

1 AN ACT relating to health services.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) For purposes of this section, "voluntarily" describes the action of a resident who*
6 *elects, of his or her own volition, to leave a facility described in subsection (2) of*
7 *this section against medical advice and who provides notice to the facility that he*
8 *or she intends to leave or who actually leaves the facility.*

9 *(2) Any substance use disorder program that is authorized or regulated under this*
10 *chapter or that holds a chemical dependency treatment services license under*
11 *KRS 222.231 and issued in accordance with KRS 216B.042 shall, for any resident*
12 *who wishes to voluntarily leave the treatment program, either:*

13 *(a) Obtain agreement from the resident's family member, guardian, or*
14 *emergency contact to personally transport the resident within twenty-four*
15 *(24) hours; or*

16 *(b) Make available transportation services.*

17 *(3) Transportation services may include providing the resident access to:*

18 *(a) A ride-sharing service and purchasing a one (1) way service to:*

19 *1. A specific address in the resident's hometown of record; or*

20 *2. The city hall in the resident's hometown of record;*

21 *(b) Public transportation, including but not limited to transporting the resident*
22 *to the nearest commercial bus station and purchasing a ticket to the*
23 *resident's hometown of record;*

24 *(c) A mobile response team, as available; or*

25 *(d) Other transportation to a safe place as determined by the facility to be*
26 *therapeutically appropriate.*

27 *(4) The facilities described in subsection (2) of this section and law enforcement*

1 officers shall only transport residents voluntarily leaving the facility to public
2 transportation locations, the location to meet the driver of a ride-sharing service,
3 or other safe place as determined by the facility to be therapeutically appropriate.

4 (5) The facilities described in subsection (2) of this section shall make all reasonable
5 attempts to find alternative treatment and resources if a resident voluntarily
6 leaves.

7 (6) (a) If a resident required by court order to attend a treatment facility described
8 in subsection (2) of this section leaves the facility prior to court approval or
9 prior to completing the conditions of the court order, the treatment facility
10 shall notify the court, county attorney, local law enforcement, and the
11 resident's family of the resident's exit if permitted by:

12 1. The Health Insurance Portability and Accountability Act of 1996;

13 2. 42 C.F.R. pt. 2; and

14 3. Other applicable and federal patient privacy laws.

15 (b) A probation officer or peace officer, acting on information provided by the
16 treatment facility under paragraph (a) of this subsection, who sees the
17 resident violate the terms of his or her conditional discharge or violate the
18 court order may arrest the resident without a warrant and incarcerate the
19 resident until the judge who made the initial court order holds a hearing on
20 the resident's violation of that court order.

21 (7) Any substance use disorder program that is authorized or regulated under this
22 chapter or holds a chemical dependency treatment service license under KRS
23 222.231 and issued in accordance with KRS 216B.042 shall provide full
24 disclosure of the specific services provided by the substance use disorder program
25 to any potential patients and in any advertisements or other solicitations.

26 (8) A facility that does not hold a chemical dependency treatment services license
27 under KRS 222.231 and issued in accordance with KRS 216B.042 or is not a

1 substance use disorder program that is authorized or regulated under this chapter
2 shall be exempt from this section.

3 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) Any substance use disorder program that is authorized or regulated under this
6 chapter or holds a chemical dependency treatment service license under KRS
7 222.231 and issued in accordance with KRS 216B.042 shall:

8 (a) Not recruit into their facility any out-of-state resident:

9 1. If the out-of-state resident is enrolled in Medicaid; or

10 2. With the purpose of enrolling the out-of-state resident in Medicaid in
11 Kentucky; and

12 (b) Submit to the Department for Medicaid Services the recipient's proof of
13 residency when submitting a request for Medicaid reimbursement.

14 (2) Any substance use disorder program that is authorized or regulated under this
15 chapter or holds a chemical dependency treatment service license under KRS
16 222.231 and issued in accordance with KRS 216B.042 that violates subsection
17 1(a) of this section shall be fined twenty thousand dollars (\$20,000) for each
18 offense.

19 (3) (a) Any out-of-state resident found to be ineligible for Medicaid services in
20 Kentucky as a result of failure to establish Kentucky as his or her domicile
21 shall be required to reimburse any Medicaid fees paid for on behalf of the
22 out-of-state resident.

23 (b) A substance use disorder program that is authorized or regulated under this
24 chapter or holds a chemical dependency treatment service license under
25 KRS 222.231 and is issued in accordance with KRS 216B.042 shall be fined
26 not less than five hundred dollars (\$500) for each day an out-of-state
27 resident received Medicaid services in Kentucky.

1 ➔Section 3. KRS 205.200 is amended to read as follows:

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

1 (5) Public assistance shall not be payable to or in behalf of any individual who has
2 taken any legal action in his or her own behalf or in the behalf of others with the
3 intent and purpose of creating eligibility for the assistance.

4 (6) The cabinet shall promptly notify the appropriate law enforcement officials of the
5 furnishing of public assistance under Title IV-A of the Federal Social Security Act
6 in respect to a child who has been deserted or abandoned by a parent.

7 (7) No person shall be eligible for public assistance payments if, after having been
8 determined to be potentially responsible, and afforded notice and opportunity for
9 hearing, he or she refuses without good cause:

10 (a) To register for employment with the state employment service,

11 (b) To accept suitable training, or

12 (c) To accept suitable employment.

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

15 (8) To the extent permitted by federal law, scholarships, grants, or other types of
16 financial assistance for education shall not be considered as income for the purpose
17 of determining eligibility for public assistance.

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

26 (10) (a) For the purpose of determining eligibility for medical assistance under Title
27 XIX of the Social Security Act, unless otherwise required by federal law, the

1 cabinet shall only accept self-attestation of income, residency, age, household
2 composition, caretaker or relative status, or receipt of other coverage as
3 verification of last resort prior to enrollment, and the cabinet shall not request
4 federal authorization or approval to waive or decline to periodically check any
5 available income-related data source to verify eligibility.

6 (b) This subsection shall not apply to any individual who is a resident of an
7 assisted living community as defined in KRS 194A.700 or to a long-term care
8 facility as defined in KRS 216A.010 or hospital licensed under KRS Chapter
9 216B that is using self-attestation to determine presumptive eligibility.

10 (c) If an individual for medical assistance under Title XIX of the Social Security
11 Act willingly and knowingly self-attests to falsified information related to
12 income, residency, age, household composition, caretaker or relative status, or
13 receipt of other coverage, the cabinet may fine the individual not more than
14 five hundred dollars (\$500) per offense.

15 (11) When determining whether an applicant for services or assistance provided under
16 this chapter meets the applicable income eligibility guidelines, the cabinet shall use
17 the most recent income verification data available and consider fluctuating
18 employment income data.

19 (12) If in the normal course of operations, the cabinet finds that an individual has
20 trafficked, sold, distributed, given, or otherwise transferred an electronic benefit
21 transfer card issued by the department for money, service, or other valuable
22 consideration, the cabinet, to the extent permitted under state and federal law:

23 (a) Shall through any means practical, including but not limited to garnishment of
24 future cash assistance benefits, seek recoupment from the individual of any
25 cash benefits trafficked, sold, distributed, given, or otherwise transferred; and

26 (b) May:

27 1. Upon the first violation, deem the individual ineligible for all public

1 assistance programs administered by the cabinet under this chapter for a
2 period of not more than six (6) months;

3 2. Upon the second violation, deem the individual ineligible for all public
4 assistance programs administered by the cabinet under this chapter for a
5 period of not more than twelve (12) months; and

6 3. Upon the third violation, deem the individual ineligible for all public
7 assistance programs administered by the cabinet under this chapter for a
8 period of not more than five (5) years.

9 (13) (a) Notwithstanding any other provision of Kentucky law, the following shall be
10 disregarded for the purposes of determining an individual's eligibility for a
11 means-tested public assistance program, and the amount of assistance or
12 benefits the individual is eligible to receive under the program:

- 13 1. Any amount in an ABLE account;
- 14 2. Any contributions to an ABLE account; and
- 15 3. Any distribution from an ABLE account for qualified disability
16 expenses.

17 (b) For purposes of this subsection:

- 18 1. "ABLE account" means an account established within any state having a
19 qualified ABLE program as provided in 26 U.S.C. sec. 529A, as
20 amended;
- 21 2. "Kentucky law" includes:
 - 22 a. All provisions of the Kentucky Revised Statutes;
 - 23 b. Any contract to provide Medicaid managed care established
24 pursuant to this chapter;
 - 25 c. Any agreement to operate a Medicaid program established
26 pursuant to this chapter; and
 - 27 d. Any administrative regulation promulgated pursuant to this

1 chapter; and

2 3. "Qualified disability expenses" means expenses described in 26 U.S.C.
3 sec. 529A of a person who is the beneficiary of an ABLE account.

4 **(14) (a) Residency shall not be established for an individual if the individual**
5 **relocates to Kentucky with the sole intention of establishing eligibility to**
6 **receive medical services under this chapter.**

7 **(b) An individual may rebut the sole intention of paragraph (a) of this**
8 **subsection by showing proof of residency. Proof of residency shall include**
9 **but not be limited to the possession of a valid Kentucky operator's license or**
10 **a copy of a deed or property tax bill, utility agreement or utility bill, or**
11 **rental housing agreement.**