

TRAUMATIC BRAIN INJURY (TBI) BEHAVIORAL PROGRAM Introduction	DAIL-TBIBP-24.1
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Introduction

The Traumatic Brain Injury (TBI) Behavioral Program was established in May 2009 under 910 KAR 3:020 to identify individuals affected by brain injury that are in need of behavioral services. The Traumatic Behavioral Program shall serve as a funding source of last resort for the residents of the Commonwealth of Kentucky. The Behavioral Program is created as a separate revolving fund. The Behavioral Program funding shall be distributed to provide behavioral services to individuals suffering with conditions that qualify for assistance. The Behavioral Program may receive the proceeds from grants, contributions, appropriations, and any other monies that may be available for the purposes of the program. This Standard Operating Procedure Manual provides instructions for the operationalization of the Traumatic Brain Injury Behavioral Program.

The regulatory language associated with the facilitation of the TBI Behavioral Program may be found in the following Kentucky Administrative Regulation (KAR): 910 KAR 3:020. The language outlined in the Kentucky Administrative Regulation supersedes the language outlined in the TBI Behavioral Program Standard Operating Procedures Manual.

Purpose

The Cabinet for Health and Family Services under KRS 189A.050(3)(d)2 is required to promulgate an administrative regulation to provide direct services to individuals with brain injuries including long-term supportive services and training and consultation to professionals working with individuals with brain injuries. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth of Kentucky.

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Traumatic Brain Injury Behavioral Program Overview

The Traumatic Brain Injury (TBI) Behavioral Program was created pursuant of Kentucky Administrative Regulation 910 KAR 3:020. Its purpose is to be a funding of last resort for individuals affected by brain injury that are in need of behavioral services. The TBI Behavioral Program assists in providing behavioral supports and intervention to eligible individuals.

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Organizational Staff

The TBI Behavioral Program may establish any organizational structure it determines necessary to accomplish its function and duties which includes the hiring of support personnel.

Procedure:

- (1) Serve as staff to the TBI Behavioral Program
- (2) Coordinate services, resources and options for those individuals and family members affected by TBI behavioral issues that do not qualify for other services
- (3) Provide training and community education to individuals, agencies, community groups
- (4) Performs, analyzes and makes recommendations regarding major policy, procedures, legislation, programs, services, and research issues involving the TBI behavioral program services
- (5) Coordinates, oversees and perform technical assistance and information and referral services
- (6) Seeks and writes grants and other funding sources
- (7) This policy shall be reviewed and revised as necessary

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Behavioral Program Panel

The TBI Behavioral Program shall establish a structure to determine eligibility for the program. The Behavioral Program Panel shall be made of the following personnel:

- (1) The Panel shall be a body of no less than three (3) members
 - (a) One (1) member of the Department's Long-Term Care Ombudsman Program
 - (b) One (1) member of the Department's Program Support Branch
 - (c) One (1) member of the Department or Cabinet not affiliated with the TBI Behavioral Program.

- (2) The Panel members shall serve a minimum of one (1) year but no more than two (2) consecutive years.

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Behavioral Program Panel Responsibilities

The TBI Behavioral Program Panel shall:

- (1) Access the applicant's eligibility of services
- (2) Identify the applicant's need for crisis intervention or residential services
- (3) Identify potential resources to meet the applicant's need for services
- (4) Determine program is payor of last resort
- (5) Approve or deny program services
- (6) Meet monthly at a minimum, or more often as needed for an emergency

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Behavioral Program Applicant

An applicant means a person who applies for a behavioral program services.

Procedure:

- (1) An applicant shall:
 - (a) Be a legal resident of Kentucky
 - (b) Meet the definition requirement of a traumatic brain injury
 - (c) Provide medical documentation validating brain injury
 - (d) Complete DAIL-BI-010 Application for Behavioral Services form
 1. For Crisis Intervention Services
 - a. Be non-Medicaid eligible
 - i. Exhaust all other funding sources and/or have health insurance benefits that do not cover or fund services identified in Behavioral Program
 - b. Be Medicaid eligible
 - i. Receiving services under one (1) of the Medicaid Acquired Brain Injury (ABI) Waivers
 - c. Be in an emergency status
 2. For Residential Services
 - a. Be non-Medicaid eligible
 - i. Exhaust all other funding sources and/or have health insurance benefits that do not cover or fund services identified in Behavioral Program
 - b. Have been charged with an offense listed in KRS 439.3401(1)
 - c. Be in an emergency status
- (e) Complete DAIL-BI-020 Physician's Recommendation form

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- (f) Not be a resident of an institution or hospital
- (2) A designated representative may submit an application on behalf of the applicants if unable to complete themselves.

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Behavioral Program Funding

The Traumatic Brain Injury Behavioral Program will receive monies from one (1) source of designated resources

Funding entity:

- (1) The Traumatic Brain Injury Behavioral Program shall be credited fifty percent (50%) of sixteen percent (16%) of revenue collected from the fees imposed in all cases convicted of violation of KRS 189A.010 9(a), (b), (c), or (d).

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Behavioral Program Services

The TBI Behavioral Program shall provide services to recipients. Services means approved programming to enhance a recipient's ability to live in the community.

Services include:

- (1) A crisis intervention which may include
 - (a) Crisis stabilization unit setting which may include
 1. Reestablishing problem-solving abilities
 2. Staff as specified in 910 KAR 3:020 (5)(b)
 3. Identify current priority needs
 4. Assessing functioning and coping skills
 5. Provide stabilization, wrap around, and transitional services
 - (b) Targeted Case Management
 1. Twenty-four (24) hour availability
 2. Assessment, reassessment and follow-up
 3. Advocacy
 4. Establishment and maintenance of recipient's plan of care
 5. Crisis assistance planning
 6. Initiation, coordination, and implementation of services
 7. Monitoring of the delivery of services
 - (c) Training and Consultation
 1. Resolving personal issues or interpersonal problems resulting from recipient's brain injury
 2. Substance abuse and chemical dependency treatment
 3. Building and maintaining healthy relationships
 4. Social skills or the skills to cope with and adjust to the brain injury
 5. Knowledge and awareness of the effect of a brain injury
 6. Interpretation or explanation of medical examinations and procedures, treatment regimes, and Use of equipment
 7. Counseling

(d) Wrap around services

1. Personal care
2. Companion care
3. Transportation
4. Environmental modification
5. Durable medical equipment

(2) Residential services which may include:

- (a) Physical Therapy
- (b) Occupational Therapy
- (c) Speech Therapy
- (d) Cognitive and Behavioral Therapy
- (e) Neuropsychological consultation and medical management
- (f) Wrap around services

1. Personal care
2. Companion care
3. Transportation
4. Environmental modification
5. Durable medical equipment

- (g) Target Case Management if applicable
- (h) Transitional services

Services do not include:

- (1) Institutionalization
- (2) Hospitalization
- (3) Medications

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Behavioral Program Application Process

The Traumatic Brain Injury Behavioral Program requires an application to be made to obtain services.

The applicant or designated representative shall:

- (1) Contact the Traumatic Brain Injury Behavioral Program by
 - (a) Telephone
 - (b) In writing such as by
 1. Facsimile
 2. Email
 3. U.S. mail

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Behavioral Program Responsibilities

The Program shall:

- (1) Accept all applications and documentations for program
- (2) Establish a Behavioral Program Panel
- (3) Submit all completed forms and documentation to Panel for program eligibility and service determination
- (4) Notify the applicant or representative in writing within one (1) week of approval or denial for services
- (5) Distribute funding based upon approved services
- (6) Monitor delivery of services
- (7) Maintain all documentation and correspondence of program

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Behavioral Program Provider Responsibilities

The Provider shall:

- (1) Have contractual agreement with the Commonwealth of Kentucky
- (2) Meet the requirements of staffing per 910 KAR 3:020 (5)
- (3) Have policy and procedures including prohibition of physical and chemical resources reviewed and approved by department
- (4) Be responsible for incident reporting requirements
- (5) Be responsible for the involuntary termination requirements
- (6) Submit detailed progress reports on a monthly basis by the fifteenth (15th) of the month following the month of service
- (7) Submit an invoice for payment to the TBI Behavioral Program by the fifteenth (15th) of the month following the month of service

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Behavioral Program Incident Reports

An Incident Report shall be:

- (1) Submitted by the Provider
- (2) Documented on a DAIL-BI-030 Incident Report
- (3) Indicate Class of incident
 - (a) Class I incident
 1. Minor in nature and not create a serious consequence
 2. Not require an investigation by the provider
 3. Reported to a case manager within twenty-four (24) hours
 4. Reported to the recipient's guardian or legal representative as directed by the guardian or legal representative
 5. Retained on file at the provider and case management agency
 - (b) Class II incident
 1. Serious in nature
 - a. include a medication error
 - b. involve the use of physical or chemical restraint
 2. Require an investigation which shall be initiated by the provider within four (4) hours of discovery and shall involve the case manager
 3. Require a complete written report of the incident investigation submitted to the Department within forty-eight (48) hours of discovery
 4. Reported within four (4) hours of discovery to the following:
 - a. Recipient's guardian or legal representative
 - b. Department
 - i. Via email, facsimile, or business phone if the incident occurs Monday through Friday by 1:30pm
 - ii. Via email or cellular phone if the incident occurs Monday through Friday after 1:30pm or on a holiday or weekend

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(c) Class III incident

1. Grave in nature
 - a. Involve suspected abuse, neglect, or exploitation
 - b. Involve medication error which requires medical intervention
 - c. Involve a death
2. Immediately investigated by the provider
3. Involve Case Manager in the investigation
4. Require a complete written report of the incident investigation submitted to the Department with forty-eight (48) hours of discovery
5. Reported to the following:
 - a. Department of Community Based Services, immediately upon discovery if involved suspected abuse, neglect, or exploitation in accordance with KRS Chapter 209
 - b. Recipient's guardian or legal representative within four (4) hours of discovery
 - c. Department within four (4) hours of discovery
 - i. Via email, facsimile, or business phone if incident occurs Monday through Friday by 1:30pm
 - ii. Via email or cellular phone if incident occurs Monday through Friday after 1:30pm or on a holiday or weekend
6. Submit additional documentation when an incident involves death
 - a. Most current plan of care
 - b. Most current list of prescribed and PRN medications
 - c. Most current crisis plan
 - d. Provider's medication administration review (MAR) for the current and previous month
 - e. Staff notes from current and previous month including details of physician and emergency visits
 - f. Documentation of Class I or II incidents
 - g. Coroner's report
 - h. If performed, an autopsy report

TRAUMATIC BRAIN INJURY (TBI) BEHAVIORAL PROGRAM Behavioral Program Residential Waiting List	DAIL-TBIBP-24.13
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Behavioral Program Residential Waiting List

The Traumatic Brain Injury Behavioral Program shall establish and maintain a waiting list based upon available funding for residential services.

Procedure:

- (1) Placement on the waiting list will be chronological order from date of receipt of completed application and documentation as specified in 910 KAR 3:020 (8)
 - (a) Chronological order shall be maintained and not changed from date of receipt
- (2) Written notification of the date and placement will be mailed to applicant or legal representative.
- (3) Monthly updates will be made to waiting list
- (4) Emergency status will supersede the waiting list

Removal from Waiting List:

- (1) Individual or legal representative is unable to be located
- (2) Individual is deceased
- (3) Individual or legal representative threatens or intimidates program personnel or providers
- (4) Individual or legal representative requests removal from list
- (5) Removal does not prevent submission of a new application at a later date if applicable

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Behavioral Program Termination of Services

The Traumatic Brain Injury Behavioral Program may terminate a recipient.

- (1) The recipient is non-complaint with plan of care
- (2) The recipient or legal representative threatens or intimidates program personnel or providers
- (3) The recipient is deceased
- (4) The recipient's plan of care is completed
- (5) The recipient's services are transitioned to another agency
- (6) The recipient or legal representative requests services be terminated

Procedure:

- (1) Voluntary Termination
 - (a) Written notice of intent to discontinue services is made sixty (60) days prior to termination and shall include:
 1. Statement of intended action
 2. Basis for the intended action
 3. Authority by which the action is taken
 4. Transition plan for intended action
 5. Right to appeal intended action
 - (b) Written notification is sent to recipient or legal representative
 - (c) Written notification is sent to case manager
 - (d) Written notification is sent to provider
 - (e) Written notification is sent to department
 - (f) Transitional plan is coordinated by case manager with recipient or legal representative
- (2) Involuntary Termination
 - (a) Written notice of intent to discontinue services is made sixty (60) days prior to termination and shall include:
 1. Statement of intended action
 2. Basis for the intended action
 3. Authority by which the action is taken
 4. Transition plan for intended action

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5. Right to appeal intended action

- (b) Written notification is sent to recipient or legal representative
- (c) Written notification is sent to case manager
- (d) Written notification is sent to provider
- (e) Written notification is sent to department
- (f) Transitional plan is coordinated by case manager with recipient or legal representative

TRAUMATIC BRAIN INJURY (TBI) BEHAVIORAL PROGRAM Behavioral Program Appeals	DAIL-TBIBP-24.15
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Behavioral Program Appeals

An applicant who wishes to appeal a denial of services shall:

Procedure:

- (1) Notify the Traumatic Brain Injury Behavioral Program in writing within thirty-(30) days of receipt of notification of the denial of services.
- (2) The TBI Behavioral Program shall acknowledge receipt of written appeal within five (5) working days after receipt of the appeal
- (3) The TBI Behavioral Program shall direct appeal to the Division of Administrative Hearings Branch, Office of Communications Review to conduct a hearing pursuant to KRS Chapter 13B
- (4) The Division of Administrative Hearings Branch, Office of Communications Review shall render a final decision in accordance with KRS 13B.120 by the Secretary of the Cabinet for Health and Family Services
 - (a) The final order shall make clear reference to the availability of judicial review pursuant to KRS 13B.150