

1 AN ACT relating to the establishment of the Medicaid Oversight and Advisory
2 Board of the Kentucky General Assembly and declaring an emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 8 of this Act:*

7 *(1) "Board" means the Medicaid Oversight and Advisory Board;*

8 *(2) "Cabinet" means the Cabinet for Health and Family Services;*

9 *(3) "Commission" means the Legislative Research Commission;*

10 *(4) "Department" means the Department for Medicaid Services; and*

11 *(5) "Medicaid program" means the Kentucky Medical Assistance Program*
12 *established in KRS 205.510 to 205.630 and the Kentucky Children's Health*
13 *Insurance Program established in KRS 205.6483.*

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
15 READ AS FOLLOWS:

16 *The Medicaid Oversight and Advisory Board of the Kentucky General Assembly is*
17 *hereby established. The purpose of the board is to review, analyze, study, evaluate,*
18 *provide legislative oversight, and make recommendations to the General Assembly*
19 *regarding any aspect of the Kentucky Medicaid program including but not limited to*
20 *benefits and coverage policies, access to services and network adequacy, health*
21 *outcomes and equity, reimbursement rates, payment methodologies, delivery system*
22 *models, funding, and administrative regulations.*

23 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
24 READ AS FOLLOWS:

25 *(1) The board shall be composed of the following members:*

26 *(a) Twelve (12) legislative members, as follows:*

27 *1. Five (5) members of the House of Representatives appointed by the*

1 Speaker of the House of Representatives, each of whom shall serve
2 while a member of the House for the term for which he or she has
3 been elected, one (1) of whom shall be the chair or vice chair of the
4 House Standing Committee on Health Services, and one (1) of whom
5 shall be the chair or vice chair of the House Standing Committee on
6 Families and Children;

7 2. One (1) member of the House of Representatives appointed by the
8 Minority Floor Leader of the House of Representatives, who shall
9 serve while a member of the House for the term for which he or she
10 has been elected;

11 3. Five (5) members of the Senate appointed by the President of the
12 Senate, each of whom shall serve while a member of the Senate for the
13 term for which he or she has been elected, one (1) of whom shall be
14 the chair or vice chair of the Senate Standing Committee on Health
15 Services, and one (1) of whom shall be the chair or vice chair of the
16 Senate Standing Committee on Families and Children; and

17 4. One (1) member of the Senate appointed by the Minority Floor Leader
18 of the Senate, who shall serve while a member of the Senate for the
19 term for which he or she has been elected;

20 (b) Fourteen (14) non-legislative members, as follows:

21 1. The commissioner of the Department for Medicaid Services or his or
22 her designee;

23 2. The chief medical officer of the Commonwealth or his or her
24 designee;

25 3. The chair of the Advisory Council for Medical Assistance established
26 in KRS 205.540 or his or her designee;

27 4. The director of the Center of Excellence in Rural Health, established

- 1 in KRS 164.937, or his or her designee;
- 2 5. The state budget director or his or her designee;
- 3 6. The Auditor of Public Accounts or his or her designee;
- 4 7. Two (2) members appointed by the Governor, of which:
- 5 a. One (1) shall have significant Medicaid-specific experience in
- 6 healthcare administration, financing, policy, or research; and
- 7 b. One (1) shall be a licensed healthcare provider who is a
- 8 participating Medicaid provider and who serves on one (1) of the
- 9 technical advisory committees to the Advisory Council for
- 10 Medical Assistance established in KRS 205.590;
- 11 8. Three (3) members appointed by the Speaker of the House of
- 12 Representatives, of which:
- 13 a. One (1) shall have significant Medicaid-specific experience in
- 14 healthcare administration, financing, policy, or research;
- 15 b. One (1) shall be a licensed healthcare provider who is a
- 16 participating Medicaid provider and who serves on one (1) of the
- 17 technical advisory committees to the Advisory Council for
- 18 Medical Assistance established in KRS 205.590; and
- 19 c. One (1) shall be a representative of a managed care organization
- 20 contracted by the department to deliver Medicaid services or a
- 21 representative of an association that represents managed care
- 22 organizations; and
- 23 9. Three (3) members appointed by the President of the Senate, of which:
- 24 a. One (1) shall have significant Medicaid-specific experience in
- 25 healthcare administration, financing, policy, or research;
- 26 b. One (1) shall be a licensed healthcare provider who is a
- 27 participating Medicaid provider and who serves on one (1) of the

1 technical advisory committees to the Advisory Council for
 2 Medical Assistance established in KRS 205.590; and

3 c. One (1) shall be a representative of a managed care organization
 4 contracted by the department to deliver Medicaid services or a
 5 representative of an association that represents managed care
 6 organizations; and

7 (c) Two (2) nonvoting ex officio members, as follows:

8 1. The chair of the House Standing Committee on Appropriations and
 9 Revenue; and

10 2. The chair of the Senate Standing Committee on Appropriations and
 11 Revenue.

12 (2) (a) Of the members appointed pursuant to subsection (1)(a)1. of this section,
 13 the Speaker of the House of Representatives shall designate one (1) as co-
 14 chair of the board.

15 (b) Of the members appointed pursuant to subsection(1)(a)3. of this section, the
 16 President of the Senate shall designate one (1) as co-chair of the board.

17 (3) For the purposes of this section, "significant Medicaid-specific experience in
 18 healthcare administration, financing, policy, or research" means:

19 (a) Experience in administering the Kentucky Medical Assistance Program;

20 (b) A hospital administrator with relevant experience in Medicaid billing or
 21 regulatory compliance;

22 (c) An attorney licensed to practice law in the Commonwealth of Kentucky with
 23 relevant experience in healthcare law;

24 (d) A consumer or patient advocate with relevant experience in the area of
 25 Medicaid policy; or

26 (e) A current or former university professor whose primary area of emphasis is
 27 healthcare economics or financing, health equity, healthcare disparities, or

1 Medicaid policy.

2 (4) (a) Individuals appointed to the board pursuant to subsection (1)(b)7., 8., and 9.
3 of this section shall not:

4 1. Be a member of the General Assembly; or

5 2. Be employed by a state agency of the Commonwealth of Kentucky or
6 receiving contractual compensation for services rendered to a state
7 agency of the Commonwealth of Kentucky that would conflict with his
8 or her service on the board.

9 (b) Individuals appointed to the board pursuant to subsection (1)(b)7.a., 8.a.,
10 and 9.a. of this section shall:

11 1. Serve a term of four (4) years; and

12 2. Not serve more than one (1) consecutive term, after which time he or
13 she may not be reappointed to the board for a period of at least four
14 (4) years.

15 (c) Individuals appointed to the board pursuant to subsection (1)(b)7.b., 8.b.
16 and c., and 9.b. and c. of this section shall:

17 1. Serve a term of two (2) years; and

18 2. Not serve more than one (1) consecutive term, after which time he or
19 she may not be reappointed to the board for a period of at least two (2)
20 years.

21 (5) (a) Any vacancy which may occur in the membership of the board shall be
22 filled in the same manner as the original appointment.

23 (b) A member of the board whose term has expired may continue to serve until
24 such time as his or her replacement has been appointed.

25 (6) Members of the board are entitled to reimbursement for expenses incurred in the
26 performance of their duties on the board.

27 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO

1 READ AS FOLLOWS:

2 (1) The board shall meet at least four (4) times during each calendar year.

3 (2) The co-chairs of the board shall have joint responsibilities for board meeting
4 agendas and presiding at board meetings.

5 (3) (a) On an alternating basis, each co-chair shall have the first option to set the
6 monthly meeting date.

7 (b) A monthly meeting may be canceled by agreement of both co-chairs.

8 (4) A majority of the entire voting membership of the board shall constitute a
9 quorum, and all actions of the board shall be by vote of a majority of its entire
10 voting membership.

11 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
12 READ AS FOLLOWS:

13 The board shall have the authority to:

14 (1) Require any of the following entities to provide any and all information necessary
15 to carry out the board's duties, including any contracts entered into by the
16 department, the cabinet, or any other state agency related to the administration of
17 any aspect of the Medicaid program or the delivery of Medicaid benefits or
18 services:

19 (a) The Cabinet for Health and Family Services;

20 (b) The Department for Medicaid Services;

21 (c) Any other state agency;

22 (d) Any Medicaid managed care organization with whom the department has
23 contracted for the delivery of Medicaid services;

24 (e) The state pharmacy benefit manager contracted by the department pursuant
25 to KRS 205.5512; and

26 (f) Any other entity contracted by a state agency to administer or assist in
27 administering any aspect of the Medicaid program or the delivery of

- 1 Medicaid benefits or services;
- 2 (2) Establish a uniform format for reports and data submitted to the board and the
3 frequency, which may be monthly, quarterly, semiannually, annually, or
4 biannually, and the due date for the reports and data;
- 5 (3) Conduct public hearings in furtherance of its general duties, at which it may
6 request the appearance of officials of any state agency and solicit the testimony of
7 interested groups and the general public;
- 8 (4) Establish any advisory committees or subcommittees of the board that the board
9 deems necessary to carry out the board's duties;
- 10 (5) Request the Auditor of Public Accounts to perform a financial or special audit of
11 the Medicaid program or any aspect thereof; and
- 12 (6) Subject to selection and approval by the Legislative Research Commission, utilize
13 the services of consultants, analysts, actuaries, legal counsel, and auditors to
14 render professional, managerial, and technical assistance, as needed.

15 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
16 READ AS FOLLOWS:

- 17 (1) The board shall:
- 18 (a) On an ongoing basis, conduct an impartial review of all state laws and
19 regulations governing the Medicaid program and recommend to the
20 General Assembly any changes it finds desirable with respect to program
21 administration including delivery system models, program financing,
22 benefits and coverage policies, reimbursement rates, payment
23 methodologies, provider participation, or any other aspect of the program;
- 24 (b) On an ongoing basis, review of any change or proposed change in federal
25 laws and regulations governing the Medicaid program and report to the
26 Legislative Research Commission on the probable costs, possible budgetary
27 implications, potential effect on healthcare outcomes, and the overall

1 desirability of any change or proposed change in federal laws or regulations
2 governing the Medicaid program;

3 (c) At the request of the Speaker of the House of Representatives or the
4 President of the Senate, evaluate proposed changes to state laws affecting
5 the Medicaid program and report to the Speaker or the President on the
6 probable costs, possible budgetary implications, potential effect on
7 healthcare outcomes, and overall desirability as a matter of public policy;

8 (d) At the request of the Legislative Research Commission, research issues
9 related the Medicaid program;

10 (e) Beginning in 2025 and at least once every five (5) years thereafter, cause a
11 program evaluation to be conducted of the Medicaid program. In any
12 instance in which a program evaluation indicates inadequate operating or
13 administrative system controls or procedures, inaccuracies, inefficiencies,
14 waste, extravagance, unauthorized or unintended activities, or other
15 deficiencies, the board shall report its findings to the Legislative Research
16 Commission. The program evaluation shall be performed by a consultant
17 retained by the board;

18 (f) Beginning in 2026 and at least once every five (5) years thereafter, cause an
19 actuarial analysis to be performed of the Medicaid program, to evaluate the
20 sufficiency and appropriateness of Medicaid reimbursement rates
21 established by the department and those paid by any managed care
22 organization contracted by the department for the delivery of Medicaid
23 services. The actuarial analysis shall be performed by an actuary retained
24 by the board;

25 (g) Beginning in 2027 and at least once every five (5) years thereafter, cause
26 the overall health of the Medicaid population to be assessed. The
27 assessment shall include but not be limited to a review of health outcomes,

1 healthcare disparities among program beneficiaries and as compared to the
2 general population, and the effect of the overall health of the Medicaid
3 population on program expenses. The assessment shall be performed by a
4 consultant retained by the board;

5 (h) Beginning in 2028 and at least once every five (5) years thereafter, cause a
6 review to be made of the administrative expenses and operational cost of the
7 Medicaid program. The review shall include but not be limited to evaluating
8 the level and growth of administrative costs, the potential for legislative
9 changes to reduce administrative costs, and administrative changes the
10 department may make to reduce administrative costs or staffing needs. At
11 the discretion of the Legislative Research Commission, the review may be
12 conducted by a consultant retained by the board; and

13 (i) Beginning in 2025 and annually thereafter, publish a report covering the
14 board's evaluations and recommendations with respect to the Medicaid
15 program. The report shall be submitted to the Legislative Research
16 Commission no later than December 1 of each year, and shall include at a
17 minimum a summary of the board's current evaluation of the program and
18 any legislative recommendations made by the board.

19 (2) The board may:

20 (a) Review all new or amended administrative regulations related to the
21 Medicaid program and provide comments to the Administrative Regulation
22 Review Subcommittee established in KRS 13A.020;

23 (b) Make recommendations to the General Assembly, the Governor, the
24 secretary of the Cabinet for Health and Family Services, and the
25 commissioner of the Department for Medicaid Services regarding program
26 administration including benefits and coverage policies, access to services
27 and provider network adequacy, healthcare outcomes and disparities,

1 reimbursement rates, payment methodologies, delivery system models,
2 funding, and administrative regulations. Recommendations made pursuant
3 to this section shall be nonbinding and shall not have the force of law; and

4 (c) On or before December 1 of each calendar year, adopt an annual research
5 agenda. The annual research agenda may include studies, research, and
6 investigations considered by the board to be significant. Board staff shall
7 prepare a list of study and research topics related to the Medicaid program
8 for consideration by the board in the adoption of the annual research
9 agenda. An annual research agenda adopted by the board may be amended
10 by the Legislative Research Commission to include any studies or reports
11 mandated by the General Assembly during the next succeeding regular
12 session.

13 (3) At the discretion of the Legislative Research Commission, studies and research
14 projects included in an annual research agenda adopted by the board pursuant to
15 subsection (2)(c) of this section may be conducted by outside consultants,
16 analysts, or researchers to ensure the timely completion of the research agenda.

17 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
18 READ AS FOLLOWS:

19 The Legislative Research Commission shall have exclusive jurisdiction over the
20 employment of personnel necessary to carry out the provisions of Sections 1 to 8 of this
21 Act. Staff and operating costs of the board shall be provided from the budget of the
22 Legislative Research Commission.

23 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
24 READ AS FOLLOWS:

25 The officers and personnel of any state agency and any other person may serve at the
26 request of the board upon any advisory committees that the board may create. State
27 officers and personnel may serve upon these advisory committees without forfeiture of

1 office or employment and with no loss or diminution in the compensation statute,
2 rights, and privileges which they otherwise enjoy.

3 ➔Section 9. KRS 7A.010 is amended to read as follows:

4 As used in KRS 7A.010 to 7A.170~~[this chapter, unless the context otherwise requires]:~~

5 (1) "Capital project" means:

6 (a) Any undertaking which is to be financed or funded through an appropriation
7 by the General Assembly of general fund, road fund, bond fund, trust and
8 agency fund, or federal fund moneys, where the expenditure is a capital
9 expenditure pursuant to statute or under standards prescribed by the
10 Legislative Research Commission under the authority of KRS Chapter 48;

11 (b) Any undertaking which is to be financed by a capital expenditure for use by
12 the state government or one of its departments or agencies, as defined in KRS
13 12.010 or enumerated in KRS 12.020, including projects related to the
14 construction or maintenance of roads, and including projects of institutions of
15 higher education as defined in KRS 164A.550(2);

16 (c) Any capital construction item, or any combination of capital construction
17 items necessary to make a building or utility installation complete, estimated
18 to cost:

19 1. Except for items of movable equipment, one million dollars
20 (\$1,000,000) or more, regardless of the source of funds; or

21 2. Any item of movable equipment, estimated to cost two hundred
22 thousand dollars (\$200,000) or more, regardless of the source of funds;

23 (d) Any lease of real property whose value is two hundred thousand dollars
24 (\$200,000) or more;

25 (e) Any lease of an item of movable equipment if the total cost of the lease, lease-
26 purchase, or lease with an option to purchase is two hundred thousand dollars
27 (\$200,000) or more; or

- 1 (f) Any new acquisition, upgrade, or replacement of an information technology
2 system estimated to cost one million dollars (\$1,000,000) or more;
- 3 (2) "Board" means the Capital Planning Advisory Board of the Kentucky General
4 Assembly created by KRS 7A.110;
- 5 (3) "Plan" means the state capital improvement plan provided for by KRS 7A.120;
- 6 (4) "State agency" means any department, commission, council, board, bureau,
7 committee, institution, legislative body, agency, government corporation, or other
8 entity of the executive, judicial, or legislative branch of the state government; and
- 9 (5) "Information technology system" means any related computer or
10 telecommunications components that provide a functional system for a specific
11 business purpose and contain one (1) or more of the following:
- 12 (a) Hardware;
- 13 (b) Software, including application software, systems management software,
14 utility software, or communications software;
- 15 (c) Professional services for requirements analysis, system integration,
16 installation, implementation, or data conversion services; or
- 17 (d) Digital data products, including acquisition and quality control.

18 ➔Section 10. KRS 7A.140 is amended to read as follows:

19 The board may adopt any administrative regulations, *in accordance with KRS Chapter*
20 *13A*, necessary to carry out its planning and advisory functions as provided by *KRS*
21 *7A.010 to 7A.170*~~[this chapter]~~.

22 ➔Section 11. KRS 7A.150 is amended to read as follows:

23 The Legislative Research Commission shall have exclusive jurisdiction over the
24 employment of personnel necessary to carry out the provisions of KRS *7A.010 to*
25 *7A.170*~~[Chapter 7A]~~. Staff and operating costs of the Capital Planning Advisory Board
26 shall be provided from the budget of the Legislative Research Commission.

27 ➔Section 12. KRS 7A.180 is amended to read as follows:

1 As used in KRS 7A.180 to 7A.190~~[this section]~~:

2 (1) "Board" means the Investments in Information Technology Improvement and
3 Modernization Projects Oversight Board;

4 (2) "Information technology system" means any related computer or
5 telecommunication components that provide a functional system for a specific
6 business purpose and contain one (1) or more of the following:

7 1. Hardware;

8 2. Software, including application software, systems management software,
9 utility software, or communications software;

10 3. Professional services for requirements analysis, system integration,
11 installation, implementation, or data conversion services; or

12 4. Digital data products, including acquisition and quality control; and

13 (3) "State agency" means any department, commission, council, board, bureau,
14 committee, institution, legislative body, agency, government corporation, or other
15 entity of the executive, judicial, or legislative branch of state government.

16 ➔Section 13. Whereas there is urgent need to establish legislative oversight of the
17 Kentucky Medical Assistance Program in order to ensure efficient program
18 administration and timely access to benefits and to provide members of the General
19 Assembly with the information and data necessary to make informed decisions about the
20 Kentucky Medical Assistance program, an emergency is declared to exist, and this Act
21 takes effect upon its passage and approval by the Governor or upon its otherwise
22 becoming a law.