, Part III, Lines 9 and 16, respectively.

~~(31)~~~~(30)~~ Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.395.

~~(32)~~~~(31)~~ Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.390 for the purchase and installation of recycling or composting equipment or a major recycling project. This form shall also be used by an individual, corporation, fiduciary, or pass-through entity to substantiate and keep a record of the amount of approved credit claimed on their tax return.

~~(33)~~~~(32)~~ Revenue Form 41A720RC-C, "Schedule RC-C, Schedule RC - Part I Continuation", shall be used by an individual, corporation, fiduciary, or pass-through entity, in addition to Revenue Form 41A720RC, to list additional equipment for which approval of the credit allowed by KRS 141.390 is being requested.

~~(34)~~~~(33)~~ Revenue Form 41A720RC(I), "Instructions for Schedule RC", shall be used by taxpayers filing Revenue Form 41A720RC and Revenue Form 41A720RC-C requesting approval of a tax credit for recycling equipment, composting equipment, or a major recycling project.

~~(35)~~~~(34)~~ Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", shall be used by a taxpayer disposing of recycling or composting equipment before the end of the recapture period to compute the tax credit recaptured to be reported on the applicable tax return.

~~(36)~~~~(35)~~ Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement", shall be used by an entity to report related party expenses and the exceptions to the required disallowance of related party expenses as provided by KRS 141.205.

~~(37)~~~~(36)~~ Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", shall be used by a corporation or pass-through entity requesting approval of a railroad expansion tax credit allowed by KRS 141.386.

~~(38)~~~~(37)~~ Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.385.

~~(39)~~~~(38)~~ Revenue Form 41A720S, "Form 720S, 2014~~2013~~ Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to determine the amount of tax due in accordance with KRS 141.040 and 141.0401 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2014~~2013~~.

~~(40)~~~~(39)~~ Revenue Form 41A720S(I), "Instructions, 2014~~2013~~ Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to file its 2014~~2013~~ Kentucky S Corporation Income Tax and LLET Return and related schedules.

~~(41)~~~~(40)~~ Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", shall be used for tax years beginning in 2014~~2013~~ by S Corporations with economic development projects to determine the shareholders' shares of income, credit, deductions, etc., excluding the economic development projects.

~~(42)~~~~(41)~~ Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2014~~2013~~ Shareholder's Share of Income, Credits, Deductions, Etc.", shall be used by an S corporation to report to each of its shareholders the amount of income, credit, deduction, etc., that the shareholder shall report for Kentucky income tax purposes.

~~(43)~~~~(42)~~ Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", shall be used by a pass-through entity filing Revenue Form 41A720S, Form 41A765, or Form 42A765-GP to show other additions to and subtractions from federal ordinary income on Revenue Form 41A720S, Part III, Lines 5 and 9, or 41A765, or 42A765-GP Part I, Lines 5 and 9, respectively.

~~(44)~~~~(43)~~ Revenue Form 41A720SL, "~~[Application for Six-Month]~~ Extension of Time to File Kentucky Corporation/LLET ~~[or Limited Liability Pass-Through Entity]~~ Return", shall be used by a corporation or a limited liability pass-through entity to request a six (6) month extension of time to file a tax return or an LLET return or to submit payment of unpaid tax.

~~(45)~~~~(44)~~ Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", shall be used by a corporation or a limited liability pass-through entity to summarize tax credits claimed and shall be attached to the tax return.

~~(46)~~~~(45)~~ Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", shall be used by an entity claiming a tax credit provided by KRS 141.418.

~~(47)~~~~(46)~~ Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income and License Tax Return for tax periods beginning prior to January 1, 2005, as previously filed.

~~(48)~~~~(47)~~ Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax Return for periods beginning on or after January 1, 2005 and before January 1, 2007, as previously filed.

~~(49)~~~~(48)~~ Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax and LLET Return for periods beginning on or after January 1, 2007 and before January 1, 2009, as previously filed.

~~(50)~~~~(49)~~ Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", shall be used by a corporation filing a consolidated Kentucky income tax return on Revenue Form 41A720 to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax paid.

~~(51)~~~~(50)~~ Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", shall be used by a corporation or limited liability pass-through entity required by KRS 141.042 and 141.044 to file a declaration of estimated tax, to compute the underpayment penalty as provided by KRS 131.180(3) and 141.990, and to compute the interest on any late payment or underpayment of an estimated tax installment as provided by KRS 141.985.

~~(52)~~~~(51)~~ Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", shall be used by a taxpayer to claim a tax credit for installation of energy efficiency products for residential and commercial property as provided by KRS 141.436.

~~(53)~~~~(52)~~ Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", shall be used by a taxpayer as a declaration document and signature authorization for an electronic filing of a Kentucky income or LLET return.

~~(54)~~~~(53)~~ Revenue Form 41A720-S9, "Form 8903-K, Kentucky Domestic Production Activities Deduction", shall be used by a corporation to determine the Domestic Production Activities Deduction amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return.

~~(55)~~~~(54)~~ Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", shall be used by a taxpayer to claim a tax credit for the construction of an ENERGY STAR home or the sale of an ENERGY STAR manufactured home as provided by KRS 141.437.

~~(56)~~~~(55)~~ Revenue Form 41A720-S12, "Form 720-V, Electronic Filing Payment Voucher, 2014", shall be used by an entity filing an electronic Kentucky tax return to pay the balance of tax due.

~~(57)~~~~(56)~~ Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

~~(58)~~~~(57)~~ Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", shall be used by a company which has a Kentucky Rural Economic Development Act (KREDA) project to maintain a record of the debt service payments, wage assessment fees and tax credits for the duration of the project.

~~(59)~~~~(58)~~ Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

~~(60)~~~~(59)~~ Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

~~(61)~~~~(60)~~ Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", shall be used by a company which has a Kentucky Industrial Development Act (KIDA) project to maintain a record of the debt service payments and tax credits for the duration of the project.

~~(62)~~~~(61)~~ Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

~~(63)~~~~(62)~~ Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

~~(64)~~~~(63)~~ Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", shall be used by a company which has a Kentucky Industrial Revitalization Act (KIRA) project to maintain a record of the approved costs, wage assessment fees and tax credits for the duration of the project.

~~(65)~~~~(64)~~ Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

~~(66)~~~~(65)~~ Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

~~(67)~~~~(66)~~ Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", shall be used by a company which has a Kentucky Jobs Development Act (KJDA) project to maintain a record of the approved costs, wage assessment fees, in-lieu-of credits and tax credits for the duration of the project.

~~(68)~~~~(67)~~ Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

~~(69)~~~~(68)~~ Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Reinvestment Act (KRA) project to compute the allowable KRA credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

~~(70)~~~~(69)~~ Revenue Form 41A720-S36, "Schedule KRA-SP,

Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Reinvestment Act (KRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

~~(71)~~~~(70)~~ Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule For a KRA Project", shall be used by a company which has entered into a Kentucky Reinvestment Act (KRA) project to maintain a record of the balance of approved costs and tax credits for the duration of the agreement.

~~(72)~~~~(71)~~ Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to compute the allowable KEOZ credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

~~(73)~~~~(72)~~ Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

~~(74)~~~~(73)~~ Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", shall be used by a company which has entered into an agreement for a Kentucky Economic Opportunity Zone (KEOZ) Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and tax credits for the duration of the agreement.

~~(75)~~~~(74)~~ Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", shall be used by a company which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

~~(76)~~~~(75)~~ Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule For a KJRA Project", shall be used by a company which has entered into an agreement for a Kentucky Jobs Retention Act (KJRA) project to maintain a record of the debt service payments, wage assessment fees, approved costs, and tax credits for the duration of the agreement.

~~(77)~~~~(76)~~ Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

~~(78)~~~~(77)~~ Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

~~(79)~~~~(78)~~ Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to maintain a record of the balance of approved costs, wage assessments, and tax credits for the duration of the agreement.

~~(80)~~~~(79)~~ Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

~~(81)~~~~(80)~~ Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Business Investment (KBI) project to compute the allowable KBI credit allowed against its Kentucky corporation income tax liability

and limited liability entity tax liability in accordance with KRS 141.415.

(82)[(81)] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)," shall be used by a pass-through entity which has entered into a Kentucky Business Investment (KBI) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(83)[(82)] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", shall be used by a company which has entered into an agreement for a Kentucky Business Investment (KBI) project to maintain a record of approved costs, wage assessments, and tax credits for the duration of the agreement.

(84)[(83)] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", shall be used by a corporation which has a Farm Operation Networking Project (FON) to compute the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(85)[(84)] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Farm Operation Networking Project (FON) to determine the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(86)[(85)] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", shall be used by a company with a Farm Operation Networking Project (FON) to maintain a record of approved costs and the tax credits taken for the duration of the project.

(87)[(86)] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", shall be used by a qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment eligible for the tax credit provided by KRS 141.434.

(88)[(87)] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", shall be used by a qualified community development entity to provide proof to the Kentucky Department of Revenue of the receipt of cash for a taxpayer's qualified equity investment.

(89)[(88)] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", shall be used by the Kentucky Department of Revenue to notify a taxpayer of a recapture of the New Markets Development Program tax credit.

(90) Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", shall be used by a qualified community development entity to request a refund of the performance fee provided by KRS 141.1433.

(91)[(89)] Revenue Form 41A725, "Form 725, 2014 [2013] Kentucky Single Member LLC Individually Owned Income and LLET Return", shall be used by a single member individually-owned LLC to file an LLET return in accordance with KRS 141.0401 for tax years beginning in 2014[2013].

(92)[(90)] Revenue Form 41A725CP, "Schedule CP, Form 725, 2014[2013] Kentucky Single Member LLC Individually Owned Composite Return Schedule", shall be used by a single member individual with multiple LLC entities to file LLET returns in accordance with KRS 141.0401 for tax years beginning in 2014[2013].

(93)[(91)] Revenue Form 41A725(I), "Instructions, 2014[2013] Kentucky Single Member LLC Individually Owned LLET Return", shall be used by a single member LLC individually owned to file its 2014[2013] Kentucky Income and LLET return and related schedules.

(94)[(92)] Revenue Form 41A750, "Form 750, 2014 Business

Development Corporation Tax Return", shall be used by a corporation organized under the provisions of KRS Chapter 155 to determine its excise tax due in accordance with KRS 155.170 for tax years beginning in 2014[2013].

(95)[(93)] Revenue Form 41A765, "Form 765, 2014[2013] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP or LP to file its Kentucky income and LLET return in accordance with KRS 141.0401 and 141.206 for tax years beginning in 2014[2013].

(96)[(94)] Revenue Form 41A765(I), "Instructions, 2014[2013] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to file its 2014[2013] Kentucky income and LLET return and related schedules.

(97)[(95)] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", shall be used for tax years beginning in 2014[2013] by partnerships with economic development projects to determine the partners' share of income, credits, deductions, etc., excluding the economic development projects.

(98)[(96)] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2014[2013] Partner's Share of Income, Credits, Deductions, Etc.", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to report to its partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes.

(99)[(97)] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nexus with the Commonwealth of Kentucky.

(100)[(98)] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nondeductible related party expense.

Section 2. Individual Income and Withholding Taxes. (1) Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", shall be submitted to the Department of Revenue to request an installment agreement to pay tax due.

(2) Revenue Form 40A100, "Application for Refund of Income Taxes", shall be presented to the Department of Revenue to request a refund of income taxes paid.

(3) Revenue Form 40A102, "2014[2013] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", shall be submitted to the Department of Revenue by individuals, partnerships, and fiduciaries prior to the date prescribed by law for filing a return to request a six (6) month extension to file the return or to remit payment of tax prior to the date the return is due.

(4) Revenue Form 40A103, "Application for New Home Tax Credit", shall be submitted to the Department of Revenue by individuals to request approval for the new home tax credit.

(5) Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", shall be used by a pass-through entity doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual or corporate partner doing business in Kentucky only through its ownership interest in the pass-through entity.

(6) Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", shall be used by a pass-through entity doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual and corporate partners.

(7) Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2015[2014] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", shall be used by every pass-through entity for the declaration and payment of estimated tax if required.

(8) Revenue Form 40A201NP-WH-SL, "[Form 740NP-WH-SL, Application for Six-Month] Extension of Time to File Kentucky Form

740NP-WH", shall be used by a pass-through entity to request a six (6)-month extension to file Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(9) Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", shall be used by a pass-through entity to compute the interest and penalty on the underpayment and late payment of estimated tax on Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(10) Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", shall be used by a taxpayer or tax preparer to order individual income tax forms.

(11) Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", shall provide instructions for employers and shall contain forms used for withholding and reporting Kentucky income tax withholding.

(12) Revenue Form 42A003(T), "2015[2014] Withholding Tax Tables Computer Formula", shall be used by an employer for computing employees' Kentucky income tax withholding each pay period.

(13) Revenue Form 42A740, "Form 740, 2014[2013] Kentucky Individual Income Tax Return, Full-Year Residents Only", shall be completed by a resident individual to report taxable income and income tax liability for taxable years beginning in 2014[2013], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(14) Revenue Form 42A740-A, "Schedule A, Form 740, 2014[2013] Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2014[2013].

(15) Revenue Form 42A740ES, "Form 740-ES, 2015[2014] Individual Income Tax Kentucky Estimated Tax Voucher", shall be submitted to the Department of Revenue by individuals with payment of quarterly estimated tax.

(16) Revenue Form 42A740-EZ, "Form 740-EZ, 2014[2013] Kentucky Individual Income Tax Return for Single Persons with No Dependents", shall be completed by resident individuals to report taxable income and income tax liability for taxable years beginning in 2014[2013], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(17) Revenue Form 42A740(I), "2014[2013] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", shall be used by resident individuals to file the 2014[2013] Kentucky Individual Tax Return and related schedules.

(18) Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", shall be completed by individuals and attached to Form 740 to compute tax liability by averaging farm income for taxable years beginning after December 31, 1997.

(19) Revenue Form 42A740-KNOL, "Schedule KNOL, 2014[2013] Kentucky Net Operating Loss Schedule", shall be used by individuals to compute and carry forward a net operating loss to subsequent years.

(20) Revenue Form 42A740-M, "Schedule M, 2014[2013] Kentucky Federal Adjusted Gross Income Modifications", shall be completed by individuals and attached to Form 740 in support of additions to and subtractions from federal adjusted gross income.

(21) Revenue Form 42A740-NP, "Form 740-NP, 2014[2013] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", shall be completed by part-year or full-year nonresident individuals to report taxable income and income tax liability for taxable years beginning in 2014[2013], and shall be filed within three and one-half (3 1/2) months after the close of the taxable year.

(22) Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2014[2013] Kentucky Schedule A Itemized Deductions", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support the itemized deductions claimed for 2014[2013].

(23) Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2014[2013] Moving Expense and Reimbursement", shall be completed and attached to Form 42A740-NP by part-year or full-

year nonresidents to support moving expenses and reimbursement by employers for moving expenses for 2014[2013].

(24) Revenue Form 42A740-NP(I), "Instructions for 2014[2013] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be used by nonresident or part-year resident individuals to file the 2014[2013] Kentucky Form 740-NP and related schedules.

(25) Revenue Form 42A740-NP-R, "Form 740-NP-R, 2014[2013] Kentucky Income Tax Return Nonresident - Reciprocal State", shall be completed by resident individuals of reciprocal states to request a refund of Kentucky withholding for 2014[2013].

(26) Revenue Form 42A740-NP(P), "2014[2013] Kentucky Income Tax Return, Nonresident or Part-Year Resident", shall be a packet containing forms and instructions and shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2014[2013].

(27) Revenue Form 42A740(PKT), "2014[2013] Kentucky Individual Income Tax Forms", shall be a packet containing forms and instructions and shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2014[2013].

(28) Revenue Form 42A740-P, "Schedule P, 2014[2013] Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2014[2013].

(29) Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", shall be completed by individuals and attached to Form 740 or Form 740-NP to provide the Office of Employment and Training Certificate Numbers in support of credit claimed for hiring an unemployed person.

(30) Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2005 or future years.

(31) Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2004 or prior years.

(32) Revenue Form 42A740-S1, "Form 2210-K, 2014[2013] Underpayment of Estimated Tax by Individuals", shall be filed by individuals to request a waiver of estimated tax penalty or to compute and self assess an estimated tax penalty for a tax year beginning in 2014[2013].

(33) Revenue Form 42A740-S4, "2015[2014] Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2015[2014].

(34) Revenue Form 42A740-S18, "Form 8582-K, 2014[2013] Kentucky Passive Activity Loss Limitations", shall be completed by an individual taxpayer and attached to the individual tax return in support of an allowable passive loss deduction and carryover of a passive activity loss.

(35) Revenue Form 42A740-S21, "Form 4972-K, 2014[2013] Kentucky Tax on Lump-Sum Distributions", shall be completed by an individual taxpayer to compute tax liability on a lump sum distribution and attached to the taxpayer's individual income tax return.

(36) Revenue Form 42A740-S22, "Form 8879-K, 2014[2013] Kentucky Individual Income Tax Declaration for Electronic Filing", shall be completed, signed by the individual taxpayer or taxpayers and maintained by the preparer or taxpayer in support of an electronically filed return.

(37) Revenue Form 42A740-S23, "Form 740-V, 2014[2013] Kentucky Electronic Payment Voucher", shall be used by the individual taxpayer or taxpayers for the payment of additional tax due on an electronically filed return and submitted to the Department of Revenue.

(38) Revenue Form 42A740-S24, "Form 8863-K, 2014[2013] Kentucky Education Tuition Tax Credit", shall be used by an individual taxpayer or taxpayers to claim a tuition tax credit on the taxpayer's individual Kentucky income tax return.

(39) Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", shall be used by the preparer to indicate the reason the return is not being filed

electronically.

(40) Revenue Form 42A741, "Form 741, 2014[2013] Kentucky Fiduciary Income Tax Return", shall be used by a fiduciary of an estate or trust to report income and tax liability of an estate or trust and be filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year.

(41) Revenue Form 42A741-D, "Schedule D, Form 741, 2014[2013] Kentucky Capital Gains and Losses", shall be completed and attached to Form 741 by a fiduciary to report income from capital gains and losses.

(42) Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", shall be the instruction guide provided by the Department of Revenue for completing the 2014[2013] Form 741.

(43) Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2014[2013] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", shall be filed by the fiduciary with Form 741 to report each beneficiary's share of income, deductions, and credits.

(44) Revenue Form 42A765-GP, "Form 765-GP, 2014[2013] Kentucky General Partnership Income Return", shall be completed and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year by a general partnership to report income, deductions, and credits of a general partnership for 2014[2013].

(45) Revenue Form 42A765-GP(I), "Instructions, 2014[2013] Kentucky General Partnership Income Return", shall be provided to assist the general partnership in completing a general partnership income return.

(46) Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2014[2013] Partner's Share of Income, Credits, Deductions, etc.", shall be filed by the general partnership with Form 765-GP to report each general partner's share of income, deductions, and credits.

(47) Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", shall be used by a general partnership which has one (1) or more economic development projects to determine the total general partners' share of income, credits, deductions, etc., excluding the amount of each item of income, credit, deduction, etc., attributable to the projects.

(48) Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and taxes withheld for the filing period.

(49) Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", shall be used by employers to correct wages and taxes reported for the filing period.

(50) Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers who remit taxes withheld electronically to report wages and tax withheld for the filing period.

(51) "Form W-2, 2014[2013] Wage and Tax Statement", shall be used by an employer to report each of its employees' wages and Kentucky tax withheld for the calendar year 2014[2013].

(52) Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and tax withheld for the filing period and annually reconcile wages and taxes reported.

(53) Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", shall be used by employers to amend wages and taxes reported for the filing period and the annual reconciled wages and taxes reported.

(54) Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers to report wages and tax withheld for the filing period and to annually reconcile wages and taxes reported.

(55) Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", shall be used by an employee to inform the employer of the number of exemptions claimed in order to determine the amount of Kentucky tax to withhold from wages each pay period.

(56) Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess

Itemized Deductions", shall be used by an employee to determine additional withholding exemptions.

(57) Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", shall be used by employees to inform employers of special tax exempt status.

(58) Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", shall be used by employees to inform employers of special tax exempt status as a nonresident military spouse.

(59) Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", shall be used by employers annually to submit Form W-2 Wage and Tax Statements.

(60) Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", shall be completed by nonresident employees working at Fort Campbell, Kentucky, to inform employers of special tax exempt status.

(61) Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", shall be used by employers to request authorization to annually submit wage and tax statements via the Kentucky Department of Revenue Web site.

(62) Revenue Form 42A809, "Certificate of Nonresidence", shall be used by employees to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(63) Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", shall be used by individuals to submit a sworn statement concerning residency status.

(64) Revenue Form 42A811, "KREDA Annual Report", shall be completed by employers to report KREDA employee wage assessment fee information to the Department of Revenue.

(65) Revenue Form 42A812, "KIDA Annual Report", shall be completed by employers to report KIDA employee wage assessment fee information to the Department of Revenue.

(66) Revenue Form 42A813, "KJDA Annual Report", shall be completed by employers to report KJDA employee wage assessment fee information to the Department of Revenue.

(67) Revenue Form 42A814, "KIRA Annual Report", shall be completed by employers to report KIRA employee wage assessment fee information to the Department of Revenue.

(68) Revenue Form 42A815, "Withholding Tax Refund Application", shall be completed by employers to request a refund of withholding tax paid.

(69) Revenue Form 42A816, "KEOZ Annual Report", shall be completed by employers to report KEOZ employee wage assessment fee information to the Department of Revenue.

(70) Revenue Form 42A817, "KJRA Annual Report", shall be completed by employers to report KJRA employee wage assessment fee information to the Department of Revenue.

(71) Revenue Form 42A818, "KBI Annual Report", shall be completed by employers to report KBI employee wage assessment fee information to the Department of Revenue.

(72) Revenue Form 42D003, "2014[2013] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", shall be used by employers to order wage and tax statements.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Corporation income taxes - referenced material:

1. Revenue Form 41A720, "Form 720, 2014[2013] Kentucky Corporation Income Tax and LLET Return", 2014[2013];

2. Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", October 2014[2013];

3. Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", October 2014[2013];

4. Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", October 2014[2013];

5. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", October

2014[2013];

6. Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", October 2014[2013];

7. Revenue Form 41A720-CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", October 2014[2013];

8. Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", October 2014[2013];

9. Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", October 2014[2013];

10. Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", October 2014[2013];

11. Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", October 2014[2013];

12. Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", October 2014[2013];

13. Revenue Form 41A720ES, "Form 720-ES Kentucky, 2015[2014] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2014[2013];

14. Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2014;

15. Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", October 2014[2013];

16.[45-] Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", June 2014[2013];

17.[46-] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October 2014[2013];

18.[47-] Revenue Form 41A720(I), "Instructions, 2014[2013] Kentucky Corporation Income Tax and LLET Return", November 2014[2013];

19.[48-] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", October 2014[2013];

20.[49-] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", October 2014[2013];

21.[20-] Revenue Form 41A720KESA, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of a Corporation)", October 2014[2013];

22.[24-] Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", October 2014[2013];

23.[22-] Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", October 2014[2013];

24.[23-] Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", October 2014[2013];

25.[24-] Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", October 2014[2013];

26.[25-] Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2014[2013];

27.[26-] Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2014[2013];

28.[27-] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", October 2014[2013];

29.[28-] Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", October 2014[2013];

30.[29-] Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", December 2014[2013];

31.[30-] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October 2014[2013];

32.[34-] Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", October 2014[2013];

33.[32-] Revenue Form 41A720RC-C, "Schedule RC-C,

Schedule RC - Part I Continuation", October 2014[2013];

34.[33-] Revenue Form 41A720RC(I), "Instructions For Schedule RC", October 2014[2013];

35.[34-] Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", October 2014[2013];

36.[35-] Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement", June 2014[2013];

37.[36-] Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", October 2014[2013];

38.[37-] Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", October 2014[2013];

39.[38-] Revenue Form 41A720S, "Form 720S, 2014[2013] Kentucky S Corporation Income Tax and LLET Return", 2014[2013];

40.[39-] Revenue Form 41A720S(I), "Instructions, 2014[2013] Kentucky S Corporation Income Tax and LLET Return", November 2014[2013];

41.[40-] Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", October 2014[2013];

42.[44-] Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2014[2013] Shareholder's Share of Income, Credits, Deductions, Etc.", 2014[2013];

43.[42-] Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", November 2014[2013];

44.[43-] Revenue Form 41A720SL, "[Application for Six-Month] Extension of Time to File Kentucky Corporation/[LLET] or Limited Liability Pass-Through Entity Return", June 2014[2013];

45.[44-] Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", October 2014[2013];

46.[45-] Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", October 2014[2013];

47.[46-] Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", October 2011;

48.[47-] Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", October 2011;

49.[48-] Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", October 2011;

50.[49-] Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", October 2014[2013];

51.[50-] Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", October 2014[2013];

52.[54-] Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", October 2014[2013];

53.[52-] Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", October 2014[2013];

54.[53-] Revenue Form 41A720-S9, "Schedule 8903-K, Kentucky Domestic Production Activities Deduction", October 2014[2013];

55.[54-] Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", October 2014[2013];

56.[55-] Revenue Form 41A720-S12, "720-V, Electronic Filing Payment Voucher, 2014", October 2014[2013];

57.[56-] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", October 2014[2013];

58.[57-] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October 2014[2013];

59.[58-] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", October 2014[2013];

60.[59-] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a

Corporation)", October 2014[2013];

61.[60-] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project" October 2014[2013];

62.[64-] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", October 2014[2013];

63.[62-] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", October 2014[2013];

64.[63-] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", October 2014[2013];

65.[64-] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", October 2014[2013];

66.[65-] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", October 2014[2013];

67.[66-] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", October 2014[2013];

68.[67-] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)", October 2014[2013];

69.[68-] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", October 2014[2013];

70.[69-] Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", October 2014[2013];

71.[70-] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for a KRA Project", October 2014[2013];

72.[74-] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", October 2014[2013];

73.[72-] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", October 2014[2013];

74.[73-] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", October 2014[2013];

75.[74-] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", October 2014[2013];

76.[75-] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule for a KJRA Project", October 2014[2013];

77.[76-] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", October 2014[2013];

78.[77-] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", October 2014[2013];

79.[78-] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", October 2014[2013];

80.[79-] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", October 2014[2013];

81.[80-] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", October 2014[2013];

82.[81-] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", October 2014[2013];

83.[82-] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", October 2014[2013];

84.[83-] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", October 2014[2013];

85.[84-] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", October 2014[2013];

86.[85-] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", October 2014[2013];

87.[86-] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", May

2014[June-2010];

88.[87-] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", May 2014[June-2013];

89.[88-] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", May 2014[June-2013];

90. Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", May 2014;

91.[89-] Revenue Form 41A725, "Form 725, 2014[2013] Kentucky Single Member LLC Individually Owned Income and LLET Return", 2014[2013];

92.[90-] Revenue Form 41A725CP, "Schedule CP, Form 725, 2014[2013] Kentucky Single Member LLC Individually Owned Composite Return Schedule", 2014[2013];

93.[94-] Revenue Form 41A725(I), "Instructions, 2014[2013] Kentucky Single Member LLC Individually Owned LLET Return", October 2014 [2013];

94.[92-] Revenue Form 41A750, "Form 750, 2014 Business Development Corporation Tax Return", September 2014[2013];

95.[93-] Revenue Form 41A765, "Form 765, 2014[2013] Kentucky Partnership Income and LLET Return", 2014[2013];

96.[94-] Revenue Form 41A765(I), "Instructions, 2014[2013] Kentucky Partnership Income and LLET Return", November 2014[2013];

97.[95-] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", October 2014[2013];

98.[96-] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2014[2013] Partner's Share of Income, Credits, Deductions, Etc.", 2014[2013];

99.[97-] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", December 2014[2013]; and

100.[98-] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", June 2014[2013]; and

(b) Individual income and withholding taxes - referenced material:

1. Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", November 2014[2013];

2. Revenue Form 40A100, "Application for Refund of Income Taxes", October 2014[2013];

3. Revenue Form 40A102, "2014[2013] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", November 2014[2013];

4. Revenue Form 40A103, "Application for New Home Tax Credit", June 2010;

5. Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", October 2014[2013];

6. Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", October 2014[2013];

7. Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2015[2014] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", October 2014[2013];

8. Revenue Form 40A201NP-WH-SL, "[~~Form 740NP-WH-SL, Application for Six-Month~~]Extension of Time to File Kentucky Form 740NP-WH", October 2014[2013];

9. Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", October 2014[2013];

10. Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", October 2014[2013];

11. Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", August 2011;

12. Revenue Form 42A003(T), "2015[2014] Withholding Tax Tables Computer Formula", September 2014[2013];

13. Revenue Form 42A740, "Form 740, 2014[2013] Kentucky Individual Income Tax Return, Full-Year Residents Only",

2014[2013];

14. Revenue Form 42A740-A, "Schedule A, Form 740, 2014[2013] Kentucky Itemized Deductions", 2014[2013];

15. Revenue Form 42A740ES, "Form 740-ES, 2015[2014] Individual Income Tax Kentucky Estimated Tax Voucher", September 2014[2013];

16. Revenue Form 42A740-EZ, "Form 740-EZ, 2014[2013] Kentucky Individual Income Tax Return for Single Persons with No Dependents", 2014[2013];

17. Revenue Form 42A740(I), "2014[2013] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", October 2014[2013];

18. Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", October 2014[2013];

19. Revenue Form 42A740-KNOL, "Schedule KNOL, 2014[2013] Kentucky Net Operating Loss Schedule", 2014[2013];

20. Revenue Form 42A740-M, "Schedule M, 2014[2013] Kentucky Federal Adjusted Gross Income Modifications", 2014[2013];

21. Revenue Form 42A740-NP, "Form 740-NP, 2014[2013] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", 2014[2013];

22. Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2014[2013] Kentucky Schedule A Itemized Deductions", 2014[2013];

23. Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2014[2013] Moving Expense and Reimbursement", 2014[2013];

24. Revenue Form 42A740-NP(I), "Instructions for 2014[2013] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", October 2014[2013];

25. Revenue Form 42A740-NP-R, "Form 740-NP-R, 2014[2013] Kentucky Income Tax Return Nonresident - Reciprocal State", 2014[2013];

26. Revenue Form 42A740-NP(P), "2014[2013] Kentucky Income Tax Return Nonresident or Part-Year Resident", October 2014[2013];

27. Revenue Form 42A740(PKT), "2014[2013] Kentucky Individual Income Tax Forms", October 2014[2013];

28. Revenue Form 42A740-P, "Schedule P, 2014[2013] Kentucky Pension Income Exclusion", 2014[2013];

29. Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", October 2014[2013];

30. Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", November 2014[2013];

31. Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", November 2008;

32. Revenue Form 42A740-S1, "Form 2210-K, 2014[2013] Underpayment of Estimated Tax by Individuals", 2014[2013];

33. Revenue Form 42A740-S4, "2015[2014] Instructions for Filing Estimated Tax Vouchers", October 2014[2013];

34. Revenue Form 42A740-S18, "Form 8582-K, 2014[2013] Kentucky Passive Activity Loss Limitations", 2014[2013];

35. Revenue Form 42A740-S21, "Form 4972-K, 2014[2013] Kentucky Tax on Lump-Sum Distributions", 2014[2013];

36. Revenue Form 42A740-S22, "Form 8879-K, 2014[2013] Kentucky Individual Income Tax Declaration for Electronic Filing", 2014[2013];

37. Revenue Form 42A740-S23, "Form 740-V, 2014[2013] Kentucky Electronic Payment Voucher", November 2014[2013];

38. Revenue Form 42A740-S24, "Form 8863-K, 2014[2013] Kentucky Education Tuition Tax Credit", 2014[2013];

39. Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", October 2014[2013];

40. Revenue Form 42A741, "Form 741, 2014[2013] Kentucky Fiduciary Income Tax Return", 2014[2013];

41. Revenue Form 42A741-D, "Schedule D, Form 741, 2014[2013] Kentucky Capital Gains and Losses", 2014[2013];

42. Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October 2014[2013];

43. Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2014[2013] Kentucky Beneficiary's Share of Income, Deductions,

Credits, etc.", 2014[2013];

44. Revenue Form 42A765-GP, "Form 765-GP, 2014[2013] Kentucky General Partnership Income Return", 2014[2013];

45. Revenue Form 42A765-GP(I), "Instructions, 2014[2013] Kentucky General Partnership Income Return", November 2014[2013];

46. Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2014[2013] Partner's Share of Income, Credits, Deductions, etc.", 2014[2013];

47. Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October 2014[2013];

48. Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", November 2014[March 2007];

49. Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", April 2008;

50. Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014[March 2007];

51. "Form W-2, 2014[2013] Wage and Tax Statement", 2014[2013];

52. Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", November 2014[March 2007];

53. Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", April 2008;

54. Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014[March 2007];

55. Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", November 2013;

56. Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", April 2008;

57. Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", April 2014[May 2013];

58. Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", November 2010;

59. Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", August 2014[July 2013];

60. Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", August 2006;

61. Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", March 2006;

62. Revenue Form 42A809, "Certificate of Nonresidence", March 2007;

63. Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April 1989;

64. Revenue Form 42A811, "KREDA Annual Report", December 2007;

65. Revenue Form 42A812, "KIDA Annual Report", December 2007;

66. Revenue Form 42A813, "KJDA Annual Report", December 2007;

67. Revenue Form 42A814, "KIRA Annual Report", December 2007;

68. Revenue Form 42A815, "Withholding Tax Refund Application", August 2006;

69. Revenue Form 42A816, "KEOZ Annual Report", December 2007;

70. Revenue Form 42A817, "KJRA Annual Report", October 2010;

71. Revenue Form 42A818, "KBI Annual Report", October 2010; and

72. Revenue Form 42D003, "2014[2013] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", July 2014[August 2013].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: December 30, 2014

FILED WITH LRC: December 31, 2014 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, 2015 from 10:00 a.m. to 12:00 p.m., in Room 381, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business, March 2, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed amended administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9826, fax (502) 564-2541.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting and paying corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2014; withholding taxes for calendar year 2014; and installments of estimated tax for tax years beginning in 2015.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to provide taxpayers necessary tax forms for reporting and paying their corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2014; withholding taxes for calendar year 2014; and installments of estimated tax for tax years beginning in 2015.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating forms by reference.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes forms to be used by taxpayers to report and pay corporation taxes, limited liability entity taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

(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 contains income and limited liability entity tax forms to be used for tax years beginning in 2014, and estimated tax forms to be used for tax years beginning in 2015.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms to the current tax laws in effect for years beginning in 2014.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay income taxes, limited liability entity taxes, and individual withholding taxes for tax years beginning in 2014.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: All individual, pass-through entity and corporate tax filers are affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individual, pass-through entity, and corporate tax filers will use the forms contained in this administrative regulation to report, pay, and withhold taxes due pursuant to KRS Chapter 141 for tax years beginning in 2014.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of filing tax returns contained in this administrative regulation with the Commonwealth of Kentucky should be comparable to filing tax returns with surrounding states.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The forms contained in this administrative regulation should simplify and expedite the reporting and paying of taxes required by KRS Chapter 141.

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

(a) Initially: The cost of printing and designing the forms.

(b) On a continuing basis: Forms are updated each year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds will be provided by the Department of Revenue.

(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 funding will be required to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied as the forms included in this administrative regulation apply to all taxpayers taxed pursuant to KRS Chapter 141.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 131.130(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not increase revenues or expenses for the Commonwealth, but will expedite the collection of taxes provided by KRS Chapter 141.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue will be collected as a result of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? A very small increase in expenditures will occur in the administrative regulation process that will be absorbed by the department operating budget.

(d) How much will it cost to administer this program for subsequent years? No costs for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary
(Amendment)

200 KAR 15:010. Formula for allocation of private activity bonds.

RELATES TO: KRS 103.200(1)(k), (l), (m), (n), (2), 103.2101, 103.282, 103.286, Pub.L. 111-5

STATUTORY AUTHORITY: KRS 103.286(3), 26 U.S.C. sec. 146

NECESSITY, FUNCTION, AND CONFORMITY: KRS 103.286(3) requires the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations to provide for the allocation of the state ceiling for the issuance of private activity bonds. This administrative regulation establishes the formula for that allocation. This administrative regulation also establishes the Commonwealth's role in the allocation of volume cap received as a result of the American Recovery and Reinvestment Act of 2009.

Section 1. Definitions. (1) "Affected bonds" means "private activity bonds" as defined by 26 U.S.C. sec. 146, excluding any obligations not subject to the state ceiling under the Code.

(2) "Allocation" means the amount of volume cap that was approved by the Kentucky Private Activity Bond Allocation Committee for a local issuer or state issuer.

(3) "ARRA" means the American Recovery and Reinvestment Act of 2009, Pub.L. 111-5.

(4) "Available volume cap" means the amount of unallocated volume cap remaining ~~[from the local issuer pool]~~ at the close of business on June 30.

(5) "Bonds" is defined by KRS 103.200(2).

(6) "Committee" means the Kentucky Private Activity Bond Allocation Committee.

(7) "Eligible volume cap applicants" means issuers and local issuers~~[state issuers and local project applicants]~~ who file a notice of intent to issue bonds relating to [available] volume cap.

(8) "Energy efficiency project" means a project meeting the requirements of KRS 103.282.

(9) "Energy efficiency project reserve" means the percentage of the state ceiling that shall be reserved for an energy efficiency project through June 30.

(10) "Issued" means delivered and paid for.

(11)~~[(9)]~~ "Issuer" means the public or authorized governmental body which issues the bonds.

(12)~~[(40)]~~ "Local issuer" means a public or authorized governmental body which issues bonds on behalf of a local project.

(13)~~[(44)]~~ "Local issuer pool" means the portion of the state ceiling from which allocations for local projects are made to issuers of affected bonds issued on behalf or for the benefit of an entity which is not a state agency.

(14)~~[(42)]~~ "Local project" means a project, other than a project for creation or financing of residential single family or multifamily affordable housing which are included under the "state projects", for which bonds are issued on behalf or for the benefit of an entity which is not a state agency.

(15)~~[(13)]~~ "Lottery" means any process of random selection utilized to allocate available volume cap and which is conducted:

(a) By staff at a public meeting of the Committee; and

(b) In accordance with Section 4~~[3]~~ of this administrative regulation.

(16)~~[(44)]~~ "Staff" means the Office of Financial Management of the Finance and Administration Cabinet.

(17)~~[(45)]~~ "State ceiling" means the cap imposed by 26 U.S.C.

sec. 146 on private activity bonds issued within the Commonwealth of Kentucky.

(18)~~[(46)]~~ "State project" means a project, including creation or financing of residential single family or multifamily affordable housing projects and student loans, for which bonds are issued by, on behalf, or for the benefit of a state agency.

(19)~~[(47)]~~ "Year" means calendar year.

Section 2. Evaluation of Local Projects. Local projects seeking allocation from the state ceiling shall be allocated according to rankings based on the following factors:

(1) Creation of new jobs, as well as preservation of existing jobs, by the project;

(2) Average hourly wage and benefits of new employees proposed for the project;

(3) Capital investment in Kentucky being made as a result of the project;

(4) Unemployment rate in the county of the project;

(5) Any state economic development incentives awarded to the company; and

(6) Previous state ceiling allocated to the benefited borrower within the last ten (10) years.

Section 3. Evaluation of Energy Efficiency Projects. Energy efficiency projects seeking allocation from the state ceiling under the Energy Efficiency Project Reserve shall be allocated according to rankings based on the following factors:

(1) Annual energy savings associated with the project;

(2) Capital investment in Kentucky being made as a result of the project;

(3) Unemployment rate in the county of the project;

(4) Any state economic development incentives awarded to the company; and

(5) Previous state ceiling allocated to the benefited borrower within the last ten (10) years.

Section 4. Allocation of Available Volume Cap. (1) Allocations from the available volume cap shall be made to eligible volume cap applicants~~[in the local issuer pool,]~~ as follows:

(a) First, a lottery shall be conducted to determine the order of disbursement to local projects which did not receive an allocation from the local issuer pool;

(b) Second, to the extent there is remaining available volume cap, a lottery shall be conducted to determine the order of disbursement to local projects which received an allocation from the local issuer pool, whether the allocation was issued or not; and

(c) Finally, any remaining available volume cap shall be allocated by the committee to one (1) or more state issuers for use during the year or as carry forward.

(2) The committee shall choose a reasonable method of random selection for the lottery process.

Section 5~~[4]~~. Committee Meetings. The committee shall meet as necessary to allocate the state ceiling. Special meetings may be held on the call of the committee chairman.

Section 6~~[5]~~. An issuer shall obtain a confirmation authorizing the issuance of affected bonds by filing with the committee a written notice of intent to issue bonds~~[bond]~~ ("Notice of Intent" form). The committee shall issue a confirmation ("Confirmation of Allocation of State Ceiling" form) allocating to the issuer a portion of the state ceiling. Affected bonds shall not be issued by any issuer prior to receiving confirmation by the committee of an allocation under the state ceiling. Confirmations shall be dated and numbered in the order issued.

Section 7~~[6]~~. Notice of Issuance. Local Projects and Energy Efficiency Projects. Confirmation Effective for Ninety (90) Days. A confirmation shall expire ninety (90) calendar days from the date of allocation by the committee, or December 15, whichever is earlier. The issuer shall deliver to the committee a notice that the affected bonds have been issued ("Notice of Issuance" form). The notice of issuance may be sent by any means but the committee shall

receive it by the close of business on the 90th day after the confirmation. If the notice period ends on a Saturday, Sunday, or other day upon which state offices are closed for business, the notice period shall be extended to the next business day.

Section 8[7]. Notice of Issuance. State Projects. Confirmation effective until December 15. The issuer shall deliver to the committee a notice of issuance. The notice of issuance may be sent by any means but the committee shall receive it by the close of business on or before December 15. If the notice period ends on a Saturday, Sunday, or other day upon which state offices are closed for business, the notice period shall be extended to the next business day.

Section 9[8]. Issuance of Bonds in Lesser Amounts than Confirmation. Eighty-five (85) Percent Requirement. A confirmation of affected bonds shall be effective if issued in amounts less than the confirmation; if the face amount of the issued bonds is not less than eighty-five (85) percent of the original confirmation. The issuer shall notify the committee if the bonds issued are within the eighty-five (85) percent requirement and the unused part of the allocation shall revert to the local issuer pool, or if this reversion occurs after June 30 of any year, the amount shall become available volume cap.

Section 10[9]. Carry Forward Allocations. (1) In any year, the committee shall allocate any remaining state ceiling as carry forward allocations if the aggregate amount of affected bonds issued during the year is less than the state ceiling on December 15th. An issuer shall, in order to receive a carry forward allocation, file with the committee by December 15th:

- (a) A notice of intent; and
 - (b) A carry forward election of unused private activity bond volume cap (U.S. Treasury Department Form 8328).
- (2) The carry forward of any unallocated portion of the state ceiling may be for any purpose authorized by 26 U.S.C. sec. 146(f).
- (3) The committee shall issue a confirmation of the notice and election to carry forward ("Confirmation of Carry Forward Allocation of State Ceiling" form).
- (4) The committee may consider, but shall not be required to allocate, a carry forward notice or election filed after December 15th.

Section 11[10]. The committee shall not confirm a notice of intent after the aggregate amount of bond confirmations, including carry forwards, have reached the state ceiling for that year.

Section 12[14]. Form and Manner. (1) The notice and confirmation forms required to be filed with and issued by the committee are incorporated by reference in Section 15[14] of this administrative regulation.

(2) An issuer of a local project or energy efficiency project shall not:

- (a) File a notice of intent unless the issuance will be made within the ninety (90) day confirmation period established in Section 7[6] of this administrative regulation; or
 - (b) Seek an allocation of the state ceiling in excess of the amount necessary to finance all costs of a local project.
- (3) An issuer of a state project shall not:
- (a) File a notice of intent unless the issuance will be made by December 15; or
 - (b) Seek allocation of the state ceiling in excess of the amount necessary to finance all costs of a state project.

Section 13[12]. Delegation of Functions. The committee shall review and allocate all requests for state ceiling. The committee shall not delegate authority to make allocations of the state ceiling to staff except if there are surplus or carry forward allocations. Any delegation of authority and the limit of that authority shall be recorded verbatim in the minutes of the committee meeting at which the delegation is made.

Section 14[13]. Volume Cap Allocations under ARRA. (1) Through the ARRA, the federal government has made and may continue to make allocations of volume cap to state and local governments for the issuance of bonds, such as has been made for Recovery Zone Bonds and Qualified Energy Conservation Bonds. If the federal regulations governing these allocations allocate volume cap directly to the Commonwealth or allow for transfer or waiver of any direct volume cap allocation to a local government back to the Commonwealth, the committee shall:

- (a) Accept any notice of waiver of volume cap as authorized by the local governing body on behalf of the Commonwealth;
- (b) Accept applications of eligible volume cap recipients consistent with federal regulation; and
- (c) Rank each application and allocate volume cap based upon:

1. Any federally mandated standards and objectives; and
2. Expected value to the Commonwealth.

(2) Notice of Issuance. The issuer shall deliver to the committee a notice that the affected bonds have been issued within the time constraints established in the applicable federal regulation, if any.

Section 15[14]. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Notice of Intent" application, December 2014[March 2006];
- (b) "Confirmation of Allocation of State Ceiling", March 1998;
- (c) "Confirmation of Carry-forward Allocation of State Ceiling", March 1998;
- (d) "Notice of Issuance", March 1998; and
- (e) "U.S. Treasury Department Form 8328".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Financial Management, 76 Capitol Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

LORI FLANERY, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 19, 2014 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, 2015 from 10:00 a.m. to 12:00 p.m. Eastern Time at the Capitol Annex Conference Room 182, 702 Capital Avenue, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. Written comments shall be accepted until close of business, March 2, 2015. 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: Doug Hendrix, Deputy General Counsel, Finance and Administration Cabinet, 702 Capitol Avenue, Frankfort, Kentucky 40601, phone (502) 564-6660, fax (502) 564-9875.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Doug Hendrix

(1) Provide a brief summary of:

(a) What this administrative regulation does: Ensures compliance with federal regulations relative to debt ceiling on "private activity" bonds and the allocation of the state ceiling for the issuance of private activity bonds. This administrative regulation establishes the formula for that allocation.

(b) The necessity of this administrative regulation: KRS 103.286 requires the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations to provide for the

allocation of the state ceiling for the issuance of private activity bonds. This administrative regulation establishes that formula.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Describes criteria for efficient allocation of the resource with the parameters established by federal tax law and the authorizing statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Changes allow for statutes to be adhered to and creates an evaluation process to award the envisioned new applicants with Private Activity Volume Cap.

(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 create a third potential pool to allow for the projects described in the new statute KRS 103.282, effective July 15, 2014, to access Private Activity Volume Cap.

(b) The necessity of the amendment to this administrative regulation: The regulation currently does not single out projects identified in the new statute KRS 103.282 and does not reserve volume cap for such projects as the revised KRS 103.286, effective July 15, 2014, statute requires.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the amended authorizing statute by reserving ten (10) percent of the Private Activity Volume Cap for the first six (6) months of the calendar year, as required by KRS 103.286 and adds a third pool to accommodate the type of projects specifically described in the new statute KRS 103.282.

(d) How the amendment will assist in the effective administration of the statutes: The amendment creates the pool and reserves a defined amount for projects envisioned in legislation that are codified in KRS 103.282 and KRS 103.286.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Since projects that are specifically designated in KRS 103.282 and specifically reserved for in KRS 103.286 were already eligible applicants under the previous provisions of the existing Federal Code and state statutes and regulations, the impact of these changes is expected to be minimal or non impactful.

(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: In the current environment where the state has an abundance of Private Activity Volume Cap, the implementation will have very little impact on the current process. However, should Private Activity Volume Cap demand return to previous levels of demand, the additional restrictions due to the changes could cause some projects to delay implementation due to the six (6) month reservation period for the new applicant pool.

(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: Not Applicable

(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: None

(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 may be determined to be applied, as dictated by the amended statute KRS 103.286, related to the initial reduction and the delay of available volume cap to local issuers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Financial Management

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required pursuant to KRS 103.286.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

GENERAL GOVERNMENT CABINET Board of Nursing (Amendment)

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses.

RELATES TO: KRS 218A.205(3)(a), 314.011(7), 314.042, 314.193(2), 314.396

STATUTORY AUTHORITY: KRS 218A.205(3)(a), 314.131(1), 314.193(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.205(3)(a) requires the Board of Nursing to establish by administrative regulation mandatory prescribing and dispensing standards for licensees authorized to prescribe or dispense controlled substances. KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.193(2) authorizes the board to promulgate administrative regulations establishing standards for the performance of advanced practice registered nursing to safeguard the public health and welfare. This administrative regulation establishes the scope and standards of practice for an advanced practice registered nurse.

Section 1. Definitions. (1) "Collaboration" means the relationship between the advanced practice registered nurse and a physician in the provision of prescription medication, including both autonomous and cooperative decision-making, with the advanced practice registered nurse and the physician contributing their respective expertise.

(2) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" or "CAPA-CS" means the written document pursuant to KRS 314.042(10).

(3) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" or "CAPA-NS" means the written document

pursuant to KRS 314.042(8).

Section 2. (1) The practice of the advanced practice registered nurse shall be in accordance with the standards and functions defined in scope and standards of practice statements adopted by the board in subsection (2) of this section.

(2) The following scope and standards of practice statements shall be adopted:

(a) AACN Scope and Standards for Acute Care Nurse Practitioner Practice;

(b) AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice;

(c) Neonatal Nursing: Scope and Standards of Practice;

(d) Nursing: Scope and Standards of Practice;

(e) Pediatric Nursing: Scope and Standards of Practice;

(f) Psychiatric-Mental Health Nursing Practice: Scope and Standards of Practice;

(g) Scope of Practice for Nurse Practitioners;

(h) Standards of Practice for Nurse Practitioners;

(i) Scope of Nurse Anesthesia Practice;

(j) Standards for Nurse Anesthesia Practice;

(k) Standards for Office Based Anesthesia Practice;

(l) Standards for the Practice of Midwifery;

(m) Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice; and

(n) The Women's Health Nurse Practitioner: Guidelines for Practice and Education [Scope and Standards of Psychiatric-Mental Health Nursing Practice];

(b) Nursing: Scope and Standards of Practice;

(c) Standards for Office-Based Anesthesia Practice;

(d) Standards for Nurse Anesthesia Practice;

(e) Scope of Nurse Anesthesia Practice;

(f) Standards for the Practice of Midwifery;

(g) The Women's Health Nurse Practitioner: Guidelines for Practice and Education;

(h) Pediatric Nursing: Scope and Standards of Practice;

(i) Standards of Practice for Nurse Practitioners;

(j) Scope of Practice for Nurse Practitioners;

(k) AACN Scope and Standards for Acute Care Nurse Practitioner Practice;

(l) Neonatal Nursing: Scope and Standards of Practice;

(m) AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice; and

(n) Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice].

Section 3. In the performance of advanced practice registered nursing, the advanced practice registered nurse shall seek consultation or referral in those situations outside the advanced practice registered nurse's scope of practice.

Section 4. Advanced practice registered nursing shall include prescribing medications and ordering treatments, devices, and diagnostic tests which are consistent with the scope and standard of practice of the advanced practice registered nurse.

Section 5. Advanced practice registered nursing shall not preclude the practice by the advanced practice registered nurse of registered nursing practice as defined in KRS 314.011(5).

Section 6. (1) A CAPA-NS and a CAPA-CS shall include the name, address, phone number, and license number of both the advanced practice registered nurse and each physician who is a party to the agreement. It shall also include the specialty area of practice of the advanced practice registered nurse.

(2)(a) To notify the board of the existence of a CAPA-NS pursuant to KRS 314.042(8)(b), the APRN shall file with the board the Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-NS).

(b) To notify the board that the requirements of KRS 314.042(9) have been met and that the APRN will be prescribing nonscheduled legend drugs without a CAPA-NS, the APRN shall

file the Notification to Discontinue the CAPA-NS After Four Years.

(c) To notify the board of the existence of a CAPA-CS pursuant to KRS 314.042(10)(a), the APRN shall file with the board the Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS).

(3) For purposes of the CAPA-NS and the CAPA-CS, in determining whether the APRN and the collaborating physician are qualified in the same or a similar specialty, the board shall be guided by the facts of each particular situation and the scope of the APRN's and the physician's actual practice.

(4)(a) An APRN with a CAPA-CS shall report all of his or her United States Drug Enforcement Agency (DEA) Controlled Substance Registration Certificate numbers to the board when issued to the APRN by mailing a copy of each registration certificate to the board within thirty (30) days of issuance.

(b) Any change in the status of a DEA Controlled Substance Registration Certificate number shall be reported in writing to the board within thirty (30) days.

Section 7. Prescribing medications without a CAPA-NS or a CAPA-CS shall constitute a violation of KRS 314.091(1), except when a CAPA-NS has been discontinued pursuant to KRS 314.042(9) or the provisions of KRS 314.196(4)(b) apply.

Section 8. The board may make an unannounced monitoring visit to an advanced practice registered nurse to determine if the advanced practice registered nurse's practice is consistent with the requirements established by 201 KAR Chapter 20, and patient and prescribing records shall be made available for immediate inspection.

Section 9. Prescribing Standards for Controlled Substances.

(1)(a) This section shall apply to an APRN with a CAPA-CS if prescribing a controlled substance other than a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.

(b) The APRN shall practice according to the applicable scope and standards of practice for the APRN's role and population focus.

(2) This section shall not apply to:

(a) An APRN prescribing or administering a controlled substance immediately prior to, during, or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure or the delivery and the medication usage does not extend beyond the fourteen (14) days;

(b) An APRN prescribing or administering a controlled substance necessary to treat a patient in an emergency situation; or

(c) An APRN prescribing a controlled substance:

1. For administration in a hospital or long-term-care facility with an institutional account, or an APRN in a hospital or facility without an institutional account, if the hospital, long-term-care facility, or licensee queries KASPER for all available data on the patient or resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;

2. As part of the patient's hospice or end-of-life treatment;

3. For the treatment of pain associated with cancer or with the treatment of cancer;

4. In a single dose to relieve the anxiety, pain, or discomfort experienced by a patient submitting to a diagnostic test or procedure;

5. Within seven (7) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing:

a. Is done as a substitute for the initial prescribing;

b. Cancels any refills for the initial prescription; and

c. Requires the patient to dispose of any remaining unconsumed medication;

6. Within ninety (90) days of an initial prescribing pursuant to

subsection (1) of this section if the prescribing is done by another licensee in the same practice or in an existing coverage arrangement, if done for the same patient for the same medical condition;

7. To a research subject enrolled in a research protocol approved by an institutional review board that has an active federal-wide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health;

8. During the effective period of any disaster or situation with mass casualties that have a direct impact on the APRN's practice;

9. Administering or prescribing controlled substances to prisoners in a state, county, or municipal correctional facility;

10. Prescribing a Schedule IV controlled substance for no longer than three (3) days for an established patient to assist the patient in responding to the anxiety of a nonrecurring event; or

11. That has been classified as a Schedule V controlled substance.

(3) The APRN shall, prior to initially prescribing a controlled substance for a medical complaint for a patient:

(a) Obtain the patient's medical history and conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric/mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient;

(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate:

1. The risks and benefits of the use of controlled substances, including the risk of tolerance and drug dependence;

2. That the controlled substance shall be discontinued when the condition requiring its use has resolved; and

3. Document that the discussion occurred and that the patient consented to the treatment.

(4) The treatment plan shall include an exit strategy, if appropriate, including potential discontinuation of the use of controlled substances.

(5) For subsequent or continuing long-term prescriptions of a controlled substance for the same medical complaint, the APRN shall:

(a) Update the patient's medical history and document the information in the patient's medical record;

(b) Modify the treatment plan as clinically appropriate; and

(c) Discuss the risks and benefits of any new controlled substances prescribed with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence.

(6) During the course of treatment, the APRN shall query KASPER no less than once every three (3) months for all available data on the patient before issuing a new prescription or a refill for a controlled substance.

(7) These requirements may be satisfied by other licensed practitioners in a single group practice if:

(a) Each licensed practitioner involved has lawful access to the patient's medical record;

(b) Each licensed practitioner performing an action to meet these requirements is acting within the scope of practice of his or her profession; and

(c) There is adequate documentation in the patient's medical record reflecting the actions of each practitioner.

(8) If prescribing a controlled substance for the treatment of chronic, noncancer pain, the APRN, in addition to the requirements of this section, shall obtain a baseline drug screen or further random drug screens if the APRN:

(a) Finds a drug screen to be clinically appropriate; or

(b) Believes that it is appropriate to determine whether or not

the controlled substance is being taken by the patient.

(9) If prescribing a controlled substance for the treatment of a mental health condition, the APRN shall meet the requirements of this section.

(10) If prescribing a controlled substance for a patient younger than sixteen (16) years of age, the APRN shall obtain and review an initial KASPER report. If prescribing a controlled substance for an individual sixteen (16) years of age or older, the requirements of this section shall apply.

(11) Prior to prescribing a controlled substance for a patient in the emergency department of a hospital that is not an emergency situation as specified in subsection (2) of this section, the APRN shall:

(a) Obtain the patient's medical history, conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric/mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient;

(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence, and document that the discussion occurred and that the patient consented to the treatment.

Section 10. Prescribing Standards for Controlled Substances from Schedule II and Schedule III Containing Hydrocodone. (1)(a) This section shall apply to an APRN with a CAPA-CS if prescribing a controlled substance from Schedule II or Schedule III controlled substance containing hydrocodone.

(b) The APRN shall practice according to the applicable scope and standards of practice for the APRN's role and population focus.

(2) This section shall not apply to:

(a) An APRN prescribing or administering a controlled substance immediately prior to, during, or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure or the delivery and the medication usage does not extend beyond the fourteen (14) days;

(b) An APRN prescribing or administering a controlled substance necessary to treat a patient in an emergency situation; or

(c) An APRN prescribing a controlled substance:

1. For administration in a hospital or long-term-care facility with an institutional account, or an APRN in a hospital or facility without an institutional account, if the hospital, long-term-care facility, or licensee queries KASPER for all available data on the patient or resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;

2. As part of the patient's hospice or end-of-life treatment;

3. For the treatment of pain associated with cancer or with the treatment of cancer;

4. In a single dose to relieve the anxiety, pain, or discomfort experienced by a patient submitting to a diagnostic test or procedure;

5. Within seven (7) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing or dispensing:

a. Is done as a substitute for the initial prescribing;

b. Cancels any refills for the initial prescription; and

c. Requires the patient to dispose of any remaining unconsumed medication;

6. Within ninety (90) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing is done by another licensee in the same practice or in an existing coverage arrangement, if done for the same patient for the same medical

condition; or

7. To a research subject enrolled in a research protocol approved by an institutional review board that has an active federal-wide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.

(3) Prior to the initial prescribing of a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone to a human patient, an APRN shall:

(a) Obtain a medical history and conduct a physical or mental health examination of the patient, as appropriate to the patient's medical complaint, and document the information in the patient's medical record;

(b) Query the electronic monitoring system established in KRS 218A.202 for all available data on the patient for the twelve (12) month period immediately preceding the patient encounter and appropriately utilize that data in the evaluation and treatment of the patient;

(c) Make a written plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and

(e) Obtain written consent for the treatment.

(4)(a) An APRN prescribing an additional amount of a Schedule II controlled substance or Schedule III controlled substance containing hydrocodone for the same medical complaint and related symptoms shall:

1. Review the plan of care at reasonable intervals based on the patient's individual circumstances and course of treatment;

2. Provide to the patient any new information about the treatment; and

3. Modify or terminate the treatment as appropriate.

(b) If the course of treatment extends beyond three (3) months, the licensee shall:

1. Query KASPER no less than once every three (3) months for all available data on the patient for the twelve (12) month period immediately preceding the query; and

2. Review that data before issuing any new prescription or refills for the patient for any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.

(5) For each patient for whom an APRN prescribes a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, the licensee shall keep accurate, readily accessible, and complete medical records, which include, as appropriate:

(a) Medical history and physical or mental health examination;

(b) Diagnostic, therapeutic, and laboratory results;

(c) Evaluations and consultations;

(d) Treatment objectives;

(e) Discussion of risk, benefits, and limitations of treatments;

(f) Treatments;

(g) Medications, including date, type, dosage, and quantity prescribed;

(h) Instructions and agreements; and

(i) Periodic reviews of the patient's file.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "AACN Scope and Standards for Acute Care Nurse Practitioner Practice", 2012 Edition, American Association of Critical-Care Nurses;

(b) "AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice", 2010 Edition, American Association of Critical-Care Nurses;

(c) "Neonatal Nursing: Scope and Standards of Practice", 2013 Edition, American Nurses Association/National Association of Neonatal Nurses;

(d) "Nursing: Scope and Standards of Practice", 2010 Edition,

American Nurses Association;

(e) "Pediatric Nursing: Scope and Standards of Practice", 2008 Edition, American Nurses Association/Society of Pediatric Nursing/National Association of Pediatric Nurse Practitioners;

(f) "Psychiatric-Mental Health Nursing Practice: Scope and Standards of Practice", 2014 Edition, American Nurses Association/American Psychiatric Nursing Association;

(g) "Scope of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(h) "Standards of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(i) "Scope of Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(j) "Standards for Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(k) "Standards for Office Based Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(l) "Standards for the Practice of Midwifery", 2011 Edition, American College of Nurse-Midwives;

(m) "Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice", 2013 Edition, Oncology Nursing Society;

(n) "The Women's Health Nurse Practitioner: Guidelines for Practice and Education", 2008 Edition, Association of Women's Health, Obstetric and Neonatal Nurses/Nurse Practitioners in Women's Health["Scope and Standards of Psychiatric-Mental Health Nursing Practice", 2007 Edition, American Nurses' Association;

(b) "Nursing: Scope and Standards of Practice", 2010 Edition, American Nurses' Association;

(c) "Standards for Office Based Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(d) "Standards for Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(e) "Scope of Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(f) "Standards for the Practice of Midwifery", 2011 Edition, American College of Nurse-midwives;

(g) "The Women's Health Nurse Practitioner: Guidelines for Practice and Education", 2008 Edition, Association of Women's Health, Obstetric and Neonatal Nurses and National Association of Nurse Practitioners in Women's Health;

(h) "Pediatric Nursing: Scope and Standards of Practice", 2008 Edition, National Association of Pediatric Nurse Practitioners;

(i) "Standards of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(j) "Scope of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(k) "AACN Scope and Standards for Acute Care Nurse Practitioner Practice", 2012 Edition, American Association of Critical-Care Nurses;

(l) "Neonatal Nursing: Scope and Standards of Practice", 2013 Edition, American Nurses Association/National Association of Neonatal Nurses;

(m) "AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice", 2010 Edition, American Association of Critical-Care Nurses;

(n) "Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice", 2013 Edition, Oncology Nursing Society];

(o) "Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS)", 12/2014[6/2014], Kentucky Board of Nursing;

(p) "Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs (CAPA-NS)", 12/2014[6/2014], Kentucky Board of Nursing; and

(q) "Notification to Discontinue the CAPA-NS After Four Years", 12/2014[6/2014], Kentucky Board of Nursing.

(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.

SALLY BAXTER, President

APPROVED BY AGENCY: December 5, 2014

FILED WITH LRC: January 8, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015 at 10:00 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 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 not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business, March 2, 2015. 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) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets the scope and standards of practice for advanced practice registered nurses (APRN).

(b) The necessity of this administrative regulation: It is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting scopes and standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting scope and standards.

(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 revises several forms and alphabetizes the names of the scope/standards statements for easier access.

(b) The necessity of the amendment to this administrative regulation: The forms needed to be revised and simplified.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to revise its forms.

(d) How the amendment will assist in the effective administration of the statutes: By revising the forms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: APRNs, approximately 5,000.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to use the new forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no new cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency 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 established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Kentucky Real Estate Appraisers Board (Amendment)

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure.

RELATES TO: KRS 324A.010, 324A.030, 324A.035(1), (3), 324A.040(2), 324A.052

STATUTORY AUTHORITY: KRS 324A.035(1), (3), 12 U.S.C. 3331 - 3351

NECESSITY, FUNCTION, AND CONFORMITY: 12 U.S.C. 3331 through 3351 requires the board to promulgate administrative regulations for certification and licensure of appraisers of real property in federally related transactions. This administrative regulation establishes the types of appraisers required in federally related transactions, scope of the practice, and general requirements for certification or licensure.

Section 1. Types of Appraisers. An appraiser for a federally related transaction shall be a:

- (1) Certified general real property appraiser;
- (2) Certified residential real property appraiser;
- (3) Licensed real property appraiser; or
- (4) Associate real property appraiser.

Section 2. Scope of Practice. (1) Certified general real property

appraiser. A certified general real property appraiser may perform appraisals of all types of real property.

(2) Certified residential real property appraiser. A certified residential real property appraiser may perform residential appraisals of one (1) to four (4) units.

(3) Licensed real property appraiser. A licensed real property appraiser may perform appraisals of:

(a) Noncomplex, one (1) to four (4) residential units with a transaction value less than \$1,000,000; and

(b) Complex, one (1) to four (4) residential units with a transaction value less than \$250,000.

(4)(a) Associate. An associate real property appraiser may perform an appraisal of property that the supervising appraiser of the associate may appraise and shall be subject to the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040.

(b) A separate appraisal log shall be maintained for each supervising appraiser.

(c) The associate shall record in the log for each appraisal the following:

1. Type of property;
2. Client name and address;
3. Address of appraised property;
4. Description of work performed by the associate;
5. Scope of the review;
6. Scope of the supervision by the supervising appraiser;
7. Number of actual hours worked by the associate on the assignment; and
8. Signature and state certification number of the supervising appraiser.

(d) The associate shall be entitled to obtain copies of the appraisal reports he or she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.

(e) The supervising appraiser shall:

1. Have been certified by the board for a period of three (3) years;
2. Be in good standing with the board and shall not have received a suspension, a revocation, or other sanction that limited or prohibited that licensee's practice of real property appraising within the three (3) year period immediately prior to applying to become a supervision appraiser; and
3. Be responsible for the training and supervision of the associate.

(f) Only a certified general real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise ~~who has been a Certified General Real Property Appraiser for three (3) years shall provide supervision for~~ a person acquiring experience toward a Certified General Real Property Appraiser certificate.

(g) ~~Any~~ ~~A certificate holder who has been a~~ certified general real property appraiser or a certified residential real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise ~~for three (3) years shall provide supervision for~~ a person acquiring experience toward a Certified Residential Real Property Appraiser certificate.

(h) The supervising appraiser shall:

1. Accept responsibility for an associate's appraisal report by signing and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040;
2. Review reports by the associate;
3. Personally inspect each appraised property and the comparable sales with the associate on the associate's first fifty (50) real property appraisal assignments, to ensure that the associate is competent and is acting in accordance with the competency provision of the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040, for the property type;
4. Allow an associate who has completed the fifty (50) appraisal assignments required by subparagraph 3. of this

paragraph to inspect properties located within fifty (50) miles of the supervisor's office without being accompanied by the supervisor, if the supervisor has determined pursuant to this administrative regulation that the associate is competent to perform an appraisal;

5. For the twelve (12) months following the date of issuance of an associate license, accompany the associate and inspect each appraised property and the comparable sales on each appraisal assignment located more than fifty (50) miles from the supervisor's office;

6. Be limited to a maximum of three (3) real property associates at a time; and

7. Notify the board immediately if the supervision of a real property associate has terminated; and

8. Not be employed by an associate or by a company, firm, or partnership in which the associate has a controlling interest.

(i) A person otherwise qualified for supervising appraiser who has been disciplined by the board under KRS 324A.050 shall be subject to one (1) or more of the following, according to the severity of the prior violation:

1. Prohibited from supervising associates;
2. Limited to the number of associates to supervise; or
3. Be required to take additional courses approved by the board before being permitted to supervise an associate.

(j) An associate shall submit to the board two (2) complete summary appraisal reports.

1. The first report shall be submitted to the board six (6) months following the date of issuance of the associate license. The second report shall be submitted to the board twelve (12) months following the date of issuance of the associate license.

2. If necessary to determine the competency of the associate, the board shall request additional reports from the associate.

(5)(a) A first time supervisor and a new associate shall attend the board-approved course in supervision practices prior to beginning supervision or training.

(b) To be eligible to provide supervision, a supervisor shall attend the board-approved course in supervision practices every three (3) years.

Section 3. General Requirements for Certification or Licensure. Certification or licensure, as appropriate, of the types of appraisers specified in Section 1 of this administrative regulation, shall be granted if an applicant:

- (1) Has met the examination, education, experience, and fee requirements established by 201 KAR 30:050 and 30:060; and
- (2) Applies to the board on the notarized Appraiser License/Certification Application.

Section 4. Armed Forces Exemption. An individual who submits an application for one (1) of the Kentucky real property appraiser credentials listed in Section 1 of this administrative regulation who was a member of any Reserve component of the US Armed Forces and was pursuing an appraiser license or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the qualifications required under the 2008 Criteria of the Appraiser Qualifications Board for an additional time period after January 1, 2015 that shall be equal to the applicant's time of active duty, plus twelve (12) months.

Section 5. Incorporation by Reference. (1) "Appraiser License/Certification Application", KREAB Form APP100, 1/09, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658, Monday through Friday, 8 a.m. to 4:30 p.m.

HAROLD G. BRANTLEY, Chair

APPROVED BY AGENCY: November 21, 2014

FILED WITH LRC: January 14, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on

February 27, 2015, at 1:30 p.m., in the office of the Kentucky Real Estate Appraisers Board; 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658. Individuals interested in attending this hearing shall notify the agency in writing by 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 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. Written comments shall be accepted until close of business on March 2, 2015. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Disney

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation governs the type of appraisers certified or licensed by the board, their scope of practice, general requirements for certification or licensure, and an armed forces exemption.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and to establish the type of certified or license appraisers, the scope of practice; and general requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding who may be certified or licensed and the general requirements for certification or licensure.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation will assist by establishing who may be certified or licensed and the general requirements for certification or licensure

(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 clarifies the years of experience required to supervise a person and provides for an armed forces exemption.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary so the board maintains the most updated standards of practice within the industry.

(c) How the amendment conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding certification and licensure.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation should reduce questions on the number of years required to provide supervision. It also provides from an armed forces exemption which will allow active duty individuals additional time to become certified or licensed.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 1,800 persons certified by the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: An applicant who is in the armed forces to obtain the exemption. All other requirements for certification or licensure remain the same.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Members of the armed forces receives additional time to obtain a certification or license.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders.

(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 required to implement the changes made by 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 directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the administrative regulation is applicable to all certificate holders. This administrative regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: 324A.035.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(Amendment)**

201 KAR 30:040. Standards of practice.

RELATES TO: KRS 324A.035, 324A.050(1)(j), 12 C.F.R. 225.62-225.67, 12 U.S.C. 3331, 3336, 3339

STATUTORY AUTHORITY: KRS 324A.035(3)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.035(3)(d) requires the board to establish by administrative regulation standards of professional appraisal practice. 12 U.S.C. 3331, 3336, and 3339 and 12 C.F.R. 225.64 and 225.65 require that real estate appraisals in connection with federally related transactions be performed in accordance with appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. This administrative regulation establishes the standards of professional practice.

Section 1. Certificate holders or licensees listed in subsections (1) through (5) of this section shall comply with the Uniform Standards of Professional Appraisal Practice:

- (1) A certified general real property appraiser;
- (2) A certified residential real property appraiser;
- (3) A licensed real property appraiser;
- (4) An associate real property appraiser; and
- (5) A licensed nonfederal real property appraiser.

Section 2. The standard for the calculation and reporting of above-grade square footage and below-grade square footage in single-family houses shall be the American National Standard for Single-Family Residential Buildings; Square Footage-Method for Calculating, ANSI Z765 2013[2003].

Section 3. Appraisal Reporting Requirements. For each appraisal assignment that includes an appraisal management company reference as the client or agent for the client, an appraiser shall identify within the appraisal report:

- (1) The name that is on file with the board for the appraisal management company;
- (2) The Kentucky registration number that is on file with the board for the appraisal management company; and
- (3) The fee that will be paid to the appraiser for each appraisal assignment ordered by an appraisal management company, unless the appraiser is a W-2 employee of the appraisal management company.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Uniform Standards of Professional Appraisal Practice", 2014 - 2015; and

(b) "American National Standard for Single Family Residential Buildings; Square Footage Method for Calculating, ANSI Z765 2013[2003]", 2013[2003].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained from the Appraisal Standards Board of the Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, D.C. 20005, (202) 347-7722.

LARRY DISNEY, Executive Director

APPROVED BY AGENCY: January 14, 2015

FILED WITH LRC: January 14, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2015, at 1:30 p.m., in the office of the Kentucky Real Estate Appraisers Board; 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658. Individuals interested in attending this hearing shall notify the agency in writing by 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 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. Written comments shall be accepted until close of business on March 2, 2015. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Disney

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the standards of practice for certified and licensed appraisers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and to establish the standards of practice.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the standards of practice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the board in enforcing the standard of practice of the profession.

(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 replaces the obsolete version of ANSI to the current version.

(b) The necessity of the amendment to this administrative regulation: This amendment amends the administrative regulation to incorporate the most recent ANSI version regarding practice standards in the industry.

(c) How the amendment conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding the standards of practice.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation allows the board to ensure that certified and licensed appraisers are relying on the most recent American National Standard for Single Family Residential Buildings.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 1,800 persons certified by the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A certificate holder or licensee must comply with the Uniform Standards of Professional Appraisal Practice and American National Standard for Single Family Residential Buildings.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be up to date in

the profession.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by certificate holders.

(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 required to implement the changes made by 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 directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the administrative regulation is applicable to all certificate holders. This administrative regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 324A.035(3)(d).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Kentucky Real Estate Appraisers Board (Amendment)

201 KAR 30:190. Educational requirements for certification.

RELATES TO: KRS 324A.035(1), (3), 324A.040(2), 12 U.S.C. 3331-3351

STATUTORY AUTHORITY: KRS 324A.020, 324A.035(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.035(1) requires the board to establish by administrative regulation requirements for certification or licensure of appraisers of real property in federally related transactions. KRS 324A.035(3)(d) requires the board to establish by administrative

regulation requirements for education of appraisers. 12 U.S.C. 3331-3351 establishes requirements for certification or licensure of appraisers of real property in federally related transactions, including the education requirements promulgated by the Appraisers Qualifications Board. This administrative regulation establishes the education requirements for appraisers of real property in federally related transactions.

Section 1. Definitions. (1) "AQB" means the Appraiser Qualification Board of the Appraisal Foundation.

(2) "Class hour" means sixty (60) minutes, of which at least fifty (50) minutes are instruction attended by the student, including time for examinations.

(3) "Required Core Curriculum" means the list of course topics established in Section 8 of this administrative regulation.

Section 2. (1) Credit for the qualifying education requirements established in this administrative regulation may be obtained only from the following providers:

(a) Colleges or universities;

(b) Community or junior colleges;

(c) Real estate appraisal or real estate related organizations;

(d) State or federal agencies or commissions;

(e) Proprietary schools;

(f) Providers approved by the board in accordance with 201 KAR 30:150; and

(g) The Appraisal Foundation or its boards.

(2) Experience shall not be substituted for education.

Section 3. Criteria Specific to Qualifying Education. (1) A class hour shall be credited only for educational offerings with content that follows the Required Core Curriculum established in Section 8 of this administrative regulation for each respective credential.

(2) The course content requirement may be general or it may be specific to a property type.

(3) A class hour shall be obtained only if:

(a) The minimum length of the educational offering is at least fifteen (15) hours; and

(b) The student successfully completes an approved closed-book examination pertinent to that educational offering.

(4) If an individual qualifying education course covers multiple topics identified within the Required Core Curriculum, there shall be appropriate testing of each component.

(5) Courses taken to satisfy the qualifying education requirements shall not be repetitive.

(6) Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method if applicable.

(7) Uniform Standards of Professional Appraisal Practice (USPAP), incorporated by reference in 201 KAR 30:040, courses.

(a) An applicant shall take the 15-Hour National USPAP Course, or its equivalent, and pass the associated 15-Hour National USPAP Course Examination as approved by the AQB.

(b) At least one (1) of the course instructors shall be an AQB Certified USPAP instructor who is also a state certified appraiser.

(c) USPAP course content equivalency shall be determined by the AQB or by an alternate method established by the AQB.

Section 4. Qualifying Education for Associate Real Property Appraiser. (1) Prior to applying for an associate real property appraiser certification, an applicant shall have completed ninety (90) class hours as specified in the required core curriculum established in Section 8 of this administrative regulation, which shall include at least fifteen (15) hours related to market analysis and highest and best use.

(2) An applicant shall pass:

(a) The Required Core Curriculum examination for each course taken; and

(b) The 15-Hour National USPAP Course or its equivalent and examination as established in Section 3(7) of this administrative regulation.

(4) All qualifying education shall be completed within the five (5) year period prior to the submission of an application for an

Associate Real Property Appraiser credential.

Section 5. Qualifying Education for Licensed Real Property Appraisers. (1) The prerequisite for taking the AQB approved examination shall be successful completion of 180 class hours as established in the required core curriculum established in Section 8 of this administrative regulation.

(2) The applicant shall successfully complete the 15-Hour National USPAP Course, or its equivalent, and the examination required by Section 3(7) of this administrative regulation. There is no alternative to successful completion of the examination.

(3)~~[Beginning January 1, 2015,]~~ An applicant for the licensed real property certificate shall hold a bachelor's degree, or higher, from an accredited college, junior college, community college, or university~~], unless the requirements of subsection (4) of this section are satisfied.~~

(4)(a) ~~In lieu of the bachelor's degree, prior to January 1, 2015, an applicant for the licensed real property certification shall successfully pass twenty-one (21) semester credit hours in the following collegiate subject matter courses from an accredited college, junior college, community college, or university:~~

- ~~1. English Composition;~~
- ~~2. Principles of Economics (Micro or Macro);~~
- ~~3. Finance;~~
- ~~4. Algebra, Geometry, or higher mathematics;~~
- ~~5. Statistics;~~
- ~~6. Introduction to Computers: word processing and spreadsheets; and~~
- ~~7. Business or Real Estate Law.~~

(b) ~~If the accredited college, junior college, community college, or university accepts the College-Level Examination Program® (CLEP) examinations and issues a transcript for the examination, showing its approval, it shall be accepted as credit for the college course].~~

Section 6. Qualifying Education for Certified Residential Real Property Appraisers Certification. (1) The prerequisite for taking the AQB approved examination shall be completion of 200 class hours as established in the required core curriculum Section 8 of this administrative regulation.

(2) The applicant shall successfully complete the 15-Hour National USPAP Course, or its equivalent, and the examination required by Section 3(7) of this administrative regulation.

(3)~~[Beginning January 1, 2015,]~~ An applicant for the certified residential real property certificate shall hold a bachelor's degree, or higher, from an accredited college, junior college, or community college~~], or university, unless the requirements of subsection (4) of this section are satisfied.~~

(4) (a) ~~In lieu of the bachelor's degree, prior to January 1, 2015, an applicant for the certified residential real property certification shall successfully pass twenty-one (21) semester credit hours in the following collegiate subject matter courses from an accredited college, junior college, community college, or university:~~

- ~~1. English Composition;~~
- ~~2. Principles of Economics (Micro or Macro);~~
- ~~3. Finance;~~
- ~~4. Algebra, Geometry, or higher mathematics;~~
- ~~5. Statistics;~~
- ~~6. Introduction to Computers: word processing and spreadsheets; and~~
- ~~7. Business or Real Estate Law.~~

(b) ~~If the accredited college, junior college, community college, or university accepts the College-Level Examination Program® (CLEP) examinations and issues a transcript for the examination, showing its approval, it shall be accepted as credit for the college course].~~

Section 7. Qualifying Education for Certified General Real Property Appraiser Certification. (1) The prerequisite for taking the AQB approved examination shall be completion of 300 class hours as established in the required core curriculum Section 8 of this administrative regulation.

(2) The applicant shall complete the 15-Hour National USPAP Course and examination.

(3) An applicant shall demonstrate that his or her education includes the core courses listed in these criteria, with particular emphasis on nonresidential properties.

(4) An applicant for the certified general real property certificate shall hold a bachelor's degree or higher from an accredited college or university~~], unless the requirements of subsection (5) of this section are satisfied.~~

(5)(a) ~~In lieu of the bachelor's degree, prior to January 1, 2015, an applicant for the certified general real property appraiser credential shall successfully pass thirty (30) semester credit hours or its equivalent in the following collegiate level subject matter courses from an accredited college, junior college, community college or university:~~

- ~~1. English Composition;~~
- ~~2. Micro Economics;~~
- ~~3. Macro Economics;~~
- ~~4. Finance;~~
- ~~5. Algebra, Geometry, or higher mathematics;~~
- ~~6. Statistics;~~
- ~~7. Introduction to Computers: word processing and spreadsheets;~~
- ~~8. Business or Real Estate Law; and~~
- ~~9. Two (2) elective courses in accounting, geography, ageconomics, business management, or real estate.~~

(b) ~~If the accredited college, junior college, community college, or university accepts the College-Level Examination Program® (CLEP) examinations and issues a transcript for the examination showing its approval, it shall be accepted as credit for the college course].~~

Section 8. The required core curriculum and class hours for each of the types or classification of licensees or certificate holders shall be as follows:

(1) Associate Real Property Appraiser consisting of ninety (90) class hours.

(a) Basic appraisal principles: thirty (30) class hours.

(b) Basic appraisal procedures: thirty (30) class hours.

(c) Market analysis and highest and best use: fifteen (15) class hours.

(d) 15-Hour national USPAP course or fifteen (15) hours its equivalent: fifteen (15) hours.

(2) Licensed real estate appraiser consisting of 180 class hours.

(a) Basic appraisal principles: thirty (30) class hours.

(b) Basic appraisal procedures: thirty (30) class hours.

(c) 15-Hour national USPAP course or fifteen (15) hours its equivalent: fifteen (15) class hours.

(d) Residential market analysis and highest and best use: fifteen (15) class hours.

(e) Residential appraiser site valuation and cost approach: fifteen (15) class hours.

(f) Residential sales comparison and income approaches: thirty (30) class hours.

(g) Residential report writing and case studies: fifteen (15) class hours.

(h) Statistics, modeling, and finance: fifteen (15) class hours.

(i) Advanced residential applications and case studies: fifteen (15) class hours.

(3) Certified residential real estate appraiser consisting of 200 class hours.

(a) Basic appraisal principles: thirty (30) class hours.

(b) Basic appraisal procedures: thirty (30) class hours.

(c) 15-Hour national USPAP course or fifteen (15) hours its equivalent: fifteen (15) class hours.

(d) Residential market analysis and highest and best use: fifteen (15) class hours.

(e) Residential appraiser site valuation and cost approach: fifteen (15) class hours.

(f) Residential sales comparison and income approaches: thirty (30) class hours.

(g) Residential report writing and case studies: fifteen (15)

class hours.

(h) Statistics, modeling and finance: fifteen (15) class hours.

(i) Advanced residential applications and case studies: fifteen (15) class hours.

(j) Appraisal subject matter electives: twenty (20) class hours.

(4) Certified general real estate appraiser consisting of 300 class hours.

(a) Basic appraisal principles: thirty (30) class hours.

(b) Basic appraisal procedures: thirty (30) class hours.

(c) 15-Hour national USPAP course or fifteen (15) hours its equivalent: fifteen (15) class hours.

(d) General appraiser market analysis and highest and best use: thirty (30) class hours.

(e) Statistics, modeling and finance: fifteen (15) class hours.

(f) General appraiser site valuation and cost approach: thirty (30) class hours.

(g) General appraiser sales comparison approach: thirty (30) class hours.

(h) General appraiser income approach: sixty (60) class hours.

(i) General appraiser report writing and case studies: thirty (30) class hours.

(j) Appraisal subject matter electives: thirty (30) class hours.

(5) The required core curriculum classes shall cover the topics established in this subsection.

(a) Basic appraisal principles.

1. Real property concepts and characteristics, including basic real property concepts, real property characteristics, and legal description.

2. Legal consideration, including forms of ownership, public and private controls, real estate contracts, and leases.

3. Influences on real estate values, including governmental influences, economic influences, social influences, environmental, geographic, and physical influences.

4. Types of value, including market value and other value types.

5. Economic principles, including classical economic principles and application and illustrations of the economic principles.

6. Overview of real estate markets and analysis including market fundamentals, characteristics, and definitions, supply analysis, demand analysis, use of market analysis.

7. Ethics and how they apply in appraisal theory and practice.

(b) Basic appraisal procedures.

1. Overview of approaches to value.

2. Valuation procedures.

a. Defining the problem;

b. Collecting and selecting data;

c. Analyzing;

d. Reconciling and final value opinion;

e. Communicating the appraisal;

f. Valuation of green buildings; and

g. Impact of seller concessions.

3. Property description.

a. Geographic characteristics of the land or site;

b. Geologic characteristics of the land or site;

c. Location and neighborhood characteristics;

d. Land or site considerations for highest and best use; and

e. Improvements: architectural styles and types of construction.

4. Residential applications.

(c) The 15-Hour National USPAP Course or its equivalent.

1. Preamble and ethics rules.

2. Standard 1.

3. Standard 2.

4. Standards 3 through 10.

5. Statements and advisory opinions.

(d) Residential market analysis and highest and best use.

1. Residential markets and analysis.

a. Market fundamentals, characteristics, and definitions;

b. Supply analysis;

c. Demand analysis; and

d. Use of market analysis.

2. Highest and best use.

a. Test constraints;

b. Application of highest and best use;

c. Special considerations;

d. Market analysis; and

e. Case studies.

(e) Residential appraiser site valuation and cost approach.

1. Site valuation.

a. Methods; and

b. Case studies.

2. Cost approach.

a. Concepts and definitions;

b. Replacement or reproduction cost new;

c. Accrued depreciation;

d. Methods of estimating accrued depreciation; and

e. Case studies.

(f) Residential sales comparison and income approaches.

1. Valuation principles and procedures-sales comparison approach.

2. Valuation principles and procedures-income approach.

3. Finance and cash equivalency.

4. Financial calculator introduction.

5. Identification, derivation, and measurement of adjustments.

6. Gross rent multipliers.

7. Partial interests.

8. Reconciliation.

9. Case studies and applications.

(g) Residential report writing and case studies.

1. Writing and reasoning skills.

2. Common writing problems.

3. Form reports.

4. Report options and USPAP compliance.

5. Case studies.

(h) Statistics, modeling, and finance.

1. Statistics.

2. Automated valuation models (AVMs) and mass appraisal.

3. Real estate finance.

(i) Advanced residential applications and case studies.

1. Complex property, ownership, and market conditions.

2. Deriving and supporting adjustments.

3. Residential market analysis.

4. Advanced case studies.

(j) General appraiser market analysis and highest and best use.

1. Real estate markets and analysis.

a. Market fundamentals, characteristics, and definitions;

b. Supply analysis;

c. Demand analysis; and

d. Use of market analysis.

2. Highest and best use.

a. Test constraints;

b. Application of highest and best use;

c. Special considerations;

d. Market analysis; and

e. Case studies.

(k) General appraiser sales comparison approach.

1. Value principles.

2. Procedures.

3. Identification and measurement of adjustments.

4. Reconciliation.

5. Case studies.

(l) General appraiser site valuation and cost approach.

1. Site valuation.

a. Methods; and

b. Case studies;

2. Cost approach.

a. Concepts and definitions;

b. Replacement or Reproduction cost new;

c. Accrued depreciation;

d. Methods of estimating accrued depreciation; and

e. Case studies;

(m) General appraiser income approach.

1. Overview.

2. Compound interest.

3. Lease analysis.

4. Income analysis.

5. Vacancy and collection loss.
6. Estimating operating expenses and reserves.
7. Reconstructed income and expense statement.
8. Stabilized net operating income estimate.
9. Direct capitalization.
10. Discounted cash flow.
11. Yield capitalization.
12. Partial interests.
13. Case studies.
- (n) General appraiser report writing and case studies.
1. Writing and reasoning skills.
2. Common writing problems.
3. Report options and USPAP compliance.
4. Case studies.

HAROLD G. BRANTLEY, Chair

APPROVED BY AGENCY: November 21, 2014

FILED WITH LRC: January 14, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2015, at 1:30 p.m., in the office of the Kentucky Real Estate Appraisers Board; 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658. Individuals interested in attending this hearing shall notify the agency in writing by 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 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. Written comments shall be accepted until close of business on March 2, 2015. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Disney

- (1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the educational requirements for certified appraisers.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and recent interpretation issued by the Appraiser Qualifications Board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding the educational requirements for certified appraisers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in administering this program by setting forth the educational requirements for certified appraisers.

(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 requires any applicant to have completed a four-year college degree. It eliminated the option of obtaining a credential by completing the specific college courses even if an applicant does not complete a four-year degree.

(b) The necessity of the amendment to this administrative regulation: This amendment will bring the administrative regulation in compliance with the Real Property Appraiser Qualification Criteria (Criteria) that became effective January 1, 2015, and adopted by the Appraiser Qualifications Board (AQB).

(c) How the amendment conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding the educational requirements for certified appraisers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation allows the board to ensure that the appropriate educational requirements are met.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 1,800 persons certified by the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: An applicant must complete a four-year college degree.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be up to date in the profession.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by certificate holders.

(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 required to implement the changes made by 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 directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the administrative regulation is applicable to all certificate holders. This administrative regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 324A.035(3)(d).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(Amendment)**

201 KAR 30:200. Reciprocity requirements for applicants licensed or certified in another state.

RELATES TO: KRS 324A.035(1), (3), 324A.065, 324A.075, 12 U.S.C. 3331-3351

STATUTORY AUTHORITY: KRS 324A.035(1), (3), 324A.075, 12 U.S.C. 3331 - 3351

NECESSITY, FUNCTION, AND CONFORMITY: 12 U.S.C. 3331 through 3351 requires the board to promulgate administrative regulations for certification and licensure of appraisers of real property in federally related transactions. KRS 324A.075 authorizes the board to issue a license or certification to a person licensed or certified in another state under certain requirements. This administrative regulation establishes the requirements for certification or licensure of persons licensed or certified in another state.

Section 1. General. A licensee from another state who seeks to obtain a certification or licensed residential real property appraiser credential[license] in Kentucky by reciprocity shall obtain the[a] Kentucky real property appraiser credential[certification] upon terms and conditions established in this administrative regulation.

Section 2. (1) An individual who is a certified residential,~~or~~ a certified general, or a licensed residential real property appraiser out-of-state may apply for a Kentucky credential[certification] that is the same as the out-of-state certification held by that individual in the other state if the appraiser licensing program of the other state:

(a) Is in compliance with the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of Title XI Real Estate Appraisal Reform Amendments (12 U.S.C. 3331-3351) as administered by the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC); and

(b) The credentialing requirements of the home state meets or exceeds the KREAB requirements that exist at the time the reciprocal application is submitted to the board[Meets or exceeds the minimum certification criteria established by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation upon application].

(2) To obtain a Kentucky certification issued by the board, an out-of-state applicant shall:

(a) Complete the notarized Application for KREAB Appraiser Credential;

(b) ~~File with the board a letter of good standing, license history, the current National Registry Appraiser Report from the National Registry of the ASC, or other proof of good standing issued to the applicant for reciprocity by the out-of-state appraiser regulatory agency;~~

(c) Be identified on the National Registry of The Appraisal Subcommittee as an active certified real property appraiser that currently conforms to the AQB criteria;

(d) ~~Not have received disciplinary action that limited or stopped the ability to complete the practice of real property appraising; and~~

(e) ~~Not have lost a license to practice any profession by revocation, suspension, or voluntary surrender.~~

(3) The out-of-state applicant shall indicate whether the applicant:

(a) Has had an application for certification or licensure as an appraiser denied by any agency within the Commonwealth or any other state, and if so, explain and submit with the application a copy of the denial notice;

(b) Has been reprimanded, fined, or had a license, certificate, or registration suspended, revoked, restricted, denied, or surrendered in the Commonwealth or in any other state, and if so, submit with the application:

1. A written explanation; and

2. A copy of any documentation that describes the charges and action taken by the agency;

(c) Is the subject of any pending investigation, administrative sanction proceeding, hearing, trial, or similar action by any agency that granted or denied the license, certificate, or registration, and if so, explain and submit with the application a copy of any documentation describing the charges;

(d) Has ever entered a plea of nolo contendere, been found guilty of, or been convicted of a felony, or within the last ten (10) years of a misdemeanor, and if so, submit with the application:

1. An explanation of the offense;

2. The location of the proceedings; and

3. A copy of all final court documents identifying the charges and assessing the penalties;

(e) Is awaiting trial or sentencing in any criminal proceeding, and if so, submit with the application:

1. An explanation of the facts of the alleged offense; and

2. The location of the proceedings; and

(f) Has had any disciplinary action brought against him or her as a member of any professional organization or trade association, and if so, submit with the application:

1. An explanation of the action;

2. A copy of any document reflecting the allegations; and

3. The final action or decision if rendered.

Section 3. Exemption from requirements. No provision of this administrative regulation shall be construed to prohibit the professional appraisal practice activities of any out-of-state certified appraiser who is performing the duties and responsibilities while a direct full-time employee of any entity of the United States government.

Section 4. Incorporation by Reference. (1) "Application for KREAB Appraiser Credential", October 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658, Monday through Friday, 8 a.m. to 4:30 p.m.

LARRY DISNEY, Executive Director

APPROVED BY AGENCY: January 14, 2015

FILED WITH LRC: January 14, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2015, at 1:30 p.m., in the office of the Kentucky Real Estate Appraisers Board; 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658. Individuals interested in attending this hearing shall notify the agency in writing by 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 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. Written comments shall be accepted until close of business on March 2, 2015. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Disney

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the requirements for certification for persons seeking certification who are certified in another state.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and to identify the requirements for certified and licensed appraisers from another state to obtain certification or licensure in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding the requirements for certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the board in administering this program by identifying the requirements for applicants who are certified in another state.

(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 establishes the reciprocity requirement from an out-of-state applicant and removes additional requirements for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This amendment allows the board to issue reciprocal licenses.

(c) How the amendment conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate administrative regulations regarding the requirements for certification.

(d) How the amendment will assist in the effective administration of the statutes: This amendment allows the board to administer reciprocal licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons currently involved in obtaining licensure or certification by the board from other states, but estimates the number to be under 100 per year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The applicants will have to file an application and demonstrate compliance with the requirements set forth in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying beyond the standard application fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Persons seeking licensure from another state that is in good standing with the federal oversight agency, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, can be licensed or certified in Kentucky through the process established in this administrative regulation.

(5) Provide an estimate of how much it will cost to implement

this administrative regulation:

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by certificate holders and applicants.

(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 required to implement the changes made by this 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 directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the administrative regulation is applicable to all certificate holders. This administrative regulation does not distinguish between similarly situated individuals on the basis of any factor.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 12 U.S.C. 3351

(2) State compliance standards. This administrative regulation requires compliance with the Real Property Appraiser Qualification Criteria and Interpretations which as promulgated by the Appraisal Qualifications Board of the Appraisal Foundation.

(3) Minimum or uniform standards contained in the federal mandate. The federal mandate requires that persons who are certified by the state must meet the criteria for certification as promulgated by the Appraisal Qualifications Board of the Appraisal Foundation. 12 U.S.C. 3351 mandates that the states institute a reciprocity process for licensure or certification

(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 imposition of the stricter standard, or additional or different responsibilities or requirements imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 324A.035(1), (3), 324A.075, 12 U.S.C. 3331-3351.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

**301 KAR 2:132. Elk quota hunts, elk depredation permits,
landowner cooperator permits, and voucher cooperator
permits[quota hunts].**

RELATES TO: KRS 150.010, 150.170(4), 150.180, 150.990
STATUTORY AUTHORITY: KRS 150.025(1), 150.177,
150.178, 150.390(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) authorizes the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits can be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

Section 1. Definitions. (1) "Antlered elk" means an elk having visible polished antler protruding above the hairline.

(2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.

(3) "At-large[north]" means any portion of the elk zone not included in a limited entry area[and that lies north of US Hwy 15].

(4)[~~"At-large south" means any portion of the elk zone not included in a limited entry area and that lies south of US Hwy 15.~~]

(5) "Bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that may lure, entice, or attract wildlife, but does not include the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planning or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

(5)[(6)] "Baiting" means to place, deposit, tend, distribute, or scatter bait.

(6)[(7)] "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.

(7)[(8)] "Elk" means *Cervus elaphus nelsoni*.

(8)[(9)] "Elk Management Unit" or "EMU" means a designated area in the restoration zone with specific management restrictions for a post-season antlerless elk quota hunt.

(9)[(10)] "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters an agreement with the department to allow public access and hunting for at least five (5) years.

(10)[(11)] "Limited Entry Area" or "LEA" means a designated area in the restoration zone with specific management restrictions.

(11)[(12)] "Out-of-zone" means all counties not included in the restoration zone.

(12)[(13)] "Restoration zone" means the following Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

(13)[(14)] "Spike" means an elk having one (1) or two (2) antler

points on each side.

(14) "Voucher cooperator" means a landowner or lessee who owns or leases at least 100 acres of land in the restoration zone and enters into an agreement with the department to allow elk hunting access.

(15) "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage. A person authorized to destroy an elk shall:

(1) Attach a department-issued disposal permit to an elk prior to moving the carcass; and

(2) Not remove the disposal permit until the carcass is processed.

Section 3. Elk Quota Hunts. (1) The elk quota hunt application period shall be January 1 to April 30.

(2) An applicant shall:

(a) Complete the elk quota hunt application process on the department's Web site at fw.ky.gov; and

(b) Pay a nonrefundable application fee of ten (10) dollars.

(3) The commissioner may 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.

(4) There shall be a random electronic drawing from each applicant pool.

(5) Youth may enter a separate drawing pool for ten (10) either-sex elk permits that shall be valid for use during all elk seasons:

(a) Anywhere in the at-large ~~portion[north or at-large south portions]~~ of the restoration zone; or

(b) Within an LEA if the youth applies for and is drawn for an LEA, pursuant to Section 5(3) of this administrative regulation.

(6) A youth applicant shall not apply for the youth-only elk quota hunt more than once per application period.

(7) An applicant for the youth-only elk quota hunt may also apply for the regular quota hunts as established in subsection (12) of this section.

(8) A youth applicant drawn for the youth-only elk quota hunt shall not be drawn in any other elk quota hunt held during the same calendar year.

(9) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn in the youth-only elk quota hunt in subsequent years.

(10) No more than ten (10) percent of all drawn applicants in each quota hunt pool shall be nonresidents.

(11) A quota hunt permit awarded from any department-administered drawing shall not be transferable.

(12) In addition to the youth-only quota hunt, there shall be four (4) separate regular elk quota hunts consisting of:

(a) Antlered archery and crossbow;

(b) Antlered firearms;

(c) Antlerless archery and crossbow; and

(d) Antlerless firearms.

(13) An applicant shall:

(a) Apply only once for an individual elk quota hunt;

(b) Not be eligible to be drawn in more than one (1) of the four (4) quota hunt pools;

(c) Only be selected by a random electronic drawing; and

(d) Pay a nonrefundable application fee of ten (10) dollars for each entry.

(14) A person who is drawn for an antlered elk quota hunt shall be ineligible to be drawn for any antlered elk quota hunt for the following three (3) years.

(15) A person who does not have access to the department's Web site to apply for any quota hunt may contact the department toll free at 1-800-858-1549 for assistance in applying.

Section 4. Landowner Cooperator Permits. (1) With the approval of the commission, the commissioner shall issue to a landowner cooperator:

(a) One (1) either-sex permit annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement;

(b) Two (2) antlerless-only permits annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement; or

(c) One (1) antlerless-only permit annually per 5,000 acres of land enrolled with the department in an elk hunting access agreement for the duration of the agreement.

(2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and hunter requirements in Sections 6[5] and 7[6] of this administrative regulation.

(3) A landowner cooperator permit shall be transferable, but shall only be used on the land for which the agreement was made.

(a) The permit may be transferred to any person eligible to hunt in Kentucky.

(b) Prior to hunting, the landowner cooperator or person who has received the transferred permit shall provide the department with the hunter's:

1. Name;
2. Social Security number;
3. Address; and
4. Telephone number.

(c) The permit shall not be transferable after being used for the harvest of one (1) elk.

(4) Public access agreements with the department shall be recorded in writing.

Section 5. Voucher Cooperator Permits (1) A voucher cooperator shall accrue:

(a) Two (2) voucher points for each legally harvested antlered elk; and

(b) One (1) voucher point for each legally harvested antlerless elk.

(2) A voucher cooperator who accrues twenty (20) total points on land enrolled pursuant to Section 1(15) of this administrative regulation shall receive one (1) either-sex elk permit from the department.

(3) A recipient of a voucher cooperator elk permit shall comply with all of the requirements established in Sections 6 and 7 of this administrative regulation.

(4) A voucher cooperator elk permit shall only be used on:

(a) The property enrolled with the department per agreement; or

(b) Other property that the landowner or lessee owns or leases.

(5) A voucher cooperator permit may be transferable to any person eligible to hunt in Kentucky.

(6) If a voucher cooperator permit is to be transferred, then the landowner, lessee, or person who has received the transferred permit shall provide to the department by August 15 the hunter's:

- (a) Name;
- (b) Social security number;
- (c) Address; and
- (d) Telephone number.

(7) A permit shall not be transferable after being used for the harvest of an elk.

Section 6. Hunter Requirements. (1) A person shall carry proof of purchase of a valid Kentucky hunting license and valid elk permit while hunting, unless exempted by KRS 150.170.

(2) The statewide bag limit shall be one (1) elk per hunter per license year.

(3) A drawn hunter may apply to hunt in up to four (4)[three (3)] areas in any combination of the limited entry[and at-large] areas by completing the application process on the department's Web site.

(a) Up to five (5) drawn hunters may apply for their LEA choices as a party.

(b) If the party is drawn for the LEA, all hunters in the party shall be assigned to that same LEA.

(c) If the number of slots remaining in the quota is less than the number of hunters in the next party selected, the entire party shall be assigned to the party's next choice ranking or to the[an] at-large

area.

(4) A hunter who does not apply for an LEA or is not drawn for an LEA shall be assigned to[by] the at-large area[department to either the:

- (a) At-large north portion of the elk zone; or
- (b) At-large south portion of the elk zone].

(5) A hunter drawn for an LEA may hunt only in the assigned LEA, except that a person who is drawn for any elk quota hunt may hunt on his or her land within the restoration zone.

(6) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.

(7) An elk hunter shall not:

(a) Take elk except during daylight hours;
(b) Use dogs, except to recover wounded elk using leashed tracking dogs;

(c) Hunt over bait inside the elk restoration zone;

(d) Drive elk from outside the assigned area;

(e) Take an elk while it is swimming;

(f) Use electronic calls or electronic decoys; or

(g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a disabled hunter who has a hunting method exemption permit issued pursuant to 301 KAR 3:027 may use a stationary vehicle as a hunting platform.

(8) A person shall:

(a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and

(b) Display the vehicle tag in the windshield of the vehicle while hunting elk.

(9) A youth shall be accompanied by an adult who shall remain in a position to take immediate control of the youth's firearm.

(10) An adult accompanying a youth shall not be required to possess a hunting license or elk permit if the adult is not hunting.

(11) A hunter may use any deer hunting method authorized by 301 KAR 2:172.

(12) A person shall only[not] use the weapons and ammunition established[items listed] in paragraphs (a) through (e)[(f)] of this subsection to take an elk:

(a) A crossbow or archery equipment loaded with a non-barbed broadhead of seven-eighths (7/8) inch or wider upon expansion[any weapon or device prohibited for deer hunting pursuant to 301 KAR 2:172];

(b) A[modern] firearm;

1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

2. Of .270 caliber or larger; and

3. Loaded with centerfire, single projectile ammunition designed to expand upon impact[less than .270 caliber];

(c) A muzzle-loading firearm off[less than] .50 caliber or larger;

(d) A shotgun of twenty (20)[less than 20] gauge or larger loaded with a shell containing one (1) projectile; or

(e) A handgun loaded with:

1. Centerfire cartridges;

2. Bullets of .270 caliber or larger designed to expand upon impact; and

3. Cartridges with a case length of 1.285 inches or larger.

(13) A crossbow shall contain a working safety device.

(14) An elk hunter shall not use a magazine capable of holding more than ten (10) rounds[any arrow without a broadhead point;

(f) A handgun with a barrel length of less than six (6) inches, a bore diameter less than .270 inches (.270 caliber), and when fired, the bullet shall produce at least 550 ft/lbs of energy at 100 yards].

(15)[(13)] A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.

(16)[(14)] A hunter drawn for a firearms elk permit shall hunt elk pursuant to that permit only during the seven (7) day period assigned during the initial drawing.

(17)[(15)] An individual who receives or is transferred a landowner cooperator permit, a voucher cooperator permit, or a special commission permit may hunt in all of the antlered-only or antlerless-only quota hunts and shall hunt in accordance with the seasons and limits established in Section 7[6] of this administrative regulation.

~~(18)[(46)]~~ A person who is drawn for an archery or crossbow permit or has a landowner cooperator permit, ~~a[or]~~ special commission permit, or voucher cooperator permit may hunt with a crossbow during all archery and crossbow seasons, if at the time of the hunt, the person:

- (a) Is a youth;
- (b) Is sixty-five (65) years or older; or
- (c) Has a crossbow hunting method exemption permit for hunting deer pursuant to 301 KAR 3:027.

Section 7[6]. Elk Quota Hunt Seasons and Limits. (1) A person drawn for an antlerless or antlered archery and crossbow permit shall not hunt when an elk firearms season is open.

(2) A person drawn for an antlered archery and crossbow permit shall use:

(a) Archery equipment to take an antlered elk beginning the third Saturday in September through the third Monday in January; and

(b) A crossbow to take an antlered elk from the fourth Saturday in September through the fourth Friday in December:

1. ~~For two (2) consecutive days beginning the third Saturday in October; and~~

2. ~~From the second Saturday in November through December 31.~~

(3) A person drawn for an antlerless archery and crossbow permit shall use:

(a) Archery equipment to take an antlerless elk beginning the third Saturday in October through the third Monday in January; and

(b) A crossbow to take an antlerless elk from the third Saturday in October to the fourth Friday in December:

1. ~~For two (2) consecutive days beginning the third Saturday in October; and~~

2. ~~From the second Saturday in November through December 31.~~

(4) A person drawn for an antlered firearms permit shall use a modern gun or muzzleloader to take an antlered elk during one (1) of two (2) seven (7) day periods randomly assigned by the department from the:

(a) First Saturday in October for seven (7) consecutive days; or

(b) Second Saturday in October for seven (7) consecutive days.

(5) A person drawn for an antlerless firearms permit shall use a modern gun or muzzleloader to take an antlerless elk during one (1) of two (2) seven (7) periods randomly assigned by the department from the:

(a) Second Saturday in December for seven (7) consecutive days; or

(b) First[Third] Saturday in January[December] for seven (7) consecutive days.

Section 8[7]. LEA boundaries. (1)~~[Caney LEA – Starting at the intersection of State Hwy 550 and Kentucky 1697, the boundary proceeds north on State Hwy 550 through Mousie and Betty to the intersection with State Hwy 7 near Lackey. The boundary then goes south on State Hwy 7, past Dema to intersection with State Hwy 899. The boundary then goes south on State Hwy 899, through Pippa Passes to intersection with Kentucky 1697 at Alice Lloyd College. The boundary then goes west on Kentucky 1697 to intersection with State Hwy 550 in Garner, completing the boundary.~~

~~(2)] Hazard LEA - Starting at the intersection of State Hwy 476 and State Hwy 80, the boundary proceeds east on Hwy 80 to the intersection with State Hwy 3209. The boundary then goes west on Hwy 3209 to the intersection with State Hwy 1087. The boundary then goes east on Hwy 1087 to the intersection with State Hwy 1098 near Yellow Mountain. The boundary then follows Hwy 1098 north and west to the intersection with State Hwy 15 near Quicksand. The boundary then goes south on Hwy 15 to the intersection with State Hwy 476 near Lost Creek. The boundary then goes south on Hwy 476 to the intersection with State Highway 80, completing the boundary.~~

(2) Middlesboro LEA - Starting at the intersection of US Hwy 25E and the Tennessee border at Middlesboro, the boundary

proceeds southward and westward on the Tennessee and Kentucky border until the intersection of State Hwy 190. The boundary proceeds northward and westward on State Hwy 190 to the intersection of US Hwy 25E. The boundary then goes south on US Hwy 25E to the Tennessee border, completing the boundary.

(3) Prestonsburg LEA – The area shall be within the boundary of the Czar Hunter Access Area as indicated by signage.

(4)[(3)] Straight Creek LEA - Starting at the intersection of State Hwy 66 and State Hwy 221 at Straight Creek, the boundary proceeds east on State Hwy 221 to the intersection with State Hwy 2009. The boundary then proceeds north along State Hwy 2009 to the intersection with US Route 421. The boundary then proceeds north on US Route 421 to the intersection with State Hwy 406 near Stinnett. The boundary then follows State Hwy 406 west to the intersection with State Highway 66. The boundary then follows State Hwy 66 south to the intersection with Hwy 221 to complete the boundary.

Section 9[8]. Post-season Quota Hunt on Private Land. (1) A modern firearms quota hunt for antlerless elk and spikes shall take place beginning on the fourth Saturday in January for fourteen (14) consecutive days.

(2) Each hunter shall be randomly drawn from the pool of applicants who:

(a) Were not drawn for the previous elk quota hunts; and

(b) Are residents of counties included, wholly or in part, within an EMU boundary.

(3) A drawn applicant shall comply with the requirements in Section 6[5] of this administrative regulation except that an applicant may hunt only in the assigned EMU or on land the applicant owns within another EMU.

(4) EMU boundaries shall be:

(a) Knott County EMU - Starting at the intersection of KY Route 777 and KY Route 550 near Porter Junction, the boundary proceeds east along KY Route 777 to the intersection with KY Route 680. The boundary then proceeds east along KY Route 680 to the intersection with KY Route 122 at Minnie. The boundary proceeds south along KY Route 122 to the intersection with KY Route 1498 near Bevinville. The boundary then continues south on KY Route 1498 to the intersection with KY Route 7. The boundary then proceeds south on KY Route 7 to the intersection with KY Route 1410. The boundary then proceeds west on KY Route 1410 to the intersection with KY Route 160. The boundary then proceeds north on KY Route 160 to the intersection with KY Route 550 in Hindman. The boundary then proceeds north on KY Route 550 to the intersection with KY Route 7, with which KY Route 550 merges and both continue north, to the intersection with KY Route 777 near Porter Junction, thus completing the boundary.

(b) Stoney Fork EMU - Starting at the intersection of State Hwy 2058 and U.S. Hwy 421 near Helton, the boundary then proceeds south along U.S. Hwy 421 to the intersection of U.S. Hwy 421 and U.S. Hwy 119 near Harlan, then west along U.S. Hwy 119 to the intersection of U.S. Hwy 119 and U.S. Hwy 25E. The boundary then goes north following U.S. Hwy 25E to the intersection with State Hwy 66, then north on State Hwy 66 to the intersection of State Hwys 66 and 1850, then east along State Hwy 1850 to the intersection of State Hwys 1850 and 1780 at Warbranch. The boundary then proceeds south on State Hwy 1780 to its intersection with State Hwy 2058 near Spruce Pine, then east on State Hwy 2058 back to U.S. Hwy 421 at Helton, thus completing the boundary.

(5) Any public hunting area within an EMU shall be closed to elk hunting during this season.

Section 10[9]. Tagging and Checking Requirements. (1) Immediately after taking an elk~~[and prior to removing the hide or head from the carcass]~~, a hunter shall record on a hunter's log:

~~(a)[Record on a hunter's log the following information:~~

1. ~~The species harvested;~~

~~(b)[2.] The sex of the animal;~~

~~(c)[3.] Date of harvest; and~~

~~(d)[4.] County of harvest.~~

(2) A hunter shall~~;~~ and

(b)] check the harvested elk before midnight on the day the elk is recovered by:

(a)[4-] Calling (800) 245-4263 and providing the requested information; or

(b)[2-] Completing the online check-in process at fw.ky.gov.

(3) A hunter who has checked in an elk shall record the confirmation number on a hunter's log.

(4) If the hide or head is removed from the carcass before the elk is checked in, then the hunter shall be required to demonstrate proof of the sex of the elk.

(a) For antlered elk the hunter shall retain the:

1. Head with antlers; or

2. Testicles, scrotum, or penis attached to the carcass; or

(b) For antlerless elk the hunter shall retain the:

1. Head; or

2. Udder or vulva attached to the carcass.

(5)[(2)] If a harvested elk leaves the possession of the hunter, the hunter shall attach to the carcass a hand-made tag that contains the hunter's:

(a) Confirmation number;

(b) Name; and

(c) Telephone number.

(6)[(3)] A person shall not provide false information in:

(a) Completing the hunter's log;

(b) Checking an elk; or

(c) Creating a carcass tag.

Section 11[40]. Elk Hunting on Public Land. (1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on the areas listed in paragraphs (a) through (f) of this subsection within the restoration zone pursuant to the conditions of the permit received:

(a) Wildlife Management Areas;

(b) Hunter Access Areas;

(c) State forests;

(d) Big South Fork National River and Recreation Area;

(e) Daniel Boone National Forest; or

(f) Jefferson National Forest.

(2) Portions of Paintsville Lake WMA that lie out of the restoration zone are subject to the requirements established in Section 12[44] of this administrative regulation.

(3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.

(4) Paul Van Booven WMA.

(a) The archery and crossbow seasons shall be open as established in Section 7[6] of this administrative regulation.

(b) A firearm shall not be used to hunt elk.

(5) A person shall not mimic the sound of an elk on public land open to elk hunting from September 1 until the opening of the elk archery season.

Section 12[44]. Out-of-zone Elk Hunting. (1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person taking elk outside of the restoration zone, except that a hunter shall comply with~~[not use any of]~~ the weapons and ammunition requirements established~~[items listed]~~ in Section 6~~[paragraphs (a) through (f)]~~ of this administrative regulation~~[subsection to take elk]~~:

(a) Any weapon or device prohibited for deer hunting pursuant to 301 KAR 2:172;

(b) A modern firearm less than .270 caliber;

(c) A muzzle-loading firearm less than .50 caliber;

(d) A shotgun less than twenty (20) gauge; or

(e) Any arrow without a broadhead point; or

(f) A handgun:

1. With a barrel length of less than six (6) inches;

2. With a bore diameter of less than .270 caliber; and

3. That produces less than 550 foot-pounds of energy at 100 yards].

(2) Unless exempted by KRS 150.170, a person who is hunting out-of-zone elk shall possess:

(a) A valid Kentucky hunting license; and

(b) An out-of-zone elk permit.

(3) A person may take an elk of either sex, which shall not count toward the person's deer bag limit.

(4) Any elk harvested out-of-zone shall be telechecked pursuant to Section 10[9] of this administrative regulation.

Section 13[42]. A person who takes possession of any elk antler that has the skull or skull plate attached to it shall contact the department's Law Enforcement Division within twenty-four (24) hours to obtain a disposal permit.

Section 14[43]. A person who is the recipient of a valid elk quota hunt permit, landowner cooperator permit, voucher cooperator permit, or special commission permit may defer use of the permit to the following year if:

(1) There is a death of the permit holder's:

(a) Spouse;

(b) Child; or

(c) Legal guardian, if the permit holder is under eighteen (18) years old; and

(2) The permit holder provides to the department a death certificate and one (1) of the following documents prior to May 1 of the year following the hunting season:

(a) A marriage certificate;

(b) A birth certificate; or

(c) An affidavit of paternity or maternity.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015, at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business 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 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 by close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission, landowner cooperator permits and cooperator voucher permits can be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to effectively manage elk populations in Kentucky, while providing optimal elk hunting opportunities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special

commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) authorizes the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the statutes by establishing the requirements for the elk permit drawing, quota hunts, legal methods of harvest, the conditions under which special commission permits, landowner cooperator permits, and voucher cooperator permits can be used, the procedures for elk damage abatement and any postseason hunt held after the quota hunts.

(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 creates two (2) new limited entry areas and defines those boundaries. It gives additional days to elk hunting for crossbow hunters. It removes the north and south at large divisions to create one at large area. It establishes the voucher cooperator permit that will allow a landowner to accrue points toward an elk tag for allowing elk hunting on their property. The amendment also modifies the requirements for a hunter to provide proof of sex of a harvested elk.

(b) The necessity of the amendment to this administrative regulation: See 1 (b) above.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 35,000 to 60,000 people who apply to hunt elk in Kentucky each year, of which approximately 1,000 are drawn. People who own or lease land over 100 acres can enter into an agreement with the Department for elk hunting access and receive elk tags based on the number of elk that are harvested on the property.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All drawn hunters can apply online for a Limited Entry Area and must comply with the change in season dates. Landowners with at least 100 acres in the elk zone may now enter into an agreement with the department to allow elk hunting on their land, which if they accrue a minimum number of points based on elk harvested on their land, they will receive an either sex elk permit. Hunters who harvest elk will be required to comply with the requirements for proving the sex of the harvested elk.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not change any costs to the entities identified in 3.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Landowners who own less than 5,000 acres, but more than 100 acres, may now receive a cooperator elk tag based on the numbers and sex of elk harvested on their property.

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

(a) Initially: Other than a minor administrative cost, there will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish 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: Additional fees for direct implementation of this regulation are not necessary, as infrastructure for conducting all aspects of elk management and quota hunts already exists.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? Yes. Residents of the counties within the EMUs who are not drawn for the regular quota hunt shall be eligible for a late season depredation hunt. This hunt allows residents to assist landowners in removing elk causing property damage in two (2) areas with chronic nuisance elk problems. Fewer than fifty (50) tags for antlerless and spike bulls will be drawn. These tags can only be used on private land within one of the two (2) Elk Management Units (EMUs). The number of tags to be issued will be determined by the level of nuisance elk cases or property damage caused by elk documented within the EMUs prior to January each year.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, KRS 150.177, KRS 150.178, KRS 150.390.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? For the 2014 elk season, approximately 67,600 applications were purchased at ten (10) dollars per application \$676,000 of revenue to the department. Approximately 890 of the 1,000 drawn hunters paid for elk permits, generating \$52,000 in additional revenue to the department. Total revenue directly generated by the elk hunts for the department was \$728,000 for the 2014 season.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? It is estimated that approximately \$600,000 to \$800,000 will be generated from lottery applications and elk permits for the department. There is also a positive economic impact to cities, counties and local businesses in and near the elk restoration zone as hunters visit to hunt, but the specific dollar amount is unknown.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year. The department already has mechanisms in place for quota hunt application procedures, random drawings and other aspects of the elk hunts.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

RELATES TO: KRS 150.010, 150.177, 150.180, 150.411(3), 150.990, 237.110

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to ~~establish hunting seasons, bag limits, methods of taking, and to~~ promulgate administrative regulations ~~to establish open~~ establishing hunting seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area ~~of taking wildlife~~. KRS 150.170 authorizes exemptions for certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits to be issued by the department. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or Title 301 KAR ~~its administrative regulations~~. This administrative regulation establishes deer hunting seasons and zones, legal methods of taking, and checking and recording requirements for deer hunting.

Section 1. Definitions. (1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide permit in the following combinations:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Antlered deer" means a male or female deer with a visible antler protruding above the hairline.

(4) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(5) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(6) "Arrow" means the projectile fired from a bow or crossbow.

(7) "Barbed broadhead" means a point or portion of a blade projecting backward from a broadhead designed to hold an arrow within an animal.

(8) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(9) "Deer" means a member of the species *Odocoileus virginianus*.

(10) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(11) "Fully automatic firearm" means a firearm that fires more than one (1) time with a single pull of the trigger.

(12) "License year" means the period from March 1 through the following last day of February.

(13) "Modern gun" means a rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(14) "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(15) "Shotshell" means ammunition containing more than one (1) projectile.

(16) "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(17) "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements and restrictions for deer hunting established in this administrative regulation.

(18) "Youth" means a person under the age of sixteen (16) by

the date of the hunt.

(19) "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of deer in Kentucky.

Section 2. License and Deer Permit Requirements. (1) Unless exempted by KRS 150.170, a person shall carry proof of purchase of a valid Kentucky hunting license and valid deer permit while hunting.

(2) In lieu of a statewide deer permit or a license or permit that grants statewide deer hunting privileges, a person possessing a valid junior statewide hunting license shall not use more than two (2) junior deer hunting permits.

(3) An additional deer permit shall not be valid unless accompanied by a valid Kentucky hunting license and a statewide deer permit or a license or permit that grants statewide deer hunting privileges.

Section 3. Hunter Restrictions. (1) A deer hunter shall not:

- (a) Take a deer except during daylight hours;
- (b) Use dogs, except leashed tracking dogs to recover a wounded deer;

(c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A deer hunter shall not take a deer with any device except a firearm, crossbow, or archery equipment as authorized by Section 5 of this administrative regulation.

(3) A person shall not use any of the following items to take a deer:

- (a) Rimfire ammunition;
- (b) A fully automatic firearm;
- (c) A firearm with a magazine capacity greater than ten (10) rounds;
- (d) Full metal jacketed ammunition;
- (e) Tracer bullet ammunition;
- (f) A shotshell containing more than one (1) projectile;
- (g) An arrow or crossbow bolt without a broadhead;
- (h) A broadhead smaller than seven-eighths (7/8) inch wide;
- (i) A barbed broadhead;
- (j) A crossbow without a working safety device;
- (k) A chemically treated arrow;
- (l) An arrow with a chemical attachment;
- (m) Multiple projectile ammunition; or
- (n) Any weapon that is not consistent with the appropriate season established in Section 5 of this administrative regulation.

Section 4. Hunter Orange Clothing Requirements. (1) During the modern gun deer season, muzzle-loader season, and any youth firearm season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl.

(2) During an elk firearm season as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl.

(3) The hunter orange portions of a garment worn to fulfill the requirements of this section:

- (a) May display a small section of another color; and
- (b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

(4) 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.

Section 5. Statewide Season Dates. (1) A deer hunter may use

archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.

(2) A deer hunter may take deer with a modern firearm statewide beginning the second Saturday in November for:

- (a) Sixteen (16) consecutive days in Zones 1 and 2; and
- (b) Ten (10) consecutive days in Zones 3 and 4.

(3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:

(a) For two (2) consecutive days beginning the third Saturday in October;

(b) For nine (9) consecutive days beginning the second Saturday in December; and

(c) During any season in which a modern gun may be used to take deer.

(4) A deer hunter may use a crossbow to hunt deer statewide:

(a) From October 1 through the end of the third full weekend in October;

(b) From the second Saturday in November through December 31; and

(c) During any season in which a firearm may be used to take deer.

(5) A legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.

(6) Youth firearm season. For two (2) consecutive days beginning on the second Saturday in October, a youth deer hunter:

(a) May take antlered or antlerless deer and shall use a legal method to do so; and

(b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

~~[(7)]~~ There shall be a free youth weekend for two (2) consecutive days beginning on the Saturday after Christmas during which a youth:

(a) Shall not be required to have a hunting license or deer permit;

(b) May take antlered or antlerless deer and shall use a legal method to do so; and

(c) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

Section 6. Zones. (1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Harrison, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, McCracken, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Trigg, Trimble, Washington, and Woodford Counties.

(2) Zone 2 shall consist of ~~Allen~~, Bourbon, Boyd, Breckinridge~~Bullitt~~, Carter, Fayette, Fleming, Grayson~~Green~~, Greenup, Hardin, Hart, Henderson, ~~Hopkins~~, Jessamine, Larue, Lawrence, Lewis, Logan, Mason, McLean, Mercer, Muhlenberg, ~~Nelson~~, Nicholas, Ohio, Todd, Union, and Webster Counties.

(3) Zone 3 shall consist of Adair, Allen, Barren, Bath, Boyle, ~~Breckinridge~~, Butler, Casey, Clark, Cumberland, Daviess, Edmondson, Elliott, Estill, ~~Grayson~~, Hancock, Johnson, Lincoln, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Morgan, ~~Ohio~~, Powell, Rowan, Simpson, Taylor, Warren, and Wolfe Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Garrard, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Pulaski, Rockcastle, Russell, Wayne, and Whitley Counties.

Section 7. Season and Zone Limits. (1) A person shall not take more than four (4) deer statewide in a license year except:

(a) As authorized in 301 KAR 2:111, 2:176, 2:178, and 3:100; and

(b) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

(2) A person shall not take more than one (1) antlered deer per license year, regardless of the permit type used, except as

established in 301 KAR 2:111, 2:178, and 3:100.

(3) In Zone 3, a person may take two (2) deer with a firearm.

(4) In Zone 4, a person may take:

(a) Only two (2) deer with a firearm; and

(b) Only antlered deer during:

1. Modern firearm season;

2. Early muzzleloader season; and

3. The first six (6) days of the December muzzleloader season.

(5) The aggregate bag limit for Zones, 2, 3, and 4 shall be four (4) deer per hunter.

Section 8. Supervision of Youth Firearm Deer Hunters. (1) An adult shall:

(a) Accompany a person under sixteen (16) years old; and

(b) Remain in a position to take immediate control of the youth's firearm.

(2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

Section 9. Harvest Recording. (1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:

(a) The species taken;

(b) The date taken;

(c) The county where taken; and

(d) The sex of the deer taken on one (1) of the following:

1. The hunter's log section on the reverse side of a license or permit;

2. The hunter's log produced in a hunting guide;

3. A hunter's log printed from the Internet;

4. A hunter's log available from any KDSS agent; or

5. An index or similar card.

(2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

Section 10. Checking a Deer. (1) A person shall check a harvested deer by:

(a) Calling the toll free telecheck number at (800) 245-4263 or on the department's Web site at fw.ky.gov:

1. Before midnight on the day the deer is recovered; and

2. Prior to processing or removing the hide or head from the carcass;

(b) Providing the information requested by the automated check-in system; and

(c) Writing the confirmation number given by the system on the hunter's log authorized in Section 9 of this administrative regulation.

(2) If a hunter transfers possession of a harvested deer, the hunter shall attach to the carcass a hand-made tag that contains the following information:

(a) The confirmation number;

(b) The hunter's name; and

(c) The hunter's telephone number.

(3) A person shall not provide false information while:

(a) Completing the hunter's log;

(b) Checking a deer; (c) or

(c) Creating a carcass tag.

Section 11. Transporting and Processing Deer. (1) A person shall:

(a) Not transport an unchecked deer out of Kentucky;

(b) Have proof that a deer or parts of deer brought into Kentucky were legally taken;

(c) Not sell deer hides except to a licensed:

1. Fur buyer;

2. Fur processor; or

3. Taxidermist.

(2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of

this administrative regulation.

(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015, at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Way, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business 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 attend the public hearing, you may submit written comments on the proposed administrative regulation by close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-7109, ext. 4507, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes deer hunting seasons and zones, methods of take, bag limits, harvest recording procedures, and checking requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to properly manage for a long-term, sustainable, and healthy deer population in Kentucky while providing reasonable and ample recreational opportunity for deer hunters.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations establishing hunting seasons, bag limits, and the methods to take wildlife. KRS 150.170 exempts certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits that are issued by the department. KRS 150.390 prohibits the taking of deer in any manner contrary to any provisions of Chapter 150 or its regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the seasons, zones, limits, procedures, and requirements authorized by the statutes.

(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 adjusts Allen County to a more conservative harvest zone and adjusts Hopkins, Larue, Green, Nelson, Bullitt, Grayson, Ohio, and Breckinridge Counties to a more liberal harvest zone. It also allows residents sixty-five (65) or older to use a crossbow during the entire archery season.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to restrict doe harvest in Allen County and increase doe harvest in Hopkins, Larue, Green, Nelson, Bullitt, Grayson, Ohio and Breckinridge Counties. It allows

residents sixty-five (65) or older to use a crossbow during the entire archery season.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: For the 2014 -15 deer season there were approximately 271,812 resident and 21,568 non-resident Kentucky deer hunters.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Hunters in Menifee County will have to abide by the harvest restrictions for Zone 3. Hunters in Hopkins, Larue, Green, Nelson, and Bullitt Counties will have to abide by harvest restrictions for Zone 1. Hunters in Grayson, Ohio and Breckinridge Counties will have to abide by the harvest restrictions for Zone 2. Hunters sixty-five (65) or older can now use a crossbow during the entire archery season.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to hunters as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Reduction of doe harvest in Allen County by moving it to a Zone 3 should improve deer numbers and thus hunter satisfaction over time. The increase in doe harvest for Hopkins, Larue, Green, Nelson, Bullitt, Grayson, Ohio and Breckinridge Counties will slightly lower or maintain current deer numbers and thus balance the needs and desires of the hunting and non-hunting constituents of the counties.

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

(a) Initially: There will be no additional cost to the department to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish 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: It will not be necessary to increase a fee or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? No. All deer hunters are subject to the same seasons, bag limits, and zone requirements for hunting.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), KRS 150.170, KRS 150.175 and KRS 150.390(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Direct revenue from the sale of all deer permits is estimated to be between \$3.5 and \$4.0 million based on recent years' sales.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Revenue during subsequent years is dependent on the number of permits sold, which has been stable to slightly decreasing in recent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will no additional costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 2:176. Deer control tags, deer[and] destruction permits, and landowner designees.

RELATES TO: KRS 150.010,~~[150.170,]~~ 150.175, 150.360, 150.390, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.105, 150.170(7)

NECESSITY, FUNCTION, AND CONFORMITY:~~[KRS 150.105 allows the commissioner to authorize the destruction of wildlife causing damage.] KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.105 authorizes the commissioner with the approval of the commission to destroy or bring under control wildlife causing damage. KRS 150.170(7) authorizes landowners, their spouses or dependent children, or a designee to destroy wildlife causing damage. It also authorizes the department to promulgate administrative regulations that establish procedures for the designee appointment process. This administrative regulation establishes the requirements for the issuance of [procedures under which] deer control tags [may be taken to alleviate localized agricultural] and deer destruction permits, and establishes the requirements for the landowner designee appointment process.] wildlife habitat damage until it is appropriate to apply deer herd stabilization or reduction measures on a county-wide basis through regular hunting seasons. It also establishes the requirements and procedures for taking deer outside the statewide seasons. EO 2008-516, effective June 16, 2008, reorganizes and renames the Commerce Cabinet as the Tourism, Arts and Heritage Cabinet].~~

Section 1. Definitions. (1) "Damage to wildlife habitat" means:

(a) The existence of a browse line caused by deer; or

(b) Damage to more than thirty-five (35) percent of native plant species preferred by deer.

(2) "Deer control tag" means a tag issued by the department ~~that~~ which authorizes a hunter to take antlerless deer during an open deer season pursuant to 301 KAR 2:172.

(3) "Deer destruction permit" means written authorization from the department to take deer outside the hunting season framework ~~established~~ set forth in 301 KAR 2:172.

(4) "Deer food plot" means a crop or cultivated plants grown to attract and feed deer.

(5) "Department representative" means a department employee who is qualified and authorized by the commissioner to

assess deer damage.

(6) "Designee" means a person who has been designated by a landowner to remove wildlife causing damage on the landowner's property.

(7) "Landowner" means the person who has title to a particular property.

Section 2. Qualifying for Deer Control Tags. (1) A landowner with fewer than 1,000 contiguous acres shall qualify for deer control tags if:

(a) Deer hunting occurred on the property during the previous deer season;

(b) Standard deterrent measures recommended by a department representative have proven ineffective or are impractical; and

(c) A department representative certifies deer damage to crops, gardens, property, or wildlife habitat.

(2) A landowner with 1,000 contiguous acres or more shall qualify for deer control tags if:

(a) Deer hunting occurred on the property during the previous deer season;

(b) Deer seasons and bag limits as ~~established~~ set forth in 301 KAR 2:172 are determined by a department representative to be inadequate to control deer populations on the property; and

(c) The landowner agrees to:

1. Follow the deer management practices recommended by the department; and

2. Supply the department with weight, age and condition data of deer taken from the property.

(3) A department representative shall make an on-site inspection of each property for which a request for deer control tags has been made, unless the property:

(a) Has been previously inspected by the department and the landowner affirms that deer damage still exists; or

(b) Is immediately adjacent to property assessed by a department representative as having severe deer damage.

(4) A landowner whose property is immediately adjacent to property assessed by a department representative as having severe deer damage shall be issued deer ~~damage~~ control tags upon request of the landowner.

(5) The department shall not issue deer control tags to a landowner whose only damage is to a deer food plot.

Section 3. Applying for Deer Control Tags. (1) A landowner shall ~~request~~ wishing to apply for deer control tags by contacting ~~shall contact~~ the department through:

(a) A conservation officer; or

(b) The private lands biologist for the county in which the property is located.

(2) If required by Section 2 of this administrative regulation, a department representative shall visit the property and assess the nature and extent of deer damage.

(3) A request for an assessment shall be made on or before September 30 to be eligible for current year deer control tags.

(4) A request for an assessment made after September 30 shall be considered for the following year.

Section 4. Number of Tags Issued. (1) The department shall determine the number of deer control tags to be issued for each property ~~landholding~~ based on the recommendation of the department representative.

(2) Except as provided in Section 2(2) or (4) of this administrative regulation, the department shall not issue a deer control tag if:

(a) The county deer season is adequate to achieve the desired reduction in deer numbers; or

(b) Crop or environmental damage is not present.

Section 5. Transfer of Deer Control Tags. (1) Deer control tags shall be issued in the landowner's name.

(2) A landowner:

(a) May transfer a deer control tag to another person;

(b) Shall not issue more than five (5) deer control tags to an

individual; and

(c) Shall require hunters to sign a deer control tag at the time of transfer.

Section 6. Use of Deer Control Tags. (1) A deer control tag shall not be valid except on the property[landholding] for which it was issued.

(2) A deer control tag shall expire after the license year for which it was issued.

(3) A person who uses[using] a deer control tag:

(a) Shall have in possession:

1. A valid deer control tag; and

2. A valid hunting license and current deer permit, unless exempt from license or permit requirements pursuant to KRS 150.170;

(b) May use deer control tags during archery, crossbow, modern[and] gun, or muzzle-loader seasons to take antlerless deer;

(c) Shall not take more than five (5) deer per license year with deer control tags; and

(d) Shall abide by the provisions of 301 KAR 2:172, except that:

1. Antlered deer shall not be taken; and

2. The deer control tag shall remain attached to the carcass until final processing or disposal.

(4) Deer taken with a deer control tag shall not count toward the annual limit as established[specified] in 301 KAR 2:172.

Section 7. Deer Destruction Permits. (1) The department may issue a deer destruction permit:

(a) To a person authorized by the commissioner to remove deer that are or may become a public safety or environmental threat or that have entered a permitted captive cervid facility;

(b) To a landowner or the designee:

1. Who continues to experience damage after being issued deer control tags; or

2. Whose property cannot be hunted legally and deer are posing a public safety or environmental threat;

(c) To a captive cervid facility permit holder or applicant:

1. Whose fence meets the fencing and holding requirements in 301 KAR 2:083; and

2. Who has attempted to remove wild deer using nonlethal methods or statewide deer seasons as established[set forth] in 301 KAR 2:172.

(2) A deer destruction permit shall specify:

(a) The number and sex of deer to be destroyed;

(b) The method of destruction;

(c) The name of the person who will destroy the deer; and

(d) The dates during which the destruction will take place.

(3) A deer destruction permit shall not be issued without the recommendation of a department representative~~[of the department]~~ and the approval of the commissioner.

(4) A person who uses a[destroying] deer destruction permit shall:

(a) Attach a disposal permit provided by the department to each carcass;

(b) Not remove the disposal permit until the carcass is processed or disposed of; and

(c) If an antlered deer was taken, relinquish[turn] the antlers~~[in]~~ to the department.

(5) A deer destruction permit shall not be used except as specified on the permit.

Section 8. Designee Procedures and Requirements. (1) A landowner may appoint a designee to kill wildlife causing damage on the landowner's land.

(2) The landowner and designee shall complete and submit to the department a Wildlife Damage Assistance Form provided by the department.

(3) The department shall have thirty (30) days upon receipt of the Wildlife Damage Assistance Form to approve or deny a designee.~~(6) Nothing in this administrative regulation shall prohibit a landowner or tenant from taking action to control deer that are~~

~~posing a direct and immediate threat to life or property].~~

Section 9.[8-] Denial or Revocation or Deer Control Tags or Destruction Permits and Appeal Procedures. (1) The department shall[may] revoke a deer control tag or destruction permit or[and] deny a future tag or permit to a person who~~[(a)]~~ fails to comply with the requirements of this administrative regulation~~[- (b) -]s convicted of a violation of 301 KAR 2:083, 2:132, 2:172, or 2:178].~~

(2) An individual whose request for a permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 10. Incorporation by Reference. (1) "Wildlife Damage Designee Form", 2015 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, # 1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern time.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015, at 11 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business 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 attend the public hearing, you may submit written comments on the proposed administrative regulation by close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mac, Department of Fish and Wildlife Resource, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 4060, phone (502) 564-7109, ext. 450, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the issuance of deer control tags and deer destruction permits, and establishes the requirements for the landowner designee appointment process for the removal of wildlife causing damage..

(b) The necessity of this administrative regulation: This administrative regulation is necessary to allow for increased harvest during the season in localized areas, for out-of-season removal of deer where necessary, and to establish the process for appointing landowner designees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.105 authorizes the commissioner with the approval of the commission to destroy or bring under control wildlife causing damage. KRS 150.170(7) authorizes landowners, their spouses or dependent children, or an appointed designee to destroy wildlife causing damage. It also authorizes the department to promulgate administrative regulations that establish procedures for the landowner designee process.

(d) How will this administrative regulation assist in the effective administration of the statutes: This regulation assists in the administration of the statutes by establishing requirements for assisting landowners by controlling deer populations on certain tracts of land both within and outside the regular hunting seasons and defines the process for a landowner to appoint a designee to destroy or bring under control wildlife causing damage.

(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 defines a landowner designee and establishes the process for the appointment of landowner designees, and the timeframe for the department to approve or deny landowner designees. It also contains modifications to comply with administrative regulation drafting requirements.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to define the designee appointment process and the creation of a timeline for the approval or denial of a designee by the department.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected: Anyone experiencing agricultural damage due to deer or other wildlife will potentially be affected by this regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Landowners wishing to designate someone to control wildlife causing damage must complete and submit the Wildlife Damage Assistance Form and obtain approval from the department within thirty (30) days.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be a cost associated with the designee process.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Landowners will be able to officially designate someone to assist in the control of wildlife causing damage instead of handling it themselves.

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

(a) Initially: This administrative regulation amendment will result in no initial change in cost to the Kentucky Department of Fish and Wildlife Resources to administer.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source is the State Game and Fish 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: It will not be necessary to increase any fees or funding to implement this administrative regulation as amended.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: No new fees will be established.

(9) TIERING: Is tiering applied? Tiering was not used because all landowners must follow the same requirements when attempting to control deer or other wildlife on their property.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Wildlife

and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150.105 and 150.170(7).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET Kentucky Department of Fish and Wildlife Resources (Amendment)

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

RELATES TO: KRS 150.010, 150.170, 150.340, 150.370(1), 150.990

STATUTORY AUTHORITY: 148.029(5), 150.025(1), 150.390(1), 150.620

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 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or Title 301 KAR. KRS 150.620 authorizes the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation. This administrative regulation establishes deer hunting seasons, application procedures, and other matters pertaining to deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas that differ from statewide requirements.

Section 1. Definitions. (1) "Bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that may lure, entice, or attract wildlife.

(2) "Centerfire" means a type of firearm that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(3) "In-line muzzleloading gun" means a firearm:

(a) Capable of being loaded only from the discharging end of the barrel or cylinder; and

(b) That is equipped with an enclosed ignition system located directly behind the powder charge.

(4) "Mobility-impaired" means an individual who meets the

requirements of 301 KAR 3:026, Section 2(1).

(5) "Modern firearm season" means the ten (10) or sixteen (16) consecutive day period beginning the second Saturday in November when breech-loading firearms may be used to take deer pursuant to 301 KAR 2:172.

(6) "Quota hunt" means a hunt in which a participant is selected by a random drawing.

(7) "Statewide requirements" mean the season dates, zone descriptions, and other requirements for deer hunting established in 301 KAR 2:172.

(8) "Wildlife management area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

(9) "Youth" means a person under the age of sixteen (16) by the date of the hunt.

Section 2. General WMA Requirements. (1) Unless established in this administrative regulation, statewide requirements shall apply.

(2) A hunter shall not take more than one (1) deer per day on a WMA in Zones 2, 3, or 4, except:

(a) During a quota hunt; or

(b) The Grayson Lake WMA open youth deer hunt.

(3) Except as established in Section 6 of this administrative regulation, if a WMA is in two (2) or more deer hunting zones as established in 301 KAR 2:172, then the WMA shall be regulated by the most liberal zone requirements of the zones in which it lies.

(4) Deer hunting on WMAs listed in Section 6 of this administrative regulation shall be permitted only as established, except archery hunting shall be allowed pursuant to the statewide archery requirements established in 301 KAR 2:172, unless otherwise noted.

(5) An antlerless deer shall not count against a person's statewide or zone bag limit if harvested during:

(a) The Grayson Lake WMA open youth hunt;

(b) West Kentucky WMA firearms hunts; or

(c) Any WMA either-sex quota hunt.

(6) An open firearm deer hunt, beginning on the Wednesday following the third Monday in January for ten (10) consecutive days, shall:

(a) Be limited to members of the United States Armed Forces and the National Guard and reserve component who:

1. Are residents of Kentucky or nonresidents stationed in Kentucky; and

2. Were deployed out-of-country during any portion of the most recent regular statewide deer season;

(b) Only be on a WMA designated as open for this special hunt; and

(c) Be according to statewide requirements established in 301 KAR 2:172.

(7) On all WMAs and Otter Creek Outdoor Recreation Area, a person:

(a) Attaching a tree stand or climbing a tree shall not use a:

1. Nail;

2. Spike;

3. Screw-in device;

4. Wire; or

5. Tree climber;

(b) May use a portable stand or climbing device that does not injure a tree;

(c) 1. Shall not place a portable stand in a tree more than two (2) weeks before opening day; and

2. Shall remove it within one (1) week following the last day of each hunting period;

(d) Shall plainly mark the portable stand with the hunter's name and address;

(e) Shall not use an existing permanent tree stand; and

(f) Shall not place, distribute, or hunt over bait.

(8) A person without a valid quota hunt confirmation number shall not enter a WMA during a quota hunt on that area except:

(a) To travel through a WMA on an established road or to use an area designated open by a sign; or

(b) One (1) assistant, who shall not be required to have applied for the quota hunt, may accompany a mobility-impaired hunter who was drawn to hunt.

(9) Except for waterfowl or dove hunting, or legal hunting at night, a person who is hunting any species or a person who is accompanying a hunter shall wear hunter orange clothing pursuant to 301 KAR 2:172 while:

(a) On a WMA while firearms deer hunting is allowed;

(b) Hunting within the sixteen (16) county elk zone when a firearms elk season is open, pursuant to 301 KAR 2:132; or

(c) Hunting within the bear zone during a bear firearms season, pursuant to 301 KAR 2:300.

Section 3. General Quota Hunt Procedures. (1) A quota hunt applicant who is not selected and applies to hunt the following year shall be given one (1) preference point for each year the applicant was not selected.

(2) If selected for a quota hunt, a person shall lose all accumulated preference points.

(3) A random selection of hunters with preference points shall be made for each year's quota hunts before those without preference points are chosen.

(4) A person shall forfeit all accumulated preference points if, in a given year, the person does not apply for or is ineligible to apply for:

(a) A deer quota hunt; and

(b) The no-hunt option.

(5) A person who applies for the no-hunt option shall:

(a) Not be drawn for a quota hunt; and

(b) Be given one (1) preference point for each year the no-hunt option is selected.

(6) If applying as a party:

(a) Each applicant's preference points shall be independent of each other; and

(b) The entire party shall be selected if one (1) member of the party is selected.

(7) The commissioner may extend the application deadline if technical difficulties with the automated application system prevent applications from being accepted for one (1) or more days during the application period.

(8) A hunter may take up to two (2) deer on a quota hunt in Zones 2, 3, and 4, only one (1) of which may be an antlered deer, except as authorized in Section 6 of this administrative regulation.

(9) If a hunter has purchased the appropriate permits, a hunter may take unlimited antlerless deer in:

(a) The West Kentucky WMA firearms season;

(b) WMA quota hunts in Zone 1; and

(c) State Park quota hunts in Zone 1, except as established in Section 7 of this administrative regulation.

(10) One (1) person shall be drawn from the eligible quota hunt applicants who were not selected in the original drawing, and shall receive one (1) deer permit that carries with it all the privileges of the Special Commission Permit established in 301 KAR 3:100.

Section 4. Quota Hunt Application Process. A person applying for a quota hunt shall:

(1) Call the toll free number listed in the current fall hunting and trapping guide or apply online at fw.ky.gov by completing the Quota Hunt Application: Deer Quota Hunt Form, between September 1 and September 30;

(2) Enter each applicant's Social Security number;

(3) Select:

(a) A first and second choice of hunts; or

(b) The no-hunt option;

(4) Pay a three (3) dollar application fee for each applicant, prior to the draw by:

(a) Electronic funds transfer;

(b) Visa Card;

(c) Master Card; or

(d) Discover Card;

(5) Not apply more than one (1) time;

- (6) Not apply as a group of more than five (5) persons; and
- (7) Not be eligible to participate in a quota hunt unless:
 - (a) Selected pursuant to this administrative regulation; or
 - (b) Accompanying a mobility-impaired hunter.

Section 5. Quota Hunt Participant Requirements. Except as otherwise established in this administrative regulation, a person selected to participate in a quota hunt shall:

- (1) Possess, unless exempted pursuant to KRS 150.170:
 - (a) A valid annual Kentucky hunting license; and
 - (b) A deer permit that authorizes the taking of deer with the equipment being used and in accordance with the zone restrictions where the hunt will occur;
- (2) Hunt on the assigned dates and in assigned areas selected by a random drawing of applicants if applicable;
- (3) Comply with hunting equipment restrictions specified by the type of hunt;
- (4) Check in at the designated check station prior to hunting:
 - (a) Either:
 - 1. On the day before the hunt, between noon and 8 p.m. local time; or
 - 2. On the day of the hunt, between 5:30 a.m. and 8 p.m. Eastern time; and
 - (b) With documentation of the participant's:
 - 1. Social Security number or draw confirmation number; and
 - 2. Purchase of a current license or permit which allows or includes statewide deer hunting privileges;
- (5) Check out at the designated check station:
 - (a) If finished hunting;
 - (b) If the hunter's bag limit is reached; or
 - (c) By 8 p.m. Eastern time on the final day of the hunt;
- (6) Take a harvested deer to the designated check station by 8 p.m. Eastern time the day the deer was harvested;
- (7) Be declared ineligible to apply for the next year's drawing if the hunter fails to check out properly; and
- (8) Comply with all species quota hunt requirements or be ineligible to apply for any quota hunt or no-hunt option for these species the following year.

Section 6. Wildlife Management Area Requirements. (1) Dr. Norman and Martha Adair WMA. The crossbow season shall be open pursuant to statewide requirements.

(2) Ballard WMA.

(a) On the main tract, the quota hunt shall be for two (2) consecutive days beginning on the first Saturday in November.

(b) On the main tract, the archery, crossbow, and youth firearm seasons shall be open pursuant to statewide requirements through October 14, except that the two (2) mile driving loop marked by signs shall be closed to all hunting;

(c) The crossbow, modern firearm, youth firearm, and muzzleloader seasons shall be open pursuant to statewide requirements only on the 400 acre tract south of Sallie Crice Road.

(d) A hunter shall not take a deer with antlers that have an outside spread less than fifteen (15) inches.

(e) A quota hunt participant shall be given one (1) preference point for each female deer checked in, up to a maximum of four (4) points.

(3) Barren River WMA. The area shall be open pursuant to statewide requirements except that on the Peninsula Unit, including Narrows, Goose, and Grass Islands, a person shall not hunt deer with a modern firearm.

(4) Beaver Creek WMA.

(a) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(b) The limit shall be one (1) antlered deer during the quota hunt.

(c) The crossbow season shall be open pursuant to statewide requirements.

(5) Big Rivers WMA.

(a) The crossbow and youth firearms seasons shall be open pursuant to statewide requirements; and

(b) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in November.

(6) Boatwright WMA. The area shall be open pursuant to statewide requirements, except that:

(a) On the Swan Lake Unit the archery and crossbow season shall be open pursuant to statewide requirements through October 14; and

(b) The October youth deer season shall be open pursuant to statewide requirements.

(7) Cedar Creek Lake WMA. The crossbow season shall be open pursuant to statewide requirements.

(8) Clay WMA.

(a) On the main tract, crossbow, ~~October~~ muzzleloader, and youth firearm seasons shall be open pursuant to statewide requirements, except archery hunting shall be prohibited during the quota fox hunting field trials as established in 301 KAR 2:049.

(b) The remainder of the WMA shall be open pursuant to statewide requirements for the archery, crossbow, ~~October~~ muzzleloader, and youth seasons, except during the quota deer hunt.

(c) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(d) A quota hunt participant shall be given one (1) preference point for each female deer checked-in.

(e) Hunters drawn for the quota hunt may harvest up to four (4) deer, only one (1) of which may be antlered.

(9) Dewey Lake WMA.

(a) The crossbow and youth firearm seasons shall be open pursuant to statewide requirements.

(b) The use of firearms shall be prohibited for deer hunting on the:

- 1. Western side of the lake north of the Terry Boat Ramp; and
- 2. Eastern side of the lake, north of the ridge that begins across the lake from the Terry Boat Ramp, and extends eastward to the WMA boundary ~~[portion of the area extending southward from the dam to Shoreline Campground Number One, including all property from the WMA boundary downslope to the lake edge].~~

(c) A deer hunter shall not take a deer with antlers that have an outside spread less than fifteen (15) inches.

(d) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in December.

(e) There shall be a one (1) deer limit during the quota hunt.

(10) Dix River WMA. The crossbow, youth firearm, and muzzleloader seasons shall be open pursuant to statewide requirements.

(11) Fishtrap Lake WMA.

(a) The quota hunt shall be for two (2) consecutive days beginning on the Saturday before Thanksgiving.

(b) The limit for the quota hunt shall be one (1) deer.

(c) The crossbow and youth firearm season shall be open pursuant to statewide requirements.

(12) Grayson Lake WMA.

(a) An open youth hunt shall:

1. Be the first Saturday in November for two (2) consecutive days; and

2. Have a two (2) deer bag limit, only one (1) of which may be an antlered deer.

(b) A person who has not checked in shall not enter the Grayson Lake WMA during the open youth hunt, except to:

1. Travel through the WMA on an established public road; or

2. Use an area designated as open by signs.

(c) The property of Camp Webb shall be open for a mobility-impaired deer hunting event during the first weekend of October.

(d) The crossbow hunt shall be from the first Saturday in September through the third Monday in January, except during the November open youth hunt.

(e) The statewide youth firearm season shall be open pursuant to statewide requirements.

(13) Green River Lake WMA and Dennis-Gray WMA.

(a) The crossbow season shall be open pursuant to statewide requirements.

(b) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(c) Fifteen (15) openings shall be reserved in the quota hunt for mobility-impaired persons.

(d) A deer hunter shall not take a deer with antlers that have an outside spread less than fifteen (15) inches.

(e) The Green River Lake and Dennis-Gray WMAs shall be considered to be located in the Eastern Time Zone.

(14) Griffith Woods WMA. The crossbow and youth firearms seasons shall be open pursuant to statewide requirements.

(15) Higginson-Henry WMA.

(a) The youth firearm and crossbow deer seasons~~[season]~~ shall be open pursuant to statewide requirements.

(b) A hunter shall not take more than one (1) deer from the WMA per license year.

(16) J.C. Williams WMA. The crossbow and youth firearm seasons shall be open pursuant to statewide requirements.

(17) Kentucky River WMA.

(a) The crossbow and youth firearm seasons shall be open pursuant to statewide requirements.

(b) There shall be a quota hunt for two (2) consecutive days beginning on the first Saturday in November.

(18) Kleber WMA.

(a) The crossbow season shall be open pursuant to statewide requirements, except during a quota hunt.

(b) The quota hunts shall be for:

1. Two (2) consecutive days beginning the first Saturday in November; and

2. Two (2) consecutive days beginning the first Saturday in December.

(c) The youth firearm season shall be open pursuant to statewide requirements.

(19) Knobs State Forest WMA. The crossbow season shall be open pursuant to statewide requirements.

(20) Lake Barkley WMA shall be open pursuant to statewide requirements except:

(a) The North Refuge shall be~~[is]~~ closed from November 1 to February 15; and

(b) Duck Island shall be~~[is]~~ closed from October 15 to March 15, except that it shall be open for the October muzzleloader season, pursuant to statewide requirements.

~~(21) [Lewis County WMA. (a) The modern firearm and youth firearm seasons shall be open pursuant to statewide requirements, except the use of centerfire rifles and handguns shall be prohibited.~~

~~(b) The crossbow and muzzleloader seasons shall be open pursuant to statewide requirements.~~

(22) Livingston County WMA. The crossbow, youth firearm, muzzleloader, and modern firearm seasons shall be open pursuant to statewide requirements, except a person shall not hunt deer with a modern gun during the modern firearm deer season.

~~(22) [(23)]~~ Curtis Gates Lloyd WMA. The crossbow and youth firearms seasons shall be open pursuant to statewide requirements.

~~(23) [(24)]~~ Marion County WMA.

~~(a) The crossbow, muzzleloader, and youth firearm seasons shall be open pursuant to statewide requirements.~~

~~(b) There shall be a quota hunt for:~~

~~1. Five (5) consecutive days beginning the second Saturday in November; and~~

~~2. Five (5) consecutive days beginning the Thursday following the second Saturday in November.~~

~~(c) A quota hunt participant shall not be required to check in and out of the WMA, but shall telecheck or internet check harvested deer as established in 301 KAR 2:172.~~

~~(25) [(26)]~~ Mill Creek WMA.

(a) The crossbow season shall be open pursuant to statewide requirements.

(b) The quota hunt shall:

1. Be for two (2) consecutive days beginning the first Saturday in November; and

2. Have a one (1) deer bag limit.

~~(24) [(26)]~~ Miller-Welch Central Kentucky WMA. The archery and crossbow seasons shall be open pursuant to statewide requirements:

(a) On Monday through Thursday, from the first Saturday in September through December 17, except during scheduled field trials as posted on the area bulletin board; and

(b) December 18 through the third Monday in January.

~~(25) [(27)]~~ Mud Camp Creek WMA. The crossbow, youth firearm, and muzzleloader seasons shall be open pursuant to statewide requirements.

~~(26) [(28)]~~ Mullins WMA. The crossbow season shall be open pursuant to statewide deer requirements.

~~(27) [(29)]~~ Ohio River Islands WMA, Stewart Island Unit.

(a) The muzzleloader season shall be for two (2) consecutive days beginning the third Saturday in October.

(b) The archery season shall be from the first Saturday in September through October 14.

(c) The crossbow season shall be from October 1 through October 14.

(d) The October youth season shall be open pursuant to statewide requirements.

(e) The remainder of the WMA shall be open pursuant to statewide requirements.

~~(28) [(30)]~~ Paintsville Lake WMA.

(a) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(b) The crossbow and youth firearm seasons shall be open pursuant to statewide requirements.

(c) A person shall not use firearms for deer hunting on:

1. The area extending eastward from the drainage of Glade Branch, along the north edge of the lake, to the No Hunting Area surrounding Rocky Knob Recreation Area and enclosing all property from the WMA boundary downslope to the lake edge; and

2. The islands to the south and that portion of the area extending eastward along the south edge of the lake from the drainage of Shoal Branch to the No Hunting Area surrounding the dam and ranger station, and extending downslope to the edge of the lake.

(d) A deer hunter shall not take a deer with antlers that have an outside spread less than fifteen (15) inches.

~~(29) [(31)]~~ Peabody WMA.

(a) The crossbow, youth firearms, and muzzleloader seasons shall be open pursuant to statewide requirements.

(b) The modern firearm season shall be open pursuant to statewide requirements for ten (10) consecutive days beginning the second Saturday in November.

~~(30) [(32)]~~ Pennyryle State Forest-Tradewater WMA.

(a) The crossbow season shall be open pursuant to statewide requirements.

(b) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(c) A deer hunter shall not take a deer with antlers that have an outside spread less than fifteen (15) inches.

~~(31) [(33)]~~ Pioneer Weapons WMA. Statewide requirements shall apply except that a person:

(a) Shall not use a modern firearm;

(b) Shall not use an in-line muzzleloading gun;

(c) Shall not use a scope;

(d) May use a crossbow during the entire archery season; and

(e) Shall use only open or iron sights on any weapon.

~~(32) [(34)]~~ Redbird WMA.

(a) The crossbow season shall be open pursuant to statewide requirements.

(b) The modern firearm season shall be open pursuant to statewide requirements for two (2) consecutive days beginning the second Saturday in November.

~~(33) [(35)]~~ Dr. James R. Rich WMA.

(a) The crossbow season shall be open pursuant to statewide requirements, except during a quota hunt.

(b) The quota hunts shall be for:

1. Two (2) consecutive days beginning the first Saturday in November; and

2. Two (2) consecutive days beginning the first Saturday in December; and

(c) The youth firearm season shall be open pursuant to statewide requirements.

~~(34) [(36)]~~ Robinson Forest WMA.

(a) A person shall not hunt deer on the main block of Robinson Forest.

(b) The remainder of the WMA shall be open pursuant to statewide requirements.

~~(35)~~~~(37)~~ Sinking Valley WMA. The crossbow and youth firearms seasons shall be open pursuant to statewide requirements.

~~(36)~~~~(38)~~ Sloughs WMA.

(a) On the Sauerheber Unit, the archery, crossbow, muzzleloader, and youth firearm seasons shall be open pursuant to statewide requirements through October 31, except that the Crenshaw and Duncan II Tracts shall be open pursuant to statewide requirements through the end of modern firearm season.

(b) The remainder of the WMA shall be open pursuant to statewide requirements.

~~(37)~~~~(39)~~ South Shore WMA.

(a) The youth firearm, October muzzleloader, and modern firearm seasons shall be open pursuant to statewide requirements through November 14, except that the use of centerfire rifles and handguns shall be prohibited.

(b) The archery and crossbow seasons shall be open pursuant to statewide requirements, except the area shall be closed November 15 through January 15.

~~(38)~~~~(40)~~ T.N. Sullivan WMA. The crossbow season shall be open pursuant to statewide requirements.

~~(39)~~~~(41)~~ R.F. Tarter WMA. The crossbow, youth firearm, and muzzleloader seasons shall be open pursuant to statewide requirements.

~~(40)~~~~(42)~~ Taylorsville Lake WMA.

(a) There shall be a quota hunt for:

1. Two (2) consecutive days beginning the first Saturday in November for antlerless deer;

2. Two (2) consecutive days beginning the first Saturday in December; and

3. Two (2) consecutive days beginning the second~~first~~ Saturday in January.

(b) Seven (7) openings shall be reserved in each quota hunt for mobility-impaired persons.

(c) The youth firearm season shall be open pursuant to statewide requirements.

(d) The crossbow season shall be open pursuant to statewide requirements.

(e) A participant in the November antlerless-only quota hunt shall be given one (1) preference point for each female deer checked in, up to four (4).

~~(41)~~~~(43)~~ Twin Eagle WMA. The crossbow season shall be open pursuant to statewide requirements.

~~(42)~~~~(44)~~ Paul Van Booven WMA. The crossbow season shall be open pursuant to statewide requirements.

~~(43)~~~~(45)~~ Veteran's Memorial WMA.

(a) The crossbow and youth firearms seasons shall be open pursuant to statewide requirements~~;~~ ~~and~~

(b) There shall be a quota hunt for:

1. Two (2) consecutive days beginning the first Saturday in November; and

2. Two (2) consecutive days beginning the first Saturday in December for antlerless deer.

(c) A participant in the December antlerless-only quota hunt shall be given one (1) preference point for each female deer checked in, up to a maximum of four (4) points.

~~(44)~~~~(46)~~ West Kentucky WMA.

(a) All tracts shall be open pursuant to statewide requirements for the archery and crossbow seasons, except that all tracts shall be closed to archery and crossbow hunting during department administered quota and firearm deer hunts.

(b) Tracts 1-6 shall be open to shotgun and muzzleloader hunters participating in the quota and open firearm deer hunts.

(c) Tract 7 and "A" Tracts shall not be open for department administered quota or firearm deer hunts.

(d) The quota hunt shall be for five (5) consecutive days beginning the Saturday prior to Thanksgiving.

(e) The firearms season shall:

1. Be for three (3) consecutive days beginning the Saturday preceding the third Monday in January;

2. ~~Be limited to the first 200 hunters;~~

~~3.]~~ Require a hunter to check-in at a designated check station from 4 p.m. to 8 p.m. Central Time on the day before the hunt or between 4:30 a.m. and 7 p.m. Central Time on hunt days;

~~3.]4- Shall]~~ Require a hunter to check out at the designated check station:

a. When finished hunting; or

b. By 7 p.m. Central time on the final day of the hunt;

~~4.]5-]~~ Have an unlimited bag limit, only one (1) of which may be an antlered deer; and

~~5.]6-]~~ Require every person to check in during the firearms season, except for:

a. A person traveling on an established public road; or

b. A person in an area designated as open by signs.

(f) Firearm hunters shall not use centerfire rifles or handguns.

(g) All persons shall check in daily at the designated check-in locations before entering the "A" tracts.

(h) A deer hunter shall not take a deer with antlers that have an outside spread of less than fifteen (15) inches.

(i) A participant in the quota hunt or open firearms season shall:

1. Sign in for the hunting tract of his or her choice at check-in prior to each day's hunt; and

2. Except after noon, not hunt outside of that tract.

~~(45)~~~~(47)~~ Yatesville WMA.

~~(a) The crossbow, youth firearm, and muzzleloader~~~~;~~~~—and modern firearm] seasons shall be open pursuant to statewide requirements~~~~;~~ ~~except a person shall not take antlerless deer with a firearm during the modern firearm deer season].~~

(b) The modern firearm season shall be open pursuant to statewide requirements for ten (10) consecutive days beginning the second Saturday in November.

~~(46)~~~~(48)~~ Yellowbank WMA. The crossbow and youth firearm deer seasons shall be open pursuant to statewide requirements.

Section 7. State Park Deer Seasons. (1) A state park may allow archery and crossbow hunting from the first Saturday in September through the third Monday in January for antlered or antlerless deer.

(2) A state park may allow up to sixteen (16) days of firearm hunting and up to eleven (11) days of muzzleloader hunting from the first Saturday in September through the third Monday in January for antlered or antlerless deer.

(3) A state park shall be open to deer hunting as established in this subsection and Section 8 of this administrative regulation.

(a) Lake Barkley State Resort Park. Deer hunting shall be permitted on the first Tuesday of January for two (2) consecutive days.

(b) Greenbo Lake State Resort Park. Deer hunting shall be permitted on the first Tuesday of January for two (2) consecutive days.

(c) Green River Lake State Park.

1. Archery and crossbow deer hunting shall be permitted beginning the second Thursday of December for four (4) consecutive days.

2. Archery and crossbow deer hunting shall be permitted beginning the third Thursday of December for four (4) consecutive days.

3. A deer hunter shall not take an antlered deer with antlers having an outside spread less than fifteen (15) inches.

(d) Yatesville Lake State Park. Muzzleloading firearm, archery, and crossbow deer hunting shall be permitted pursuant to statewide deer requirements on the second~~third~~ Monday of December for three (3) consecutive days.

(e) Jenny Wiley State Resort Park.

1. Deer hunting shall be permitted on the second~~first~~ Saturday of January for two (2) consecutive days.

2. The bag limit shall be two (2) deer, only one (1) of which may be antlered.

3. The hunt shall be open to the first fifteen (15) mobility-impaired persons who check in at the park on the day before the hunt.

4. A person who participates in the hunt shall comply with the requirements established in 301 KAR 3:026.

5. A deer hunter shall not take an antlered deer with antlers having an outside spread less than fifteen (15) inches.

Section 8. State Park Deer Hunt Requirements. (1) Except for the open hunts at Jenny Wiley State Resort Park and Yatesville Lake State Park, a person shall not hunt on a state park unless:

(a) Selected by a random drawing as established in Section 3 of this administrative regulation;

(b) The person is a member of a successful applicant's hunting party; or

(c) The person was selected as part of a process administered by the Department of Parks, pursuant to Section 7 of this administrative regulation.

(2) A person participating in a state park hunt, except for the quota hunts at Green River Lake State Park and the Yatesville Lake State Park open deer hunt, shall:

(a) Check in and check out as required in Section 5 of this administrative regulation;

(b) Furnish at check-in a driver's license or other form of government-issued identification;

(c) Check in:

1. Between noon and 8 p.m. Eastern Time the day before the hunt at the state park campground if hunting in the Yatesville Lake State Park open deer hunt; or

2. At the park the day before the hunt if hunting in the Jenny Wiley State Resort Park deer hunt; and

(d) Not be eligible to apply for a quota hunt the following year if the person does not check out as required in Section 5 of this administrative regulation.

(3) A person participating in a state park deer hunt shall:

(a) Comply with the provisions of 301 KAR 2:172; and

(b) Check harvested deer daily at the designated park check station, except that deer taken in the Green River Lake State Park quota hunts and the open hunts at Jenny Wiley State Resort Park and Yatesville Lake State Park shall be telechecked or checked in on the department's Web site at fw.ky.gov, pursuant to 301 KAR 2:172.

(4) A person participating in a state park deer hunt shall not:

(a) Take more than two (2) deer in a quota hunt, only one (1) of which may be antlered;

(b) Hunt over bait;

(c) Injure a tree by using:

1. A tree stand except a portable stand;

2. Climbing devices that nail or screw to the tree; or

3. Climbing spikes;

(d) Leave a deer stand unattended for more than twenty-four (24) hours;

(e) Discharge a firearm within 100 yards of a maintained road or building; and

(f) Hunt:

1. In an area posted as closed by signs; or

2. Outside park boundaries.

(5) A person participating in a state park deer hunt, other than the open hunts at Jenny Wiley State Resort Park and Yatesville Lake State Park and any department administered state park quota hunt, may take up to two (2) bonus deer per hunt that shall not count toward the statewide limit if the person:

(a) Takes no more than one (1) bonus antlered deer per license year; and

(b) Obtains the valid bonus deer tag from the state park hunt administrators.

Section 9. Other Public Lands. (1) On Daniel Boone National Forest, Jefferson National Forest, and Land Between the Lakes, a person shall not use bait, feed, minerals, or other attractants.

(2) The areas established in paragraphs (a) through (g) of this subsection may schedule a firearm, crossbow, or archery deer hunting season between September 1 and January 31:

(a) Big South Fork National River and Recreation Area;

(b) Clark's River National Wildlife Refuge;

(c) Daniel Boone National Forest;

(d) Jefferson National Forest;

(e) Land Between the Lakes National Recreation Area;

(f) Ohio River Islands National Wildlife Refuge; and

(g) Reelfoot National Wildlife Refuge.

(3) An area listed in subsection (2) of this section may issue a bonus permit for antlered or antlerless deer, which shall:

(a) Not count against a hunter's statewide bag limit; and

(b) Only be issued for a hunt that is open to the general public.

(4) At Land Between the Lakes, a person:

(a) Shall not take more than:

1. Two (2) deer during archery hunts; and

2. One (1) deer during quota hunts;

(b) Who is a quota deer hunter shall:

1. Apply in advance at Land Between the Lakes; and

2. Only hunt from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset; and

(c) Who harvests a deer shall:

1. Check in the carcass pursuant to U.S. Forest Service requirements; and

2. Affix a game check card pursuant to U.S. Forest Service requirements.

(5) At Reelfoot National Wildlife Refuge:

(a) Zone 1 bag limits shall apply during the open archery season;

(b) A person shall not take more than two (2) deer by firearm, only one (1) of which shall be antlered;

(c) A quota hunt participant shall:

1. Tag deer with a tag issued by the Refuge; and

2. Comply with the Refuge check-in requirements; and

(d) A person who is archery hunting shall:

1. Only take deer using the appropriate statewide or additional deer permit; and

2. Check harvested deer through the department's telephone or online check-in systems.

(6) At Otter Creek Outdoor Recreation Area:

(a) The archery and crossbow seasons shall be open pursuant to statewide requirements; and

(b) There shall be a quota hunt for ~~two (2) consecutive days beginning the third Saturday in November; and~~ ~~two (2) consecutive days beginning the~~ second Saturday in December.

(7) At Twin Knobs Campground, the area shall be closed to all statewide seasons, except that there shall be a quota hunt on the second Saturday in December during odd-numbered years for mobility-impaired persons.

(8) At Zilpo Campground, the area shall be closed to all statewide seasons, except that there shall be a quota hunt on the second Saturday in December during even-numbered years for mobility-impaired persons.

Section 10. Special Areas under Federal Control. (1) The areas established in paragraphs (a) through (e) of this subsection may schedule a firearm, archery, or crossbow deer hunting season between September 1 and January 31:

(a) Bluegrass Army Depot;

(b) Fort Campbell;

(c) Fort Knox;

(d) Hidden Valley Training Center; and

(e) Wendell Ford Regional Training Center.

(2) An area listed in subsection (1) of this section may issue a bonus permit for antlered or antlerless deer, which shall:

(a) Not count against a hunter's statewide bag limit; and

(b) Only be issued for a hunt that is open to the general public.

(3) Except on the Hidden Valley Training area, on the areas listed in subsection (1) of this section, a deer hunter shall:

(a) Obtain a permit from the area before hunting;

(b) Only hunt on assigned dates;

(c) Remain in assigned areas;

(d) Tag deer with tags issued on the area, unless otherwise established in this section;

(e) Keep the area tag attached to the deer until the carcass is processed; and

(f) Check deer at a designated check station before leaving the area.

(4) At Bluegrass Army Depot, a person shall not take an

antlered deer whose outside antler spread is less than fifteen (15) inches.

(5) At Fort Knox, a person shall not take an antlered deer whose outside antler spread is less than twelve (12) inches.

(6) At Hidden Valley Training Area, a person shall not use a firearm to hunt deer.

Section 11. Incorporation by Reference. (1) "Quota Hunt Application: Deer Quota Hunt Form", March 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015, at 1 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business 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 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 by close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-7109, ext. 4507, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the deer hunting seasons, limits, and equipment restrictions under which deer may be taken on wildlife management areas, state parks, and other lands controlled by state or federal government agencies.

(b) The necessity of this administrative regulation: To establish deer hunting seasons, limits, and methods of taking deer to control and manage deer populations and hunting pressure on wildlife management areas, state parks, and other public lands.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or its administrative regulations. KRS 150.620 authorizes the department to manage public lands for hunting and fishing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the statute by establishing guidelines for effectively managing deer herds on Wildlife Management Areas (WMAs), state parks, and other public lands, including the establishment of guidelines to ensure safe, orderly hunting practices on public lands.

(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 establishes firearm deer hunting opportunity on two (2) WMAs (and expands it on six (6) others), creates archery and crossbow opportunity on some newly-added property at Dewey Lake WMA, enables the use of crossbows for deer hunting on the Higginson-Henry WMA, incentivizes the take of female deer on two (2) additional WMAs, reduces the number of firearm quota deer hunts from two (2) to one (1) at the Otter Creek Outdoor Recreation Area, and adjusts for calendar shifts for the December Yatesville Lake State Park Open hunt (and January Jenny Wiley State Resort Park Mobility-impaired hunt) and the January Taylorsville Lake WMA Quota Deer Hunts.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to maximize hunter opportunity without harm to the deer resource.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Additional deer hunting opportunity will be created (and existing opportunities expanded) in all five (5) of Kentucky's Wildlife Management Regions. The loss of two (2) days of November quota firearm deer hunting at the Otter Creek Outdoor Recreation Area in Meade County should be more than off-set by the gain of ten (10) days of open firearm hunting on the nearby Marion County WMA.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Those who hunt deer on WMAs and state parks must comply with the individual hunt requirements for those sites, as listed in the fall hunting guide produced by the department.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no direct cost to hunters as a result of this amendment to the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Deer hunters will benefit from the increased hunting opportunities that will be created and also from the expansion of existing opportunity.

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

(a) Initially: There will be no additional cost to the agency to implement this regulation.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish 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: It will not be necessary to increase a fee or funding to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering was not used because all persons who hunt deer on WMAs, state parks, or other public lands are required to abide by these guidelines.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky

Department of Fish and Wildlife Resources' Wildlife and Law Enforcement Divisions will be affected by this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 148.029(5), 150.025(1), 150.390(1) and 150.620.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will no additional costs to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 3:100. Special commission permits.

RELATES TO: KRS 150.170, 150.175

STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.195(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue a special permit to an incorporated nonprofit wildlife conservation organization. KRS 150.195(1) authorizes the department to promulgate administrative regulations pertaining to the issuance of licenses and permits. This administrative regulation establishes the requirements for the issuance and use of Special Commission Permits.

Section 1. Definitions. (1) "Proceeds" means the amount of money received by a wildlife conservation organization from the sale or transfer of a special permit minus expenses directly attributable to the sale of that permit.

(2) "Incorporated nonprofit wildlife conservation organization" means an entity which:

(a) Has a primary purpose, as expressed in its articles of incorporation or bylaws, to conserve and enhance fish and wildlife resources to provide opportunities for hunting, fishing, trapping, wildlife education, habitat enhancement, and related activities;

(b) Holds status as a nonprofit organization pursuant to 26 U.S.C. Section 501(c)(3); and

(c)(b) Is incorporated under the laws of this state or any other state; or

(d)(c) Holds a charter status under an incorporated parent organization; and

(d) Whose purpose is to: 1. Conserve and enhance fish and wildlife resources; or 2. Provide opportunities for hunting, fishing, trapping, or other related activities].

(3) "Special commission permit" means a species-specific permit[for a species requiring an additional permit in order to hunt or fish which is] issued by the Kentucky Fish and Wildlife

Commission to an incorporated[a] nonprofit wildlife conservation organization that allows the permit recipient, depending on the species listed on the permit, to harvest:

(a) One (1) additional antlered or antlerless deer per license year;

(b) One (1) additional turkey of either sex per license year;

(c) One (1) elk of either sex per license year; or

(d) Up to a daily bag limit of waterfowl per day.

Section 2. Issuance, Sale and Transfer of Special Permit. (1) There shall be no more than ten (10) special commission permits issued per species per year.

(2) An[(a) Any] incorporated nonprofit wildlife conservation organization may apply for one (1) special commission permit per species by accurately completing a Special Commission Permit Application form provided by the department.

(3)(b) A national organization and its affiliated regional, state, and local chapters shall all be eligible to apply for a special commission permit in the same year if[provided that] each organization meets the qualifications in Section 1(2) of this administrative regulation.

(4) A national organization and its affiliated regional, state, and local chapters shall not be eligible to be awarded more than one (1) special commission permit per species unless each applicant has a separate and distinct nonprofit organization status under 26 U.S.C. §501(c)(3) and a separate and distinct tax identification number.

(5)(3) In addition to the completed application, the organization shall also submit the following:

(a) 1. One (1) copy of the organization's articles of incorporation or bylaws that state the purpose of the organization; or

2. A separate charter status from a parent organization and the parent organization's articles of incorporation or bylaws that state the purpose of the parent organization;

(b) Written proof of the organization's tax-exempt status including the applicant's[individual] tax identification number; and

(c) A letter from the organization's parent organization, if applicable, that states that the chapter organization is in good-standing and is recognized by the parent organization.

(6)(4) The completed application and accompanying documents listed in subsection (5)(3) of this section shall be delivered to the department by May 1 of each year.

(7)(5) The items listed in paragraphs (a) through (e) of this subsection[following] shall be grounds for disqualification from the award[consideration] process:

(a) An incomplete application;

(b) Incomplete or missing accompanying documents, pursuant to subsection (3) of this section;

(c) Failure to submit the required application and accompanying documents to the department by the May 1 deadline;and]

(d) The wildlife conservation organization applicant did not use or transfer a special commission permit awarded in a previous year; and

(e) Failure to qualify as an incorporated nonprofit wildlife conservation organization.

(8)(6) Prior to selecting special commission permit recipients, the Fish and Wildlife Commission shall review and consider all applications and documents submitted by each wildlife conservation organization that has not been disqualified pursuant to subsection (5) of this section.

(9)(7) The department shall provide the Fish and Wildlife Commission with information concerning each applicant's relative standing with regard to:

(a) Content and quality of submitted application materials;

(b) Past compliance;

(c) Ability to generate~~[matching]~~ funds; and

(d) The proposed conservation project's potential for enhancing[enhanced] fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation in Kentucky.

(10)(8) The Fish and Wildlife Commission shall select permit recipients based on the information listed in subsection (9)(7) of this section.

~~(11)~~~~(9)~~ A Special Commission Permit recipient shall:

(a) Use all proceeds from the sale or transfer of the permit for conservation projects in Kentucky as approved by the Fish and Wildlife Commission;

(b) Underwrite all promotional and administrative costs for the selling and transferring of the permit;

(c) Sell and transfer each permit as stated in the application;

(d) Provide the department with the following information on each individual who receives a transferred permit:

1. Name;
2. Address; and
3. Date of birth; and

(e) Submit, by May 1 of the following year, a report that includes:

1. A financial statement containing:
 - a. Total funds raised;
 - b. Overhead costs or expenses related to the sale of the permit; and
 - c. Net profit;
2. A summary of:
 - a. The conservation project; and
 - b. Expenditures related to the conservation project; and
3. A synopsis of the impact the conservation project had on enhancing fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

Section 3. Special Permit Use. (1) A special permit shall only be valid for the:

(a) Individual named on the permit;

(b) Species of wildlife listed on the permit; and

(c) The first season for that species in the calendar year~~Next season~~ following the quarterly commission meeting that the special permit was awarded, except for the special commission permit for deer and for waterfowl, which shall be valid for the first season following the quarterly commission meeting that the special permit was awarded.

(2) A special commission permit holder shall comply with all other department statutes and administrative regulations.

(3) A holder of a special commission permit to hunt deer[:

~~(a) Shall be entitled to take one (1) additional antlered or antlerless deer per license year; and~~

~~(b)] may hunt on any Wildlife Management Area during an open deer season or nonmobility impaired quota hunt pursuant to 301 KAR 2:178, except:~~

~~(a)[1-] Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR 2:222;~~

~~(b)[2-] A permit holder shall contact the wildlife area manager at least forty-eight (48) hours before hunting; and~~

~~(c)[3-] A permit holder shall notify the area manager upon leaving a Wildlife Management Area.~~

(4) A holder of a special commission permit to hunt wild turkey[:

~~(a) Shall be entitled to take one (1) additional turkey of either sex per license year, in addition to the statewide permit limit; and~~

~~(b)] shall not hunt on a Wildlife Management Area that is closed to turkey hunting.~~

~~(5)[A holder of a special commission permit to hunt elk shall follow the requirements established in 301 KAR 2:132.~~

~~(6)] A holder of a special commission permit to hunt waterfowl may hunt on Ballard, Boatwright, or Sloughs Wildlife Management Areas from one (1) of the areas' permanent waterfowl blinds by:~~

~~(a) Contacting the department no later than September 30; and~~

~~(b) Reserving a blind for one (1) of the available hunt periods established by the department, pursuant to 301 KAR 2:222.~~

~~(6)[(7) A holder of a special commission permit to fish for trout shall follow the requirements established in 301 KAR 1:060 and 1:204.~~

~~(8)] A holder of any special commission permit may hunt[or fish] on private land with the permission of the landowner.~~

~~(7)[(9)] Unless specific equipment is prohibited on a Wildlife Management Area, a special permit holder shall only harvest game with hunting equipment that is allowed for the season during which the permit holder is hunting.~~

Section 4. Incorporation by Reference. (1) "Special Commission Permits Application Form", 2015~~[2014]~~ edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2015, at 2 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business 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 attend the public hearing, you may submit written comments on the proposed administrative regulation by close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-7109, ext. 4507, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: The administrative regulation authorizes the Fish and Wildlife Commission to issue special permits to qualified incorporated nonprofit wildlife conservation organizations for the organizations to use as a fund-raising tool to create wildlife conservation projects that enhance fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to establish the procedures and requirements for the issuance of special commission permits.

(c) How does this administrative regulation conforms to the content of the authorizing statute: KRS 150.025 authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special game permits to incorporated non-profit wildlife conservation organizations. KRS 150.195(1) authorizes the department to promulgate administrative regulations pertaining to the issuance of licenses and permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation defines the process and criteria for applying for a special permit, the selection process used by the Commission, and report requirements for wildlife conservation organizations.

(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 clarifies and further defines the definition of an "incorporated nonprofit wildlife conservation organization", clarifies the definition of a "special commission permit", delineates eligibility criteria, limits national conservation organizations and their affiliated regional, state, and local chapters from receiving multiple species-specific permits in a given year, allows an organization to submit a copy of their bylaws in lieu of

their articles of incorporation, adds fish and wildlife education as a legitimate conservation project, clarifies when each species-specific permit shall be used, removes the special commission permit for trout from the available permits, and modifies and updates the application form that is incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment was necessary to limit both national organizations and their regional, state, and local affiliates from being awarded a species-specific permit in a given year, to clarify the definition of an incorporated nonprofit wildlife conservation organization, to require proof of such a status from an organization's articles of incorporation or bylaws, to better define eligible conservation projects, and increases clarity of an organization's award eligibility previous regulation lacked clarity in some areas and it was necessary to better define the entire process, including application requirements, definition of a wildlife conservation organization, and report requirements. The permit application also needed to be modified, updated, and incorporated by reference.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: In 2014, there were approximately twenty-four (24) wildlife conservation organizations that applied for at least one (1) permit. Eighteen (18) organizations received at least one (1) permit. It is expected that fifteen (15) to thirty (30) wildlife organizations will be affected by this regulation in a given year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each incorporated nonprofit wildlife conservation organization will need to meet eligibility requirements, follow the application and reporting procedures and requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is not a cost to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The conservation organizations that receive a permit will benefit by using the permit for fund-raising events that will in turn be used for wildlife conservation projects, thus furthering their missions in Kentucky. The amendment will also allow increased opportunity for multiple non-government organizations to be awarded permits in a given year.

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

(a) Initially: There will be a small cost to administer and coordinate the permit application and selection process.

(b) On a continuing basis: There will be a small cost to the agency on a continuing basis to administer.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish 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 increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly nor does it increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as all incorporated nonprofit wildlife conservation organizations applying for special permits are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Fisheries Division, Wildlife Division, and Administrative Services Division of the Department will be impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, 150.177, and 150.195(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be a small cost associated with administering and coordinating this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be a small cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-): A small cost relative to employees' time about once a year, plus some mailing costs.

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (Amendment)

501 KAR 6:020. Corrections 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 and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. 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) "Department of Corrections Policies and Procedures," January 15, 2015 [June 10, 2014], are incorporated by reference. Department of Corrections Policies and Procedures include:

- 1.2 News Media (Amended 6/10/14)
- 1.4 The Monitoring and Operation of Private Prisons (Amended 5/15/08)
- 2.1 Inmate Canteen (Amended 10/12/12)
- 2.12 Abandoned Inmate Funds (Amended 3/14/14)
- 3.1 Code of Ethics (Amended 12/10/13)
- 3.5 Sexual Harassment and Anti-Harassment (Amended 12/10/13)
- 3.9 Student Intern Placement Program (Added 9/13/2010)
- 3.10 Appearance and Dress for Nonuniformed Staff (Amended 9/13/10)
- 3.11 Drug Free Workplace Employee Drug Testing (Amended 12/10/13)
- 3.14 Employee Time and Attendance Requirements

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- (Amended 1/15/15[3/4/44])
 - 3.17 Uniformed Employee Dress Code (Amended 8/20/13)
 - 3.22 Staff Sexual Offenses (Amended 12/10/13)
 - 3.23 Internal Affairs Investigation (Added 8/25/09)
 - 5.1 Research and Survey Projects (Amended 12/10/13)
 - 5.3 Program Evaluation and Measurement (Amended 1/15/15[6/42/42])
 - 6.1 Open Records Law (Amended 5/14/07)
 - 8.2 Fire Safety (Amended 3/14/14)
 - 8.7 Notification of Extraordinary Occurrence (Amended 3/14/14)
 - 9.4 Transportation of Inmates to Funerals or Bedside Visits (Amended 1/15/15[12/47/42])
 - 9.6 Contraband (Amended 3/14/14)
 - 9.8 Search Policy (Amended 5/13/14)
 - 9.13 Transport to Court - Civil Action (Amended 07/09/07)
 - 9.18 Informants (Amended 9/13/10)
 - 9.19 Found Lost or Abandoned Property (Amended 10/14/05)
 - 9.22 Control and Use of Caustic/Toxic Materials (Added 3/14/14)
 - 10.2 Special Management Inmates (Amended 1/15/15[8/20/43])
 - 10.3 Safekeepers and Contract Prisoners (Amended 9/15/04)
 - 11.2 Dietary Procedures and Compliance (Amended 3/14/14)
 - 11.4 Alternative Dietary Patterns (Amended 3/14/14)
 - 13.1 Pharmacy Policy and Formulary (Amended 1/15/15[3/44/44])
 - 13.2 Health Maintenance Services (Amended 1/15/15[3/44/44])
 - 13.3 Medical Alert System (Amended 3/14/14)
 - 13.5 Advance Healthcare Directives (Added 4/12/05)
 - 13.6 Sex Offender Treatment Program (Amended 5/15/08)
 - 13.7 Involuntary Psychotropic Medication (Amended 10/14/05)
 - 13.8 Substance Abuse Program (Amended 10/12/12)
 - 13.9 Dental Services (Amended 10/14/05)
 - 13.10 Serious Infectious Disease (Amended 3/14/14)
 - 13.11 Do Not Resuscitate Order (Amended 8/9/05)
 - 13.12 Suicide Prevention and Intervention Program (Added 8/25/09)
 - 13.13 Mental Health Services (Amended 1/15/15[Added 8/20/43])
 - 14.1 Investigation of Missing Inmate Property (Amended 10/14/05)
 - 14.2 Personal Hygiene Items (Amended 8/20/13)
 - 14.3 Marriage of Inmates (Amended 10/14/05)
 - 14.4 Legal Services Program (Amended 3/14/14)
 - 14.5 Board of Claims (Amended 10/14/05)
 - 14.6 Inmate Grievance Procedure (Amended 1/15/15[3/44/44])
 - 14.7 Sexual Abuse Prevention and Intervention Programs (Amended 12/10/13)
 - 15.1 Hair, Grooming and ID Card Standards (Amended 1/15/15[40/42/42])
 - 15.2 Rule Violations and Penalties (Amended 3/14/14)
 - 15.3 Meritorious Good Time (Amended 12/13/05)
 - 15.4 Program Credit (Amended 6/12/12)
 - 15.5 Restoration of Forfeited Good Time (Amended 5/14/07)
 - 15.6 Adjustment Procedures and Programs (Amended 3/14/14)
 - 15.7 Inmate Accounts (Amended 1/15/15[3/44/44])
 - 15.8 Unauthorized Substance Abuse Testing (Amended 10/14/05)
 - 16.1 Inmate Visits (Amended 10/12/12)
 - 16.2 Inmate Correspondence (Amended 1/15/15[8/20/43])
 - 16.3 Inmate Access to Telephones (Amended 10/12/12)
 - 16.4 Inmate Packages (Amended 1/15/15[07/09/07])
 - 17.1 Inmate Personal Property (Amended 1/15/15[8/20/43])
 - 17.2 Assessment Center Operations (Amended 1/15/15[44/45/06])
 - 17.3 Controlled Intake of Inmates (Amended 3/14/14)
 - 17.4 Administrative Remedies: Sentence Calculations (Amended 4/10/06)
 - 18.1 Classification of the Inmate (Amended 1/15/15[07/09/07])
 - 18.2 Central Office Classification Committee (Amended 8/20/13)
 - 18.3 Confinement of Youthful Offenders (Added 1/15/15)
 - 18.5 Custody and Security Guidelines (Amended 3/14/14)
 - 18.7 Transfers (Amended 07/09/07)
 - 18.9 Out-of-state Transfers (Amended 2/15/06)
 - 18.11 Placement for Mental Health Treatment in CPTU, KCIW-PCU, or KCPC (Amended 1/9/07)
 - 18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)
 - 18.13 Population Categories (Amended 07/09/07)
 - 18.15 Protective Custody (Amended 1/15/15[44/45/06])
 - 18.16 Information to the Parole Board (Effective 3/14/14)
 - 18.17 Interstate Agreement on Detainers (Amended 07/09/07)
 - 18.18 International Transfer of Inmates (Amended 5/14/07)
 - 19.1 Governmental Services Program (Amended 10/12/12)
 - 19.2 Sentence Credit for Work (Added 2/13/04)
 - 19.3 Inmate Wage/Time Credit Program (Amended 1/15/15[8/20/43])
 - 20.1 Educational Programs and Educational Good Time (Amended 8/25/09)
 - 21.1 Library Services (Added 3/14/14)
 - 22.1 Privilege Trips (Amended 10/14/05)
 - 22.2 Recreation and Inmate Activities (Added 3/14/14)
 - 23.1 Religious Programs (Amended 8/20/13)
 - 25.2 Public Official Notification of Release of an Inmate (Amended 10/14/05)
 - 25.3 Prerelease Program (Effective 11/15/06)
 - 25.4 Institutional Inmate Furloughs (Amended 07/09/07)
 - 25.6 Community Center Program (Amended 07/09/07)
 - 25.10 Administrative Release of Inmates (Amended 11/9/10)
 - 25.11 Victim Services Notification (Amended 8/25/09)
 - 26.1 Citizen Involvement and Volunteer Service Program (Amended 10/12/12)
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.
- LADONNA H. THOMPSON, Commissioner
 APPROVED BY AGENCY: December 16, 2014
 FILED WITH LRC: January 15, 2015 at 11 a.m.
 PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, 2015 at 9:00 a.m. in the at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 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 not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business March 2, 2015. 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: Amy V. Barker, Assistant General Counsel, Department of Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.
- REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
- Contact Person: Amy Barker
 (1) Provide a brief summary of:
 (a) What this administrative regulation does: This regulation

incorporates by reference the policies and procedures governing the Kentucky Department of Corrections including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020 and to meet American Correctional Association (ACA) standards requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Department of Corrections.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions. It provides direction and information to Corrections employees and inmates concerning the operations of the department.

(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 maintains the Kentucky Department of Corrections compliance with ACA standards and updates practices for the department and its institutions.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Secretary of the Cabinet or his delegate and the Commissioner to implement or amend practices or procedures to ensure the safe and efficient operation of the Kentucky Department of Corrections.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning the effective and orderly management of the state correctional institutions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Department of Corrections, 3,939 employees, 21,388 inmates, visitors, volunteers, and others who enter state correctional institutions.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to follow the changes made in the policies and procedures. The institutional employees and inmates of the Department of Corrections will have to change their actions to comply with any operational changes made by this regulation. Others who enter correctional institutions will have to comply with policies and procedures concerning entry, search, contraband and others when they enter an institution.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the amendment to this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the state correctional institutions.

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

(a) Initially: No increase funding is anticipated.

(b) On a continuing basis: No increase in funding is anticipated.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Corrections budgeted funds for the biennium.

(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 anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The regulation establishes fees for inmates, e.g. health services co-pays. The amendments to the regulation do not establish additional fees or change any existing fees.

(9) 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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendments to this regulation impact the operation of the Kentucky Department of Corrections and each state correctional institution.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035 and 197.020

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendments to this regulation do not create any additional revenue for the Kentucky Department of Corrections or other government entity.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendments to this regulation do not create any additional revenue for the Kentucky Department of Corrections or other government entity.

(c) How much will it cost to administer this program for the first year? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operate. The costs for the amendments are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operate. The costs for the amendments are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (Amendment)

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

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 and Public Safety 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

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order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Kentucky Correctional Institution for Women.

Section 1. Incorporation by Reference. (1) "Kentucky Correctional Institution for Women Policies and Procedures", [~~December 29, 2014~~~~November 25, 2013~~], are incorporated by reference. Kentucky Correctional Institution for Women Policies and Procedures include:

KCIW 01-03-01 Communications Between Staff and Inmates (Amended 2/14/13)
 KCIW 01-08-01 News Media Access (Amended 2/14/13)
 KCIW 02-04-01 Accounting Procedures (Amended 2/14/13)
 KCIW 02-05-01 Inmate Canteen and Staff Canteen (Amended 2/14/13)
 KCIW 05-01-01 Outside Consultation, Research and Student Interns (Amended 2/14/13)
 KCIW 06-01-01 Offender Information (Amended 5/14/13)
 KCIW 08-02-01 Fire Safety Practices (Amended 2/14/13)
 KCIW 08-02-02 Fire Evacuation Routes (Amended 11/25/13)
 KCIW 09-01-02 Inmate Move Sheet (Amended 2/14/13)
 KCIW 09-06-04 Regulation of Inmate Movement (Amended 2/14/13)
 KCIW 09-10-01 Pedestrian and Vehicular Traffic (Amended 11/25/2013)
 KCIW 09-10-02 Inmate Entry and Exit Procedure (Amended 5/14/13)
 KCIW 09-11-01 Prohibiting Inmate Authority Over Other Inmates (Amended 2/14/13)
 KCIW 09-12-01 Search Plan (Amended 12/29/2014[2/14/13])
 KCIW 09-13-01 Tobacco Free Environment (Amended 11/25/13)
 KCIW 09-13-02 Alcohol Detection (Amended 5/14/13)
 KCIW 10-01-01 Special Management Unit General Operations and Regulations (Amended 12/29/2014[11/25/13])
 KCIW 10-01-02 Special Management Unit Status, Placement and Review (Amended 2/14/13)
 KCIW 10-01-04 Death Row (Amended 2/14/13)
 KCIW 11-02-01 Menu Preparation and Special Diets (Amended 2/14/13)
 KCIW 11-03-01 Food Service Operations (Amended 2/14/13)
 KCIW 11-04-01 Health Regulations and General Guidelines for the Food Service Area (Amended 12/29/2014[2/14/13])
 KCIW 11-07-01 Special Religious Diets (Amended 2/14/13)
 KCIW 12-01-01 Laundry, Clothing, and Personal Hygiene (Amended 12/29/2014[2/14/13])
 KCIW 12-02-01 Pest Control (Amended 12/29/2014[2/14/13])
 KCIW 12-04-04 Sanitation Plan (Amended 11/25/13)
 KCIW 13-01-01 Provision of Medical and Dental Care (Amended 11/25/13)
 KCIW 13-01-02 Health Appraisal and Periodic Exams (Amended 2/14/13)
 KCIW 13-01-03 Pharmaceutical Services (Amended 11/25/13)
 KCIW 13-02-01 Family Notification (Amended 5/14/13)
 KCIW 13-03-01 Emergency Care (Amended 2/14/13)
 KCIW 13-03-02 Convalescent and Chronic Care (Amended 2/14/13)
 KCIW 13-04-02 Psychiatric and Psychological Services (Amended 12/29/2014[2/14/13])
 KCIW 13-07-01 Detoxification and Alcohol or Chemical Dependency (Amended 2/14/13)
 KCIW 13-09-01 Suicide Prevention and Intervention Program (Amended 2/14/13)
 KCIW 13-09-02 Inmate Observer Program (Amended 2/14/13)
 KCIW 13-13-01 Health Care Records (Amended 11/25/13)
 KCIW 13-14-01 Health Services (Amended 2/14/13)
 KCIW 13-14-02 Operational Guidelines for the Mental Health Area of the Lonnie Watson Center (Amended 11/25/2013)
 KCIW 13-14-04 Injury Prevention (Added 2/14/13)
 KCIW 14-02-01 Access to Legal Resources and Services

(Amended 12/29/2014[2/14/13])
 KCIW 15-06-01 Restriction Guidelines (Amended 2/14/13)
 KCIW 16-01-01 Inmate Correspondence (Amended 12/29/2014[2/14/13])
 KCIW 16-02-01 Access to Telephones (Amended 2/14/13)
 KCIW 16-03-01 Inmate Visiting (Amended 12/29/2014[5/14/13])
 KCIW 16-05-01 Inmate Packages (Amended 12/29/2014[2/14/13])
 KCIW 17-01-01 Assessment Center Operations and Programs (Amended 5/14/13)
 KCIW 17-02-01 Admission Procedure (Amended 2/14/13)
 KCIW 17-05-01 Inmate Personal Property (Amended 5/14/13)
 KCIW 18-01-01 Inmate Classification (Amended 11/25/13)
 KCIW 18-01-03 Honor Program (Amended 2/14/13)
 KCIW 18-05-01 Special Needs Inmates (Amended 11/25/13)
KCIW 18-05-02 Youthful Offender (Added 12/15/14)
KCIW 18-05-03 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 12/15/14)
 KCIW 19-01-01 Inmate Work and Program Assignments (Amended 12/29/2014[2/14/13])
 KCIW 19-02-01 Governmental Services (Amended 2/14/13)
 KCIW 19-03-01 Landscape and Maintenance Work Details (Amended 2/14/13)
 KCIW 19-04-01 Correctional Industries (Amended 12/29/2014[2/14/13])
 KCIW 20-01-01 Education Programs (Amended 12/29/2014[11/25/13])
 KCIW 21-01-01 Library Services (Amended 12/29/2014[11/25/13])
 KCIW 22-01-01 Recreation and Inmate Activity (Amended 11/25/13)
 KCIW 22-01-02 Arts and Crafts Program (Amended 2/14/13)
 KCIW 22-01-04 Inmate Club Activities (Amended 11/25/13)
 KCIW 23-01-01 Religious Services (Amended 12/29/2014[2/14/13])
 KCIW 24-01-01 Social Services Program (Amended 2/14/13)
 KCIW 24-02-01 Substance Abuse Program (Amended 2/14/13)
 KCIW 25-02-01 Temporary Release and Community Release (Amended 5/14/13)
 KCIW 25-03-01 Funeral Home Visit or Bedside Visit (Amended 2/14/13)
 KCIW 26-01-01 Volunteer Service Program (Amended 2/14/13)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: December 16, 2014

FILED WITH LRC: December 29, 2014 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, 2015 at 9:00 a.m. in the at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 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 not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 2, 2015. 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: Amy V. Barker, Assistant General Counsel, Department of Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Kentucky Correctional Institution for Women including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035, 197.020, to meet American Correctional Association (ACA) requirements, and to meet federal Prison Rape Elimination Act (PREA) regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Correctional Institution for Women.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to Corrections employees concerning their duties and responsibilities of their jobs and to inmates and visitors concerning their rights and responsibilities.

(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 brings the Kentucky Correctional Institution for Women into compliance with ACA and PREA Standards and updates current practices for the institution.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: The Secretary or his delegate may promulgate regulations for the operations of the Cabinet and its divisions and the Department of Corrections may implement or amend policies and procedures for its institutions in this regulation to ensure the safe and efficient operation of the Kentucky Correctional Institution for Women.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff, inmates and visitors information concerning the effective and orderly management of the institution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Correctional Institution for Women 220 employees and 650 inmates, and all visitors to KCIW.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates and visitors will have to follow the changes made in the policies and procedures. The institution, employees, and inmates of the Kentucky Correctional Institution for Women will have to change their actions to comply with any operational changes made by this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs related to the changes made by this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the penal institution.

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

(a) Initially: No additional costs are anticipated from the amendment.

(b) On a continuing basis: No additional costs are anticipated from the amendment.

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

Kentucky Correctional Institution for Women budgeted 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 is anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established by this amendment.

(9) 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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Correctional Institution for Women

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to this regulation does not create any revenue for the Kentucky Correctional Institution for Women or other government entity.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to this regulation does not create any revenue for the Kentucky Correctional Institution for Women or other government entity.

(c) How much will it cost to administer this program for the first year? No additional costs are anticipated from the amendment.

(d) How much will it cost to administer this program for subsequent years? No additional costs are anticipated from the amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR FAMILY AND HEALTH SERVICES
Office of Health Policy
(Amendment)

900 KAR 7:030. Data reporting by health care providers.

RELATES TO: KRS Chapter 13B, 216.2920-216.2929

STATUTORY AUTHORITY: KRS 216.2923(3), 216.2925

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2925 requires that the Cabinet for Health and Family Services promulgate administrative regulations requiring specified health care providers to provide the cabinet with data on cost, quality, and outcomes of health care services provided in the Commonwealth. KRS 216.2923(3) authorizes the cabinet to promulgate administrative regulations to impose fines for failure to report required data. This administrative regulation establishes the required data elements, forms, and timetables for submission of data to the cabinet and fines for noncompliance.

Section 1. Definitions. (1) "Agent" means any entity with which the cabinet may contract to carry out its statutory mandates, and which it may designate to act on behalf of the cabinet to collect,

edit, or analyze data from providers.

(2) "Ambulatory facility" is defined by KRS 216.2920(1).

(3) "Cabinet" is defined by KRS 216.2920(2).

(4) "Coding and transmission specifications", "Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals", or "Kentucky Data Coordinator's Manual for Ambulatory Facilities" means the document containing the technical directives the cabinet issues concerning technical matters subject to frequent change, including codes and data for uniform provider entry into particular character positions and fields of the standard billing form and uniform provider formatting of fields and character positions for purposes of electronic data transmissions.

(5) "Hospital" is defined by KRS 216.2920(6).

(6) "Hospitalization" means the inpatient medical episode identified by a patient's admission date, length of stay, and discharge date, that is identified by a provider-assigned patient control number unique to that inpatient episode, except for:

(a) Inpatient services a hospital may provide in swing, nursing facility, skilled,

intermediate or personal care beds; or

(b) Hospice care.

(7) "National Provider Identifier" or "NPI" means the unique identifier assigned by the Centers for Medicare and Medicaid Services to an individual or entity that provides health care services and supplies.

(8) "Outpatient services" means services performed on an outpatient basis in a hospital in accordance with Section 3(2) of this administrative regulation or services performed on an outpatient basis by an ambulatory facility in accordance with Section 4 of this administrative regulation.

(9) "Provider" means a hospital, ambulatory facility, clinic, or other entity of any nature providing hospitalizations, mammograms, or outpatient services as defined in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals or the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(10) "Record" means the documentation of a hospitalization or outpatient service in the format prescribed by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals or the Kentucky Data Coordinator's Manual for Ambulatory Facilities as approved by the Statewide Data Advisory Committee on a computer readable electronic medium.

(11) "Standard Billing Form" means the uniform health insurance claim form pursuant to KRS 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare and Medicaid Services, or the HCFA 1500 for use by hospitals and other providers in billing for hospitalizations and outpatient services.

Section 2. Medicare Provider-Based Entity. A licensed outpatient facility that is a Medicare provider-based entity of a hospital and reports under the hospital's provider number shall be separately identifiable through a facility-specific NPI.

Section 3. Data Collection for Hospitals. (1) Inpatient hospitalization records. A hospital shall document every hospitalization it provides on a Standard Billing Form and shall, from every record, copy and provide to the cabinet the data specified in Section 12 of this administrative regulation.

(2) Outpatient services records.

(a) A hospital shall document on a Standard Billing Form the outpatient services it provides and shall from every record, copy and provide to the cabinet the data specified in Section 12 of this administrative regulation.

(b) A hospital shall submit records that contain the required outpatient services procedure codes specified in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(3) Data collection on patients. A hospital shall submit required data on every patient as provided in Section 12 of this administrative regulation, regardless of the patient's billing or payment status.

Section 4. Data Collection for Ambulatory Facilities. (1)

Outpatient services records.

(a) An ambulatory facility shall document on a Standard Billing Form the outpatient services it provides and shall, for every record, copy and provide to the cabinet the data specified in Section 13 of this administrative regulation.

(b) An ambulatory facility shall submit records that contain the required outpatient services procedure codes specified in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(2) Data collection on patients. An ambulatory facility shall submit required data on every patient as provided in Section 13 of this administrative regulation, regardless of the patient's billing or payment status.

Section 5. Data Finalization and Submission by Providers. (1) Submission of final data.

(a) Data shall be final for purposes of submission to the cabinet as soon as a record is sufficiently final that the provider could submit it to a payor for billing purposes, regardless of whether the record has actually been submitted to a payor.

(b) Finalized data shall not be withheld from submission to the cabinet on grounds that it remains subject to adjudication by a payor.

(c) Data on a hospitalization shall not be submitted to the cabinet before a patient is discharged and before the record is sufficiently final that it could be used for billing.

(2) Data submission responsibility.

(a) If a patient is served by a mobile health service, specialized medical technology service, or another situation where one (1) provider provides services under contract or other arrangement with another provider, responsibility for providing the specified data to the cabinet shall reside with the provider that bills for the service or would do so if a service is unbilled.

(b) Charges for physician services provided within a hospital shall be reported to the cabinet.

1. Responsibility for reporting the physician charge data shall rest with the hospital if the physician is an employee of the hospital.

2. A physician charge contained within a record generated by a hospital shall be clearly identified in a separate field within the record so that the cabinet may ensure comparability when aggregating data with other hospital records that do not contain physician charges.

(3) Transmission of records.

(a) Records submitted to the cabinet by a hospital shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(b) Records submitted to the cabinet by an ambulatory facility shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(c) Each provider shall submit data by electronic transmission as specified by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(d) Each provider shall provide back-up security against accidental erasure or loss of the data until all incomplete or inaccurate records identified by the cabinet have been corrected and resubmitted.

(4) Verification and audit trail for electronic data submissions.

(a) Each provider shall maintain a date log of data submissions and the number of records contained in each submission, and shall make the log available for inspection upon request by the cabinet.

(b) The cabinet shall, within twenty-four (24) hours of submission, verify by electronic message to each provider the receipt of the provider's data transmissions and the number of records in each transmission.

(c) A provider shall immediately notify the cabinet of a discrepancy between the provider's date log and a verification notice.

Section 6. Data Submission Timetable for Providers. (1) Quarterly submissions. Each provider shall submit data at least

once for each calendar quarter. A quarterly submission shall:

(a) Contain data, which during that quarter became final as specified in Section 5(1) of this administrative regulation; and

(b) Be submitted to the cabinet not later than forty-five (45) days after the last day of the quarter.

1. If the 45th day falls on a weekend or holiday, the submission due date shall be the next working day.

2. Calendar quarters shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(2) Submissions more frequent than quarterly. A provider may submit data after records become final as specified in Section 5(1) of this administrative regulation and at a reasonable frequency convenient to a provider for accumulating and submitting batch data.

Section 7. Data Corrections for Providers. (1) Editing. Data received by the cabinet shall, upon receipt, be edited to ensure completeness and validity of the data. Computer editing routines shall identify for correction every record in which the submitted contents of required fields are not consistent with the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(2) Submission of corrections. The cabinet shall allow a provider thirty (30) days in which to submit corrected copies of initially submitted data the cabinet identifies as incomplete or invalid as a result of edits.

(a) The thirty (30) days shall begin on the date of the cabinet's notice informing the provider that corrections are required.

(b) A provider shall submit to the cabinet corrected data by electronic transmission within thirty (30) days.

(c) Corrected data submitted to the cabinet shall be uniformly completed and formatted according to the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(3) Percentage error rate.

(a) When editing data upon its initial submission, the cabinet shall identify and return to the provider for correction every record in which one (1) or more of the required data elements fails to pass the edit.

(b) When editing data that a provider has submitted, the cabinet shall check for an error rate per quarter of no more than one (1) percent of records or not more than ten (10) records, whichever is greater.

(c) The cabinet may return for further correction any submission of allegedly corrected data in which the provider fails to achieve a corrected error rate per quarter of no more than one (1) percent of records or not more than ten (10) records, whichever is greater.

Section 8. Fines for Noncompliance for Providers. (1) A provider failing to meet quarterly submission guidelines as established in Sections 6 and 7 of this administrative regulation shall be assessed a fine of \$500 per violation.

(2) The cabinet shall notify a noncompliant provider by certified mail, return receipt requested, of the documentation of the reporting deficiency and the assessment of the fine.

(3) A provider shall have thirty (30) days from the date of receipt of the notification letter to pay the fine which shall be made payable to the Kentucky State Treasurer and sent by certified mail to the Kentucky Cabinet for Health and Family Services, Office of Health Policy, 275 East Main Street 4 W-E, Frankfort, Kentucky 40621.

(4) Fines during a calendar year shall not exceed \$1,500 per provider.

Section 9. Extension or Waiver of Data Submission Timelines.

(1) A provider experiencing extenuating circumstances or a hardship may request from the cabinet, in writing, a data submission extension or waiver.

(a) A provider shall request an extension or waiver from the Office of Health Policy on or before the last day of the data reporting period to receive an extension or waiver for that period.

(b) An extension or waiver shall not exceed a continuous period of greater than six (6) months.

(2) The cabinet shall consider the following criteria in determining whether to grant an extension or waiver:

(a) Whether the request was made due to an event beyond the provider's control, such as a natural disaster, catastrophic event, or theft of necessary equipment or information;

(b) The severity of the event prompting the request; and

(c) Whether the provider continues to gather and submit the information necessary for billing.

(3) A provider shall not apply for more than three (3) extensions or waivers during a calendar year.

Section 10. Appeals for Providers. (1) A provider notified of its noncompliance and assessed a fine pursuant to Section 8(1) of this administrative regulation shall have the right to appeal within thirty (30) days of the date of the notification letter.

(a) If the provider believes the action by the cabinet is unfair, without reason, or unwarranted, and the provider wishes to appeal, it shall appeal in writing to the Secretary of the Cabinet for Health and Family Services, 5th Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(b) An appeal shall be filed in accordance with KRS Chapter 13B.

(2) Upon receipt of the appeal, the secretary or designee shall issue a notice of hearing no later than twenty (20) days before the date of the hearing. The notice of the hearing shall comply with KRS 13B.050. The secretary shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(3) The hearing officer shall issue a recommendation in accordance with KRS 13B.110. Upon receipt of the recommended order, following consideration of any exceptions filed pursuant to KRS 13B.110(4), the secretary shall enter a final decision pursuant to KRS 13B.120.

Section 11. Working Contacts for Providers. (1) On or before the last day of the data reporting period, a provider shall report by electronic transmission to the cabinet the names and telephone numbers of a designated contact person and one (1) back-up person to facilitate technical follow-up in data reporting and submission.

(a) A provider's designated contact and back-up shall not be the chief executive officer unless no other person employed by the provider has the requisite technical expertise.

(b) The designated contact shall be the person responsible for review of the provider's data for accuracy prior to the publication by the cabinet.

(2) If the chief executive officer, designated contact person, or back-up person changes during the year, the name and telephone number of the replacing person shall be reported immediately to the cabinet.

Section 12. Required Data Elements for Hospitals. (1) A hospital shall ensure that each record submitted to the cabinet contains at least the data elements identified in this section and as provided on the Standard Billing Form.

(2) A single asterisk identifies elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(3) Double asterisks identify elements that shall not be blank if present on the record and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(4) Additional data elements, as specified in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals, shall be required by the cabinet to facilitate proper collection and identification of data.

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Required	DATA ELEMENT LABEL
Yes	*Provider Assigned Patient Control Number
Yes	**Provider Assigned Medical Record Number
Yes	*Type of Bill (inpatient, outpatient or other)
Yes	**Federal Tax Number or Employer Identification Number (EIN)
Yes	*Facility-specific NPI
Yes	*Statement Covers Period
Yes	*Patient City and Zip Code
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Admission/Start of Care Date
Yes	**Admission Hour
Yes	*Type of Admission
Yes	*Source of Admission
Yes	*Patient Status (at end of service or discharge)
No	Occurrence Codes & Dates
Yes	**Value Codes and Amounts, including birth weight in grams
Yes	*Revenue Codes/Groups
Yes	*HCPCS/Rates/Hipps Rate Codes
Yes	*Units of Service
Yes	*Total Charges by Revenue Code Category
Yes	*Payor Identification - Payor Name
Yes	*National Provider Identifier
Yes	*Diagnosis Version Qualifier - ICD version 9.0 or 10.0
Yes	*Principal Diagnosis Code
Yes	*Principal Diagnosis Code present on admission identifier for non-Medicare claims
Yes	*Principal Diagnosis Code present on admission identifier for Medicare claims
Yes	**Secondary and Other Diagnosis Codes
Yes	**Secondary and Other Diagnosis code present on admission identifier for non-Medicare claims
Yes	**Secondary and Other Diagnosis code present on admission identifier for Medicare claims
Yes	*Inpatient Admitting Diagnosis
Yes	**Outpatient reason for visit
Yes	*External Cause of Injury Code (E-code) if present
Yes	*External Cause of Injury (E-code) present on admission identifier on non-Medicare claims if present
Yes	*External Cause of Injury (E-code) present on admission identifier on Medicare claims if present
Yes	*Principal Procedure Code & Date if present
Yes	**Secondary and Other Procedure Codes & Date if present
Yes	*Attending Physician NPI/QUAL/ID
Yes	*Operating Clinician ID Number/NPI
Yes	**Other Physician NPI/QUAL/ID
Yes	*Race
Yes	*Ethnicity

Section 13. Required Data Elements for Ambulatory Facilities.(1) An ambulatory facility shall ensure that each record submitted to the cabinet contains at least the data elements identified in this section and as provided on the Standard Billing Form.

(2) A single asterisk identifies elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(3) Double asterisks identify elements that shall not be blank if present on the record and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(4) Additional data elements, as specified in the Kentucky Data Coordinator's Manual for Ambulatory Facilities, shall be required by the cabinet to facilitate proper collection and identification of data.

Required	DATA ELEMENT LABEL
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Zip Code
Yes	*1st Individual Payer ID#
Yes	*Admission/Start of Care Date
Yes	*Type of Bill
Yes	*Principal Diagnosis Code
Yes	**Secondary and Other Diagnosis Codes if present
Yes	*Principal Procedure Code & Date
Yes	**Secondary and Other Procedure Codes & Date if present
Yes	*1st Units of Service
Yes	*1st Charge
Yes	**Secondary and Other Units of Service and Charge
Yes	*Total Charges for the Case
Yes	*Attending Clinician NPI
Yes	*Provider Assigned Patient ID#
Yes	**1st Insurer Group #
Yes	**2nd Insurer Group #
Yes	*Operating Clinician NPI
Yes	*Billing Facility-specific NPI
Yes	**Federal Tax Number or Employer Identification Number (EIN)
Yes	*Statement Covers Period
Yes	*Primary Payor Name
Yes	**Secondary Payor Name
Yes	*Race
Yes	*Ethnicity
Yes	*HCPCS/Rates/Hipps Rate Codes

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals", revised ~~December~~August 1, 2014; and
(b) "Kentucky Data Coordinator's Manual for Ambulatory Facilities," revised ~~December~~August 1, 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

EMILY WHELAN PARENTO, Executive Director

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 31, 2014 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015, at 9:00 a.m. in Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Diona Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides clarification and instruction to specified health care providers on the process necessary to submit copies of administrative claims data to the Cabinet.

(b) The necessity of this administrative regulation: This administrative regulation is necessary so that health care providers have a uniform mechanism with timeframes and instructions with which to submit the required data. The administrative regulation contains the updated data submission manuals for hospitals and ambulatory care facilities. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary to ensure that health care providers have a uniform mechanism with timeframes and instructions with which to submit the required data to enable the Cabinet to publish the data and reports as required by KRS 216.2925.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides detailed instructions to specified health care providers relating to the data elements, forms and timetables necessary to comply with the 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: This administrative regulation incorporates by reference updated data reporting manuals. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide new data submission manuals to facilities to ensure accuracy of the submitted data.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statute by providing a standardized method of reporting by hospitals and ambulatory care facilities.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes as it provides detailed instructions for submission of required data elements.

(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 232 hospitals and ambulatory facilities which submit data to the Cabinet.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will collect and submit data as required. Entities are already required to submit data. This administrative regulation incorporates by reference updated data reporting manuals. Revisions to the manuals were necessary due to the addition of the requirement to report all outpatient procedures effective January 1, 2015. Also, new CPT/HCPCS (outpatient) codes were published October 1, 2014.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each entity will collect and submit data as required. Entities are already required to submit data. This regulation incorporated by reference manuals that were revised to provide detailed submission requirements. Therefore, no additional cost will be incurred by entities to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Data integrity is improved as all applicable payor codes are now included in the manuals and instructions have been provided related to the addition of the requirement to report all outpatient procedures.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation. The Office of Health Policy currently collects data and has the necessary data collection system in place.

(b) On a continuing basis: No additional costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding for the implementation and enforcement of this administrative regulation will be the Office of Health Policy's existing budget. No new funding will be needed to implement the provisions of the amended 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: No increase in fees or funding is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

(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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment may impact any government owned, controlled or proposed hospitals and ambulatory care facilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The authorizing statutes are KRS 216.2920-216.2929.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(Amendment)

902 KAR 20:091. Facilities specifications, operation and services; community mental health center.

RELATES TO: KRS 17.500, 198B.260, 202A.011(4), 202B.010(6), 205.6313, 210.370, 210.410, 210.450, 216B.010, 216B.015, 216B.030, 216B.105, 216B.990, 222.211, 309.080, 309.130, 311.560(4), 314.011(8), 314.042(8), 319.056, 319.064, 319C.010, 320.210(2), 335.080, 335.100, 335.300, 335.500, 439.3401, 645.020(5), 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2 – 1320d-8, 42 U.S.C. 290ee-3

STATUTORY AUTHORITY: KRS 210.450(1), 216B.010, 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require the Kentucky Cabinet for Health and Family Services to regulate health facilities and services. KRS 210.450(1) requires the secretary to promulgate administrative regulations to establish[revising] standards for qualification of personnel, quality of professional service, and personnel management operations. This administrative regulation establishes licensure requirements for the operation and services, and facility specifications of a community mental health center. In addition, this administrative regulation establishes standards for community mental health centers which elect to provide primary care services pursuant to KRS 210.410 and KRS 205.6313.

Section 1. Definitions. (1) "Behavioral health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A psychiatric nurse as defined by subsection (15) of this section;

(h) A physician assistant licensed under KRS 311.840 to 311.862;

(i) A marriage and family therapist licensed and practicing in accordance with KRS 335.300;

(j) A professional clinical counselor licensed and practicing in accordance with KRS 335.500; or

(k) A licensed professional art therapist as defined by KRS 309.130(2).

(2) "Behavioral health professional under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) Marriage and family therapist associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4); or

(f) Licensed professional art therapist associate as defined by KRS 309.130(3).

(3) "Center" means a community mental health center.

(4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(5) "Community support associate" means a paraprofessional who meets the application, training, and supervision requirements of 908 KAR 2:250.

(6) (2) "Clinical psychologist" means a clinical psychologist certified or licensed pursuant to KRS 319.050(7), 319.056(2), (4), or 319.064(5).

(3) "Crisis stabilization unit" means a community-based facility operated by or under contract with a center to provide emergency services as described in Section 8 of this administrative regulation to no more than twelve (12) clients who require overnight stays.

(7) (4) "Designated regional service area" means the geographical area to be served by the community mental health center.

(8) "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

(9) "Licensed behavior analyst" is defined by KRS 319C.010(6).

(10) (5) "Licensed marriage and family therapist" means an individual licensed in accordance with KRS 335.300(2).

(6) "Licensed professional clinical counselor" means and individual licensed in accordance with KRS 335.500(3).

(7) "Licensee" means the governing body legally responsible for the community mental health center.

(11) "Mechanical restraint" means any device attached or adjacent to a client's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

(12) "Mental health associate" is defined by 907 KAR 1:044, Section 1(6).

(13) "Peer support specialist" means a paraprofessional who meets the application, training, examination, and supervision requirements of 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240.

(14) (8) "Plan of care" means a written plan that delineates the services to be provided to a client, and includes the short- and long-term goals of the plan.

(15) (9) "Psychiatric nurse" means a registered nurse who:

(a) Has a master's of science degree in nursing with a specialty in psychiatric or mental health nursing;

(b) Is a graduate of a four (4) year educational program with a bachelor of science degree in nursing and a minimum of one (1) year of experience in a mental health setting;

(c) Is a graduate of a three (3) year educational program with two (2) years of experience in a mental health setting; or

(d) Is a graduate of a two (2) year educational program with an associate degree in nursing and three (3) years of experience in a mental health setting.

(16) "Professional equivalent" is defined by 907 KAR 1:044, Section 1(7) (10) "Qualified social worker" means a social worker with a master's degree from an accredited school of social work who is licensed or exempt from licensure pursuant to KRS Chapter 335.

(11) "Time out" means a treatment intervention that separates a client from others in a nonsecure area for a time-limited period to permit the client time to regain control over his behavior[.]

Section 2. Scope of Operation and Services. (1) A community mental health center:

(a) Shall provide a comprehensive range of accessible and coordinated behavioral health (mental health and substance abuse services) and [mental retardation] services for individuals with an intellectual or developmental disability, including direct or indirect [mental health or mental retardation] services[,] to the population of a designated regional service area, as required by KRS 210.370 to 210.480; and

(b) May provide primary care services:

1. As permitted by KRS 210.410; and

2. In accordance with the requirements established in Section 7 of this administrative regulation.

(2) A center's services, including primary care services if provided, shall be available to the client population described by KRS 210.410(2).

Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for:

1. The center;
2. The establishment of administrative policy; and
3. Compliance with federal, state, and local law pertaining to the operation of the center.

(b) To obtain or renew a license to operate a center, the licensee shall comply with the requirements of this administrative regulation and the requirements of relevant statutes and administrative regulations.

(2) Executive director. The licensee shall designate an executive director, qualified by training and experience, who shall be responsible for:

(a) The total program of the center and its affiliates in accordance with the center's written policies; and

(b) Evaluation of the program as it relates to the client's needs.

(3) Policies. The licensee shall establish written policies for the administration and operation of the center which shall be available to staff and which shall include:

(a) A description of the organizational structure specifying the:

1. Responsibility, function, and interrelations of each organizational unit; and

2. Lines of administrative and clinical authority;

(b) The appropriate method and procedure for storage, dispensing and administering of a drug or biological agent;

(c) Client grievance procedure;

(d) Confidentiality and use of client records in accordance with federal, state, and local statutes and regulations, including subsection (4) of this section; and

(e) Personnel policy, including:

1. A job description and qualifications for each personnel category;

2. Wage scale, hours of work, vacation and sick leave;

3. A plan for orientation of personnel to the policies and objectives of the center and for on-the-job training, if necessary; and

4. Annual/Periodic evaluation of employee performance.

(4) Client records. A client record shall be maintained for each individual receiving services.

(a) Each entry shall be current, dated, signed, and indexed according to the service received; and

(b) Ownership.

1. Client records shall be the property of the center.

2. The original client record shall not be removed from the center except by court order or subpoena.

3. Copies of a client record or portions of the record may be used and disclosed as established by paragraph (d) of this subsection.

(c) A client record shall be retained for at least six (6) [five (5)] years or, in the case of a minor, three (3) years after the client reaches the age of majority, whichever is longer.

(d) Confidentiality and security: use and disclosure.

1. The center shall maintain the confidentiality and security of client records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law, including 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

2. The center may use and disclose client records. Use and disclosure shall be as established or required by:

a. HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164; or

b. 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

3. A center may establish higher levels of confidentiality and security than required by HIPAA, 42 U.S.C. 1320d-2 to 1320-8, and 45 C.F.R. Parts 160 and 164, or 42 U.S.C. 290 ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(e) [; (c) Each client record shall be kept in a locked file and treated as confidential. Information contained in a client record

shall:

1. Be disclosed to an authorized person; and

2. Not be disclosed to an unauthorized person;

(d) Each client record shall contain:

1. An identification sheet;

2. Information on the purpose for seeking a service;

3. A history of findings and treatments rendered;

4. Screening information pertaining to the problem;

5. Staff notes on services provided;

6. Pertinent medical, psychiatric and social information;

7. Disposition;

8. Assigned status;

9. Assigned personnel [therapists]; and

10. A termination summary [study] recapitulating findings and events during treatment, clinical impressions, and condition on termination.

Section 4. Staff Requirements. (1) [(5) Personnel.] A community mental health center shall employ the following full-time personnel:

(a) An executive director as required by Section 3(2) of this administrative regulation who:

1. May serve in a dual role as the center's program director;

2. Shall have a master's degree in business administration or a human services field or a bachelor's degree in a human services field, including:

a. Social work;

b. Sociology;

c. Psychology;

d. Guidance and counseling;

e. Education;

f. Religion;

g. Business administration;

h. Criminal justice;

i. Public administration;

j. Child care administration;

k. Christian education;

l. Divinity;

m. Pastoral counseling;

n. Nursing;

o. Public health; or

p. Another human service field related to working with children with severe emotional disabilities or clients with severe mental illness; and

3.a. Shall have two (2) years of prior supervisory experience in a human services program for an executive director with a master's degree; or

b. Shall have a minimum of two (2) years of prior experience in a human services program plus two (2) years of prior supervisory experience in a human services program for an executive director with a bachelor's degree;

(b) [(a) 1.] A program director who:

1. Shall be a:

a. Psychiatrist;

b. Certified or licensed psychologist;

c. Psychiatric nurse;

d. Licensed professional clinical counselor;

e. Licensed marriage and family therapist; or

f. Licensed clinical [Qualified] social worker or certified social worker;

2. May serve as [; 2. The program director may be] the executive director; and

3. Shall be responsible for:

a. Maintenance of the center's therapeutic milieu; and

b. Assuring that treatment plans developed in accordance with Section 5(3) of this administrative regulation are implemented;

(c) A medical director [(b) 1. A board-certified or board-eligible psychiatrist] who shall:

1. Be a board certified or board eligible psychiatrist licensed in the state of Kentucky;

2. [a.] Be responsible for treatment planning; and

3. [b. Provide psychiatric service as indicated by client needs; and

e.] Supervise and coordinate the provision of psychiatric

services by the center:

(d) A licensed psychologist or licensed psychological practitioner pursuant to KRS 319.050, 319.056, or 319.064;

(e) A sufficient number of personnel to provide services as described in Section 5 of this administrative regulation; and

(f) A records librarian or a designated staff person who shall assure that client records are maintained and that information is immediately retrievable.

(2) Background checks.

(a) The executive director and all personnel of a center shall:

1. Have a criminal record check performed upon initial hire through the Administrative Office of the Courts or the Kentucky State Police;

2. Not have a criminal conviction or plea of guilty to a:

a. Sex crime as specified in KRS 17.500;

b. Violent crime as specified in KRS 439.3401;

c. Criminal offense against a minor as specified in KRS 17.500;

or

d. Class A felony; and

3. Not be listed on the following:

a. Central registry established by 922 KAR 1:470;

b. Nurse aide or home health aide abuse registry established by 906 KAR 1:100; or

c. Caregiver misconduct registry established by 922 KAR 5:120.

(b) A center may use Kentucky's national background check system established by 906 KAR 1:190 to satisfy the background check requirements of paragraph (a) of this subsection.

(c) A center shall perform annual criminal record and registry checks as described in paragraph (a) of this subsection on a random sample of at least fifteen (15) percent of all personnel [2. This position may be filled by more than one (1) psychiatrist if the total hours worked are equivalent to one (1) full-time position;

(c) A clinical psychologist who shall provide evaluation and screening services for the client and individual or group therapy;

(d) A licensed professional clinical counselor who shall provide evaluation and screening services for the client and individual or group therapy;

(e) A licensed marriage and family therapist who shall provide evaluation and screening services for the client and individual or group therapy;

(f) A psychiatric nurse who shall provide or supervise nursing service for psychiatric care;

(g) A qualified social worker who shall provide social services as required; and

(h) A person who shall assure that client records are maintained and that information is immediately retrievable].

Section 5[4]. Services. (1) The center shall provide services in the designated regional service area directly or through contract.

(2) Direct services. The center shall provide services as described in subsection (4) of this section and offer a sufficiently wide range of treatment to meet client needs, which may include behavioral health services described in subsection (5) of this section[including:

(a) Individual therapy;

(b) Family therapy;

(c) Group therapy;

(d) Play therapy;

(e) Behavior modification; and

(f) Chemotherapy].

(3) Plan of care.

(a) Each client receiving direct treatment under the auspices of a community mental health center shall have an individual plan of care signed by an independently licensed behavioral health professional[a clinically licensed or certified professional provider of the treatment].

(b) A medical service, including a change of medication, a diet restriction, or a restriction on physical activity shall be ordered by a physician or other ordering practitioner acting within the limits of his or her statutory scope of practice.

(4) The center shall provide:

(a)1. Partial hospitalization or psychosocial rehabilitation

services pursuant to KRS 210.410(1)(c)[A therapeutic program for a person who requires less than twenty-four (24) hour a day care, and more than outpatient care (i.e., partial hospitalization or day care)].

2. A psychiatrist shall be present on a regularly scheduled basis to provide consultant services to staff;

(b)1. Inpatient services pursuant to KRS 210.410(1)(a) through affiliation with a licensed[community] hospital for a person requiring full-time inpatient care.

2. A center that does not have an affiliation contract in effect shall be considered to be in compliance with this requirement if the center documents a good faith effort to enter into an affiliation contract;

(c)1. Outpatient services pursuant to KRS 210.410(1)(b)[service] on a regularly scheduled basis with arrangements made for a nonscheduled visit during a time of increased stress or crisis.

2. The outpatient service shall provide diagnosis and evaluation of a psychiatric problem and a referral to other services or agencies as indicated by the client's needs;

(d)1. Emergency services pursuant to KRS 210.410(1)(d)[service] for the immediate evaluation and care of a person in a crisis situation on a twenty-four (24) hour a day, seven (7) day a week basis.

2. All components of the emergency service shall be coordinated into a unified program that enables a client receiving an emergency service to be readily transferred to another service of the center as client needs dictate; and

(e) Consultation and education services pursuant to KRS 210.410(1)(e) for individuals,[for an individual and various] community agencies, and groups to increase the visibility, identifiability, and accessibility of the center and to promote services for intellectual disabilities and mental health disorders, substance use disorders, or co-occurring disorders through the distribution of relevant mental health knowledge.

(5) Rehabilitative mental health and substance use services, which may be provided by a center in accordance with a plan of care, include the following:

(a) Screening which shall be provided by a behavioral health professional, behavioral health professional under clinical supervision, professional equivalent, mental health associate, or certified alcohol and drug counselor to determine the:

1. Likelihood that an individual has a mental health, substance use, or co-occurring disorder; and

2. Need for an assessment;

(b) Assessment which shall:

1. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, professional equivalent, mental health associate, or a certified alcohol and drug counselor who gathers information and engages in a process with the client, thereby enabling the professional to:

a. Establish the presence or absence of a mental health, substance use, or co-occurring disorder;

b. Determine the client's readiness for change;

c. Identify the client's strengths or problem areas which may affect the treatment and recovery processes; and

d. Engage the client in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the client to develop a plan of care if a clinical disorder or service need is assessed; and

4. Not include psychological or psychiatric evaluations or assessments;

(c) Psychological testing which shall:

1. Be performed by a licensed psychologist, licensed psychological associate, or licensed psychological practitioner; and

2. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities, and interpretation and written report of testing results;

(d) Crisis intervention which:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to the client or another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities;

3. Shall be provided:

a. On-site at the center;

b. As an immediate relief to the presenting problem or threat;

and

c. In a face-to-face, one (1) on one (1) encounter;

4. May include verbal de-escalation, risk assessment, or cognitive therapy;

5. Shall be provided by a:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision;

c. Professional equivalent;

d. Mental health associate; or

e. Certified alcohol and drug counselor;

6. Shall be followed by a referral to noncrisis services, if applicable; and

7. May include:

a. Further service prevention planning, including:

(i) Lethal means reduction for suicide risk; or

(ii) Substance use disorder relapse prevention; or

b. Verbal de-escalation, risk assessment, or cognitive therapy;

(e) Mobile crisis services which shall:

1. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year;

2. Be provided for a duration of less than twenty-four (24) hours;

3. Not be an overnight service;

4. Be a multi-disciplinary team based intervention that ensures access to acute mental health and substance use services and supports to:

a. Reduce symptoms or harm; or

b. Safely transition an individual in an acute crisis to the appropriate, least restrictive level of care;

5. Involve all services and supports necessary to provide:

a. Integrated crisis prevention;

b. Assessment and disposition;

c. Intervention;

d. Continuity of care recommendations; and

e. Follow-up services;

6. Be provided face-to-face in a home or community setting by a:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision;

c. Professional equivalent;

d. Mental health associate; or

e. Certified alcohol and drug counselor; and

7. Ensure access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;

(f) Day treatment which shall:

1. Be a nonresidential, intensive treatment program designed for youth who:

a. Have a substance use disorder, mental health disorder, or co-occurring disorder;

b. Are under twenty-one (21) years of age; and

c. Are at high risk of out-of-home placement due to a behavioral health issue;

2. Consist of an organized, behavioral health program of treatment and rehabilitative services for substance use disorder, mental health disorder, or a co-occurring disorder;

3. Have unified policies and procedures that address the program's philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning;

4. Include the following:

a. Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

b. Behavior management and social skill training;

c. Independent living skills that correlate to the age and

development stage of the client; or

d. Services designed to explore and link with community resources before discharge and to assist the client and family with transition to community services after discharge;

5. Be provided as follows:

a. In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

b. On school days and during scheduled school breaks;

c. In coordination with the child's individual educational plan or Section 504 plan if the child has an individual educational plan or Section 504 plan;

d. By personnel that includes a behavioral health professional, a behavioral health professional under clinical supervision, a professional equivalent, a mental health associate, a certified alcohol and drug counselor, or a peer support specialist; and

e. According to a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider; and

6. Not include a therapeutic clinical service that is included in a child's individualized education plan;

(g) Peer support which shall:

1. Be provided by a peer support specialist;

2. Be structured and scheduled nonclinical therapeutic activity with a client or group of clients;

3. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills; and

4. Be identified in the client's plan of care;

(h) Intensive outpatient program services which shall:

1. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

2. Be provided at least three (3) hours per day at least three (3) days per week;

3. Include the following:

a. Individual outpatient therapy;

b. Group outpatient therapy;

c. Family outpatient therapy unless contraindicated;

d. Crisis intervention; or

e. Psycho-education during which the client or client's family member shall be:

(i) Provided with knowledge regarding the client's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

(ii) Taught how to cope with the client's diagnosis or condition in a successful manner;

4. Include a treatment plan which shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lower level of care;

5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, professional equivalent, mental health associate, or certified alcohol and drug counselor;

6. Include access to a board-certified or board-eligible psychiatrist for consultation;

7. Include access to a psychiatrist, other physician, or advanced practice registered nurse for medication prescribing and monitoring; and

8. Be provided in a setting with a minimum client-to-staff ratio of ten (10) clients to one (1) staff person;

(i) Individual outpatient therapy which shall:

1. Be provided to promote the:

a. Health and wellbeing of the client; or

b. Recovery from a substance related disorder;

2. Consist of a face-to-face therapeutic intervention with the client provided in accordance with the client's plan of care;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the client; and

c. Improving functioning;

4. Not exceed three (3) hours per day; and

5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, professional equivalent, mental health associate, or certified alcohol and drug counselor;

(j) Group outpatient therapy which shall:

1. Be provided to promote the:

a. Health and wellbeing of the client; or

b. Recovery from a substance related disorder;

2. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the client's plan of care;

3. Excluding multi-family group therapy, be provided in a group setting of nonrelated individuals, not to exceed twelve (12) individuals in size. For group outpatient therapy, a nonrelated individual means any individual who is not a spouse, significant other, parent or person with custodial control, child, sibling, stepparent, stepchild, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild;

4. Focus on the psychological needs of the client as evidenced in the client's plan of care;

5. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

6. Not include physical exercise, a recreational activity, an educational activity, or a social activity;

7. Not exceed three (3) hours per day per client unless additional time is medically necessary in accordance with 907 KAR 3:130;

8. Ensure that the group has a deliberate focus and defined course of treatment;

9. Ensure that the subject of group outpatient therapy shall be related to each client participating in the group; and

10. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, professional equivalent, mental health associate, or certified alcohol and drug counselor who shall maintain individual notes regarding each client within the group in the client's record;

(k) Family outpatient therapy which shall:

1. Consist of a face-to-face behavioral health therapeutic intervention provided through scheduled therapeutic visits between the therapist, the client, and at least one (1) member of the client's family;

2. Address issues interfering with the relational functioning of the family;

3. Seek to improve interpersonal relationships within the client's home environment;

4. Be provided to promote the health and wellbeing of the client or recovery from a substance use disorder;

5. Not exceed three (3) hours per day per client unless additional time is medically necessary in accordance with 907 KAR 3:130; and

6. Be provided by a behavioral health professional, a behavioral health professional under clinical supervision, professional equivalent, mental health associate, or certified alcohol and drug counselor;

(l) Collateral outpatient therapy which shall consist of a face-to-face behavioral health consultation:

1. With a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21), household member, legal representative, school personnel, or treating professional;

2. Provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, professional equivalent, mental health associate, or certified alcohol and drug counselor; and

3. Provided upon the written consent of a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21). Documentation of written consent shall be signed

and maintained in the client's record;

(m) Service planning which shall be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, professional equivalent, or mental health associate to:

1. Assist a client in creating an individualized plan for services needed for maximum reduction of the effects of a mental health disorder;

2. Restore a client's functional level to the client's best possible functional level; and

3. Develop a service plan which:

a. Shall be directed by the client; and

b. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan;

(n) Screening, brief intervention, and referral to treatment for substance use disorders which shall:

1. Be an evidence-based early intervention approach for an individual with non-dependent substance use prior to the need for more extensive or specialized treatment;

2. Consist of:

a. Using a standardized screening tool to assess the individual for risky substance use behavior;

b. Engaging a client who demonstrates risky substance use behavior in a short conversation, providing feedback and advice;

c. Referring the client to therapy or other services that address substance use if the client is determined to need additional services; and

3. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, professional equivalent, mental health associate, or a certified alcohol and drug counselor;

(o) Assertive community treatment for mental health disorders which shall:

1. Include assessment, treatment planning, case management, psychiatric services, medication prescribing and monitoring, individual and group therapy, peer support, mobile crisis services, mental health consultation, family support, and basic living skills;

2. Be provided by a multidisciplinary team of at least four (4) professionals, including a psychiatrist, nurse, case manager, peer support specialist and any other behavioral health professional, behavioral health professional under clinical supervision, professional equivalent, or mental health associate; and

3. Have adequate staffing to ensure that no caseload size exceeds ten (10) participants per team member;

(p) Comprehensive community support services which shall:

1. Consist of activities needed to allow an individual with a mental health disorder to live with maximum independence in the community through the use of skills training as identified in the client's treatment plan;

2. Consist of using a variety of psychiatric rehabilitation techniques to:

a. Improve daily living skills;

b. Improve self-monitoring of symptoms and side effects;

c. Improve emotional regulation skills;

d. Improve crisis coping skills; and

e. Develop and enhance interpersonal skills; and

3. Be provided by a:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision;

c. Community support associate;

d. Licensed behavior analyst;

e. Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

f. Professional equivalent; or

g. Mental health associate;

(q) Therapeutic rehabilitation program for an adult with a severe mental illness or child with a severe emotional disability which shall:

1. Include services designed to maximize the reduction of

mental illness or emotional disability and restoration of the client's functional level to the individual's best possible functioning;

2. Establish the client's own rehabilitative goals within the person-centered plan of care;

3. Be delivered using a variety of psychiatric rehabilitation techniques focused on:

- a. Improving daily living skills;
- b. Self-monitoring of symptoms and side effects;
- c. Emotional regulation skills;
- d. Crisis coping skills; and
- e. Interpersonal skills; and

4. Be provided individually or in a group by a:

- a. Behavioral health professional;
- b. Behavioral health professional under clinical supervision;
- c. Peer support specialist;
- d. Professional equivalent; or
- e. Mental health associate;
- (r) Partial hospitalization which shall:

1. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, professional equivalent, mental health associate, or certified alcohol and drug counselor;

2. Be a short-term (average of four (4) to six (6) weeks), less than twenty-four (24) hour, intensive treatment program for an individual who is experiencing significant impairment to daily functioning due to substance use disorder, mental health disorder, or co-occurring disorder;

3. Be provided to an adult or a child;

4. Ensure that admission criteria for partial hospitalization is based on an inability to adequately treat the individual through community-based therapies or intensive outpatient services;

5. Consist of individual outpatient therapy, group outpatient therapy, family outpatient therapy, or medication prescribing and monitoring;

6. Typically be provided for at least four (4) hours per day and focused on one (1) primary presenting problem, which may include substance use, sexual reactivity, or another problem; and

7. Include the following personnel for the purpose of providing medical care if necessary:

- a. An advanced practice registered nurse;
- b. A physician assistant or physician available on site; and
- c. A board-certified or board-eligible psychiatrist available for consultation; or

(s) Residential services for substance use disorders as described in Section 6 of this administrative regulation.

(6) Quality assurance and utilization review.

(a) The center shall have a quality assurance and utilization[and] review program designed to:

1. Enhance treatment and care through the ongoing object assessment of services provided, including the correction of identified problems; and

2. Provide an effective mechanism for review and[plan for the] evaluation of the service needs of each client.

(b) The need for continuing services[a service element for each individual] shall be evaluated immediately upon a change in a client's service needs or a change in the client's condition[with sufficient frequency] to ensure that proper arrangements have been made for:

- 1. Discharge;
- 2.[, for] Transfer; [to other elements of service,] or
- 3. Referral to another service provider, if appropriate.

(7)[(6)] Medications. A treatment involving medication prescribing and monitoring[or chemotherapy] shall be administered under the direction of a licensed psychiatrist, licensed physician, or an advanced practice registered nurse who meets the requirements established in 201 KAR 20:057[or other qualified practitioner, acting within the scope of his practice], and:

(a) All medication prescribing and monitoring[or chemotherapy] used in treatment shall be recorded in designated sections of the health record[the staff notes on a special medications chart in the client record];

(b) Documentation[A copy] of the prescription shall be kept in the client record;

(c) Blood or another laboratory test or examination shall be performed in accordance with accepted medical practice[on each individual receiving medication prescribed or administered by the center];

(d) Drug supplies shall be stored under proper sanitary, temperature, light and moisture conditions;

(e) Medication kept by the center shall be properly labeled;

(f) A medication shall be stored in the originally received container unless transferred to another container by a pharmacist or another person licensed to transfer the medication; and

(g) Medication kept in the center shall be kept in a locked cabinet.

1. A controlled substance shall be kept under double lock (e.g., in a locked box in a locked cabinet).

2. There shall be a controlled substances record, in which is recorded:

- a. The name of the patient;
- b. The date, time, dosage, balance remaining and method of administration of each controlled substance;
- c. The name of the prescribing physician or other ordering practitioner acting within the limits of his statutory scope of practice; and

d. The name of the nurse who administered it, or staff who supervised the self-administration.

3. Except for medication to be self-administered in a crisis stabilization unit, access to the locked cabinet shall be restricted to a designated medication nurse or other authorized personnel. Medication to be self-administered in a crisis stabilization unit shall be made available to the patient at the time of administration.

Section 6. Residential Services for Substance Use Disorders.

(1) If a center licensed under this administrative regulation provides residential services to clients with a substance use disorder, the center shall obtain separate licensure as an alcohol and other drug abuse treatment program pursuant to 908 KAR 1:370.

(2) In addition to meeting the requirements of 908 KAR 1:370 for residential treatment programs, a center that provides residential services for substance use disorders shall:

(a) Provide intensive treatment and skills building in a structured and supportive environment;

(b) Assist the client in abstaining from alcohol or substance use and in entering alcohol or drug addiction recovery;

(c) Provide services in a twenty-four (24) hour a day, live-in facility that offers a planned and structured regimen of care aimed at treating individuals with addiction or co-occurring mental health and substance use disorders;

(d) Assist the client in making necessary changes to enable the individual to live drug- or alcohol-free;

(e) Provide services under the medical direction of a physician; and

(f) Provide continuous nursing services in which a registered nurse shall be:

1. On-site during traditional first shift hours, Monday through Friday;

2. Continuously available by phone after hours; and

3. On-site as needed in follow-up to telephone consultation after hours.

Section 7. Primary care services. (1) Basic services. The center may provide a variety of preventive, diagnostic, and therapeutic services by appropriately licensed or certified health professionals to meet the usual physical health care needs of:

(a) The center's clients as described by KRS 210.410(2) to help ensure continuity of care; and

(b) Other individuals seeking primary care services from the center.

(2) Referrals. If a center provides primary care services to its clients, the center shall provide appropriate referrals for clients who require services that are above the level of basic primary care services not provided by the center.

(3) Policies.

(a) Administrative policies. A center that provides primary care services shall have written administrative policies established by

the licensee covering all aspects of the center's operation, including:

1. A description of organizational structure, staffing, and allocation of responsibility and accountability;

2. A description of referral linkages with inpatient facilities and other providers;

3. Policies and procedures for the guidance and control of personnel performances;

4. A description of services directly provided by the center;

5. A description of the administrative and patient health records and reports; and

6. A policy to specify the provision of emergency medical services.

(b) Patient care policies for clients of the center.

1. Patient care policies shall be developed by the center's medical director required by subsection (4)(b) of this section and other professional staff for all medical aspects of the center's program, including written protocols for standing orders, rules of practice, and medical directives that apply to services provided by the center.

2. The protocols shall be signed by the medical director.

3. A system shall be established to ensure that, if feasible, the patient shall be always cared for by the same health professional or health team, to assure continuity of care.

(c) Patient rights policies. The center shall adopt written policies regarding the rights and responsibilities of patients. These patient rights policies shall assure that each patient shall be:

1.a. Informed of these rights and of all rules and requirements of 902 KAR Chapter 20 governing patient conduct and responsibilities, including a procedure for allowing the patient to voice a grievance or recommend changes in policies and services.

b. Upon the patient's request, a grievance or recommendation shall be conveyed within a reasonable time to a decision making level within the organization with the authority to take corrective action;

2. Informed of services available at the center;

3. Informed of his or her medical condition, unless medically contraindicated as documented in his or her health record;

4. Afforded the opportunity to participate in the planning of his or her medical treatment and to refuse to participate in experimental research;

5. Encouraged and assisted to understand and exercise his or her patient rights;

6. Assured confidential treatment of his or her records and shall be afforded the opportunity to approve or refuse release of the records to any individual not involved in the patient's care, except as required by applicable law or third-party payment contract; and

7. Treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in the care of his or her personal health needs.

(4) Personnel.

(a) Primary care provider team. Each center that provides primary care services shall be staffed with at least:

1. One (1) full-time advanced practice registered nurse or physician assistant; and

2. One (1) physician who:

a. Except in extraordinary circumstances as documented in the center's records, shall be present no less than once in every two (2) week period to provide medical direction, medical care services, consultation, and supervision; and

b. Shall be available through direct telecommunication for consultation, assistance with medical emergencies, or patient referral. If a center is staffed with a full-time physician who provides medical care services on-site, the requirement for at least one (1) full-time advanced practice registered nurse or physician assistant shall be waived.

(b) Medical Director. A medical director responsible for oversight of a center's primary care services shall:

1. Be a licensed physician;

2. Be responsible for all physical health aspects of the clinic;

3. Provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311; and

4. If the medical director responsible for the physical health aspects of the clinic is not a board certified or board eligible psychiatrist licensed in Kentucky, coordinate care and treatment decisions with the center's psychiatrist for all primary care services delivered to the center's behavioral health clients.

(c) Physicians. A physician employed by or under contract with the center to perform services as described in paragraph (a)2 of this subsection shall be:

1. Qualified to practice general medicine, including as a general practitioner, family practitioner, obstetrician – gynecologist, pediatrician, or internist; and

2. A member of the medical staff or hold courtesy staff privileges at one (1) or more hospitals with which the center has a formal transfer agreement.

(d) In-service training.

1. All center personnel shall participate in ongoing in-service training programs relating to their respective job activities.

2. The training programs shall include:

a. Thorough job orientation for new personnel; and

b. Regular in-service training emphasizing professional competence and the human relationship necessary for effective health care.

(5)(a) The confidentiality and retention of client records shall be maintained in accordance with Section 3(4) of this administrative regulation.

(b) The center shall maintain a health record for each patient. The health record shall include:

1. The patient's medical and social history, including data obtained from other providers;

2. A description of each medical visit or contact, including the condition or reason necessitating the visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

3. Reports of all laboratory, x-ray, and other test findings; and

4. Documentation of all referrals made, including the reason for the referral, to whom the patient was referred, and any information obtained from the referral source.

(c) Transfer of records. The center shall:

1. Establish systematic procedures to assist in continuity of care if the patient moves to another source of care; and

2. Upon proper release, transfer health records or an abstract if requested.

(6) Linkage agreements.

(a) The center shall have linkages through written agreements with providers of other levels of care that may be medically indicated to supplement the services available in the center. These linkages shall include:

1. Hospitals; and

2. Emergency medical transportation services in the service area.

(b) Linkage agreements with inpatient care facilities shall incorporate provisions for:

1. Appropriate referral and acceptance of patients from the center;

2. Appropriate coordination of discharge planning with center staff; and

3. The center to receive a copy of the discharge summary for each patient referred to the center.

(c) The written transfer agreements shall include designation of responsibility for:

1. Transfer of information;

2. Provision of transportation;

3. Sharing of services, equipment, and personnel;

4. Provision of total care or portions thereof in relation to center and agency capability; and

5. Patient record confidentiality pursuant to all applicable federal and state law.

(d) A linkage agreement shall not be required to transfer health records to any other treating health care facility or provider.

(7) Quality assurance program. The center shall have an ongoing, written quality assurance program approved by the licensee that:

(a) Includes effective mechanisms for reviewing and evaluating

patient care in order to identify problems or opportunities to improve care;

(b) Provides for appropriate responses to findings;

(c) Assigns responsibility for monitoring and evaluating patient care;

(d) Delineates the scope of care provided by the center;

(e) Identifies the aspects of care that the center provides;

(f) Identifies indicators and appropriate clinical criteria that can be used to monitor these aspects of care;

(g) Collects and organizes data for each indicator;

(h) Contains written procedures for taking appropriate corrective action;

(i) Assesses the effectiveness of the actions taken to correct problems and documents the improvement in care; and

(j) Communicates relevant information to other individuals, departments, or services as to the quality assurance program.

Section 8.[5-] Crisis Stabilization. (1) Emergency services provided in a crisis stabilization unit shall include the following:

(a) A mental status evaluation and physical health questionnaire of the client upon admission;

(b) A treatment planning process;

(c) Procedure for crisis intervention; and

(d) Discharge and aftercare planning processes.

(2) A program shall have a written policy concerning the operation of a crisis stabilization unit including:

(a) Staffing.

1. At least one (1) direct-care staff member shall be assigned direct-care responsibility for:

a. Every four (4) clients during normal waking hours; and

b. Every six (6) clients during normal sleeping hours;

2. Administrative oversight of the program shall be provided by a staff member who shall be:

a. A person licensed or certified to provide mental health services independent of clinical supervision;

b. A qualified mental health professional as defined in KRS 202A.011(12); or

c. A person qualified to be program director under Section 4(1)(b)3(5)(a) of this administrative regulation.

3. The center shall provide a training program for direct care staff pertaining to the care of a client in a crisis stabilization unit.

(b) Criteria to assure that each client in a crisis stabilization program shall be:

1. In either one (1) of two (2) separate programs, child or adult, separated by physical location. A children's program may serve a resident up to age twenty-one (21) if it is more developmentally appropriate for that resident;

2. In need of short-term behavior management and at risk of placement in a higher level of care;

3. Able to take care of his own personal needs, if an adult;

4. Medically able to participate in services; and

5. Served in the least restrictive environment available in the community.

(c) Referrals for physical health services to include diagnosis, treatment, and consultation for acute or chronic illnesses occurring during the client's stay in the crisis stabilization unit or for problems identified during the admission assessment.

(d) Rights of a crisis stabilization client, to include:

1. A description of the client's rights and the means by which these rights are protected and exercised.

2. At the point of admission, the program shall provide the statement of rights and responsibilities to the:

a. Client; and

b. In addition to the client, client's[his] parents,[if he is a child, his] guardian, or other legal representative if the client is a minor or incapacitated[with a clearly written and readable statement of rights and responsibilities].

3. The statement shall:

a. Be written in language that is understandable;

b. Be read to the client or client's[and his] parents,[if he is a child, his] guardian, or other legal representative if requested or if either cannot read; and

c.[shall] Cover the following:

(i)[a-] The right to treatment, regardless of race, religion, or ethnicity;

(ii)[b-] The right to recognition and respect of personal dignity in the provision of all treatment and care;

(iii)[c-] The right to be provided treatment and care in the least restrictive environment possible;

(iv)[d-] The right to an individualized plan of care;

(v)[e-] The right of the client, including the client's[and his] parents or guardian if the client is a minor,[if he is a child, or his legal representative,] to participate in treatment planning;

(vi)[f-] The nature of care, procedures, and treatment provided[that he shall receive];

(vii)[g-] The right to an explanation of risks, side effects, and benefits of all medications and treatment procedures used; and

(viii)[h-] The right, to the extent permitted by law, to refuse the specific medications or treatment procedures and the responsibility of the facility if the client refuses treatment, to seek appropriate legal alternatives or orders of involuntary treatment, or, in accordance with professional standards, to terminate the relationship with the client upon reasonable notice.

4.[3-] The statement of rights and responsibilities[of clients shall be written in language which is understandable to the client, and his parents, if he is a child, his guardian or other legal representative, and] shall be posted in appropriate areas of the facility.

5.[4-] The written policies and procedures[policy and procedure] concerning client[the clients'] rights shall assure and protect the client's[client] personal privacy within the constraints of his or her plan of care, including-. These rights to privacy shall include]:

a. Visitation by family or significant others in a suitable area of the facility; and

b. Telephone communications with family or significant others at a reasonable frequency.

6.[5-] If a privacy right is limited, a full explanation shall be given to the client or the client's parent or guardian if the client is a minor[and his parents, if he is a child, or his guardian or other legal representative, shall receive a full explanation]. A limitation to a privacy right shall be documented in the client's record.

7. Information shall be provided to[6-] the client, or the client's parent or guardian if the client is a minor, regarding[and his parents, if he is a child, his guardian, or other legal representative, shall be informed of] the use and disposition of a product of special observation and audio visual techniques, which may include the following[such as]:

a. One (1) way vision mirror;

b. Audio recording;

c. Video tape recording;

d. Television;

e. Movie; or

f. Photograph.

8.a.[7-] Written policy and procedure developed in consultation with professional and direct-care staff shall provide for behavior management of a child client, including the use of a time-out room.

b.[The policy and procedure for use of a time-out room shall be approved by the Department for Mental Health and Mental Retardation.] Behavior management techniques shall be explained fully to each client and the client's parent[his parents], or[his] guardian, or other legal representative.

9.[8-] The facility shall prohibit cruel and unusual behavioral management measures, including corporal punishment, the use of a seclusion room, and mechanical restraint[as defined in 902 KAR 20:320].

10.[9-] Written policy shall prohibit a client from administering a disciplinary measure upon another client and shall prohibit a person other than professional or direct-care staff from administering a disciplinary measure to a child client.

(e) If therapeutic holds are used[The use of therapeutic holds] as a safe behavioral management technique, the facility shall have a[- The policy which shall describe:

1. Criteria for appropriate use of therapeutic holds;

2. Documentation requirements; and

3. The requirement for completion of a training course

approved by the Department for Behavioral Health, Developmental and Intellectual Disabilities[~~of Mental Health and Mental Retardation~~], prior to using therapeutic holds.

(f) The requirement that a licensed psychiatrist shall be available to evaluate, provide treatment and participate in treatment planning on a regular basis.

(g) The procedure for proper management of pharmaceuticals, consistent with the requirements of Section 4(6) of this administrative regulation.

(h) Except for a program accredited by the Joint Commission for Accreditation of Health Organizations or the Commission on Accreditation of Rehabilitation Facilities, general procedures that address the following:

1. Procedures to be followed by staff in the event of a medical emergency of a client;
2. Proper nutrition;
3. Emergency preparedness;
4. Security; and
5. School attendance for children.

(3) Facility requirements for a crisis stabilization unit.

(a) A living unit shall be located within a single building and shall include:

1. Bedrooms.
- a. More than four (4) clients shall not sleep in a bedroom.
- b. A bedroom shall be equipped with a bed for each client.
- c. A bed shall:

(i) Be at least thirty-six (36) inches wide and at least five (5) feet in length;

(ii)[~~shall~~] Be long and wide enough to accommodate the client's size;

(iii)[~~-d. A bed shall~~] Have a mattress cover, two (2) sheets, a pillow, and bed covering as is required to keep the client comfortable;

(iv)[~~-e. A bed shall~~] Be equipped with a support mechanism and a clean mattress; ~~and~~

(v)[~~-f. A bed shall~~] Be placed so that a client shall not experience discomfort because of proximity to a radiator or heat outlet, or exposure to a draft.

d.[~~g.~~] There shall be separate sleeping quarters for males and females.

e.[~~h.~~] A client shall not be housed in a room, a detached building, or other enclosure that has not previously been inspected and approved for residential use by the licensure agency and the Department of Housing, Buildings and Construction.

2. Bathrooms.

a. For every eight (8) residents, each living unit shall have at least one (1):

(i) Wash basin with hot and cold water;

(ii)[~~-one (1)~~]-Flush toilet;[~~;~~] and

(iii)[~~one (1)~~] Bath or shower with hot and cold water[~~for every eight (8) resident clients~~].

b. If separate toilet and bathing facilities are not provided, males and females shall not be permitted to use those facilities at the same time.

3. Living area.

a. The living area shall provide comfortable seating for all clients housed within the living unit.

b. Each living unit shall be equipped with a:

(i) Working sink; ~~and~~

(ii)[~~;~~] Stove and refrigerator, unless a kitchen is directly available within the same building as the living unit.

c. A living unit shall house a maximum of sixteen (16)[~~twelve (12)~~] clients.

Section 9[6]. Facility Specifications. (1) A facility housing a community mental health center or a crisis stabilization unit shall be a general purpose building of safe and substantial construction and shall be in compliance with applicable state and local laws relating to zoning, construction, plumbing, safety, and sanitation. The following shall apply if relevant and as adopted by the respective agency authority:

(a) Requirements for fire safety pursuant to 815 KAR 10:060; and

(b) Requirements for making a building or facility accessible to and usable by an individual with disabilities, pursuant to KRS 198B.260 and administrative regulations promulgated thereunder.

(2) Prior to occupancy, the facility shall have final approval from appropriate agencies.

(3) A facility shall be currently approved by the Department of Housing, Buildings and Construction in accordance with 815 KAR 10:060, before relicensure is granted by the licensure agency.

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 18, 2014 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov .

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Maryellen B. Myneare, Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirements for the licensure of community mental health centers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the minimum requirements for the licensure of community mental health centers which provide behavioral health services to treat, support, and encourage individuals with mental health disorder, substance use disorder, or a co-occurring disorder to achieve and maintain the highest possible level of health and self-sufficiency. This administrative regulation also sets forth standards for community mental health centers which elect to provide primary care services as a result of the passage of HB 527 from the 2014 Session of the General Assembly.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 which requires the Cabinet for Health and Family Services to promulgate administrative regulations that establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements necessary for the operation of community mental health centers.

(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 updates 902 KAR 20:091 for compliance with HB 527 from the 2014 Session of the General Assembly which allows community mental health centers to provide primary care services. This amendment also expands the

list of behavioral health services which may be provided in community mental health centers, updates confidentiality requirements for compliance with HIPAA and applicable federal regulations, clarifies the credentials required of a center's executive director, clarifies the background check requirements for center employees, and makes technical changes to help ensure compliance with the drafting requirements of KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update 902 KAR 20:091 for compliance with HB 527, codified at KRS 210.410 and 205.6313, as well as expand the list of behavioral health services which may be provided in community mental health centers.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 210.410 and 205.6313 by including standards for community mental health centers which elect to provide primary care services, and conforms to KRS 222.211 which allows community mental health centers to be utilized for the delivery of substance abuse treatment services.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by allowing community mental health centers to provide primary care services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are fourteen (14) community mental health centers in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Under this amendment, community mental health centers may provide primary care services pursuant to HB 527 from the 2014 Session of the General Assembly, and may provide any of the behavioral health services identified in the expanded list of services allowable in community mental health care centers. Additionally, the centers must comply with the background check requirements established via this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Undeterminable, however, community mental health centers may obtain background checks on staff for twenty (20) dollars per check. At least one center is currently securing background checks under the Cabinet's state and FBI fingerprint check program established by 906 KAR 1:190.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Community mental health centers will be able to increase revenue by providing primary care services in addition to behavioral health services. Moreover, this amendment will help increase patient access to primary care services in addition to a wide array of behavioral health services.

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

(a) Initially: There is no additional cost to the Office of Inspector General for implementing this administrative regulation.

(b) On a continuing basis: There is no additional cost to the Office of Inspector General for implementing this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation will be from agency funds and state 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: This administrative regulation does not establish any fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all

individuals or entities which elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? There are fourteen (14) community mental health centers in the state.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function. KRS 210.410 requires community mental health centers to provide designated services as well as allows the centers to provide primary care services. KRS 222.211(1) allows the cabinet to utilize community mental health centers and other existing facilities and services to assure the provision of prevention, intervention, and treatment services for juveniles and adults to address the problems of tobacco addiction and alcohol and other drug abuse within individuals, families, and communities.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate revenue for the Cabinet.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate revenue for the Cabinet in subsequent years.

(c) How much will it cost to administer this program for the first year? There is no additional cost to the Office of Inspector General for implementing this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to the Office of Inspector General for implementing this administrative regulation during subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Health Care (Amendment)

902 KAR 20:400. Limited services clinics.

RELATES TO: KRS 311.550(12), 314.011(7), 29 C.F.R. 1910.1030, 45 C.F.R. 160, 164

STATUTORY AUTHORITY: KRS 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes licensure requirements for the operation of and services provided by limited services clinics.

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "Cabinet" means the Cabinet for Health and Family Services.

(3) "Clinic" means a limited services clinic.

(4) "Physician" is defined by KRS 311.550(12).

Section 2. Licensure Application and Fee. (1) An applicant for licensure as a limited services clinic shall complete and submit to the Office of the Inspector General an Application for License to Operate a Health Facility or Service, pursuant to 902 KAR 20:008, Section 2(1)(f).

(2) The initial and annual fee for licensure as a limited services clinic shall be \$500.

Section 3. Scope of Operations and Services. (1) A limited services clinic shall:

(a) Be located in a nonmobile facility;

(b) Not have an extension or satellite;

(c) Except for the provision of health care services at an off-site location for the purpose of community vaccination or a health screening drive, assure that limited health services as described in subsection (3) of this section are provided to patients exclusively at the facility's location;

(d) Not provide services to a child younger than twenty-four (24) months of age; and

(e) Provide appropriate referrals for each patient who requires care and treatment that is beyond the scope of services provided by the clinic.

(2) If a clinic is located within a retail location, the clinic shall have policies and procedures which ensure that patients are informed that they are not required to purchase any recommended or prescribed item from the host retail location.

(3) Health care services provided by a clinic shall:

(a) Be limited to conditions that may be safely and efficiently treated on an outpatient basis; and

(b) Include assessment, diagnosis, treatment, or counseling concerning any of the following:

1. Upper respiratory infection;

2. Sinus infection;

3. Allergy symptoms;

4. Acute bronchitis;

5. Ear infection or ear ache;

6. Ear wax removal;

7. Sore throat;

8. Influenza, excluding pregnant women;

9. Cold;

10. Coughs;

11. Laryngitis;

12. Breathing treatments with nebulizer;

13. Nausea, diarrhea, and vomiting;

14. Fever, excluding patients who have had a fever longer than seventy-two (72) hours;

15. Early Lyme Disease;

16. Pink eye or sty;

17. Skin infection or skin condition, which may include insect bites, rashes, ringworm, poison oak or ivy, scabies, hives, or impetigo;

18. Minor burn;

19. Skin tag removal;

20. Head lice;

21. Scalp rash;

22. Swimmer's itch;

23. Athlete's foot;

24. Cold sores;

25. Shingles;

26. Tick or insect bites;

27. Abrasions;

28. Minor cut closure with liquid skin adhesive;

29. Splinter removal;

30. Sprains or strains;

31. Urinary infection for females only, age twelve (12) to sixty-five (65);

32. Patient education and counseling[~~including patient education regarding diabetes, hyperlipidemia, and hypertension~~];

33. Sports physical;

34. Camp physical;

35. School physical;

36. Vaccinations for patients age eleven (11) and older;

37. Influenza vaccinations for patients age twenty-four (24) months and older;

38. Pre-employment health screening;

39. Tobacco cessation therapy;

40. Skin wart removal;~~or~~

41. Tuberculosis testing;

42. Hypertension;

43. Hypercholesterolemia;

44. Congestive heart failure;

45. Asthma;

46. Chronic obstructive airways disease;

47. Diabetes mellitus; or

48. Hyper- or hypothyroidism.

(4) If a clinic provides chronic disease management services for hypertension, hypercholesterolemia, congestive heart failure, asthma, chronic obstructive airways disease, diabetes mellitus, or hyper- or hypothyroidism, the clinic shall:

(a) Act as a source of patient and caregiver education by providing counseling and information regarding:

1. Disease management;

2. Medication use and compliance;

3. Lifestyle modification;

4. Community resources; and

5. Any other issue as appropriate and within the scope of training and knowledge of the practitioner;

(b) Within one (1) business day, schedule a follow-up appointment for the patient with a primary care provider;

(c) Assure that the chronic disease management services provided by the clinic are consistent with a treatment plan established, signed, and reviewed a minimum of once every twelve (12) months by the physician specialist who is responsible for the care of the patient;

(d) Send a visit-specific report to the patient's physician specialist within three (3) business days after the patient receives chronic disease management services from the clinic;

(e) Participate in the Kentucky Health Information Exchange (KHIE) pursuant to the requirements of 900 KAR 9:010; and

(f) Make arrangements for the delivery of the services the clinic provides during the hours it is not open, at least through an answering service referring patients to another provider of the same services that is as geographically close as possible and is open at those hours. A clinic may provide a taped message that directs patients to a toll-free number which enables the patient to speak directly with a practitioner. These arrangements shall be reflected in a written policy which shall be made available to the clinic's patients.

(5) This administrative regulation shall not limit a clinic's ability to:

(a) Order a laboratory test specific to a patient's presenting symptoms for a condition described in subsection (3) of this section. Only CLIA (Clinical Laboratory Improvement Amendments) waived testing may be performed on-site in a limited services clinic;

(b) Provide treatment, testing, screening, or monitoring for a patient pursuant to a patient's designated plan of care or order from a practitioner other than the practitioner who is staffing the limited services clinic;

(c) Provide episodic treatment for an acute exacerbation of a chronic condition that does not rise to the level of an emergency;

(d) Make an initial diagnosis of a patient's chronic illness and refer to an appropriate practitioner, where interim treatment, including the prescribing of medication, shall not exceed thirty (30) days unless further directed by the patient's appropriate practitioner; or

(e) Write a prescription for a patient's maintenance medication for a period of time not to exceed thirty (30) days. The clinic shall document its effort to contact the prescriber.

(6)[(5)](a) If the cabinet receives a request from an individual representing a clinic or the clinic's management entity for modification of the list of services established in subsection (3) of this section, the cabinet shall appoint and convene an advisory committee.

(b) The committee shall include at least one (1) representative from the:

1. Kentucky Hospital Association;
2. Kentucky Medical Association;[and]
3. Convenient Care Association; and
4. Kentucky Board of Nursing.

(c) The committee shall review each request for modification of the list established in subsection (3) of this section and make recommendations to the cabinet regarding approval or denial of the request.

(d) The committee shall convene no sooner than eighteen (18) months from the date of adoption of this administrative regulation if a request for modification of the list is received within the eighteen (18) month period following adoption of this administrative regulation.

(e) After the committee is initially convened and makes its first set of recommendations to the cabinet, the committee shall reconvene no sooner than every eighteen (18) months thereafter to review requests and make recommendations regarding any requests received during the previous eighteen (18) month period.

(f) If the cabinet accepts all or any part of the committee's recommendation to modify the list of services established in subsection (3) of this section, the cabinet shall file an amendment to this administrative regulation within forty-five (45) days of the committee's recommendation.

Section 4. Administration and Operation. (1) Licensee.

(a) A licensee shall be an entity or individual whose clinic:

1. Provides limited health care services as described by Section 3(3) of this administrative regulation; and
2. Is legally responsible for the clinic and for compliance with all federal, state, and local laws and administrative regulations pertaining to the operation of the clinic.

(b) A licensee shall establish written policies for the administration and operation of the clinic.

(c) A licensee shall establish lines of authority and designate a clinic director who shall:

1. Be employed by or under contract with the licensee;
2. Be principally responsible for the daily operation of the clinic; and
3. Maintain oversight of the clinical activities and administrative functions in the clinic.

(2) Policies.

(a) Administrative policies. A clinic shall have written administrative policies which shall:

1. Be maintained on the premises of the clinic or maintained in an electronic format, available for copying to a disk or printing at the clinic;
2. Be subject to review, inspection, and copying by the cabinet; and
3. Cover all aspects of the clinic's operation, including:

a. A description of organizational structure, staffing, and allocation of responsibility and accountability, including the medical director's responsibilities described in subsection (3)(f) of this section if the clinic provides chronic disease management services;

b. Clinical practice guidelines for diagnosing and treating patients in each of the service categories provided by the clinic to ensure the proper identification of patients whose needs are beyond the clinic's scope of services;

c. Guidelines for referring an individual whose needs exceed the clinic's services;

d. Policies and procedures for determining if physician consultation is required;

e. Policies and procedures for the guidance and control of personnel performances;

f. Procedures to be followed if the clinic performs any functions related to the storage, handling, and administration of drugs and biologicals; and

g. Procedures for the submission of a patient's written or verbal grievance to the clinic. The grievance process shall specify time frames for review of the grievance and the provision of a response.

(b) Patient rights policies.

1. A clinic shall:

a. Adopt written policies regarding the rights and responsibilities of patients;

b. Display publicly at the clinic a copy of its written policy regarding the rights and responsibilities of patients; and

c. Provide a copy of the clinic's patients rights policies upon request by an individual who seeks services there.

2. A clinic's patient rights policies shall assure that each patient is:

a. Informed of services available at the clinic;

b. Provided a right to information regarding the charge to the patient for each service offered by the clinic and whether the clinic accepts payment for the proposed services from third-party payors, including insurance, Medicare, or Medicaid;

c. Informed of his or her medical condition, unless medically contraindicated as documented in his or her medical record;

d. Notified of all relevant treatment or maintenance courses of action and given the opportunity to participate in the clinical decision-making process;

e. Informed that he or she may voice a grievance or recommend changes in policies and services;

f. Assured confidential treatment of his or her records and is afforded the opportunity to approve or refuse the release of those records to an individual not involved in his or her care, except as required by third-party payment contract or otherwise permitted by applicable law; and

g. Treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in the care of his or her personal health needs.

(3) Personnel.

(a)1. During a clinic's operating hours, the clinic shall have present at least one (1) advanced practice registered nurse, physician, or physician assistant approved for off-site supervision according to KRS 311.860.

2. The clinic shall employ additional staff or ancillary personnel as needed to ensure the safe and efficient delivery of services provided by the clinic.

(b)1. Clinic personnel shall attend in-service training programs relating to their respective job duties. These training programs shall include:

a. Thorough job orientation for new personnel; and

b. Regular in-service training programs, emphasizing competence and professionalism necessary for effective health care.

2. A written document describing the training programs completed by all clinic employees shall be maintained on the premises of the clinic.

(c) During a clinic's hours of operation, at least one (1) health care professional shall be at the clinic who has:

1. Training in basic cardiac life support for health care providers; and

2. Training in the treatment of anaphylactic reaction.

(d) A clinic or its management entity shall maintain a written job description for each position that shall be reviewed and revised as necessary.

(e) A clinic or its management entity shall maintain current personnel records for each employee. An employee's personnel record shall include the following:

1. Employee's name, address, and social security number;

2. Evidence that the health care professional has a valid license or other valid credential required for the professional to be able to practice;

3. Record of training and experience; and

4. Record of performance evaluations.

(f) If a clinic provides chronic disease management services for hypertension, hypercholesterolemia, congestive heart failure, asthma, chronic obstructive airways disease, diabetes mellitus, or hyper- or hypothyroidism, the clinic shall designate a Kentucky-licensed physician to serve as the clinic's medical director. The physician may serve as the medical director for more than one (1) clinic and shall:

1. Assist the clinic in developing policies, procedures, and treatment plan recommendations to assist in quality patient care;

2. Participate in quality assurance and improvement activities.

including a minimum of fifty (50) electronic chart audits each month, completed by the medical director, in which at least fifty (50) percent of the audits shall be drawn from the clinic's chronic disease management patient records;

3. Maintain documentation of the quality assurance and improvement activities required by subparagraph 2 of this paragraph;

4. Promptly respond to clinical questions from the advanced practice registered nurse or physician assistant who renders clinical services in the clinic;

5. Ensure that the clinic for which he or she serves as medical director is:

a. Certified by the Convenient Care Association; or

b. Accredited by:

(i) The National Committee for Quality Assurance;

(ii) The Accreditation Association for Ambulatory Health Care;

(iii) The Utilization Review Accreditation Committee;

(iv) The Joint Commission; or

(v) Other nationally recognized accrediting organization with comparative standards; and

6. Provide in-service and educational sessions to the clinic's health care practitioners.

(g)1. A clinic or its management entity shall maintain the materials required by this subsection and make the materials immediately available to the cabinet or its duly appointed representative upon request.

2. The materials shall be subject to review, inspection, and copying by the cabinet or its duly appointed representative.

(4) Medical records.

(a) A clinic shall maintain medical records that contain the following:

1. Medical history relevant to services provided by the clinic;

2. Description of each medical visit or contact, including a description of the:

a. Condition or reason for the visit or contact;

b. Assessment;

c. Diagnosis;

d. Services provided;

e. Medications and treatments prescribed; and

f. Disposition made;

3. Reports of physical examinations, laboratory, and other test findings; and

4. Documentation of referrals made, including the reason for the referral and to whom the patient was referred.

(b) A clinic shall maintain confidentiality of patient records at all times pursuant to and in accordance with federal, state and local laws and administrative regulations including the privacy standard promulgated pursuant to Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. 160 and 164.

(c) A clinic shall:

1. Establish systematic procedures to assist in continuity of care if the patient moves to another source of care;

2. Transfer medical records or an abstract upon request, subject to required releases and authorizations; and

3. Have a specific location designated for the storage and maintenance of the clinic's medical records or maintain scanned copies of the original medical records in an electronic format or maintain electronic health records, available for copying to a disk or printing at the clinic.

(d) A licensee shall safeguard the clinic's medical records and their content against loss, defacement, and tampering.

(e) Medical records shall be maintained by the clinic for a period of six (6) years following the last treatment, assessment, or visit made by the patient, or three (3) years after the patient reaches age eighteen (18), whichever is longer.

(5) Quality assurance program. A clinic shall:

(a) Have a written quality assurance program that:

1. Includes effective mechanisms for reviewing and evaluating patient care; and

2. Provides for appropriate responses to findings; and

(b) Maintain a copy of the written quality assurance plan on the premises of the clinic.

Section 5. Provision of Services. (1) Posting requirements. A clinic shall post the following information on the door patients use to enter the clinic or prominently near the clinic's entrance:

(a) The clinic's hours of operation;

(b) The clinic's name; and

(c) A list of services provided by the clinic, accompanied by a statement which advises that the clinic is not equipped to provide emergency treatment for life threatening conditions.

(2) Visits. A clinic shall:

(a) Provide each patient with a copy of the visit summary sheet at the conclusion of the visit; and

(b) Upon request by the patient, send a copy of the visit summary sheet or visit-specific medical record, including documentation of any vaccinations administered by the clinic, by facsimile or electronically to the patient's primary care practitioner at no charge to the patient, or provide a paper copy of the visit summary sheet to the patient to deliver to the patient's primary care practitioner.

(3) Referral. If an individual seeks or is in need of care and treatment in excess of services beyond the scope of limited services offered by the clinic, the clinic:

(a) Shall immediately advise the individual that he or she should seek services elsewhere; and

(b) May make a referral on behalf of the individual.

(4) Equipment. Equipment used for direct patient care shall comply with the following:

(a) The licensee shall establish and follow a written preventive maintenance program to ensure that equipment is operative and properly calibrated;

(b)[b-] All personnel engaged in the operation of the equipment shall have adequate training and be currently licensed, registered, or certified in accordance with applicable state statutes and administrative regulations; and

(c)[c-] A written plan shall be developed and maintained to provide for training of personnel in the safe and proper usage of the equipment.

Section 6. Compliance with Applicable Statutes and Regulations. Each health care professional who provides services at a clinic shall act at all times in compliance with:

(1) Obligations or requirements associated with his or her respective professional license or credential; and

(2) Applicable federal, state, and local laws and administrative regulations including the privacy standard promulgated pursuant to Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. 160 and 164.

Section 7. Physical and Sanitary Environment. (1) Accessibility. A clinic shall meet requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to federal, state, and local laws.

(2) Fire safety. A clinic shall be approved by the state Fire Marshal's office before licensure is granted by the cabinet.

(3) Physical location and overall environment.

(a) A clinic shall have at least one (1) exam room.

(b) The condition of the physical location and the overall environment shall be maintained in such a manner that the safety and well-being of patients, personnel, and visitors are assured.

(c) The premises shall have a waiting room or seating for waiting patients near the entrance to the clinic.

(d) The clinic shall develop written infection control policies that are consistent with Centers for Disease Control guidelines, available at www.cdc.gov/ncidod/dhqp/guidelines.html, and include:

1. Prevention of disease transmission to and from patients, visitors, and employees, including:

a. Universal blood and body fluid precautions;

b. Precautions against airborne transmittal of infections; and

c. Work restrictions for employees with infectious diseases; and

2. Cleaning, disinfection, and sterilization methods used for equipment and the environment.

(e) The clinic shall provide in-service education programs on

the cause, effect, transmission, prevention, and elimination of infections.

(f) The clinic's facility, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from accumulation of dirt, rubbish, and foul, stale, or musty odors.

(g) Hazardous cleaning solutions, compounds, and substances shall be:

1. Labeled;
2. Stored in closed metal containers;
3. Kept separate from other cleaning materials; and
4. Kept in a locked storage area apart from the exam room.

(h) The clinic shall be kept free from insects and rodents, and their nesting places.

(i) Garbage and trash:

1. Shall be removed from the premises regularly; and
2. Containers shall be cleaned regularly as needed.

(j) A clinic shall establish and maintain a written policy for the handling and disposal of wastes, including any infectious, pathological, and contaminated wastes, which shall include the following:

1. Sharp wastes shall be segregated from other wastes and placed in puncture-resistant containers immediately after use.

2. A needle or other contaminated sharp shall not be recapped, purposely bent, broken, or otherwise manipulated by hand as a means of disposal, except as permitted by the Centers for Disease Control and the Occupational Safety and Health Administration guidelines at 29 C.F.R. 1910.1030(d)(2)(vii).

3. A sharp waste container shall be incinerated on or off-site or rendered nonhazardous.

4. Any nondisposable sharps shall be placed in a hard walled container for transport to a processing area for decontamination.

(k)1. Disposable waste shall be:

a. Placed in a suitable bag or closed container so as to prevent leakage or spillage; and

b. Handled, stored, and disposed of in such a way as to minimize direct exposure of personnel or patients to waste materials.

2. The clinic shall establish specific written policies regarding handling and disposal of waste material.

(l)1. A clinic shall provide a hand washing facility in each exam room with:

- a. Hot and cold water and blade type operating handles;
- b. Knee or foot controls; or
- c. Motion activated technology.

2. A soap dispenser, disposable towels or electronic hand dryers, and a waste receptacle shall be provided at each hand washing sink.

(m)1. If a clinic is located on the premises of another entity and does not have toilet facilities located within the clinic, the clinic may share toilet facilities with the other entity.

2. A clinic that shares toilet facilities with another entity shall establish policies and procedures to protect the privacy and dignity of the patient.

(n) A licensee owned or operated incinerator used for the disposal of waste shall be in compliance with all applicable Kentucky statutes and administrative regulations.

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Maryellen B. Myneer and Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirements for licensure as a limited services clinic.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish standards for the operation of limited services clinics.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 which requires the Cabinet for Health and Family Services to promulgate administrative regulations that establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements for the operation of limited services clinics.

(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 expands the scope of services that may be provided in a limited services clinic to include chronic disease management services for hypertension, hypercholesterolemia, congestive heart failure, asthma, chronic obstructive airways disease, diabetes mellitus, and hyper- or hypothyroidism. This amendment further establishes standards for the provision of chronic disease management services in limited services clinics.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish standards for limited services clinics which opt to provide chronic disease management services.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 216B.042 by establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by setting forth the licensure requirements for limited services clinics.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are fifty-four (54) retail based clinics licensed by the Office of Inspector General as limited services clinics in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Under this amendment, limited services clinics which opt to provide chronic disease management services will be required to act as a source of patient and caregiver education; schedule follow-up appointments with primary care providers on behalf of a patient treated by the clinic for a chronic disease; assure that chronic disease management services

provided by the clinic are consistent with a treatment plan established, signed, and reviewed by the physician specialist responsible for the care of the patient; and send a visit-specific report to the patient's physician specialist. Additionally, limited services clinics which provide chronic disease management services will be required to participate in the Kentucky Health Information Exchange; provide off-hour coverage, at least through an answering service referring patients to another provider of the same services that is as geographically close as possible and open during the hours the clinic does not operate; designate a Kentucky-licensed physician to serve as the clinic's medical director charged with certain responsibilities, including a minimum of fifty (50) electronic chart audits each month in which at least fifty (50) percent of the audits must be drawn from the clinic's chronic disease management patient records; and be certified by the Convenient Care Association or accredited by designated accrediting organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Providing chronic disease management services in the limited services clinic setting is optional.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Expanding the scope of services which may be offered in limited services clinics across the state is expected to enhance patient access to medical care.

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

(a) Initially: There is no additional cost to the Office of Inspector General for implementing this administrative regulation.

(b) On a continuing basis: There is no additional cost to the Office of Inspector General for implementing this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation will be from agency funds and state 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: This administrative regulation does not increase fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not increase fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities which elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment will impact limited services clinics which opt to provide chronic disease management services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate additional revenue for the Cabinet.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate additional revenue for the Cabinet in subsequent years.

(c) How much will it cost to administer this program for the first

year? There is no additional cost to the Office of Inspector General for implementing this amendment.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to the Office of Inspector General for implementing this amendment during subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Community Alternatives (Amendment)

907 KAR 1:044. Coverage provisions and requirements regarding community mental health center behavioral health services.

RELATES TO: KRS 194A.060, 205.520(3), 205.8451(9), 422.317, 434.840-434.860, 42 C.F.R. 415.208, 431.52, 431 Subpart F

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 210.450, 42 U.S.C. 1396a-d,

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family 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 to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding community mental health center (CMHC) behavioral health services.

Section 1. Definitions. (1) "Community mental health center" or "CMHC" means a facility which meets the community mental health center requirements established in 902 KAR 20:091.

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Enrollee" means a recipient who is enrolled with a managed care organization.

(4) "Face-to-face" means occurring:

(a) In person; or

(b) If authorized by 907 KAR 3:170, via a real-time, electronic communication that involves two (2) way interactive video and audio communication.

(5) "Federal financial participation" is defined in 42 C.F.R. 400.203.

(6) "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(7) "Mental health associate" means an individual who meets the mental health associate requirements established in the Community Mental Health Center Behavioral Health Services Manual.

(8) [(7)] "Professional equivalent" means an individual who meets the professional equivalent requirements established in the Community Mental Health Center Behavioral Health Services Manual.

(9) [(8)] "Provider" is defined by KRS 205.8451(7).

(10) [(9)] "Qualified mental health professional" means an individual who meets the requirements established in KRS 202A.0011(12).

(11) [(10)] "Recipient" is defined by KRS 205.8451(9).

Section 2. Requirements for a Psychiatric Nurse. A registered nurse employed by a participating community mental health center shall be considered a psychiatric or mental health nurse if the individual:

(1) Possesses a Master of Science in nursing with a specialty in psychiatric or mental health nursing;

(2)(a) Is a graduate of a four (4) year nursing educational program with a Bachelor of Science in nursing; and

(b) Possesses at least one (1) year of experience in a mental health setting;

(3)(a) Is a graduate of a three (3) year nursing educational program; and

(b) Possesses at least two (2) years of experience in a mental health setting;

(4)(a) Is a graduate of a two (2) year nursing educational program with an associate degree in nursing; and

(b) Possesses at least three (3) years of experience in a mental health setting; or

(5) Possesses any level of education with American Nursing Association certification as a psychiatric or mental health nurse.

Section 3. Community Mental Health Center Behavioral Health Services Manual. The conditions for participation, services covered, and limitations for the community mental health center behavioral health services component of the Medicaid Program shall be as specified in:

(1) This administrative regulation; and

(2) The Community Mental Health Center Behavioral Health Services Manual.

Section 4. Covered Services. (1) Behavioral health services covered pursuant to this administrative regulation and pursuant to the Community Mental Health Center Behavioral Health Services Manual shall ~~be~~include:

~~(a)]~~ rehabilitative mental health and substance use disorder services including:

~~(a)]~~[4-] Individual outpatient therapy;

~~(b)]~~[2-] Group outpatient therapy;

~~(c)]~~[3-] Family outpatient therapy;

~~(d)]~~[4-] Collateral outpatient therapy;

~~(e)]~~[5-] Therapeutic rehabilitation services;

~~(f)]~~[6-] Psychological testing;

~~(g)]~~[7-] Screening;

~~(h)]~~[8-] An assessment;

~~(i)]~~[9-] Crisis intervention;

~~(j)]~~[10-] Service planning;

~~(k)]~~[11-] A screening, brief intervention, and referral to treatment;

~~(l)]~~[12-] Mobile crisis services;

~~(m)]~~[13-] Assertive community treatment;

~~(n)]~~[14-] Intensive outpatient program services;

~~(o)]~~[15-] Residential crisis stabilization services;

~~(p)]~~[16-] Partial hospitalization;

~~(q)]~~[17-] Residential services for substance use disorders;

~~(r)]~~[18-] Day treatment;

~~(s)]~~[19-] Comprehensive community support services;

~~(t)]~~[20-] Peer support services; or

~~(u)]~~[21-] Parent or family peer support services; ~~or~~

~~(b) Physical health services including:~~

~~1. Physical examinations; or~~

~~2. Medication prescribing and monitoring].~~

(2)(a) To be covered under this administrative regulation, a service listed in subsection (1) of this section shall be:

1. Provided by a community mental health center that is:

a. Currently enrolled in the Medicaid Program in accordance with 907 KAR 1:672; and

b. Except as established in paragraph (b) of this subsection, currently participating in the Medicaid Program in accordance with 907 KAR 1:671; ~~and~~

2. Provided in accordance with:

a. This administrative regulation; and

b. The Community Mental Health Center Behavioral Health Services Manual; and

3. Medically necessary.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

Section 5. Electronic Documents and Signatures. (1) The

creation, transmission, storage, or other use of electronic signatures and documents shall comply with requirements established in KRS 369.101 to 369.120 and all applicable state and federal laws and regulations.

(2) A CMHC choosing to utilize electronic signatures shall:

(a) Develop and implement a written security policy which shall:

1. Be complied with by each of the center's employees, officers, agents, and contractors; and

2. Stipulate which individuals have access to which electronic signatures and password authorization;

(b) Ensure that electronic signatures are created, transmitted, and stored securely;

(c) Develop a consent form that shall:

1. Be completed and executed by each individual utilizing an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(d) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 6. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the service is covered, on the same day of service.

(2) For example, if a recipient is receiving a behavioral health service from an independently enrolled behavioral health service provider, the department shall not reimburse for the same service provided to the same recipient by a community mental health center on the same day of service.

Section 7. Records Maintenance, Protection, and Security. (1) A provider shall maintain a current health record for each recipient.

(2) A health record shall:

(a) Include:

1. An identification and intake record including:

a. Name;

b. Social Security number;

c. Date of intake;

d. Home (legal) address;

e. Health insurance information;

f. Referral source and address of referral source;

g. Primary care physician and address;

h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information, if available, regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider; and

j. The name of the informant and any other information deemed necessary by the independent provider to comply with the requirements of:

(i) This administrative regulation;

(ii) The provider's licensure board;

(iii) State law; or

(iv) Federal law;

2. Documentation of the:

a. Screening;

b. Assessment; and

c. Disposition; ~~and~~

~~d. Six (6) month review of a recipient's treatment plan each time a six (6) month review occurs;]~~

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services;

(b) Be:

1. Maintained in an organized central file;
2. Furnished to the Cabinet for Health and Family Services upon request;
3. Made available for inspection and copying by Cabinet for Health and Family Services' personnel;
4. Readily accessible; and
5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient; and

(c) Document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(3) The individual who provided the service shall date and sign the health record on the date that the individual provided the service.

(4)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least six (6)~~five (5)~~ years from the date of the service or until any audit dispute or issue is resolved beyond six (6)~~five (5)~~ years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or
2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(5) A provider shall comply with 45 C.F.R. Part 164.

(6) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(7)(a) A provider's notes regarding a recipient shall:

1. Be made within forty-eight (48) hours of each service visit; and
2. Describe the:
 - a. Recipient's symptoms or behavior, reaction to treatment, and attitude;
 - b. Therapist's intervention;
 - c. Changes in the ~~treatment~~ plan of care if changes are made; and
 - d. Need for continued treatment if continued treatment is needed.

(b)1. Any edit to notes shall:

- a. Clearly display the changes; and
- b. Be initialed and dated.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a mental health associate working under supervision or a professional equivalent working under supervision shall be co-signed and dated by a licensed supervising professional within thirty (30) days.

2. If services are provided by a practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervising professional reflecting consultations with the practitioner working under supervision concerning the:

- a. Case; and
- b. Supervising professional's evaluation of the services being provided to the recipient.

(8) Immediately following a screening of a recipient, the provider shall perform a disposition related to:

- (a) A provisional diagnosis;
- (b) A referral for further consultation and disposition, if applicable; or

(c)1. If applicable, termination of services and referral to an outside source for further services; or

2. If applicable, termination of services without a referral to further services.

~~(9)(a) A recipient's treatment plan shall be reviewed at least~~

~~once every six (6) months.~~

~~(b)] Any change to a recipient's~~~~treatment]~~ plan of care shall be documented, signed, and dated by the:

- ~~(a) Rendering practitioner; and~~
- ~~(b) Recipient or recipient's representative~~~~[provider].~~

~~(10)(a) Notes regarding services to a recipient shall:~~

- ~~1. Be organized in chronological order;~~
- ~~2. Dated;~~
- ~~3. Titled to indicate the service rendered;~~
- ~~4. State a starting and ending time for the service; and~~
- ~~5. Be recorded and signed by the rendering provider and include the professional title (for example, licensed clinical social worker) of the provider.~~

~~(b) Initials, typed signatures, or stamped signatures shall not be accepted.~~

~~(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other nonreimbursable contacts shall:~~

- ~~1. Be recorded in the notes; and~~
- ~~2. Not be reimbursable.~~

~~(11)(a) A termination summary shall:~~

- ~~1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and~~
- ~~2. Contain a summary of the significant findings and events during the course of treatment including the:~~

~~a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's~~~~treatment]~~ plan of care;

~~b. Final diagnosis of clinical impression; and~~

~~3. Individual's condition upon termination and disposition.~~

~~(b) A health record relating to an individual who was terminated from receiving services shall be fully completed within ten (10) days following termination.~~

~~(12) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.~~

~~(13)(a) Except as established in paragraph (b) of this subsection, if a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring CMHC~~~~[provider]~~ shall, if the recipient gives the CMHC~~[provider]~~ written consent to do so,~~forward a copy or summary of the recipient's health record to the health care facility or other provider who is receiving the recipient]~~ within ten (10) business days of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

1.a. The Health Insurance Portability and Accountability Act;

b. 42 U.S.C. 1320d-2 to 1320d-8; and

c. 45 C.F.R. Parts 160 and 164; or

2.a. 42 U.S.C. 290ee-3; and

b. 42 C.F.R Part 2.

~~(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, or an acute care hospital for care or treatment, the transferring CMHC shall, within forty-eight (48) hours of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:~~

1.a. The Health Insurance Portability and Accountability Act;

b. 42 U.S.C. 1320d-2 to 1320d-8; and

c. 45 C.F.R. Parts 160 and 164; or

2.a. 42 U.S.C. 290ee-3; and

b. 42 C.F.R Part 2.

~~(14)(a) If a CMHC's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of a provider, the health records regarding recipients to whom the CMHC has provided services shall:~~

- ~~1. Remain the property of the CMHC; and~~
- ~~2. Be subject to the retention requirements established in subsection (4) of this section.~~

(b) A CMHC shall have a written plan addressing how to maintain health records in the event of a provider's death.

Section 8. Medicaid Program Participation Compliance. (1) A CMHC shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(2)(a) If a CMHC receives any duplicate payment or overpayment from the department, regardless of reason, the CMHC shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

- 1. Interpreted to be fraud or abuse; and
- 2. Prosecuted in accordance with applicable federal or state law.

Section 9. Third Party Liability. A provider shall comply with KRS 205.622.

Section 10. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 12. Appeal Rights. (1) An appeal of an adverse action by the department regarding a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

Section 13. Incorporation by Reference. (1) The "Community Mental Health Center Behavioral Health Services Manual", December[May] 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, 6th Floor West, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 18, 2014 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program community mental health center (CMHC) services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid Program CMHC services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program CMHC services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program CMHC services.

(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 clarifies that this administrative regulation sets the requirements for behavioral health services provided in a community mental health center; removes a reference to physical health services; changes the term "treatment plan" to "plan of care"; extends the timeframe for maintaining a health record of a recipient who received services from a CMHC from five (5) years to six (6) years; clarifies that notes recorded by a behavioral health practitioner working under supervision must be co-signed by the supervising professional within thirty (30) days (previously no timeframe was stated); establishes that the transfer of a health record of a recipient transferring to a residential crisis stabilization unit, psychiatric hospital, psychiatric distinct part unit of an acute care hospital, or to an acute care hospital shall be done within forty-eight (48) hours in contrast to the ten (10) day timeframe for other such transfers; and amends the incorporated material by synchronizing provisions with the latest behavioral health state plan amendment approved by the Centers for Medicare and Medicaid Services (CMS.)

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to clarify provisions and to synchronize provisions with those currently approved by CMS (in order to ensure receipt of federal funding for CMHC behavioral health services.)

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by clarifying provisions and synchronizing provisions with those currently approved by CMS (in order to ensure receipt of federal funding for CMHC behavioral health services.)

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by clarifying provisions and synchronizing provisions with those currently approved by CMS (in order to ensure receipt of federal funding for CMHC behavioral health services.)

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Community mental health centers will be affected by this amendment as will Medicaid recipients who receive services from CMHCs. There are fourteen (14) such centers.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. CMHCs will have to keep health records regarding recipients for at least six (6) years rather than five (5) years; transfer health records (when applicable) to urgent settings within forty-eight (48) hours; and ensure that supervising professionals sign notes recorded by practitioners working under supervision within thirty (30) days.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). CMHCs and Medicaid recipients receiving services from CMHCs will benefit by the department's continued receipt of federal funding from CMS for CMHC behavioral health services.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates no additional cost as a result of the amendment.

(b) On a continuing basis: The response in paragraph (a) above also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), 42 U.S.C. 1396d(a)(2).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its

substance use disorder provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. 42 U.S.C. 1396d(a)(2) requires Medicaid program coverage of: "(A) outpatient hospital services, (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)(1)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)(1)) and which are otherwise included in the plan, and (C) Federally-qualified health center services (as defined in subsection (l)(2) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (DMS) will be affected by the amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS does not anticipate additional revenues for state or local government as a result of the amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response to question (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS does not anticipate additional costs as a result of the amendment.

(d) How much will it cost to administer this program for subsequent years? The response to question (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(Amendment)

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services.

RELATES TO: KRS 205.520(3), 210.370

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6313, 42 C.F.R. 447.325, 42 U.S.C. 1396a-d

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family 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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding community mental health center services provided to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. Definitions. (1) "Community board for mental health or individuals with an intellectual disability" means a board established pursuant to KRS 210.380.

(2) "Community mental health center" or "CMHC" means a facility which meets the community mental health center requirements established in 902 KAR 20:091.

(3) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(4) [(2)] "Department" means the Department for Medicaid Services or its designee.

(5) [(3)] "Enrollee" means a recipient who is enrolled with a managed care organization.

(6) [(4)] "Federal financial participation" is defined by 42 C.F.R. 400.203.

(7) "Federal Register" means the official journal of the United States federal government that publishes government agency rules and public notices.

(8) "Healthcare Common Procedure Coding System code" means a billing code:

(a) Recognized by Medicare; and

(b) Monitored by the Centers for Medicare and Medicaid Services.

(9) "Injectable drug" means an injectable, infused, or inhaled drug or biological that:

(a) Is not excluded as a non-covered immunization or vaccine;

(b) Requires special handling, storage, shipping, dosing, or administration; and

(c) Is a rebatable drug.

(10) "Interim reimbursement" means a reimbursement:

(a) In effect for a temporary period of time; and

(b) That does not represent final reimbursement for services provided during the period of time.

(11) [(6)] "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(12) "Medicaid allowable costs" means the costs:

(a) Associated with the Medicaid-covered services:

1. Listed in Section 12 of this administrative regulation:

a. Rendered to recipients who are not enrollees; and

b. Not rendered as a 1915(c) home and community based waiver services provider; and

2. Covered pursuant to 907 KAR 1:046:

a. Rendered to recipients who are not enrollees; and

b. Not rendered as a 1915(c) home and community based waiver services provider; and

(b) Determined to be allowable costs by the department.

(13) "Medical Group Management Association (MGMA)

"Physician Compensation and Production Survey Report" means a report developed and owned by the Medical Group Management Association that:

(a) Highlights the critical relationship between physician salaries and productivity;

(b) Is used to align physician salaries and benefits with provider production; and

(c) Contains:

1. Performance ratios illustrating the relationship between compensation and production; and

2. Comprehensive and summary data tables that cover many specialties.

(14) "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(15) "Medicare Economic Index" means a measure of inflation:

(a) Associated with the costs of physicians' practices; and

(b) Published in the Federal Register.

(16) "Payment plan request" means a request to pay an amount owed to the department over a period of time approved by the department.

(17) [(6)] "Provider" is defined by KRS 205.8451(7).

(18) "Rebatable drug" means a drug for which the drug's manufacturer has entered into or complied with a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

(19) [(7)] "Recipient" is defined by KRS 205.8451(9).

(20) "State fiscal year" means the period beginning on July 1 of a year and ending on June 30 of the following year.

Section 2. General Reimbursement Provisions. (1) The department shall reimburse a participating in-state community mental health center under this administrative regulation for services:

(a) If the services are:

1. Covered pursuant to:

a. 907 KAR 1:044; or

b. 907 KAR 1:046;

2. Not provided by the CMHC acting as a 1915(c) home and community based waiver services provider;

3. Provided to recipients who are not enrolled with a managed care organization; and

4. Medically necessary; and

(b) Based on the community mental health center's Medicaid allowable costs.

(2) The department's reimbursement shall include reimbursing:

(a) On an interim basis during the course of a state fiscal year; and

(b) A final reimbursement for the state fiscal year that results from a reconciliation of the interim reimbursement amount paid to the CMHC by the department compared to the CMHC's Medicaid allowable costs for the state fiscal year.

Section 3. Interim Reimbursement for Primary Care Services.

(1) The department's interim reimbursement to a CMHC for primary care services shall be the reimbursement established for the service on the current Kentucky-specific Medicare Physician Fee Schedule.

(2) If no reimbursement for a given service exists on the current Kentucky-specific Medicare Physician Fee Schedule, the department shall reimburse on an interim basis for the service as it reimburses for services pursuant to 907 KAR 3:010.

Section 4. Interim Reimbursement for Injectable Drugs. The department's interim reimbursement for the cost of injectable drugs administered in a CMHC shall be the reimbursement methodology established in 907 KAR 3:010 for injectable drugs.

Section 5. Interim Reimbursement for Behavioral Health Services through June 30, 2016. (1)(a) To establish interim rates for behavioral health services effective for dates of service through June 30, 2016, the department shall use a CMHC's most recently submitted cost report that meets the requirements established in paragraph (b) of this subsection.

(b) The cost report shall:

1. Be in a format that has been approved by the Centers for Medicare and Medicaid Services; and

2. State all of the:

a. CMHC's Medicaid allowable costs:

(i) For Medicaid-covered services rendered to recipients during the period beginning July 1, 2013 and ending June 30, 2014; and

(ii) For Medicaid-covered injectable drugs rendered to recipients during the period beginning July 1, 2013 and ending June 30, 2014 if the CMHC administered injectable drugs to recipients during the time period;

b. CMHC's costs associated with:

(i) Medicaid-covered services rendered to enrollees during the period beginning July 1, 2013 and ending June 30, 2014; and

(ii) Medicaid-covered injectable drugs rendered to enrollees during the period beginning July 1, 2013 and ending June 30, 2014 if the CMHC administered injectable drugs to enrollees during the time period;

c. Costs of the community board for mental health or individuals with an intellectual disability under which the CMHC operates for the period beginning July 1, 2013 and ending June 30, 2014; and

d. CMHC's costs associated with services rendered to individuals:

(i) That were reimbursed by an insurer or party other than the department or a managed care organization; and

(ii) During the period beginning July 1, 2013 and ending June 30, 2014.

(2) The department shall:

(a) Review the cost report referenced in subsection (1) of this section; and

(b) Establish interim rates for Medicaid-covered behavioral health services:

1. To be effective July 1, 2015;

2. Based on Medicaid allowable costs as determined by the department through its review; and

3. Intended to result in a reimbursement for Medicaid-covered behavioral health services:

a. Provided to recipients who are not enrollees;

b. For the period July 1, 2015 through June 30, 2016; and

c. That equals the department's estimate of behavioral health services' costs for the CMHC for the period.

Section 6. Final Reimbursement for Services Provided from January 1, 2015 through June 30, 2015. (1) By December 31, 2015, a CMHC shall submit a cost report to the department:

(a) In a format that has been approved by the Centers for Medicare and Medicaid Services;

(b) That has been audited by an independent auditing entity; and

(c) That states all of the:

1. CMHC's Medicaid allowable costs for Medicaid-covered services rendered to recipients during the period beginning July 1, 2014 and ending June 30, 2015;

2. CMHC's costs associated with Medicaid-covered services rendered to enrollees during the period beginning July 1, 2014 and ending June 30, 2015;

3. Costs of the community board for mental health or individuals with an intellectual disability under which the CMHC operates for the period beginning July 1, 2014 and ending June 30, 2015; and

4. CMHC's costs associated with services rendered to individuals:

a. That were reimbursed by an insurer or party other than the department or a managed care organization; and

b. During the period beginning July 1, 2014, and ending June 30, 2015.

(2) The department shall:

(a) Review the cost report referenced in subsection (1) of this section;

(b) Determine the amount of Medicaid allowable costs for the dates of service beginning January 1, 2015, through June 30, 2015; and

(c) Compare the amount of Medicaid allowable costs

referenced in paragraph (b) of this subsection to the department's interim reimbursement for Medicaid-covered services provided during the dates of service beginning January 1, 2015, through June 30, 2015.

(3)(a) After the department compares a CMHC's interim reimbursement with the CMHC's Medicaid allowable costs for the period referenced in subsection (2) of this section, if the department determines that the interim reimbursement:

1. Was less than the CMHC's Medicaid allowable costs for the period, the department shall send a payment to the CMHC equal to the difference between the CMHC's total interim reimbursement and the CMHC's Medicaid allowable costs; or

2. Exceeded the CMHC's Medicaid allowable costs for the period, the:

a. Department shall send written notification to the CMHC requesting the total amount of the overpayment; and

b. CMHC shall, within thirty (30) days of receiving the department's written notice, send a:

(i) Payment to the department equal to the excessive amount; or

(ii) Payment plan request to the department.

(b) A CMHC shall not implement a payment plan unless the department has approved the payment plan in writing.

(c) If a CMHC fails to comply with the requirements established in paragraph (a)2 of this subsection, the department shall:

1. Suspend payment to the CMHC; and

2. Recoup the amount owed by the CMHC to the department.

Section 7. Final Reimbursement for a State Fiscal Year Beginning with State Fiscal Year 2016. (1)(a) Beginning with the state fiscal year that begins July 1, 2015, and ends June 30, 2016, by December 31 following the end of the state fiscal year, a CMHC shall submit a cost report to the department:

1. In a format that has been approved by the Centers for Medicare and Medicaid Services;

2. That has been audited by an independent auditing entity; and

3. That states all of the:

a. CMHC's Medicaid allowable costs:

(i) For Medicaid-covered services rendered to recipients during the prior state fiscal year; and

(ii) For Medicaid-covered injectable drugs rendered to recipients during the prior state fiscal year if the CMHC administered injectable drugs to recipients during the time period;

b. CMHC's costs associated with:

(i) Medicaid-covered services rendered to enrollees during the prior state fiscal year; and

(ii) Medicaid-covered injectable drugs rendered to enrollees during the prior state fiscal year if the CMHC administered injectable drugs to enrollees during the time period;

c. Costs of the community board for mental health or individuals with an intellectual disability under which the CMHC operates for the prior state fiscal year; and

d. CMHC's costs associated with services rendered to individuals:

(i) That were reimbursed by an insurer or party other than the department or a managed care organization; and

(ii) During the prior state fiscal year.

(b) To illustrate the timeline referenced in paragraph (a) of this subsection, an independently audited cost report stating costs associated with services and injectable drugs provided during the state fiscal year spanning July 1, 2015, through June 30, 2016 shall be submitted to the department by December 31, 2016.

(2) By April 1 following the department's receipt of a CMHC's completed cost report submitted to the department by the prior December 31, the department shall:

(a) Review the cost report referenced in subsection (1) of this section;

(b) Determine the amount of Medicaid allowable costs on the cost report; and

(c) Compare the amount of Medicaid allowable costs referenced in paragraph (b) of this subsection to the department's interim reimbursement for Medicaid-covered services and

injectable drugs rendered during the same state fiscal year.

(3)(a) After the department compares a CMHC's interim reimbursement with the CMHC's Medicaid allowable costs for the period, if the department determines that the interim reimbursement:

1. Was less than the CMHC's Medicaid allowable costs for the period, the department shall send a payment to the CMHC equal to the difference between the CMHC's total interim reimbursement and the CMHC's Medicaid allowable costs; or

2. Exceeded the CMHC's Medicaid allowable costs for the period, the:

a. Department shall send written notification to the CMHC requesting the amount of the overpayment; and

b. CMHC shall, within thirty (30) days of receiving the department's written notice, send a:

(i) Payment to the department equal to the excessive amount; or

(ii) Payment plan request to the department.

(b) A CMHC shall not implement a payment plan unless the department has approved the payment plan in writing.

(c) If a CMHC fails to comply with the requirements established in paragraph (a)2 of this subsection, the department shall:

1. Suspend payment to the CMHC; and

2. Recoup the amount owed by the CMHC to the department.

Section 8. Interim Reimbursement for Behavioral Health Services Beginning July 1, 2016. (1)(a) Effective July 1, 2016, and each subsequent July 1, to establish interim rates for behavioral health services for the state fiscal year, the department shall:

1. Review the cost report submitted to the department by the preceding December 31; and

2. Establish interim rates for Medicaid-covered behavioral health services:

a. To be effective on the first day, July 1, of the next state fiscal year;

b. Based on Medicaid allowable costs as determined by the department through its review; and

c. Intended to result in a reimbursement for Medicaid-covered behavioral health services:

(i) Provided to recipients who are not enrollees;

(ii) During the next state fiscal year; and

(iii) That equals the department's estimate of behavioral health services' costs for the CMHC for the period.

(b) Interim rates for behavioral health services effective July 1 each year shall have been trended and indexed from the prior December 31 using the Medicare Economic Index.

(c) The cost report referenced in paragraph (a) of this subsection shall comply with the cost report requirements established in Section 7 of this administrative regulation.

(d) To illustrate the timeline referenced in paragraph (a) of this subsection, a cost reported submitted by a CMHC to the department on December 31, 2017, shall be used by the department to establish behavioral health services' interim rates effective July 1, 2018.

(2)(a) A behavioral health services interim rate shall not be subject to retroactive adjustment except as specified in this section.

(b) The department shall adjust a behavioral health services interim rate during the state fiscal year if the rate that was established appears likely to result in a substantial cost settlement that could be avoided by adjusting the rate.

(c)1. If the cost report from a CMHC has not been audited or desk-reviewed by the department prior to establishing interim rates for the next state fiscal year, the department shall use the cost report under the condition that interim rates shall be subject to adjustment as established in subparagraph 2 of this paragraph.

2. A behavioral health services interim rate based on a cost report which has not been audited or desk-reviewed shall be subject to adjustment when the audit or desk review is completed.

3. An unaudited cost report shall be subject to an adjustment to the audited amount after the auditing has occurred.

Section 9. New Services. (1) Reimbursement regarding a

projection of the cost of a new Medicaid-covered service or expansion shall be made on a prospective basis in that the costs of the new service or expansion shall be considered when actually incurred as an allowable cost.

(2)(a) A CMHC may request an adjustment to an interim rate after reaching the mid-year point of the new service or expansion.

(b) An adjustment shall be based on actual costs incurred.

Section 10. Auditing and Accounting Records. (1)(a) The department shall perform a desk review of each cost report to determine whether an audit is necessary and, if so, the scope of the audit.

(b) If the department determines that an audit is not necessary, the cost report shall be settled without an audit.

(c) A desk review or audit shall be used for purposes of verifying costs to be used in setting the interim behavioral health services rate or for purposes of adjusting interim behavioral health services rates which have been set based on unaudited data.

(2)(a) A CMHC shall maintain and make available any records and data necessary to justify and document:

1. Costs to the CMHC;

2. Services provided by the CMHC;

3. Drugs provided, if any, by the CMHC;

4. Cost allocations utilized including overhead statistics and supportive documentation; and

5. Any amount reported on the cost report.

(b) The department shall have unlimited on-site access to all of a CMHC's fiscal and service records for the purpose of:

1. Accounting;

2. Auditing;

3. Medical review;

4. Utilization control; or

5. Program planning.

(3) A CMHC shall maintain an acceptable accounting system to account for the:

(a) Cost of total services provided;

(b) Charges for total services rendered; and

(c) Charges for covered services rendered to eligible recipients.

(4) An overpayment discovered as a result of an audit or desk review shall be settled through recoupment or withholding.

Section 11. Allowable and Non-allowable Costs. (1) The following shall be allowable costs:

(a) Services' or drugs' costs associated with the services or drugs;

(b) Depreciation as follows:

1. A straight line method shall be used;

2. The edition of the American Hospital Association's useful life guidelines currently used by the Centers for Medicare and Medicaid Services' Medicare program shall be used;

3. The maximum amount for expensing an item in a single cost report shall be \$500; and

4. Only the depreciation of assets actually being used to provide services shall be recognized;

(c) Interest costs;

(d) Costs incurred for research purposes;

(e) Costs incurred for transporting recipients to services;

(f) Costs of motor vehicles used by management personnel up to \$25,000;

(g) Costs for training or educational purposes outside of Kentucky including transportation costs to travel to the training or education;

(h) Costs associated with any necessary legal expense incurred in the normal administration of the CMHC;

(i) The cost of administrative staff salaries, which shall be limited to the average salary for the given position as established for the geographic area on www.salary.com; and

(j)1. The cost of practitioner salaries shall be limited to the median salary for the southern region as reported in the Medical Group Management Association (MGMA) Physician Compensation and Production Survey Report, if available.

2. A per visit amount using MGMA median visits shall be

utilized.

3. The most recently available MGMA publication that relates to the cost report period shall be used.

(2)(a) The allowable cost for a service or good purchased by a facility from a related organization shall be in accordance with 42 C.F.R. 413.17.

(3) The following shall not be allowable costs:

(a) Bad debt;

(b) Charity;

(c) Courtesy allowances;

(d) Political contributions;

(e) Costs associated with an unsuccessful lawsuit against the department or the Cabinet for Health and Family Services;

(f) Costs associated with any legal expense incurred related to a judgment granted as a result of an unlawful activity or pursuit;

(g) The value of services provided by non-paid workers;

(h) Travel or related costs or expenses associated with attending:

1. A convention;

2. A meeting;

3. An assembly; or

4. A conference; or

(i) Costs related to lobbying.

(4) A discount or other allowance received regarding the purchase of a good or service shall be deducted from the costs of the good or service for cost reporting purposes.

(5)(a) Maximum allowable costs shall be the maximum amount which may be allowed as reasonable cost for the provision of a service or drug.

(b) To be considered allowable, any cost shall:

1. Be necessary and appropriate for providing services; and

2. Not exceed usual and customary charges [as established in this subsection.

(a) The payment rate that was in effect on June 30, 2002, for the community mental health center for community mental health center services shall remain in effect and there shall be no cost settling.

(b) Allowable costs shall not:

1. Exceed customary charges which are reasonable; or

2. Include:

a. The costs associated with political contributions;

b. Travel or related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities);

c. The costs of motor vehicles used by management personnel which exceed \$20,000 total valuation annually (unless the excess cost is considered as compensation to the management personnel); or

d. Legal fees for unsuccessful lawsuits against the cabinet.

(c) Costs (excluding transportation costs) for training or educational purposes outside the state shall be allowable costs.

(2) To be reimbursable, a service shall:

(a) Meet the requirements of 907 KAR 1:044, Section 4(2); and

(b) Be medically necessary].

Section 12. Units of Service[3. Implementation of Payment System]. (1)(a) Interim payments shall be based on units of service.

(b) A unit for a primary care service shall be the amount indicated in the corresponding:

1. CPT code; or

2. Healthcare Common Procedure Coding System code.

(c) One (1) unit for each behavioral health service shall be defined as follows:

Service	Unit of Service
Individual Outpatient Therapy	15 minutes
Group Outpatient Therapy	15 minutes
Family Outpatient Therapy	15 minutes
Collateral Outpatient Therapy	15 minutes
Psychological Testing	15 minutes
Therapeutic Rehabilitation	15 minutes
Medication Prescribing and Monitoring	15 minutes

Physical Examinations	15 minutes
Screening	15 minutes
Assessment	15 minutes
Crisis Intervention	15 minutes
Service Planning	15 minutes
Screening, Brief Intervention, and Referral to Treatment	15 minutes
Mobile Crisis Services	1 hour
Assertive Community Treatment	Per Diem
Intensive Outpatient Program Services	Per Diem
Residential Crisis Stabilization Services	Per Diem
Residential Services for Substance Use Disorders	Per Diem
Partial Hospitalization	Per Diem
Day Treatment	1 hour
Comprehensive Community Support Services	15 minutes
Peer Support Services	15 minutes

(2) An initial unit of service which lasts less than:

(a) Fifteen (15) minutes for a service in which fifteen (15) minutes is the unit amount may be billed as one (1) unit; or

(b) The minimum amount for the service if the minimum amount is more than fifteen (15) minutes may be billed as one (1) unit.

(3) Except for an initial unit of a service, a service that is:

(a) Less than one-half (1/2) of one (1) unit shall be rounded down; or

(b) Equal to or greater than one-half (1/2) of one (1) unit shall be rounded up.

(4) An individual provider shall not exceed four (4) units of service in one (1) hour.

(5) An overpayment discovered as a result of an audit shall be settled through recoupment or withholding.

[6] A community mental health center shall maintain an acceptable accounting system to account for the:

(a) Cost of total services provided;

(b) Charges for total services rendered; and

(c) Charges for covered services rendered eligible recipients.

(7) A community mental health center shall make available to the department all recipient records and fiscal records:

(a) At the end of each fiscal reporting period;

(b) Upon request by the department; and

(c) Subject to reasonable prior notice by the department.

(8) Payments due a community mental health center shall be made at least once a month.

Section 4. Nonallowable Costs. The department shall not reimburse:

(1) Under the provisions of this administrative regulation for a service that is not covered by 907 KAR 1:044; or

(2) For a community mental health center's costs found unreasonable or nonallowable in accordance with the Community Mental Health Center Reimbursement Manual.]

Section 13.[5.] Reimbursement of Out-of-state Providers. Reimbursement to a participating out-of-state community mental health center shall be the lesser of the:

(1) Charges for the service;

(2) Facility's rate as set by the state Medicaid Program in the other state; or

(3) Upper limit for that type of service in effect for Kentucky providers.

Section 14.[6.] Appeal Rights. A community mental health center may appeal a Department for Medicaid Services decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 15.[7.] Not Applicable to Managed Care Organization. A managed care organization shall not be required to reimburse for community mental health center services in accordance with this administrative regulation.

Section 16.[8-] Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 31, 2014 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding community mental health center services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's reimbursement provisions and requirements regarding community mental health center services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing DMS's reimbursement provisions and requirements regarding community mental health center services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assist in the effective administration of the authorizing statutes by establishing DMS's reimbursement provisions and requirements regarding community mental health center services.

(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 introduces a new cost-based reimbursement methodology and establishes reimbursement for primary care services (in concert with a companion administrative regulation – 907 KAR 1:046, Coverage provisions and requirements regarding community mental health center primary care service services.) Via the cost-based model, the Department for Medicaid Services (DMS) will ultimately reimburse for all services (behavioral health as well as primary care services) rendered during a given year based on Medicaid allowable costs after a thorough review of cost data reported by each CMHC to determine such costs for each CMHC. As a given CMHC's costs for a year is reported after the year concludes and DMS must

review the cost data before determining the CMHC's total Medicaid allowable costs for the year, DMS reimburses each CMHC on an interim basis during the course of the year. After completing the review and determination of a CMHC's Medicaid allowable costs for a year, DMS will compare its interim reimbursement paid to the CMHC during the course of the year to the CMHC's actual Medicaid allowable costs for the year. If DMS's interim reimbursement to the CMHC exceeded the CMHC's Medicaid allowable costs, the CMHC will send the overpayment amount to DMS. If DMS's interim reimbursement was less than the CMHC's Medicaid allowable costs for the year, DMS will issue a lump sum payment to the CMHC equaling the amount owed. DMS's interim reimbursement for behavioral health services will be based on prior costs while its interim reimbursement for primary care services – new services covered in the scope of CMHC services – will be the reimbursement stated on the Kentucky-specific Medicare Physician Fee Schedule for the given service. If no reimbursement exists on the fee schedule for a given service, DMS will reimburse (again, on an interim basis) for the service in the manner that it reimburses for physician's services pursuant to 907 KAR 3:010, Reimbursement for physician's services. The reimbursement established in this administrative regulation only applies to services rendered to Medicaid "fee-for-service" recipients. These are Medicaid recipients who are not enrolled with a managed care organization. Managed care organizations are not required to reimburse for CMHC services in accordance with this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment establishing a new cost-based reimbursement methodology is necessary as the Centers for Medicare and Medicaid Services (CMS) mandated that the Department for Medicaid Services (DMS) terminate its current CMHC services' reimbursement (effective January 1, 2015) and replace it with either a cost-based model or reimbursement as Medicare does for the services. The mandate results in part from an audit of a CMHC by the Kentucky Auditor of Public Accounts. DMS shared the two (2) options with the chief executive officers (CEOs) of the CMHCs and the CEOs elected the cost-based reimbursement model. DMS's reimbursement of primary care services is necessary to comply with legislation (HB 527) enacted during the 2014 Regular Session of the General Assembly which was codified into KRS 205.6313.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments conform to the content of the authorizing statutes by revising Medicaid reimbursement for community mental health centers in a manner that complies with a federal mandate and with a state mandate.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effective administration of the authorizing statutes by revising Medicaid reimbursement for community mental health centers in a manner that complies with a federal mandate and with a state mandate.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Community mental health centers - there are fourteen (14) – will be affected by the amendment as will physicians, physician assistants, and advanced practice registered nurses who wish to provide primary care services in a CMHC.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. In order to be reimbursed by the Department for Medicaid Services CMHCs will have to annually submit cost report information to DMS stating all of the CMHCs Medicaid allowable costs, costs associated with care provided to recipients who are enrolled with a managed care organization, costs experienced by the Community Board for Mental Health or Individuals with an Intellectual Disability which oversees the CMHC; and costs associated with services covered by another payor/party. As mandated by the Centers for Medicare and

Medicaid Services (CMS) the Medicaid "fee-for-service" costs of the CMHC must be clearly demarcated from the board's costs as well as the costs associated with care to recipients enrolled in an MCO. CMHCs that wish to be reimbursed for primary care services will need to employ (consistent with KRS 205.6313) physicians, physician assistants, or advanced practice registered nurses to provide primary care services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). CMHCs will experience administrative costs associated with tracking and reporting costs data (including employing or contracting with personnel capable of accurately tracking and reporting the data). CMHCs that wish to provide primary care services will experience administrative costs in hiring the requisite personnel and purchasing or leasing associated equipment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). CMHCs will benefit by receiving reimbursement from DMS for services to Medicaid recipient who are not enrolled with a managed care organization.

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

(a) Initially: Due to the uncertainty of how many CMHCs will elect to expand their scope of services to include primary care services and to the uncertainty of when such CMHCs will meet the associated licensure requirements established by the Office of Inspector General, DMS is unable to project a cost associated with this action. DMS does not anticipate a substantial change in costs associated with implementing the new cost-based reimbursement methodology mandated by CMS, but won't know the full impact until after receiving cost reports from CMHCs in the future.

(b) On a continuing basis: The response in paragraph (a) also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." KRS 205.6313 mandates that the Medicaid Program pay community mental health centers for primary service services at the same rates it pays primary care providers for such services

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid.) Expanding the primary care provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of

services due to demand exceeding supply in any given area.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6313.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? Due to the uncertainty of how many CMHCs will elect to expand their scope of services to include primary care services and to the uncertainty of when such CMHCs will meet the associated licensure requirements established by the Office of Inspector General, DMS is unable to project a cost associated with this action. DMS does not anticipate a substantial change in costs associated with implementing the new cost-based reimbursement methodology mandated by CMS, but won't know the full impact until after receiving cost reports from CMHCs in the future.

(d) How much will it cost to administer this program for subsequent years? The response in (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Policy and Operations (Amendment)

907 KAR 1:102. Advanced practice registered nurse services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. Part 493, 42 U.S.C. 1396a, b, c, d[EO 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY:[EO-2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.] The Cabinet for Health and Family 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 to qualify for federal Medicaid funds[for the provision of medical assistance to Kentucky's indigent citizenry]. This administrative regulation establishes the provisions relating to advanced practice registered nurse services covered by the Medicaid Program[for which payment shall be made by the Medicaid Program in behalf of both the categorically needy and the medically needy].

Section 1. Definitions. (1) "Advanced practice registered nurse" or "APRN" is defined in KRS 314.011(7).

(2) "Common practice" means an arrangement through a contractual partnership in which a physician and an APRN jointly administer health care services.

(3) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(4) "Department" means the Department for Medicaid Services or its designated agent. (4) "Emergency medical condition" means a medical condition that manifests itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of a bodily organ or part.]

(5) "Enrollee" means a recipient who is enrolled with a managed care organization.

(6) "Face-to-face" means occurring:

(a) In person; or

(b) If authorized by 907 KAR 3:170, via a real-time, electronic communication that involves two (2) way interactive video and audio communication.

(7) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(8) "Global period" means the period of time in which related preoperative, intraoperative, and postoperative services and follow-up care for a surgical procedure are customarily provided.

(9) "Incidental" means that a medical procedure:

(a) Is performed at the same time as a primary procedure; and

(b) Is clinically integral to the performance of the primary procedure.

(10) "Injectable drug" means an injectable, infused, or inhaled drug or biological that:

(a) Is not excluded as a non-covered immunization or vaccine;

(b) Requires special handling, storage, shipping, dosing, or administration; and

(c) Is a rebatable drug.

(11) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(12) "Locum tenens APRN" means an APRN:

(a) Who temporarily assumes responsibility for the professional practice of an APRN participating in the Kentucky Medicaid Program; and

(b) Whose services are billed under the Medicaid participating APRN's provider number.

(13) "Locum tenens physician" means a substitute physician:

(a) Who temporarily assumes responsibility for the professional practice of an APRN participating in the Kentucky Medicaid Program; and

(b) Whose services are billed under the Medicaid participating APRN's provider number.

(14) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(15) "Emergency services" means covered inpatient or outpatient services, including emergency ambulance transport, furnished by a qualified provider if the services are needed to evaluate or stabilize an emergency medical condition that is found

to exist using the prudent layperson standard. (6) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130[shall be:

(a) Provided in accordance with 42 C.F.R. 440.230;

(b) Reasonable and required to identify, diagnose, treat, correct, cure, ameliorate, palliate, or prevent a disease, illness, injury, disability, or other medical condition, including pregnancy;

(c) Clinically appropriate in terms of amount, scope and duration based on generally-accepted standards of good medical practice;

(d) Provided for medical reasons rather than primarily for the convenience of the recipient, caregiver, or the provider;

(e) Provided in the most appropriate location, with regard to generally-accepted standards of good medical practice, where the service may for practical purposes be safely and effectively provided;

(f) Needed, if used in reference to an emergency medical service, to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard; and

(g) If applicable, provided in accordance with early and periodic screening, diagnosis, and treatment (EPSDT) requirements established in 42 U.S.C. 1396d(r) and 42 C.F.R. Part 441 Subpart B for individuals under twenty-one (21) year of age].

(16) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one (1) another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CPT codes; or

(d) Are described in Current Procedural Terminology as inappropriate coding of procedure combinations.

(17)(7) "New patient" means a recipient[one] who has not received professional services from the provider within the past[a] three (3) years[year period].

(18) "Provider" is defined by KRS 205.8451(8).

(19) "Provider group" means a group of at least:

(a) Two (2) individually licensed APRNs who:

1. Are enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number; or

(b) One (1) APRN and at least one (1) physician who:

1. Are enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number.(8)

"Prudent layperson standard" means the criterion used to determine the existence of an emergency medical condition whereby a prudent layperson, who possesses an average knowledge of health and medicine, determines that a medical condition manifests itself by acute symptoms of sufficient severity (including severe pain) that the person could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of a bodily organ or part].

(20) "Rebatable drug" means a drug for which the drug's manufacturer has entered into or complied with a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

(21)(9) "Recipient" is defined by KRS 205.8451(9)[means an individual who has been determined by the Kentucky Department of Community-Based Services to be eligible to have the Kentucky Medicaid Program make reimbursement for covered services].

(22) "Timely filing" means receipt of a Medicaid claim by the department:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

Section 2. Conditions of Participation. (1) To participate in the Medicaid program as a provider, an APRN or provider group shall comply with:

(a) 907 KAR 1:005, 907 KAR 1:671, and 907 KAR 1:672; and

(b) The requirements regarding the confidentiality of personal records pursuant to 42 U.S.C. 1320d to 1320d-8 and 45 C.F.R. Parts 160 and 164.

(2) A provider:

(a) Shall bill the:

1. Department rather than the recipient for a covered service;

or

2. Managed care organization in which the recipient is enrolled if the recipient is an enrollee;

(b) May bill the recipient for a service not covered by Medicaid if the provider informed the recipient of non-coverage prior to providing the service; and

(c)1. Shall not bill the recipient for a service that is denied by the department on the basis of:

a. The service being incidental, integral, or mutually exclusive to a covered service or within the global period for a covered service;

b. Incorrect billing procedures including incorrect bundling of services;

c. Failure to obtain prior authorization for the service; or

d. Failure to meet timely filing requirements; and

2. Shall not bill the enrollee for a service that is denied by the managed care organization in which the recipient is enrolled if the recipient is an enrollee on the basis of:

a. The service being incidental, integral, or mutually exclusive to a covered service or within the global period for a covered service;

b. Incorrect billing procedures including incorrect bundling of services;

c. Failure to obtain prior authorization for the service if prior authorization is required by the managed care organization; or

d. Failure to meet timely filing requirements.

(3)(a) If a provider receives any duplicate payment or overpayment from the department or managed care organization, regardless of reason, the provider shall return the payment to the department or managed care organization.

(b) Failure to return a payment to the department or managed care organization in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(4)(a) A provider shall maintain a current health record for each recipient.

(b)1. A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

2. The individual who provided the service shall date and sign the health record within seventy-two (72) hours from the date that the individual provided the service.

(5)(a) Except as established in paragraph (b) or (c) of this subsection, a provider shall maintain a health record regarding a recipient for at least six (6) years from the date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longer of the following periods:

1. Six (6) years unless the recipient is a minor; or

2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) or (b) of this section, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(6) If a provider fails to maintain a health record pursuant to subsection (4) or (5) of this section, the department shall:

(a) Not reimburse for any claim associated with the health record; or

(b) Recoup from the provider any payment made associated with the health record.

(7) A provider shall comply with 45 C.F.R. Part 164.

(8)(a)[may participate in Kentucky Medicaid by complying with the terms and conditions established in 907 KAR 1:671 and 907 KAR 1:672. (2)] A service provided by an APRN to a [Kentucky Medicaid] recipient shall be substantiated by medical records signed by the APRN which correspond to the date and service reported on the claim submitted for payment to the:

1. Department if the claim is for a service to a recipient who is not an enrollee; or

2. Managed care organization in which the recipient is enrolled if the recipient is an enrollee [Kentucky Medicaid].

(b) If rendering services to a recipient in a hospital, an [(3) In addition to the requirements established in subsection (2) of this section, the] APRN shall document in the medical record of the [a] hospitalized [Kentucky Medicaid] recipient that the APRN performed one (1) or more of the following:

1. [(a)] A personal review of the recipient's medical history;

2. [(b)] A physical examination;

3. [(c)] A confirmation or revision of the recipient's diagnosis;

4. [(d)] A visit with the recipient; or

5. [(e)] A discharge service for the recipient.

Section 3. APRN Covered Services. (1)(a) An APRN covered service shall be:

1. [(a)] A medically-necessary service furnished by an APRN through face-to-face [direct-practitioner-patient] interaction between the practitioner and the recipient except as established in paragraph (c) of this subsection; and

2. [(b)] A service which is:

a. [(1.)] Within the legal scope of practice of the APRN as specified in:

(i) 201 KAR 20:057; and

(ii) 201 KAR 20:059; and

b. [(2.)] Eligible for reimbursement by Kentucky Medicaid.

(b) Any service covered pursuant to 907 KAR 3:005 shall be covered under this administrative regulation if it meets the requirements established in paragraph (a) of this subsection.

(c) Face-to-face interaction between the practitioner and recipient shall not be required for:

1. A radiology service;

2. An imaging service;

3. A pathology service;

4. An ultrasound study;

5. An echographic study;

6. An electrocardiogram;

7. An electromyogram;

8. An electroencephalogram;

9. A vascular study;

10. A telephone analysis of an emergency medical system or a cardiac pacemaker if provided under APRN direction;

11. A sleep disorder service;

12. A laboratory service; or

13. Any other service that is customarily performed without face-to-face interaction between the practitioner and the recipient.

(2) The [Administration of anesthesia by an APRN shall be a covered service. (3)] prescribing of drugs by an APRN shall be in accordance with 907 KAR 1:019.

(3) [If a specific brand of prescription is determined by the APRN to be medically necessary for a patient, the certification procedure shall conform with the requirements established in 907 KAR 3:005.

(4)(a) The cost of the following injectables administered in a physician or independent practitioner's office shall be covered:

1. Rho (D) immune globulin injection;

2. Injectable anticancer chemotherapy administered to a recipient in accordance with 907 KAR 3:005;

3. Depo-Provera contraceptive injection if provided in an office setting;

4. Penicillin G and ceftriaxone injectable antibiotics; and

5. Epidural injection if administered in accordance with the requirements established in 907 KAR 3:005.

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(b) The cost of injectables not specified in paragraph (a) of this subsection shall be covered in accordance with 907 KAR 1:019, Section 2.

(5) An outpatient laboratory procedure performed by an APRN who has been certified in accordance with 42 C.F.R. Part 493 shall be covered.

(6) An obstetrical and gynecological service shall be covered as follows:

(a) An annual gynecological examination;

(b) Prenatal care; (c) A covered delivery service provided in a:

(a) Hospital, which shall include:

1. Admission to the hospital;

2. Admission history;

3. Physical examination;

4. Anesthesia;

5. Management of uncomplicated labor;

6. Vaginal delivery; and

7. Postpartum care; or

(b) Freestanding birth center shall include:

1. Delivery services in accordance with 907 KAR 1:180,

Section 3(3); and

2. Postnatal visits in accordance with 907 KAR 1:180, Section

3(3).

(4) [(d) A routine newborn service to an infant born to a Kentucky Medicaid eligible recipient;

(e) An insertion of an intrauterine device (IUD), including the cost of the device, or removal of the IUD; or

(f) The insertion of an implantable contraceptive capsule, including the cost of the contraceptive capsule and related supplies, or removal of the contraceptive capsule. (7) An EPSDT screening service shall be covered if provided in compliance with the periodicity schedule established in 907 KAR 11:034 [shall be covered].

(5) Behavioral health services established in 907 KAR 15:010 that are provided by an APRN or provider group that is the billing provider for the services shall be:

(a) Provided in accordance with 907 KAR 15:010; and

(b) Covered in accordance with 907 KAR 15:010 [(8) The standard for determining the existence of an emergency medical condition and the need for emergency services shall be:

(a) In accordance with 42 U.S.C. 1396u-2; and

(b) Based on the prudent layperson standard].

(6) An injectable drug that is listed on the Physician Injectable Drug List and that is administered by an APRN or provider group shall be covered.

Section 4. Service Limitations and Exclusions. (1)(a) A limitation on a service provided by a physician in accordance with 907 KAR 3:005 shall apply to services covered under this administrative regulation.

(b) A service that is not covered pursuant to 907 KAR 3:005 shall not be covered under this administrative regulation [if the service is provided by an APRN].

(2) The same service performed by an APRN and a physician on the same day within a common practice shall be considered as one (1) covered service.

(3)(a) Except as established in paragraph (b) of this subsection, coverage of a psychiatric service provided by an APRN shall be limited to four (4) psychiatric services per APRN, per recipient, per twelve (12) months.

(b) A service designated as a psychiatry service CPT code that is provided by an APRN with a specialty in psychiatry shall not be subject to the limit established in paragraph (a) of this subsection.

(4) The department shall not cover more than one (1) of the following evaluation and management services per recipient per provider per date of service:

(a) A consultation service;

(b) A critical care service;

(c) An emergency department evaluation and management service;

(d) A home evaluation and management service;

(e) A hospital inpatient evaluation and management service;

(f) A nursing facility service;

(g) An office or other outpatient evaluation and management service; or

(h) A preventive medicine service.

(5) Except for any cost sharing obligation pursuant to 907 KAR 1:604, a:

(a) Recipient shall not be liable for payment of any part of a Medicaid-covered service provided to the recipient; and

(b) Provider shall not bill or charge a recipient for any part of a Medicaid-covered service provided to the recipient.

(6)(a) In accordance with 42 C.F.R. 455.410, to prescribe medication, order a service for a recipient, or refer a recipient for a service, a provider shall be currently enrolled and participating in the Medicaid program.

(b) The department shall not reimburse for a:

1. Prescription prescribed by a provider that is not currently:

a. Participating in the Medicaid program pursuant to 907 KAR 1:671; and

b. Enrolled in the Medicaid program pursuant to 907 KAR 1:672; or

2. Service:

a. Ordered by a provider that is not currently:

(i) Participating in the Medicaid program pursuant to 907 KAR 1:671; and

(ii) Enrolled in the Medicaid program pursuant to 907 KAR 1:672; or

b. Referred by a provider that is not currently:

(i) Participating in the Medicaid program pursuant to 907 KAR 1:671; and

(ii) Enrolled in the Medicaid program pursuant to 907 KAR 1:672.

Section 5. Prior Authorization Requirements. The prior authorization requirements established in 907 KAR 3:005 shall apply to services provided under this administrative regulation.

Section 6. Locum Tenens. (1) The department shall cover services provided by a locum tenens APRN or locum tenens physician under this administrative regulation if the service meets the requirements established in this administrative regulation.

(2)(a) If an APRN for whom a locum tenens APRN is substituting has a specialty, the locum tenens APRN shall have the same or a similar specialty.

(b) The department shall not reimburse for services provided by a locum tenens APRN who does not have the same or a similar specialty as the APRN for whom the locum tenens APRN is substituting.

Section 7. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a speech-language pathology service from a speech-language pathologist enrolled with the Medicaid Program under 907 KAR 8:030, the department shall not reimburse for the same service provided to the same recipient on the same day by another provider enrolled with the Medicaid Program.

Section 8. Third Party Liability. A provider shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 10. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with the claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 12. Appeal Rights. [(4)] An appeal of a [negative action taken by the] department decision regarding:

(1) A recipient who is not enrolled with a managed care organization based upon an application of this administrative regulation [A Medicaid beneficiary] shall be in accordance with 907 KAR 1:563; or

(2) An enrollee based upon an application of this administrative regulation shall be in accordance with 907 KAR 17:010.

Section 13. Incorporation by Reference. (1) "Physicians Injectable Drug List", February 21, 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at www.chfs.ky.gov/dms/incorporated.htm. [(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 1:674.]

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 9, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Medicaid program coverage provisions and requirements regarding advanced practice registered nurse (APRN) services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Medicaid program coverage provisions and requirements regarding APRN services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Medicaid program coverage provisions and requirements regarding APRN services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the Medicaid program coverage provisions and requirements regarding APRN services.

(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 include creating a locum tenens (substitute provider) option for APRN practices; authorizing APRNs to form provider groups with physicians; incorporating by reference a list of injectable drugs covered in an APRN setting; clarifying that behavioral health services provided by an APRN that are covered pursuant to 907 KAR 15:010 (Coverage provisions and requirements regarding behavioral health services provided by independent providers) shall be provided and covered pursuant to 907 KAR 15:010; clarifying that all services covered pursuant to 907 KAR 3:005 (physicians services) shall be covered via this administrative regulation if the given service is within the scope of an APRN's licensure; and clarifying that DMS will not reimburse for a prescription prescribed by a provider that is not currently enrolled and participating in the Medicaid Program or for a service ordered or referred by a provider that is not currently enrolled and participating in the Medicaid Program.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to establish a locum tenens option for APRNs to enhance recipient access to services; to establish the option for an APRN to form a provider group with a physician to allow APRNs and providers more flexibility in establishing practices (which is expected to enhance recipient access to services); to update the injectable drugs covered under the Medicaid program by incorporating by reference the Physician Injectable Drug List; and to clarify provisions. The clarification regarding DMS not reimbursing for a prescription unless the prescriber is currently enrolled and participating in the Medicaid Program and not reimbursing for a service ordered or referred unless the provider who ordered or referred the service is currently enrolled and participating in the Medicaid Program is necessary to comply with a federal mandate.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by modernizing Medicaid standards for APRN practices; clarifying provisions, and complying with a federal mandate.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by modernizing Medicaid standards for APRN practices; clarifying provisions, and complying with a federal mandate.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The administrative regulation affects

advanced practice registered nurses enrolled in the Medicaid program. Currently, there are 4,104 individual APRNs enrolled in Kentucky's Medicaid Program.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required by providers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is imposed on providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): APRNs will benefit by being able to form a provider group with a physician, by being able to employ a locum tenens APRN to take over one's practice temporarily if necessary, and by the expansion of more injectable drugs covered in an APRN setting.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates no additional cost as a result of the amendment.

(b) On a continuing basis: DMS anticipates no additional cost as a result of the amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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: The current fiscal year budget will not need to be adjusted to provide funds for implementing 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.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(19), 42 C.F.R. 447.26, 42 C.F.R. 445.410.

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(19) requires Medicaid programs to provide care and services consistent with the best interests of Medicaid recipients. 42 C.F.R. 455.410 requires state Medicaid Programs to require health care professionals who order services for Medicaid recipients or refer recipients to services to be currently enrolled and participating in the Medicaid Program.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter, additional or different 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 requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment will affect APRNs enrolled in the Medicaid program.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 445.410.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate any additional revenue for state or local governments during the first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? DMS anticipates no additional cost as a result of the amendment.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates no additional cost as a result of the amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No additional expenditures are necessary to implement this amendment.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Behavioral Health, Developmental and Intellectual Disabilities Division for Behavioral Health (Amendment)

908 KAR 2:220. Adult peer support specialist[services].

RELATES TO: KRS[200.503(2), 202A.011(12), 210.005(2), (3),] 210.010, 210.040, 210.370-485

STATUTORY AUTHORITY: KRS 12.455, 194A.030, 194A.050, 210.450

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 210.450 authorizes the secretary[of the Cabinet for Health and Family Services] to promulgate administrative regulations governing qualifications of personnel, standards for personnel management operations and consultation in ascertaining local needs for community programs for mental health or individuals with an intellectual disability[and mental retardation programs]. KRS 222.211 authorizes the secretary of the cabinet to promulgate administrative regulations to assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of addiction to alcohol and other drug abuse within individuals, families, and communities. This administrative regulation establishes the minimum eligibility,[and] training, and supervision requirements for peer support specialists.

Section 1. Definitions. (1) "Adult peer support" means

emotional support that is provided by an adult peer support specialist to others with similar mental health, substance use, or co-occurring mental health and substance use disorders in order to achieve a desired social or personal change.

(2) "Adult peer support services" means structured and scheduled non-clinical, therapeutic activities provided to a consumer by an adult peer support specialist in accordance with this administrative regulation.

(3) "Adult peer support specialist" means a self-identified consumer of mental health, substance use, or co-occurring mental health and substance use disorder services who has successfully completed the adult peer support specialist training.

(4) "Applicant" means an individual seeking to complete the peer support specialist training.

(5) "Consumer" means an individual who receives peer support services.

(6) "Department" or "DBHDID" means the Department for Behavioral Health, Developmental and Intellectual Disabilities.

(7) "Recovery" means a process of change through which a consumer improves in health and wellness, lives a self-directed life, and strives to reach full potential.

(8) "Regional community mental health center" or "CMHC" means the board established by KRS 210.380 and governed by KRS 210.370 to 210.485[(2) "Application" means completing the Kentucky Peer Specialist Training Application form and the Kentucky Peer Specialist Training Short – Essay Form and submitting them to the Department for Mental Health and Mental Retardation Services.

(3) "Certificate" means a document verifying completion of the training requirements for peer specialists as outlined in this administrative regulation.

(4) "Child with a severe emotional disability" is defined by KRS 200.503(2).

(5) "Client" means an individual who receives services from any organization outlined in Section 8 of this administrative regulation.

(6) "Community Mental Health Mental Retardation Board" means the board established by KRS 210.380 and governed by KRS 210.370 to 210.485.

(7) "Department" means the Department for Mental Health and Mental Retardation Services (DMHMRS).

(8) "Paraprofessional" means an individual who does not meet the educational requirement for a mental health professional and who is working under the supervision of a Qualified mental health professional.

(9) "Peer specialist" means a paraprofessional who has fulfilled the requirements of this administrative regulation.

(10) "Qualified mental health professional" or "QMHP" is defined by KRS 202A.011(12).

(11) "Severe mental illness" means the conditions defined by KRS 210.005 (2) and (3)].

Section 2. Eligibility. An adult peer support specialist[applicant] shall:

(1) Be eighteen (18) years of age or older;

(2) Have a current or past diagnosis of a mental health, substance use, or co-occurring mental health and substance use disorders[severe mental illness or a severe emotional disability];

(3)[(2)] Have received or be receiving treatment;

(4)[and (3)] Have a minimum educational requirement of a high school diploma or General Equivalence Diploma[Educational Development] (GED) certificate;

(5) Establish signs of recovery from a mental health, substance use, or co-occurring mental health and substance use disorders;

(6) Successfully complete the adult peer support specialist training approved by the department; and

(7) Successfully complete, maintain, and submit to the department documentation of a minimum of six (6) hours of related training or education in each subsequent year.

Section 3. Department[Department's] Responsibilities. The department shall:

(1) Approve the adult peer support specialist training;

(2) Approve at least a thirty (30) hour training curriculum from a nationally recognized curriculum, which shall include modules on the following:

(a) Problem solving;

(b) Wellness recovery action plan;

(c) Stages in the recovery process;

(d) Effective listening skills;

(e) Establishing recovery goals; and

(f) Using support groups to promote and sustain recovery;

(3) Maintain a record of all approved adult peer support training providers on the department's Web site;

(4) Maintain a record of adult peer support specialists who have successfully completed the adult peer support specialist training; and

(5) Maintain a record of approved adult peer support specialists[Make application forms available through:

(a) Written or verbal request to DMHMRS;

(b) The DMHMRS website;

(c) Community Mental Health – Mental Retardation Boards;

(d) DMHMRS state-operated or contracted facilities; and

(e) Consumer and family organizations;

(2) Provide notification of trainings to include:

(a) Date;

(b) Time; and

(c) Place;

(3) Provide training from a standard curriculum with the following core competencies:

(a) The shift from maintenance to recovery;

(b) The emergence of psychosocial rehabilitation as the road to recovery;

(c) The role and conduct of a peer specialist in the recovery process;

(d) Using one's recovery story;

(e) The power of negative program environments;

(f) Creating program environments that promote recovery;

(g) Beliefs and values that promote and support recovery;

(h) Impact of diagnosis on one's self-image;

(i) Mental illness, diagnosis and medications;

(j) Dissatisfaction as an avenue for change;

(k) Facing one's fears;

(l) Combating negativity;

(m) Problem solving;

(n) The role of spirituality in recovery and stress reduction exercises;

(o) Creating a wellness recovery action plan;

(p) Stages in the recovery process;

(q) Power, conflict, and integrity in the workplace;

(r) Effective listening and the art of asking questions;

(s) Determining one's recovery goals;

(t) Using support groups to promote and sustain recovery;

(u) Accomplishing one's recovery goals;

(v) The building blocks of the recovery process; and

(w) Co-occurring mental health and substance use disorders;

(4) Provide each peer specialist a certificate of successful completion of the program;

(5) Maintain documentation of the:

(a) Application;

(b) Competency examinations; and

(c) Examination results; and

(6) Maintain a database of names of peer specialists].

Section 4. Adult Peer Support Specialist Responsibilities. An adult peer support specialist shall:

(1) Use relevant personal stories to assist other consumers through experience;

(2) Serve as a role model to a consumer;

(3) Encourage consumer voice and choice during development and implementation of plans;

(4) Support a consumer by:

(a) Attending team meetings on behalf of the consumer at the request of the consumer; or

(b) Accompanying the consumer to meetings upon the consumer's request;

(5) Empower a consumer to have the confidence to be a self-advocate;

(6) Help providers understand the importance of integrating consumer voice and choice in services and support within a system of care;

(7) Promote socialization, recovery, self-advocacy preservation, and enhancement of community living skills for consumers; and

(8) Complete a minimum of six (6) contact hours of ongoing related training and education each year after successful completion of the adult peer support specialist training[To become a peer specialist, an applicant shall:

(1) Complete and submit an application for training to DMHMRS;

(2) Complete the DMHMRS peer specialist training program;

(3) Successfully complete the DMHMRS peer specialist examination; and

(4) Complete and maintain documentation of a minimum of six (6) hours of job related training or education in each subsequent year of employment].

Section 5. Request to Waive the Adult Peer Support Specialist[DMHMRS] Training[Program]. (1) An applicant requesting[may request] to waive the adult peer support specialist[DMHMRS] training shall:

(a) Provide documentation of successful completion of an adult peer support specialist training sponsored by a federal entity or by another state that is comparable to the adult peer support specialist training in this administrative regulation; and

(b) Provide[Program. An applicant requesting a waiver shall provide the following:

(a) Completion of the application;

(b) Documentation of completion of a peer specialist program sponsored by another state with the core competencies of the DMHMRS training; and

(c) documentation to show that the training has occurred within five (5) years of the application date.

(2) The department[DMHMRS] shall review all requests to waive the training requirement and may:

(a) Approve[Grant], in writing, the request based on the documentation provided by the applicant; or

(b) Deny, in writing, the request if[should] the applicant fails[fail] to demonstrate compliance with any portion of this administrative regulation.

(3) If an applicant is denied a training waiver, he or she may apply to complete the adult[DMHMRS] peer support specialist training in accordance with the requirements in Section 2[3] of this administrative regulation.

Section 6. Supervision of Adult Peer Support Specialist. (1) Adult peer support specialist services shall be provided under the supervision of one (1) of the following professionals:

(a) Physician;

(b) Psychiatrist;

(c) Advanced practice registered nurse;

(d) Physician assistant;

(e) Licensed psychologist;

(f) Licensed psychological practitioner including a certified psychologist or a certified psychologist with autonomous functioning;

(g) Licensed clinical social worker;

(h) Licensed professional clinical counselor;

(i) Licensed marriage and family therapist;

(j) Licensed psychological associate;

(k) Marriage and family therapy associate;

(l) Certified social worker;

(m) Licensed professional counselor associate;

(n) Licensed professional art therapist;

(o) Licensed professional art therapy associate working in a CMHC;

(p) Professional equivalent working within a CMHC;

(q) Certified alcohol and drug counselor; or

(r) Psychiatric nurse working in a CMHC.

(2) Individual supervision meetings shall:

(a) Be conducted face-to-face;

(b) Occur no less than once a week for the first year and monthly thereafter; and

(c) Be at least thirty (30) minutes in length.

(3) The supervising professional shall maintain a written record for supervision that:

(a) Is dated and signed by the adult peer support specialist and the supervisor for each meeting; and

(b) Includes a description of the encounter that specifies:

1. The topic discussed;

2. Specific action to be taken;

3. An update for any issue previously discussed that required follow-up; and

4. A plan for additional training needs if any were identified[a QMHP; and Face-to-face supervisory meetings shall occur no less frequently than once every two (2) weeks.

Section 7. Scope of Services. A peer specialist shall:

(1) Be a paraprofessional whose primary responsibility is to help clients achieve their own needs and goals;

(2) Provide services which are structured scheduled activities that promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for adults with severe mental illness or a child with a severe emotional disability; and

(3) Openly share their recovery stories with clients.

Section 8. Employment. A peer specialist may be employed by a:

(a) Community Mental Health - Mental Retardation Board; or

(b) State operated or contracted facility.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Peer Specialist Training Application", 2007 edition; and

(b) "Kentucky Peer Specialist Training Short Essay Form", 2007 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Mental Health and Mental Retardation Services, 100 Fair Oaks Lane, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m].

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: January 7, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if request, be held on February 23, 2015, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Ky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Natalie Kelly or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirement for an adult peer support specialist position, specifying qualifications, training, and supervision requirements to behavioral health system providers who may employ an adult peer specialists.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that peer support specialists working within the behavioral health system are appropriately trained and supervised. This administrative regulation is also necessary to comply with a federal mandate and to enhance recipient access to services, and to assist with ensuring compliance to the Interim Settlement Agreement.

(c) How this amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by means of the Secretary of the Cabinet for Health and Family Services responsible for promulgating policies and regulations through the DBHDID regarding services to individuals with disabilities and by involving individuals with disabilities in issues related to services.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statute by establishing criteria whereby peer support specialists can be trained and supervised to meet the behavioral health needs of individuals in 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 integrates the peer support service for individuals with mental health, substance use, or co-occurring mental health and substance use disorders. This amendment also ensures conformity with the new guidelines from the Department for Medicaid Services regarding the service and the expanded provider network.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that peer support specialists across the state are appropriately trained and supervised and will assist with ensuring compliance with the Interim Settlement Agreement between the Cabinet for Health and Families and Kentucky Protection and Advocacy.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by means of the Secretary of the Cabinet for Health and Family Services responsible for promulgating policies and regulations through the DBHDID regarding services to individuals with disabilities, and by involving individuals with disabilities in issues related to services.

(d) How the amendment will assist in the effective administration of the statutes: The Amendment will provide requirements for community providers regarding the provision of peer support services across the Commonwealth.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The fourteen (14) Regional Community Boards for Mental Health or/and Individuals with an Intellectual Disability (which serve all 120 counties of the Commonwealth). Additional behavioral health providers approved by the Department for Medicaid Services.

Individuals seeking to become adult peer support specialists (estimated at 100 per year). Individuals who may receive services from adult peer support specialists (estimated at 1,500 per year).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Regional CMHC Boards and additional behavioral health providers will be required to establish

systems for recruiting, hiring, and supervising peer support specialists. Individuals seeking to become peer support specialists will be required to complete the required training and continuing education.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regional CMHC Boards and other behavioral health providers will incur expenses to provide either approved peer support specialist trainings or the cost of sending their potential peer support specialists to an approved training. In addition, CMHC Boards and other behavioral health providers will be providing salary/benefit costs for the peer support specialists. It may cost individuals who become peer support specialists some expenses associated with obtaining continuing education requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Citizens of the Commonwealth who have behavioral health issues will benefit from the increased availability of qualified individuals who can provide services and supports. Regional CMHC Boards and other behavioral health providers will benefit by having additional staff to fulfill their mission to serve individuals with behavioral health issues in their regions. CMHC Boards and other behavioral health providers may also become approved providers of the training and collect revenue from others. Individuals who become peer support specialists will benefit from new employment opportunities. Individuals receiving services from peer support specialists will benefit through access to individuals who may have similar experiences and background and from access to a service that is an evidenced based practice.

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

Initially: No additional costs will be incurred to implement this administrative regulation on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

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

(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.

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified applicant has an equal chance of applying to become a Department approved Kentucky Peer Support Specialist.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Regional CMHC Boards (Community Mental Health Centers) and additional Behavioral Health Providers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation: KRS 200.010; 210.040; 210.370-485; 12.455; 210.450; 194A.050; 194A.030

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenues for state or local government in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent

years? This administrative regulation will not generate new revenues for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. Not Applicable

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and
Intellectual Disabilities
Division for Behavioral Health
(Amendment)

908 KAR 2:230. Kentucky Family Peer Support Specialist.

RELATES TO: KRS 200.505[12.455, 194A.030, 200.501, 200.503(2), 202.505, 202.508, 202.509, 210.005(2)], 210.010, 210.040, 210.370-485, 222.211[EO 2010-431]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450[, EO 2010-431]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect[, develop, and maintain] the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds[, personal dignity, integrity, and sufficiency of citizens of the Commonwealth and to operate programs and fulfill responsibilities vested in the cabinet]. KRS 210.450 requires the secretary[~~of the Cabinet for Health and Family Services~~] to promulgate administrative regulations governing qualifications of personnel and[,] standards for personnel management for community programs for mental health or individuals with an intellectual disability. KRS 222.211 authorizes the secretary of the cabinet to promulgate administrative regulations to assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of addiction to alcohol and other drug abuse within individuals, families, and communities[operations and consultation in ascertaining local needs for community mental health and mental retardation programs. EO 2010-431, effective June 15, 2010, changed the name of the department from Department for Mental Health and Mental Retardation Services to Department for Behavioral Health, Developmental and Intellectual Disabilities]. This administrative regulation establishes the minimum eligibility[,and] training, and supervision requirements for a Kentucky family peer support specialist.

Section 1. Definitions. (1) "Applicant" means an individual seeking to complete the Kentucky family peer support specialist core competency training.

(2) "Child-serving agency" means an agency represented by the State Interagency Council.

(3) "Application" means completing the Kentucky Family Peer Support Specialist Training Application Form and the Kentucky Family Peer Support Specialist Short Essay Form and submitting them to the department.

(3) "Certificate" means a document verifying completion of the training requirements for Kentucky Family Peer Specialists as outlined in this administrative regulation.

(4) "Child with a severe emotional disability" is defined by KRS 200.503(2).

(5) "Client" means a child or youth with a mental health, substance use, or co-occurring mental health and substance use

disability whose parent or family member is receiving family peer support services on behalf of the child or youth[with a severe emotional disability as defined by KRS 200.503(2)].

(6) "Community Mental Health – Mental Retardation Board" is defined by KRS 210.370 to 485].

(4) [(7)] "Core competency[competencies]" means the [established] knowledge and skills in Section 3(4) of this administrative regulation that an applicant[all applicants] must demonstrate in order to successfully complete the Kentucky family peer support specialist training.

(5) [(8)] "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities[is defined by KRS 194A.030(4)].

(6) [(9)] "Kentucky Family Leadership Academy" or "KFLA" means a prerequisite training to the KFPSS core competency training designed for parents, family members, caregivers, and youth leaders that fosters initial leadership development.

(7) [(10)] "Kentucky family peer support specialist" or "KFPSS" means an eligible parent, or other family member[caregiver] who has fulfilled the requirements in Section 2 of this administrative regulation[and who is working under the supervision of a mental health professional].

(8) "Lived Experience" means the experience of a parent or other family member in navigating the receipt of services and supports for a child or youth that are directly related to that child's or youth's mental health, substance use, or co-occurring mental health and substance use disability as defined in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM).

(9) "State[(11)] "Mental Health Professional" means a psychiatrist, psychologist, master's level social worker (MSW), master's level clinical counselor, master's level marriage and family therapist, psychiatric nurse or professional equivalent (a minimum of a bachelor's degree in a human services field with two (2) years of experience in mental health related children's services).

(12) "State Interagency Council" is defined by KRS 200.505.

13 Statewide] family organization" means an organization with whom the department contracts to carry out the activities associated with statewide advocacy and support for children and youth with mental health, substance use, or co-occurring mental health and substance use[severe emotional] disabilities.

(10) "State Interagency Council" is defined by KRS 200.505.

Section 2. Eligibility Criteria. An applicant shall:

(1) Be a self-identified parent or other family member who has lived experience with a client who has received services related to the mental health, substance use, or co-occurring mental health and substance use disability from at least one (1) child serving agency[biological parent, adoptive parent, or relative caregiver with permanent legal custody who is raising, or has raised, a child with a severe emotional disability who has been or is a client of at least one state funded service];

(2) Have a minimum educational requirement of a high school diploma or General Equivalency Diploma[Educational Development] (GED) certificate;[and]

(3) Have successfully completed the KFLA training approved by the department;

(4) Successfully complete the KFPSS core competency training approved by the department; and

(5) Successfully complete, maintain, and submit to the department documentation of a minimum of six (6) hours of related training or education in each subsequent year.

Section 3. Department's Responsibility. The department shall[~~assure the following~~]:

(1) Approve the KFLA training based on a standard curriculum that includes at a minimum:

(a) Leadership roles;

(b) Communication skills;

(c) Decision making skills;

(d) Dealing with conflict;

(e) Effective advocacy; and

(f) Collaboration and partnership; and

(2) Maintain a record of all approved training providers on the department's Web site[Application forms are available to eligible applicants through:

- (a) Written or verbal request to the department;
- (b) The department's Web site;
- (c) Member agencies of the State Interagency Council; and
- (d) The Statewide Family Organization;

(2) Provision of state level KFLA training;

(3) Notification of Kentucky Family Peer Support Specialist training shall include:

- (a) Date(s) of the training;
- (b) Time(s) of the training; and
- (c) Location of the training;

(3) Approve the KFPSS core competency training based on [(4) Provision of the state Kentucky Family Peer Support Specialist training from] a standard curriculum that includes[with] the following core competencies:

- (a) Problem solving;
- (b) Wellness recovery action plan;
- (c) Stages in the recovery process;
- (d) Effective listening skills;
- (e) Establishing recovery goals; and
- (f) Using support group to promote and sustain

recovery[Theoretical Knowledge;

- (b) System of Care expertise;
- (c) Family Support Skills;
- (d) Cultural Competence;
- (e) Communication Skills;
- (f) Organizational Skills;
- (g) Advocacy Skills; and
- (h) Ethics and Values];

(4) Maintain a record of an applicant's successful completion of the KFPSS training; and

(5) Maintain a record of approved family peer support specialists[(5) Receipt of documentation of successful completion of the Kentucky Family Peer Support Specialist training;

(6) Maintenance of the following documents:

- (a) Application;
- (b) Completion of the KFLA;
- (c) Competency Examinations; and
- (d) Examination results; and

(7) The maintenance of a database with the names of Kentucky Family Peer Support Specialists].

Section 4. Kentucky Family Peer Support Specialist Responsibilities. A Kentucky family peer support specialist shall:

(1) Use relevant personal stories to teach through experience;

(2) Serve as a role model for clients and their families;

(3) Encourage client and family voice and choice during development and implementation of plans;

(4) Support clients and their families by attending team meetings with them upon request;

(5) Empower a client and family to have the confidence to be self-advocates;

(6) Help individuals who are working with a client's family understand the importance of integrating family and youth voice and choice in services and supports within a system of care;

(7) Help clients and families enhance relationships with community partners; and

(8)[An individual seeking to provide family peer support services shall:

(1) Complete and submit an application for training to the department;

(2) Complete the department approved Family Peer Support Specialist training;

(3) Successfully complete the examination following the training; and

4] Complete and maintain documentation of a minimum of six (6) hours of related training or education in each subsequent year.

Section 5. Request to Waive the Family Peer Support Specialist Training. (1) An applicant may request to waive the Family peer support specialist training with documentation[under

the following provisions]:

(a)[Completion of the application;

(b)[Documentation] Of completion of a family peer support specialist training sponsored by a federal entity or by another state with core competencies consistent with that of the Kentucky family peer support specialist training; and

(b)[(e) Documentation] To show that the training has occurred within five (5) years before[ef] the application date.

(2) The department shall review all requests to waive the training requirement and may:

(a) Approve, in writing, the request based on the documentation provided by the applicant; or

(b)[Approve pending successful completion of the Kentucky Family Peer Support Specialist Core Competency Training exam; or

(e)] Deny the request in writing if[, should] the applicant fails[fail] to demonstrate compliance with any portion of this administrative regulation.

(3) If an applicant is denied a training waiver, the applicant may apply to complete the Kentucky family peer support specialist core competency training in accordance with the requirements in Section 3(3) of this administrative regulation.

Section 6. Supervision of Family Peer Support Specialists. (1) Kentucky family peer support services shall be provided under the supervision of one (1) of the following professionals[a mental health professional who shall complete]:

(a) Physician;

(b) Psychiatrist;

(c) Advanced practice registered nurse;

(d) Physician assistant;

(e) Licensed psychologist;

(f) Licensed psychological practitioner including certified psychologist and certified psychologist with autonomous functioning;

(g) Licensed clinical social worker;

(h) Licensed professional clinical counselor;

(i) Licensed marriage and family therapist;

(j) Licensed psychological associate;

(k) Marriage and family therapy associate;

(l) Certified social worker;

(m) Licensed professional counselor associate;

(n) Licensed professional art therapist;

(o) Licensed professional art therapist associate working in a Community Mental Health Center;

(p) Professional equivalent working in a Community Mental Health Center;

(q) Certified alcohol and drug counselor; or

(r) Psychiatric nurse working in a Community Mental Health Center.[Department approved children's targeted-case management training; or

(b) The KFLA; and]

(2) An[face-to-face] individual supervision meeting shall:

(a) Be conducted face-to-face;

(b) Occur no less than once a month; and

(c) Be documented in accordance with subsection (3) of this section.

(3) The supervising professional shall maintain a written record that:

(a) Is dated and signed by the KFPSS and supervisor for each meeting; and

(b) Includes a description of the encounter that specifies:

1. The topic discussed;

2. Specific action to be taken;

3. An update for an issue that required follow-up; and

4. A plan for additional training needs if any were identified [occur no less than once a month.

Section 7. Scope of Service and Employment. (1) A Family Peer Support Specialist shall:

(a) Be responsible to assist parents or primary caregivers of a client to voice their opinion, needs and goals to benefit the client;

(b) Provide services and structured scheduled activities that:

1. Promote advocacy skills;
 2. Increase understanding of the client's disability or disabilities;
 3. Enhance the parent or caregiver's ability to participate in the client's treatment team; and
 4. Decreases client isolation; and
- (c) Share their relevant experiences with other parents and primary caregivers.
- (2) A Family Peer Support Specialist may be employed by a:
- (a) Community Mental Health - Mental Retardation Board;
 - (b) State operated or contracted facility; or
 - (c) Member agency of the State Interagency Council.

~~Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Kentucky Family Peer Support Specialist Training Application Form", 2010 edition; and~~

~~(b) "Kentucky Peer Support Specialist Short Essay Form", 2010 edition.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copy right law, at the Department for Behavioral Health, Developmental and Intellectual Disabilities at 100 Fair Oaks Lane, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or via the Statewide Family Organization affiliated with the department].~~

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: January 7, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if request, be held on February 23, 2015, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Ky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Natalie Kelly or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirement for a family peer support specialist position, specifying qualifications, training, and supervision requirements to behavioral health system providers who may employ peer specialists.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that family peer support specialists working within the behavioral health system are appropriately trained and supervised.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 210.450, in that it establishes qualifications and standards for personnel who participate in meeting behavioral health needs of the citizens of the Commonwealth KRS 200.501.

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

administrative regulation will assist in the effective administration of the statute by establishing criteria whereby family peer support specialists can be trained and supervised to meet the behavioral health needs of children and families 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 integrates the family peer support service for individuals with mental health, substance use, or co-occurring mental health and substance use disorders. This amendment also ensures conformity with the new guidelines from the Department for Medicaid Services regarding the service and the expanded provider network.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that family peer support specialists across the state are appropriately trained and supervised and will assist with ensuring compliance with the Interim Settlement Agreement between the Cabinet for Health and Families and Kentucky Protection and Advocacy.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by means of the Secretary of the Cabinet for Health and Family Services responsible for promulgating policies and regulations through the DBHDID regarding services to individuals with disabilities, and by involving individuals with disabilities in issues related to services.

(d) How the amendment will assist in the effective administration of the statutes: The Amendment will provide requirements for community providers regarding the provision of peer support services across the Commonwealth.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DBHDID operated and contracted the fourteen (14) Regional Behavioral Health/Intellectual Disabilities Boards (which serve all 120 counties of the Commonwealth). Individuals seeking to become family peer support specialists (estimated at 100 per year). Newly contracted Medicaid group behavioral health providers that would like to offer the service. Individuals who may receive services from family peer support specialists estimated at 1,000 the first year with a 1,000 increase in each subsequent year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Regional Community Mental Health Boards and other providers will be required to establish systems for recruiting, hiring, and supervising family peer support specialists. Individuals seeking to become family peer support specialists will be required to complete the DBHDID application process and training.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regional Community Mental Health Boards will incur the expense necessary to pay salaries and associated costs if they choose to hire a family peer support specialist. It may cost individuals who become family peer support specialists some expenses associated with obtaining continuing education requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals will benefit by increased availability of qualified persons who can provide services and supports to families of youth who have behavioral health issues in the Commonwealth. Regional Community Mental Health Boards and other providers will benefit by having additional staff to fulfill their mission to serve individuals with behavioral health issues in their regions. Individuals who become family peer support specialists will benefit from new employment opportunities. Individuals receiving services from family peer support specialists will benefit through access to individuals who may have similar experiences and background.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is state 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: An increase in fees or funding will not be necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified applicant has an equal chance of applying to become a Department approved Kentucky Family Peer Support Specialist.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Division of Behavioral Health within the Department for Behavioral Health, Developmental and Intellectual Disabilities and the Regional Behavioral Health and Intellectual Disabilities Boards (Community Mental Health Centers).

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation: KRS 200.503(2), 202A.011(12), 210.005(2) & (3), 210.010, 210.040, 210.370-485.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenues in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate new revenues in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Family Support (Amendment)

921 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability.

RELATES TO: KRS Chapter 194A, 202A.011(12), 209.020(4), 216.530, 216.557(1), 216.750(2), 216.765(2), Chapter 216B, 514, 20 C.F.R. 416.120, 416.212, 416.2030, 416.2095, 416.2096, 416.2099, 8 U.S.C. 1621, 1641, 42 U.S.C. 1381-1383

STATUTORY AUTHORITY: KRS 194A.050(1), 205.245, 42 U.S.C. 1382e-g

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the citizens of the Commonwealth and to operate the programs and fulfill the responsibilities of the cabinet. 42 U.S.C. 1382 authorizes the cabinet to administer a state funded program of supplementation to all former recipients of the Aid to the Aged, Blind, and Disabled Program as of December 13, 1973, and who were disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 establishes the mandatory supplementation program and the supplementation to other needy persons who are aged, blind, or have a disability. In addition, any state that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement in effect with the Commissioner of the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, shall be determined by the commissioner to be ineligible for payments under Title XIX of the Social Security Act in accordance with 20 C.F.R. 416.2099. This administrative regulation establishes the provisions of the supplementation program.

Section 1. Definitions. (1) "Adult" is defined by KRS 209.020(4).

(2) "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.

(3) "Care coordinator" means an individual designated by a community integration supplementation applicant or recipient to fulfill responsibilities specified in Section 6(2) of this administrative regulation.

(4) "Department" means the Department for Community Based Services or its designee.

(5) "Full-time living arrangement" means a residential living status that is seven (7) days a week, not part time.

(6) "Private residence" means a dwelling that meets requirements of Section 4(2)(d) of this administrative regulation.

(7) "Qualified alien" means an alien who, at the time the person applies for, receives, or attempts to receive state supplementation, meets the U.S. citizenship requirements of 907 KAR 20:001.

(8) "Qualified mental health professional" is defined by KRS 202A.011(12).

(9) "Serious mental illness" or "SMI" means a mental illness or disorder in accordance with Section 6(1) of this administrative regulation.

(10) "Specialized personal care home" means a licensed personal care home that receives funding from the Department for Behavioral Health, Developmental and Intellectual Disabilities to employ a mental health professional who has specialized training in the care of a resident with mental illness or intellectual disability ~~[mental retardation]~~.

(11) "Supplemental security income" or "SSI" means a monthly cash payment made pursuant to 42 U.S.C. 1381 to 1383f to the aged, blind, or disabled.

Section 2. Mandatory State Supplementation. (1) A recipient for mandatory state supplementation shall include a former Aid to the Aged, Blind and Disabled Program recipient who became ineligible for SSI due to income but whose special needs entitled

the recipient to an Aid to the Aged, Blind and Disabled Program payment as of December 1973.

(2) A mandatory state supplementation recipient shall be subject to the same payment requirements as specified in Section 4 of this administrative regulation.

(3) 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; and

(b) 1. The total of the SSI payment; or

2. The total of the SSI payment and other income for the current month.

(4) A mandatory payment shall discontinue if:

(a) The needs of the recipient as recognized in December 1973 have decreased; or

(b) Income has increased to the December 1973 level.

(5) The mandatory payment shall not be increased unless:

(a) Income as recognized in December 1973 decreases;

(b) The SSI payment is reduced, but the recipient's circumstances are unchanged; or

(c) The standard of need as specified in Section 9 of this administrative regulation for a class of recipients is increased.

(6) If a husband and wife are 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 Program. (1) Except as established in Sections 7, 8, and 9 of this administrative regulation, optional state supplementation shall be available to a person who meets technical requirements and resource limitations of the medically needy program for a person who is aged, blind, or has a disability in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:005, Sections 5(2), (3), (4), (7), 10, and 11;

(c) 907 KAR 20:020, Section 2(4)(a);

(d) 907 KAR 20:025; and

(e) 907 KAR 20:040, Section 1.

(2) A person shall apply or reapply for the state supplementation program in accordance with 921 KAR 2:035 and shall be required to:

(a) Furnish a Social Security number; or

(b) Apply for a Social Security number, if a Social Security number has not been issued.

(3) If potential eligibility exists for SSI, an application for SSI shall be mandatory.

(4) The effective date for state supplementation program approval shall be in accordance with 921 KAR 2:050.

Section 4. Optional State Supplementation Payment. (1) An optional supplementation payment shall be issued in accordance with 921 KAR 2:050 for an eligible individual who:

(a) Requires a full-time living arrangement;

(b) Has insufficient income to meet the payment standards specified in Section 9 of this administrative regulation; and

(c) 1. Resides in a personal care home and is eighteen (18) years of age or older in accordance with KRS 216.765(2);

2. Resides in a family care home and is at least eighteen (18) years of age in accordance with 902 KAR 20:041, Section 3(14);

3. Receives caretaker services and is at least eighteen (18) years of age; or

4. a. Resides in a private residence;

b. Is at least eighteen (18) years of age; and

c. Has SMI.

(2) A full-time living arrangement shall include:

(a) Residence in a personal care home that:

1. Meets the requirements and provides services established in 902 KAR 20:036; and

2. Is licensed under KRS 216B.010 to 216B.131;

(b) Residence in a family care home that:

1. Meets the requirements and provides services established in 902 KAR 20:041; and

2. Is licensed under KRS 216B.010 to 216B.131;

(c) A situation in which a caretaker is required to be hired to provide care other than room and board; or

(d) A private residence, which shall:

1. Be permanent housing with:

a. Tenancy rights; and

b. Preference given to single occupancy; and

2. Afford an individual with SMI choice in activities of daily living, social interaction, and access to the community.

(3) A guardian or other payee who receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

1. Discharge to a:

a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation; or

b. Residence other than a private residence pursuant to subsection (2)(d) of this section; or

2. Death of the state supplementation recipient; and

(b) Notify a local county department office within five (5) working days of the death or discharge of the state supplementation recipient.

(4) Failure to comply with subsection (3)(a) of this section may result in prosecution in accordance with KRS Chapter 514.

(5) If there is no guardian or other payee, a personal care or family care home that receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

1. Discharge to a:

a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation;

b. Another personal care or family care home; or

c. Residence other than a private residence pursuant to subsection (2)(d) of this section; or

2. Death of the state supplementation recipient; and

(b) Notify a local county department within five (5) working days of the:

1. Death or discharge of the state supplementation recipient; or

2. Voluntary relinquishment of a license to the Office of Inspector General.

(6) If a personal care or family care home receives a state supplementation check after voluntary relinquishment of a license, as specified in subsection (5)(b)2 of this section, the personal care or family care home shall return the check to the Kentucky State Treasurer.

(7) Failure to comply with subsections (5)(a) or (6) of this section may result in prosecution in accordance with KRS Chapter 514.

Section 5. Eligibility for Caretaker Services. (1) Service by a caretaker shall be provided to enable an adult 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) Service by a caretaker shall be provided at regular intervals by:

(a) A live-in attendant; or

(b) One (1) or more persons hired to come to the home.

(3) Eligibility for caretaker supplementation shall be verified annually by the cabinet with the caretaker to establish how:

(a) Often the service is provided;

(b) The service prevents institutionalization; and

(c) Payment is made for the service.

(4) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if the:

(a) Client is taken daily or periodically to the home of the caretaker; or

(b) 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
3. Adult child of a parent who is aged, blind, or has a disability.

Section 6. Eligibility for Community Integration Supplementation. (1) Eligibility for the community integration supplementation shall be based upon a diagnosis of SMI by a qualified mental health professional. SMI shall:

(a) Not include a primary diagnosis of Alzheimer's disease or dementia;

(b) Be described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), fourth (4th) edition or edition currently in use;

(c) Impair or impede the individual's functioning in at least one (1) major area of living such as inability to care for or support self, communicate, or make and maintain interpersonal relationships; and

(d) Be unlikely to improve without treatment, services, or supports.

(2) Eligibility for the community integration supplementation shall be verified annually by the cabinet with the applicant, recipient, or [recipient's] care coordinator to establish how:

(a) Often services are provided;

(b) The services prevent institutionalization and support private residence in accordance with Section 4(2)(d) of this administrative regulation; and

(c) Payment is made for the services.

(3) Unless criteria in Section 10 of this administrative regulation are met by the applicant or recipient, SMI supplementation shall not be available to a resident of a home, facility, institution, lodging, or other establishment:

(a) Licensed or registered in accordance with KRS Chapter 216B; or

(b) Certified in accordance with KRS Chapter 194A.

Section 7. Resource Consideration. (1) Except as stated in subsection (2) of this section, countable resources shall be determined according to policies for the medically needy in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:020, Section 2(4)(a);

(c) 907 KAR 20:025; and

(d) 907 KAR 20:040, Section 1.

(2) An individual or couple shall not be eligible if countable resources exceed the limit of:

(a) \$2,000 for an individual; or

(b) \$3,000 for a couple.

Section 8. Income Considerations. (1) Except as noted in subsections (2) through (8) of this section, income and earned income deductions shall be considered according to the policy for the medically needy in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:020, Section 2(4)(a);

(c) 907 KAR 20:025; and

(d) 907 KAR 20:040, Section 1.

(2) The optional supplementation payment shall be determined by:

(a) Adding:

1. Total countable income of the applicant or recipient, or applicant or recipient and spouse; and

2. A payment made to a third party on behalf of an applicant or recipient; and

(b) Subtracting the total of paragraph (a)1 and 2 of this subsection from the standard of need in Section 9 of this administrative regulation.

(3) Income of an 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 SSI standard for an individual for:

1. The applicant or recipient; and

2. Each minor dependent child.

(4) Income of an eligible individual shall not be conserved for the needs of the ineligible spouse or minor dependent child.

(5) Income of a child shall be considered if 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 ineligible 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 treating a husband and wife who reside in the same personal care or family care home as living apart prevents them from receiving state supplementation, the husband and wife may be considered to be living with each other.

(8) The SSI twenty (20) dollar general exclusion shall not be an allowable deduction from income.

Section 9. Standard of Need. (1) To the extent funds are available, the standard of need is as follows:

(a) For a resident of a personal care home on or after:

1. ~~January 1, 2013, \$1,230; or~~

2. ~~January 1, 2014, \$1,241; or~~

2. January 1, 2015, \$1,253;

(b) For a resident of a family care home on or after:

1. ~~January 1, 2013, \$882; or~~

2. ~~January 1, 2014, \$893; or~~

2. January 1, 2015, \$905;

(c) For individuals who receive caretaker services:

1. A single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability on or after:

a. ~~January 1, 2013, \$772; or~~

b. ~~January 1, 2014, \$783; or~~

b. January 1, 2015, \$795;

2. An eligible couple, both aged, blind, or have a disability and one (1) requiring care on or after:

a. ~~January 1, 2013, \$1,127; or~~

b. ~~January 1, 2014, \$1,143; or~~

b. January 1, 2015, \$1,161;

3. An eligible couple, both aged, blind or have a disability and both requiring care on or after:

a. ~~January 1, 2013, \$1,181; or~~

b. ~~January 1, 2014, \$1,197; or~~

b. January 1, 2015, \$1,215;

(d) For an individual who resides in a private residence and has SMI on or after:

1. ~~November 14, 2013, \$1,230; or~~

2. ~~January 1, 2014, \$1,241; or~~

2. January 1, 2015, \$1,253.

(2)(a) In a couple case, if both are eligible, the couple's income shall be combined prior to comparison with the standard of need.

(b) One-half (1/2) of the deficit shall be payable to each.

(3) A personal care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a sixty (60) dollar personal needs allowance that shall be retained by the client.

(4) A 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) dollar personal needs allowance that shall be retained by the client.

Section 10. Temporary Stay in a Medical Facility. (1) An SSI recipient who receives optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if the:

(a) SSI recipient meets eligibility for medical confinement established by 20 C.F.R. 416.212;

(b) Social Security Administration notifies the department that the admission shall be temporary; and

(c) Purpose shall be to maintain the recipient's home or other living arrangement during a temporary admission to a health care facility.

(2) A non-SSI recipient who receives mandatory or optional state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3)

full months of medical care in a health care facility if:

(a) The non-SSI recipient meets the requirements of subsection (1)(c) of this section;

(b) A physician certifies, in writing, that the non-SSI recipient is not likely to be confined for longer than ninety (90) full consecutive days; and

(c) A guardian or other payee, personal care home, or family care home, receiving a state supplementation check for the state supplementation recipient, provides a local county department office with:

1. Notification of the temporary admission; and

2. The physician statement specified in paragraph (b) of this subsection.

(3) A temporary admission shall be limited to the following health care facilities:

(a) Hospital;

(b) Psychiatric hospital; or

(c) Nursing facility.

(4) If a state supplementation recipient is discharged in the month following the last month of continued benefits, the temporary absence shall continue through the date of discharge.

Section 11. Citizenship requirements. An applicant or recipient shall be a:

(1) Citizen of the United States; or

(2) Qualified alien.

Section 12. Requirement for Residency. An applicant or recipient shall reside in Kentucky.

Section 13.[.] Mental Illness or Intellectual Disability (MI/ID) Supplement Program. (1) A personal care home:

(a) May qualify, to the extent funds are available, for a quarterly supplement payment of fifty (50) cents per diem for a state supplementation recipient in the personal care home's care as of the first calendar day of a qualifying month;

(b) Shall not be eligible for a payment for a Type A Citation that is not corrected; and

(c) Shall meet the following certification criteria for eligibility to participate in the MI/ID Supplement Program:

1. Be licensed in accordance with KRS 216B.010 to 216B.131;

2. Care for a population that is thirty-five (35) percent mental illness or intellectual disability clients in all of its occupied licensed personal care home beds and who have a:

a. Primary or secondary diagnosis of intellectual disability including mild or moderate, or other ranges of intellectual disability whose needs can be met in a personal care home;

b. Primary or secondary diagnosis of mental illness excluding organic brain syndrome, senility, chronic brain syndrome, Alzheimer's, and similar diagnoses; or

c. Medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis;

3. 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;

4. 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;

5. Be verified by the Office of Inspector General in accordance with Section 15(2) through (4) of this administrative regulation; and

6. File an STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits, with the department by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter.

a. Quarters shall begin in January, April, July, and October.

b. Unless mental illness or intellectual disability supplement eligibility is discontinued, a new application for the purpose of program certification shall not be required.

(2) A personal care home shall provide the department with its tax identification number and address as part of the application process.

(3) The department shall provide an STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home, to a personal care home following:

(a) Receipt of verification from the Office of Inspector General as specified in Section 15(6) of this administrative regulation; and

(b) Approval or denial of an application.

(4) A personal care home shall:

(a) Provide the department with an STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form, that:

1. Lists every resident of the personal care home who was a resident on the first day of the month;

2. Lists the resident's Social Security number; and

3. Annotates the form, in order to maintain confidentiality, as follows with a:

a. Star indicating a resident has a mental illness or intellectual disability diagnosis;

b. Check mark indicating a resident receives state supplementation; and

c. Star and a check mark indicating the resident has a mental illness or intellectual disability diagnosis and is a recipient of state supplementation; and

(b) Submit the STS-3 to the department on or postmarked by the fifth working day of the month by:

1. Mail;

2. Fax; or

3. Electronically.

(5) The monthly report shall be used by the department for:

(a) Verification as specified in subsection (4)(a) of this section;

(b) Payment; and

(c) Audit purposes.

(6)(a) A personal care home shall notify the department within ten (10) working days if its mental illness or intellectual disability percentage goes below thirty-five (35) percent for all personal care residents.

(b) A personal care home may be randomly audited by the department to verify percentages and payment accuracy.

Section 14.[.] Mental Illness or Intellectual Disability (MI/ID)[Basic] Training. (1)(a) To the extent cabinet funds are available to support the training, a personal care home's licensed nurse or individual who has successfully completed certified medication technician training shall attend the mental illness or intellectual disability[Basic] training workshop provided through the Department for Behavioral Health, Developmental and Intellectual Disabilities.

(b) Other staff may attend the[Basic] training workshop in order to assure the personal care home always has at least one (1) certified staff employed for certification purposes.

(2) The mental illness or intellectual disability[Basic] training shall be provided through a one (1) day workshop. The following topics shall be covered:

(a) Importance of proper medication administration;

(b) Side effects and adverse medication reactions with special attention to psychotropics;

(c) Signs and symptoms of an acute onset of a psychiatric episode;

(d) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bipolar disorder, or intellectual disability;

(e) Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or intellectual disability; and

(f) Instruction in providing a necessary activity to meet the needs of a resident who has a diagnosis of mental illness or intellectual disability.

(3) Initial[Basic] training shall:

(a) Include the licensed nurse or the individual who has successfully completed certified medication technician training and may include the owner or operator; and

(b) Be in the quarter during which the STS-1 is filed with the department.

(4) To assure that a staff member who has received[Basic]

training is always employed at the personal care home, a maximum of five (5) 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 four (4) other staff have been trained, the personal care home shall request in writing to the department an exemption of the five (5) staff maximum, in order to train another staff member.

(b) A personal care home shall have on staff a licensed nurse or individual who:

1. Has successfully completed certified medication technician training; and

2.a. Has received mental illness or intellectual disability[basie] training; or

b. Is enrolled in the next scheduled mental illness or intellectual disability[basie] training workshop at the closest location.

~~(5) The Department for Behavioral Health, Developmental and Intellectual Disabilities may provide advanced level training for a personal care home.~~

~~(a) Advanced level training shall be provided through a one (1) day workshop.~~

~~(b) Each advanced level workshop shall consist of two (2) sessions per day, and each session shall be three (3) hours in duration.~~

~~(c) Each three (3) hour session shall cover a topic appropriate for staff who work with a resident who has a diagnosis of mental illness or intellectual disability.~~

~~(d) Attendance of an advanced level training workshop shall be optional.~~

~~(6) The Department for Behavioral Health, Developmental and Intellectual Disabilities shall provide within five (5) working days a:~~

~~(a) Certificate to direct care staff who complete the training workshop; and~~

~~(b) Listing to the department of staff who completed the training workshop.~~

~~(6) [(7)] Unless staff turnover occurs as specified in subsection (4)(a) of this section, the department shall pay twenty-five (25) dollars, to the extent funds are available, to a personal care home:~~

~~(a) That has applied for the MI/ID Supplement Program; and~~

~~(b) For each staff member receiving[basie or advanced level] training up to the maximum of five (5) staff per year.~~

~~(7) [(8)] Attendance of the[basie] training workshop shall be optional for a specialized personal care home.~~

Section 15. MI/ID Supplement Program Certification. (1) The Office of the Inspector General shall visit a personal care home to certify eligibility to participate in the MI/ID Supplement Program.

(a) The personal care home's initial MI/ID Supplement Program Certification Survey:

1. May be separate from an inspection conducted in accordance with KRS 216.530; and

2. Shall be in effect until the next licensure survey.

(b) After a personal care home's initial MI/ID Supplement Program Certification Survey is completed, the personal care home may complete any subsequent certification survey during the licensure survey as specified in paragraph (a)2 of this subsection.

(c) The department shall notify the Office of Inspector General that the personal care home is ready for an inspection for eligibility.

(2) During the eligibility inspection, the Office of Inspector General shall:

(a) Observe and interview residents and staff; and

b. Review records to assure the following criteria are met:

1. Except for a specialized personal care home, certification is on file at the personal care home to verify staff's attendance off[basie] training, as specified in Section 14(1) through (4) of this administrative regulation;

2. The personal care home:

a. Has certified staff training all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or intellectual disability[basie] training workshop; and

b. Maintains documentation of attendance at the in-service training for all direct care staff;

3. Medication administration meets licensure requirements and a licensed nurse or individual who has successfully completed certified medication technician training:

a. Demonstrates a knowledge of psychotropic drug side effects[affects]; and

b. Is on duty as specified in Section 13(1)(c)3 of this administrative regulation; and

4. An activity is being regularly provided that meets the needs of a resident.

a. If a resident does not attend a group activity, an activity shall be designed to meet the needs of the individual resident, for example, reading or other activity that may be provided on an individual basis.

b. An individualized care plan shall not be required for the criteria in clause a. of this subparagraph.

(3) The Office of Inspector General shall review the personal care home copy of the training certification prior to performing a record review during the MI/ID Supplement Program Certification Survey process.

(4) If thirty-five (35) percent of the population is mental illness or intellectual disability clients, as specified in Section 13(1)(c)2 of this administrative regulation, on the day of the visit, a personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification as specified in subsection (1)(c) of this section.

(5) If the mental illness or intellectual disability population goes below thirty-five (35) percent of all occupied personal care beds in the facility, the personal care home shall notify the department as specified in Section 13(6)(a) of this administrative regulation.

(6) The Office of Inspector General shall provide the department with a completed STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey, within fifteen (15) working days of an:

(a) Initial survey; or

(b) Inspection in accordance with KRS 216.530.

(7) The Office of Inspector General shall provide a copy of a Type A Citation issued to a personal care home to the department by the fifth working day of each month for the prior month.

(8) 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 Office of Inspector General, in accordance with 921 KAR 2:050.

(9) If a criterion for certification is not met, the department shall issue an STS-2 to a personal care home following receipt of the survey by the Office of Inspector General as specified in subsection (6) of this section.

(10) The personal care home shall provide the department with the information requested on the STS-2:

(a) Relevant to unmet certification criteria specified on the STS-4; and

(b) Within ten (10) working days after the STS-2 is issued.

(11) If a personal care home fails to provide the department with the requested information specified in subsection (10) of this section, assistance shall be discontinued or decreased, pursuant to 921 KAR 2:046.

(12) If a personal care home is discontinued from the MI/ID Supplement Program, the personal care home may reapply for certification, by filing an STS-1 in accordance with Section 13(1)(c)6 of this administrative regulation, for the next following quarter.

Section 16. Hearings and Appeals. An applicant or recipient of benefits under a program described in this administrative regulation who is dissatisfied with an action or inaction on the part of the cabinet shall have the right to a hearing under 921 KAR 2:055.

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits", 01/15[04/44];

(b) "STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home",

01/15[04/14];

(c) "STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form", 01/13/14; and

(d) "STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey", 01/13/14.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

TERESA C. JAMES, LCSW, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: December 30, 2014 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015, at 9:00 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 February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573, tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a program for supplemental payments to persons who are aged, blind, or have a disability in accordance with KRS 205.245 and the Mental Illness or Intellectual Disability (MI/ID) Supplement Program.

(b) The necessity of this administrative regulation: This administrative regulation is needed to establish conditions and requirements regarding the State Supplementation Program and the MI/ID Supplement Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes through its establishment of a supplemental program for persons who are aged, blind, or have a disability and its compliance with the agreement with the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, to maintain the state's eligibility for federal Medicaid funding.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the eligibility requirements and standards of need for the State Supplementation Program for persons who are aged, blind, or have a disability.

(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 to this administrative regulation will increase the standards of need in the State Supplementation Program to reflect the cost of living adjustment (a.k.a., COLA) to be implemented in calendar year 2015 by the Social Security Administration for Supplemental Security Income (SSI) recipients. In addition, the amendment updates training for the MI/ID

supplement and terminology within the body of the administrative regulation and its incorporated materials. Other technical corrections were made in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the agreement between the Commonwealth of Kentucky and the U.S. Department of Health and Human Services to pass along the cost of living adjustment in Supplemental Security Income benefits to State Supplementation Program recipients. Failure to comply with this agreement jeopardizes the state's Medicaid funds pursuant to 20 C.F.R. 416.2099. The Social Security Administration notified the Department for Community Based Services of the amount of the Supplemental Security Income cost of living adjustment in October 2014. Technical corrections were necessitated to promote clarity and reflect training and organizational changes.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to authorizing statutes by complying with an agreement between Kentucky and the U.S. Department of Health and Human Services to pass along the cost of living adjustment for Supplemental Security Income to State Supplementation Program through an increase in the program's standard of need for all recipients.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by passing along the 2015 1.7 percent cost of living adjustment for the Supplemental Security Income benefit by modifying the standards of need for all levels of care for the State Supplementation Program and making other technical corrections.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of October 2014, there were 2,919 recipients receiving State Supplementation Program benefits.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Effective January 1, 2015, all regulated entities will realize an increase in the standards of need for each level of care in the State Supplementation Program. There is no new or additional action required on the part of regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no new or additional cost to the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will realize an increase in the standards of need for each level of care in the State Supplementation Program effective January 1, 2015. The increase reflects the actual dollar amount of the 1.7 percent Supplemental Security Income cost of living adjustment.

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

(a) Initially: There will be a negligible fiscal impact to the Cabinet for Health and Family Services to implement the mandated pass-through of the 2015 cost of living adjustment. Not complying with the federal pass-through mandate would jeopardize the state's federal Medicaid funding.

(b) On a continuing basis: There will be a negligible fiscal impact to the Cabinet for Health and Family Services to implement the mandated pass-through of the 2015 cost of living adjustment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds/Agency Funds are used to fund the State Supplementation Program.

(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 this administrative regulation.

(8) State whether or not this administrative regulation

established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1382 e-g, 20 C.F.R. Part 416
2. State compliance standards. KRS 194A.050 (1), 205.245
3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1382 e-g, 20 C.F.R. Part 416
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 does not impose stricter requirements, or additional or different 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. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Community Based Services will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 (1), 205.245, 42 U.S.C. 1382e-g, 20 C.F.R. Part 416

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate additional revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are projected to administer this program during the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are projected to administer this program during subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS

KENTUCKY DEPARTMENT OF AGRICULTURE
Office of Consumer Protection
(New Administrative Regulation)

302 KAR 10:110. Egg lot consolidation.

RELATES TO: KRS 260.610

STATUTORY AUTHORITY: KRS 260.610(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.610 authorizes the department to promulgate the administrative regulations governing the requirements for lot consolidation registration and to assess a fee to defray the costs of the registration program. This administrative regulation establishes the materials required to be provided in an approved training course, completion of which will allow a registered consolidator or a person under their supervision, to consolidate egg lots.

Section 1. Registration. (1) Training. A person may become registered to consolidate egg lots after having attended a training course approved by the department. Proof of attendance shall be submitted with the Egg Lot Consolidation Registration Form.

(2) Registration Periods. The Egg Lot Consolidation Registration shall be valid for a period of two (2) years starting July 1st of the initial fiscal year of application and terminating June 30th of the second year. Registration forms submitted anytime after July 1st of any year and prior to June 30th of any year shall be deemed to have been active for one (1) year at the next July 1st calendar year.

(3) Fee. The fee for the Egg Lot Consolidation Registration shall be twenty (20) dollars for the two (2) year registration period. The fee shall be included with the Egg Lot Consolidation Registration form when sent to the address listed on the form.

(4) Relation to Egg License. Registration shall be independent of any other license, and shall follow the individual.

(5) Registration refusal, revocation, or suspension shall follow the rules set forth in 302 KAR 10:040.

Section 2. Store Requirements for Consolidation. (1) Each store location wishing to consolidate egg lots shall maintain a physical copy of the registration document of the store's egg lot consolidator.

(2) Each store shall maintain an Egg Lot Consolidation Log form. This form shall be maintained by the store at the physical location the eggs were consolidated for a period not less than thirty (30) days past the last sell by date on the cartons consolidated. The form may be the Egg Lot Consolidation Log form provided by the department, or may be a form of the same name and containing the same required information as the department form, if the store wishes to create a proprietary form.

Section 3. Consolidation. (1) Requirements. The eggs consolidated shall be done in a manner consistent with training materials required by Section 4 of this administrative regulation. Each consolidation of lots shall be documented using an Egg Lot Consolidation form. Registered egg lot consolidators shall work at one (1) physical store location only.

(2) Supervision. Supervision of consolidation activities by the egg lot consolidator is not required to be line of sight.

Section 4. Training Materials. (1) Training courses shall be approved by the department so long as the course teaches the following:

(a) Law:

1. Same lot code;
2. Same source;
3. Same sell by date;
4. Same grade;
5. Same size; and
6. Same brand;

(b) Temperature requirements:

(c) Egg is a hazardous food (FDA Guidelines);

(d) Sanitation;

(e) No reusing dirty cartons (If no cartons available must be destroyed);

(f) No repacking (i.e. changing identity);

(g) Registration requirements;

(h) Egg quality (USDA guidelines);

(i) Original packaging required, no replacement cartons may be utilized; and

(j) Egg Lot Consolidation Log.

(2) Approval. Training materials and topics shall be submitted in writing to the department at least thirty (30) days prior to the proposed training date. Once approved, the approval shall continue unless material changes are made to the materials included.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Egg Lot Consolidation Registration Form", January 2015; and

(b) "Egg Lot Consolidation Log Form", January 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing and Product Promotion, 100 Fair Oaks, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the department Web site at www.kyagr.com.

JAMES R. COMER, Commissioner

APPROVED BY AGENCY: January 12, 2015

FILED WITH LRC: January 13, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, at 10:00 a.m., at the Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business March 2, 2015. 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: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 500 Mero Street, 7th Floor, Frankfort Kentucky 40601, phone (502) 564-4696, fax (502) 564-2133.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Clint Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes criteria and requirements to be met to allow egg lots to be consolidated in Kentucky.

(b) The necessity of this administrative regulation: The authorizing statute requires administrative regulations to be promulgated prior to lot consolidations being performed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260.610 requires the Department of Agriculture to promulgate administrative regulations pertaining to lot consolidation prior to moving eggs between cartons at a retail location.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Without this administrative regulation, damaged eggs in cartons cannot possibly be salvaged for retail consumer use at a retail location. This filing will assist the effective administration of the egg program by creating a solution to broken eggs in cartons that consumers frequently attempt to help themselves. With lot consolidation,

possible trace back would be much more efficient and documented.

(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.

(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 state and local governments affected by this administrative regulation: Approximately 3,800 retail egg licenses are currently issued in the commonwealth. Any of these entities may wish to participate in egg lot consolidation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will need to complete the training as required by the administrative regulation, and pay the fee that will cover the two (2) year registration period.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): A twenty (20) dollar registration fee is required for a two year registration period.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

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

(a) Initially: Kentucky Department of Agriculture will be spending more time approving training and processing applications. The regulation will not result in hiring additional staff, but will incur additional work hours for mailing and processing of paper work. The KDA cannot estimate a direct cost because participation levels are unknown.

(b) On a continuing basis: No additional costs other than staff time and materials are anticipated. This cost will be based on participation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General funds and registration fees created by this administrative regulation will provide funding sources.

(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: A new fee is necessary to cover the administration costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation establishes a fee directly.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Agriculture.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 260.610

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Additional staff time will be required to administer this program by the KDA, only additional time and materials.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$40,000 is the best guess for revenues based on an optimistic estimate.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$20,000 annually is the estimate yearly for future revenue.

(c) How much will it cost to administer this program for the first year? The program in the first year will be administrative cost of approving trainings and printing licenses. No staff will be added.

(d) How much will it cost to administer this program for subsequent years? Subsequent years will require renewal of registrations and training. No staff will be added as a result of the regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 1:046. Community mental health center primary care services.

RELATES TO: KRS 205.520, 210.410.

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6313, 42 C.F.R. 440.130, 42 U.S.C. 1396d(a)(13)(C)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 to qualify for federal Medicaid funds. This administrative regulation establishes the Department for Medicaid Services' coverage provisions and requirements regarding primary care services provided in a community mental health center.

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "Community mental health center" or "CMHC" means a facility which meets the community mental health center requirements established in 902 KAR 20:091.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Enrollee" means a recipient who is enrolled with a managed care organization.

(5) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(6) "Injectable drug" means an injectable, infused, or inhaled drug or biological that:

(a) Is not excluded as a non-covered immunization or vaccine;

(b) Requires special handling, storage, shipping, dosing, or administration; and

(c) Is a rebatable drug.

(7) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(8) "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(9) "Physician assistant" is defined by KRS 311.840(3).

(10) "Rebatable drug" means a drug for which the drug's manufacturer has entered into or complied with a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

(11) "Recipient" is defined by KRS 205.8451(9).

Section 2. General Requirements. (1) For the department to reimburse for a primary care service provided by a community mental health center under this administrative regulation, the:

(a) CMHC shall be currently:

1. Enrolled in the Medicaid Program in accordance with 907 KAR 1:672;

2. Participating in the Medicaid Program in accordance with 907 KAR 1:671; and

3. Licensed in accordance with 902 KAR 20:091; and

(b) Service shall:

1. Be medically necessary;

2. Meet the coverage and related requirements established in this administrative regulation; and

3. Provided by:

a. A physician;

b. An advanced practice registered nurse; or

c. A physician assistant.

(2) In accordance with 907 KAR 17:015, Section 3(3), a CMHC which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A CMHC shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the Act.

Section 3. Covered Services. The physical health services covered pursuant to 907 KAR 3:005 shall be covered:

(1) Under this administrative regulation; and

(2) In accordance with the requirements established in 907 KAR 3:005 except that primary care services provided in a community mental health center shall only be provided by:

(a) A physician;

(b) An advanced practice registered nurse; or

(c) A physician assistant.

Section 4. Service Limitations. The limitations established in 907 KAR 3:005 for physical health services shall apply to primary care services provided in a CMHC under this administrative regulation.

Section 5. Prior Authorization Requirements. The prior authorization requirements

established in 907 KAR 3:005 for physical health services shall apply to services provided in a CMHC under this administrative regulation.

Section 6. Injectable Drugs. An injectable drug listed on the Physician Injectable Drug List that is administered in a CMHC shall be covered.

Section 7. No Duplication of Service. (1) The department shall not reimburse for a primary care service provided to a recipient by more than one (1) provider of any program in which primary care services are covered during the same time period.

(2) For example, if a recipient is receiving a primary care service from a rural health clinic enrolled with the Medicaid Program, the department shall not reimburse for the same primary care service provided to the same recipient during the same time period by a community mental health center.

Section 8. Records Maintenance, Protection, and Security. (1) A provider shall maintain a current health record for each recipient.

(2) A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(3) The individual who provided the service shall date and sign the health record on the date that the individual provided the service.

(4)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or

until any audit dispute or issue is resolved beyond five (5) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(5) A provider shall comply with 45 C.F.R. Part 164.

Section 9. Medicaid Program Participation Compliance. (1) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

Section 10. Third Party Liability. A provider shall comply with KRS 205.622.

Section 11. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 12. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 13. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 14. Appeal Rights. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

Section 15. Incorporation by Reference. (1) The "Physician Injectable Drug List", February 21, 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained,

subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 18, 2014 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding community mental health center (CMHC) primary care services covered by the Medicaid Program. Key requirements include that the authorized primary care practitioners are physicians, physician assistants, and advanced practice registered nurses; that any physical health service or limit established for Medicaid-program physician's services (pursuant to 907 KAR 3:005) shall also apply primary care services provided in CMHCs; and that the prior authorization requirements established in 907 KAR 3:005 shall also apply to CMHC primary care services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding CMHC primary care services covered by the Medicaid Program as authorized by KRS 205.6313.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes (including KRS 205.6313) by establishing the coverage provisions and requirements regarding CMHC primary care services covered by the Medicaid Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes (including KRS 205.6313) by establishing the coverage provisions and requirements regarding CMHC primary care services covered by the Medicaid 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: This is a new administrative regulation rather than an amendment.

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

amendment.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Community mental health centers will be affected by this amendment as will Medicaid recipients who receive services from CMHCs. There are fourteen (14) such centers.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. CMHCs that wish to provide primary care services to Medicaid recipients will have to do so according to the requirements such as having staff authorized to provide such services (physicians, advanced practice registered nurses, or physician assistants.)

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). CMHCs that wish to provide primary care services to Medicaid recipients will benefit by being enabled to receive reimbursement for such services.

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

(a) Initially: Due to the uncertainty of how many CMHCs will elect to expand their scope of services to include primary care services and to the uncertainty of when such CMHCs will meet the associated licensure requirements established by the Office of Inspector General, DMS is unable to project a cost associated with this action.

(b) On a continuing basis: The response to (a) above also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 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. Neither an increase in fees nor funding is 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 neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate that community mental health centers provide primary care services.

2. State compliance standards. KRS 205.6313 requires the Medicaid Program to reimburse for primary care services provided by a licensed physician, advanced practice registered nurse, or physician assistant employed by a community mental health center.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate that community mental health centers provide primary care services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or

requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (DMS) will be affected by the amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), and KRS 205.6313.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS does not anticipate additional revenues for state or local government as a result of the amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response to question (a) also applies here.

(c) How much will it cost to administer this program for the first year? Due to the uncertainty of how many CMHCs will elect to expand their scope of services to include primary care services and to the uncertainty of when such CMHCs will meet the associated licensure requirements established by the Office of Inspector General, DMS is unable to project a cost associated with this action.

(d) How much will it cost to administer this program for subsequent years? The response in (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services
Division of Provider Operations
(New Administrative Regulation)

907 KAR 3:017. Enhanced Reimbursement for Preventive and Wellness Services.

RELATES TO: KRS 205.520, 205.560

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1), 42 U.S.C. 1396a(a)(30).

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family 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 to qualify for federal Medicaid funds. This administrative regulation establishes the policies and requirements regarding the Department for Medicaid Services' enhanced reimbursement for certain preventive services and wellness services provided to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "CPT code" means a code used for reporting procedures and services performed by physicians and published annually by the American Medical Association in Current Procedural Terminology.

(3) "Currently enrolled with the Medicaid Program" means:

(a) Currently enrolled with the Medicaid Program pursuant to 907 KAR 1:672; and

(b) Currently participating with the Medicaid Program pursuant to 907 KAR 1:671.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(6) "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(7) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Physician" is defined by KRS 311.550(12).

(9) "Physician assistant" is defined by KRS 311.840(3).

(10) "Provider" is defined by KRS 205.8451(7).

(11) "Provider group" means a group of at least:

(a) Two (2) individually licensed physicians who:

1. Are currently enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number;

(b) Two (2) individually licensed APRNs who:

1. Are currently enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number; or

(c) At least one (1) APRN and at least one (1) physician who:

1. Are currently enrolled with the Medicaid Program individually and as a group; and

2. Share the same Medicaid group provider number.

(12) "Recipient" is defined in KRS 205.8451(9).

Section 2. Qualifying Requirements. To qualify as a service to be reimbursed at the amount established on the Medicaid Preventive and Wellness Enhanced Fee Schedule, the service shall:

(1) Be medically necessary;

(2) Meet the criteria established for the service on the Medicaid Preventive and Wellness Enhanced Fee Schedule; and

(3) Be provided:

(a) To a recipient who is not enrolled with a managed care organization; and

(b) By:

1. A physician who is:

a. Currently enrolled with the Medicaid Program; or

b. Participating with a provider group that is currently enrolled with the Medicaid Program;

2. An APRN who is:

a. Currently enrolled with the Medicaid Program; or

b. Participating with a provider group that is currently enrolled with the Medicaid Program; or

3. A physician assistant who is employed by or under contract with:

a. A physician who is currently enrolled with the Medicaid Program;

b. An APRN who is currently enrolled with the Medicaid Program; or

c. A provider group that is currently enrolled with the Medicaid Program.

Section 3. Enhanced Reimbursement for Preventive and Wellness Services. (1) The department shall reimburse for a preventive or wellness service listed on the Medicaid Preventive and Wellness Enhanced Fee Schedule:

(a) If the service meets the qualifying requirements established in Section 2 of this administrative regulation;

(b) In accordance with the requirements and limits established

on the Medicaid Preventive and Wellness Enhanced Fee Schedule; and

(c) The amount corresponding to the service as listed on the Medicaid Preventive and Wellness Enhanced Fee Schedule.

(2) The department's reimbursement referenced in subsection (1)(c) of this section shall:

(a) Apply to services rendered from January 1, 2015 through June 30, 2016; and

(b) Not apply to services rendered July 1, 2016 going forward.

Section 4. Auditing Authority. The department shall have the authority to audit any:

(1) Claim;

(2) Medical record; or

(3) Documentation associated with any claim or medical record.

Section 5. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to implement the reimbursement established in this administrative regulation.

Section 6. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 7. Supersede. If any reimbursement provision stated in 907 KAR 3:010 or 907 KAR 1:104 contradicts a provision stated in this administrative regulation or in the Medicaid Preventive and Wellness Enhanced Fee Schedule, the provision stated in this administrative regulation or in the Medicaid Preventive and Wellness Enhanced Fee Schedule shall supersede the provision stated in 907 KAR 3:010 or 907 KAR 1:104.

Section 8. Incorporation by Reference. (1) The "Medicaid Preventive and Wellness Enhanced Fee Schedule", December 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 31, 2014 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 23, 2015 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort,

Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes enhanced Medicaid reimbursement for preventive and wellness services provided by a physician's individual or practice, advanced practice registered nurse's individual or group practice, physician and APRN group practice, or community mental health center that provides primary care services. The enhanced reimbursement applies to services provided from January 1, 2015 through June 30, 2016.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to enhance Medicaid recipient access to preventive and wellness services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by enhancing Medicaid recipient access to preventive and wellness services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by enhancing Medicaid recipient access to preventive and wellness services.

(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.

(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 state and local government affected by this administrative regulation: The administrative regulation will affect physicians and APRNs enrolled in the Medicaid Program.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required other than to bill for preventive or wellness services rendered.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Providers will benefit by receiving an enhanced reimbursement for preventive or wellness services. Medicaid recipients will benefit by having enhanced access to such services due to the expected increase in providers providing the services.

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

(a) Initially: The Department for Medicaid Services (DMS) estimates that increasing the preventive and wellness reimbursement rates from January 1, 2015 through June 30, 2015 will cost DMS approximately \$400,000 (state and federal funds combined.)

(b) On a continuing basis: DMS estimates that increasing the preventive and wellness reimbursement rates for the period spanning July 1, 2015 through June 30, 2016 will cost DMS approximately \$900,000 (state and federal funds combined.)

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 state matching funds from restricted and/or 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: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases 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.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30).

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Each state's Medicaid program is required (for the services it covers) to ensure recipient access to those services. 42 U.S.C. 1396a(a)(30) requires a state's Medicaid program to "provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Increasing reimbursement for preventive and wellness services comports with the requirement to ensure Medicaid recipient access to preventive and wellness services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter, additional or different 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 requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1), 42 U.S.C. 1396a(a)(30).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? If a practice that is owned and operated by a government entity provides the preventive and wellness services, the entity could receive revenues but DMS cannot predict how many will do so.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response in (a) also applies here.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) estimates increasing the preventive and wellness reimbursement rates from January 1, 2015 through June 30, 2015 will cost DMS approximately \$450,000 (state and federal funds combined).

(d) How much will it cost to administer this program for subsequent years? DMS estimates that increasing the preventive and wellness reimbursement rates for the period spanning July 1, 2015 through June 30, 2016 will cost DMS approximately \$900,000 (state and federal funds combined.)

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No additional expenditures are necessary to implement this amendment.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Behavioral Health, Developmental and Intellectual Disabilities Division for Behavioral Health (New Administrative Regulation)

908 KAR 2:260. Targeted case manager: eligibility and training.

RELATES TO: KRS 200.503(3), 210.005(2), (3)

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 210.450 requires the secretary to promulgate administrative regulations governing qualifications of personnel and standards for personnel management for community programs for behavioral health or individuals with an intellectual disability. KRS 222.211 authorizes the secretary of the cabinet to promulgate administrative regulations to assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of addiction to alcohol and other drug abuse within individuals, families, and communities. This administrative regulation establishes the minimum eligibility and training requirements for individuals providing behavioral health targeted case management services to the targeted behavioral health population.

Section 1. Definitions. (1) "Behavioral health professional" means:

- (a) An advanced practice registered nurse;
- (b) A licensed clinical social worker;
- (c) A licensed marriage and family therapist;
- (d) A licensed professional clinical counselor;
- (e) A licensed psychological practitioner;
- (f) A licensed psychologist;
- (g) A licensed professional art therapist;
- (h) A physician;
- (i) A psychiatrist;
- (j) A behavioral health practitioner under supervision except for a certified alcohol and drug counselor;
- (k) A registered nurse working under the supervision of a physician or advanced practice registered nurse; or
- (l) An individual with a bachelor's degree in a behavioral science program or other human service degree program approved by the department who:

- 1. Is working under the supervision of a billing supervisor; and

2. Has at least five (5) years of documented full-time experience providing specialized case management services for the target population.

(2) "Behavioral science" means:

- (a) Psychology;
- (b) Sociology;
- (c) Social work;
- (d) Family studies;
- (e) Human services;
- (f) Counseling;
- (g) Nursing; or

(h) Another human service degree program approved by the department.

(3) "Case load" means the number of distinct individuals for whom a targeted case manager bills for services from any payor (Medicaid, managed care organization, or DBHDID), per month.

(4) "Certification" means successful completion of the training requirements in this administrative regulation as documented by the receipt of a certificate of training completion.

(5) "Chronic or complex physical health condition" means that:

(a) Significant symptoms of a physical health condition have persisted in a client for a continuous period of at least six (6) months;

(b) The symptoms of the physical health condition significantly impair the client's ability to function:

1. Socially, or

2. Occupationally which, for individuals under the age of twenty-one (21), includes impairment in an educational setting; and

(c) The physical health conditions include disorders under the following categories:

- 1. Cardiovascular disorders;
- 2. Respiratory disorders;
- 3. Genito-urinary disorders;
- 4. Endocrine disorders;
- 5. Musculoskeletal disorders;
- 6. Neurological disorders;
- 7. Immune system disorders;
- 8. Obesity;
- 9. Cancer;
- 10. Deaf or hard of hearing; or
- 11. Blindness.

(6) "Client" means an individual identified within a target population.

(7) "Core components" means the minimum knowledge and skills listed in Section 3(4) of this administrative regulation that an applicant shall demonstrate in order to successfully complete the training and meet eligibility requirements to provide targeted case management services.

(8) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID).

(9) "Face-to-face" means in person, in the same location, and not through an electronic method.

(10) "Recertification" means successful completion of the ongoing training requirements every three (3) years after the date of certification.

(11) "Serious mental illness", "severe mental illness", or "SMI" means a diagnosis of a major mental disorder as included in the current edition of the Diagnostic and Statistical Manual of Mental Disorders under:

- (a) Schizophrenia spectrum and other psychotic disorders;
- (b) Bipolar and related disorders;
- (c) Depressive disorders; or
- (d) Post-traumatic stress disorders (under trauma and stressor related disorders).

(12) "Severe emotional disability" or "SED" is defined by KRS 200.503(3).

(13) "Substance use disorder" or "SUD" means a primary moderate or severe substance use disorder diagnosis or co-occurring moderate to severe substance use disorder and mental health diagnosis as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(14) "Targeted case management services" means services furnished to assist clients in gaining access to needed medical,

social, educational, or other needed services and supports, including:

(a) Assessment of the client's medical, social, and functional status and identification of client's strengths and needs;

(b) Arranging for service delivery from the client's chosen provider to insure access to required services;

(c) Facilitating access to needed services by explaining the need and importance of services in relation to the client's condition;

(d) Facilitating access, quality, and delivery of necessary services; and

(e) Preparation and maintenance of case record documentation to include care plans, forms, reports, and narratives as appropriate.

(15) "Targeted case manager" means an individual who is:

(a) Trained and supervised to perform targeted case management services;

(b) Responsible for conducting a comprehensive assessment and a periodic reassessment of an individual's strengths and needs; and

(c) Responsible for assisting an individual to gain access to identified medical, social, educational, and other service needs.

(16) "Targeted population" means an individual who meets the criteria through diagnosis, duration, and disability for:

(a) SMI;

(b) SED;

(c) SUD; or

(d) SMI, SED, or SUD and a co-occurring chronic or complex physical health condition.

Section 2. Targeted case manager requirements. (1) A targeted case manager for individuals with SMI, SED, or SUD shall meet the following educational, experience, and training requirements:

(a) Possess a bachelor of arts or science degree in a behavioral science;

(b) Have at least one (1) year of full-time employment experience after completing the educational requirements in:

1. Working directly with adults in a human service setting; or

2. Working directly with individuals under the age of twenty-one (21) in a human service setting;

(c) Have successfully completed the department approved targeted case management training within six (6) months of employment as a targeted case manager; and

(d) Have successfully completed the department approved recertification requirements every three (3) years thereafter.

(2) A master's degree in a behavioral science may substitute for the one (1) year of experience.

(3) A targeted case manager for individuals with SMI, SED, or SUD and a co-occurring chronic or complex physical health conditions shall be an individual with:

(a) A master's degree in a behavioral science and two (2) years of experience working with SMI, SED, or SUD and a co-occurring chronic or complex physical health condition; or

(b) A bachelor of arts or science degree in a behavioral science and who has:

1. At least five (5) years of full-time employment experience working with an individual with SMI, SED, or SUD and a co-occurring chronic or complex physical health condition;

2. Successfully completed the department approved targeted case management training within six (6) months of employment as a case manager; and

3. Successfully completed the department approved recertification requirements every three (3) years thereafter.

(4) Case managers who are serving individuals with SED, SMI, or SUD shall have:

(a) Individual face-to-face supervision which shall be provided at least monthly for at least one (1) year by a behavioral health professional who has completed the targeted case management training approved by the department; and

(b) Group supervision which shall be provided at least monthly for the duration of employment as a targeted case manager.

(5) The supervisor of a targeted case manager shall maintain documentation of the supervision.

(6) Targeted case managers who are serving an individual with an SED, SMI, or SUD and a co-occurring chronic or complex physical health issue shall have:

(a) Individual face-to-face supervision which shall be provided at least two (2) times per month for at least three (3) years by a behavioral health professional who has completed the targeted case management training approved by the department; and

(b) Group supervision which shall be provided at least monthly for the duration of employment as a targeted case manager.

(7) A targeted case manager shall not exceed a caseload size of twenty-five (25) unique clients when serving the targeted populations.

(8) A targeted case manager shall:

(a) Only provide targeted case management services to the targeted population for which the targeted case manager meets the educational, experimental, and training requirements; and

(b) Not provide other behavioral health services in addition to targeted case management services.

Section 3. Training Requirements. (1) To receive certification to provide behavioral health targeted case management services, a targeted case manager shall successfully complete the following department approved training and recertification requirements:

(a) The core components of the targeted case management curriculum shall be at least twelve (12) hours and shall include:

1. Core targeted case management functions and guiding principles;

2. Engaging consumers and family members;

3. Behavioral health crisis management;

4. Strengths-based case management;

5. Ethics;

6. Behavioral health diagnosis and understanding treatment;

7. Integrated care;

8. Advocacy skills and empowering consumers and families;

9. Cultural awareness;

10. Developmental perspectives across the life span; and

11. Documentation and billing; and

(b) At least six (6) hours of specialized training for the target population he or she is serving, which shall include the skills required to address the specific needs of each respective target population.

(2) A targeted case manager shall complete recertification requirements every three (3) years.

(3) Recertification shall consist of acquiring at least six (6) hours of approved continuing education each year in training topics directly related to:

(a) Case management;

(b) Behavioral health; or

(c) Each respective target population.

(4) To be recertified, a targeted case manager shall submit a list of all trainings in which the targeted case manager participated, the provider or presenter of the training, and the number of hours of each training to the Department every three (3) years. The submission due date shall be the last day of the month of which the targeted case manager's initial certification was completed.

(5) Targeted case managers certified prior to September 2014 shall be required to submit continuing education documentation for recertification prior to September 2017.

Section 4. Department responsibilities: The department shall:

(1) Approve training curricula submitted by providers wishing to provide training to a targeted case manager or a prospective targeted case manager;

(2) Maintain a record of approved targeted case management training curricula, including contact information for providers of the trainings;

(3) Maintain a record of targeted case managers who have received a certificate of successful completion of the department approved targeted case management training;

(4) Create and make available a process for recertification of targeted case managers; and

(5) Maintain a record of targeted case managers who have been certified or recertified to provide targeted case management

services.

Section 5. Supervision of a targeted case manager. (1) A targeted case manager shall provide services under the supervision of a behavioral health professional in accordance with 907 KAR 15:040, 907 KAR 15:050, and 907 KAR 15:060.

(2) The supervising behavioral health professional shall complete the training requirements as described in Section 3(1) and (2) of this administrative regulation.

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES Secretary

APPROVED BY AGENCY: December 10, 2014

FILED WITH LRC: January 7, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if request, be held on February 23, 2015, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 2015, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. You may submit written comments regarding this proposed administrative regulation until close of business, March 2, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Ky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Natalie Kelly or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirement for a behavior health case manager position, specifying qualifications, pre-service training, continuing education and supervision requirements to behavioral health system providers who may employ targeted case managers who work with targeted populations of individuals with severe mental illnesses (SMI), severe emotional disabilities (SED), moderate to severe substance use disorders (SUD), or co-occurring SMI, SED, SUD and chronic or complex physical health disorders.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that targeted case managers working within the behavioral health system are appropriately trained and supervised. This administrative regulation is necessitated by the references in 907 KAR 15:040, 907 KAR 15:050, and 907 KAR 15:060, that DBHDID approve pre-service and continuing education training requirements for case managers of targeted case management services. This administrative regulation is also necessary to comply with a federal mandate and to enhance recipient access to services. Providers must be trained in order for the services to be accessible.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 210.450 in that it establishes qualifications and standards for personnel who participate in meeting behavioral health needs of the citizens of the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statute by establishing criteria whereby case managers of targeted case management services can be trained and

supervised to meet the behavioral health needs of citizens 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: 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: An estimated 1,000 individuals that are currently working as targeted case managers and an additional 1,000 individuals that will seek employment as case managers; Fourteen (14) Community Mental Health Centers (serving all 120 counties of the Commonwealth), enrolled providers of Medicaid targeted case management services (approximately 150), and businesses or organizations planning to apply become behavioral health providers of targeted case management services within the Commonwealth (approximately 100); and Individuals who may receive services from case managers of targeted case management services (estimated at 40,000 per year).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Regional CMHC Boards and additional behavioral health providers will be required to establish systems for recruiting, hiring, and supervising targeted case managers.

Individuals seeking to become targeted case managers will be required to meet the DBHDID pre-service and continuing education training requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regional CMHC Boards and other behavioral health providers will incur the expense necessary to pay salaries and associated costs if they choose to hire and train case managers. For individuals who currently are or are seeking to become targeted case managers, there will likely be some minimal expenses associated with obtaining continuing education requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals with behavioral disorders and their families will benefit by increased availability of qualified persons who can provide services and supports. More individuals with mental health and substance use disorders will experience recovery, thus increasing their employment and decreasing their reliance on public assistance and their rates of hospitalization and incarceration. More youth will experience increased attendance and success in the school system and less involvement with the juvenile justice and child welfare systems. Regional CMHCs and other behavioral health providers will benefit by having additional staff to fulfill their mission to serve individuals with behavioral health disorders in their regions. Individuals who become targeted case managers will benefit from new employment opportunities. Individuals receiving targeted case management services will benefit by having increased access to professionals who will assist them in achieving their treatment goals.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

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

The source of funding is state 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 to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified applicant has an equal chance of applying to become a Department approved Case Manager of Targeted Case Management services.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact individuals seeking training as targeted case managers, the Regional Community Mental Health Centers (CMHCs), and other Behavioral Health Providers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation: KRS 200.503(2), 210.005(2) (3) 210.370-485.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenues for state or local government in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate new revenues for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of January 13, 2015

Call to Order and Roll Call

The January 2015 meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, January 13, 2015, at 1:00 p.m., in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, the roll call was taken. The minutes of the December 2014 meeting were approved.

Present were:

Members: Senators Denver Butler, Perry Clark, Ernie Harris, and Alice Forgy Kerr; and Representatives, Julie Raque Adams, Mary Lou Marzian, and Tommy Turner.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Karen Howard, Emily Harkenrider, Ange Bertholf, and Betsy Cupp.

Guests: Leanne Diakov, Michael Rodman, Board of Medical Licensure; Nathan Goldman, Paula Schenk, Board of Nursing; Karen Waldrop, David Wicker, Department of Fish and Wildlife; Amy Barker, Department of Corrections; Casey Hall, Michael Kurtsinger, Ann-Tyler Morgan, Jeremy Rodgers, Fire Commission; Frederick Higdon, Stephen Humphress, Department of Alcoholic Beverage Control; Mitch Buchanan, Jim Chandler, Brian Judy, Board of Home Inspectors; Michael Davis, Gary Feck, Melissa Highfield-Smith, Department of Housing, Buildings and Construction; Laura Begin, Kraig Humbaugh, Allyson Taylor, Department of Public Health; Matt McKinley, Beth Jurek, Department of Public Health, Radiation Health Branch; Leslie Hoffmann, Natalie Kelly, Stuart Owen, Department for Medicaid Services; Elizabeth Caywood, Department of Community Based Services, Jeff Hinkley, HVAC Services Inc., Tim House, Tom Lowder, Stephen Strong, Kentucky Association of Master Contractors, Kevin Kavanagh MD, Mark Norenberg, Air Conditioning Contractors of America, Indoor Environment and Energy Efficiency Association, David Tretter, Neiheisel Plumbing Inc.

The Administrative Regulation Review Subcommittee met on Tuesday, January 13, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:310. Continuing medical education. Michael Rodman, executive director, and Leanne Diakov, general counsel, represented the board.

A motion was made and seconded to approve the following amendment: to amend Section 5 to require one (1) rather than two (2) hours of continuing medical education in HIV/AIDS every ten (10) years to match the current statutory requirement. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 9:450. Fee schedule regarding acupuncturists.

201 KAR 9:460. Written plan.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:220. Nursing continuing education provider approval. Nathan Goldman, general counsel, and Paula Schenk, executive director, represented the board.

In response to a question by Co-Chair Harris, Mr. Goldman stated that it was necessary to reduce the renewal period for approved continuing education from five (5) to two (2) years in order

to maintain tracking in light of significant turnover.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend the STATUTORY AUTHORITY paragraph to insert a citation; and (3) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:240. Fees for applications and for services.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:221 & E. Waterfowl seasons and limits. Dr. Karen Waldrop, deputy commissioner, and David Wicker, general counsel, represented the department.

301 KAR 2:222 & E. Waterfowl hunting requirements on public lands.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the Subcommittee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission: Commission on Fire Protection Personnel Standards and Education

739 KAR 2:060. Certification and qualifications of fire service instructors. Casey Hall, curriculum and degree program coordinator; Michael Kurtsinger, division director; and Anne – Tyler Morgan, counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend Section 1 to insert a definition for "fire protection instructor"; (3) to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 7 to clarify that certification shall not be reinstated for an instructor whose certification has lapsed for a period exceeding three (3) years. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Local Administrators

804 KAR 10:031. Local government regulatory license fees. Frederick Higdon, commissioner, and Stephen Humphress, general counsel, represented the department.

In response to questions by Co-Chair Harris, Mr. Humphress stated that, because city classifications had been statutorily eliminated, requirements in this administrative regulation were tiered based on population. A few legislative amendments were needed to update the department's statutes commensurate with the elimination of city classification.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Occupations and Professions: Board of Home Inspectors: Board

815 KAR 6:040. Home inspector prelicensing providers. Mitch

Buchanan, board member; James Chandler, chair; and Brian Judy, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend Sections 1, 3, and 7 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 7 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:080. Continuing education provider.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the TITLE and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 5 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Division of Building Code Enforcement: Kentucky Building Code

815 KAR 7:120. Kentucky Building Code. Michael Davis, general counsel; Gary Feck, acting commissioner; and Melissa Highfield - Smith, budget director, represented the division. Jeff Hinkley, general manager, HVAC Services, Inc; Tim House, executive director, Kentucky Association of Master Contractors; Mark Norenberg, general HVAC contractor, Indoor Environment and Energy Efficiency Association (formerly Air Conditioning Contractors of America); and David Tretter, president, Neiheisel Plumbing, Inc., appeared in opposition to the fee increases in this administrative regulation; 815 KAR 8:010, 8:020, 8:070, and 8:090; and 815 KAR 20:015, 20:030, 20:050, 20:195.

In response to questions by Senator Raque Adams, Ms. Highfield - Smith stated that stakeholders had been informed of these fee increases and some had commented during the public comment period. Mr. House stated that deferral of these administrative regulation would probably not be beneficial. The department was unable to prevent the sweeping of funds. The Office of State Budget Director initiated budget decisions regarding sweeping, and the budget was then enacted by the General Assembly. The Kentucky Association of Master Contractors believed that the current financial challenges faced by the department included Commonwealth Office of Technology charges, pension and health insurance premium cost increases, and repayment of a floating salary payment from 2012 (to be paid in July 2016).

In response to a question by Senator Kerr, Mr. Davis stated that internal boards and committees within the division met with stakeholders and, after those discussions, approved these fee increases unanimously.

In response to questions by Representative Turner, Mr. Davis stated that the fee increases were necessary for mandatory expenses. The HVAC and plumbing programs were not meeting their respective revenue needs. The increases were carefully developed to meet fiscal needs without new employees. The increases were targeted to maintain necessary activities without overages that may be subject to being swept by the General Assembly. Funds were swept in 2012 because there were overage funds remaining at that time. Stakeholders were among the members of the internal boards and committees that voted for these fee increases unanimously. Mr. House stated that the Kentucky Association of Master Contractors and other stakeholders worked with the department, not the cabinet, to provide stakeholder input pertaining to the development of these fees. Mr. House explained that in Fiscal Year 2011 – 2012, all Commonwealth employees were delayed salary payments on June 30 to July 1, which was a new fiscal year. As a result, there was a floating salary payment that would have to be paid at some point.

Co-Chair Marzian stated that these programs were operating in the red. These programs were crucial for public safety. Health insurance premiums and pension requirements had increased for this agency. Mr. Davis stated that these fees did not directly impact individual tradesmen. Co-Chair Marzian stated that it was

important to carefully review sweeping of restricted funds in Executive Branch budget proposals.

In response to a question by Co-Chair Harris, Mr. Davis stated that these fees were based on calculations, such as square footage or plumbing components.

Mr. House stated that the Kentucky Association of Master Contractors was opposed to these fee increases. Continued sweeping of funds was negatively impacting the division and its mandate to protect public safety. Restricted funds were not intended for use in the General Fund. These fee increases were necessary because of previous sweeping of funds. Fund transfers routinely occurred without approval of the agency or its internal boards and committees. The Kentucky Association of Master Contractors was not opposed to fee increases if it could be guaranteed that the revenue would stay within each applicable program because the division had properly managed funds; it was only the result of sweeping that had caused the shortfall.

Mr. Hinkley stated that HVAC Services, Inc. had public safety concerns because of swept fee revenue. There were numerous unlicensed individuals performing substandard work in the Commonwealth, but the division does not have the financial resources to enforce requirements for licensees, nonetheless unlicensed individuals.

Mr. Tretter stated that businesses were already facing challenges from recent economic conditions, which were improving but were not back to pre-2009 levels. These fee increases would affect businesses. Sweeping of revenue from the plumbing program into the General Fund was the main concern. In the past, plumbers had ascended to fee increases only to have the funds swept and fee increases proposed anew.

Mr. Norenberg stated that Indoor Environment and Energy Efficiency Association (formerly Air Conditioning Contractors of America) was opposed to these fee increases and was concerned about public safety and the sweeping of funds.

A motion was made by Representative Turner, seconded by Senator Raque Adams, to find these administrative regulations deficient. After further discussion, these motions were withdrawn.

Division of Heating, Ventilation and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:010. Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

815 KAR 8:020. Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

815 KAR 8:070. Installation permits.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:090. Fees and refunds.

Division of Plumbing: Plumbing

815 KAR 20:015. Fees and refunds.

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival, or reinstatement of licenses.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 4 to specify criteria for determining the sufficiency of the applicant's mechanical engineering experience; and (3) to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:050. Installation permits.

815 KAR 20:195. Medical gas piping installations.

A motion was made and seconded to approve the following amendment: to amend Section 2 to correct an inadvertent omission. Without objection, and with agreement of the agency, the amendment was approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:020. Reportable disease surveillance. Laura Begin, regulation coordinator; Dr. Craig Humbaugh, senior deputy commissioner; and Allyson Taylor, policy advisor and chief of staff, represented the cabinet. Representative Tom Burch, House District 30; Dr. Kevin Kavanagh, Health Watch U.S.A.; and Dana Stevens, infection control for St. Joseph Hospitals, appeared in support of this administrative regulation.

Dr. Kavanagh stated that Health Watch U.S.A. strongly supported this administrative regulation because it addressed dangerous organisms. Currently, there had not been a uniform response protocol, as shown by worldwide response to the recent E. bola crisis. This was a problem with the entire healthcare system and needed to be addressed at that level.

In response to a question by Senator Kerr, Dr. Kavanagh stated that Health Watch U.S.A. was a small, nonprofit watchdog group that stressed consumer choice and transparency.

Ms. Stevens stated that she helped to develop legislation for disease control. She thanked Representative Burch for his efforts developing this administrative regulation, and she looked forward to ongoing dialogue with the cabinet.

In response to questions by Co-Chair Harris, Dr. Humbaugh stated that each medical facility designated one (1) person to report to protect against multiple reports of the same incident, which would create inaccurate reporting. A tracking number was then issued by the local health department. Co-Chair Harris stated that it was important to put in safeguards to protect against duplicate reporting.

Division of Public Health Protection and Safety: Radiology

902 KAR 100:012. Fee schedule. Laura Begin, regulation coordinator; Matt McKinley, branch manager; Beth Jurek, executive director; and Allyson Taylor, policy advisor and chief of staff, represented the cabinet.

In response to a question by Senator Raque Adams, Mr. McKinley stated that fees were raised to a level that was seventy-five (75) percent of the average same fees for surrounding state programs. The percentile of actual fee increase varied from fee to fee. Ms. Begin stated that comments were received during the public comment period, and this administrative regulation had been amended to provide a lower fee for smaller entities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 2, 3, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Division of Policy and Operations: Payments and Services

907 KAR 3:005 & E. Coverage of physicians' services. Leslie Hoffmann, behavioral health director; Natalie Kelly, division director; and Stuart Owen, regulation coordinator, represented the cabinet.

Senator Kerr applauded the cabinet's attempt to create parity between physical and behavioral health programs.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete a reference to "advanced practice registered nurse" in the definition of "common practice" and change references in the definition of "provider group" from "Medicaid provider number" to "Medicaid group provider number"; (2) to amend Section 2 to require a provider to date and sign the health record within seventy-two (72) hours from the date of the service, rather than the same day of service; (3) to amend Section 4 to clarify, in accordance with 42 C.F.R. 455.410, that: (a) a provider is required to be currently enrolled and participating in the

Medicaid Program to prescribe medication, order a service, or refer a recipient for service; and (b) the department shall not reimburse for a prescription, service, or referral if the provider is not currently enrolled and participating in the Medicaid Program; (4) to amend Section 8 to delete non-physician independent providers from the list of providers who provide services for which a physician or provider group (which includes a physician) would be the billing provider; and (5) to amend Sections 1, 2, 4, 6, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Behavioral Health

907 KAR 15:070 & E. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:075 & E. Reimbursement provisions and requirements for behavioral health services provided by residential crisis stabilization units.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to delete provisions regarding nonduplication of services because those provisions are already included in 907 KAR 15:070; and (2) to amend Sections 4 and 5 to comply with the formatting requirements of KRS 13A.220(5). Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Protection and Permanency: Adult Services

922 KAR 5:050. Funding requirements for domestic violence shelters. Elizabeth Caywood, internal policy analyst, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend the STATUTORY AUTHORITY paragraph to delete citations; and (3) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the February 9, 2015, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Senator Clark stated that it was important that this administrative regulation accommodate patients with reported THC levels.

Board of Licensure for Occupational Therapy: Board

201 KAR 28:010. Definitions and abbreviations.

201 KAR 28:020. General provisions.

201 KAR 28:030. Short-term practice of occupational therapy for persons practicing under KRS 319A.090(1)(e).

201 KAR 28:060. Requirements for licensure.

201 KAR 28:070. Examination.

201 KAR 28:090. Renewals.

201 KAR 28:110. Fees.

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201 KAR 28:130. Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders.

201 KAR 28:140. Code of ethics and unprofessional conduct.

201 KAR 28:170. Deep physical agent modalities.

201 KAR 28:180. Temporary permits.

201 KAR 28:200. Continuing competence.

201 KAR 28:220. Per diem of board members.

JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: Council

503 KAR 1:090. Approval of course curriculums.

TRANSPORTATION CABINET: Office of the Secretary: Kentucky Bicycle and Bikeways Commission: Motorcycle and Bicycle Safety

601 KAR 14:020. Bicycle safety standards.

Department of Highways: Division of Maintenance: Billboards

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Instructional Programs

705 KAR 4:250. Energy technology engineering career pathway.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

The Subcommittee adjourned at 2:20 p.m. until February 9, 2015, at 1 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

NONE

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

H - 2

The Locator Index lists all administrative regulations published in VOLUME 41 of the *Administrative Register of Kentucky* from July 2014 through June 2015. 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 40 are those administrative regulations that were originally published in VOLUME 40 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the 2014 *Kentucky Administrative Regulations Service* was published.

KRS Index

H - 12

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 41 of the *Administrative Register of Kentucky*.

Technical Amendment Index

H - 21

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2014 *Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the *Administrative Register of Kentucky*.

Subject Index

H - 22

The Subject Index is a general index of administrative regulations published in VOLUME 41 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

VOLUME 40

The administrative regulations listed under VOLUME 40 are those administrative regulations that were originally published in Volume 40 (last year's) issues of the Administrative Register but had not yet gone into effect when the 13 bound Volumes were published.

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn before being printed in Register
- **** Emergency expired after 180 days
- ‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))
- (r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS:

(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

30 KAR 6:010E	2401	3-24-14
Replaced		See 41 Ky.R.
907 KAR 1:019E	1573	12-30-13
Replaced	2703	7-7-14
907 KAR 1:030E	1581	12-26-13
Replaced	2709	7-7-14
907 KAR 1:038E	1585	12-26-13
Replaced	2712	7-7-14
907 KAR 1:039E	1591	12-26-13
Replaced	2716	7-7-14
907 KAR 1:044E	1595	12-30-13
Replaced	2718	7-7-14
907 KAR 1:045E	1600	12-30-13
Replaced	2721	7-7-14
907 KAR 1:054E	1603	12-30-13
Replaced	2722	7-7-14
907 KAR 1:082E	1617	12-30-13
Replaced	2736	7-7-14
907 KAR 1:604E	1631	12-26-13
Replaced	2749	7-7-14
907 KAR 1:631E	1638	12-26-13
Replaced	2755	7-7-14
907 KAR 1:632E	1642	12-26-13
Replaced	2757	7-7-14
907 KAR 1:913E(r)	1646	12-26-13
907 KAR 3:005E	1648	12-26-13
Replaced	2759	7-7-14
907 KAR 8:005E	1655	12-26-13
Replaced	2765	7-7-14
907 KAR 8:010E	1657	
Reprinted	2095	12-26-13
Replaced	2765	7-7-14
907 KAR 8:015E	1660	12-26-13
Replaced	2766	7-7-14
907 KAR 8:020E	1662	12-26-13
Replaced	2767	7-7-14
907 KAR 8:025E	1665	12-26-13
Replaced	2768	7-7-14
907 KAR 8:030E	1668	12-26-13
Replaced	2769	7-7-14
907 KAR 8:035E	1671	12-26-13
Replaced	2770	7-7-14
907 KAR 10:014E	1673	12-26-13
Replaced	2771	7-7-14
907 KAR 12:020E	2109	2-6-14
Withdrawn		7-8-14
907 KAR 13:005E	1677	12-26-13
Replaced	2776	7-7-14
907 KAR 13:010E	1680	12-26-13
Replaced	2776	7-7-14
907 KAR 13:015E	1683	12-26-13
Replaced	2777	7-7-14
907 KAR 15:005E	1686	12-30-13
Replaced	2778	7-7-14

907 KAR 15:010E	1688	
Reprinted	2098	12-30-13
Replaced	2779	7-7-14
907 KAR 15:015E	1691	12-30-13
Replaced	2788	7-7-14
907 KAR 18:001E	2404	3-24-14
Replaced		See 41 Ky.R.
907 KAR 18:005E	2405	3-24-14
Replaced		See 41 Ky.R.
908 KAR 2:240E	2112	2-6-14
Replaced	2793	6-18-14
908 KAR 2:250E	2115	2-6-14
Replaced	2795	6-18-14

ORDINARY ADMINISTRATIVE REGULATIONS:

16 KAR 2:010		
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201 KAR 20:056			Amended	2798	See 41 Ky.R.
Amended	2596	See 41 Ky.R.	803 KAR 2:300		
201 KAR 20:057			Amended	2823	9-5-14
Amended	2599	See 41 Ky.R.	803 KAR 2:306		
201 KAR 20:161			Amended	2825	9-5-14
Amended	2602	See 41 Ky.R.	803 KAR 2:308		
201 KAR 20:360			Amended	2828	9-5-14
Amended	2346	See 41 Ky.R.	803 KAR 2:309		
201 KAR 20:370			Amended	2830	9-5-14
Amended	2605	See 41 Ky.R.	803 KAR 2:314		
201 KAR 20:411			Amended	2832	9-5-14
Amended	2607	See 41 Ky.R.	803 KAR 2:317		
201 KAR 20:450			Amended	2834	9-5-14
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201 KAR 22:160			Amended	2839	See 41 Ky.R.
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603 KAR 10:020	2022		Amended	2862	See 41 Ky.R.
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603 KAR 10:030	2027		Amended	2865	See 41 Ky.R.
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702 KAR 7:065			Amended	2869	See 41 Ky.R.
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902 KAR 55:090			Amended	2009	
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907 KAR 1:030			Amended	2305	
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907 KAR 1:044			As Amended	2778	7-7-14
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907 KAR 1:835			Amended	2917	9-5-14
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907 KAR 3:005			Amended	2921	9-5-14
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* Statement of Consideration not filed by deadline			922 KAR 1:360E	417	8-1-14
** Withdrawn before being printed in Register			922 KAR 2:160E	423	8-1-14
**** Emergency expired after 180 days				1021	10-15-14
(r) Repealer regulation: KRS 13A.310-on the effective date of an			922 KAR 5:070E	432	7-23-14
administrative regulation that repeals another, the regulations			922 KAR 5:120E	436	7-23-14
compiler shall delete the repealed administrative regulation and			ORDINARY ADMINISTRATIVE REGULATIONS:		
the repealing administrative regulation.			11 KAR 3:100		
EMERGENCY ADMINISTRATIVE REGULATIONS:			Amended	817	
(Note: Emergency regulations expire 180 days from the date filed;			As Amended	1485	
or 180 days from the date filed plus number of days of requested			11 KAR 4:080		
extension, or upon replacement or repeal, whichever occurs first.)			Amended	1124	
30 KAR 6:010E		See 40 Ky.R.	As Amended	1493	
Replaced	10	8-1-14	11 KAR 5:001		
31 KAR 4:130E	367	7-22-14	Amended	828	
31 KAR 4:140E	372	7-22-14	As Amended	1494	
31 KAR 5:010E	375	7-22-14	11 KAR 5:033		
101 KAR 2:210	717	9-15-14	Amended	831	
Replaced	845	1-5-15	As Amended	1496	
103 KAR 3:040E	1742	12-31-14	11 KAR 5:034		
103 KAR 15:180E	4	6-5-14	Amended	832	
Replaced	439	10-3-14	As Amended	1496	
200 KAR 15:010E	1752	12-19-14	11 KAR 5:170		
301 KAR 2:221E	1300	10-27-14	Amended	834	
301 KAR 2:222E	1302	10-27-14	As Amended	1497	
301 KAR 2:225E	719	8-22-14	11 KAR 8:030		
Replaced	859	1-5-15	Amended	835	
405 KAR 8:030E	379	8-6-14	As Amended	1497	
Replaced	1314	1-5-15	11 KAR 15:060		
405 KAR 8:040E	389	8-6-14	Amended	839	
Replaced	1324	1-5-15	As Amended	1500	
405 KAR 10:025E	235	6-30-14	11 KAR 15:090		
601 KAR 1:112E	1481	12-5-14	Amended	1125	
804 KAR 4:230E	237	7-15-14	As Amended	1501	
Replaced	761	10-31-14	11 KAR 16:001		
804 KAR 4:400E	239	7-15-14	Amended	841	
Replaced	762	10-31-14	Withdrawn		12-1-14
804 KAR 4:410E	240	7-15-14	11 KAR 16:010		
Replaced	762	10-31-14	Amended	843	
900 KAR 7:030E	1755	12-31-14	Withdrawn		12-1-14
902 KAR 20:430E	242	7-15-14	11 KAR 19:010		
Replaced	1346	12-17-14	Amended	1130	
902 KAR 20:440E	250	7-15-14	As Amended	1504	
Replaced	1355	12-17-14	11 KAR 20:001	1240	
907 KAR 1:045E	1759	12-31-14	As Amended	1506	
907 KAR 1:516E(r)	995	9-16-14	11 KAR 20:010	1241	
907 KAR 3:005E	721	8-20-14	As Amended	1506	
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907 KAR 15:025E	413	7-22-14	As Amended	1507	
907 KAR 15:040E	996	9-16-14	11 KAR 20:040	1245	
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Replaced	44	8-1-14	As Amended	8	8-1-14
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Amended	295		As Amended	740	10-31-14
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30 KAR 6:010		See 40 Ky.R.	As Amended	741	10-31-14
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31 KAR 3:030	669		As Amended	741	10-31-14
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Amended	541		As Amended	15	8-1-14
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Amended	544		201 KAR 20:057		See 40 Ky.R.
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103 KAR 3:040			Amended	1415	
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201 KAR 30:190			201 KAR 44:110		
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201 KAR 30:200			Withdrawn		9-19-14
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SYMBOL KEY:

* Statement of Consideration not filed by deadline

** Withdrawn, not in effect within 1 year of publication

*** Withdrawn before being printed in Register

(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

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