

**205.6405 Definitions for KRS 205.6405 to 205.6408.**

As used in KRS 205.6405 to 205.6408:

- (1) "Assessment" means the hospital assessment authorized by KRS 205.6406;
- (2) "Commissioner" means the commissioner of the Department for Medicaid Services;
- (3) "Department" means the Department for Medicaid Services;
- (4) "Excess disproportionate share taxes" means any excess provider tax revenues collected under KRS 142.303 that are not needed to fund the state share of hospital disproportionate share payments under KRS 205.640 due to federal disproportionate share allotments being reduced and limited to the portion of provider tax revenues collected under KRS 142.303 necessary to fund the state share of the difference between the unreduced disproportionate share allotment and the reduced disproportionate share allotment;
- (5) "Intergovernmental transfer" means any transfer of money by or on behalf of a public agency for purposes of qualifying funds for federal financial participation in accordance with 42 C.F.R. sec. 433.51;
- (6) "Long-term acute hospital" means an in-state hospital that is certified as a long-term care hospital under 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);
- (7) "Managed care" means the provision of Medicaid benefits through managed care organizations under contract with the department pursuant to 42 C.F.R. sec. 438;
- (8) "Managed care gap" means:
  - (a) For hospital inpatient services, the difference between the maximum actuarially sound amount that can be included in managed care rates for hospital inpatient services provided by qualifying hospitals and the amount of total payments for hospital inpatient services provided by qualifying hospitals paid by managed care organizations. For purposes of the managed care gap, total payments shall exclude payments established under KRS 205.6405 to 205.6408; and
  - (b) For hospital outpatient services, the difference between the maximum actuarially sound amount that can be included in managed care rates for hospital outpatient services provided by qualifying hospitals and the amount of total payments for hospital outpatient services provided by qualifying hospitals paid by managed care organizations. For purposes of the managed care gap, total payments shall exclude payments established under KRS 205.6405 to 205.6408;
- (9) "Managed care organization" means an entity contracted with the department to provide Medicaid benefits pursuant to 42 C.F.R. sec. 438;
- (10) "Non-state government-owned hospital" means the same as non-state government-owned or operated facilities in 42 C.F.R. sec. 447.272 and represents one (1) group of hospitals for purposes of estimating the upper payment limit;
- (11) "Pediatric teaching hospital" means the same as in KRS 205.565;
- (12) "Private hospitals" means the same as privately owned and operated facilities in 42 C.F.R. sec. 447.272 and represents one (1) group of hospitals for purposes of estimating the upper payment limit;

- (13) "Program year" means the state fiscal year during which an assessment is assessed and rate improvement payments are made;
- (14) "Psychiatric access hospital" means an in-state psychiatric hospital licensed under KRS Chapter 216B that:
  - (a) Is not located in a Metropolitan Statistical Area;
  - (b) Provides at least sixty-five thousand (65,000) days of inpatient care as reflected in the department's hospital rate data for state fiscal year 1998-1999;
  - (c) Provides at least twenty percent (20%) of inpatient care to Medicaid-eligible recipients as reflected in the department's hospital rate data for state fiscal year 1998-1999; and
  - (d) Provides at least five thousand (5,000) days of inpatient psychiatric care to Medicaid recipients in a state fiscal year;
- (15) "Qualifying hospital":
  - (a) Means a Medicaid-participating, in-state hospital licensed under KRS Chapter 216B, including a long-term acute hospital, but excluding a university hospital and a state mental hospital as defined in KRS 205.639. The department may, but is not required to, exclude critical access hospitals and rural emergency hospitals from the definition of "qualifying hospital" for purposes of calculating the quarterly assessments. Notwithstanding the permission referenced in this subsection, or any other provision of the law to the contrary, the department may include critical access hospitals and rural emergency hospitals for purposes of calculating and paying the quarterly supplemental payments authorized in KRS 205.6406; and
  - (b) Notwithstanding paragraph (a) of this subsection, a university hospital that is not located on the affiliated university's primary campus may be deemed to be a qualifying hospital if the university hospital does not participate in a separate directed payment program for university hospitals;
- (16) "Qualifying hospital disproportionate share percentage" means a percentage equal to the amount of hospital provider taxes paid pursuant to KRS 142.303 by qualifying hospitals in state fiscal year 2016-2017 divided by the amount of hospital provider taxes paid pursuant to KRS 142.303 by all hospitals in state fiscal year 2016-2017;
- (17) "University hospital" means a state university teaching hospital, owned or operated by either the University of Kentucky College of Medicine or the University of Louisville School of Medicine, including a hospital owned or operated by a related organization pursuant to 42 C.F.R. sec. 413.17;
- (18) "University hospital disproportionate share percentage" means a percentage equal to the amount of hospital provider taxes paid pursuant to KRS 142.303 by university hospitals and state mental hospitals, as defined in KRS 205.639, in state fiscal year 2016-2017 divided by the amount of hospital provider taxes paid pursuant to KRS 142.303 by all hospitals in fiscal year 2016-2017;
- (19) "Upper payment limit" or "UPL" means the methodology permitted by federal regulation to achieve the maximum allowable amount on aggregate hospital Medicaid payments to non-state government-owned hospitals and private hospitals

under 42 C.F.R. sec. 447.272. A separate UPL shall be estimated for non-state government-owned hospitals and private hospitals; and

- (20) "UPL gap" means the difference between the UPL and amount of total fee-for-service payments paid by the department for hospital inpatient services provided by non-state government-owned hospitals and private hospitals to Medicaid beneficiaries and excluding payments established under KRS 205.6405 to 205.6408. A separate UPL gap shall be estimated for the non-state government-owned hospitals and private hospitals.

**Effective:** July 15, 2024

**History:** Amended 2024 Ky. Acts ch. 90, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 21, sec. 1, effective March 20, 2023. -- Amended 2021 Ky. Acts ch. 60, sec. 1, effective March 22, 2021. -- Created 2019 Ky. Acts ch. 114, sec. 1, effective June 27, 2019.

**Legislative Research Commission Note (3/20/2023).** 2023 Ky. Acts ch. 21, sec. 4, provides that the amendments made to this statute in that Act are retroactive to January 1, 2023.

**Legislative Research Commission Note (3/20/2023).** Under the authority of KRS 7.136(1), the Reviser of Statutes has changed the internal numbering of this statute to place the definitions in alphabetical order. No words were changed.