

1 AN ACT relating to Medicaid coverage for palliative care.

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 *The Department for Medicaid Services and any managed care organization with which*
6 *the department has contracted for the delivery of Medicaid services shall provide*
7 *coverage for palliative care in accordance with the following:*

8 *(1) In order to be eligible for Medicaid-covered palliative care services, an individual*
9 *shall be:*

10 *(a) Eligible for and enrolled in the Medicaid program;*

11 *(b) In the professional opinion of the individual's care team, in the last two (2)*
12 *years of life;*

13 *(c) At risk for significant healthcare utilization; and*

14 *(d) Except as provided in subsection (2) of this section, diagnosed with one (1)*
15 *or more of the following qualifying conditions:*

16 *1. Stage IV cancer of any type;*

17 *2. Certain stage III cancers, as determined by the Department for*
18 *Medicaid Services in accordance with subsection (4) of this section;*

19 *3. NYHA class III or IV advanced heart failure;*

20 *4. Stage III or IV chronic obstructive pulmonary disease;*

21 *5. End-stage renal disease;*

22 *6. End-stage liver disease;*

23 *7. Advanced neurological disease;*

24 *8. Advanced dementia; or*

25 *9. Any other condition identified as a qualifying condition by the*
26 *Department for Medicaid Services through the promulgation of an*
27 *administrative regulation, including conditions for pediatric patients*

that comply with the requirements of subsection (2)(b)2. of this section.

(2) (a) An individual shall not be eligible for Medicaid-covered palliative care services under this section if he or she has a primary diagnosis of substance use disorder.

(b) An individual who is less than eighteen (18) years of age shall be eligible for Medicaid-covered palliative care services under this section if he or she:

1. Meets the requirements established in subsection (1)(a), (b), and (c) of this section; and

2. Has been diagnosed with an advanced illness or medical condition that is expected to result in early mortality, complex healthcare needs, or significant suffering.

(3) Palliative care services covered under this section shall:

(a) *Include:*

1. *Physician oversight;*

2. An interdisciplinary team approach;

3. Access to care twenty-four (24) hours a day, seven (7) days a week; and

4. Regularly scheduled in-person visits by members of the individual's care team. Telehealth may only be utilized to augment or supplement in-person care visits; and

(b) Be provided under the scope of current licensure by organizations that hold a valid and operational hospice license and by providers that are enrolled Medicare and Medicaid providers. The Department for Medicaid Services shall not require a separate license to provide palliative care services under this section.

(4) The Department for Medicaid Services shall promulgate administrative

1 regulations in accordance with KRS Chapter 13A to implement this section,
2 including:
3 (a) Establishing reimbursement rates and a payment methodology for palliative
4 care services covered under this section;
5 (b) Identifying certain stage III cancers that may qualify an individual for
6 palliative care services covered under this section; and
7 (c) Quality control measures and reporting requirements to be utilized by the
8 Department for Medicaid Services to evaluate the cost effectiveness of
9 palliative care services covered under this section, which shall include:
10 1. Hospitalization rates;
11 2. Emergency department utilization rates;
12 3. Transitions to hospice care;
13 4. Completion of advanced care planning by individuals receiving
14 Medicaid-covered palliative care services; and
15 5. Patient experience.

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 Act, request the necessary
22 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).