

## **922 KAR 1:130. Kinship Care Program.**

RELATES TO: KRS 194A.060, 199.462(1), 205.175, 205.177, 205.210, 205.211, 205.720(1), 403.270, 403.280, 405.020(3), (4), 600.020(1), (20), (50), 610.010(8), 615.030, 620.027, 620.050, 620.080, 620.090, 620.130(2), 620.230(2), 45 C.F.R. 264.30, 42 U.S.C. 601-619

STATUTORY AUTHORITY: KRS 194A.050(1), 205.200 (2), (3), 605.120(5), (6), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS Chapter 205 requires the Cabinet for Health and Family Services to administer the public assistance programs. KRS 205.200(2) requires the cabinet to prescribe, by administrative regulation, the conditions of eligibility for public assistance, in conformity with the Social Security Act, 42 U.S.C. 601-619 and federal regulations. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement provisions of KRS Chapter 605, Administrative Matters. KRS 605.120(5) authorizes the cabinet, to the extent funds are available, to establish a program for kinship care that provides a permanent placement for a child who is or would otherwise be placed in foster care due to abuse, neglect, or death of both parents. KRS 605.120(6) requires the cabinet to promulgate administrative regulations establishing uniform conditions and requirements regarding eligibility, financial assistance and payment rates, and support and case-management services for kinship care. This administrative regulation establishes the Kinship Care Program in Kentucky.

### **Section 1. Definitions.**

- (1) "Adolescent member of the household" means a youth who:
  - (a) Resides in the home of an individual who applies for approval to be a kinship caregiver; and
  - (b) Is age twelve (12) through age seventeen (17).
- (2) "Adult member of the household" means an adult who:
  - (a) Resides in the home of an individual who applies for approval to be a kinship caregiver; and
  - (b) Is age eighteen (18) or older.
- (3) "Caretaker relative" means a relative:
  - (a) With whom the child is, or shall be, placed by the cabinet; and
  - (b) Who is seeking to qualify as a kinship caregiver.
- (4) "Case permanency plan" is defined at KRS 620.020(1).
- (5) "Child" means an individual:
  - (a) Age fifteen (15) or under;
  - (b) Age sixteen (16), seventeen (17), or eighteen (18) in regular full-time attendance in elementary, middle, or high school, or equivalent level of vocational or technical school; or
  - (c) Under age eighteen (18) and a graduate of high school or equivalent.
- (6) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families money payment program established in 921 KAR Chapter 2.
- (7) "Kinship caregiver" means the qualified caretaker relative of a child with whom the child is placed by the cabinet as an alternative to foster care.
- (8) "Supplemental Security Income" or "SSI" means a program established in 42 U.S.C. 1382.

## Section 2. Initial Eligibility Determination for A Child.

(1)

(a) Effective April 1, 2013, the cabinet shall not consider a child for initial eligibility in the Kinship Care Program.

(b) Other cabinet resources for a prospective or existing permanent relative placement may include:

1. K-TAP for a child if an application is made in accordance with 921 KAR 2:006 and 921 KAR 2:016;
2. Health benefits for a child if an application is made in accordance with 907 KAR 1:610, 907 KAR 4:020, or 907 KAR 4:030;
3. Supplemental Nutrition Assistance Program (SNAP) benefits for a household if an application is made in accordance with 921 KAR 3:030; or
4. Relative placement support benefit in accordance with 922 KAR 1:400, to the extent funds are available.

(2) To the extent funds are available, the cabinet may consider a child for initial eligibility in the Kinship Care Program if the cabinet:

(a) Determines that the child is at risk of removal from the child's home with the child's biological or adoptive parent and would otherwise be placed in foster care, or is in the custody of the cabinet and residing in foster care due to:

1. A cabinet investigation, pursuant to 922 KAR 1:330, that resulted in a substantiation of abuse or neglect:
  - a. Within 120 calendar days of placement in the home of the caretaker relative; and
  - b. Prior to April 1, 2013; or
2. The death of both parents; and

(b) Places the child with a caretaker relative prior to April 1, 2013, due to:

1. Abuse or neglect as provided in paragraph (a)1 of this subsection; or
2. Death of both parents.

(3) Prior to April 1, 2013, the cabinet may consider a child for the Kinship Care Program if the child is placed with a caretaker relative in Kentucky by another state pursuant to KRS 615.030, and the cabinet receives from the other state agency responsible for the child's placement verification of:

- (a) A finding of substantiated abuse or neglect within 120 calendar days of the child's placement, as determined by the state agency responsible for the child's placement; or
- (b) The death of both parents.

(4) Prior to April 1, 2013, the cabinet may consider a child placed with a caretaker relative in another state for the Kinship Care Program if the:

- (a) Child and caretaker relative become a resident of Kentucky within forty-five (45) calendar days of the child's placement;
- (b) Caretaker relative applies for the Kinship Care Program within forty-five (45) calendar days of the child's placement; and
- (c) Other state agency responsible for the child's placement provides verification that the placement was due to:
  1. A finding of substantiated abuse or neglect within 120 days of the child's placement, as determined by the state agency responsible for the child's placement; or
  2. The death of both parents.

(5) Kinship Care Program benefits shall be available to a child:

- (a) Placed by the cabinet with a nonparental relative in accordance with this administrative regulation; and
- (b) Whose initial eligibility determination for the Kinship Care Program took place prior to April 1, 2013.

### Section 3. Initial Eligibility Determination Process for Child's Relative.

- (1) The caretaker relative of the child and each adult member of the household shall:
  - (a) Undergo a:
    1. Criminal records check in accordance with 922 KAR 1:490; and
    2. Child abuse and neglect check conducted by the cabinet in accordance with 922 KAR 1:490; and
  - (b) Be approved in accordance with 922 KAR 1:490.
- (2) Each adolescent household member of the caretaker relative's home shall:
  - (a) Undergo a child abuse and neglect check, conducted by the cabinet in accordance with 922 KAR 1:490; and
  - (b) Be approved in accordance with 922 KAR 1:490.
- (3) The caretaker relative, each adult member of the household, and each adolescent member of the household shall agree to undergo a relative home evaluation.

### Section 4. Relative Home Evaluation.

- (1) The cabinet shall utilize the "DPP-1276 Relative Home Evaluation" to verify a relative home evaluation for the Kinship Care Program.
- (2) During a relative home evaluation, the cabinet shall consider the caretaker relative's:
  - (a) Willingness and ability to:
    1. Protect the child from abuse or neglect;
    2. Assume permanent custody;
    3. Understand and agree to the "KC-01 Kinship Care Program Statement of Rights and Responsibilities";
    4. Participate in the child's case permanency plan;
    5. Access:
      - a. Transportation;
      - b. Telephone;
      - c. Medical services;
      - d. First aid supplies; and
      - e. School;
    6. Provide full-time care; and
    7. Accommodate for the child within the home, including:
      - a. Providing for the child's sleeping and eating;
      - b. Maintaining adequate heat and ventilation in the home;
      - c. Using active smoke detectors in the home; and
      - d. Assuring the child's inaccessibility to:
        - (i) Medication;
        - (ii) Alcoholic beverages;
        - (iii) Poisonous or cleaning materials;
        - (iv) Ammunition;
        - (v) Firearms; and
        - (vi) Unsupervised contact with a birth parent; and
  - (b) Understanding of the impact that familial abuse, neglect, or substance abuse may have on a child and the child's extended family.
- (3)
  - (a) The cabinet shall indicate the need for any start-up costs, as described in Section 14 of this administrative regulation, with the "DPP-1276 Relative Home Evaluation".
  - (b) Start-up costs shall no longer be available effective April 1, 2013.

### Section 5. Completion of Initial Eligibility Determination.

- (1) To satisfactorily complete the initial eligibility determination, a caretaker relative of a child shall meet the following requirements to qualify as a kinship caregiver:

- (a) Achieve a satisfactory relative home evaluation, described in Section 4 of this administrative regulation, from cabinet staff;
  - (b) Meet approval criteria established in Section 3 of this administrative regulation for criminal records checks;
  - (c) Meet approval criteria established in Section 3 of this administrative regulation for child abuse and neglect checks, conducted by the cabinet; and
  - (d) Agree to and sign the "KC-01 Kinship Care Program Statement of Rights and Responsibilities".
- (2) The child's designated cabinet worker shall utilize Form "KIM-78KC Kinship Care Financial Assistance Application", to refer the caretaker relative and child to the appropriate cabinet staff for an eligibility determination of the Kinship Care Program's financial assistance for the child.
- (3) Prior to the financial assistance eligibility determination by the cabinet for receipt of the Kinship Care Program's financial assistance, the "KIM-78KC Kinship Care Financial Assistance Application" shall be signed and dated by:
- (a) The designated cabinet worker assigned to the child; and
  - (b)
    - 1. The caretaker relative with whom the child is placed; or
    - 2. A representative authorized in writing to act on behalf of the caretaker relative.
- (4) A caretaker relative who fails to satisfactorily complete the initial eligibility determination required by subsection (1) of this section to qualify as a kinship caregiver shall not be eligible to receive financial assistance from the Kinship Care Program for the child.

#### Section 6. Application Process for the Kinship Care Program.

- (1) The date of the "KIM-78KC, Application for Kinship Care Financial Assistance", shall be:
  - (a) Within the timeframes established in Section 2 of this administrative regulation; or
  - (b) In accordance with Section 12 of this administrative regulation.
- (2) The caretaker relative shall be the primary source of a child's information and shall:
  - (a) Furnish verification of income, resources, and technical eligibility, as required by Section 8 of this administrative regulation; and
  - (b) Give written consent to those contacts necessary to verify or clarify a factor pertinent to the decision of eligibility.
- (3) The application shall be processed in the county of residence of the caretaker relative.
- (4) If the caretaker relative is unable to go to the local department office to complete the application process, the caretaker relative may:
  - (a) Designate an authorized representative; or
  - (b) Request a home visit.
- (5) The caretaker relative may be:
  - (a) Assisted by an individual of his choice in the application process; or
  - (b) Accompanied by an individual of his choice during a contact with the cabinet.
- (6) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for a person who is:
  - (a) Deaf; or
  - (b) Hard of hearing.
- (7) Interpreter services shall be provided for a non-English speaking individual as specified in 921 KAR 2:035, Section 1.
- (8) If informed in writing of an appointment or necessary information to be provided by the caretaker relative, failure of the caretaker relative to appear for a scheduled interview or provide required information at the time requested shall be a failure to present adequate proof of eligibility.

#### Section 7. Timeframe for Eligibility Determination.

- (1) A decision shall be made regarding eligibility for Kinship Care Program financial assistance and payment issued within forty-five (45) calendar days of the date the "KIM-78KC Kinship Care Financial Assistance Application" is signed by the caretaker relative or representative.
- (2) Exception to the time standard established in subsection (1) of this section may be provided by the cabinet if the caretaker relative or cabinet requires additional time to obtain verification necessary for an eligibility determination.
- (3) The case record shall document the reason for not meeting the timeframe established in subsection (1) of this section.
- (4) Failure to process an application within the timeframe shall not be used as a basis for denial for the Kinship Care Program.
- (5) Use or disclosure of information obtained from the caretaker relative, child, or household, exclusively for the Kinship Care Program, shall be restricted pursuant to KRS 61.870 to 61.884, 194A.060, 205.175, 205.177, and 620.050.

#### Section 8. Eligibility Determination for Financial Assistance Under the Kinship Care Program.

- (1) Except as provided in this administrative regulation, to be eligible a child shall meet technical eligibility requirements that are established for a K-TAP child in accordance with 921 KAR 2:006.
- (2) The resource limit and countable resources of the child shall be the same as a K-TAP child in accordance with 921 KAR 2:016, Section 3.
- (3) Except for the maximum payment scale and child's income limit in Section 11(1) of this administrative regulation, countable income of the child shall be the same as a K-TAP child in accordance with 921 KAR 2:016, Section 4(1).
- (4) A child eligible for the Kinship Care Program living in the home with a sibling receiving K-TAP shall not be considered a sibling in a K-TAP benefit group in accordance with 921 KAR 2:016.
- (5) Income and resources of a caretaker relative shall be disregarded when determining eligibility benefits for the child.
- (6) A child shall not be concurrently eligible for a payment from the Kinship Care Program and:
  - (a) A foster care payment as established in 922 KAR 1:350 or 922 KAR 1:360;
  - (b) A K-TAP payment as established in 921 KAR 2:016; or
  - (c) An SSI payment as established in 42 U.S.C. 1382.
- (7) The kinship caregiver shall cooperate in the child support activities pursuant to 42 U.S.C. 608(a)(2) and 921 KAR 2:006, Section 18. If the approved kinship caregiver refuses to cooperate with a child support activity, kinship care financial assistance shall be reduced by twenty-five (25) percent of the amount of the maximum payment for the appropriate number of eligible members, as established in Section 11(1) of this administrative regulation.
- (8) The penalty in subsection (7) of this section shall not be applied on a showing of good cause in accordance with 921 KAR 2:006, Section 18(4).
- (9) As a condition of eligibility of the Kinship Care Program for a child, the caretaker relative shall make an assignment of rights to the state for support, as required by 42 U.S.C. 608(a)(3) and KRS 205.720(1). The assignment shall:
  - (a) Include members of the case for whom support rights apply; and
  - (b) Be completed when applying for Kinship Care Program financial assistance.
- (10) If all technical and financial eligibility factors are met, the effective date of eligibility for Kinship Care financial assistance shall be the date of placement of the child

in the home of the kinship caregiver that is listed on the "KIM-78KC Kinship Care Financial Assistance Application".

Section 9. Ineligible Child for the Kinship Care Program. A child shall not be eligible for the Kinship Care Program if the:

- (1) Child applying for the Kinship Care Program does not have a KIM-78KC signed by the cabinet worker designated to monitor the child's permanency, safety, and well being;
- (2) Child's parental relative resides with the child or has legal custody of the child, including joint custody;
- (3) Prospective caretaker relative of a child declines by form KC-01 the initial offer of the Kinship Care Program and related benefits;
- (4) Child or caretaker relative lives in or relocates to another state;
- (5) Child's removal is based on a cabinet finding of dependency, in accordance with 922 KAR 1:330, except for a finding of dependency based on the death of both parents of the child;
- (6) Child no longer meets the definition of a "child" in Section 1 of this administrative regulation; or
- (7) Child's initial eligibility determination for the Kinship Care Program is made on or after April 1, 2013.

Section 10. Permanency for the Child.

- (1) Pursuant to KRS 620.090, the cabinet shall recommend to the court that the caretaker relative be granted temporary custody of the child, and the caretaker relative shall agree to take temporary custody of the child.
- (2) A judicial authority granting temporary custody to the cabinet, pursuant to KRS 620.080, shall not be used to deny the caretaker relative's access to the Kinship Care Program.
- (3) In accordance with 922 KAR 1:140, the child's designated worker shall develop a case permanency plan pursuant to KRS 620.230(2) and conduct regular visits with the child.
- (4) Prior to the 12th month of placement into the kinship caregiver's home the cabinet shall:
  - (a) Review the case permanency plan and placement to determine if Kinship Care is in the best interest of the child;
  - (b) Prepare a court report recommendation pertaining to permanent custody of the child; and
  - (c) Request that the case be redocketed for court action to determine permanent custody pursuant to KRS 620.027, if appropriate.
- (5) To continue receiving the Kinship Care Program financial assistance, the kinship caregiver shall pursue permanent custody of the child without undue delay on the part of the kinship caregiver.
- (6) The kinship caregiver shall meet the criteria of pursuing permanent custody, as required in subsection (5) of this section, if a petition for permanent custody of the child is filed no later than thirty (30) calendar days after the 12th month of:
  - (a) Receiving financial assistance from the Kinship Care Program; or
  - (b) Signing the KC-01.
- (7) If the kinship caregiver is not pursuing permanent custody of the child as required in subsections (5) and (6) of this section, the child shall not be eligible for the Kinship Care Program and the cabinet shall:
  - (a) Discontinue Kinship Care Program benefits for the child;
  - (b) Notify the overseeing court in accordance with KRS 620.130(2); and
  - (c) Accept an application for K-TAP for the child in accordance with 921 KAR 2:006 and 921 KAR 2:016.

#### Section 11. Kinship Care Payment.

(1) The maximum monthly payment scale and child's income limit shall be as follows:

Number of Eligible Children	Maximum Monthly Payment and Income Limit
1 Child	\$ 300
2 Children	\$ 600
3 Children	\$ 900
4 Children	\$1,200
5 Children	\$1,500
6 or More Children	\$1,800

(2) The kinship caregiver shall not be eligible for Kinship Care financial assistance, but shall be the payee for the eligible child's kinship care benefits.

(3) The caretaker relative shall not receive the Kinship Care financial assistance for a child:

- (a) Until approval of an application for the Kinship Care Program's financial assistance; or
- (b) Prior to the application date for the Kinship Care Program's financial assistance.

Section 12. Eligibility Shall Follow the Child. To the extent funds are available, a child's initial eligibility determination made prior to April 1, 2013, as specified in Section 2 of this administrative regulation, may be used for a reapplication and redetermination of eligibility for financial assistance under the Kinship Care Program if:

(1) The child leaves the home of the kinship caregiver and the cabinet:

- (a) Places the child with another caretaker relative due to:
  - 1. Death of the kinship caregiver;
  - 2. An illness or injury of the kinship caregiver, as supported by medical documentation, that inhibits adequate care of the child; or
  - 3. Active duty in military service of the kinship caregiver; or
- (b) Returns the child to the kinship caregiver if the absence is temporary in accordance with:

- 1. Section 16(2) of this administrative regulation; or
- 2. Paragraph (a)2 or 3 of this subsection; or

(2) A child who is discontinued from the Kinship Care Program due to SSI eligibility subsequently becomes ineligible for SSI.

#### Section 13. Eligibility Redetermination.

(1) The cabinet shall redetermine eligibility if a report or information about a change in circumstance is received.

(2) The cabinet shall redetermine eligibility every twelve (12) months to reassess a Kinship Care case for continued eligibility and financial assistance.

(3) A kinship caregiver shall report within ten (10) calendar days a change in circumstance that may affect eligibility or the amount of financial assistance.

(4) A kinship caregiver shall be responsible for requirements during eligibility redetermination for continued Kinship Care Program financial assistance pursuant to Sections 6(2) and 6(8) of this administrative regulation.

#### Section 14. Start-up Costs.

(1) To the extent funds are available, a one (1) time start-up amount may be provided prior to April 1, 2013, for the purpose of supplying a child's immediate need for:

- (a) Clothing;

- (b) School supplies;
  - (c) Additional furniture;
  - (d) A deposit for a larger apartment; or
  - (e) An essential documentable cost up to the maximum allowed in subsection (2) of this section.
- (2) The total amount of assistance allowed for the Kinship Care case for start-up costs shall not exceed the maximum amount for the appropriate number of eligible children in the Kinship Care case as follows:

Number of Eligible Children	Maximum Payment Amount
1	\$350
2	\$700
3	\$1,050
4	\$1,400
5	\$1,750
6 or more	\$2,100

- (3) The amount of an eligible start-up cost payment shall be issued by check directly to a vendor providing the needed service or item listed in subsection (1) of this section.

#### Section 15. Supportive Services.

- (1) To the extent funds are available, the following services may be provided as needed on a case-by-case basis to ensure a placement is not disrupted:
- (a) Family counseling;
  - (b) Parenting training; or
  - (c) Referral to an available support group or other community-based services.
- (2) The cabinet shall provide services or facilitate access to services, including case-management services, described in the child's case permanency plan for at least six (6) months beginning with the date of placement of the child with the caretaker relative.
- (3) To the extent funds are available, a child in Kinship Care shall be eligible for an educational bonus under the same conditions as a K-TAP recipient, as described at 921 KAR 2:017, Section 11.
- (4)
- (a) If child care assistance is requested, the cabinet shall refer the kinship caregiver to the area child care broker;
  - (b) Eligibility for child care assistance shall be determined in accordance with criteria established in 922 KAR 2:160; and
  - (c) Eligibility for the Kinship Care Program shall not establish entitlement to a child care subsidy payment.

#### Section 16. Discontinuance from the Kinship Care Program.

- (1) Financial assistance under the Kinship Care Program shall not be provided to a child:
- (a) If the kinship caregiver fails to meet eligibility redetermination requirements as specified in Section 13 of this administrative regulation;
  - (b) Who meets a criterion in accordance with Section 9 of this administrative regulation; or
  - (c) Who is absent from the home of the kinship caregiver for a period of thirty (30) consecutive calendar days or more unless the child:
    - 1. Is absent due to medical care or school attendance; and
    - 2. Continues to be under the care and control of the kinship caregiver.



(2) A child shall be temporarily discontinued from the Kinship Care Program during the period of time the child is residing in:

- (a) Foster care as defined in KRS 620.020(5);
- (b) A residential treatment facility as defined in KRS 600.020(50);
- (c) A psychiatric residential treatment facility as defined in KRS 216B.450(5);
- (d) A parent's home for up to sixty (60) days for reunification purposes on a trial basis; or
- (e) Detention as defined in KRS 600.020(20).

Section 17. Overpayment. A Kinship Care Program overpayment, including assistance paid pending a hearing decision, shall be recovered from the kinship caregiver through:

- (1) Repayment by the kinship caregiver to the cabinet pursuant to KRS 45.237-45.241 and 205.211;
- (2) Reduction of future Kinship Care Program benefits by ten (10) percent of the maximum monthly assistance paid according to the appropriate number of eligible Kinship Care Program children as established in Section 11(1) of this administrative regulation; or
- (3) Cabinet initiation of a civil action in the court of appropriate jurisdiction after:
  - (a) Notice and an opportunity for an administrative hearing in accordance with Section 19 of this administrative regulation is provided to the kinship caregiver; or
  - (b) The kinship caregiver has exhausted or abandoned the administrative and judicial remedies as specified in 921 KAR 2:055.

Section 18. No Individual or Family Entitlement.

- (1) The Kinship Care Program shall not entitle an individual or family to receive financial assistance in accordance with 42 U.S.C. 601(b).
- (2) The Kinship Care Program financial assistance may be provided to an eligible child only to the extent funds are available, in accordance with KRS 605.120(5).

Section 19. Service Appeal.

- (1) An administrative hearing or service appeal in accordance with 922 KAR 1:320 may be requested by a kinship caregiver denied:
  - (a) Supportive services to facilitate the child's placement stability with the kinship caregiver in accordance with Section 15 of this administrative regulation; or
  - (b) Start-up costs offered to facilitate a child's adjustment to the new environment with the kinship caregiver prior to April 1, 2013.
- (2) A kinship caregiver who is dissatisfied with an action or inaction on the part of the cabinet relating to financial assistance under the Kinship Care Program shall have rights to a hearing pursuant to 921 KAR 2:055.

Section 20. Incorporation by Reference.

- (1) The following material is incorporated by reference:
    - (a) "KC-01 Kinship Care Program Statement of Rights and Responsibilities", 07/03;
    - (b) "DPP-1276 Relative Home Evaluation", 07/03; and
    - (c) "KIM-78KC Kinship Care Financial Assistance Application", 07/03.
  - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.
- (26 Ky.R. 293; 624; eff. 9-15-99; 27 Ky.R. 875; 1272; eff. 11-17-2000; 29 Ky.R. 2187; 2711; 30 Ky.R. 51; eff. 7-16-03; TAm eff. 10-27-2004; TAm eff. 1-27-2006; TAm eff. 8-24-2010; 39 Ky.R. 2220; 40 Ky.R. 550; eff. 9-18-2013; Crt eff. 9-4-2020.)