

## **908 KAR 1:300. Chemical dependency program evaluation.**

RELATES TO: KRS 222.460-222.475

STATUTORY AUTHORITY: KRS 194A.050, 222.460-222.475, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet. KRS 194.050 and 222.460 to 222.475 authorizes the cabinet to promulgate administrative regulations governing the gathering of information on clients discharged from publicly funded chemical dependency treatment agencies and the format of reports of this information to the cabinet in order to assess treatment effectiveness.

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

- (1) "Agency" is defined in KRS 222.005(2) and receiving state or federal funds.
- (2) "Client" means an individual on whom a record or chart has been opened by an agency or subcontractor of an agency and for whom a treatment plan has been prepared for a primary substance abuse problem. Clients receiving only DUI education services, DUI assessment services or Clients receiving only detoxification services during the treatment episode are excluded from the definition.
- (3) "Client identifier" means a unique code used by agencies and the department to identify clients in a departmental data set.
- (4) "Commissioner" means the Commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities Services, or designee.
- (5) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities Services within the Cabinet.
- (6) "Discharge" means a date which is ninety (90) days following the last date on which a client received a treatment service from the agency.
- (7) "Division" means the Division of Behavioral Health within the Department for Behavioral Health, Developmental and Intellectual Disabilities Services.
- (8) "Evaluator" means the independent organization determined by the department to be qualified to conduct an outcome study.
- (9) "Instrument" means the electronically-recorded baseline survey tool adopted for use in the study.
- (10) "Outcome study" means a department defined study of clients to assess their progress twelve (12) months after discharge from substance abuse treatment.

### **Section 2. Agency Responsibilities.**

- (1) An agency shall explain the purpose, design, and procedures of the outcome study to the client.
- (2) An agency shall ask the client to participate in the outcome study. An agency shall obtain informed consent from the client who agrees to participate. An agency shall allow the client the right to refuse to participate without risk of penalty or effect in the delivery of treatment services.
- (3) An agency shall use the instrument required by the department to gather client information upon admission to treatment in an agency. The instrument shall be administered to the client within seventy-two (72) hours of admission to a residential or transitional care program, or within three (3) visits to outpatient or intensive outpatient care program.
- (4) An agency shall:
  - (a) Report by the tenth of each month admission information gathered using the instrument to the evaluator using a specified electronic data format; and
  - (b) Gather and report informed consent, assent, and parental consent forms to the evaluator by the tenth of the month following the month of discharge.

- (5) An agency shall designate a coordinator for the study and shall notify the division and the evaluator in writing of the name of the designated coordinator.

### Section 3. Evaluator Responsibilities.

- (1) The evaluator shall receive and process the outcome study data generated by each agency.
- (2) The evaluator shall monitor compliance with the reporting requirements and advise the agency and the division when corrective action is necessary.
- (3) The evaluator shall provide all necessary training of agency and department staff in regards to the outcome study and its administration.
- (4) The evaluator shall provide ongoing technical assistance to the agency and the division in regards to the outcome study and its administration.
- (5) The evaluator shall provide reports to the division on a quarterly basis of summaries of admission and discharge information gathered from the agencies. The evaluator shall also respond to specific data analysis requests by the division.
- (6) The evaluator shall provide the division with copies of data files containing the collected admission and discharge information.
- (7) The evaluator shall produce and provide to the division an annual report on the outcome study which includes the elements required by KRS 222.475.
- (8) The evaluator shall provide security for all paper and electronic records which it holds in order to prevent unauthorized access to confidential client information.
- (9) All paper and electronic records remain the property of the division and shall be maintained by the evaluator until disposal is directed by the division.
- (10) The evaluator shall be responsible for any necessary revision of forms, software design, protocols, and procedures which govern the outcome study and its implementation.
- (11) The evaluator shall contact a statistically valid representative sample of clients for each agency following the client's discharge from substance abuse treatment.
  - (a) The follow-up contact shall be one (1) year from the date of discharge.
  - (b) The methods of contact may include telephone, mail, and face to face interview.
  - (c) Each selected client shall be asked to answer a series of standard questions on a survey instrument designed to measure certain treatment outcomes.

Section 4. Confidentiality. The evaluator and the agency shall follow the standards protecting and guiding confidentiality of client identifiable information as found in 908 KAR 1:320. Confidential record of treatment for federally assisted alcohol and other drug abuse programs.

### Section 5. Monitoring and Penalties for Noncompliance.

- (1) The division shall monitor compliance of the evaluator and the agency.
- (2) If an agency is determined to be noncompliant with any of the provisions of the administrative regulation, its state substance abuse payments, if any, shall be held by the department as provided in KRS 222.470 until the agency has met the requirements.
- (3) A determination to hold payment shall be made by the commissioner.
- (4) A notice of the determination shall be sent to the agency thirty (30) days prior to its implementation.
- (5) Notice of determination. A notice of determination shall be in writing, mailed to the agency, and contain the following information:
  - (a) The reason for the determination;
  - (b) The effective date of the determination; and
  - (c) The agency's hearing rights in accordance with Section 6 of this administrative regulation.

### Section 6. Appeal of Penalties for Noncompliance.

- (1) An agency may appeal any determination made by the department in the application of the provisions of Section 5(2) and (3) of this administrative regulation.
- (2) A written notice of appeal shall be submitted to the commissioner no later than thirty (30) days after an agency has been notified of a determination affecting payment. The notice of appeal shall:
  - (a) Specify the determination being appealed;
  - (b) Specify the reasons the agency believes the determination is unwarranted;
  - (c) Include any documentation the agency considers relevant to support the appeal; and
  - (d) Specify an alternative determination that should be made.
- (3) The commissioner shall cause the appeal to be reviewed and evaluated with consideration of the provisions of applicable laws and regulations.
- (4) The commissioner shall issue a written decision including findings of fact and conclusions on the appeal no later than thirty (30) days after receipt of a notice of appeal unless the commissioner determines that a conference may result in a mutually satisfactory resolution of the appeal.
- (5) If the commissioner determines that a conference shall be held, the commissioner shall schedule a conference no later than thirty (30) days after receipt of a notice of appeal or at a later time agreeable to the commissioner and the agency.
- (6) The conference shall be conducted according to the following procedures:
  - (a) The commissioner shall preside over the conference.
  - (b) The conference shall be recorded and a transcription made.
  - (c) The agency, or the agency's authorized representative may present any oral arguments or documentation which he considers relevant to support the contention that the department should not take the appealed action or should rescind an action already taken.
  - (d) Department staff who are knowledgeable of applicable laws and regulations shall explain the department's determination and may present any documentation which supports the department's determination or which demonstrates if the department's determination and actions are consistent with applicable laws and administrative regulations.
  - (e) If the appealed determination is based upon reports provided by persons other than department employees, those individuals may attend the conference, explain the reports and the basis of those reports.
  - (f) The commissioner may question any of the participants and may permit any questions or discussion among participants if that will contribute to a decision on the appeal consistent with applicable laws and regulations.
- (7) If an agency conference is held the commissioner shall issue a written decision on the appeal no later than thirty (30) days after the agency conference. The written decision shall include findings of fact and conclusions.
- (8) If an agency disagrees with the commissioner's decision on an appeal he shall have the right to an administrative hearing.
- (9) The agency may appeal the decision (and underlying program issue) by submitting a request for an administrative hearing to the commissioner within thirty (30) days after receipt of the decision.
- (10) The commissioner shall forward the request to the Office of Personnel and Budget, Administrative Hearing Branch within five (5) working days of receipt.
- (11) The scope of the administrative hearing shall be restricted to the issues raised pursuant to this administrative regulation.
- (12) The administrative hearing shall be in accordance with KRS Chapter 13B.

Section 7. Material Incorporated by Reference.

(1) The following forms from the University of Kentucky Center for Drug and Alcohol Research are hereby incorporated by reference:

- (a) Baseline Survey Instrument (Electronic Format) (March 15, 1996 edition);
- (b) Baseline Survey Instrument (Optical Scan Format) (March 15, 1996 edition);
- (c) Consent to Participate in a Treatment Outcome Study (April 18, 1996 edition);
- (d) Parental Consent for a Minor to Participate in a Treatment Outcome Study (April 18, 1996 edition);
- (e) Assent to Participate in a Treatment Outcome Study (April 18, 1996 edition); and
- (f) Follow-Up Contact Survey Instrument (Telephone Script) (March 15, 1996 edition).

(2) Copies of the incorporated material may be inspected, copied or obtained at the Department for Behavioral Health, Developmental and Intellectual Disabilities, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. through 4:30 p.m., Monday through Friday.

(18 Ky.R. 1782; eff. 1-10-1992; Am. 23 Ky.R. 1045; eff. 9-18-1996; TAm eff. 4-27-2016; Crt eff. 1-7-2020.)