

AN ACT relating to eligibility for public assistance.

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

➔Section 1. KRS 205.200 is amended to read as follows:

- (1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by administrative regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.
- (2) The secretary shall, by administrative regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the Social Security Act, its amendments, and other federal acts and regulations. The secretary shall also promulgate administrative regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for public assistance under Title IV-A of the Federal Social Security Act. In no instance shall grants to families with no income be less than the appropriate grant maximum used for public assistance under Title IV-A of the Federal Social Security Act. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.
- (3) The secretary may by administrative regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by administrative regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.
- (4) The secretary may by administrative regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or

nonsupport by a parent in the public assistance under Title IV-A of the Federal Social Security Act program.

- (5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for the assistance.
- (6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of public assistance under Title IV-A of the Federal Social Security Act in respect to a child who has been deserted or abandoned by a parent.
- (7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:
  - (a) To register for employment with the state employment service,
  - (b) To accept suitable training, or
  - (c) To accept suitable employment.

The secretary may prescribe by administrative regulation, subject to the provisions of KRS Chapter 13A, standards of suitability for training and employment.

- (8) To the extent permitted by federal law, scholarships, grants, or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.
- (9) To the extent permitted by federal law, any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to "Agent Orange" by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam shall not be considered as income for the purpose of determining eligibility or continuing eligibility for public assistance and shall not be subject to a lien or be available for repayment to the Commonwealth for public assistance received by the recipient.

- (10) (a) The cabinet shall design and implement a substance abuse screening program for adult persons with a felony or misdemeanor history of substance abuse receiving or seeking to receive monetary public assistance, food stamps under the federal food stamp program, or assistance under the state Medical Assistance Program. The screening program may include periodic testing of the person's blood or urine or may implement other reliable methods of determining substance abuse, including written questionnaires.
- (b) An adult person with a felony or misdemeanor history of substance abuse shall be ineligible for public assistance if he or she:
1. Does not participate in the substance abuse screening program established under this subsection; or
  2. Refuses to comply with the requirements of paragraph (e) of this subsection after a positive result on a test administered by the program for the presence of:
    - a. A Schedule I controlled substance; or
    - b. A Schedule II through V controlled substance not prescribed for that person.
- (c) The substance abuse testing component of the screening program shall be designed so as to require that testing occurs as an initial condition precedent prior to the receipt of public assistance and once each subsequent year the adult person receives public assistance, with the person being randomly assigned a month within that year to submit to testing upon receipt of reasonable notice from the cabinet.
- (d) The results of testing conducted under this subsection shall not be admissible in any criminal proceeding without the consent of the person tested.

(e) The secretary shall promulgate administrative regulations to prescribe the design, operation, and standards for the implementation of this subsection and shall, when necessary, consider the best interests of any children in the home of a recipient of public assistance. The administrative regulations shall include:

1. A requirement that, in two (2) parent families, both parents comply with all substance abuse screening requirements if both have a felony or misdemeanor history of substance abuse;
2. A requirement that the public assistance applicant pay all substance abuse screening costs. If a person passes the substance abuse screening, his or her costs shall be reimbursed through increasing the initial benefit by the amount paid for the screening;
3. A requirement that each person sign a written acknowledgement stating that he or she has received and understands the substance abuse screening policy;
4. A policy that a person who fails a substance abuse screening has the right to additional screenings;
5. A policy that a person who has tested positive for a substance described in paragraph (b)2. of this subsection will be provided with a list of licensed substance abuse treatment providers available in his or her area;
6. A policy that a person who has tested positive for a substance described in paragraph (b)2. of this subsection shall pass a substance abuse screening before being eligible for public assistance benefits, except as provided in paragraph (f) of this subsection; and
7. A policy that the public assistance eligibility of any dependent children in the household shall not be affected by a parent's or guardian's

positive substance abuse screening result, and a parent or guardian may mitigate the impact of his or her positive substance abuse screening result by designating another individual who meets the following requirements to receive benefits for the minor child or children:

a. The designated individual shall be an immediate family member of the parent or child, or shall be otherwise approved by the cabinet; and

b. The designated individual shall pass a substance abuse screening if he or she has a felony or misdemeanor history of substance abuse.

(f) 1. After testing positive for any substance described in paragraph (b)2. of this subsection, each recipient shall enter a probationary period.

2. a. The probationary period shall begin with a sixty (60) day grace period, during which the recipient shall enter a substance abuse treatment program or risk losing benefits. After that initial sixty (60) day grace period, a second substance abuse screening shall be conducted.

b. If a recipient tests positive for a substance described in paragraph (b)2. of this subsection on the second screening conducted under this subdivision a. of subparagraph, then the recipient shall, within fourteen (14) days, show evidence of having entered a substance abuse treatment program. During this fourteen (14) day period, benefits may be suspended until proof of entry into a treatment program is provided. If benefits are suspended, the benefits shall continue to be payable for the benefit of any children in the recipient's home.

3. a. If the recipient does not test positive for any substance described in paragraph (b)2. of this subsection on the second screening conducted under subparagraph 2. of this paragraph, then the recipient shall pass two (2) additional substance abuse screenings conducted at random intervals during the next twenty-four (24) months.
- b. If the recipient does not test positive for any substance described in paragraph (b)2. of this subsection on the subsequent screenings conducted under subdivision a. of this subparagraph, then the recipient's record shall be expunged and he or she shall re-enter the general recipient population and continue receiving substance abuse screenings only as otherwise provided in this subsection.
4. a. If the recipient tests positive for any substance described in paragraph (b)2. of this subsection during any of the subsequent screenings conducted under subparagraph 3. of this paragraph, then the recipient shall, within fourteen (14) days, show evidence of having entered a substance abuse treatment program. During this fourteen (14) day period, benefits may be suspended until proof of entry into an approved program is provided. If benefits are suspended, the benefits shall continue to be payable for the benefit of any children in the recipient's home.
- b. If the recipient does not begin treatment, he or she shall no longer be eligible to receive benefits under this chapter, but the benefits shall continue to be payable for the benefit of any children in the recipient's home.
- c. If the recipient does begin treatment, he or she shall continue to

be eligible to receive benefits. Sixty (60) days after completion of the treatment program, the recipient shall pay for any other substance abuse screening. If the recipient does not test positive for any substance described in paragraph (b)2. of this subsection, he or she shall pass two (2) additional substance abuse screenings conducted at random intervals over the next twenty-four (24) months. If the recipient does not test positive for any substance described in paragraph (b)2. of this subsection, then the recipient's record shall be expunged and he or she shall only be eligible for substance abuse screenings as otherwise provided in this subsection.

(g) The cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this subsection.