

1 AN ACT relating to regional service areas for regional community services
2 programs.

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

4 ➔Section 1. KRS 210.005 is amended to read as follows:

5 As used in this chapter, unless the context otherwise requires:

- 6 (1) "Individual with an intellectual disability" means a person with significantly
7 subaverage general intellectual functioning existing concurrently with deficits in
8 adaptive behavior and manifested during the developmental period;[]
- 9 (2) "Mental illness" means a diagnostic term that covers many clinical categories,
10 typically including behavioral or psychological symptoms, or both, along with
11 impairment of personal and social function, and specifically defined and clinically
12 interpreted through reference to criteria contained in the Diagnostic and Statistical
13 Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of
14 the American Psychiatric Association;[]
- 15 (3) "Chronic" means that clinically significant symptoms of mental illness have
16 persisted in the individual for a continuous period of at least two (2) years, or that
17 the individual has been hospitalized for mental illness more than once in the last
18 two (2) years, and that the individual is presently significantly impaired in his
19 ability to function socially or occupationally, or both;[]
- 20 (4) "Cabinet" means the Cabinet for Health and Family Services;[]
- 21 (5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person
22 cannot hear and understand speech clearly through the ear alone, irrespective of the
23 use of any hearing aid device;[]
- 24 (6) "Secretary" means the secretary of the Cabinet for Health and Family Services; ***and***
- 25 ***(7) "Regional community services program" means a community services program***
26 ***for mental health or individuals with an intellectual disability established in***
27 ***accordance with this chapter, a community mental health center, a certified***

1 community behavioral health clinic, or a certified eligible community behavioral
2 health clinic.

3 ➔Section 2. KRS 210.370 is amended to read as follows:

4 (1) The following fifteen (15) regional service areas for regional community services
5 programs are hereby created and established:

6 (a) Regional service area one (1), which shall include the counties of Ballard,
7 Carlisle, Hickman, Fulton, McCracken, Graves, Marshall, Livingston, and
8 Calloway;

9 (b) Regional service area two (2), which shall include the counties of
10 Crittenden, Lyon, Caldwell, Hopkins, Muhlenberg, Trigg, Christian, and
11 Todd;

12 (c) Regional service area three (3), which shall include the counties of Union,
13 Henderson, Webster, McLean, Daviess, Ohio, and Hancock;

14 (d) Regional service area four (4), which shall include the counties of Logan,
15 Simpson, Butler, Warren, Edmonson, Hart, Barren, Allen, Metcalfe, and
16 Monroe;

17 (e) Regional service area five (5), which shall include the counties of
18 Breckinridge, Meade, Grayson, Hardin, Larue, Nelson, Washington, and
19 Marion;

20 (f) Regional service area six (6), which shall include the counties of Bullitt,
21 Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;

22 (g) Regional service area seven (7), which shall include the counties of Boone,
23 Kenton, Campbell, Carroll, Gallatin, Owen, Grant, and Pendleton;

24 (h) Regional service area eight (8), which shall include the counties of
25 Bracken, Mason, Robertson, Fleming, and Lewis;

26 (i) Regional service area nine (9), which shall include the counties of Rowan,
27 Bath, Montgomery, Menifee, and Morgan;

1 (j) Regional service area ten (10), which shall include the counties of Greenup,
 2 Boyd, Carter, Elliott, and Lawrence;

3 (k) Regional service area eleven (11), which shall include the counties of
 4 Johnson, Magoffin, Martin, Floyd, and Pike;

5 (l) Regional service area twelve (12), which shall include the counties of Wolfe,
 6 Owsley, Lee, Breathitt, Leslie, Perry, Knott, and Letcher;

7 (m) Regional service area thirteen (13), which shall include the counties of
 8 Jackson, Rockcastle, Laurel, Clay, Knox, Whitley, Bell, and Harlan;

9 (n) Regional service area fourteen (14), which shall include the counties of
 10 Taylor, Adair, Green, Casey, Russell, Pulaski, Clinton, Cumberland,
 11 Wayne, and McCreary; and

12 (o) Regional service area fifteen (15), which shall include the counties of
 13 Anderson, Franklin, Woodford, Mercer, Boyle, Lincoln, Garrard,
 14 Jessamine, Fayette, Scott, Harrison, Bourbon, Nicholas, Clark, Madison,
 15 Powell, and Estill.

16 (2) Notwithstanding subsection (1) of this section, any combination of cities or
 17 counties of over fifty thousand (50,000) population, and upon the consent of the
 18 secretary of the cabinet~~[Cabinet for Health and Family Services,]~~ any combination
 19 of cities or counties with less than fifty thousand (50,000) population, may establish
 20 a regional community services program~~[for mental health or individuals with an~~
 21 ~~intellectual disability]~~ and staff same with persons specially trained in psychiatry
 22 and related fields. Such programs and clinics may be administered by a community
 23 board for mental health or individuals with an intellectual disability established
 24 pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.

25 (3) Notwithstanding any provision of law to the contrary and except as provided for
 26 in subsection (4) of this section:

27 (a) A regional community services program may provide services outside of its

1 regional service area as established in subsection (1) of this section, but
2 when doing so, the regional community services program shall be
3 considered, including by the cabinet, to be operating as a behavioral health
4 services organization and not as a regional community services program.

5 (b) A regional community services program shall not be required to obtain
6 licensure or any other form of authorization from the cabinet to operate as
7 a behavioral health services organization in order to provide services
8 outside of its regional service area established in subsection (1) of this
9 section.

10 (c) When a regional community services program chooses to provide services
11 as a behavioral health services organization outside of its regional service
12 area established in subsection (1) of this section, the regional community
13 services program shall:

- 14 1. Comply with all administrative regulations related to behavioral
15 health services organization promulgated by the cabinet; and
- 16 2. Be reimbursed by the Department for Medicaid Services or a managed
17 care organization with whom the department has contracted for the
18 delivery of Medicaid services in accordance with subsection (8)(b) of
19 Section 4 of this Act.

20 (4) (a) If a regional community services program notifies the secretary in writing
21 that the regional community services program is unable to provide a service
22 that is included in its respective plan and budget for the current fiscal year:

- 23 1. The secretary shall contact the regional community services programs
24 in the regional service areas contiguous to the region that has notified
25 the secretary to assess their interest in and ability to provide the
26 service that the regional community service program indicated it is
27 unable to provide. If a regional community services program in a

1 contiguous regional service area is interested in an able to provide the
 2 service, the secretary shall approve it to provide that service in the
 3 regional service area of the regional community services program that
 4 made notice to the secretary; and

5 2. If a regional community services program in a contiguous region is
 6 not interested in or is unable to provide the service, the secretary shall
 7 contact all other regional community services programs to assess their
 8 interest in and ability to provide the service that the regional
 9 community services program indicated it is unable to provide. If
 10 another regional community services program in a noncontiguous
 11 regional service area is interested in and able to provide the service,
 12 the secretary shall approve it to provide that service in the regional
 13 service area of the regional community services program that made
 14 notice to the secretary.

15 (b) If a regional community services program is approved by the secretary
 16 pursuant to this subsection to provide services outside of its regional service
 17 area as established in subsection (1) of this section, the regional community
 18 services program shall be considered, including by the cabinet, to be
 19 operating as a regional community services program and shall be
 20 reimbursed by the Department for Medicaid Services or a managed care
 21 organization with whom the department has contracted for the delivery of
 22 Medicaid services accordingly.

23 ➔Section 3. KRS 210.410 is amended to read as follows:

24 (1) The secretary of the cabinet~~[Cabinet for Health and Family Services]~~ is hereby
 25 authorized to make state grants and other fund allocations from the cabinet~~[Cabinet~~
 26 ~~for Health and Family Services]~~ to assist any regional service area established in
 27 Section 2 of this Act, any combination of cities and counties, or nonprofit

1 corporations in the establishment and operation of regional community mental
2 health and intellectual disability programs which may provide primary care services
3 and shall provide at least the following services:

- 4 (a) Inpatient services;
- 5 (b) Outpatient services;
- 6 (c) Partial hospitalization or psychosocial rehabilitation services;
- 7 (d) Emergency services;
- 8 (e) Consultation and education services; and
- 9 (f) Services for individuals with an intellectual disability.

10 (2) The services required in subsection (1)(a), (b), (c), (d), and (e) of this section, in
11 addition to primary care services, if provided, shall be available to the mentally ill,
12 drug abusers and alcohol abusers, and all age groups including children and the
13 elderly. The services required in subsection (1)(a), (b), (c), (d), (e), and (f), in
14 addition to primary care services, if provided, shall be available to individuals with
15 an intellectual disability. The services required in subsection (1)(b) of this section
16 shall be available to any child age sixteen (16) or older upon request of such child
17 without the consent of a parent or legal guardian, if the matter for which the
18 services are sought involves alleged physical or sexual abuse by a parent or
19 guardian whose consent would otherwise be required.

20 ➔Section 4. KRS 205.560 is amended to read as follows:

21 (1) The scope of medical care for which the Cabinet for Health and Family Services
22 undertakes to pay shall be designated and limited by regulations promulgated by the
23 cabinet, pursuant to the provisions in this section. Within the limitations of any
24 appropriation therefor, the provision of complete upper and lower dentures to
25 recipients of Medical Assistance Program benefits who have their teeth removed by
26 a dentist resulting in the total absence of teeth shall be a mandatory class in the
27 scope of medical care. Payment to a dentist of any Medical Assistance Program

1 benefits for complete upper and lower dentures shall only be provided on the
2 condition of a preauthorized agreement between an authorized representative of the
3 Medical Assistance Program and the dentist prior to the removal of the teeth. The
4 selection of another class or other classes of medical care shall be recommended by
5 the council to the secretary for health and family services after taking into
6 consideration, among other things, the amount of federal and state funds available,
7 the most essential needs of recipients, and the meeting of such need on a basis
8 insuring the greatest amount of medical care as defined in KRS 205.510 consonant
9 with the funds available, including but not limited to the following categories,
10 except where the aid is for the purpose of obtaining an abortion:

- 11 (a) Hospital care, including drugs, and medical supplies and services during any
12 period of actual hospitalization;
- 13 (b) Nursing-home care, including medical supplies and services, and drugs during
14 confinement therein on prescription of a physician, dentist, or podiatrist;
- 15 (c) Drugs, nursing care, medical supplies, and services during the time when a
16 recipient is not in a hospital but is under treatment and on the prescription of a
17 physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall
18 include products for the treatment of inborn errors of metabolism or genetic,
19 gastrointestinal, and food allergic conditions, consisting of therapeutic food,
20 formulas, supplements, amino acid-based elemental formula, or low-protein
21 modified food products that are medically indicated for therapeutic treatment
22 and are administered under the direction of a physician, and include but are
23 not limited to the following conditions:
- 24 1. Phenylketonuria;
 - 25 2. Hyperphenylalaninemia;
 - 26 3. Tyrosinemia (types I, II, and III);
 - 27 4. Maple syrup urine disease;

- 1 5. A-ketoacid dehydrogenase deficiency;
- 2 6. Isovaleryl-CoA dehydrogenase deficiency;
- 3 7. 3-methylcrotonyl-CoA carboxylase deficiency;
- 4 8. 3-methylglutaconyl-CoA hydratase deficiency;
- 5 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase
- 6 deficiency);
- 7 10. B-ketothiolase deficiency;
- 8 11. Homocystinuria;
- 9 12. Glutaric aciduria (types I and II);
- 10 13. Lysinuric protein intolerance;
- 11 14. Non-ketotic hyperglycinemia;
- 12 15. Propionic acidemia;
- 13 16. Gyrate atrophy;
- 14 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
- 15 18. Carbamoyl phosphate synthetase deficiency;
- 16 19. Ornithine carbamoyl transferase deficiency;
- 17 20. Citrullinemia;
- 18 21. Arginosuccinic aciduria;
- 19 22. Methylmalonic acidemia;
- 20 23. Argininemia;
- 21 24. Food protein allergies;
- 22 25. Food protein-induced enterocolitis syndrome;
- 23 26. Eosinophilic disorders; and
- 24 27. Short bowel syndrome;
- 25 (d) Physician, podiatric, and dental services;
- 26 (e) Optometric services for all age groups shall be limited to prescription
- 27 services, services to frames and lenses, and diagnostic services provided by an

1 optometrist, to the extent the optometrist is licensed to perform the services
2 and to the extent the services are covered in the ophthalmologist portion of the
3 physician's program. Eyeglasses shall be provided only to children under age
4 twenty-one (21);

5 (f) Drugs on the prescription of a physician used to prevent the rejection of
6 transplanted organs if the patient is indigent; and

7 (g) Nonprofit neighborhood health organizations or clinics where some or all of
8 the medical services are provided by licensed registered nurses or by
9 advanced medical students presently enrolled in a medical school accredited
10 by the Association of American Medical Colleges and where the students or
11 licensed registered nurses are under the direct supervision of a licensed
12 physician who rotates his services in this supervisory capacity between two
13 (2) or more of the nonprofit neighborhood health organizations or clinics
14 specified in this paragraph.

15 (2) Payments for hospital care, nursing-home care, and drugs or other medical,
16 ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount
17 of the payment to the cost of providing the services or supplies. It shall be one (1)
18 of the functions of the council to make recommendations to the Cabinet for Health
19 and Family Services with respect to the bases for payment. In determining the rates
20 of reimbursement for long-term-care facilities participating in the Medical
21 Assistance Program, the Cabinet for Health and Family Services shall, to the extent
22 permitted by federal law, not allow the following items to be considered as a cost to
23 the facility for purposes of reimbursement:

24 (a) Motor vehicles that are not owned by the facility, including motor vehicles
25 that are registered or owned by the facility but used primarily by the owner or
26 family members thereof;

27 (b) The cost of motor vehicles, including vans or trucks, used for facility business

1 shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted
2 annually for inflation according to the increase in the consumer price index-u
3 for the most recent twelve (12) month period, as determined by the United
4 States Department of Labor. Medically equipped motor vehicles, vans, or
5 trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation.
6 Costs exceeding this limit shall not be reimbursable and shall be borne by the
7 facility. Costs for additional motor vehicles, not to exceed a total of three (3)
8 per facility, may be approved by the Cabinet for Health and Family Services if
9 the facility demonstrates that each additional vehicle is necessary for the
10 operation of the facility as required by regulations of the cabinet;

11 (c) Salaries paid to immediate family members of the owner or administrator, or
12 both, of a facility, to the extent that services are not actually performed and
13 are not a necessary function as required by regulation of the cabinet for the
14 operation of the facility. The facility shall keep a record of all work actually
15 performed by family members;

16 (d) The cost of contracts, loans, or other payments made by the facility to owners,
17 administrators, or both, unless the payments are for services which would
18 otherwise be necessary to the operation of the facility and the services are
19 required by regulations of the Cabinet for Health and Family Services. Any
20 other payments shall be deemed part of the owner's compensation in
21 accordance with maximum limits established by regulations of the Cabinet for
22 Health and Family Services. Interest paid to the facility for loans made to a
23 third party may be used to offset allowable interest claimed by the facility;

24 (e) Private club memberships for owners or administrators, travel expenses for
25 trips outside the state for owners or administrators, and other indirect
26 payments made to the owner, unless the payments are deemed part of the
27 owner's compensation in accordance with maximum limits established by

- 1 regulations of the Cabinet for Health and Family Services; and
- 2 (f) Payments made to related organizations supplying the facility with goods or
3 services shall be limited to the actual cost of the goods or services to the
4 related organization, unless it can be demonstrated that no relationship
5 between the facility and the supplier exists. A relationship shall be considered
6 to exist when an individual, including brothers, sisters, father, mother, aunts,
7 uncles, and in-laws, possesses a total of five percent (5%) or more of
8 ownership equity in the facility and the supplying business. An exception to
9 the relationship shall exist if fifty-one percent (51%) or more of the supplier's
10 business activity of the type carried on with the facility is transacted with
11 persons and organizations other than the facility and its related organizations.
- 12 (3) No vendor payment shall be made unless the class and type of medical care
13 rendered and the cost basis therefor has first been designated by regulation.
- 14 (4) The rules and regulations of the Cabinet for Health and Family Services shall
15 require that a written statement, including the required opinion of a physician, shall
16 accompany any claim for reimbursement for induced premature births. This
17 statement shall indicate the procedures used in providing the medical services.
- 18 (5) The range of medical care benefit standards provided and the quality and quantity
19 standards and the methods for determining cost formulae for vendor payments
20 within each category of public assistance and other recipients shall be uniform for
21 the entire state, and shall be designated by regulation promulgated within the
22 limitations established by the Social Security Act and federal regulations. It shall
23 not be necessary that the amount of payments for units of services be uniform for
24 the entire state but amounts may vary from county to county and from city to city,
25 as well as among hospitals, based on the prevailing cost of medical care in each
26 locale and other local economic and geographic conditions, except that insofar as
27 allowed by applicable federal law and regulation, the maximum amounts

1 reimbursable for similar services rendered by physicians within the same specialty
2 of medical practice shall not vary according to the physician's place of residence or
3 place of practice, as long as the place of practice is within the boundaries of the
4 state.

5 (6) Nothing in this section shall be deemed to deprive a woman of all appropriate
6 medical care necessary to prevent her physical death.

7 (7) To the extent permitted by federal law, no medical assistance recipient shall be
8 recertified as qualifying for a level of long-term care below the recipient's current
9 level, unless the recertification includes a physical examination conducted by a
10 physician licensed pursuant to KRS Chapter 311 or by an advanced practice
11 registered nurse licensed pursuant to KRS Chapter 314 and acting under the
12 physician's supervision.

13 (8) (a) If payments made to community mental health centers, established pursuant to
14 KRS Chapter 210, for services provided to the intellectually disabled exceed
15 the actual cost of providing the service, the balance of the payments shall be
16 used solely for the provision of other services to the intellectually disabled
17 through community mental health centers.

18 (b) If a community mental health center, established pursuant to KRS Chapter
19 210, provides services to a recipient of Medical Assistance Program benefits
20 outside of the community mental health center's regional service area, as
21 established in Section 2 of this Act, the community mental health center
22 shall not be reimbursed for such services in accordance with the
23 department's fee schedule for community mental health centers but shall
24 instead be reimbursed in accordance with the department's fee schedule for
25 behavioral health service organizations.

26 (c) As used in this subsection, "community mental health center" means a
27 regional community services program as defined in Section 1 of this Act.

- 1 (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to
2 recipients of medical assistance under Title XIX of the Social Security Act on July
3 15, 1986, shall deny admission of a person to a bed certified for reimbursement
4 under the provisions of the Medical Assistance Program solely on the basis of the
5 person's paying status as a Medicaid recipient. No person shall be removed or
6 discharged from any facility solely because they became eligible for participation in
7 the Medical Assistance Program, unless the facility can demonstrate the resident or
8 the resident's responsible party was fully notified in writing that the resident was
9 being admitted to a bed not certified for Medicaid reimbursement. No facility may
10 decertify a bed occupied by a Medicaid recipient or may decertify a bed that is
11 occupied by a resident who has made application for medical assistance.
- 12 (10) Family-practice physicians practicing in geographic areas with no more than one
13 (1) primary-care physician per five thousand (5,000) population, as reported by the
14 United States Department of Health and Human Services, shall be reimbursed one
15 hundred twenty-five percent (125%) of the standard reimbursement rate for
16 physician services.
- 17 (11) The Cabinet for Health and Family Services shall make payments under the
18 Medical Assistance program for services which are within the lawful scope of
19 practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the
20 Medical Assistance Program pays for the same services provided by a physician.
- 21 (12) (a) The Medical Assistance Program shall use the appropriate form and
22 guidelines for enrolling those providers applying for participation in the
23 Medical Assistance Program, including those licensed and regulated under
24 KRS Chapters 311, 312, 314, 315, and 320, any facility required to be
25 licensed pursuant to KRS Chapter 216B, and any other health care practitioner
26 or facility as determined by the Department for Medicaid Services through an
27 administrative regulation promulgated under KRS Chapter 13A. A Medicaid

1 managed care organization shall use the forms and guidelines established
2 under KRS 304.17A-545(5) to credential a provider. For any provider who
3 contracts with and is credentialed by a Medicaid managed care organization
4 prior to enrollment, the cabinet shall complete the enrollment process and
5 deny, or approve and issue a Provider Identification Number (PID) within
6 fifteen (15) business days from the time all necessary completed enrollment
7 forms have been submitted and all outstanding accounts receivable have been
8 satisfied.

9 (b) Within forty-five (45) days of receiving a correct and complete provider
10 application, the Department for Medicaid Services shall complete the
11 enrollment process by either denying or approving and issuing a Provider
12 Identification Number (PID) for a behavioral health provider who provides
13 substance use disorder services, unless the department notifies the provider
14 that additional time is needed to render a decision for resolution of an issue or
15 dispute.

16 (c) Within forty-five (45) days of receipt of a correct and complete application for
17 credentialing by a behavioral health provider providing substance use disorder
18 services, a Medicaid managed care organization shall complete its contracting
19 and credentialing process, unless the Medicaid managed care organization
20 notifies the provider that additional time is needed to render a decision. If
21 additional time is needed, the Medicaid managed care organization shall not
22 take any longer than ninety (90) days from receipt of the credentialing
23 application to deny or approve and contract with the provider.

24 (d) A Medicaid managed care organization shall adjudicate any clean claims
25 submitted for a substance use disorder service from an enrolled and
26 credentialed behavioral health provider who provides substance use disorder
27 services in accordance with KRS 304.17A-700 to 304.17A-730.

1 (e) The Department of Insurance may impose a civil penalty of one hundred
2 dollars (\$100) per violation when a Medicaid managed care organization fails
3 to comply with this section. Each day that a Medicaid managed care
4 organization fails to pay a claim may count as a separate violation.

5 (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements
6 of subsection (12) of this section. The Department for Medicaid Services shall
7 develop a specific form and establish guidelines for assessing the credentials of
8 dentists applying for participation in the Medical Assistance Program.