

FILED WITH LRC
TIME: 11an
AUG 08 2011
Emily B Caudill
REGULATIONS COMPILER

1 Cabinet for Health and Family Services

2 Office of Health Policy

3 (Amendment)

4 900 KAR 6:030. Certificate of need expenditure minimums.

5 RELATES TO: KRS 216B.015-216B.130, 216B.455, 216B.990(2)

6 STATUTORY AUTHORITY: KRS 194A.050(1), 216B.040(3)(a), 216B.130

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(3)(a) authorizes the

8 Cabinet for Health and Family Services to promulgate administrative regulations. KRS 216B.130

9 requires the cabinet to promulgate an administrative regulation to annually adjust expenditure

10 minimums provided in KRS Chapter 216B. This administrative regulation provides for the

11 adjustment of expenditure minimums for capital expenditures and major medical equipment.

12 Section 1. (1) The U.S. Department of Commerce, Bureau of Economic Analysis Price

13 Indexes for Private Fixed Investment by Type shall be used in making annual adjustments to the

14 expenditure minimums required by KRS 216B.130.

15 (2) The change in the price index for the twelve (12) month period ending December 31,

16 2010 [2009], represents 0.81 [2.79] percent decrease.

17 Section 2. (1) The capital expenditure minimum established in KRS 216B.015(7) shall be

18 \$2,648,150 [\$2,669,775].

19 (2) The major medical equipment minimum established in KRS 216B.015(16) shall be

20 \$2,648,150 [\$2,669,775].

900 KAR 6:030

PUBLIC HEARING AND COMMENTS:

A public hearing on this administrative regulation shall, if requested, be held on September 21, 2011, 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 September 14, 2011, 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 September 30, 2011. 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 40601, Phone: 502-564-7905, Fax: 502-564-7573

REGULATORY IMPACT ANALYSIS AND TEIRING STATEMENT

Administrative Regulation Number: 900 KAR 6:030

Contact Person: Carrie Banahan or Chandra Venettozzi, (502) 564-9589

1. Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation provides for the adjustment of expenditure minimums for capital expenditures and major medical equipment.
- (b) The necessity of this administrative regulation: KRS 216B.130 requires the cabinet to promulgate an administrative regulation to annually adjust expenditure minimums provided in KRS Chapter 216B.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation adjusts the capital expenditure minimums for capital expenditures and major medical equipment.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendment of the regulation is in compliance with KRS 216B.130.

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: The amendment will provide for the adjustment of expenditure minimums for capital expenditures and major medical equipment.
- (b) The necessity of the amendment to this administrative regulation: KRS 216B.130 requires the cabinet to promulgate an administrative regulation to annually adjust expenditure minimums provided in KRS Chapter 216B.
- (c) How the amendment conforms to the content of the authorizing statutes: The amendment carries out the requirement of KRS 216B.130 which requires that capital minimums be adjusted.
- (d) How the amendment will assist in the effective administration of the statutes: This amendment will provide the most current capital and major medical equipment expenditure amounts use in processing Certificate of Need Applications.

3. List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect health care providers governed by the Certificate of Need law, citizens who use health care in Kentucky, health planners in the Certificate of Need Program, and local communities that plan for, use, or develop community health care facilities.

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: The modifications will any Certificate of Need Applicant with a capital expenditure of major medical expenditure that exceeds the minimum.

- (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 cost to entities to comply with this amendment.
- (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The facilities will have access to the most current information regarding capital expenditure and major medical expenditure minimums when completing their applications for Certificate of Need.

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 increase any fees either directly or indirectly.

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. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 900 KAR 6:030

Contact Person: Carrie Banahan or Chandra Venettozzi

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 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 amendment may impact any government owned, controlled or proposed healthcare facilities or services.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.130 requires the cabinet to promulgate an administrative regulation to annually adjust expenditure minimums provided in KRS Chapter 216B.
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. None.
- (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? No impact to revenues.
 - (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? No revenues will be generated to state or local government.
 - (c) How much will it cost to administer this program for the first year? None.
 - (d) How much will it cost to administer this program for subsequent years? None.

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

Revenues (+/-): None
Expenditures (+/-): None
Other Explanation: None