

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of Health Policy

3 (Amendment)

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

5 RELATES TO: KRS 216B.015, 216B.040, 216B.095(3)(a)-(f) [~~216B.010, 216B.062,~~
6 ~~216B.990~~]

7 STATUTORY AUTHORITY: KRS [~~194A.030, 194A.050,~~] 216B.040(2)(a)1,
8 216B.062(1), (2)

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the
10 Cabinet for Health and Family Services to administer Kentucky's Certificate of Need
11 Program and to promulgate administrative regulations as necessary for the program.
12 KRS 216B.062(1) and (2) require the cabinet to promulgate administrative regulations to
13 establish timetables and batching groups for applications for certificates of need. This
14 administrative regulation establishes the timetable for submission of application
15 requirements necessary for the orderly administration of the Certificate of Need
16 Program.

17 Section 1. Definitions. (1) "Cabinet" is defined by KRS 216B.015(6)~~[(5)]~~.

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

1 (3) "Formal review" means the review of an application [~~applications~~] for certificate of
2 need which is [~~are~~] reviewed within ninety (90) days from the commencement of the
3 review as provided by KRS 216B.062(1) and which is [~~are~~] reviewed for compliance with
4 the review criteria set forth at KRS 216B.040 and 900 KAR 6:070.

5 (4) "Long-term care beds" means nursing home beds, intermediate care beds,
6 skilled nursing beds, nursing facility beds, and Alzheimer nursing home beds.

7 (5) "Nonsubstantive review" is defined by KRS 216B.015~~(18)~~~~(17)~~.

8 ~~[(6) "Public information channels" means the Office of Communication and
9 Administrative Review in the Cabinet for Health and Family Services.~~

10 ~~—(7) "Public notice" means notice given through:~~

11 ~~—(a) Public information channels; or~~

12 ~~—(b) The cabinet's Certificate of Need Newsletter.]~~

13 Section 2. Timetable for Submission of an Application for Formal Review

14 [~~Applications~~]. (1) The cabinet's timetable for giving public notice for an application
15 [~~applications~~] deemed complete for formal review [~~and for applications granted~~
16 ~~nonsubstantive review status pursuant to KRS 216B.095(3)(f) and 900 KAR 6:075]~~ shall
17 be as established in this subsection:

18 (a) Public notice for an application for organ transplantation, magnetic resonance
19 imaging, megavoltage radiation equipment, cardiac catheterization, open heart surgery,
20 positron emission tomography equipment, a Level I psychiatric residential treatment
21 facility (Level 1 PRTF), a Level II psychiatric residential treatment facility (Level II
22 PRTF), and a new technological development [~~developments~~] shall be provided in the
23 Certificate of Need Newsletter published on the third Thursday of the following months:

1 1. January; and

2 2. July.

3 (b) Public notice for an application for a residential hospice facility [facilities], a
4 hospice service [agencies], and a home health agency [agencies] shall be provided in
5 the Certificate of Need Newsletter published on the third Thursday of the following
6 months:

7 1. February; and

8 2. August.

9 (c) Public notice for an application for a Class I, II, III and VI ground ambulance
10 service [providers], and a private duty nursing service [services, mobile services, and
11 ~~rehabilitation agencies~~] shall be provided in the Certificate of Need Newsletter published
12 on the third Thursday of the following months:

13 1. March; and

14 2. September.

15 (d) Public notice for an application for a day health care program [~~programs,~~
16 ~~prescribed pediatric extended care facilities, and personal care beds~~] shall be provided
17 in the Certificate of Need Newsletter published on the third Thursday of the following
18 months:

19 1. April; and

20 2. October.

21 (e) Public notice for an application for long-term care beds, an acute care hospital
22 [~~hospitals~~] including all other State Health Plan covered services to be provided within
23 the proposed acute care hospital, acute care hospital beds, psychiatric hospital beds,

1 special care neonatal beds, comprehensive physical rehabilitation beds, chemical
2 dependency treatment beds, an [~~limited services clinics, ambulatory care centers,~~
3 ~~freestanding~~] ambulatory surgical center [~~centers~~], and an outpatient health care center
4 [~~centers, and birthing centers~~] shall be provided in the Certificate of Need Newsletter
5 published on the third Thursday of the following months:

6 1. May; and

7 2. November.

8 (f) Public notice for an application for an intermediate care facility [~~facilities~~] for
9 individuals with an intellectual disability shall be provided in the Certificate of Need
10 Newsletter published on the third Thursday of the following months:

11 1. June; and

12 2. December.

13 (g) A proposal not included in paragraphs (a) through (f) of this subsection shall be
14 placed in the cycle that the cabinet determines to be most appropriate by placing it in
15 the cycle with similar services.

16 (2) In order to have an application for formal review deemed complete and placed
17 on public notice, an application shall be filed with the cabinet at least fifty (50) calendar
18 days, but not more than eighty (80) calendar days, prior to the date of the desired public
19 notice. An initial application [~~applications~~] filed more than eighty (80) days prior to the
20 desired public notice shall be returned to the submitter with the prescribed fee set forth
21 in 900 KAR 6:020.

22 Section 3. Timetable for Submission of an Application for Nonsubstantive Review.

23 (1) The cabinet shall give public notice for an application deemed complete and granted

1 nonsubstantive review status pursuant to KRS 216B.095(3)(a) through (f) in the
2 Certificate of Need Newsletter published on the third Thursday of each month.

3 (2) In order to have an application for nonsubstantive review deemed complete and
4 placed on public notice, an application shall be filed with the cabinet at least fifty (50)
5 calendar days prior to the date of the desired public notice. [An application filed
6 pursuant to ~~KRS 216B.095(3)(a) through (e)~~ may be filed at any time.]

900 KAR 6:060

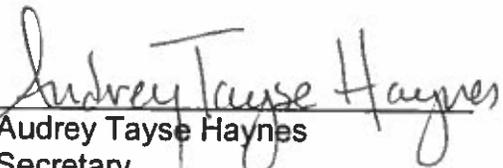
REVIEWED:



Emily Whelan Parento
Executive Director
Office of Health Policy

7/28/14
Date

APPROVED:



Audrey Tayse Haynes
Secretary
Cabinet for Health and Family Services

8/7/14
Date

900 KAR 6:060

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on September 22, 2014, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by September 15, 2014, 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 cancelled. 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 September 30, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, Phone: 502-564-7905, Fax: 502-564-7573, email: tricia.orme@ky.gov

REGULATORY IMPACT ANALYSIS AND TEIRING STATEMENT

Regulation: 900 KAR 6:060
Contact Person: Diona Mullins, Policy Advisor
Office of Health Policy
(502) 564-9592

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements necessary for the orderly submission of certificate of need applications.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statute KRS 216B. 040(2)(a)1.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the timetable for submissions 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 establishes the timetable for submission of certificate of need applications. Public notice for certificate of need applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(f) shall be given monthly in the published Certificate of Need Newsletter. These applications will no longer be required to be batched semi-annually with the same or similar types of services for review purposes. Public notice for certificate of need applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(a) through (e) shall be given monthly in the published Certificate of Need Newsletter.

(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: Public notice for certificate of need applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(f) shall be given monthly in the published Certificate of Need Newsletter. These applications will no longer be required to be batched semi-annually with the same or similar types of services for review purposes. Public notice for certificate of need applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(a) through (e) shall be given monthly in the published Certificate of Need Newsletter, eliminating the need to mail separate notices for each application.

(b) The necessity of the amendment to this administrative regulation: In accordance with KRS 216B.062, applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(f) will no longer be batched semi-annually with the same or similar types of services for review purposes, but will be batched monthly. Applications requesting nonsubstantive review status under KRS 216B.095(3)(a) through (e) will be batched monthly, eliminating the need to do separate mailings for each application.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements necessary for the orderly submission of certificate of need applications.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the requirements necessary for the orderly administration of the certificate of need process, including the timetable for submission of certificate of need applications.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Annually approximately 150 certificate of need applications are submitted.

(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: Public notice for certificate of need applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(f) shall be given monthly in the published Certificate of Need Newsletter. These applications will no longer be required to be batched semi-annually with the same or similar types of services for review purposes. Public notice for certificate of need applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(a) through (e) shall be given monthly in the published Certificate of Need Newsletter, eliminating the need to mail separate notices for each application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to CON applicants to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public notice for applications granted nonsubstantive review status under the provisions of KRS 216B.095(3)(f) shall be given in the monthly published Certificate of Need Newsletter. These applications will no longer be batched semi-annually with the same or similar types of services for review purposes in accordance with KRS 216B.062.

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

(a) Initially: No cost

(b) On a continuing basis: No cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary since there is no cost to implementing this administrative regulation.

(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 is necessary.

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

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 900 KAR 6:060
Contact Person: Diona Mullins, (502) 564-9592

1. 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? Health care facilities owned by the state, county or city shall be permitted to file nonsubstantive review applications under the provisions of KRS 216B.095(3)(f) and be batched monthly for review purposes instead of being batched semi-annually with the same or similar types of services for review purposes

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040(2)(a)1

3. 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 amendment will not generate additional revenue for state or local government during the first year.

(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 amendment will not generate additional revenue for state or local government during subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are necessary to administer this program during the first year

(d) How much will it cost to administer this program for subsequent years? No additional costs are necessary to administer this program for subsequent years.

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