FILED WITH LRC
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Emily B. Caudill
REGULATIONS COMPILER

1 Cabinet for Health and Family Services

2 Office of Health Policy

3 (New administrative regulation)

4 900 KAR 6:060. Timetable for submission of certificate of need applications.

5 RELATES TO: KRS 216B.010, 216B.062, 216B.990

6 STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 216B.040(2)(a)1

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the
8 Cabinet for Health and Family Services to administer Kentucky's Certificate of Need
9 Program and to promulgate administrative regulations as necessary for the program.
10 This administrative regulation establishes the timetable for submission of application
11 requirements necessary for the orderly administration of the Certificate of Need
12 Program.

13 Section 1 Definitions. (1) "Cabinet" is defined by KRS 216B.015(5).

14 (2) "Certificate of Need Newsletter" means the monthly newsletter that is published
15 by the cabinet regarding certificate of need matters and is available on the Certificate of
16 Need Web site at http://chfs.ky.gov/ohp/con.

17 (3) "Formal review" means the review of applications for certificate of need which
18 are reviewed within ninety (90) calendar days from the commencement of the review as
19 provided by KRS 216B.062(1) and which are reviewed for compliance with the review
20 criteria set forth at KRS 216B.040 and 900 KAR 6:065.

21 (5) "Long-term care beds" means nursing home beds, intermediate care beds,

1 skilled nursing beds, nursing facility beds, and Alzheimer nursing home beds.

2 (6) "Nonsubstantive review" is defined by KRS 216B.015(17).

3 (7) "Public information channels" means the Office of Communication and

4 Administrative Review in the Cabinet for Health and Family Services.

5 (8) "Public notice" means notice given through:

6 (a) Public information channels; or

7 (b) The cabinet's Certificate of Need Newsletter.

8 Section 2. Timetable for Submission of Applications. (1) The cabinet's timetable for

9 giving public notice for applications deemed complete for formal review and for

10 applications granted nonsubstantive review status pursuant to KRS 216B.095(3)(f) and

11 900 KAR 6:075 shall be as follows:

12 (a) Public notice for organ transplantation, magnetic resonance imaging,

13 megavoltage radiation equipment, cardiac catheterization, open heart surgery, positron

14 emission tomography equipment, and new technological developments shall be

15 provided on the third Thursday of the following months:

16 1. January; and

17 2. July.

18 (b) Public notice for residential hospice facilities, hospice agencies, and home health

19 agencies shall be provided on the third Thursday of the following months:

20 1. February; and

21 2. August.

22 (c) Public notice for ground ambulance providers, private duty nursing services,

23 mobile services, and rehabilitation agencies shall be provided on the third Thursday of

1 the following months:

2 1. March; and

3 2. September.

4 (d) Public notice for day health care programs, prescribed pediatric extended care

5 facilities, and personal care beds shall be provided on the third Thursday of the

6 following months:

7 1. April; and

8 2. October.

9 (e) Public notice for long-term care beds, acute care hospitals including all other

10 State Health Plan covered services to be provided within the proposed acute care

11 hospital, acute care hospital beds, psychiatric hospital beds, special care neonatal

12 beds, comprehensive physical rehabilitation beds, chemical dependency beds,

13 ambulatory care centers, freestanding ambulatory surgical centers, outpatient health

14 care centers, and birthing centers shall be provided on the third Thursday of the

15 following months:

16 1. May; and

17 2. November.

18 (f) Public notice for intermediate care beds for mental retardation and

19 developmentally disabled facilities and psychiatric residential treatment facilities (PRTF)

20 shall be provided on the third Thursday of the following months:

21 1. June; and

22 2. December.

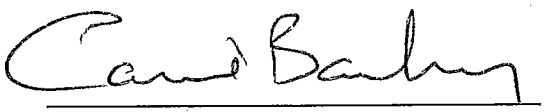
23 (g) A proposal not included in paragraphs (a) through (f) of this subsection shall be

1 placed in the cycle that the cabinet determines to be most appropriate by placing it in
2 the cycle with similar services.
3 (2) In order to have an application deemed complete and placed on public notice, an
4 application shall be filed with the cabinet at least fifty (50) calendar days prior to the
5 date of the desired public notice.

900 KAR 6:060

This is to certify that the Executive Director of the Office of Health Policy has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070(4)

APPROVED:



Carrie Banahan
Executive Director
Office of Health Policy

4/29/09
Date

APPROVED:

Janie Miller
Secretary
Cabinet for Health and Family Services

5/15/09
Date

900 KAR 6:060

A public hearing on this administrative regulation shall, if requested, be held on July 21, 2009, at 9:00 a.m. in the Public Health Auditorium located on the First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by July 14, 2009, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business July 31, 2009. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, (502) 564-7905, Fax: (502) 564-7573

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 900 KAR 6:060

Contact Person: Carrie Banahan or Shane O'Donley, 564-9592

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Cabinet's timetable for submission of certificate of need applications. Formerly, 900 KAR 6:050 established the requirements necessary for the orderly administration of the certificate of need program. Due to the large size of that administrative regulation, LRC staff requested that it be separated into several smaller regulations. Therefore, this new administrative regulation was drafted to include information specific to the timetable for submission of certificate of need applications. This regulation creates no substantive change to current policies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statute, KRS 216B.010, 216B.062, 216B.990.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.010, 216B.062, 216B.990 by establishing the timetable for submission of certificate of need applications.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of KRS 216B.010, 216B.062, 216B.990 by establishing the timetables for submission of certificate of need applications.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects an entity wishing to file a certificate of need application. Approximately 100 entities file a certificate of need application each year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: As the timetables set forth in the administrative regulation are currently established and operational, no new action will be required for regulated entities to comply with this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As the timetables set forth in the administrative regulation are currently established and operational, no cost will be incurred by regulated entities to comply with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will provide potential health care providers with a mechanism to establish health care facilities and services in compliance with KRS 216B.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No additional costs will be incurred to implement this regulation as we already utilize these timetables as part of our normal operations.

(b) On a continuing basis: No additional costs will be incurred to implement this regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation and enforcement of this administrative regulation will be from Office of Health Policy's existing budget. As stated above, the timetables are already used as part of our normal operations so no additional funding will be required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? (explain why or why not) Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 900 KAR 6:060 Contact Person: Carrie Banahan or Shane O'Donley

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No _____

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects the Office of Health Policy within the Cabinet for Health and Family Services.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.010, 216B.062, 216B.990.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Expenditures (+/-): Other Explanation: