

AN ACT relating to treatment for alcohol and other drug abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 222.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrator" means the person or the designee of the person, in charge of the operation of an alcohol and other drug abuse prevention, intervention, or treatment program;
- (2) "Agency" means a legal entity operating hospital-based or nonhospital-based alcohol and other drug abuse prevention, intervention, or treatment programs;
- (3) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:
 - (a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;
 - (b) Use in situations which are potentially physically hazardous;
 - (c) Loss of control over the use of alcohol or other drugs or both; and
 - (d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both;
- (4) "Cabinet" means the Cabinet for Health and Family Services;
- (5) "Director" means the director of the Division of Behavioral Health of the Department for Behavioral Health, Developmental and Intellectual Disabilities;
- (6) "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical;
- (7) ***"Incapacitated by alcohol and other drug abuse" means that the person, as a***

result of alcohol and other drug abuse, has impaired judgment resulting in the person being incapable of realizing that there are serious and highly probable risks to health and safety involved in refusing treatment and making a rational decision with respect to the need for treatment;

(8) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function;

(9)~~(8)~~ "Juvenile" means any person who is under the age of eighteen (18);

(10)~~(9)~~ "Narcotic treatment program" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group;

(11)~~(10)~~ "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900;

(12)~~(11)~~ "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program;

(13)~~(12)~~ "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating alcohol and other drug abuse problems;

(14)~~(13)~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;

(15)~~(14)~~ "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in KRS 222.430 to 222.437, it specifically includes the services described in KRS 222.211(1)(c) and (d); and

(16)~~(15)~~ "Qualified health professional" has the same meaning as qualified mental health professional in KRS 202A.011, except that it also includes an alcohol and

drug counselor certified under KRS Chapter 309.

➔Section 2. KRS 222.431 is amended to read as follows:

No person suffering from alcohol and other drug abuse shall be ordered to undergo treatment unless that person:

- (1) Suffers from alcohol and other drug abuse;
- (2) Presents an imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future *or is incapacitated by alcohol and other drug abuse as defined in Section 1 of this Act;* and
- (3) Can reasonably benefit from treatment.

➔Section 3. KRS 222.432 is amended to read as follows:

- (1) Proceedings for sixty (60) days or three hundred sixty (360) days of treatment for an individual suffering from alcohol and other drug abuse shall be initiated by the filing of a verified petition in District Court.
- (2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."
- (3) The petition shall be filed by a spouse, relative, friend, or guardian of the individual concerning whom the petition is filed.
- (4) The petition shall set forth:
 - (a) Petitioner's relationship to the respondent;
 - (b) Respondent's name, residence, and current location, if known;
 - (c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;
 - (d) The name and residence of respondent's husband or wife, if any and if known;
 - (e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that the person is unknown; and

- (f) Petitioner's belief, including the factual basis therefor, that the respondent is suffering from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self, family, or others if not treated for alcohol or other drug abuse.

Any petition filed pursuant to this subsection shall be accompanied by a guarantee, signed by the petitioner or other person authorized under subsection (3) of this section, obligating that person to pay ~~the full~~ costs for treatment of the respondent for alcohol and other drug abuse that is ordered by the court *if not otherwise covered by a third-party payor.*

➔Section 4. KRS 222.433 is amended to read as follows:

- (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.
- (2) If, after reviewing the allegations contained in the petition *and any previous alcohol or drug assessments or drug tests conducted with the petitioner by qualified health professionals within the past six (6) months,* and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:
- (a) Set a date for a hearing within fourteen (14) days to determine if there is probable cause to believe the respondent should be ordered to undergo treatment for alcohol and other drug abuse;
- (b) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and
- (c) Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a

physician. The qualified health professionals shall certify their findings to the court within twenty-four (24) hours of the examinations.

If the respondent fails to adequately participate in this examination, the court shall accept any previous alcohol or drug assessments or drug tests conducted with the petitioner by qualified health professionals within the past six (6) months as findings to the court.

- (3) If, upon completion of the hearing, the court finds the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.
- (4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

➔Section 5. KRS 222.470 is amended to read as follows:

(1) Chemical dependency treatment programs shall not be considered for receipt of state funds if they:

(a)~~(1)~~ Do not submit reports as required by KRS 222.460; or

(b)~~(2)~~ Do not cooperate in the submission of information that would allow the cabinet to conduct a scientific random sample survey of client-outcome indicators as required by KRS 222.465.

(2) **Alcohol and other drug abuse treatment services identified under this chapter shall be authorized by the Department for Medicaid Services and its contractors as Medicaid-eligible services and shall be subject to the same medical necessity criteria and reimbursement methodology as for all other covered behavioral**

health services.

(3) Private insurers shall utilize their respective medical necessity criteria and reimbursement methodology for alcohol and other drug abuse treatment services identified under this chapter.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Department" means the Department for Medicaid Services;

(b) "Hearing officer" means an individual employed as a hearing officer by the Cabinet for Health and Family Services;

(c) "Medicaid 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; and

(d) "Provider" means any person or entity under contract with a Medicaid managed care organization or its contractual agent that provides covered services to enrollees.

(2) Notwithstanding any law to the contrary, a provider who has exhausted the internal appeals process of a Medicaid managed care organization shall be entitled to an administrative appeals hearing on the Medicaid managed care organization's final decision of denial, nonpayment, or the amount of reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization.

(3) A Medicaid managed care organization's final decision letter of an appeal issued to a provider shall include:

(a) A statement that the provider has exhausted its internal appeal rights with the Medicaid managed care organization;

(b) A statement that the provider is entitled to an administrative appeals

- hearing which may be pursued by written request to the department; and
- (c) The time period and address to request an administrative appeals hearing.
- (4) A provider may make a written request for an administrative appeals hearing within thirty (30) days of the provider's receipt of the Medicaid managed care organization's final decision.
- (5) An administrative hearing for a provider appeal shall be conducted by a hearing officer in accordance with KRS Chapter 13B and shall comply with the following requirements:
- (a) Failure by either a Medicaid managed care organization or a provider to attend a required conference or hearing related to an appeal shall result in disposition of the appeal in favor of the other party; and
- (b) The hearing officer shall issue a recommended order within thirty (30) calendar days from the date the administrative appeals hearing request is received by the department. The hearing officer may extend this deadline for up to fourteen (14) days.
- (6) A Medicaid managed care organization shall reimburse a provider for reasonable and necessary attorneys' fees at the state rate as established by the Government Contract Review Committee of the Legislative Research Commission, and administrative costs expended by a provider to pursue an administrative appeals hearing under this section if the recommended order awards more than fifty percent (50%) of the dollar amount involved to the provider.
- (7) The party that does not prevail shall pay a fee of one hundred dollars (\$100) to the cabinet.
- (8) The department shall promulgate administrative regulations to implement the administrative appeals hearing process for provider reimbursement as required by this section.

➔Section 7. Section 6 of this Act applies to all contracts between Medicaid

managed care organizations and the Department for Medicaid Services entered into or renewed on or after July 1, 2015.

➔Section 8. This Act takes effect July 1, 2015.