

1 AN ACT relating to advisory oversight of the Medicaid program.

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

3 ➔Section 1. KRS 205.540 is amended to read as follows:

- 4 (1) ***The Medicaid***~~[An]~~ Advisory ***Committee***~~[Council for Medical Assistance]~~ shall be
 5 established in ***accordance with 42 C.F.R. sec. 431.12***~~[the state government]~~.
- 6 ***(2) The Medicaid Advisory Committee shall advise the Cabinet for Health and***
 7 ***Family Services and the Department for Medicaid Services on matters related to***
 8 ***policy development and effective administration of the Medicaid program and***
 9 ***may advise on any topic identified in 42 C.F.R. sec. 431.12(g).***
- 10 ***(3) The Medicaid Advisory Committee***~~[council]~~ shall consist of ***thirty-five (35)***~~[twenty-~~
 11 ~~two (22)]~~ members ***as follows:***
- 12 ***(a) The commissioner of the Department for Medicaid Services, or his or her***
 13 ***designee, who shall serve as an ex officio, nonvoting member and co-chair***
 14 ***of the committee;***
- 15 ***(b) The commissioner of the Department for Public Health, or his or her***
 16 ***designee, who shall serve as an ex officio, nonvoting member of the***
 17 ***committee;***
- 18 ***(c) The commissioner of the Department for Behavioral Health, Development***
 19 ***and Intellectual Disabilities, who shall serve as an ex officio, nonvoting***
 20 ***member of the committee; and***
- 21 ***(d) The following thirty-two (32) members who***~~[. The secretary for health and~~
 22 ~~family services shall be an ex officio member. The other twenty one (21)~~
 23 ~~members of the council]~~ shall be appointed by the ***commissioner of the***
 24 ***Department for Medicaid Services as follows and in accordance with***
 25 ***subsections (4) and (5) of this section:***~~[Governor]~~
- 26 ***1. Fifteen (15) appointments shall be made one (1) from each list of***
 27 ***three (3) nominees submitted by the following organizations, or their***

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successor organizations:

- a. The Brain Injury Alliance of Kentucky;
- b. The Kentucky Association of Health Care Facilities;
- c. The Kentucky Association of Private Providers;
- d. The Kentucky Association of Regional Programs;
- e. The Kentucky Chapter of the American Academy of Pediatrics;
- f. The Kentucky Dental Association;
- g. The Kentucky Home Health Association;
- h. The Kentucky Hospital Association;
- i. The Kentucky Medical Equipment Suppliers Association;
- j. The Kentucky Nurses' Association;
- k. The Kentucky Optometric Association;
- l. The Kentucky Pharmacists Associations;
- m. The Kentucky Primary Care Association;
- n. The Kentucky Psychological Association; and
- o. Leading Age Kentucky;

2. Two (2) appointments shall be made from a list of five (5) nominees submitted by the Kentucky Medical Association of which at least one (1) shall be a licensed and Medicaid-enrolled obstetrician;

3. One (1) appointment shall be made from a list of three (3) nominees submitted by the Kentucky Association of Health Plans who shall represent current managed care organizations with whom the Department for Medicaid Services has contracted for the delivery of Medicaid services;

4. Eight (8) appointments shall be made from the membership of the Beneficiary Advisory Council established in Section 4 of this Act; and

5. The other six (6) appointive members shall, to ensure that membership

1 of the committee is representative of the varied experiences of
2 Medicaid beneficiaries, be healthcare advocates knowledgeable about
3 health care and the healthcare industry of which:

4 a. One (1) shall be a representative of a recognized consumer
5 advocacy group representing the elderly;

6 b. One (1) shall be a representative of a recognized consumer
7 advocacy group representing individuals with behavioral health
8 needs;

9 c. One (1) shall be a representative of a recognized consumer
10 advocacy group representing persons reentering society
11 following incarceration; and

12 d. Three (3) shall be representatives of recognized consumer
13 advocacy groups whose membership includes low-income
14 individuals, children and youth, women, minorities, and disabled
15 persons.

16 (4) (a) Members of the Medicaid Advisory Committee appointed pursuant to
17 subsection (3)(d) of this section~~and~~ shall hold office for a term of not more
18 than four (4) years, except that:

19 1. The member appointed pursuant to subsection (3)(d)3. shall serve a
20 term of one (1) year; and

21 2. The other members first appointed upon the creation of the committee
22 shall serve as follows:

23 a. One-third (1/3) of the members shall be appointed for a term of
24 two (2) years;

25 b. One-third (1/3) of the members shall be appointed for a term of
26 three (3) years; and

27 c. One-third (1/3) of the members shall be appointed for a term of

1 four (4) years;
2 with the respective terms of each member initially appointed upon
3 creation of the committee being designated by the commissioner at the
4 time of their appointments. ~~and until their successors are appointed and~~
5 ~~qualify, except that the members appointed to fill the first vacancy~~
6 ~~occurring for a term beginning on July 1, 1960, shall be as follows: Two~~
7 ~~(2) members shall be appointed for one (1) year, two (2) for two (2)~~
8 ~~years, two (2) for three (3) years, and three (3) for four (4) years, and the~~
9 ~~respective terms of the first members shall be designated by the~~
10 ~~Governor at the time of their appointments.] Upon the expiration of the~~
11 ~~respective terms of the members first appointed~~ upon creation of the
12 committee, ~~the term of each successor shall be for four (4) years~~ ~~and~~
13 ~~until his successor is appointed and qualified. Thirteen (13) of the~~
14 ~~appointments shall be made one (1) from each list of three (3) nominees~~
15 ~~submitted by the following organizations: the Kentucky State Medical~~
16 ~~Association; the Kentucky Dental Association; the Kentucky Hospital~~
17 ~~Association; the Kentucky Medical Equipment Suppliers Association;~~
18 ~~the Kentucky Pharmacists Association; the Kentucky Association of~~
19 ~~Health Care Facilities; the Kentucky Nurses' Association; the State~~
20 ~~Board of Podiatry; the Kentucky Home Care Association; the Kentucky~~
21 ~~Optometric Association; the Kentucky Primary Care Association; the~~
22 ~~Kentucky Association of Hospice and Palliative Care; and the Kentucky~~
23 ~~Association of Homes and Services for the Aging, Inc. The other eight~~
24 ~~(8) appointive members shall be healthcare advocates knowledgeable~~
25 ~~about health care and the healthcare industry, and shall include three (3)~~
26 ~~medical assistance recipients; one (1) representative of a recognized~~
27 ~~consumer advocacy group representing the elderly; one (1)~~

1 representative of a recognized consumer advocacy group representing
 2 persons reentering society following incarceration; and three (3)
 3 representatives of recognized consumer advocacy groups whose
 4 membership includes low income persons, children and youth, women,
 5 minorities, and disabled persons}.

6 **(b) A member of the committee appointed pursuant to subsection (3)(d) of this**
 7 **section shall not serve more than one (1) consecutive term after which time**
 8 **he or she may not be reappointed to the board for a period of at least four**
 9 **(4) years.**

10 **(5)(2)** Each **appointed**~~[appointive]~~ member of the **Medicaid Advisory Committee**~~[~~
 11 ~~Council]~~ shall serve without compensation, but each council member not otherwise
 12 compensated for his or her time or expenses shall be entitled to reimbursement for
 13 his or her actual and necessary expenses in carrying out his or her duties with
 14 reimbursement for expenses being made in accordance with state regulations
 15 relating to travel reimbursement.

16 **(6)(3)** Vacancies shall be filled for the unexpired term in the same manner as
 17 original appointments, maintaining representations as set out in subsection **(3)(1)**
 18 of this section.

19 **(7)(4)** The **Medicaid Advisory Committee**~~[council]~~ shall elect a **co-chair,**
 20 **vicechair**~~[chairman, vice chairman]~~, and secretary from among its members at its
 21 first regular meeting in each fiscal year and shall adopt rules governing its
 22 proceedings. The **committee**~~[council]~~ shall hold a meeting at least once every three
 23 (3) months and such other special or regular meetings as may be desired.

24 **(8)(5)** The **six (6) members appointed pursuant to subsection (3)(d)5. of this**
 25 **section**~~[eight (8) appointive members who are healthcare advocates]~~ shall not have
 26 a fiduciary relationship or interest in any **healthcare**~~[health care]~~ facility or service.

27 ➔Section 2. KRS 205.550 is amended to read as follows:

- 1 (1) The *Medicaid Advisory Committee and the Beneficiary Advisory Council*~~[council]~~
2 shall advise the Cabinet for Health and Family Services about health and medical
3 care services.
- 4 (2) The *Medicaid Advisory Committee and the Beneficiary Advisory Council*~~[council]~~
5 shall have the opportunity for participation in policy development and program
6 administration and shall advise the Cabinet for Health and Family Services on such
7 matters.
- 8 (3) The *Medicaid Advisory Committee and the Beneficiary Advisory Council*~~[council]~~
9 shall give advice regarding how to further the participation of recipient members in
10 the policy development and program administration of the Medical Assistance
11 Program.
- 12 ➔Section 3. KRS 205.590 is amended to read as follows:
- 13 (1) The following technical advisory committees shall be established for the purpose of
14 acting in an advisory capacity to the *Medicaid Advisory Committee*~~[Advisory~~
15 ~~Council for Medical Assistance]~~ with respect to the administration of the Medical
16 Assistance Program and in performing the function of peer review:
- 17 (a) A Technical Advisory Committee on Physician Services consisting of five (5)
18 physicians appointed by the council of the Kentucky State Medical
19 Association;
- 20 (b) A Technical Advisory Committee on Hospital Care consisting of five (5)
21 hospital administrators appointed by the board of trustees of the Kentucky
22 Hospital Association;
- 23 (c) A Technical Advisory Committee on Dental Care consisting of five (5)
24 dentists appointed by the Kentucky Dental Association;
- 25 (d) A Technical Advisory Committee on Nursing Service consisting of five (5)
26 nurses appointed by the board of directors of the Kentucky State Association
27 of Registered Nurses;

- 1 (e) A Technical Advisory Committee on Nursing Home Care consisting of six (6)
2 members of which five (5) members shall be appointed by the Kentucky
3 Association of Health Care Facilities, and one (1) member shall be appointed
4 by the Kentucky Association of Nonprofit Homes and Services for the Aging,
5 Inc.;
- 6 (f) A Technical Advisory Committee on Optometric Care consisting of five (5)
7 members appointed by the Kentucky Optometric Association;
- 8 (g) A Technical Advisory Committee on Podiatric Care consisting of five (5)
9 podiatrists appointed by the Kentucky Podiatry Association;
- 10 (h) A Technical Advisory Committee on Primary Care consisting of five (5)
11 primary care providers, two (2) of whom shall represent licensed health
12 maintenance organizations, appointed by the Governor, until such time as an
13 association of primary care providers is established, whereafter the association
14 shall appoint the members;
- 15 (i) A Technical Advisory Committee on Home Health Care consisting of five (5)
16 members appointed by the board of directors of the Kentucky Home Health
17 Association;
- 18 (j) A Technical Advisory Committee on Consumer Rights and Client Needs
19 consisting of seven (7) members, with one (1) member to be appointed by
20 each of the following organizations: the American Association of Retired
21 Persons Kentucky, the Family Resource Youth Services Coalition of
22 Kentucky, the Kentucky Association of Community Health Workers, the
23 Kentucky Legal Services Corporation, the Arc of Kentucky, the Department
24 of Public Advocacy, and the National Association of Social Workers-
25 Kentucky Chapter;
- 26 (k) A Technical Advisory Committee on Behavioral Health consisting of seven
27 (7) members, with one (1) member to be appointed by each of the following

1 organizations: the Kentucky Mental Health Coalition, the Kentucky
2 Association of Regional Programs, the National Alliance on Mental Illness
3 (NAMI) Kentucky, a statewide mental health consumer organization, the
4 People Advocating Recovery (PAR), the Brain Injury Association of
5 America-Kentucky Chapter, and the Kentucky Brain Injury Alliance;

6 (l) A Technical Advisory Committee on Children's Health consisting of ten (10)
7 members, with one (1) member to be appointed by each of the following
8 organizations: the Kentucky Chapter of the American Academy of Pediatrics,
9 the Kentucky PTA, the Kentucky Psychological Association, the Kentucky
10 School Nurses Association, the Kentucky Association for Early Childhood
11 Education, the Family Resource and Youth Services Coalition of Kentucky,
12 the Kentucky Youth Advocates, the Kentucky Association of Hospice and
13 Palliative Care, a parent of a child enrolled in Medicaid or the Kentucky
14 Children's Health Insurance Program appointed by the Kentucky Head Start
15 Association, and a pediatric dentist appointed by the Kentucky Dental
16 Association;

17 (m) A Technical Advisory Committee on Intellectual and Developmental
18 Disabilities consisting of nine (9) members, one (1) of whom shall be a
19 consumer who participates in a nonresidential community Medicaid waiver
20 program, one (1) of whom shall be a consumer who participates in a
21 residential community Medicaid waiver program, one (1) of whom shall be a
22 consumer representative of a family member who participates in a community
23 Medicaid waiver program, and one (1) of whom shall be a consumer
24 representative of a family member who resides in an ICF/ID facility that
25 accepts Medicaid payments, all of whom shall be appointed by the Governor;
26 one (1) member shall be appointed by the Arc of Kentucky; one (1) member
27 shall be appointed by the Commonwealth Council on Developmental

1 Disabilities; one (1) member shall be appointed by the Kentucky Association
2 of Homes and Services for the Aging; and two (2) members shall be
3 appointed by the Kentucky Association of Private Providers, one (1) of whom
4 shall be a nonprofit provider and one (1) of whom shall be a for-profit
5 provider;

6 (n) A Technical Advisory Committee on Therapy Services consisting of six (6)
7 members, two (2) of whom shall be occupational therapists and shall be
8 appointed by the Kentucky Occupational Therapists Association, two (2) of
9 whom shall be physical therapists and shall be appointed by the Kentucky
10 Physical Therapy Association, and two (2) of whom shall be speech therapists
11 and shall be appointed by the Kentucky Speech-Language-Hearing
12 Association;

13 (o) A Technical Advisory Committee on Pharmacy consisting of seven (7)
14 members, two (2) of whom shall be Kentucky licensed pharmacists who own
15 fewer than ten (10) pharmacies in the Commonwealth and shall be appointed
16 by the Kentucky Independent Pharmacy Alliance, two (2) of whom shall be
17 Kentucky licensed pharmacists and shall be appointed by the Kentucky
18 Pharmacy Association, and one (1) member to be appointed by each of the
19 following organizations: the Kentucky Hospital Association, the Kentucky
20 Primary Care Association, and the National Association of Chain Drug
21 Stores;

22 (p) A Technical Advisory Committee on Persons Returning to Society from
23 Incarceration consisting of twelve (12) members of whom:

24 1. One (1) shall be appointed by each of the following organizations: the
25 Kentucky Jailers Association, the Kentucky Medical Association, the
26 Kentucky Association of Nurse Practitioners and Nurse-Midwives,
27 Community Action of Kentucky, the Homeless and Housing Coalition

1 of Kentucky, the Kentucky Office of Drug Control Policy, a Kentucky
2 civil legal aid program, the Kentucky Department of Corrections, the
3 Kentucky Department of Public Advocacy, the Kentucky Association of
4 Regional Programs, and the Kentucky Administrative Office of the
5 Courts; and

6 2. One (1) formerly incarcerated individual who is a current or former
7 Medicaid recipient shall be appointed by Mental Health America of
8 Kentucky; and

9 (q) A Technical Advisory Committee on Emergency Medical Services consisting
10 of seven (7) members, one (1) of whom shall represent the air medical
11 industry and shall be appointed by the Kentucky Chapter of the Association of
12 Air Medical Services; one (1) of whom shall be appointed by the Kentucky
13 Board of Emergency Medical Services; two (2) of whom shall represent the
14 emergency medical services billing industry and shall be members of and
15 appointed by the Kentucky Ambulance Providers Association; two (2) of
16 whom shall represent ground ambulance providers and shall be appointed by
17 the Kentucky Ambulance Providers Association; and one (1) of whom shall
18 represent a fire-based emergency medical service and shall be appointed by
19 the Kentucky Association of Fire Chiefs. All members appointed to this
20 committee shall represent emergency medical services providers that operate
21 in Kentucky and shall have experience in interpreting, implementing, or
22 ensuring compliance with Medicaid regulations.

23 (2) The members of the technical advisory committees shall each serve for a term of
24 four (4) years and until their successors are appointed and qualified. Members of
25 the technical advisory committees shall not serve more than one (1) consecutive
26 term, after which time a member may not be reappointed to a technical advisory
27 committee for a period of at least four (4) years.

1 (3) Each ~~appointed~~^{appointive} member of a committee shall serve without
2 compensation but shall be entitled to reimbursement for actual and necessary
3 expenses in carrying out their duties with reimbursement for expenses being made
4 in accordance with state regulations relating to travel reimbursement.

5 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) The Beneficiary Advisory Council shall be established in accordance with 42
8 C.F.R. sec. 431.12.

9 (2) The Beneficiary Advisory Council shall advise the Cabinet for Health and Family
10 Services and the Department for Medicaid Services on matters related to policy
11 development and effective administration of the Medicaid program and may
12 advise on any topic identified in 42 C.F.R. sec. 431.12(g).

13 (3) The Beneficiary Advisory Council shall:

14 (a) Be separate from the Medicaid Advisory Committee established in Section 1
15 of this Act;

16 (b) Meet separately from the Medicaid Advisory Committee;

17 (c) Meet in advance of each Medicaid Advisory Committee meeting in order to
18 prepare council members for meetings of the committee; and

19 (d) Consist of the following nineteen (19) members appointed by the
20 commissioner of the Department for Medicaid Services in accordance with
21 subsections (4) and (5) of this section:

22 1. Eight (8) current Medicaid beneficiaries;

23 2. Five (5) former Medicaid beneficiaries;

24 3. Four (4) individuals who are the parents or guardians of a current
25 Medicaid beneficiary; and

26 4. Two (2) individuals who are paid or unpaid caregivers of a Medicaid
27 beneficiary.

- 1 (4) In appointing members to the council, the commissioner of the Department for
2 Medicaid Services shall ensure that the council membership consist of
3 individuals who are currently or were previously Medicaid beneficiaries, have
4 direct experience supporting Medicaid beneficiaries including family members or
5 paid or unpaid caregivers of individuals enrolled in Medicaid, or who may have
6 experience with Medicaid managed care organizations, the foster care system,
7 1915(c) waivers, or behavioral health services.
- 8 (5) (a) Members of the Beneficiary Advisory Council shall serve for a term of not
9 more than four (4) years, except that the members first appointed upon
10 creation of the council shall serve as follows:
- 11 1. One-third (1/3) of the members shall be appointed for a term of two (2)
12 years;
- 13 2. One-third (1/3) of the members shall be appointed for a term of three
14 (3) years; and
- 15 3. One-third (1/3) of the members shall be appointed for a term of four
16 (4) years;
- 17 with the respective terms of each member initially appointed upon creation
18 of the council being designated by the commissioner at the time of their
19 appointments.
- 20 (b) A member of the council shall not serve more than one (1) consecutive term
21 after which time he or she may not be reappointed to the board for a period
22 of at least four (4) years.
- 23 (6) Members of the Beneficiary Advisory Council, including those who also serve on
24 the Medicaid Advisory Committee, shall be entitled to reimbursement, if
25 requested, for his or her actual and necessary expenses in carrying out his or her
26 duties with reimbursement for expenses being made in accordance with state
27 regulations relating to travel reimbursement.

1 (7) Meetings of the Beneficiary Advisory Council shall be exempt from KRS 61.800
2 to 61.884. Consistent with 42 C.F.R. 431.12, a member of the council shall have
3 the option to include or exclude his or her name from documents posted by the
4 Department for Medicaid Services that include a list of members of the
5 Beneficiary Advisory Council, the Medicaid Advisory Committee, or the actions
6 of members record in publicly post meeting minutes.