

1 AN ACT relating to the Medicaid home and community based waiver program.

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

3 →SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Assisted living community," "assisted living services," and "basic health
7 and health-related services" have the same meanings as in KRS 194A.700;
8 and

9 (b) "Home and community based waiver program," or "HCB waiver":

10 1. Means the 1915(c) home and community based waiver program,
11 commonly referred to as the HCB waiver; and
12 2. Does not include any other 1915(c) home and community based
13 services waiver programs administered by the Department for
14 Medicaid Services or any other state agency.

15 (2) (a) The cabinet shall, no later than ninety (90) days after the effective date of
16 this Act, prepare and submit a waiver amendment application to the federal
17 Centers for Medicare and Medicaid Services to amend the HCB waiver
18 program to include coverage for assisted living services.

19 (b) Coverage for assisted living services required under this section shall be
20 limited to:

21 1. HCB waiver participants who:

22 a. Are sixty-five (65) years of age or older;
23 b. Are ambulatory, as defined in KRS 194A.700;
24 c. Would, according to a physician, likely require admission to a
25 nursing facility if not provided access to assisted living services;
26 and
27 d. Reside in an assisted living community licensed by the cabinet to

provide basic health and health-related services in accordance with KRS 194A.700 to 194A.729; and

2. Assisted living services and, in accordance with federal law, shall not include the cost of room and board.

(3) The cabinet shall, no later than ninety (90) days after receiving federal approval for the waiver amendment application required in subsection (2) of this section, promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section, including but not limited to:

(a) Provider qualifications;

(b) Reimbursement rates for assisted living services; and

(c) A maximum room and board rate that an assisted living community may charge an HCB waiver participant.

(4) If the waiver amendment application required in subsection (2) of this section is denied by the federal Centers for Medicare and Medicaid Services, this section shall have no force or effect.

16 ➔Section 2. If the Cabinet for Health and Family Services or the Department for
17 Medicaid Services determines that a state plan amendment, waiver, or any other form of
18 authorization or approval from any federal agency to implement Section 1 of this Act is
19 necessary to prevent the loss of federal funds or to comply with federal law, the cabinet
20 or department:

21 (1) Shall, within 90 days after the effective date of this section, request the
22 necessary federal authorization or approval to implement Section 1 of this Act; and

23 (2) May only delay implementation of the provisions of Section 1 of this Act for
24 which federal authorization or approval was deemed necessary until the federal
25 authorization or approval is granted.

26 ➔Section 3. Sections 1 and 2 of this Act shall constitute the specific authorization
27 required under KRS 205.5372(1).