

1 AN ACT relating to public assistance recipients.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 205.010 TO 205.310 IS CREATED  
4 TO READ AS FOLLOWS:

5 *The Kentucky Transitional Assistance Program, as the monetary assistance program*  
6 *established by the Commonwealth using federal funds from the Temporary Assistance*  
7 *for Needy Families block grant, and any other similar programs or institutions*  
8 *hereafter established by state or federal law to administer public assistance to needy*  
9 *aged, needy blind, needy permanently and totally disabled persons, needy children, or*  
10 *persons with whom a needy child lives or a family containing a combination of these*  
11 *categories, shall allocate federal funds in the following manner:*

12 *(1) Twenty-five percent (25%) for child care programs;*

13 *(2) Twenty-five percent (25%) for work, education, and training programs, which*  
14 *may be used to satisfy any public assistance recipient community engagement*  
15 *requirements;*

16 *(3) Twenty-five percent (25%) for work supports and supportive services, which may*  
17 *be used to satisfy any public assistance recipient community engagement*  
18 *requirements;*

19 *(4) Fifteen percent (15%) for basic assistance;*

20 *(5) Five percent (5%) for nonrecurrent short-term benefits; and*

21 *(6) Five percent (5%) for program maintenance.*

22 ➔SECTION 2. A NEW SECTION OF KRS 205.010 TO 205.350 IS CREATED  
23 TO READ AS FOLLOWS:

24 *(1) As used in this section:*

25 *(a) "Able-bodied working-age adult" means an adult recipient of the*  
26 *Supplemental Nutrition Assistance Program, formerly known as the federal*  
27 *food stamps program who:*

- 1           1. Is nineteen (19) to sixty-four (64) years of age; and  
 2           2. Is a biological or adoptive parent, stepparent, or caretaker, who is  
 3           responsible for the care of a school-aged household member aged six  
 4           (6) to seventeen (17) years of age; and  
 5           (b) "Community engagement" means participating in training, education, and  
 6           employment.  
 7           (2) It shall be the policy of the Commonwealth to develop a plan for able-bodied  
 8           working-age adults that will prepare members for transitioning to no longer  
 9           needing to participate in the Supplemental Nutrition Assistance Program,  
 10           formerly known as the federal food stamps program.  
 11           (3) The cabinet shall assign an able-bodied working-age adult subject to  
 12           requirements established under 7 U.S.C. sec. 2015(d)(1), but not subject to  
 13           requirements established under 7 U.S.C. sec. 2015(o) or not otherwise  
 14           participating in an employment and training program established under 7 U.S.C.  
 15           sec. 2015(d)(4), to a workfare program established under 7 U.S.C. sec. 2029.  
 16           (4) The cabinet shall promulgate administrative regulations to implement this  
 17           section.

18           ➔SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.560 IS CREATED  
 19 TO READ AS FOLLOWS:

- 20           (1) As used in this section:  
 21           (a) "Able-bodied working-age adult" means an adult Medicaid beneficiary who  
 22           is nineteen (19) to sixty-four (64) years of age; and  
 23           (b) "Community engagement" means participating in training, education, and  
 24           employment.  
 25           (2) It shall be the policy of the Commonwealth to develop a plan for Medicaid able-  
 26           bodied working-age adults that will prepare members for transition to private  
 27           market coverage that shall include cost-sharing provisions.

- 1 (3) The cabinet shall maintain a program for able-bodied working-age adults to  
2 enable enrollees to improve their health and well-being through community  
3 engagement leading to self-sufficiency.
- 4 (4) (a) In compliance with applicable federal law, the cabinet shall implement a  
5 community engagement requirement as a condition of eligibility for able-  
6 bodied working-age adults, with exemptions for various groups, including  
7 but not limited to:
- 8 1. Former foster care youth;  
9 2. Pregnant women;  
10 3. Beneficiaries considered medically frail;  
11 4. Beneficiaries diagnosed with an acute medical condition that would  
12 prevent them from complying with the requirements; and  
13 5. Full-time students.
- 14 (b) To remain eligible for coverage, non-exempt beneficiaries shall complete  
15 eighty (80) hours per month of community engagement.
- 16 (5) The secretary shall promulgate administrative regulations to implement the  
17 program described in subsection (4) of this section, including the requirements  
18 for community engagement. The administrative regulations shall include at a  
19 minimum the following:
- 20 (a) The community engagement requirements for able-bodied working-age  
21 adult beneficiaries, including reporting and verification requirements and  
22 types of acceptable community engagement activities;
- 23 (b) Qualifications for exemptions for the groups identified in subsection (4)(a)  
24 of this section and for good cause exceptions in certain circumstances for  
25 able-bodied working-age adult beneficiaries who cannot meet requirements;
- 26 (c) Eligibility suspension for failure to demonstrate compliance with the  
27 community engagement requirement;

- 1        (d) *Reactivation of eligibility; and*  
2        (e) *Other requirements necessary to implement the community engagement*  
3        *requirements.*

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

- 6        (1) *Within ninety (90) days of the effective date of this Act, the Cabinet for Health*  
7        *and Family Services shall design, implement, and distribute new benefit cards to*  
8        *new enrollees for services under this chapter.*
- 9        (2) *The new design shall exercise the state option to incorporate a photograph of the*  
10       *benefit recipient as allowed by 7 U.S.C. sec. 2016(h)(9). The cabinet shall adopt*  
11       *procedures that align with federal regulations regarding photographs on*  
12       *electronic benefit transfer cards in 7 C.F.R. pts. 272, 273, 274, and 278.*
- 13       (3) *Upon renewal of his or her benefit cards, a current recipient shall be issued a*  
14       *card conforming to the requirements in subsection (2) of this section.*
- 15       (4) (a) *A retailer participating in the food stamp program shall request that a*  
16       *recipient show his or her card when purchasing qualifying items. The*  
17       *retailer or retailer's agent shall verify that the name and likeness of the*  
18       *recipient match the person purchasing the qualifying items.*
- 19       (b) *The cabinet shall adopt a mechanism by which a food stamp program*  
20       *participant may designate another individual to temporarily purchase*  
21       *qualifying items for the food stamp program participant.*
- 22       (c) *Any policy adopted by the cabinet pursuant to this subsection shall*  
23       *encourage a participant to select an immediate family member or member*  
24       *of his or her household in authorizing the temporary purchase of qualifying*  
25       *items.*
- 26       (d) *The names of individuals designated to purchase qualifying items*  
27       *temporarily shall be tracked electronically by the cabinet.*

1        *(e) The cabinet shall adopt a policy that no individual may be designated to*  
2        *temporarily purchase qualifying items for more than six (6) recipients at*  
3        *one (1) time, and the cabinet may establish an annual limit on the number*  
4        *of instances and recipients that an individual may be designated to*  
5        *purchase qualifying items as necessary to prevent waste and fraud.*

6        ➔Section 5. KRS 205.200 is amended to read as follows:

7        (1) A needy aged person, a needy blind person, a needy child, a needy permanently and  
8        totally disabled person, or a person with whom a needy child lives shall be eligible  
9        to receive a public assistance grant only if he has made a proper application or an  
10       application has been made on his behalf in the manner and form prescribed by  
11       administrative regulation. No individual shall be eligible to receive public  
12       assistance under more than one (1) category of public assistance for the same period  
13       of time.

14       (2) The secretary shall, by administrative regulations, prescribe the conditions of  
15       eligibility for public assistance in conformity with the public assistance titles of the  
16       Social Security Act, its amendments, and other federal acts and regulations. The  
17       secretary shall also promulgate administrative regulations to allow for between a  
18       forty percent (40%) and a forty-five percent (45%) ratable reduction in the method  
19       of calculating eligibility and benefits for public assistance under Title IV-A of the  
20       Federal Social Security Act. In no instance shall grants to families with no income  
21       be less than the appropriate grant maximum used for public assistance under Title  
22       IV-A of the Federal Social Security Act. As used in this section, "ratable reduction"  
23       means the percentage reduction applied to the deficit between the family's countable  
24       income and the standard of need for the appropriate family size.

25       (3) The secretary may by administrative regulation prescribe as a condition of eligibility  
26       that a needy child regularly attend school, and may further by administrative  
27       regulation prescribe the degree of relationship of the person or persons in whose

1 home such needy child must reside.

2 (4) The secretary may by administrative regulation prescribe conditions for bringing  
3 paternity proceedings or actions for support in cases of out of wedlock birth or  
4 nonsupport by a parent in the public assistance under Title IV-A of the Federal  
5 Social Security Act program.

6 (5) Public assistance shall not be payable to or in behalf of any individual who has  
7 taken any legal action in his own behalf or in the behalf of others with the intent and  
8 purpose of creating eligibility for the assistance.

9 (6) The cabinet shall promptly notify the appropriate law enforcement officials of the  
10 furnishing of public assistance under Title IV-A of the Federal Social Security Act  
11 in respect to a child who has been deserted or abandoned by a parent.

12 (7) No person shall be eligible for public assistance payments if, after having been  
13 determined to be potentially responsible, and afforded notice and opportunity for  
14 hearing, he refuses without good cause:

15 (a) To register for employment with the state employment service,

16 (b) To accept suitable training, or

17 (c) To accept suitable employment.

18 The secretary may prescribe by administrative regulation, subject to the provisions  
19 of KRS Chapter 13A, standards of suitability for training and employment.

20 (8) To the extent permitted by federal law, scholarships, grants, or other types of  
21 financial assistance for education shall not be considered as income for the purpose  
22 of determining eligibility for public assistance.

23 (9) To the extent permitted by federal law, any money received because of a settlement  
24 or judgment in a lawsuit brought against a manufacturer or distributor of "Agent  
25 Orange" for damages resulting from exposure to "Agent Orange" by a member or  
26 veteran of the Armed Forces of the United States or any dependent of such person  
27 who served in Vietnam shall not be considered as income for the purpose of

1 determining eligibility or continuing eligibility for public assistance and shall not be  
2 subject to a lien or be available for repayment to the Commonwealth for public  
3 assistance received by the recipient.

4 (10) (a) Notwithstanding any other provision of Kentucky law, the following shall be  
5 disregarded for the purposes of determining an individual's eligibility for a  
6 means-tested public assistance program, and the amount of assistance or  
7 benefits the individual is eligible to receive under the program:

- 8 1. Any amount in an ABLE account;
- 9 2. Any contributions to an ABLE account; and
- 10 3. Any distribution from an ABLE account for qualified disability  
11 expenses.

12 (b) For purposes of this subsection:

- 13 1. "ABLE account" means an account established within any state having a  
14 qualified ABLE program as provided in 26 U.S.C. sec. 529A, as  
15 amended;
- 16 2. "Kentucky law" includes:
  - 17 a. All provisions of the Kentucky Revised Statutes;
  - 18 b. Any contract to provide Medicaid managed care established  
19 pursuant to this chapter;
  - 20 c. Any agreement to operate a Medicaid program established  
21 pursuant to this chapter; and
  - 22 d. Any administrative regulation promulgated pursuant to this  
23 chapter; and
- 24 3. "Qualified disability expenses" means expenses described in 26 U.S.C.  
25 sec. 529A of a person who is the beneficiary of an ABLE account.

26 **(11) (a) The cabinet shall design and implement a substance abuse screening**  
27 **program for adult persons with a felony or misdemeanor history of**

1 substance abuse receiving or seeking to receive monetary public assistance,  
2 food stamps under Supplemental Nutrition Assistance Program, formerly  
3 known as the federal food stamp program, or assistance under the state  
4 Medical Assistance Program. The screening program may include written  
5 questionnaires and periodic testing of the person's blood or urine or may  
6 implement other reliable methods of determining substance abuse.

7 (b) An adult person with a felony or misdemeanor history of substance abuse  
8 shall be ineligible for public assistance if he or she:

9 1. Does not participate in the substance abuse screening program  
10 established under this subsection; or

11 2. Refuses to comply with the requirements of paragraph (e) of this  
12 subsection after a positive result on a test administered by the program  
13 for the presence of:

14 a. A Schedule I controlled substance; or

15 b. A Schedule II, III, IV, or V controlled substance not prescribed  
16 for that person.

17 (c) The substance abuse testing component of the screening program shall be  
18 designed to require that testing occurs as an initial condition precedent  
19 prior to the receipt of public assistance and once each subsequent year the  
20 adult person receives public assistance, with the person being randomly  
21 assigned a month within that year to submit to testing upon receipt of  
22 reasonable notice from the cabinet.

23 (d) The results of testing conducted under this subsection shall not be  
24 admissible in any criminal proceeding without the consent of the person  
25 tested.

26 (e) The secretary shall promulgate administrative regulations to prescribe the  
27 design, operation, and standards for the implementation of this subsection



1 and shall, when necessary, consider the best interests of any children in the  
2 home of a recipient of public assistance. The administrative regulations  
3 shall include:

4 1. A requirement that, in two (2) parent families, both parents comply  
5 with all substance abuse screening requirements if both have a felony  
6 or misdemeanor history of substance abuse;

7 2. A requirement that the public assistance applicant pay all substance  
8 abuse screening costs. If a person passes the substance abuse  
9 screening, his or her costs shall be reimbursed through increasing the  
10 initial benefit by the amount paid for the screening;

11 3. A requirement that each person sign a written acknowledgement  
12 stating that he or she has received and understands the substance  
13 abuse screening policy;

14 4. A policy that a person who fails a substance abuse screening has the  
15 right to additional screenings;

16 5. A policy that a person who has tested positive for a substance  
17 described in paragraph (b)2. of this subsection will be provided with a  
18 list of licensed substance abuse treatment providers available in his or  
19 her area;

20 6. A policy that a person who has tested positive for a substance  
21 described in paragraph (b)2. of this subsection shall pass a substance  
22 abuse screening before being eligible for public assistance benefits,  
23 except as provided in paragraph (f) of this subsection; and

24 7. A policy that the public assistance eligibility of any dependent children  
25 in the household shall not be affected by a parent's or guardian's  
26 positive substance abuse screening result, and a parent or guardian  
27 may mitigate the impact of his or her positive substance abuse

1                   screening result by designating another individual who meets the  
2                   following requirements to receive benefits for the minor child or  
3                   children:

4                   a. The designated individual shall be an immediate family member  
5                   of the parent or child, or shall be otherwise approved by the  
6                   cabinet; and

7                   b. The designated individual shall pass a substance abuse  
8                   screening if he or she has a felony or misdemeanor history of  
9                   substance abuse.

10                  (f) 1. After testing positive for any substance described in paragraph (b)2. of  
11                  this subsection, each recipient shall enter a probationary period.

12                  2. a. The probationary period shall begin with a sixty (60) day grace  
13                  period, during which the recipient shall enter a substance abuse  
14                  treatment program or risk losing benefits. After that initial sixty  
15                  (60) day grace period, a second substance abuse screening shall  
16                  be conducted.

17                  b. If a recipient tests positive for a substance described in  
18                  paragraph (b)2. of this subsection on the second screening  
19                  conducted under subdivision a. of this subparagraph, then the  
20                  recipient shall, within fourteen (14) days, show evidence of  
21                  having entered a substance abuse treatment program. During  
22                  this fourteen (14) day period, benefits may be suspended until  
23                  proof of entry into a treatment program is provided. If benefits  
24                  are suspended, the benefits shall continue to be payable for the  
25                  benefit of any children in the recipient's home.

26                  3. a. If the recipient does not test positive for any substance described  
27                  in paragraph (b)2. of this subsection on the second screening

1 conducted under subparagraph 2. of this paragraph, then the  
2 recipient shall pass two (2) additional substance abuse  
3 screenings conducted at random intervals during the next  
4 twenty-four (24) months.

5 b. If the recipient does not test positive for any substance described  
6 in paragraph (b)2. of this subsection on the subsequent  
7 screenings conducted under subdivision a. of this subparagraph,  
8 then the recipient's record shall be expunged and he or she shall  
9 re-enter the general recipient population and continue receiving  
10 substance abuse screenings only as otherwise provided in this  
11 subsection.

12 4. a. If the recipient tests positive for any substance described in  
13 paragraph (b)2. of this subsection during any of the subsequent  
14 screenings conducted under subparagraph 3. of this paragraph,  
15 then the recipient shall, within fourteen (14) days, show evidence  
16 of having entered a substance abuse treatment program. During  
17 this fourteen (14) day period, benefits may be suspended until  
18 proof of entry into an approved program is provided. If benefits  
19 are suspended, the benefits shall continue to be payable for the  
20 benefit of any children in the recipient's home.

21 b. If the recipient does not begin treatment, he or she shall no  
22 longer be eligible to receive benefits under this chapter, but the  
23 benefits shall continue to be payable for the benefit of any  
24 children in the recipient's home.

25 c. If the recipient does begin treatment, he or she shall continue to  
26 be eligible to receive benefits. Sixty (60) days after completion of  
27 the treatment program, the recipient shall pay for any other

1 substance abuse screening. If the recipient does not test positive  
 2 for any substance described in paragraph (b)2. of this  
 3 subsection, he or she shall pass two (2) additional substance  
 4 abuse screenings conducted at random intervals over the next  
 5 twenty-four (24) months. If the recipient does not test positive for  
 6 any substance described in paragraph (b)2. of this subsection,  
 7 then the recipient's record shall be expunged and he or she shall  
 8 only be eligible for substance abuse screenings as otherwise  
 9 provided in this subsection.

10 ➔Section 6. KRS 205.520 is amended to read as follows:

11 (1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

12 (2) The General Assembly of the Commonwealth of Kentucky recognizes and declares  
 13 that it is an essential function, duty, and responsibility of the state government to  
 14 provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510  
 15 to 205.630 to provide and preserve such care.

16 (3) Further, it is the policy of the Commonwealth to provide discretion to the secretary  
 17 of the cabinet to take advantage of all federal funds that may be available for  
 18 medical assistance after consideration of the impact of the federal requirements  
 19 on the state, including any required state match and other budgetary  
 20 considerations. To qualify for federal funds the secretary ~~for health and family~~  
 21 ~~services~~ may by administrative regulation comply with any requirement that may  
 22 be imposed or opportunity that may be presented by federal law. Nothing in KRS  
 23 205.510 to 205.630, or any other statute, is intended to limit the secretary's power  
 24 in this respect or to require the secretary to pursue available federal funds.

25 (4) It is the intention of the General Assembly to comply with the provisions of Title  
 26 XIX of the Social Security Act which require that the Kentucky Medical Assistance  
 27 Program recover from third parties which have a legal liability to pay for care and

1 services paid by the Kentucky Medical Assistance Program.

2 (5) The Kentucky Medical Assistance Program shall be the payor of last resort and its  
3 right to recover under KRS 205.622 to 205.630 shall be superior to any right of  
4 reimbursement, subrogation, or indemnity of any liable third party.

5 ➔Section 7. KRS 13B.020 is amended to read as follows:

6 (1) The provisions of this chapter shall apply to all administrative hearings conducted  
7 by an agency, with the exception of those specifically exempted under this section.  
8 The provisions of this chapter shall supersede any other provisions of the Kentucky  
9 Revised Statutes and administrative regulations, unless exempted under this section,  
10 to the extent these other provisions are duplicative or in conflict. This chapter  
11 creates only procedural rights and shall not be construed to confer upon any person  
12 a right to hearing not expressly provided by law.

13 (2) The provisions of this chapter shall not apply to:

14 (a) Investigations, hearings to determine probable cause, or any other type of  
15 information gathering or fact finding activities;

16 (b) Public hearings required in KRS Chapter 13A for the promulgation of  
17 administrative regulations;

18 (c) Any other public hearing conducted by an administrative agency which is  
19 nonadjudicatory in nature and the primary purpose of which is to seek public  
20 input on public policy making;

21 (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter  
22 35;

23 (e) Administrative hearings conducted by the legislative and judicial branches of  
24 state government;

25 (f) Administrative hearings conducted by any city, county, urban-county, charter  
26 county, or special district contained in KRS Chapters 65 to 109, or any other  
27 unit of local government operating strictly in a local jurisdictional capacity;

- 1 (g) Informal hearings which are part of a multilevel hearing process that affords  
2 an administrative hearing at some point in the hearing process if the  
3 procedures for informal hearings are approved and promulgated in accordance  
4 with subsections (4) and (5) of this section;
- 5 (h) Limited exemptions granted for specific hearing provisions and denoted by  
6 reference in the text of the applicable statutes or administrative regulations;
- 7 (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- 8 (j) Administrative hearings exempted, in whole or in part, pursuant to  
9 subsections (4) and (5) of this section; and
- 10 (k) Any administrative hearing which was commenced but not completed prior to  
11 July 15, 1996.
- 12 (3) The following administrative hearings are exempt from application of this chapter  
13 in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- 14 (a) Finance and Administration Cabinet
- 15 1. Higher Education Assistance Authority
- 16 a. Wage garnishment hearings conducted under authority of 20  
17 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- 18 b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A  
19 and sec. 3716, and 34 C.F.R. sec. 30.33
- 20 2. Department of Revenue
- 21 a. Any licensing and bond revocation hearings conducted under the  
22 authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- 23 b. Any license revocation hearings under KRS 131.630 and 138.130  
24 to 138.205
- 25 (b) Cabinet for Health and Family Services
- 26 1. Office of Health Policy
- 27 a. Certificate-of-need hearings and licensure conducted under

- 1 authority of KRS Chapter 216B
- 2 b. Licensure revocation hearings conducted under authority of KRS
- 3 Chapter 216B
- 4 2. Department for Community Based Services
- 5 a. Supervised placement revocation hearings conducted under
- 6 authority of KRS Chapter 630
- 7 3. Department for Income Support
- 8 a. Disability determination hearings conducted under authority of 20
- 9 C.F.R. sec. 404
- 10 **b. Food stamp and food distribution program, including**
- 11 **Supplemental Nutrition Assistance Program, hearings**
- 12 **conducted under authority of 7 C.F.R. sec. 271-285**
- 13 4. Department for Medicaid Services
- 14 a. Administrative appeal hearings following an external independent
- 15 third-party review of a Medicaid managed care organization's final
- 16 decision that denies, in whole or in part, a health care service to an
- 17 enrollee or a claim for reimbursement to the provider for a health
- 18 care service rendered by the provider to an enrollee of the
- 19 Medicaid managed care organization, conducted under authority of
- 20 KRS 205.646
- 21 (c) Justice and Public Safety Cabinet
- 22 1. Department of Kentucky State Police
- 23 a. Kentucky State Police Trial Board disciplinary hearings conducted
- 24 under authority of KRS Chapter 16
- 25 2. Department of Corrections
- 26 a. Parole Board hearings conducted under authority of KRS Chapter
- 27 439

- 1                   b.   Prison adjustment committee hearings conducted under authority  
2                                   of KRS Chapter 197
- 3                   c.   Prison grievance committee hearings conducted under authority of  
4                                   KRS Chapters 196 and 197
- 5           3.   Department of Juvenile Justice
- 6                   a.   Supervised placement revocation hearings conducted under KRS  
7                                   Chapter 635
- 8   (d)   Energy and Environment Cabinet
- 9           1.   Department for Natural Resources
- 10                   a.   Surface mining hearings conducted under authority of KRS  
11                                   Chapter 350
- 12                   b.   Oil and gas hearings conducted under the authority of KRS  
13                                   Chapter 353, except for those conducted by the Kentucky Oil and  
14                                   Gas Conservation Commission pursuant to KRS 353.500 to  
15                                   353.720
- 16                   c.   Explosives and blasting hearings conducted under the authority of  
17                                   KRS 351.315 to 351.375
- 18           2.   Department for Environmental Protection
- 19                   a.   Wild River hearings conducted under authority of KRS Chapter  
20                                   146
- 21                   b.   Water resources hearings conducted under authority of KRS  
22                                   Chapter 151
- 23                   c.   Water plant operator and water well driller hearings conducted  
24                                   under authority of KRS Chapter 223
- 25                   d.   Environmental protection hearings conducted under authority of  
26                                   KRS Chapter 224
- 27                   e.   Petroleum Storage Tank Environmental Assurance Fund hearings



- 1 under authority of KRS Chapter 224
- 2 3. Public Service Commission
- 3 a. Utility hearings conducted under authority of KRS Chapters 74,
- 4 278, and 279
- 5 (e) Labor Cabinet
- 6 1. Department of Workers' Claims
- 7 a. Workers' compensation hearings conducted under authority of
- 8 KRS Chapter 342
- 9 2. Kentucky Occupational Safety and Health Review Commission
- 10 a. Occupational safety and health hearings conducted under authority
- 11 of KRS Chapter 338
- 12 (f) Public Protection Cabinet
- 13 1. Kentucky Claims Commission
- 14 a. Liability hearings conducted under authority of KRS 49.020(1) and
- 15 49.040 to 49.180
- 16 (g) Education and Workforce Development Cabinet
- 17 1. Unemployment Insurance hearings conducted under authority of KRS
- 18 Chapter 341
- 19 (h) Secretary of State
- 20 1. Registry of Election Finance
- 21 a. Campaign finance hearings conducted under authority of KRS
- 22 Chapter 121
- 23 (i) State universities and colleges
- 24 1. Student suspension and expulsion hearings conducted under authority of
- 25 KRS Chapter 164
- 26 2. University presidents and faculty removal hearings conducted under
- 27 authority of KRS Chapter 164

- 1           3.    Campus residency hearings conducted under authority of KRS Chapter  
2                    164
- 3           4.    Family Education Rights to Privacy Act hearings conducted under  
4                    authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
- 5           5.    Federal Health Care Quality Improvement Act of 1986 hearings  
6                    conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS  
7                    Chapter 311.
- 8   (4)   Any administrative hearing, or portion thereof, may be certified as exempt by the  
9            Attorney General based on the following criteria:
- 10       (a)   The provisions of this chapter conflict with any provision of federal law or  
11            regulation with which the agency must comply, or with any federal law or  
12            regulation with which the agency must comply to permit the agency or  
13            persons within the Commonwealth to receive federal tax benefits or federal  
14            funds or other benefits;
- 15       (b)   Conformity with the requirement of this chapter from which exemption is  
16            sought would be so unreasonable or so impractical as to deny due process  
17            because of undue delay in the conduct of administrative hearings; or
- 18       (c)   The hearing procedures represent informal proceedings which are the  
19            preliminary stages or the review stages of a multilevel hearing process, if the  
20            provisions of this chapter or the provisions of a substantially equivalent  
21            hearing procedure exempted under subsection (3) of this section are applied at  
22            some level within the multilevel process.
- 23   (5)   The Attorney General shall not exempt an agency from any requirement of this  
24            chapter until the agency establishes alternative procedures by administrative  
25            regulation which, insofar as practical, shall be consistent with the intent and purpose  
26            of this chapter. When regulations for alternative procedures are submitted to the  
27            Administrative Regulation Review Subcommittee, they shall be accompanied by the

1 request for exemption and the approval of exemption from the Attorney General.  
2 The decision of the Attorney General, whether affirmative or negative, shall be  
3 subject to judicial review in the Franklin Circuit Court within thirty (30) days of the  
4 date of issuance. The court shall not overturn a decision of the Attorney General  
5 unless the decision was arbitrary or capricious or contrary to law.

6 (6) Except to the extent precluded by another provision of law, a person may waive any  
7 procedural right conferred upon that person by this chapter.

8 (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings  
9 held under KRS 11A.100 or 18A.095.