

605.135 Cabinet to determine child's eligibility for federal benefits -- Procedures if cabinet is representative payee -- Annual review -- Cabinet duties -- Administrative regulations. (Effective July 15, 2026)

- (1) (a) For all children in the care and custody of the cabinet, the cabinet shall determine within sixty (60) days after entry into care whether each child is receiving or eligible for earned federal benefits administered by the United States Social Security Administration or the United States Department of Veterans Affairs, including survivor or dependent benefits.
- (b) If the cabinet determines that a child is eligible or may be eligible for such earned benefits, the cabinet shall apply for the benefits on behalf of the child in accordance with federal law.
- (2) If a child began receiving earned federal benefits before entering the cabinet's care and custody, or if the cabinet applies for benefits on behalf of the child, the cabinet shall, in consultation with the child and the child's attorney, identify an appropriate representative payee consistent with 20 C.F.R. secs. 404.2021 and 416.621 and may apply to become the representative payee only if no other suitable candidate is available.
- (3) If the cabinet is appointed to serve as the representative payee, the cabinet shall:
 - (a) Not use any of the child's earned federal benefits, savings, or assets to pay for or reimburse the cabinet or the Commonwealth for any cost of the child's care, maintenance, supervision, or services;
 - (b) Establish and maintain an account to conserve the child's earned federal benefits in the child's best interests and consistent with federal and state asset and resource limits. Acceptable account types shall include:
 1. A special needs trust;
 2. A pooled special needs trust;
 3. An Achieving a Better Life Experience (ABLE) account established pursuant to 26 U.S.C. sec. 529A; or
 4. Any other account or trust vehicle determined not to interfere with eligibility for public benefits;
 - (c) Provide an annual accounting of the use, application, or conservation of the child's earned federal benefits to the child, the child's attorney, and, if parental rights have not been terminated, to the child's parents or guardians; and
 - (d) Periodically review whether another qualified person or entity could serve as representative payee in the child's best interests and, if so, shall assist in transferring that role.
- (4) The cabinet shall review each case annually to determine whether a child in care and custody has become newly eligible for earned federal benefits after the cabinet's initial determination pursuant to subsection (1) of this section.
- (5) The cabinet shall develop and implement a plan for each child in care and custody with conserved earned federal benefits to be called the Success Sequence Savings and Disbursement Plan. The plan shall allow a child who has completed a cabinet-

approved financial literacy or savings readiness program to access a portion of conserved benefits upon completion of at least one (1) specific milestone that promotes independence and financial readiness, including but not limited to:

- (a) Obtaining a driver's license or state identification card;
 - (b) Graduating from high school or receiving a recognized equivalent;
 - (c) Enrolling in a postsecondary education, vocational training, or apprenticeship program; or
 - (d) Maintaining verified employment for at least six (6) consecutive months.
- (6) The cabinet shall:
- (a) Determine reasonable disbursement thresholds and amounts for each milestone to promote long-term savings while rewarding progress toward self-sufficiency; and
 - (b) Ensure that all children participating in the program have access to financial literacy instruction and counseling to support effective use of milestone payments and long-term asset building.
- (7) Upon termination of the cabinet's care and custody for the child, the cabinet shall release any remaining conserved funds to:
- (a) The child, if the child is at least eighteen (18) years of age or emancipated; or
 - (b) The person responsible for the child, if the child remains a minor and is not emancipated.
- (8) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A and applicable federal laws to implement this section that include but are not limited to rules governing account management, milestone disbursements, reporting, financial literacy education, and oversight.

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