

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Community Alternatives

4 (Amended After Comments)

5 907 KAR 12:010. New supports for community living waiver service and coverage
6 policies.

7 RELATES TO: KRS 205.520, 205.5605, 205.5606, 205.5607, 42 C.F.R. 441 Subpart
8 G, 42 U.S.C. 1396a, b, d, n

9 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3),
10 205.5606(1), 205.6317

11 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
12 Services, Department for Medicaid Services, has responsibility to administer the Medi-
13 caid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to
14 comply with any requirement that may be imposed, or opportunity presented, by federal
15 law to qualify for federal Medicaid funds. KRS 205.5606(1) requires the cabinet to
16 promulgate administrative regulations to establish a consumer-directed services pro-
17 gram to provide an option for the home and community based services waivers. This
18 administrative regulation establishes the service and coverage policies for a new ver-
19 sion of the Supports for Community Living (SCL) waiver program and applies to SCL
20 waiver services covered pursuant to this administrative regulation rather than SCL
21 waiver services covered pursuant to 907 KAR 1:145. During the month of their next

1 birthday, current SCL waiver participants will transition to the new SCL waiver program
2 and be governed by the policies established in this administrative regulation rather than
3 those established in 907 KAR 1:145. The SCL waiver program is federally authorized
4 via a 1915(c) home and community based waiver which enables individuals with an in-
5 tellectual or developmental disability to reside and receive services in a community set-
6 ting rather than in an intermediate care facility for individuals with an intellectual or de-
7 velopmental disability, including a consumer directed option pursuant to KRS 205.5606.

8 **Funding for the SCL waiver program is associated with and generated through**
9 **SCL waiver program participants rather than SCL waiver service providers.**

10 Section 1. Definitions. (1) "1915(c) home and community based waiver program"
11 means a Kentucky Medicaid program established pursuant to, and in accordance with,
12 42 U.S.C. 1396n(c).

13 (2) "Abuse" is defined by KRS 209.020(8).

14 (3) "Adult day health care center" means an adult day health care center licensed in
15 accordance with 902 KAR 20:066.

16 (4) "Adult foster care home" means a home:

17 (a) Not owned or leased by an SCL provider;

18 (b) In which a participant:

19 1. Is at least eighteen (18) years of age; and

20 2. Receives SCL services and resides in the family occupied (leased or owned)
21 home; and

22 (c) In which the family:

23 1. Includes the participant in the family's household routines;

- 1 2. Provides training and supervision; and
- 2 3. Ensures that the participant's needs are met in accordance with the:
 - 3 a. Participant's plan of care; and
 - 4 b. Supports for Community Living Policy Manual.
- 5 (5) "Behavior intervention committee" or "BIC" means a group of individuals:
 - 6 (a) Established to evaluate the technical adequacy of a proposed behavioral inter-
7 vention for a participant; and
 - 8 (b) Which meets in accordance with the BIC policies established in the Supports for
9 Community Living Manual.
- 10 (6) "Blended services" means a non-duplicative combination of traditional and partici-
11 pant directed services:
 - 12 (a) Described in Sections 4 and 5 of this administrative regulation; and
 - 13 (b) Provided in accordance with a participant's approved person centered plan of
14 care.
- 15 (7) "Board" means three (3) meals a day or other full nutritional regimen of a caregiv-
16 er for the purpose of providing shared living services.
- 17 (8) "Budget allowance" is defined by KRS 205.5605(1).
- 18 (9) "Case manager" means an individual who:
 - 19 (a) Works closely with a participant to ensure that the:
 - 20 1. Participant's person centered plan of care focuses on the participant's ongoing ex-
21 pectations and satisfaction with the participant's life; and
 - 22 2. Participant maintains the freedom of choice of providers in a conflict free climate;
 - 23 (b) 1. Has[=

1 ~~1.~~ a bachelor's or higher degree in a human service field from an accredited college
2 or university; ~~[or]~~

3 2. **Has** a bachelor's degree in any other field from an accredited college or university
4 with at least one (1) year of experience in the field of intellectual disability; **or**

5 ~~3.[(e)]~~ Is a registered nurse who has at least one (1) year of experience as a profes-
6 sional nurse in the field of intellectual disability;

7 ~~(c)[(d)]~~ Shall be supervised by a case management supervisor; and

8 ~~(d)[(e)]~~ Meets all personnel and training requirements established in Section 3 of this
9 administrative regulation.

10 (10) "Case manager supervisor" means an individual who:

11 (a) Provides professional oversight of case managers;

12 (b) ~~1.~~ Has[=:

13 ~~1.~~ a bachelor's or higher degree in a human service field from an accredited college
14 or university; ~~[or]~~

15 2. **Has** a bachelor's degree in any other field from an accredited college or university
16 with at least one (1) year of experience in the field of intellectual disability; **or**

17 ~~3.[(e)]~~ Is a registered nurse;

18 ~~(c)[(d)]~~ Has at least two (2) years of experience of case management responsibility in
19 an organization which serves individuals with intellectual or developmental disabilities;

20 ~~(d)[(e)]~~ Completes a case management supervisory training curriculum approved by
21 DBHDID within six (6) months of beginning supervisory responsibilities;

22 ~~(e)[(f)]~~ Meets all personnel and training requirements specified in Section 3 of this
23 administrative regulation; and

1 **~~(f)~~~~(g)~~** Participates in six (6) hours per year of professional development or continu-
2 ing education in the areas of person centered processes, supervision and mentoring of
3 employees.

4 (11) "Certified nutritionist" is defined by KRS 310.005(12).

5 (12) "Certified psychologist with autonomous functioning" means a person licensed
6 pursuant to KRS 319.056.

7 (13) "Certified school psychologist" means an individual certified by the Kentucky Ed-
8 ucation Professional Standards Board under 16 KAR 2:090.

9 (14)~~["Certified social worker" is an individual who is certified in accordance~~
10 ~~with KRS 335.080.~~

11 **~~(15)~~** "Chemical restraint" means the use of over-the-counter or prescription medica-
12 tion to control a participant or participant's behavior:

13 (a) For the convenience of staff; or

14 (b) As a punishment.

15 **~~(15)~~~~(16)~~** "Community access specialist" means an individual who:

16 (a) Provides support and training to a participant that empowers the participant **~~[or~~**
17 **~~participant's designated representative]~~**to:

18 1. Participate in meaningful routines or events;

19 2. Hold a membership in a club, group, association, church, business, or organization
20 in the community; and

21 3. Build a natural support system;

22 (b) Has:

23 1. A bachelor's degree in a human services field from an accredited college or uni-

1 iversity;

2 2. A bachelor's degree in any other field from an accredited college or university plus

3 at least one (1) year of experience in the field of intellectual or developmental disability;

4 or

5 3. Relevant experience or credentialing that will substitute for the educational re-

6 quirements stated in subparagraph 1. or 2. of this paragraph on a year-for-year basis;

7 and

8 (c) Meets the personnel and training requirements established in Section 3 of this

9 administrative regulation.

10 **(16)**~~**(17)**~~ "Community guide" means an individual who:

11 (a) Has been selected by a participant to provide training, technical assistance, and

12 support including individual budget development and implementation in aspects of par-

13 ticipant direction; and

14 (b) Has:

15 1. A bachelor's degree in a human services field from an accredited college or uni-

16 iversity;

17 2. A bachelor's degree in any other field from an accredited college or university plus

18 at least one (1) year of experience in the field of intellectual or developmental disability;

19 or

20 3. Relevant experience or credentialing that will substitute for the educational re-

21 quirements stated in subparagraph 1. or 2. of this paragraph on a year-for-year basis;

22 (c) Meets the personnel and training requirements established in Section 3 of this

23 administrative regulation; and

1 (d) Completes a community guide training curriculum approved by DBHDID within six
2 (6) months of being employed by the first participant supported; **and**

3 **(e) Provides services to a participant in accordance with Section 4 of this ad-**
4 **ministrative regulation.**

5 **(17)[-**

6 **(18)] "Conflict free" means a scenario in which an agency, also including any**
7 **subsidiary, partnership, not-for-profit, or other business entity under control of**
8 **the agency, providing case management to an individual does not also provide**
9 **another waiver service to the individual.**

10 **(18)[participant's case manager does not work for an agency which is respon-**
11 **sible for providing services that are not case management services to the partici-**
12 **pant.**

13 **(19)] "Controlled substance" is defined by KRS 218A.010(6).**

14 **(19)[(20)] "Covered services and supports" is defined by KRS 205.5605(3).**

15 **(20)[(21)] "DBHDID" means the Department for Behavioral Health, Developmental**
16 **and Intellectual Disabilities.**

17 **(21)[(22)] "DCBS" means the Department for Community Based Services.**

18 **(22)[(23)] "Department" means the Department for Medicaid Services or its designee.**

19 **(23)[(24)] "Designated representative" is defined by KRS 216.710(5).**

20 **(25)] Developmental disability means a disability that:**

- 21 (a) Is manifested prior to the age of twenty-two (22);
- 22 (b) Constitutes a substantial disability to the affected individual; and
- 23 (c) Is attributable either to an intellectual disability as defined in this section or a con-

1 dition related to an intellectual disability that results in:

2 1. An impairment of general intellectual functioning and adaptive behavior similar to
3 that of a person with an intellectual disability; and

4 2. Are a direct result of, or are influenced by, the person's cognitive deficits.

5 **(24)**~~**(26)**~~ "Direct support professional" means an individual who:

6 (a) Provides services to a participant in accordance with Section 4 of this administra-
7 tive regulation;

8 (b) Has direct contact with a participant when providing services to the participant;

9 (c) Is at least:

10 1. Eighteen (18) years old and has a high school diploma or GED; or

11 2. Twenty-one (21) years old;

12 (d) Meets the personnel and training requirements specified in Section 3 of this ad-
13 ministrative regulation; and

14 (e) Has the ability to:

15 1. Communicate effectively with a participant and the participant's family;

16 2. Read, understand, and implement written and oral instructions;

17 3. Perform required documentation; and

18 4. Participate as a member of the participant's person centered team if requested by
19 the participant;

20 (f) Demonstrates competence and knowledge on topics required to safely support the
21 participant as described in the participant's person centered plan of care.

22 **(25)**~~**(27)**~~ "Direct support professional supervisor" means an individual who:

23 (a) Provides oversight of direct support professionals in the provision of services to

1 participants;

2 (b) Is at least:

3 1. Eighteen (18) years old and has a high school diploma or GED; or

4 2. Twenty-one (21) years old;

5 (c) Meets the personnel and training requirements specified in Section 3 of this ad-
6 ministrative regulation; and

7 (d) Has the ability to:

8 1. Communicate effectively with a participant and the participant's family;

9 2. Read, understand, and implement written and oral instructions;

10 3. Perform required documentation; and

11 4. Participate as a member of the participant's person centered team if requested by
12 the participant;

13 (e) Has at least two (2) years of experience in providing direct support to persons
14 with a developmental disability;

15 (f) Demonstrates competence and knowledge on topics required to safely support the
16 participant as described in the participant's person centered plan of care; and

17 (g) Completes a supervisory training curriculum approved by DBHDID within six (6)
18 months of beginning supervisory responsibilities.

19 **(26)**~~**(28)**~~ "Drug paraphernalia" is defined by KRS 218A.500(1).

20 **(27)**~~**(29)**~~ "Early and periodic screening, diagnostic, and treatment services" is de-
21 fined by 42 U.S.C. 1396d(r).

22 **(28)**~~**(30)**~~ "Electronic signature" is defined by KRS 369.102(8).

23 **(29)**~~**(31)**~~ "Employee" means[=

1 ~~(a)~~ an individual who is employed by an SCL provider~~;~~ ~~or~~
2 ~~(b) An individual or entity who is a subcontractor for an SCL provider].~~
3 **(30)[(32)]** "Executive director" means an individual who shall:
4 (a) Design, develop, and implement strategic plans for an SCL provider;
5 (b) Maintain responsibility for the day-to-day operation of the SCL provider organiza-
6 tion;
7 (c) Have a bachelor's or higher degree from an accredited institution; or
8 (d) Be a registered nurse,
9 (e) Have at least two (2) years of administrative responsibility:
10 1. In an organization which served individuals with an intellectual or developmental
11 disability; and
12 2. That includes experience in the execution of the overall administration of an agen-
13 cy including:
14 a. Development, implementation, and accountability of the agency's budget;
15 b. Development, review, and implementation of the agency's policies and proce-
16 dures; and
17 c. Supervision of employees including conducting performance evaluations;
18 (f) Meets all personnel and training requirements specified in Section 3 of this admin-
19 istrative regulation; and
20 (g) If providing professional oversight or supervision of employees shall meet the su-
21 pervisory qualifications specified for each service defined in Section 1 of this administra-
22 tive regulation.
23 **(31)[(33)]** "Exploitation" is defined by KRS 209.020(9).

1 **(32) "Extended family member" means a relative of an individual by blood or**
2 **marriage beyond the individuals included in the definition of immediate family**
3 **member.**

4 **(33)**~~(34)~~ "Family home provider" means a home:

5 (a) Not owned or leased by an SCL provider;

6 (b) In which a participant receives SCL services and resides in the family occupied
7 (leased or owned) home; and

8 (c) In which the family:

9 1. Includes the participant in the family's household routines;

10 2. Provides training and supervision; and

11 3. Ensures that the participant's needs are met in accordance with the:

12 a. Participant's plan of care; and

13 b. Supports for Community Living Policy Manual.

14 **(34)**~~(35)~~ "Financial management ~~[services]~~agency" means an agency contracted
15 by the department that manages individual participant-directed service budgets.

16 **(35)**~~(36)~~ "Functional Assessment" means an assessment performed using evi-
17 denced based tools, direct observation, and empirical measurement to obtain and iden-
18 tify functional relations between behavioral and environmental factors.

19 **(36)**~~(37)~~ "Good cause" means a circumstance beyond the control of an individual
20 that affects the individual's ability to access funding or services, which includes:

21 (a) Illness or hospitalization of the individual which is expected to last sixty (60) days
22 or less;

23 (b) Death or incapacitation of the primary caregiver;

1 (c) Required paperwork and documentation for processing in accordance with Sec-
2 tion 2 of this administrative regulation has not been completed but is expected to be
3 completed in two (2) weeks or less;

4 (d) The individual or his or her guardian~~[legal representative]~~ has made diligent
5 contact with a potential provider to secure placement or access services but has not
6 been accepted within the sixty (60) day time period; or

7 (e) The individual is residing in a facility and is actively participating in a transition
8 plan to community based services, the length of which is greater than sixty (60) days
9 but less than one (1) year.

10 **(37)~~[(38)]~~** "Group home" means a residential setting:

11 (a) That is licensed in accordance with 902 KAR 20:078;

12 (b) That is managed by a provider who meets the SCL provider requirements estab-
13 lished in Section 3 of this administrative regulation; and

14 (c) In which no more than eight (8) participants reside.

15 **(38)~~[(39)]~~** "Guardian" is defined by KRS 387.010(3) and in KRS 387.812(3)~~[-(we'll~~
16 ~~need to elaborate on how one is to know which definition applies to given cir-~~
17 ~~cumstances)].~~

18 **(39)~~[(40)]~~** "Homicidal ideation" means thoughts about homicide which may range
19 from vague ideas to detailed or fully formulated plans without taking action.

20 **(40)~~[(41)]~~** "Human rights committee" means a group of individuals:

21 (a) Comprised of representatives from home and community based waiver provider
22 agencies in the community where a participant resides;

23 (b) Who meet:

1 1. To ensure that the rights of participants are respected and protected through due
2 process; and

3 2. In accordance with the Human Rights Committee requirements established in the
4 Supports for Community Living Policy Manual.

5 ~~(41)~~~~(42)~~ Human Services field of study means psychology, behavioral analysis,
6 counseling, rehabilitation counseling, public health, special education, sociology, geron-
7 tology, recreational therapy, education, occupational therapy, physical therapy, speech
8 therapy, **social work**, family studies, or other degree as approved by DBHDID.

9 ~~(42)~~~~(43)~~ "ICF- IID" means an intermediate care facility for an individual with an intel-
10 lectual~~[or a developmental disability]~~.

11 ~~(43)~~~~(44)~~ "Illicit substance" means:

12 (a) A drug, prescription or not prescription, used illegally or in excess of therapeutic
13 levels;

14 (b) A prohibited drug; or

15 (c) A prohibited substance.

16 ~~(44)~~~~(45)~~ "Immediate family member" is defined by KRS 205.8451(3).

17 ~~(45)~~~~(46)~~ "Impact service" means a service designed to decrease the amount of paid
18 supports a participant requires as the participant becomes:

19 (a) More independent; and

20 (b) Less reliant on an employee.

21 ~~(46)~~~~(47)~~ "Individualized education program" or "IEP" is defined by 34 C.F.R.
22 300.320.

23 ~~(47)~~~~(48)~~ "Individual family service plan" or "IFSP" is defined by KRS 200.654(9).

1 **(48)**~~(49)~~ "Individual placement in employment services" means services provided to
2 a participant who:

3 (a) Is employed by a community employer in an integrated setting;

4 (b) Receives minimum wage or more; and

5 (c) Has job responsibilities matching the employer needs with personal contributions
6 as defined in the participant's Long-Term Employment Support Plan.

7 **(49)**~~(50)~~ "Integrated employment site" means the location of an activity or job that
8 provides regular interaction with people without disabilities, excluding service providers,
9 to the same extent that a worker without disabilities in a comparable position interacts
10 with others.

11 **(50)**~~(51)~~ "Integrated setting" means a setting that:

12 (a) Enables a participant to interact with nondisabled persons to the fullest extent
13 possible;

14 (b) Includes access to community activities and opportunities at times, frequencies,
15 and with persons of a participant's choosing; and

16 (c) Affords a participant choice in the participant's daily life activities.

17 **(51)**~~(52)~~ "Intellectual disability" or "ID" means:

18 **(a)** A demonstration:

19 ~~(a)~~1. Of significantly sub-average intellectual functioning and an intelligence quo-
20 tient (IQ) of approximately seventy (70) or below; and

21 2. Of concurrent deficits or impairments in present adaptive functioning in at least two
22 (2) of the following areas:

23 a. Communication;

- 1 b. Self-care;
- 2 c. Home living;
- 3 d. Social or interpersonal skills;
- 4 e. Use of community resources;
- 5 f. Self-direction;
- 6 g. Functional academic skills;
- 7 h. Work;
- 8 i. Leisure; or
- 9 j. Health and safety; and

10 (b) An intellectual disability that had an onset before~~[Which occurred prior to~~
11 ~~the individual reaching]~~ eighteen (18) years of age.

12 (52)~~(53)~~ "Legally responsible individual" means:

13 (a) An individual who has a duty under state law to care for another person; and

14 (b) Includes a:

15 1. Parent (biological, adoptive, or foster) of a minor child who provides care to the
16 child;

17 2. Guardian of a minor child who provides care to the child; or

18 3. Spouse of a waiver participant.

19 (53)~~(54)~~ "Level of care determination" means a determination by the department
20 that an individual meets ~~[low-intensity or high-intensity]~~ patient status criteria for an
21 intermediate care facility for an individual with an intellectual disability as estab-
22 lished in ~~[accordance with]~~ 907 KAR 1:022.

23 (54)~~(55)~~ "Licensed clinical social worker" means an individual who is currently li-

1 censed in accordance with KRS 335.100.

2 ~~(55)~~~~(56)~~ "Licensed dietitian" is defined by KRS 310.005(11).

3 ~~(56)~~~~(57)~~ "Licensed marriage and family therapist" or "LMFT" is defined by KRS
4 335.300(2).

5 ~~(57)~~~~(58)~~ "Licensed practical nurse" means an individual who is currently licensed in
6 accordance with KRS 314.051.

7 ~~(58)~~~~(59)~~ "Licensed professional clinical counselor" or "LPCC" is defined by KRS
8 335.500(3).

9 ~~(59)~~~~(60)~~ "Licensed psychological associate" means an individual person who is cur-
10 rently licensed in accordance with KRS 319.064.

11 ~~(60)~~~~(61)~~ "Licensed psychologist" means an individual who is currently licensed in
12 accordance with KRS 319.050.

13 ~~(61)~~~~(62)~~ "Licensed psychological practitioner" means an individual who is currently
14 licensed in accordance with KRS 319.053.

15 ~~(62)~~~~(63)~~ ~~"Licensed Social Worker" means an individual who is currently li-~~
16 ~~censed in accordance with KRS 335.090.~~

17 ~~(64)~~ "Life history" means an account of the series of events making up a participant's
18 life including:

19 (a) Developmental and historical information regarding family of origin, childhood ex-
20 periences, and life events to present;

21 (b) History of supports received across the life span; and

22 (c) Life style practices which may lead to greater insight regarding a participant's cur-
23 rent preferences, behavioral patterns, wants, and needs.

1 **(63)[(65)]** "Long-Term Employment Support Plan" means a document:

2 (a) Incorporated by reference into this administrative regulation; and

3 (b) That identifies the amount and kind of support necessary for a participant to main-
4 tain employment and achieve individualized employment goals.

5 **(64)[(66)]** "Medically necessary" or "medical necessity" means that a covered benefit
6 is determined to be needed in accordance with 907 KAR 3:130.

7 **(65)[(67)]** "National Core Indicators" means:

8 (a) **A collaboration between the National Association of State Directors of De-**
9 **velopmental Disability Services and the Human Services Research Institute;**

10 **(b) An[A-voluntary]** effort by public developmental disabilities agencies to measure
11 and track their own performance; and

12 **(c)[(b)]** Standard measures:

13 1. Used across states to assess the outcomes of services provided to individuals and
14 families; and

15 2. Which address key areas of concern including employment, rights, service plan-
16 ning, community inclusion, choice, and health and safety.

17 **(66)[(68)]** "Natural supports" means assistance, relationships, or interactions that:

18 (a) Allow a participate to be in the community;

19 (b) Include working in a job of the participant's choice in ways similar to people with-
20 out disabilities;

21 (c) Are based on ordinary social relationships at work and in the community.

22 **(67)[(69)]** "Neglect" is defined by KRS 209.020(16).

23 **(68)[(70)]** "Occupational therapist" is defined by KRS 319A.010(3).

1 ~~(69)~~~~(71)~~ "Occupational therapy assistant" is defined by KRS 319A.010(4).

2 ~~(70)~~~~(72)~~ "Office of Vocational Rehabilitation" means the agency mandated:

- 3 (a) By the Rehabilitation Act of 1973, as amended; and
- 4 (b) To provide individualized services to eligible individuals with disabilities with a
- 5 substantial impediment to employment in order for the individual to gain and maintain
- 6 employment.

7 ~~(71)~~~~(73)~~ "On-site supports" means a work situation in which a supported employ-
8 ment specialist is physically at a job site providing job training to a participant.

9 ~~(72)~~~~(74)~~ "Participant" means a Medicaid recipient who:

- 10 (a) Meets patient status criteria for an intermediate care facility for an individual with
- 11 an intellectual or a developmental disability as established in 907 KAR 1:022;
- 12 (b) Is authorized by the department to receive SCL waiver services; and
- 13 (c) Utilizes SCL waiver services and supports in accordance with a person centered
- 14 plan of care.

15 ~~(73)~~~~(75)~~ "Participant directed service" means an option to receive a service which is
16 based on the principles of self-determination and person-center thinking.

17 ~~(74)~~~~(76)~~ "Person centered coach" means a person who:

- 18 (a) Assists a participant and the participant's person centered team in implementing
- 19 and ~~monitoring~~~~assessing~~ the effectiveness of the participant's person centered plan
- 20 of care; and
- 21 (b) Models person centered thinking; and
- 22 (c) Is responsible for training a participant, family, ~~guardian~~~~designated representa-~~
- 23 ~~tive~~, natural and unpaid supports, and other members of the person centered team

1 when barriers challenge the success of the participant in achieving his or her goals; and

2 (d) Has:

3 1.a. A high school diploma or GED; and

4 b. Two (2) years of experience in the field of intellectual or developmental disabilities;

5 or

6 2. Has completed twelve (12) hours of college coursework in a human services field;

7 (d) Meets all personnel and training requirements specified in Section 3 of this admin-
8 istrative regulation; and

9 (e) Performs required documentation.

10 **(75)[(77)]** "Person centered employment plan" means a document that identifies the
11 unique preferences, strengths, and needs of a participant in relation to the participant's
12 work.

13 **(76)[(78)]** "Person centered plan of care" or "POC" means:

14 (a) The eight (8) page form incorporated by reference titled "Person Centered Plan of
15 Care"**[, July 2012 edition]**; and

16 (b) A written individualized plan that is developed:

17 1. By:

18 a. An SCL participant or an SCL participant's **guardian[~~legal representative~~]**;

19 b. The case manager**[~~or support broker~~]**; and

20 c. Any other person designated by the SCL participant if the SCL participant desig-
21 nates any other person; and

22 2. Using a process that:

23 a. Allows the participant, or the participant's **guardian[~~designated representative~~]**,

- 1 to direct the planning and allocation of resources to meet the participant's life goals;
- 2 b. Achieves understanding of how the participant:
- 3 (i) Learns;
- 4 (ii) Makes decisions; and
- 5 (iii) Chooses to live and work in the community;
- 6 c. Discovers the participant's likes and dislikes; and
- 7 d. Empowers the participant or the participant's **guardian**~~[designated representa-~~
- 8 **tive]** to create a life plan and corresponding plan of care for the participant that:
- 9 (i) Is based on the participant's preferences, ideas, and needs;
- 10 (ii) Encourages and supports the participant's long term satisfaction;
- 11 (iii) Is supported by a short-term plan that is based on reasonable costs, given the
- 12 participant's support needs;
- 13 (iv) Includes participant input;
- 14 (v) Includes a range of supports, including funded, community, and natural supports;
- 15 (vi) Includes information necessary to support a participant during times of crisis, to
- 16 include crisis prevention strategies, crisis intervention strategies, and positive behavioral
- 17 supports, when deemed necessary by the participant and the participant's support
- 18 team;
- 19 (vii) Assists the participant in making informed choices by facilitating knowledge of
- 20 and access to services and supports.

- 21 **(77)[(79)]** "Person centered team" means a participant's **guardian or**~~[designated]~~
- 22 representative and other individuals who are natural or paid supports and who:
- 23 (a) Recognize that evidenced based decisions are determined within the basic

1 framework of what is important for the participant and within the context of what is im-
2 portant to the participant based on informed choice; and

3 (b) Work together to identify what roles they will assume to assist the participant in
4 **becoming as independent as possible in meeting the participant's needs[having a**
5 **comfortable and fulfilled life];**

6 (c) Include providers who receive payment for services who shall:

- 7 1. Be active contributing members of the person centered team meetings;
- 8 2. Base their input upon evidence-based information; and
- 9 3. Not request reimbursement for person centered team meetings.

10 **(78)[(80)]** "Physical therapist" is defined by KRS 327.010(2).

11 **(79)[(81)]** "Physical therapist assistant" means a skilled health care worker who:

12 (a) Is certified by the Kentucky Board of Physical Therapy; and

13 (b) Performs physical therapy and related duties as assigned by the supervising
14 physical therapist.

15 **(80)[(82)]** "Positive behavior support specialist" means an individual who;

16 (a) Provides evidence-based individualized interventions that assist a participant with
17 acquisition or maintenance of skills for community living and behavioral intervention for
18 the reduction of maladaptive behaviors:

19 (b) Has a master's degree in a behavioral science and one (1) year of experience in
20 behavioral programming;

21 (c) Has at least one (1) year of direct service experience with individuals with intellec-
22 tual or developmental disabilities;

23 (d) Meets all personnel and training requirements specified in Section 3 of this admin-

1 istrative regulation; and

2 (e) Participates in at least six (6) hours per year of professional development or con-
3 tinuing education in the areas of psychology, behavioral supports, applied behavioral
4 science, or school psychology.

5 **(81)~~(83)~~** "Prohibited drugs and substances" means all drugs and substances which
6 are illegal under KRS Chapter 218A or other statutes or administrative regulations of the
7 Commonwealth of Kentucky.

8 **(82)~~(84)~~** "Registered agent" means an individual meeting the requirements of KRS
9 14A.4-010(1)(b).

10 **(83)~~(85)~~** "Registered office" means an office meeting the requirements of KRS
11 14A.4-010(1)(a).

12 **(84)~~(86)~~** "Registered nurse" is defined by KRS 314.011(5).

13 **(85)~~(87)~~** "Representative" is defined in KRS 205.5605(6).

14 **(86)~~(88)~~** "Room" means for the purpose of providing shared living, the aggregate
15 expense of housing costs including:

16 (a) Rent, lease, or mortgage payments;

17 (b) Real estate taxes;

18 (c) Insurance;

19 (d) Maintenance; and

20 (e) Utilities.

21 **(87)~~(89)~~** "SCL developmental disability professional" or "SCL DDP" means an indi-
22 vidual who:

23 (a) Has at least one (1) year of experience working with persons with intellectual or

1 developmental disabilities;

2 (b) Meets all personnel and training requirements specified in Section 3 of this admin-
3 istrative regulation; and

4 (c)1. Is a doctor of medicine or osteopathy;

5 2. Is currently a registered nurse; or

6 3. Holds at least a bachelor's degree from an accredited institution in a human ser-
7 vices field.

8 **(88)~~[(90)]~~** "SCL provider" means an entity that meets the criteria established in Sec-
9 tion 3 of this administrative regulation.

10 **(89)~~[(91)]~~** "Segregated setting" means a congregate setting that is populated exclu-
11 sively or primarily with individuals with disabilities.

12 **(90)~~[(92)]~~** "Serious medication error" means a medication error that requires or has
13 the potential to require a medical intervention or treatment.

14 **(91)~~[(93)]~~** "Shared living caregiver" means an unrelated individual who:

15 (a) Resides with a participant in the participant's home;

16 (b) Provides supervision and necessary personal assistance services as specified in
17 the participant's person centered plan of care;

18 (c)1. Is at least eighteen (18) years of age and has a high school diploma or GED; or

19 2. Is at least twenty-one (21) years old;

20 (d) Meets all personnel and training requirements specified in Section 3 of this admin-
21 istrative regulation; and

22 (e) Has the ability to:

23 1. Communicate effectively with a participant and the participant's family;

1 2. Read, understand and implement written and verbal instructions; and

2 3. Perform required documentation; **[and]**

3 (f) Has been determined by the participant's person centered team to meet the fol-
4 lowing qualifications prior to being alone with the participant:

5 1. Demonstrate competence and knowledge on topics required to safely support the
6 participant as described in the participant's person centered plan of care; and

7 2. Ability to participate as a member of the participant's person centered team if re-
8 quested by the participant; **and**

9 **(g) Does not have any of the following relationships to the participant:**

10 **1. Immediate family member;**

11 **2. Extended family member;**

12 **3. Guardian; or**

13 **4. Legally responsible individual.**

14 **(92)[-**

15 **(94) "Shared living service" means a participant directed service:**

16 **(a) Designed as an alternative to residential services; and**

17 **(b) Which allows a participant to live in the participant's own home with an un-**
18 **related caregiver who:**

19 **1. Resides in the same home; and**

20 **2. Provides some of the participant's supports in exchange for the caregiver's**
21 **share of room and board expenses.**

22 **(95)] "Speech-language pathologist" is defined by KRS 334A.020(3).**

23 **(93)[(96)] "Staffed residence" means a residential setting:**

1 (a) That is owned or leased by a provider who meets the SCL provider requirements
2 established in Section 3 of this administrative regulation; and

3 (b) In which no more than three (3) participants reside.

4 **(94)**~~**(97)**~~ "Subcontractor" means an entity or an individual~~**[who]**~~:

5 (a) **Who** is a currently credentialed professional or other service provider; **[and]**

6 (b) **Who** has signed an agreement with a certified SCL agency to provide SCL ser-
7 vices and supports; **and**

8 **(c) To whom the employee requirements in this administrative regulation apply.**

9 **(95)**~~**(98)**~~ "Suicidal ideation" means thoughts about suicide which may range from
10 being fleeting in nature to detailed planning.

11 **(96)**~~**(99)**~~ "Supported employment specialist" means an individual who:

12 (a) Provides ongoing support services to eligible participants in supported employ-
13 ment jobs **in accordance with Section 4 of this administrative regulation;**

14 (b)1. Has at least a bachelor's degree from an accredited college or university and
15 one (1) year of experience in the field of developmental disabilities; or

16 2. Has relevant experience or credentialing that substitutes for the educational re-
17 quirement stated in subparagraph 1. of this paragraph on a year-for-year basis; and

18 (c) Meets the personnel and training requirements specified in Section 3 of this ad-
19 ministrative regulation; and

20 (e) Completes the Kentucky Supported Employment Training Project curriculum from
21 the Human Development Institute at the University of Kentucky within six (6) months of
22 the date the specialist begins providing SCL supported employment services.

23 **(97)**~~**(100)**~~ "Supported employment specialist supervisor" means an individual who:

- 1 (a) Provides professional oversight of a supported employment specialist;
- 2 (b)1. Has at least a bachelor's degree from an accredited college or university and
3 two (2) years of experience in the field of developmental disabilities; or
4 2. Has relevant experience or credentialing that substitutes for the educational re-
5 quirement stated in subparagraph 1. of this paragraph on a year-for-year basis; and
6 (c) Meets the personnel and training requirements specified in Section 3 of this ad-
7 ministrative regulation; and
8 (d) Has successfully completed the Supported Employment Training Project Adminis-
9 trator Training provided by the Human Development Institute at the University of Ken-
10 tucky; and
11 (e) Successfully completes a supervisory training curriculum approved by DBHDID
12 within six (6) months of beginning supervisory responsibilities.

13 **(98)~~[(104)]~~** "Supports for community living" or "SCL" means home and community-
14 based waiver services for an individual with an intellectual or developmental disability.

15 **(99)~~[(102)]~~** "Supports intensity scale" or "SIS" means an assessment tool developed
16 by the American Association on Intellectual and Developmental Disabilities (AAIDD)
17 that:

18 (a) Measures practical support requirements of individuals with intellectual or devel-
19 opmental disabilities in daily living, medical, and behavioral areas; and

20 (b) Is administered by a trained professional in the human services field as approved
21 by the department.

22 Section 2. SCL Participant Eligibility, Enrollment and Termination. (1) To be eligible to
23 receive a service in the SCL program, an individual shall:

1 (a) ~~Be placed on the SCL waiting list in accordance with Section 7 of this ad-~~
2 ~~ministrative regulation;~~

3 ~~(b)~~ Receive notification of potential SCL funding in accordance with Section 7 of this
4 administrative regulation;

5 ~~(b)~~~~(e)~~ Meet ICF-IID patient status requirements established in 907 KAR 1:022;

6 ~~(c)~~~~(d)~~ Meet Medicaid eligibility requirements established in 907 KAR 1:605;

7 ~~(d)~~~~(e)~~ Upon receiving notification of potential SCL funding, submit an application
8 packet to the department which shall contain:

9 1. A completed Long Term Care Facilities and Home and Community Based Program
10 Certification Form, MAP-350;

11 2. The results of a physical examination that was conducted within the last twelve
12 (12) months;

13 3. A life history which is less than one (1) year old;

14 4. A MAP-24C documenting a participant's status change.

15 (2)(a) To maintain eligibility as a participant:

16 1. A participant shall be administered a Supports Intensity Scale assessment by the
17 department at least once every twenty-four (24)~~twelve (12)~~ months;

18 2. A participant shall maintain Medicaid eligibility requirements established in 907
19 KAR 1:605; and

20 3. An ICF-IID level of care determination shall be performed by the department at
21 least once every twelve (12) months.

22 (b) The department shall:

23 1. Obtain the rights to use a Supports Intensity Scale; and

1 2. Use it in accordance with the terms and conditions required by the copyright asso-
2 ciated with it.

3 (3) An SCL waiver service shall not be provided to an individual who is:

4 (a) Receiving a service in another 1915(c) home and community based waiver pro-
5 gram;

6 (b) Receiving a duplicative service provided through another funding source; or

7 (c) An inpatient of an ICF-IID or other facility.

8 (4)~~(a) [The department may exclude from receiving an SCL waiver service an~~
9 ~~applicant for whom the aggregate cost of SCL waiver services would reasonably~~
10 ~~be expected to exceed the cost of ICF-IID services.~~

11 **(5)(a)** Involuntary termination and loss of an SCL waiver program placement shall
12 be:

13 1. In accordance with 907 KAR 1:563; and

14 2. Initiated if:

15 a. An applicant fails to access an SCL waiver service within sixty (60) days of receiv-
16 ing notice of potential funding without receiving an extension; or

17 b. A participant:

18 (i) Fails to access any services outlined in the participant's POC for a period greater
19 than sixty (60) consecutive days without demonstrating good cause;

20 (ii) Moves to a residence outside of the Commonwealth of Kentucky;

21 (iii) Does not meet ICF-IID patient status criteria in accordance with 907 KAR 1:022.

22 (b)1. After receiving notice of an involuntary termination due to failing to access ser-
23 vices or requesting an extension, an applicant or the applicant's **guardian[designated**

1 **representative]** shall have the burden of requesting an extension by submitting a
2 statement to the department that:

3 a. Has been signed by the applicant or applicant's **guardian[designated represent-**
4 **ative];**

5 a. Explains the reason for the delay in accessing services;

6 b. States the steps being taken to access services; and

7 c. States the date that the applicant expects to begin utilizing services.

8 2. Upon receipt of the statement referenced in subparagraph 1. of this paragraph, the
9 department shall grant one (1) sixty (60)-day extension in writing.

10 (c)1. After receiving notice of an involuntary termination due to failing to access ser-
11 vices or demonstrating good cause, a participant shall have the burden of demonstrat-
12 ing good cause by submitting a statement to the department that:

13 a. Has been signed by the participant or the participant's **guardian[designated rep-**
14 **resentative];**

15 b. Explains the reason for the delay in accessing services;

16 c. States the steps being taken to access services; and

17 d. States the date that the participant expects to begin utilizing services.

18 2. Upon receipt of the statement referenced in subparagraph 1. of this paragraph, the
19 department shall grant one (1) sixty (60)-day extension in writing.

20 **(5)[(6)]**(a) An involuntary termination of a service to a participant by an SCL provider
21 shall require:

22 1. The SCL provider to:

23 a. Simultaneously notify in writing the participant or participant's **guardia-**

- 1 ~~n[designated representative]~~, the participant's case manager, the department, and
2 DBHDID at least thirty (30) days prior to the effective date of the termination;
- 3 b. Submit a MAP-24C to the department and DBHDID at the time of termination; and
- 4 2. The participant's case manager, in conjunction with the SCL provider, to:
- 5 a. Provide the participant or participant's guardian~~[designated representative]~~ with
6 the name, address, and telephone number of each current SCL provider in Kentucky;
- 7 b. Provide assistance to the participant or participant's guardian~~[designated repre-~~
8 ~~sentative]~~ in making contact with another SCL provider;
- 9 c. Arrange transportation for a requested visit to an SCL provider site;
- 10 d. Provide a copy of pertinent information to the participant or participant's guardia-
11 n[designated representative];
- 12 e. Ensure the health, safety, and welfare of the participant until an appropriate
13 placement is secured;
- 14 f. Continue to provide supports until alternative services or another placement is se-
15 cured; and
- 16 g. Provide assistance to ensure a safe and effective service transition.
- 17 (b) The notice referenced in paragraph (a)1.a. of this subsection, shall include:
- 18 1. A statement of the intended action;
- 19 2. The basis for the intended action;
- 20 3. The authority by which the intended action is taken; and
- 21 4. The participant's right to appeal the intended action through the provider's appeal
22 or grievance process.
- 23 ~~(6)~~~~(7)~~(a) DBHDID shall initiate an intent to discontinue a participant's participation in

1 the SCL waiver program if the participant or participant's guardian~~[designated repre-~~
2 ~~sentative]~~ submits a written notice of intent to discontinue services to:

- 3 1. The SCL provider; and
- 4 2. DBHDID.

5 (b) An action to terminate waiver participation shall not be initiated until thirty (30)
6 calendar days from the date of the notice referenced in paragraph (a) of this subsection.

7 (c) A participant or guardian~~[designated representative]~~ may reconsider and re-
8 voke the notice referenced in paragraph (a) of this subsection in writing during the thirty
9 (30) calendar day period.

10 Section 3. Provider Participation. (1) An SCL provider shall comply with:

- 11 (a) 907 KAR 1:671;
- 12 (b) 907 KAR 1:672;
- 13 (c) 907 KAR 1:673;
- 14 (d) 902 KAR 20:078;
- 15 (e) The Supports for Community Living Policy Manual;
- 16 (f) The Health Insurance Portability and Accountability Act; and
- 17 (g) 42 U.S.C. 1320d to 1320d-8.

18 (2) In order to provide an SCL waiver service in accordance with Section 4 of this
19 administrative regulation, an SCL provider shall:

- 20 (a) Successfully complete DBHDID New Provider Orientation and Medicaid provider
21 enrollment processes;
- 22 (b) Be certified by the department prior to the initiation of a service;
- 23 (c) Be recertified at least biennially by the department;

1 (d) In accordance with KRS 273.182, maintain a registered agent and a registered of-
2 fice in Kentucky with the Office of the Secretary of State and file appropriate statement
3 of change documentation with the filing fee with the Office of Secretary of State when-
4 ever the registered office or agent changes;

5 (e) Be in good standing with the Office of the Secretary of State of the Common-
6 wealth of Kentucky pursuant to 30 KAR 1:010 and 30 KAR 1:020;

7 (f) Abide by the laws which govern the chosen business or tax structure of the SCL
8 provider;

9 (g) Maintain policy that complies with this administrative regulation concerning the
10 operation of the SCL provider and the health, safety, and welfare of all people support-
11 ed or served by the SCL provider;

12 (h) Maintain an executive director who shall have the authority and responsibility for
13 the management of the affairs of the SCL provider in accordance with written policy and
14 procedures that comply with this administrative regulation; and

15 (i) Participate in the National Core Indicators' surveys and all department survey initi-
16 atives.

17 (3) An SCL provider shall:

18 (a) Ensure that SCL waiver services ~~[that are not participant directed services]~~
19 shall not be provided to a participant by a staff person of the SCL provider who is a
20 **[legal] guardian, legally responsible individual**, or immediate family member of the
21 participant **unless allowed for a participant directed service in accordance with**
22 **Section 4 of this administrative regulation**;

23 (b) Not enroll a participant whose needs the SCL provider is unable to meet;

- 1 (c) Have **and[an]** follow written criteria that comply with this administrative regulation
2 for determining the eligibility of a participant for admission to services;
- 3 (e) Document:
- 4 1. A denial for a service; and
 - 5 2. The reason for the denial;
- 6 (f) Maintain documentation of its operations including:
- 7 1. A written description of available SCL waiver services;
 - 8 2. A current table of organization;
 - 9 3. A memorandum of understanding with all providers with whom the SCL provider
10 shares person centered plans of care;
 - 11 4. Information regarding participants' satisfaction with services and the utilization of
12 that information;
 - 13 5. A quality improvement plan that includes updated findings and corrective actions
14 as a result of department and case management quality assurance monitoring;
 - 15 6. Evidence of continuous improvement of utilizing best practice standards toward
16 meeting SCL program goals and the critical strategic areas identified in the annual re-
17 port released by the Kentucky National Core Indicators available at the Kentucky Na-
18 tional Core Indicators Web site of <http://www.nationalcoreindicators.org/states/KY/>;
 - 19 7. A written plan of how the SCL provider shall participate in the:
 - 20 a. Human Rights Committee in the area in which the SCL provider is located; and
 - 21 b. Behavior Intervention Committee in the area in which the SCL provider is located;
- 22 (g) Maintain accurate fiscal information including documentation of revenues and ex-
23 penses;

1 (h) Maintain a written policy that room and board charges shall be determined as the
2 lesser of:

3 1. Seventy (70) percent of the federal benefits rate as determined by the United
4 States Social Security Administration; or

5 2. An amortized amount determined by the SCL provider based on the participants
6 being served by the SCL provider sharing the following on an equal basis:

7 a. Lease, mortgage payment, or market rent;

8 b. Utilities and basic television services;

9 c. The costs of food and household goods based upon the number of people, includ-
10 ing participants and staff, in the home during waking hours; and

11 d. The costs of residential telephone services on the basis of the SCL provider paying
12 fifty (50) percent of the costs (excluding long distance telephone costs) and the partici-
13 pants sharing the burden of the remaining costs;

14 (i) Meet the following requirements if responsible for the management of a partici-
15 pant's funds:

16 1. Separate accounting shall be maintained for each participant or for the partici-
17 pant's interest in a common trust or special account;

18 2. Account balance and records of transactions shall be provided to the participant or
19 the participant's **guardian[designated representative]** on a quarterly basis; and

20 3. The participant or the participant's **guardian[designated representative]** shall be
21 notified if a balance is accrued that may affect Medicaid eligibility;

22 (j) Have a written statement of its mission and values which shall:

23 1. Support participant empowerment and informed decision-making;

- 1 2. Support and assist participants to form and remain connected to natural support
2 networks;
- 3 3. Promote participant dignity and self-worth.
- 4 4. Support team meetings which help ensure and promote the participant's right to
5 choice, inclusion, employment, growth, and privacy;
- 6 5. Foster a restraint-free environment where the use of mechanical restraints, seclu-
7 sion, manual restraints including any manner of prone or supine restraint, or chemical
8 restraints shall be prohibited; and
- 9 6. Support the SCL program goal that all participants:
10 a. Receive person centered waiver services;
11 b. Are safe, healthy, and respected in the participant's community;
12 c. Live in the community with effective, individualized assistance, and
13 d. Enjoy living and working in the participant's community;
- 14 (k) Have written policy and procedures for communication and interaction with a par-
15 ticipant, family, or participant's **guardian**~~[designated representative]~~ which shall in-
16 clude:
 - 17 1. A timely response to an inquiry;
 - 18 2. The opportunity for interaction by direct support professionals;
 - 19 3. Prompt notification of any unusual occurrence;
 - 20 4. Visitation with the participant at a reasonable time, without prior notice, and with
21 due regard for the participant's right of privacy;
 - 22 5. Involvement in decision making regarding the selection and direction of the per-
23 son-centered service provided;

- 1 6. Consideration of the cultural, educational, language, and socioeconomic charac-
- 2 teristics of the participant and family being supported;
- 3 (l) Ensure the rights of a participant by:
- 4 1. Providing conflict free services and supports that are person centered;
- 5 2. Making available a description of the rights and means by which the rights can be
- 6 exercised and supported including the right to:
- 7 a. Live and work in an integrated setting;
- 8 b. Time, space, and opportunity for personal privacy;
- 9 c. Communicate, associate, and meet privately with the person of choice;
- 10 d. Send and receive unopened mail;
- 11 e. Retain and use personal possessions including clothing and personal articles;
- 12 f. Private, accessible use of a cell phone or telephone;
- 13 3. Having a grievance and appeals system that includes an external mechanism for
- 14 review of complaints;
- 15 4. Ensuring access to participation in an area human rights committee in accordance
- 16 with the human rights committee policies established in the Supports for Community
- 17 Living Policy Manual;
- 18 (m) Maintain fiscal records, service records, investigations, medication error logs, and
- 19 incident reports for a minimum of six (6) years from the date that:
- 20 1. A covered service is provided; or
- 21 2. The participant turns twenty-one (21) years of age, if the participant is under the
- 22 age of twenty-one (21);
- 23 (n) Make available all records, internal investigations, and incident reports:

- 1 1. To the:
- 2 a. Department;
- 3 b. DBHDID;
- 4 c. Office of Inspector General or its designee;
- 5 d. General Accounting Office or its designee;
- 6 e. Office of the Auditor of Public Accounts or its designee;
- 7 f. Office of the Attorney General or its designee;
- 8 g. DCBS; or
- 9 h. Centers for Medicare and Medicaid Services;
- 10 2. Pertaining to a participant to:
- 11 a. The participant, the participant's guardian~~[designated representative]~~, or the
- 12 participant's case manager upon request; or
- 13 b. Protection and Advocacy upon written request;
- 14 (o) Cooperate with monitoring visits from monitoring agents;
- 15 (p) Maintain a record for each participant served that shall:
- 16 1. Be recorded in a readable print format in ink or typed print;
- 17 2. Be free from correction fluid or correction tape;
- 18 3. Have a strike through each error that is initialed and dated;
- 19 4. Contain no blank lines in between each entry; and
- 20 5. Document late entries;
- 21 6. Contain all information necessary to support person centered practices;
- 22 7. Be cumulative;
- 23 8. Be readily available;

- 1 9. Contain documentation which meets the requirements of Section 4 of this adminis-
2 trative regulation;
- 3 10. Contain the following:
- 4 a. The participant summary sheet;
- 5 b. The participant's name, Social Security number, and Medicaid identification num-
6 ber;
- 7 c. The Supports Intensity Scale Assessment Form ~~[completed at least annually]~~;
- 8 d. The results of a health risk screening performed using a Health Risk Screening
9 Tool which shall:
- 10 (i) Be administered by trained personnel ~~[approved by DBHDID]~~ at least annually
11 and updated as needed;
- 12 (ii) Assist in determining a participant's areas of vulnerability for a potential health
13 risk;
- 14 (iii) Be provided in accordance with the health risk screening tool requirements estab-
15 lished in the Supports for Community Living Policy Manual;
- 16 e. The current person centered plan of care;
- 17 f. The goals and objectives identified by the participant and the participant's person
18 centered team which facilitates achievement of the participant's chosen outcomes as
19 identified in the participant's POC;
- 20 g. A list containing emergency contact telephone numbers;
- 21 h. The participant's history of allergies with appropriate allergy alerts;
- 22 i. The participant's medication record, including a copy of the signed or authorized
23 current prescription or medical orders~~[the signed physician's order]~~ and the medi-

- 1 cation administration record (MAR) if medication is administered at the service site;
- 2 j. A recognizable photograph of the participant;
- 3 k. Legally adequate consent, updated annually, and a copy of which is located at
4 each service site for the provision of services or other treatment requiring emergency at-
5 tention;
- 6 l. The participant's individual educational plan or individual family service plan, if ap-
7 plicable;
- 8 m. The participant's life history updated at least annually;
- 9 n. The results of an annual physical exam;
- 10 o. The results of an annual dental exam;
- 11 p. The Long Term Care Facilities and Home and Community Based Program Certifi-
12 cation Form, MAP-350 updated annually;
- 13 q. A psychological evaluation;
- 14 r. A current level of care certification;
- 15 s. The prior authorization notifications ~~[in the case management and residential~~
16 ~~record]~~; and
- 17 t. Incident reports, if any exist;
- 18 11. Be maintained by the provider in a manner that:
- 19 a. Ensures the confidentiality of the participant's record and other personal infor-
20 mation; and
- 21 b. Allows the participant or guardian~~[designated representative]~~ to determine when
22 to share the information in accordance with law;
- 23 12. Be safe from loss, destruction, or use by an unauthorized person ensured by the

1 provider; and

2 13. Have a corresponding legend which the provider shall make readily accessible;

3 (q) Ensure that an employee or volunteer:

4 1. Behave in a legal and ethical manner in providing a service;

5 2. Have a valid Social Security number or valid work permit if not a citizen of the
6 United States of America;

7 3. If responsible for driving participants during a service delivery, have a valid **[Ken-**
8 **tucky]** driver's license with proof of current mandatory liability insurance **for the vehicle**
9 **used to transport the participant**;

10 (r) Ensure that an employee or volunteer:

11 1. Completes a tuberculosis (TB) risk assessment performed by a licensed medical
12 professional and, if indicated, a TB skin test with a negative result within the past twelve
13 (12) months as documented on test results received by the provider within thirty (30)
14 days of the date of hire or date the individual began serving as a volunteer; or

15 2. Who tests positive for TB or has a history of positive TB skin tests:

16 a. Shall be assessed annually by a licensed medical professional for signs or symp-
17 toms of active disease; and

18 b. If it is determined that signs or symptoms of active disease are present, in order for
19 the person to be allowed to work or volunteer he or she shall be administered follow-up
20 testing by his or her physician with the testing indicating the person does not have ac-
21 tive TB disease; and

22 (s) Maintain documentation:

23 1. Of an annual TB risk assessment or negative TB test for each employee who per-

- 1 forms direct support or a supervisory function; or
- 2 2. Annually for each employee with a positive TB test that ensures no active disease
- 3 symptoms are present;
- 4 (t) Provide a written job description for each staff person that describes the required
- 5 qualifications, duties, and responsibilities for the person's job;
- 6 (u) Maintain an employee record for each employee that includes:
- 7 1. The employee's experience;
- 8 2. The employee's training;
- 9 3. Documented competency of the employee;
- 10 4. Evidence of the employee's current licensure or registration if required by law; and
- 11 5. An annual evaluation of the employee's performance;
- 12 (v) Require a background check:
- 13 1. And drug testing for each employee who is paid with funds administered by the
- 14 department and who:
- 15 a. Provides support to a participant who utilizes SCL services; or
- 16 b. Manages funds or services on behalf of a participant who utilizes SCL services; or
- 17 2. For a volunteer recruited and placed by an agency or provider who has the poten-
- 18 tial to interact with a participant;
- 19 (w) Ensure that a volunteer placed by an agency or provider does not have unsuper-
- 20 vised interaction with a participant;
- 21 (x) For a potential employee or volunteer obtain:
- 22 1. The results of a criminal record check from the Kentucky Administrative Office of
- 23 the Courts or equivalent out-of-state agency if the individual resided or worked outside

1 of Kentucky during the year prior to employment or volunteerism;

2 2. The results of a nurse aid abuse registry check as described in 906 KAR 1:100 or
3 equivalent out-of-state agency if the individual resided or worked outside of Kentucky
4 during the year prior to employment or volunteerism; **and[or]**

5 3. Within thirty (30) days of the date of hire or initial date of volunteerism, the results
6 of a central registry check as described in 922 KAR 1:470 or equivalent out-of-state
7 agency if the individual resided or worked outside of Kentucky during the year prior to
8 employment or volunteerism;

9 (y) For each potential employee obtain negative results of drug testing for illicit or
10 prohibited drugs;

11 (z) On an annual basis:

12 1. Randomly select and perform all required criminal history background checks,
13 nurse aid abuse registry checks, and central registry checks, pursuant to Section 3 of
14 this administrative regulation, of at least twenty-five (25) percent of employees; and

15 2. Conduct drug testing of at least five (5) percent of employees;

16 (aa) Not employ, subcontract with, or place an individual as a volunteer who:

17 1. Has a prior conviction of an offense delineated in KRS 17.165(1) through (3);

18 2. Has a prior felony conviction, plea bargain, amended plea bargain, or diversion
19 program that has not been completed;

20 3. Has a drug related conviction within the past five (5) years;

21 4. Has a positive drug test for prohibited drugs;

22 5. Has a conviction of abuse, neglect, or exploitation;

23 6. Has a Cabinet for Health and Family Services finding of child abuse or neglect

1 pursuant to the central registry; or

2 7. Is listed on the nurse aide abuse registry;

3 (bb) Not permit an employee to transport a participant if the individual has a driving
4 under the influence conviction, amended plea bargain, or diversion during the past year;

5 (cc) Maintain adequate staffing and supervision to implement services being billed;

6 (dd) Establish written guidelines that address and ensure the health, safety, and wel-
7 fare of a participant, which shall include:

8 1. A basic infection control plan that includes:

9 a. Universal precautions;

10 b. Hand washing;

11 c. Proper disposal of biohazards and sharp instruments; and

12 d. Management of common illness likely to be emergent in the particular service set-
13 ting;

14 2. Effective cleaning and maintenance procedures sufficient to maintain a sanitary
15 and comfortable environment that prevents the development and transmission of infec-
16 tion;

17 3. Ensuring that each site operated by the provider is equipped with:

18 a. An operational smoke detector placed in all bedrooms and other strategic loca-
19 tions; and

20 b. At least two (2) correctly charged fire extinguishers placed in strategic locations, at
21 least one (1) of which shall be capable of extinguishing a grease fire and have a rating
22 of 1A10BC;

23 4. Ensuring the availability of an ample supply of hot and cold running water with the

- 1 water temperature complying with the safety limits established in the participant's POC;
- 2 5. Establishing written procedures concerning the presence of deadly weapons as
- 3 defined in KRS 500.080 which shall ensure:
- 4 a. Safe storage and use; and
- 5 b. That firearms and ammunition are permitted:
- 6 (i) Only in nonprovider owned or leased residences; and
- 7 (ii) Only if stored separately and under double lock;
- 8 6. Establishing written procedures concerning the safe storage of common household
- 9 items;
- 10 7. Ensuring that the nutritional needs of a participant are met in accordance with the
- 11 current recommended dietary allowance of the Food and Nutrition Board of the National
- 12 Research Council or as specified by a physician;
- 13 8. Ensuring that an adequate and nutritious food supply is maintained as needed by
- 14 the participant;
- 15 9. Ensuring that:
- 16 a. **Every case manager and any**~~Each case manager or~~ employee who will be
- 17 administering medication, unless the employee is a currently licensed or registered
- 18 nurse, has:
- 19 (i) Specific training provided by a registered nurse per a DBHDID medication admin-
- 20 istration approved curriculum; and
- 21 (ii) Documented competency on medication administration, medication cause and ef-
- 22 fect, and proper administration and storage of medication; and
- 23 b. An individual administering medication documents all medication administered, in-

1 cluding self-administered and over-the-counter drugs, on a medication administration
2 record, with the date, time, and initials of the person who administered the medication
3 and ensure that the medication shall:

4 (i) Be kept in a locked container;

5 (ii) If a controlled substance, be kept under double lock with a documented medica-
6 tion count performed every shift;

7 (iii) Be carried in a proper container labeled with medication and dosage pursuant to
8 KRS 315.010(8) and 217.182(6);

9 (iv) Accompany and be administered to a participant at a program site other than the
10 participant's residence if necessary; and

11 (v) Be documented on a medication administration record and properly disposed of, if
12 discontinued; and

13 10. Adhering to policies and procedures for ongoing monitoring of medication admin-
14 istration;

15 (ee) Establish and follow written guidelines for handling an emergency or a disaster
16 which shall:

17 1. Be readily accessible on site;

18 2. Include instruction for notification procedures and the use of alarm and signal sys-
19 tems to alert a participant according to the participant's disability;

20 3. Include documentation of training of staff and participants on emergency disaster
21 drills;

22 4. Include an evacuation drill to be conducted in three (3) minutes or less, document-
23 ed at least quarterly and, for a participant who receives residential support services, is

1 scheduled to include a time when the participant is asleep; and

2 5. Mandate that the result of an evacuation drill be evaluated and if not successfully
3 completed within three (3) minutes shall modify staffing support as necessary and re-
4 peat the evacuation drill within seven (7) days;

5 (ff) Provide orientation for each new employee which shall include the mission, goals,
6 organization, and practices, policies, and procedures of the agency;

7 (gg)1. Annually provide or arrange for the provision of at least six (6) hours of profes-
8 sional development or continuing education units of competency-based training to each
9 employee ~~[and sub-contractor]~~ to teach and enhance skills related to the performance
10 of duties, except for a case management supervisor or positive behavior support spe-
11 cialist;

12 2. Annually provide or arrange for the provision of at least six (6) hours of profession-
13 al development or continuing education units in the area of person centered processes,
14 supervision, or mentoring to each employee who is a case management supervisor; or

15 3. Annually provide or arrange for the provision of at least six (6) hours of profession-
16 al development or continuing education units in the area of psychology, behavioral sup-
17 ports, applied behavioral science, or school psychology to each employee who is a
18 positive behavior support specialist;

19 (hh) Require documentation of all face-to-face training which shall include:

20 1. The type of training provided:

21 2. The name and title of the trainer;

22 3. The training objectives;

23 4. The length of the training;

- 1 5. The date of completion;
- 2 6. The signature of the trainee verifying completion; and
- 3 7. Verification of competency of the trainee as demonstrated by post-training as-
- 4 sessments, competency checklists, or post-training observations and evaluations;

5 (ii) Require documentation of Web-based training which shall include:

6 1. Transcripts verifying successful completion of training objectives with scores of

7 eighty-five (85) percent or higher; and

8 2. Competency checklist listing date of completion, signature of evaluator, and signa-

9 ture of trainee for all Phase I or Phase II Kentucky College of Direct Support modules

10 within the timeframe specified;

11 (jj) Ensure that each case manager, employee prior to independent functioning, suc-

12 cessfully completes training which shall include:

13 1. First aid, which shall be provided by a certified trainer with a nationally-accredited

14 organization to include the American Red Cross and the American Heart Association

15 and evidenced by official documentation of completion from the nationally-accredited

16 organization;

17 2. Cardiopulmonary resuscitation which shall be provided by a certified trainer with a

18 nationally-accredited organization to include the American Red Cross and the American

19 Heart Association and evidenced by official documentation of completion from the na-

20 tionally-accredited organization;

21 3. Department of Behavioral Health, Developmental and Intellectual Disabilities' Cri-

22 sis Prevention and Intervention Training;

23 **4.[4a.]** Successful completion of all Kentucky College of Direct Support Phase I train-

1 ing modules; **[and**

2 ~~**b. Training in Kentucky College of Direct Support Phase I training modules**~~

3 ~~**shall be paid for and facilitated by DBHDID;**~~ and

4 5. Individualized instruction about the person centered POC of the participant to
5 whom the trainee provides supports; and

6 6. Verification of trainee competency as demonstrated by pre- and post-training as-
7 sessments, competency checklists, and post-training observations or evaluations;

8 (kk)~~**[1.]**~~ Ensure that all case managers or~~**;**~~ employees~~**], or sub-contractors]**~~, un-
9 less the case manager, employee is a licensed professional providing a service gov-
10 erned by the licensure of the individual's profession, complete Kentucky College of Di-
11 rect Support Phase II training modules, no later than six (6) months from the date of
12 employment or when the individual began providing services; **[and**

13 ~~**2. Kentucky College of Direct Support Phase II module training shall be paid for**~~
14 ~~**and facilitated by DBHDID;**~~ and

15 (ll) Ensure that each case manager complete DBHDID approved case management
16 training after three (3) months but within nine (9) months from the date of hire; and

17 (mm) Ensure that each case manager employed prior to the effective date of this
18 administrative regulation completes the DBHDID case management training within one
19 (1) year of this administrative regulation's effective date; and

20 (nn) Ensure that each adult family member residing in a level II residential adult foster
21 care home or family home provider who may be left alone with the participant will re-
22 ceive training regarding the individualized needs of the participant~~**[from the case man-**~~
23 ~~**ager]**~~.

- 1 (4) DBHDID shall:
- 2 (a) Obtain the rights to use:
- 3 1. The Health Risk Screening Tool required to be used by an SCL waiver provider
- 4 pursuant to this administrative regulation; or
- 5 2. The Kentucky College of Direct Support training modules required to be used by
- 6 an SCL waiver provider pursuant to this administrative regulation;
- 7 (b) Facilitate access to the:
- 8 1. Health Risk Screening Tool required to be used by an SCL waiver provider pursu-
- 9 ant to this administrative regulation; or
- 10 2. Kentucky College of Direct Support training modules required to be used by an
- 11 SCL waiver provider pursuant to this administrative regulation.
- 12 (5) An SCL provider employee or volunteer shall:
- 13 (a) Not manufacture, distribute, dispense, be under the influence of, purchase, pos-
- 14 sess, use, or attempt to purchase or obtain, sell, or transfer any of the following in the
- 15 workplace or while performing work duties:
- 16 1. An alcoholic beverage;
- 17 2. A controlled substance;
- 18 3. An illicit drug;
- 19 4. A prohibited drug or prohibited substance;
- 20 5. Drug paraphernalia;
- 21 6. A substance that resembles a controlled substance, if there is evidence that the
- 22 individual intended to pass off the item as a controlled substance; and
- 23 (b) Not possess a prescription drug for the purpose of selling or distributing it.

1 Section 4. Covered Services. (1)(a) An SCL waiver service shall:

2 1. Be prior authorized by the department; **and**

3 2. Be provided to a participant pursuant to the participant's person centered POC by
4 an individual who meet the requirements established in **Section 3** of this **administra-**
5 **tive** regulation[; **and**

6 ~~3. Be available through participant directed services for a participant who~~
7 ~~chooses this option].~~

8 (b) Any combination of day training, community access, personal assistance, or sup-
9 ported employment shall not exceed sixteen (16) hours per day.

10 (2) SCL covered services include:

11 (a) Case management;

12 (b) Community access services;

13 (c) Community guide services;

14 (d) Community transition services;

15 (e) Consultative clinical and therapeutic services;

16 (f) Day training;

17 (g) Environmental accessibility adaptation services;

18 (h) Goods and services;

19 (i) Natural supports training;

20 (j) Occupational therapy;

21 (k) Person centered coaching;

22 (l) Personal assistance services;

23 (m) Physical therapy;

- 1 (n) Positive behavior supports;
 - 2 (o) Residential support services;
 - 3 (p) Respite;
 - 4 (q) Shared living;
 - 5 (r) Specialized medical equipment and supplies;
 - 6 (s) Speech therapy;
 - 7 (t) Supported employment;
 - 8 (u) Transportation services; or
 - 9 (v) Vehicle adaptation services.
- 10 (3) Case management shall:
- 11 (a) Not include any other SCL waiver service;
 - 12 (b) Be provided by a case manager who:
 - 13 1. Meets the personnel and training requirements established in Section 3 of this ad-
 - 14 ministrative regulation; and
 - 15 2. Shall not provide any other SCL waiver service to the participant receiving case
 - 16 management from the case manager;
 - 17 (c) Be conflict free unless the department grants an exemption to the conflict free re-
 - 18 quirement in accordance with subsection (4)(b) of this section;
 - 19 (d) Include initiation, coordination, implementation, and monitoring of the assess-
 - 20 ment, reassessment, evaluation, intake, and eligibility process;
 - 21 (e) Include assisting a participant in the identification, coordination, and arrangement
 - 22 of the person centered team and person centered team meetings;
 - 23 (f) Include facilitating person centered team meetings that assist a participant to de-

1 develop, update, and monitor the POC which shall:

2 1. Reflect the principles and tools of self-determination to assist a participant in creat-
3 ing supports and services:

4 a. Designed to meet the needs of the participant; and

5 b. That promote choice, community experiences, employment, and personal satisfac-
6 tion;

7 2. Be developed and prior authorized within thirty (30) days of the initiation of a ser-
8 vice;

9 3. Include the objectives and interventions, goals, and outcomes that meet the partic-
10 ipant's identified needs from all assessments and person centered team members;

11 4. Include documented participation in the development of the POC by the partici-
12 pant, participant's guardian~~[designated representative]~~, family members, other pro-
13 viders, or other people the participant has identified as important in the participant's life
14 and as members of the person centered team;

15 5. Include information about:

16 a. What is important to the participant;

17 b. What the person centered plan will help the participant accomplish;

18 c. What people like and admire about the participant;

19 d. The characteristics of people providing support that are important to and for the
20 participant;

21 e. What people need to know or do to help the participant stay healthy and safe;

22 f. Instructions for those who support the participant;

23 g. The barriers that block the participant's progress towards the participant's goals;

- 1 h. What action steps are needed to ensure that a participant's goals are reached;
- 2 i. Who is responsible for each action; and
- 3 j. When the action is anticipated to be completed;
- 4 (g) Include assisting a participant to gain access to and maintain employment, mem-
- 5 bership in community clubs, groups, activities and opportunities at the times, frequen-
- 6 cies, and with the people the participant chooses;
- 7 (h) Include coordination and monitoring of all waiver and non-waiver services which
- 8 shall include:
 - 9 1. Monthly face-to-face contacts with the participant to determine if the participant's
 - 10 needs are being met which shall include:
 - 11 a. Contact at a location where the participant is engaged in services; and
 - 12 b. Utilization of a DBHDID-approved monitoring tool to:
 - 13 (i) Identify that person centered practices are demonstrated by the service provider;
 - 14 (ii) Ensure that the participant's health, safety, and welfare is not at risk;
 - 15 (iii) Gather data regarding the participant's satisfaction with their services for use in
 - 16 guiding the person centered planning process; and
 - 17 (iv) Generate monthly summary notes;
 - 18 2. Responsibility to initiate a person centered team meeting and receive prior authori-
 - 19 zation within fourteen (14) days of a contact visit if the results of a monthly contact visit
 - 20 indicate that different or additional services or other changes in the participant's POC
 - 21 are required to meet the participant's needs;
 - 22 3. Assistance with participant directed services which shall include:
 - 23 a. Assisting the participant in identifying, if necessary, a community guide and a rep-

1 representative who shall work with the participant on the development of a POC, budget,
2 and emergency back-up plan;

3 b. Assisting the participant in recruiting and managing employees;

4 c. Assigning modules within the Kentucky College of Direct Supports for training pur-
5 poses and assisting the participant, the community guide, or the representative in moni-
6 toring the completion of training within timeframes specified in Section 5 of this adminis-
7 trative regulation; and

8 d. Monitoring the provision of services and submission of required documentation to
9 the agency providing financial management services;

10 4. Authority to require immediate remediation of identified deficiencies that impact the
11 health, safety, and welfare of a participant;

12 (i) Include assisting a participant in planning resource use and assuring protection of
13 resources to include:

14 a. Clearly outlining the participant's insurance options and availability; and

15 b. Exploring the potential availability of other resources and social service programs
16 for which the participant may qualify;

17 (j) Include ensuring that notification with the MAP-24C occurs to the local DCBS of-
18 fice, the department, and DBHDID if a participant is:

19 1. Terminated from the SCL waiver program;

20 2. Admitted to an ICF-IID;

21 3. Admitted to a hospital;

22 4. Admitted to a skilled nursing facility;

23 5. Transferred to another Medicaid 1915(c) home and community based waiver pro-

1 gram; or

2 6. Relocated to a different address;

3 (k) Include monitoring to ensure that services continue if a participant has been ter-
4 minated from any service until an alternate provider, if needed, has been chosen by the
5 participant and services have been approved;

6 (l) Include providing a participant and the participant's team members twenty-four
7 (24) hour telephone access to a case management staff person; and

8 (m) Include documentation of services by:

9 1. A monthly DBHDID approved person centered monitoring tool; and

10 2. A detailed monthly summary note which shall include:

11 a. The month and year for the time period the note covers;

12 b. An analysis of progress toward the participant's outcome or outcomes;

13 c. Identification of barriers to achievement of outcomes;

14 d. A projected plan to achieve the next step in achievement of outcomes;

15 e. The signature and title of the case manager completing the note;

16 f. The date the note was generated; and

17 (n) Include person centered team meetings which shall not constitute the required
18 monthly face-to-face visit with a participant;

19 (o) Include the case manager being responsible for providing information about par-
20 ticipant directed services:

21 1. At the time the initial POC is developed; and

22 2. At least annually thereafter and upon inquiry from the participant or participant's

23 **guardian[designated representative]**; and

1 (p) Include the case manager supervisor performing supervision duties:

- 2 1. As outlined in Supports for Community Living Policy Manual; and
- 3 2. In accordance with a DBHDID approved case manager supervisor training.

4 (4)(a) If a case management service is approved to be provided despite not being
5 conflict free, the case management provider shall document and demonstrate that the
6 participant:

- 7 1. Receives the same level of advocacy; and
- 8 2. Exercises free choice of providers and services.

9 (b) An exemption to the conflict free requirement shall be granted if:

- 10 1. A participant requests the exemption; and
- 11 2. The participant's case manager provides documentation to DBHDID, in accord-
12 ance with the Supports for Community Living Policy Manual, that:

13 a. Provides evidence that there is a lack of a qualified case manager within thirty (30)
14 **miles[minutes]** of the participant's residence; **or[and]**

15 b. There is a relationship of at least one (1) year between the participant and the par-
16 ticipant's case manager.

17 (c) A request to receive a case management service that is not conflict free shall ac-
18 company each prior authorization request for the case management service.

19 (d) One (1) unit of a case management service shall equal one (1) month.

20 (e) A provider shall bill for a case management service in accordance with 907 KAR
21 12:020.

22 (5) A community access service:

23 (a) Shall be provided by a community access specialist~~[who meets the personnel~~

1 ~~and training requirements established in Section 3 of this administrative regula-~~
2 ~~tion];~~

3 (b) Shall be designed to support a participant to participate in meaningful routines,
4 events, and activities through various community organizations; and

5 (c) Shall be designed to empower a participant in developing natural supports;

6 (d) May be participant directed;~~[if so chosen by the participant; and]~~

7 (e) If participant directed, may be provided by an immediate family member,
8 guardian, or legally responsible individual of the participant in accordance with
9 Section 5 of this administrative regulation;

10 (f) Shall stress training that empowers a participant in acquiring, practicing, utilizing,
11 and improving skills related to:

12 1. Connecting with others;

13 2. Independent functioning;

14 3. Self advocacy;

15 4. Socialization;

16 5. Community participation;

17 6. Personal responsibility;

18 7. Financial responsibility; and

19 8. Other skills related to optimal well-being as defined in the participant's POC;

20 (g)~~(f)~~ Shall be designed to result in an increased ability to develop natural supports
21 and access community resources including educational, recreational, religious, civic, or
22 volunteer opportunities with an outcome of:

23 1. Less reliance on formal supports; and

1 2. Greater reliance on natural or unpaid supports as established in the participant's
2 POC;

3 ~~(h)~~~~(g)~~ Shall have an emphasis on the development of personal social networks,
4 membership opportunities, friendships, and relationships for the participant as estab-
5 lished in the participant's POC;

6 ~~(i)~~~~(h)~~ Shall be provided outside the participant's home or residential setting~~family~~
7 ~~home provider~~ and may occur during the day, in the evening, and on weekends;

8 ~~(j)~~~~(f)~~ May not duplicate residential, day training services, or authorized therapies;

9 ~~(k)~~1.~~(j)~~~~a.~~ Shall be provided to a participant with a one (1) to one (1) staff to partici-
10 pant ratio; or

11 2.~~b.~~ May include a friend invited by the participant, for a ratio of one (1) staff to no
12 more than two (2) participants according to the participant's POC;

13 ~~(l)~~~~(k)~~ Shall occur in an integrated community setting;

14 ~~(m)~~~~(f)~~ Shall be an impact service and the participant's POC shall define steps to de-
15 crease the provision of the service as the participant becomes more independent in ac-
16 cessing and becoming part of the community;

17 ~~(n)~~~~(m)~~ Shall be documented by:

- 18 1. A note documenting each contact which shall include:
- 19 a. A full description of each service rendered;
 - 20 b. Evidence of training or service to support outcomes designated in the participant's
 - 21 POC;
 - 22 c. The date of the service;
 - 23 d. The location of the service;

- 1 e. The beginning and ending times of the service;
- 2 f. The signature and title of the individual providing the service; and
- 3 g. The date the entry was made in the record; and
- 4 2. A monthly summary note which shall include:
 - 5 a. The month and year for the time period the note covers;
 - 6 b. An analysis of progress toward the participant's outcome or outcomes;
 - 7 c. Identification of barriers to achievement of outcomes;
 - 8 d. Projected plan to achieve the next step in achievement of outcomes;
 - 9 e. The signature and title of the community access specialist completing the note;
- 10 and
- 11 f. The date the note was written; and

12 **(o)(n)** Shall not exceed 160 fifteen (15) minute units per week alone or in combina-
13 tion with community access group services.

14 (6)(a) A community guide service:

- 15 1. Shall be provided by a community guide who meets the personnel and training re-
16 quirements established in **Sections 3 and 5**~~[Section 3]~~ of this administrative regulation;
- 17 2. Shall be designed to empower a participant to define and direct the participant's
18 services;
- 19 3. Shall only be for a participant who chooses participant directed supports for some
20 or all of the participant's support services;
- 21 4. Shall include:
 - 22 a. Direct assistance to a participant in meeting his or her participant directed respon-
23 sibilities;

- 1 b. Information and assistance that help the participant in:
- 2 (i) Problem solving;
- 3 (ii) Decision making;
- 4 (iii) Developing supportive community relationships; and
- 5 (iv) Accessing resources that promotes implementation of the participant's POC; and
- 6 c. Information to ensure that the participant understands the responsibilities involved
- 7 with directing the participant's services.

8 5. Shall be documented by:

9 a. A note documenting each contact which shall include:

- 10 (i) A full description of each service rendered;
- 11 (ii) The date of the service;
- 12 (iii) The location of the service;
- 13 (iv) The beginning and ending times of the service;
- 14 (v) The signature and title of the individual providing the service; and
- 15 (vi) The date the entry was made in the record; and

16 b. A completed monthly summary note which shall include:

- 17 (i) The month and year for the time period the note covers;
- 18 (ii) An analysis of the efficacy of the service provided including recommendations and
- 19 identification of additional support needs;
- 20 (iii) The signature and title of the community guide completing the note; and
- 21 (iv) The date the note was written; and

22 6. Shall be limited to 576 fifteen (15) minute units per year.

23 (b)1. A participant and the participant's person centered team shall determine the

1 community guide services to be received; and

2 2. The community guide services to be received by a participant shall be specified in
3 the participant's POC.

4 (c) If needed, directed assistance provided by a community guide:

5 1. Shall be based on the needs of the participant; and

6 2. May include assistance with:

7 a. Recruiting, hiring, training, managing, evaluating, and changing employees;

8 b. Scheduling and outlining the duties of employees;

9 c. Developing and managing the individual budget;

10 d. Understanding provider qualifications;

11 e. Recordkeeping and other program requirements.

12 (d) A community guide service shall not duplicate a case management service.

13 (e) A community guide providing community guide services to a participant shall not
14 provide other direct waiver services to any participant.

15 (f) A community guide shall not be employed by an agency that provides other direct
16 waiver services to the participant receiving community guide services from the commu-
17 nity guide. ~~[(g) An individual serving as a representative for a participant receiving~~

18 ~~participant directed services shall not be a community guide for that participant.~~

19 ~~(h) Kentucky College of Direct Support module training assigned to be com-
20 pleted by a community guide shall be paid for and facilitated by DBHDID.]~~

21 (7) Community transition services:

22 (a) Shall be nonrecurring set-up expenses for a participant who is transitioning from
23 an institutional or other provider-operated living arrangement to a living arrangement in

1 a private residence where the participant is directly responsible for his or her own living
2 expenses;

3 (b) Shall be expenses that are necessary to enable a participant to establish a basic
4 household that do not constitute room and board;

5 (c) May include:

6 1. A security deposit that is required to obtain a lease on an apartment or home;

7 2. An essential household furnishings or moving expense required to occupy and use
8 a community domicile, including furniture, window coverings, food preparation items, or
9 bed or bath linens;

10 3. A one (1) time set-up fee or deposit for utility or service access, including tele-
11 phone, electricity, heating, or water;

12 4. A service necessary for the participant's health and safety including pest eradica-
13 tion or one (1) time cleaning prior to occupancy;

14 5. A necessary home accessibility adaptation; or

15 6. An activity to assess a need and arrange for and procure needed resources~~]; and~~

16 ~~7. Caregiver training];~~

17 (d) Shall be:

18 1. Furnished only:

19 a. To the extent that the service is reasonable and necessary;

20 b. As clearly identified in the participant's POC; and

21 c. If the service cannot be obtained from other sources;

22 (e) Shall not include:

23 1. Monthly rental or mortgage expense;

- 1 2. Food;
- 2 3. Regular utility charges;
- 3 4. Household appliances or items that are intended for purely diversional or recrea-
- 4 tional purposes; or
- 5 5. Furnishings for living arrangements that are owned or leased by an SCL provider;
- 6 (f) Shall be coordinated and documented by the participant's case manager by:
- 7 1. Description or itemized line item of purchase and cost;
- 8 2. A receipt for a procurement including date of purchase;
- 9 3. The signature and title of the case manager; and
- 10 4. The date the entry was made in the record.
- 11 (g) Shall not exceed \$2,000 per qualified transition.
- 12 (8) A consultative clinical and therapeutic service shall:
- 13 (a) Be provided by a:
- 14 1. Certified nutritionist who meets the personnel and training requirements estab-
- 15 lished in Section 3 of this administrative regulation;
- 16 2. Licensed dietitian who meets the personnel and training requirements established
- 17 in Section 3 of this administrative regulation;
- 18 3. Licensed ~~[family and]~~ marriage and family therapist who meets the personnel
- 19 and training requirements established in Section 3 of this administrative regulation;
- 20 4. ~~[Licensed practical nurse who meets the personnel and training require-~~
- 21 ~~ments established in Section 3 of this administrative regulation;~~
- 22 ~~5.]~~ Licensed professional clinical counselor who meets the personnel and training re-
- 23 quirements established in Section 3 of this administrative regulation;

1 **5.[6.]** Licensed psychological associate who meets the personnel and training re-
2 quirements established in Section 3 of this administrative regulation;

3 **6.[7.]** Licensed psychologist who meets the personnel and training requirements es-
4 tablished in Section 3 of this administrative regulation;

5 **7.[8.]** Licensed psychological practitioner who meets the personnel and training re-
6 quirements established in Section 3 of this administrative regulation;

7 **8.[9.]** Licensed **clinical** social worker who meets the personnel and training require-
8 ments established in Section 3 of this administrative regulation; or

9 **9.[10.]** Positive behavior support specialist who meets the personnel and training re-
10 quirements established in Section 3 of this administrative regulation;

11 (b) Include:

12 1. Professional consultation, evaluation and assessment of the participant, the envi-
13 ronment and the system of support and written summary of findings and recommenda-
14 tions for the participant and the participant’s person center team;

15 2. Providing treatment that is:

16 a. Consistent with assessment results and diagnosis;

17 b. Evidence based or current best practice; and

18 c. Encompasses psychological treatment or counseling as indicated by the condition
19 of the participant;

20 3. Coordinating program wide support, as needed, that addresses the assessed
21 needs, conditions, or symptoms affecting a participant’s ability to fully participate in the
22 participant’s community;

23 4. Participating in developing and revising, as needed, home treatment or support

- 1 plans as components of a participant's POC;
- 2 5. Providing training and technical assistance to carry out recommendations and
3 plans which shall occur within the settings in which the recommendations, home treat-
4 ment, or support plans are to be carried out;
- 5 6. Monitoring:
- 6 a. Of the fidelity of data reporting and participant's POC implementation;
- 7 b. Of the effectiveness of the participant's POC;
- 8 c. Of the impact of the participant's POC on the participant, the participant's environ-
9 ment and system of supports; and
- 10 d. Which shall be conducted:
- 11 (i) In the settings where the participant's POC is implemented; and
- 12 (ii) Through discussions and observations of people implementing the participant's
13 POC; and
- 14 (iii) Through reporting data;
- 15 7. A functional assessment which shall:
- 16 a. Be conducted by a:
- 17 (i) Licensed psychologist who meets the personnel and training requirements estab-
18 lished in Section 3 of this administrative regulation;
- 19 (ii) Certified psychologist with autonomous functioning who meets the personnel and
20 training requirements established in Section 3 of this administrative regulation; or
- 21 (iii) Positive behavior support specialist who meets the personnel and training re-
22 quirements established in Section 3 of this administrative regulation; and
- 23 **b.[(b)]** Include all functional assessment components specified in the Supports for

1 Community Living Policy Manual;

2 8. Documentation of a service by[=

3 ~~a.] a note documenting each contact which shall include:~~

4 ~~a.[(i)] A full description of each service rendered;~~

5 ~~**b. An analysis of the efficacy of the service provided including any recommen-**~~
6 ~~**dation or identification of additional support needs if needed;**~~

7 ~~c.[(ii)] The date of the service;~~

8 ~~d.[(iii)] The location of the service;~~

9 ~~e.[(iv)] The beginning and end times of the service;~~

10 ~~f.[(v)] The signature and title of the professional providing the service;~~

11 ~~g.[(vi)] The date the entry was made in the record; **[b. A completed monthly sum-**~~
12 ~~**mary note which shall include:**~~

13 ~~**(i) The month and year for the period covered by the note;**~~

14 ~~**(ii) An analysis of the efficacy of the service providing including recommenda-**~~
15 ~~**tions and identification of additional support needs if needed;**~~

16 ~~**(iii) The signature and title of the professional completing the note;**~~

17 ~~**(iv) The date the note was written;]** and~~

18 (c) Not exceed 160 fifteen (15) minute units per year.

19 (9) Day training:

20 (a) Shall be provided by a direct support professional;

21 (b) Shall include:

22 1. Providing regularly scheduled activities in a non-residential setting that are de-
23 signed to foster the acquisition of skills, build positive social behavior and interpersonal

- 1 competence, foster greater independence and personal choice; **[and]**
- 2 2. Career planning **or pre-vocational** activities to develop experiential learning op-
- 3 portunities and career options consistent with the participant's skills and interests that:
- 4 a. Are person centered and designed to support employment related goals; **[and]**
- 5 b. **Provide active training designed to prepare a participant to transition from**
- 6 **school to adult responsibilities, community integration, and work;**
- 7 **c. Enable each individual to attain the highest level of work in the most inte-**
- 8 **grated setting with the job matched to the participant's interest, strengths, priori-**
- 9 **ties, abilities, and capabilities; and**
- 10 **d. Include:**
- 11 **(i) Skill development to communicate effectively with supervisors, co-workers,**
- 12 **and customer;**
- 13 **(ii) Generally accepted community workplace conduct and dress;**
- 14 **(iii) Workplace problem solving skills and strategies;**
- 15 **(iv) General workplace safety;**
- 16 **(v) The ability to follow directions;**
- 17 **(vi) The ability to attend tasks; or**
- 18 **(vii) Mobility training;**
- 19 ~~**3.[Directly relate to personally chosen outcomes by the participant which shall**~~
- 20 ~~**be documented in the participant's POC; and**~~
- 21 ~~**c. Are time limited;**~~
- 22 ~~**3. Activities and environments that:**~~
- 23 ~~**a. Are not diversional in nature;**~~

1 ~~b. Provide active training or skill development designed to prepare a partici-~~
2 ~~part to transition from school to adult responsibilities, community integration,~~
3 ~~and work; and~~

4 ~~c. Include:~~

5 ~~(i) Skill development to communicate effectively with supervisors, co-workers,~~
6 ~~and customers;~~

7 ~~(ii) Generally accepted community workplace conduct and dress;~~

8 ~~(iii) Workplace problem solving skills and strategies;~~

9 ~~(iv) General workplace safety; or~~

10 ~~(v) Mobility training.~~

11 ~~4. Activities that:~~

12 ~~a. Occur over a defined period of time;~~

13 ~~b. Occur in a variety of settings in the community and shall not be limited to~~
14 ~~fixed-site facilities;~~

15 ~~c. Coordinate with any needed therapies in the participant's POC;~~

16 ~~d. Result in an outcome that identifies a career direction and plan used to~~
17 ~~guide activities that result in the participant's achievement of competitive, inte-~~
18 ~~grated employment; and~~

19 ~~e. Shall not be reimbursable if they are for the primary purpose of producing~~
20 ~~goods or performing services in a segregated setting where the participant is~~
21 ~~earning less than the customary wage and level of benefits paid by an employer~~
22 ~~for the same or similar work performed by individuals without disabilities;~~

23 ~~5.] Supported retirement activities including:~~

- 1 a. Altering schedules to allow for more rest time throughout the day; or
2 b. Support to participate in hobbies, clubs, or other senior-related activities in the par-
3 ticipant's community; or

4 ~~4.[6. For a participant with a degenerative condition,]~~ Training and supports de-
5 signed to maintain skills and functioning and to prevent or slow regression, rather than
6 acquiring new skills or improving existing skills;

7 (c) **Shall include required informational sessions sponsored by the provider at**
8 **least annually for the participant regarding community involvement or employ-**
9 **ment services and arrangement of opportunities for the participant to explore**
10 **community integration, supported employment, and other employment opportuni-**
11 **ties in the community;**

12 (d) Shall, if provided in an adult day health care center, only be available for a partici-
13 pant who:

- 14 1. Is at least twenty-one (21) years of age; and
15 2. Requires skilled nursing services or nursing supervision in a licensed adult day
16 health care center as outlined in the participant's POC;

17 (e) **Shall include environments that:**

18 **1. Are not diversional in nature;**

19 **2. Occur in a variety of settings in the community and shall not be limited to**
20 **fixed-site facilities; and**

21 **3. Coordinate with any needed therapies in the participant's POC;**

22 (f)~~(d)~~ May be participant directed **and if participant directed, may be provided by**
23 **an immediate family member, guardian, or legally responsible individual of the**

1 **participant in accordance with Section 5 of this administrative regulation;**

2 **(g) Shall not be reimbursable if vocational in nature and for the primary pur-**
3 **pose of producing goods or performing services;**

4 **(h)**⁵

5 ~~**(e) Shall include required informational sessions sponsored by the provider at**~~
6 ~~**least annually for the participant regarding employment services and arrange-**~~
7 ~~**ment of opportunities for the participant to explore supported employment and**~~
8 ~~**other customized employment opportunities in the community;**~~

9 ~~**(f)**~~ Shall include documentation that shall be:

10 1. A note for each contact which shall include:

11 a. A full description of each service rendered;

12 b. The date of the service;

13 c. The location of the service;

14 d. The beginning and ending times of the service;

15 e. The signature and title of the individual providing the service; and

16 f. The date the entry was made in the record; and

17 2. A completed monthly summary note which shall include:

18 a. The month and year for the time period the note covers;

19 b. An analysis of the efficacy of the service provided including recommendations and
20 identification of additional support needs;

21 c. The signature and title of the individual completing the note; and

22 d. The date the note was written; and

23 ~~**(i)**~~~~**(g)**~~ Shall be limited to:

- 1 1. Five (5) days per week excluding weekends; and
2 2. 160 fifteen (15) minute units per week for day training alone or in combination with
3 any **hours of paid community employment or on-site** supported employment ser-
4 vice.

5 (10)(a) An environmental accessibility adaptation service:

6 1. Shall be:

7 a. Designed to enable participants to interact more independently with their environ-
8 ment thereby enhancing their quality of life and reducing their dependence on physical
9 support from others; and

10 b. A physical adaptation to a participant's or family's home which shall be:

11 (i) Necessary to ensure the health, welfare, and safety of the participant; or

12 (ii) Enable the participant to function with greater independence in the home and
13 without which the participant would require institutionalization;

14 2. May include the following if necessary for the welfare of a participant:

15 a. Installation of a ramp or grab-bar;

16 b. Widening of a doorway;

17 c. Modification of a bathroom facility; or

18 d. Installation of a specialized electric and plumbing system which shall be necessary
19 to accommodate the medical equipment or supplies necessary for the welfare of the
20 participant;

21 3. Shall not include:

22 a. An adaptation or improvement to a home which is not of direct medical or remedial
23 benefit to a participant;

1 b. An adaptation that adds to the total square footage of a home except when neces-
2 sary to complete an adaptation; and

3 c. An adaptation to a provider-owned residence;

4 4. Shall be provided:

5 a. In accordance with applicable state and local building codes; and

6 b. By a vendor who shall be in good standing with the Office of the Secretary of State
7 of the Commonwealth of Kentucky pursuant to 30 KAR 1:010 and 30 KAR 1:020;

8 5. ~~Shall not be provided by a family member who resides in the same house as~~
9 ~~the participant;~~

10 ~~6.]~~ Shall be coordinated and documented by a case manager by:

11 a. A description of adaptation purchased;

12 b. A receipts for every adaptation made which shall include the:

13 (i) Date of purchase;

14 (ii) Description of the item;

15 (iii) quantity and per unit price; and

16 (iv) Total amount of the purchase;

17 c. The signature and title of the case manager; and

18 d. The date the entry was made in the record; and

19 ~~6.[7.]~~ Shall be limited to \$8,000 per lifetime.

20 (b) An immediate family member, guardian, or legally responsible individual of
21 a participant shall not be eligible to be a vendor or provider of environmental ac-
22 cessibility service for the participant.

23 (c) A home accessibility modification shall not be furnished to a participant who re-

1 ceives residential habilitation services except when the services are furnished in the
2 participant's own home.

3 **(d)[(e)]** A request shall be documented in a participant's POC and include cost of ad-
4 aptations.

5 (11)(a) Goods and services:

6 1. Shall be services, equipment, or supplies that are individualized to a participant
7 who chooses to participant direct services;

8 2. Shall be utilized to reduce the need for personal care or to enhance independence
9 within a participant's the home or community;

10 3. Shall not be a good or service available to a recipient outside of the department's
11 SCL waiver program;

12 4. Shall meet the following requirements:

13 a. The good or service shall decrease the need for other Medicaid services;

14 b. The good or service shall promote participant inclusion in the community; or

15 c. The good or service shall increase a participant's safety in the home environment;

16 and

17 d. The participant does not have the funds to purchase the good or service;

18 5. If participant directed and purchased from a participant directed budget, shall be
19 prior authorized;

20 6. Shall not include experimental or prohibited treatments;

21 7. Shall be clearly linked to a participant need that has been documented in the par-
22 ticipant's POC.

23 8. Shall be coordinated and documented by a case manager by:

- 1 a. Description or itemized line item of purchase and cost;
 - 2 b. Receipts for procurements which include the date of purchase;
 - 3 c. The signature and title of the case manager; and
 - 4 d. The date the entry was made in the record; and
- 5 9. Shall not exceed \$1,800 per one (1) year authorized POC period.

6 (b) A purchase of a good or service shall not circumvent other restrictions on SCL
7 waiver services:

- 8 1. Established in this administrative regulation; and
- 9 2. Including the prohibition against claiming for the costs of room and board.

10 (c) ~~An immediate~~**[An individual serving as the representative of a participant for**
11 **whom the goods and services are being purchased shall not be eligible to be a**
12 **provider of participant directed goods and services.**

13 ~~(d) A]~~ family member, guardian, or legally responsible individual of a~~[who re-~~
14 ~~sides in the same house as the]~~ participant shall not be a provider of participant di-
15 rected goods and services to the participant.

16 (e) A case manager shall submit reimbursement documentation to the financial
17 management ~~[services] agency~~**[to make a direct payments to the approved vendor**
18 **of a good or service].**

19 (f) Equipment purchased as a good shall become the property of the participant.

20 (12)(a) Natural supports training:

21 1. Shall be provided by a qualified entity as identified in the POC~~[an SCL provid-~~
22 ~~er employee who meets the personnel and training requirements established in~~
23 ~~Section 3 of this administrative regulation].~~

- 1 2. Shall be participant directed **and include**;
- 2 **~~3. Shall include~~**:
- 3 a. Training and education to individuals who provide unpaid support, training, com-
- 4 panionship, or supervision to participants;
- 5 b. Instruction about treatment regimens and other services specified in the partici-
- 6 pant's POC;
- 7 c. Instruction on current best practices;
- 8 d. The costs of registration and training fees associated with formal instruction in are-
- 9 as relevant to the participant's needs identified in the participant's POC; or
- 10 e. Training provided by a member of the participant's community regarding specific
- 11 interests of the participant and how the natural support network shall support the partici-
- 12 ipant's inclusion in activities and events surrounding the area of interest;
- 13 3. Shall be individualized, direct training of families and natural support networks for
- 14 acquisition or enhancement of their ability to support the participant;
- 15 4. Shall relate to needs identified in a participant's person centered POC and be tied
- 16 to a specific goal in the POC;
- 17 5. Shall not duplicate or occur simultaneously with any education or training provided
- 18 through:
- 19 a. Physical therapy services;
- 20 b. Occupational therapy services;
- 21 c. Speech and language therapy services;
- 22 d. Consultative clinical and therapeutic services; or
- 23 e. Positive behavior support services;

- 1 6. ~~Shall be provided by a vendor approved by DBHDID;~~
- 2 **7.]** Shall be provided in:
- 3 a. A participant's own home or a participant's family's home; or
- 4 b. Community setting specific to community-based natural supports training goals
- 5 specified in the participant's POC;
- 6 **7.[8.]** Shall not include:
- 7 a. Services reimbursable by any other support;
- 8 b. Training paid caregivers;
- 9 c. Costs of travel, meals, or overnight lodging to attend a training event or confer-
- 10 ence;
- 11 d. Services not related to the needs of the participant;
- 12 **8.[9.]** Shall be coordinated and documented by a case manager by:
- 13 a. The specific training provided:
- 14 b. The date and the beginning and ending time when the service was provided;
- 15 c. The service location;
- 16 d. The receipts or verification of service provision, including first and last name and
- 17 title (if applicable) of the person providing the service and the signature of the person
- 18 providing the service;
- 19 e. Verification of registration and certificate of attendance at any formal training; and
- 20 f. The progress made in moving the participant towards independence as reflected in
- 21 goals and the participant's POC; and
- 22 **9.[10.]** Shall not exceed \$1,000 per one (1) year authorized POC period.
- 23 (b) **An immediate[A] family member, guardian, or legally responsible individu-**

1 ~~al[or designated representative]~~ of a participant shall not be eligible to be a partici-
2 pant directed provider of natural supports training services for the participant.

3 (c)~~[An individual serving as a representative in participated directed services~~
4 ~~shall not be eligible to be a participant directed provider of natural supports train-~~
5 ~~ing services.~~

6 (d) For purposes of natural supports training, an individual shall be defined as any
7 person, family member, neighbor, friend, companion, or coworker who provides uncom-
8 pensated care, training, guidance, companionship, or support to the participant who uti-
9 lizes natural supports training.

10 (d)(e) A case manager shall submit reimbursement documentation to the financial
11 management [services] agency~~[to make direct payments or reimbursement to the~~
12 ~~DBHDID-approved vendor or unpaid caregiver].~~

13 (13) Occupational therapy shall:

14 (a) Be provided by an:

15 1.a. Occupational therapist who meets the personnel and training requirements es-
16 tablished in Section 3 of this administrative regulation; or

17 b. Occupational therapy assistant who meets the personnel and training require-
18 ments established in Section 3 of this administrative regulation; and

19 2. Order of a physician;

20 (b) Be evaluation and therapeutic services that are not available to a participant out-
21 side of a 1915(c) home and community based waiver program:

22 (c) Include:

23 1. Evaluation of a participant and the participant's environment;

- 1 2. Therapeutic activities to improve functional performance;
- 2 3. Sensory integrative techniques to enhance sensory processing and promote adap-
- 3 tive responses to environmental demands; and
- 4 4. Participant and family education;
- 5 (d) Facilitate maximum independence by establishing life skills with an emphasis on
- 6 safety and environmental adaptation to improve quality of life and increase meaning and
- 7 purpose in daily living and community integration;
- 8 (e) Promote fine motor skills, coordination, sensory integration, and facilitate the use
- 9 of adaptive equipment or other assistive technology;
- 10 (f) Include, as needed, coordination of program wide support addressing assessed
- 11 needs, conditions, or symptoms affecting a participant's ability to fully participate in the
- 12 participant's community;
- 13 (g) Include the development of a home treatment or support plan with training and
- 14 technical assistance provided on-site to improve the ability of paid and unpaid caregiv-
- 15 ers to carry out therapeutic interventions;
- 16 (h) Be delivered in a participant's home or in the community as described in the par-
- 17 ticipant's POC;
- 18 (i) Include monitoring:
- 19 1. Of the fidelity of data reporting and participant's POC implementation;
- 20 2. Of the effectiveness of the participant's POC;
- 21 3. Of the impact of the participant's POC on the participant, the participant's environ-
- 22 ment and system of supports; and
- 23 4. Which shall be conducted:

- 1 a. In the settings where the participant's POC is implemented; and
- 2 b. Through discussions and observations of people implementing the participant's
- 3 POC; and
- 4 c. Through reporting data;
- 5 (j) Be documented by[=
- 6 ~~4.]~~ a note documenting each contact which shall include:
- 7 1.[a.] A full description of each service rendered;
- 8 2.[b.] Evidence of **progress toward the participant's outcome or outcomes;**
- 9 **3. Identification of barriers to achievement of outcomes;**
- 10 **4. The project plan to achieve the next step in achievement of outcomes;**
- 11 ~~5.[the training or service to support the outcomes designated in the POC;~~
- 12 ~~6.]~~ The date of the service;
- 13 6.[d.] The location of the service;
- 14 7.[e.] The beginning and ending time of the service;
- 15 8.[f.] The signature and title of the person providing the service; and
- 16 9.[g.] The date the entry was made in the record; and
- 17 ~~10.[2. A detailed monthly summary note which shall include:~~
- 18 ~~a. The month and year for the time period the note covers;~~
- 19 ~~b. Evidence of progress toward the participant's outcome or outcomes;~~
- 20 ~~c. Identification of barriers to achievement of outcomes;~~
- 21 ~~d. The projected plan to achieve the next step in achievement of outcomes;~~
- 22 ~~e. The signature and title of the person completing the note;~~
- 23 ~~f. The date the note was written; and~~

- 1 ~~g.]~~ The signature and title of the occupational therapist supervising the occupational
2 therapy assistant and date of the documentation review as applicable;
- 3 (k) Not be available to a participant under the age of twenty-one (21);
- 4 (l) Not supplant an educational service available under the Individuals with Disabili-
5 ties Education Act (20 U.S.C. 101 et seq.); and
- 6 (m) Be limited to fifty-two (52) fifteen (15) minute units per month.
- 7 (14)(a) Person centered coaching shall:
- 8 1. Be provided by a person centered coach who shall:
- 9 a. Operate independently of a residential or day training provider;
- 10 b. Work under the direction of~~[Be supervised by]~~ a positive behavior support spe-
11 cialist or other licensed professional in the settings where the POC is implemented
12 ~~[and through discussions with and observations of the person centered coach~~
13 ~~implementing the plan and reporting data]~~; and
- 14 c. Meet the personnel and training requirements specified in Section 3 of this admin-
15 istrative regulation;
- 16 2. Be an individualized service to be utilized when a barrier challenges the success of
17 a participant in achieving the participant's goals
- 18 3. Include:
- 19 a. The provision of training developed in conjunction with certified or licensed profes-
20 sionals from the participant's person centered team, to the participant, family, guardian,
21 natural and paid supports on implementation of all or designated components of the
22 participant's POC; and
- 23 b. Monitoring ~~[and assessing]~~ the effectiveness of person centered planning as

1 demonstrated by the support system's implementation of the POC or designated com-
2 ponents across the array of service settings and reporting of required and pertinent da-
3 ta; and

4 c. Data collection which shall be utilized by the participant's person centered team to
5 modify the environment or POC as needed;

6 4. Not duplicate case management or any other service;

7 5. Not supplant an educational service available under the Individuals with Disabilities
8 Education Act (20 U.S.C. 101 et seq.); and

9 6. Be limited to 1,320 fifteen (15) minute units per year.

10 (b) An individualized service shall be outcome-based with a plan for the gradual with-
11 drawal of the services.

12 (c) A person centered coach shall not be considered as part of a staffing ratio, plan,
13 or pattern.

14 (d) Documentation of a person centered coaching service shall include:

15 **1.[a-]** A note documenting each contact which shall include:

16 **a.[(i)]** A full description of each service rendered;

17 **b.[(ii)]** The date of the service;

18 **c.[(iii)]** The location of the service;

19 **d.[(iv)]** The beginning and ending time of the service;

20 **e.[(v)]** The signature and title of the individual providing the service;

21 **f.[(vi)]** The date the entry was made in the record; and

22 **2.[b-]** A completed monthly summary note which shall include:

23 **a.[(i)]** The month and year for the time period the note covers;

1 **b. A summary**~~[(ii) An analysis of the efficacy]~~ of the service provided including
2 recommendations and identification of additional support needs if any exist;

3 **c.**~~[(iii)]~~ The signature and title of the individual completing the note;

4 **d.**~~[(iv)]~~ The date the note was written; and

5 **e.**~~[(v)]~~ The signature, title, and date of review of documentation by the positive be-
6 havior specialist **or other licensed professional directing the work of**~~[supervising]~~
7 the person centered coach.

8 (15) Personal assistance services:

9 (a) Shall be provided by a direct support professional;

10 (b) Shall enable a participant to accomplish tasks that the participant normally would
11 do for him or herself if the participant did not have a disability;

12 (c) Shall be available only to a participant who lives in the participant's own residence
13 or in the participant's family residence;

14 (d) May be participant directed **and if participant directed, may be provided by an**
15 **immediate family member, guardian, or legally responsible individual of the par-**
16 **ticipant in accordance with Section 5 of this administrative regulation**~~[if the par-~~
17 ~~icipant chooses this option];~~

18 (e) Shall include:

19 1. Hands-on assistance (performing a task for a participant);

20 2. Reminding, observing, guiding, or training a participant in activities of daily living;

21 3. Reminding, observing, guiding, or training a participant in independent activities of
22 daily living;

23 4. Assisting a participant in managing the participant's medical care including making

1 medical appointments and accompanying the participant to medical appointments; or

2 5. Transportation, which is not otherwise available under the Medicaid Program, to
3 access community services, activities, and appointments;

4 (f) Shall take place in a participant's home or in the community as appropriate to the
5 participant's need;

6 (g) Shall not be available to a participant:

7 1. Receiving paid residential supports; or

8 2. Under the age of twenty-one (21) if medically necessary personal assistance is
9 available as an Early and Periodic Screening, Diagnosis, and Treatment service;

10 (h) Shall not supplant an educational service available under the Individuals with Dis-
11 abilities Education Act (20 U.S.C. 1401 et seq.); and

12 (i) Shall be documented by:

13 1. A note for each contact which shall include:

14 a. A full description of each service rendered;

15 b. Evidence of training or service to support outcomes designated in the participant's
16 POC as appropriate;

17 c. The date of the service;

18 d. The location of the service;

19 e. The beginning and ending time of the service;

20 f. The signature and title of the direct support professional providing the service; and

21 g. The date the entry was made in the record; and

22 2. A detailed monthly summary note which shall include:

23 a. The month and year for the time period the note covers;

- 1 b. Evidence of progress toward the participant's outcome or outcomes;
- 2 c. Identification of barriers to achievement of outcome or outcomes;
- 3 d. Projected plan to achieve the next step in achievement of outcome or outcomes;
- 4 e. The signature and title of the direct support professional completing the note;
- 5 f. The date the note was written; and
- 6 g. The signature, title, and date documentation reviewed by the direct support profes-
- 7 sional supervisor supervising the direct support professional.

8 (16) Physical therapy shall:

9 (a) Include evaluation or therapeutic services that are not available to a participant
10 outside of a 1915(c) home and community based waiver program;

11 (b) Address physical therapy needs that result from a participant's developmental
12 disability;

13 (c) Facilitate a participant's independent functioning or prevent progressive disabili-
14 ties;

15 (d) Include:

16 1. Evaluation;

17 2. Therapeutic procedures;

18 3. Therapeutic exercises to increase range of motion and flexibility;

19 4. Participant or family education;

20 5. Assessment of a participant's environment;

21 6. If needed, development of a home treatment or support plan with training and
22 technical assistance provided on-site to improve the ability of paid and unpaid caregiv-
23 ers to carry out therapeutic interventions;

- 1 7. As needed, coordination of program wide support addressing assessed needs,
2 conditions, or symptoms affecting a participant's ability to fully participate in the com-
3 munity;
- 4 8. Monitoring:
- 5 a. Of the fidelity of data reporting and participant's POC implementation;
- 6 b. Of the effectiveness of the participant's POC;
- 7 c. Of the impact of the participant's POC on the participant, the participant's environ-
8 ment and system of supports; and
- 9 d. Which shall be conducted:
- 10 (i) In the settings where the participant's POC is implemented; and
- 11 (ii) Through discussions and observations of people implementing the participant's
12 POC; and
- 13 (iii) Through reporting data;
- 14 (e) Be provided by:
- 15 1.a. A physical therapist who meets the personnel and training requirements estab-
16 lished in Section 3 of this administrative regulation; or
- 17 b. A physical therapist assistant who meets the personnel and training requirements
18 established in Section 3 of this administrative regulation; and
- 19 2. An order of a physician;
- 20 (f) Be delivered in a participant's home or in the participant's community as described
21 in the participant's POC;
- 22 (g) Not be available to a participant under the age of twenty-one (21) years;
- 23 (h) Not supplant educational services available under the Individuals with Disabilities

1 Education Act (20 U.S.C. 1401 et seq.);

2 (i) Be documented by[=

3 ~~4.] a note documenting each contact which shall include:~~

4 ~~1.[a.] A full description of each service rendered;~~

5 ~~2.[b.] Evidence of progress toward the participant's outcome or outcomes;~~

6 ~~3. Identification of barriers to achievement of outcomes;~~

7 ~~4. The projected plan to achieve the next step in achievement of outcomes;~~

8 ~~5.[the training or service to support the outcomes designated in the POC;~~

9 ~~e.] The date of the service;~~

10 ~~6.[d.] The location of the service;~~

11 ~~7.[e.] The beginning and ending time of the service;~~

12 ~~8.[f.] The signature and title of the person providing the service; and~~

13 ~~9.[g.] The date the entry was made in the record; and~~

14 ~~10.[2. A detailed monthly summary note which shall include:~~

15 ~~a. The month and year for the time period the note covers;~~

16 ~~b. Evidence of progress toward the participant's outcome or outcomes;~~

17 ~~c. Identification of barriers to achievement of outcomes;~~

18 ~~d. The projected plan to achieve the next step in achievement of outcomes;~~

19 ~~e. The signature and title of the person completing the note;~~

20 ~~f. The date the note was written; and~~

21 ~~g.] The signature and title of the physical therapist supervising the physical therapist~~

22 assistant and date of the documentation review as applicable; and

23 (j) Be limited to fifty two (52) fifteen (15) minute units per month.

1 (17)(a) Positive behavior supports shall include:

2 1. The utilization of evidenced based and best practices in behavioral techniques, in-
3 terventions, and methods to assist a participant with significant, intensive challenges
4 which interfere with activities of daily living, social interaction, or work;

5 2. Evidenced based or best practices regarding treatment of a behavioral health con-
6 dition which shall be the primary support services when supplemental behavioral inter-
7 ventions are needed; and

8 3. A positive behavior support plan which shall:

9 a. Be clearly based upon the information, data collected, and recommendations from
10 the functional assessment;

11 b. Meet the primary purpose of having the participant acquire or maintain skills for
12 community living while behavioral interventions are delivered for the reduction of signifi-
13 cant challenges which interfere with activities of daily living, social interaction, or work;

14 c. Be developed with the participant and participant's person centered team;

15 d. Be related to goals of interventions, such as greater participation in activities, en-
16 hanced coping or social skills;

17 e. Include all the positive behavior support components specified in the Supports for
18 Community Living Policy Manual;

19 f. Be revised whenever necessary; and

20 g. Be implemented across service settings by the various people, both paid and natu-
21 ral supports, assisting a participant to reach the participant's goals and dreams.

22 (b) Positive behavior supports shall be provided by a positive behavior support spe-
23 cialist who meets the personnel and training requirements established in Section 3 of

1 this administrative regulation.

2 (c) Behavioral health treatment and positive behavioral supports shall be utilized in a
3 collaborative manner.

4 (d) One (1) unit of positive behavior supports shall equal one (1) plan.

5 (e) Positive behavior supports shall be billed in accordance with 907 KAR 12:020.

6 (18) Residential support services shall:

7 (a) Be authorized for a participant based upon information from the participant's Sup-
8 ports Intensity Scale assessment, Health Risk Screening Tool assessment, and ap-
9 proved person centered POC;

10 (b) Include:

11 1. Level I residential supports;

12 2. Technology assisted level I residential supports; or

13 3. Level II residential supports; and

14 (c) Be documented by a:

15 1. Daily note which shall include:

16 a. Information about how a participant spent the day including any effort toward meet-
17 ing any outcome identified in the participant's POC;

18 b. The date of the service;

19 c. The location of the service;

20 d. The signature and title of the individual providing the service; and

21 e. The date the entry was made in the record;

22 2. Detailed monthly summary note which shall include:

23 a. The month and year for the time period covered by the note;

- 1 b. An analysis of progress toward a participant's outcome or outcomes;
- 2 c. A projected plan to achieve the next step in achievement of an outcome or out-
3 comes;
- 4 d. Information regarding events that occurred that had an impact on a participant's
5 life;
- 6 e. The signature and title of the individual writing the note;
- 7 f. The date the note was written;
- 8 g. The signature, title, and date of documentation review by the direct support profes-
9 sional supervisor providing supervision to the direct support professional.

10 (19)(a) Level I residential supports shall:

- 11 1. Be furnished in a provider-owned or leased residence which complies with the
12 Americans with Disabilities Act based upon the needs of each participant receiving a
13 support in the residence;
- 14 2. Be for a participant who requires a twenty-four (24) hour a day, intense level of
15 support; and
- 16 3. Include no more than five (5) unsupervised hours per day per participant:
 - 17 a. To promote increased independence;
 - 18 b. Which shall be based on the:
 - 19 (i) Needs of the participant as determined by the participant's person centered team;
20 and
 - 21 (ii) Participant's POC;
- 22 4. Include:
 - 23 **a. [(i)]** Adaptive skill development;

- 1 **b.[(ii)]** Assistance with activities of daily living including bathing, dressing, toileting,
2 transferring, or maintaining continence;
- 3 **c.[(iii)]** Community inclusion;
- 4 **d.[(iv)]** Adult education supports;
- 5 **e.[(v)]** Social and leisure development;
- 6 **f.[(vi)]** Protective oversight or supervision;
- 7 **g.[(vii)]** Transportation;
- 8 **h.[(viii)]** Personal assistance; and
- 9 **i.[(ix)]** The provision of medical or health care services that are integral to meeting
10 the participant's daily needs; and

11 5. Be outlined in a participant's POC.

12 (b) Level I residential supports shall be provided by a:

13 1. Staffed residence which:

14 a. Has been certified:

15 (i) By the department to be an SCL waiver provider; and

16 (ii) By DBHDID to provide level I residential supports; and

17 b. Shall have no more than three (3) participants receiving publicly-funded supports

18 in a home leased or owned by the provider;

19 2. Group home which:

20 a. Has been certified:

21 (i) By the department to be an SCL waiver provider; and

22 (ii) By DBHDID to provide level I residential supports; and

23 b. Shall have no more than eight (8) participants in the group home.

1 (c)1. For a participant approved for unsupervised time, a safety plan shall be included
2 in the participant's POC based upon the participant's assessed needs.

3 2. A participant's case manager and other person centered team members shall en-
4 sure that a participant is able to implement a safety plan.

5 3. A participant's case manager shall provide ongoing monitoring of the safety plan,
6 procedures, or assistive devices required by a participant to ensure relevance, the par-
7 ticipant's ability to implement the safety plan, and the functionality of the devices if re-
8 quired.

9 (d) If a participant experiences a change in support needs or status, the participant's
10 person centered team shall meet to make the necessary adjustments in the:

11 1. Participant's POC; and

12 2. Residential services to meet the participant's needs.

13 (e) A level I residential support provider shall employ staff who shall be a:

14 1. Direct support professional; or

15 2. Direct support professional supervisor if providing supervision.

16 (20)(a) Technology assisted residential services shall:

17 1. Be furnished in a provider-owned or leased residence:

18 a. Which complies with the Americans with Disabilities Act based upon the needs of
19 each participant receiving a support in the residence; and

20 b. To three (3) or fewer participants who previously resided in the residence with
21 twenty-four (24) hour staff support;

22 2. Be for a participant who:

23 a. Requires up to twenty-four (24) hour a day of support; and

1 b. Is able to increase his or her level of independence with a reduced need for onsite
2 staff;

3 3. Include, to the extent required for a participant:

4 a. Protective oversight or supervision;

5 b. Transportation;

6 c. Personal assistance; or

7 d. The provision of medical or health care services that are integral to meeting the
8 participant's daily needs;

9 4. Increase a participant's independence without undue risk to the participant's health
10 or safety;

11 5. Be a real-time monitoring system with a two (2) way method of communication
12 linking a participant to a centralized monitoring station; and

13 6. Be allowed to include:

14 a. An electronic sensor;

15 b. A speakers or microphone;

16 c. A video camera which shall not be located in a bedroom or a bathroom;

17 d. A smoke detector; or

18 e. A personal emergency response system.

19 (b)1. A device listed in paragraph (a)6. of this subsection shall link a participant's res-
20 idence to remote staff employed to provide electronic support.

21 2. A technology assisted residential service provider shall have a plan established to
22 ensure that staff is available twenty-four (24) hours a day, seven (7) days a week for a
23 participant or participants receiving services from the provider.

1 (c) Technology shall be used by the technology assisted residential service provider
2 to assist a participant in residing in the most integrated setting appropriate to the partici-
3 pant's needs.

4 (d) The level and types of technology assisted residential services provided to a par-
5 ticipant shall be:

- 6 1. Determined by a participant's person centered team; and
- 7 2. Outlined in a participant's POC.

8 (e) A participant's person centered team shall give careful consideration to the partic-
9 ipant's medical, behavioral, and psychiatric condition in determining the level and types
10 of technology assisted residential services needed for a participant.

11 (f) The use of technology to reduce a participant's need for residential staff support in
12 a residence may be utilized if there is an individualized person centered POC which has
13 been developed to promote a participant's increased independence:

- 14 1. Based on the participant's needs as indicated in the scores and results of the Sup-
15 ports Intensity Scale assessment and Health Risk Screening Tool assessment; and
- 16 2. As recommended by the participant's person centered team.

17 (g)1. If a participant experiences a change in support need or status, the technology
18 assisted residential service provider shall:

19 a. Immediately adjust the participant's supervision to meet any acute need of the par-
20 ticipant; and

21 b. Reassess the appropriateness of technology assisted residential services and
22 make any adjustment, if needed, to meet any chronic support need of the participant.

23 2. Any adjustment shall be made in collaboration with the participant's case manager

1 and person centered team if the adjustment is to be implemented for a period longer
2 than what was determined by the participant's person centered team when developing
3 the participant's POC.

4 (h) A technology assisted residential service provider shall:

5 1. Be responsible for arranging or providing a participant's transportation between the
6 participant's residence and any other service site or community location;

7 2. Employ staff who:

8 a. Shall be a:

9 (i) Direct support professional; or

10 (ii) Direct support professional supervisor if providing supervision; and

11 b. Demonstrate:

12 (i) Proficiency in the individual's ability to operate all monitoring devices utilized in
13 technology assisted residential services; and

14 (ii) The ability to respond appropriately to the needs of participants in a timely man-
15 ner; and

16 3. Have daily contact with a participant.

17 (21)(a) Level II residential supports shall:

18 1. Be for a participant who requires up to a twenty-four (24)-hour level of support;

19 2. Be a support tailored to a participant to assist the participant with acquiring, retain-
20 ing, or improving skills related to living in a community;

21 3. Be designed and implemented to assist a participant to reside in the most integrat-
22 ed setting appropriate to the participant's needs;

23 4. Provide support for a participant up to twenty-four (24) hours a day; and

- 1 5. Be furnished in:
- 2 a. An adult foster care home;
- 3 b. A family home provider; or
- 4 c. A participant's own home;
- 5 (b) Level II residential supports shall be provided by:
- 6 1. An adult foster care provider which:
- 7 a. Has been certified:
- 8 (i) By the department to be an SCL waiver provider; and
- 9 (ii) By DBHDID to provide level II residential supports; and
- 10 b. Shall have no more than three (3) participants who are:
- 11 (i) Aged eighteen (18) years or older; and
- 12 (ii) Receiving publicly-funded supports and living in the home; or
- 13 2. A family home provider which:
- 14 a. Has been certified:
- 15 (i) By the department to be an SCL waiver provider; and
- 16 (ii) By DBHDID to provide level II residential supports; and
- 17 b. Shall have no more than three (3) participants receiving publicly-funded supports
- 18 living in the home.
- 19 (c) A level II residential support provider shall employ staff who shall be a:
- 20 1. Direct support professional; or
- 21 2. Direct support professional supervisor if providing supervision.
- 22 (d) If a participant experiences a change in support need or status, the level II resi-
- 23 dential services provider shall adjust services provided to the participant to meet the

1 participant's altered need or status.

2 (22) Respite:

3 (a) Shall:

4 1. Be provided to a participant who:

5 a. Does not receive residential services;

6 b. Resides in the participant's own home or family's home; and

7 c. Is unable to independently administer self-care;

8 2. Be provided:

9 a. In a variety of settings;

10 b. By a direct support professional~~[who meets the personnel and training re-~~
11 ~~quirements established in Section 3 of this administrative regulation]~~; and

12 c. On a short-term basis due to the absence or need for relief of an individual provid-
13 ing care to a participant;

14 3. Documented by a contact note which shall include:

15 a. The date of the service;

16 b. The beginning and ending time of the service;

17 c. A full description of each service rendered;

18 d. The signature and title of the individual providing the service; and

19 e. The date the entry was made in the record; and

20 4. Not exceed 830 hours per calendar year; and

21 (b) May be participant directed and if participant directed, may be provided by an
22 immediate family member or guardian of the participant in accordance with Sec-
23 tion 5 of this administrative regulation.

1 (23)(a) Shared living shall be a participant directed service designed to:

2 1. Be an alternative to residential support services; **and**

3 2. **Be provided by a shared living caregiver who**~~Allow a participant to live in~~
4 ~~the participant's own home with an unrelated caregiver who:~~

5 ~~a. Resides in the participant's home with the participant; and~~

6 ~~b.]~~ provides some of the participant's supports in exchange for the caregiver's share
7 of room and board expenses.

8 (b) A payment for the portion of the costs of rent or food attributable to an unrelated
9 personal caregiver shall be routed through the financial management agency specifical-
10 ly for reimbursing the participant.

11 (c) If two (2) participants choose to live together in a home, the two (2) may share a
12 caregiver.

13 (d) Depending upon the need of a participant, a caregiver may provide:

14 1. Assistance with the acquisition, retention, or improvement in skills related to activi-
15 ties of daily living; or

16 **2.[b.]** Supervision required for safety or the social and adaptive skills necessary to
17 enable the participant to reside safely and comfortably in the participant's own home.

18 (e) Shared living services shall:

19 1. Address a participant's needs identified in the participant's person centered plan-
20 ning process;

21 2. Be outlined in the participant's POC;

22 3. Be specified in a contractual agreement between the participant and the caregiver;

23 and

1 4. Complement other services the participant receives and enhance increased inde-
2 pendence for the participant.

3 (f) A participant's person centered team shall decide and ensure that the individual
4 who will serve as the participant's caregiver has the experience, skills, training, and
5 knowledge appropriate to the participant and the type of support needed.

6 (g) A participant's caregiver shall meet direct support professional qualifications in
7 accordance with Section **1(24)[1(26)]** of this administrative regulation.

8 (h) Room and board expenses for an unrelated caregiver living with a participant
9 shall be:

10 1. Reflected in the participant's person centered POC; and

11 2. Specified in the contractual agreement between the participant and the caregiver.

12 (i) A payment shall not be made if a participant lives in the caregiver's home or in a
13 residence that is owned or leased by an SCL provider.

14 (j) Documentation shall:

15 1. Be maintained by a participant's case manager; and

16 2. Include:

17 a. A dated monthly summary note that is written by the case manager and details
18 how services were provided according to the contractual agreement and the partici-
19 pant's person centered POC;

20 b. A monthly receipt for the caregiver's room and board expenses that were reim-
21 bursed to the participant;

22 c. The signature and title of the case manager writing the note;

23 d. The date the note was written;

1 e. A signed and dated statement from the participant or the participant's **guardia-**
2 **n[designated representative]** indicating that the participant is satisfied with the ser-
3 vices provided by the caregiver; and

4 **f.[h.]** The signature, title and date of documentation review by the case manager su-
5 pervisor who is supervising the case manager.

6 (k) Shared living shall not exceed \$600 per month.

7 (24)(a) Specialized medical equipment and supplies shall:

8 1. Include a device, control, or appliance specified in a participant's POC which shall:

9 a. Be necessary to ensure the health, welfare, and safety of the participant; or

10 b. Enable the participant to function with greater independence in the home;

11 2. Include assessment or training needed to assist a participant with mobility, seating,
12 bathing, transferring, security, or other skills including operating a wheelchair, a lock, a
13 door opener, or a side lyre;

14 3. Include a computer necessary for operating communication devices, a scanning
15 communicator, a speech amplifier, a control switch, an electronic control unit, a wheel-
16 chair, a lock, a door opener, or a side lyre;

17 4. Include customizing a device to meet a participant's needs;

18 5. Include partial nutrition supplements, special clothing, an enuresis protective
19 chuck; or another authorized supply that is specified in the participant's POC;

20 6. Include an ancillary supply necessary for the proper functioning of an approved
21 device;

22 7. Be identified in a participant's POC;

23 8. Be recommended by one of the following personnel whose signature shall verify

1 the type of specialized equipment or supply that is necessary to meet the participant's
2 need:

3 a. An occupational therapist who meets the personnel and training requirements es-
4 tablished in Section 3 of this administrative regulation;

5 b. A physical therapist who meets the personnel and training requirements estab-
6 lished in Section 3 of this administrative regulation;

7 c. A speech therapist who meets the personnel and training requirements established
8 in Section 3 of this administrative regulation; or

9 d. A certified or licensed practitioner whose scope of practice includes the evaluation
10 and recommendation of specialized equipment or supplies;

11 9. Not include equipment, a supply, an orthotic, prosthetic, service, or item covered
12 under the department's:

13 a. Durable medical equipment program pursuant to 907 KAR 1:479;

14 b. Hearing services program pursuant to 907 KAR 1:038 or 907 KAR 1:039; or

15 c. EPSDT program pursuant to 907 KAR 11:034 or 907 KAR 11:035;

16 10. Be coordinated and documented by a case manager by:

17 a. A description or itemized line item of purchase and cost;

18 b. Receipts for procurements which include the date of purchase;

19 c. The signature and title of the case manager;

20 d. The date the entry was made in the record; and

21 e. The signature, title, and date of the documentation review by the case manager
22 supervisor providing supervision to the case manager.

23 (b) Equipment purchased pursuant to this subsection for a participant shall become

1 the property of the participant.

2 (25) Speech therapy which shall:

3 (a) Be provided by:

4 1. A speech language pathologist who meets the personnel and training require-
5 ments established in Section 3 of this administrative regulation; and

6 2. An order of a physician;

7 (b) Include:

8 1. Include evaluation or therapeutic services that are not available to a participant
9 outside of a 1915(c) home and community based waiver program;

10 2. Speech and language therapy evaluation;

11 3 Individual treatment of voice;

12 4. Communication;

13 5. Auditory processing;

14 6. Therapeutic services for the use of speech-device including:

15 a. Programming and modification; or

16 b. Participant and family education;

17 7. Development of a home treatment or support plan with training and technical as-
18 sistance provided on site to improve the ability of paid and unpaid caregivers to carry
19 out therapeutic interventions;

20 8. As needed, coordination of program-wide support addressing assessed needs,
21 conditions, or symptoms affecting a participant's ability to fully participate in the partici-
22 pant's community;

23 9. Monitoring:

- 1 a. Of the fidelity of data reporting and participant's POC implementation;
- 2 b. Of the effectiveness of the participant's POC;
- 3 c. Of the impact of the participant's POC on the participant, the participant's environ-
- 4 ment and system of supports; and
- 5 d. Which shall be conducted:
- 6 (i) In the settings where the participant's POC is implemented; and
- 7 (ii) Through discussions and observations of people implementing the participant's
- 8 POC; and
- 9 (iii) Through reporting data;
- 10 (c) Preserve abilities for independent function in communication, motor and swallow-
- 11 ing functions, facilitate use of assistive technology, and prevent regression;
- 12 (d) Be delivered in a participant's home or in the participant's community as de-
- 13 scribed in the participant's POC;
- 14 (e) Not be available to a participant under the age of twenty-one (21) years;
- 15 (f) Not supplant educational services available under the IDEA (20 U.S.C. 1401 et
- 16 seq.); and
- 17 (g) Be documented by[=
- 18 ~~4.]~~ a note documenting each contact which shall include:
- 19 **1.[a.]** A full description of each service rendered;
- 20 **2.[b.]** Evidence of **progress toward the participant's outcome or outcomes;**
- 21 **3. Identification of barriers to achievement of outcomes;**
- 22 **4. The projected plan to achieve the next step in achievement of outcomes;**
- 23 **5.[training or service to support an outcome or outcomes designated in the**

1 **participant's POC;**

2 **~~c.]~~** The date of the service;

3 **~~6.[d.]~~** The location of the service;

4 **~~7.[e.]~~** The beginning and ending time of the service;

5 **~~8.[f.]~~** The signature and title of the speech language pathologist providing the ser-
6 vice; and

7 **~~9.[g.]~~** The date the entry was made in the record; and ~~[2. A detailed monthly sum-~~
8 ~~mary note which shall include:~~

9 ~~**a. The month and year for the time period the note covers;**~~

10 ~~**b. Evidence of progress toward the participant's outcome or outcomes;**~~

11 ~~**c. Identification of any barrier to achievement of an outcome or outcomes;**~~

12 ~~**d. The projected plan to achieve the next step in an achievement of an outcome**~~
13 ~~**or outcomes;**~~

14 ~~**e. The signature and title of the speech language pathologist completing the**~~
15 ~~**note; and**~~

16 ~~**f. The date the note was written; and]**~~

17 (h) Be limited to fifty-two (52) fifteen (15) minute units per month.

18 (26)(a) Supported employment shall be funded by the Rehabilitation Act of 1973 (29
19 U.S.C. Chapter 16) or Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401
20 et seq.) for a participant if funding is available under either act for the participant.

21 (b) If the funding referenced in paragraph (a) of this paragraph is not available for a
22 participant, SCL waiver funding may be accessed for the participant for all defined sup-
23 ported employment services when there has been no change in the impact of the partic-

1 participant's disability on the participant's employment.

2 (c) Supported employment shall:

3 1. Be covered for a participant if no change in the impact of a participant's disability
4 on the participant's employment has occurred and:

5 a. A Long-Term Employment Support Plan has been completed and incorporated into
6 the participant's person centered POC; or

7 b. There is documentation of the payment of the supported employment individual
8 outcome placement fee indicating closure of the case by the Office of Vocational Reha-
9 bilitation;

10 2. Be participant directed, if a participant chooses this option;

11 3. Be provided:

12 a. In a variety of settings;

13 b. By a supported employment specialist who:

14 (i) Meets the personnel and training requirements established in Section 3 of this
15 administrative regulation; and

16 (ii) Works for an SCL certified provider that is a vendor of supported employment ser-
17 vices for the Office of Vocational Rehabilitation;

18 c. In accordance with the supported employment policies stated in the current Sup-
19 ports for Community Living Policy Manual, ~~and using the documentation forms spec-~~

20 ~~ified in the Supports for Community Living Policy Manual]~~

21 4. Be delivered on a one (1) to one (1) basis with a participant or indirectly on behalf
22 of a participant;

23 5. Exclude work performed directly for the supported employment provider or other

1 service provider; **and**

2 6. Be coordinated with other applicable 1915(c) home and community based waiver
3 services, if applicable, in support of the participant's employment outcome[; ~~and~~

4 ~~7. Be documented as required in the Supports for Community Living Policy~~
5 ~~Manual].~~

6 (d) Supported employment services delivered on a one-to-one basis and the hours
7 spent by a participant performing paid employment and adult day training shall not ex-
8 ceed:

9 1. Forty (40) hours; or

10 2. 160 units per week.

11 (e) A supported employment service shall be **provided and** documented [~~in accord-~~
12 ~~ance with the Supports for Community Living Policy Manual and]~~ as follows:

13 1. A Person Centered Employment Plan shall be completed by a participant's sup-
14 ported employment specialist and updated as needed as required in the Supports for
15 Community Living Policy Manual;

16 2. A Supported Employment Long-Term Support Plan shall be completed by a partic-
17 ipant's supported employment specialist and updated as needed as required in the
18 Supports for Community Living Policy Manual;

19 3. A Person Centered Employment Plan Activity Note, notes regarding a participant's
20 job development activity, notes regarding a participant's job acquisition or stabilization
21 activity, and notes regarding a participant's long-term employment support activity shall:

22 a. Be completed by a participant's supported employment specialist to document
23 each contact with the participant or action provided on behalf of the participant; and

- 1 b. Contain:
- 2 (i) The date of the service;
- 3 (ii) The beginning time of the service;
- 4 (iii) The ending time of the service;
- 5 (iv) A description of the activity that was conducted;
- 6 (v) The justification of the activity;
- 7 (vi) The results of the activity;
- 8 (vii) The anticipated content of the next activity;
- 9 (viii) The signature of the supported employment specialist who provided the service.
- 10 (27)(a) A transportation service shall:
- 11 1. Enable a participant who chooses to participant direct services to gain access to
- 12 integrated waiver and other community services, activities, resources, and organizations
- 13 typically utilized by the general population; and
- 14 2. Only be provided when transportation is not:
- 15 a. Otherwise and customarily available through natural supports including family,
- 16 friends, neighbors, or community agencies; or
- 17 b. Included as an element of another SCL waiver service;
- 18 3. Include nonemergency travel;
- 19 4. Be clearly described in a participant's POC which shall include information regard-
- 20 ing the unavailability of other transportation services or resources;
- 21 5. Be reimbursable based upon the assessed needs of a participant as specified in
- 22 the participant's POC;
- 23 6. Be provided by a driver who:

1 a. Is at least eighteen (18) years of age and legally licensed ~~[by the Commonwealth~~
2 ~~of Kentucky]~~ to operate the transporting vehicle to which the individual is assigned or
3 owns;

4 b. Has a proof of current liability insurance for the vehicle in which the participant will
5 be transported; and

6 c. Is an individual~~[a neighbor, friend,]~~ or other public transit resource including a
7 local cab or bus service; and

8 7. Not:

9 a. Include transporting a participant to school ~~[[E]through the twelfth grade][F];~~

10 b. Be available to a participant who:

11 (i) Receives transportation as an element of another covered service;

12 (ii) Is receiving a residential service via the SCL waiver program;

13 (iii) Has access to transportation under the Individuals with Disabilities Education Act;

14 or

15 (iv) Customarily receives transportation from a relative.

16 (b) A participant shall not contract with an individual to provide transportation if the
17 individual has a driving under the influence conviction within the past twelve (12)
18 months.

19 (c) A transportation service may be provided by an immediate family member,
20 guardian, or legally responsible individual of the participant in accordance with
21 Section 5 of this administrative regulation.

22 (d) A case manager shall:

23 1. Coordinate transportation services; and

1 2. Ensure that the following documentation is completed and submitted to the finan-
2 cial management [~~services~~]agency for direct payment to the approved vendor:

3 a. The specific type and purpose of transportation provided;

4 b. The date and the beginning and ending time when the service was provided;

5 c. The location of origin of the transportation service, destination of the transportation
6 service, and the mileage incurred from point to point;

7 d. Verification of service delivery, including the first and last name and title (if appli-
8 cable) of the individual providing the service; and

9 e. A receipt from the driver if a bus, taxicab, or similar type of transportation service in
10 which the participant directly purchases the service is utilized.

11 (28)(a) A vehicle adaptation shall:

12 1. Be a device, control, or service that enables a participant to:

13 a. Increase the participant's independence and physical safety; and

14 b. Interact more independently with the participant's environment and reduce the par-
15 ticipant's dependence on physical support from others;

16 2. Be made to a participant's or a participant's family's privately owned vehicle;

17 3. Include

18 a. A hydraulic lift;

19 b. A ramps

20 c. A special seat; or

21 d. An interior modification to allow for access into and out of the vehicle as well as
22 safety while the vehicle is moving;

23 4. Be limited to \$6,000 per five (5) years per participant;

1 5. Be prior authorized by the department in order to be reimbursable by the depart-
2 ment; and

3 6. Be coordinated and documented by a case manager by:

4 a. Documenting an estimate from a vendor determined to be qualified to complete
5 vehicle modifications by the Office of Vocational Rehabilitation;

6 b. Documentation from the Office of Vocational Rehabilitation that the participant is
7 not qualified to receive a vehicle modification from the Office of Vocational Rehabilita-
8 tion;

9 c. A description or itemized line item of purchase and cost;

10 d. A receipt for procurements which shall include the date of purchase;

11 e. Verification by the case manager that the work is complete, adequate, and satis-
12 factory within ten (10) business days of completion before payment is requested and is-
13 sued;

14 f. The signature and title of the case manager; and

15 g. The date the entry was made in the record.

16 (b) The department's SCL program shall be the payer of last resort for a vehicle ad-
17 aptation.

18 (c) The need for a vehicle adaptation shall:

19 1. Be documented in a participant's person centered POC;

20 2. Include an assessment from an occupational therapist or physical therapist spe-
21 cializing in vehicle modifications that result in specific recommendations for the type of
22 modification to meet the needs of the participant.

23 (d) The department shall not reimburse for the repair or replacement costs of a vehi-

1 cle adaptation of a vehicle owned by an SCL provider.

2 (e) A vehicle adaptation vendor shall be in good standing with the Office of the Sec-
3 retary of State of the Commonwealth of Kentucky pursuant to 30 KAR 1:010 and 30
4 KAR 1:020.

5 (f) **An immediate family member, guardian, or legally responsible individual of**
6 **the participant shall not be eligible to be a vendor or provider of a vehicle adapta-**
7 **tion service for the participant**~~[A family member living in the home of a participant~~
8 ~~shall not be reimbursed by the department for a vehicle adaptation provided to~~
9 ~~the participant].~~

10 (g) A ~~[vehicle adaptation~~

11 ~~(h) A]~~case manager shall submit **reimbursement** documentation to the financial
12 management ~~[services] agency~~~~[to make a direct payment to the approved vendor~~
13 ~~for a participant who has chosen to participant direct a vehicle adaptation].~~

14 Section 5. Participant Directed Services (PDS). (1)(a) The **following** services ~~[listed~~
15 ~~in paragraph (c) of this subsection]~~may be participant directed and shall be provided
16 in accordance with the specifications and requirements established in Section 4 of this
17 administrative regulation,~~[and] the Supports for Community Living Policy Manual, and~~
18 **the training requirements specified in paragraph (b) of this subsection.**

19 ~~1.[(b) An individual who provides a service listed in paragraph (c) of this sub-~~
20 ~~section shall meet the provider qualification requirements for the respective ser-~~
21 ~~vice in accordance with Section 4 of this administrative regulation.~~

22 ~~(c)1.]~~ Community access services.

23 2. Community guide services.

- 1 3. Day training.
- 2 4. Personal assistance services.
- 3 5. Respite.
- 4 6. Shared living.
- 5 7. Supported employment.

6 **(b) An individual who provides a participant directed service shall complete the**
7 **following training requirements within six (6) months of the date of hire or of the**
8 **date the individual began providing the service:**

9 **1. First aid and cardiopulmonary resuscitation certification by the American**
10 **Red Cross or the American Heart Association;**

11 **2. If administering or monitoring the administration of a medication, an ap-**
12 **proved DBHDID medication administration curriculum;**

13 **3. Individualized instruction regarding the participant receiving a support;**

14 **4. The following areas of the Kentucky College of Direct Support modules:**

15 **a. Maltreatment of vulnerable adults and children;**

16 **b. Individual rights and choice;**

17 **c. Safety at home and in the community;**

18 **d. Supporting healthy lives;**

19 **e. Person centered planning; and**

20 **5. Other training if required by the participant.**

21 **(2) An individual providing a participant directed service to more than three (3)**
22 **participants in the same household or different households, shall complete all**
23 **provider training requirements as specified in Section 3 of this administrative**

1 regulation.

2 (3)(a) The following services may be participant directed and shall be provided
3 in accordance with the specifications and requirements established in the Sup-
4 ports for Community Living Manual and in Section 4 of this administrative regula-
5 tion:

6 1. Environmental accessibility adaptation services;

7 2. Goods and services;

8 3. Natural supports training;

9 4. Transportation services; or

10 2. Vehicle adaptation services.

11 (b) A participant directed service shall not be available to a participant who re-
12 sides in a living arrangement, regardless of funding source, that is furnished to
13 four (4) or more individuals who are unrelated to the proprietor.

14 ~~(4) An immediate~~[(2) The following services may be participant directed and
15 shall be provided in accordance with the specifications and requirements stated
16 in Section 4 of this administrative regulation:

17 ~~(a) Environmental accessibility adaptation services;~~

18 ~~(b) Goods and services;~~

19 ~~(c) Natural supports training;~~

20 ~~(d) Transportation services; or~~

21 ~~(e) Vehicle adaptation services.~~

22 ~~(3) A]~~ family member or guardian of a participant may provide a support to a partici-
23 pant directed service if:

- 1 (a) Allowed to do so pursuant to Section 4 of this administrative regulation;
- 2 (b) The family member or guardian has the unique abilities necessary to meet the
3 needs of the participant;
- 4 (c) The service is not something normally provided by the family member or guardian
5 to the participant;
- 6 (d) ~~[(The family member or guardian meets the training requirements estab-~~
7 ~~lished in Section 3 of this administrative regulation for the service];~~
- 8 ~~(e)]~~ Delivery of the service by the family member or guardian is cost effective;
- 9 ~~(e)]~~~~(f)]~~ The use of the family member or guardian is age and developmentally appro-
10 priate;
- 11 ~~(f)]~~~~(g)]~~ The use of the family member or guardian enables the participant to:
- 12 1. Learn and adapt to different people; and
- 13 2. Form new relationships;
- 14 ~~(g)]~~~~(h)]~~ The participant learns skills to increase independence;
- 15 ~~(h)]~~~~(i)]~~ Having the family member or guardian provide the service:
- 16 1. Truly reflects the participant's wishes and desires;
- 17 2. increases the participant's quality of life in measurable ways;
- 18 3. Increases the participant's level of independence;
- 19 4. Increases the participant's choices; and
- 20 5. Increases the participant's access to the amount of service hours for needed sup-
21 port; and
- 22 ~~(i)1. [(j)1-]~~ There is no qualified provider within thirty (30) ~~miles~~~~[minutes]~~ from the
23 participant's residence; or

1 2. There is no qualified provider who can furnish the service at the necessary times
2 and places.

3 ~~(5)~~**(4)** A legally responsible individual may provide a service to a participant if:

4 (a) Allowed to do so pursuant to Section 4 of this administrative regulation;

5 (b) The legally responsible individual meets the requirements established for a family
6 member or guardian in subsection (3) of this section;

7 (c) The service exceeds the range of activities that a legally responsible individual
8 would ordinarily provide in a household on behalf of a person:

9 1. Without a disability; and

10 2. Of the same age; and

11 (d) The service is necessary to:

12 1. Assure the health and welfare of the participant; and

13 2. Avoid institutionalization.

14 **(6) An individual serving as a representative for a participant shall not be eligi-**

15 **ble to provide a waiver service to the participant.**~~[(5)(a) An individual who pro-~~

16 ~~vides a participant directed service shall complete the following training require-~~

17 ~~ments within six (6) months of the date of hire or of the date the individual began~~

18 ~~providing the service:~~

19 ~~1. First aid and cardiopulmonary resuscitation certification by the American~~

20 ~~Red Cross or the American Heart Association;~~

21 ~~2. If administering or monitoring the administration of a medication, an ap-~~

22 ~~proved DBHDID medication administration curriculum;~~

23 ~~3. Individualized instruction regarding the participant receiving a support;~~

1 ~~4. The following areas of the Kentucky College of Direct Support modules:~~

2 ~~a. Maltreatment of vulnerable adults and children;~~

3 ~~b. Individual rights and choice;~~

4 ~~c. Safety at home and in the community;~~

5 ~~d. Supporting healthy lives;~~

6 ~~e. Person centered planning; and~~

7 ~~5. Other training if required by the participant.~~

8 ~~(b) The Kentucky College of Direct Support modules training listed in subpara-~~
9 ~~graph 4. of paragraph (a) shall be paid for and facilitated by DBHDID.~~

10 ~~(6) A contracted employee or an individual employed by an agency providing a~~
11 ~~participant-directed support to more than three (3) participants in the same~~
12 ~~household or different households, shall complete all provider training require-~~
13 ~~ments as specified in Section 3 of this administrative regulation.]~~

14 (7) A participant directed reimbursement service shall be provided by a financial
15 management agency with whom the department contracts that shall:

16 (a) Only pay for service identified and prior authorized in a participant's POC;

17 (b) Ensure compliance with all Internal Revenue Service regulations, United States
18 Department of Labor regulations, and Kentucky Department of Workers' Claims regula-
19 tions regarding workers' compensation;

20 (c) Process employer-related payroll and deposit and withhold necessary mandatory
21 employer withholdings;

22 (d) Receive, disburse, and track public funds based on a participant's approved POC;

23 (e) Provide:

- 1 1. A participant and the participant's case manager with payroll reports semi-monthly;
- 2 2. Additional payroll information to a participant's case manager on a per request ba-
- 3 sis; and
- 4 3. Reports to DBHDID.

5 (8)(a) A participant may voluntarily disenroll from a participant directed service at any
6 time.

7 (b) If a participant elects to disenroll from a participant directed service, the partici-
8 pant's case manager shall assist the participant and the participant's guardia-
9 n[designated representative] to locate a traditional waiver service provider of the par-
10 ticipant's choice to provide the service.

11 (c) A participant directed service shall not be terminated until a traditional service
12 provider is ready to provide the service.

13 (9)(a) If case management monitoring reveals that a participant's health, safety, or
14 welfare is being jeopardized, the participant's case manager shall:

15 1. Develop a corrective action plan in conjunction with the participant, the partici-
16 pant's guardian, and any other person centered team member~~[if any other individual~~
17 ~~is on the team]~~; and

18 2. Monitor the progress of the corrective action plan and resulting outcomes to re-
19 solve the health, safety, or welfare issue.

20 (b) If the health, safety, or welfare issue referenced in paragraph (a) of this subsec-
21 tion is not resolved, the participant's case manager, in conjunction with~~[the participant~~
22 ~~and]~~ the participant's person centered team members, shall assist the participant to lo-
23 cate a traditional waiver service provider of the participant's choice to provide the ser-

1 vice.

2 (c) A participant directed service shall not be terminated until a traditional service
3 provider is ready to provide the service.

4 (10) Documentation of a participant directed service shall include:

5 (a) A timesheet; and

6 (b) A note documenting each contact which shall include:

7 1. A full description of each service provided to support an outcome or outcomes in
8 the participant's POC;

9 2. The date of the service;

10 3. The location of the service;

11 4. The beginning and ending time of the service;

12 5. The signature and title of the person providing the service; and

13 6. The date the entry was made in the record; and

14 (c) Any applicable form for each service in accordance with Section 4 of this adminis-
15 trative regulation.

16 Section 6. Incident Reporting Process. (1) The following shall be the two (2) classes
17 of incidents:

18 (a) An incident; or

19 (b) A critical incident.

20 (2) An incident shall be any occurrence that impacts the health, safety, welfare, or
21 lifestyle choice of a participant and includes:

22 (a) A minor injury;

23 (b) A medication error without a serious outcome;

1 (c) A behavior or situation which is not a critical incident.

2 (3) A critical incident shall be an alleged, suspected, or actual occurrence of an inci-
3 dent that:

4 (a) Can reasonably be expected to result in harm to a participant; and

5 (b) Shall include:

6 1. Abuse, neglect, or exploitation;

7 2. A serious medication error;

8 3. Death;

9 4. A homicidal or suicidal ideation;

10 5. A missing person; or

11 6. Other action or event.

12 (4)(a) An incident shall:

13 1. Be documented on an Incident Report; and

14 2. Be immediately assessed for potential abuse, neglect, or exploitation.

15 (b) If an assessment of an incident indicates the potential for abuse, neglect, or ex-
16 ploitation exists:

17 1. The individual who discovered or witnessed the incident shall immediately act to
18 ensure the health, safety, or welfare of the at-risk participant;

19 2. The incident shall immediately be considered a critical incident;

20 3. The critical incident procedures established in subsection (5) of this section shall
21 be followed;

22 4. The SCL provider shall report the incident to the participant's case manager and
23 participant's guardian~~[designated representative]~~ within twenty-four (24) hours of dis-

1 covery of the incident;

2 5. The witness of the incident or discovery agency employee or volunteer shall record
3 details of the incident on an Incident Report form;

4 6. A completed Incident Report form shall be retained on file by the SCL provider;
5 and

6 7. A copy of the completed Incident Report form shall be provided to the case man-
7 agement agency providing case management to the participant.

8 (5) If a critical incident occurs:

9 (a) The individual who witnessed the critical incident or discovered the critical incident
10 shall:

11 1. Immediately act to ensure the health, safety, and welfare of the at-risk participant;

12 2. Immediately report the critical incident to:

13 a. The Department for Community Based Services, Adult Protective Services Branch
14 or Child Protective Services Branch, as applicable:

15 b. The participant's case manager;

16 c. The participant's **guardian[designated representative]**; and

17 d. DBHDID, via fax, if abuse, neglect, or exploitation is suspected; and

18 3. Document the incident on a Critical Incident Report;

19 (b) If the critical incident is not one which requires reporting of abuse, neglect, or ex-
20 ploitation, the critical incident shall be reported within eight (8) hours of discovery to:

21 1. The participant's case manager;

22 2. The participant's **guardian[designated representative]**; and

23 3. To BHDID by fax, unless it occurs after 4:30 p.m. Eastern Standard Time or on a

1 weekend, in which case notification shall be sent to DBHDID on the following business
2 day;

3 (c) The witness of the critical incident or discovery agency employee or volunteer
4 shall record details of the critical incident on an Incident Report form;

5 (d)~~[1-]~~ The SCL provider shall:

6 1. Conduct an immediate investigation and involve the participant's case manager in
7 the investigation; **and**

8 2. Prepare a report of the investigation which shall include:

9 a. Identifying information of the participant involved in the critical incident and the
10 person reporting the critical incident;

11 **b.**~~[2-]~~ Details of the critical incident; and

12 **c.**~~[3-]~~ Relevant participant information including:

13 **(i)**~~[a-]~~ Axis I diagnosis or diagnoses;

14 **(ii)**~~[b-]~~ Axis II diagnosis or diagnoses;

15 **(iii)**~~[c-]~~ Axis III diagnosis or diagnoses;

16 **(iv)**~~[d-]~~ A listing of recent medical concerns;

17 **(v)**~~[e-]~~ An analysis of causal factors; and

18 **(vi)**~~[f-]~~ Recommendations for preventing future occurrences; and

19 (e) The SCL provider shall:

20 1. Maintain the documentation of the critical incident required in this subsection at the
21 SCL provider's site; and

22 2. Provide a copy of the documentation to the case management agency of the par-
23 ticipant's case manager.

- 1 (6) An SCL provider shall submit, by fax, mortality data documentation following a
2 death of a participant receiving services from the SCL provider to DBHDID within four-
3 teen (14) days and include:
- 4 (a) The participant's current plan of care;
 - 5 (b) Any current assessment forms regarding the participant;
 - 6 (c) The participant's medication administration records from all service sites for the
7 past three (3) months along with a copy of each prescription;
 - 8 (d) Progress notes regarding the participant from all service elements for the past
9 thirty (30) days;
 - 10 (e) The results of the participant's most recent physical exam;
 - 11 (f) All incident reports, if any exists, regarding the participant for the past six (6)
12 months;
 - 13 (g) Any medication error report, if any exists, related to the participant for the past six
14 (6) months;
 - 15 (h) A current psychological evaluation of the participant;
 - 16 (i) A full life history of the participating including any update from the last version of
17 the life history;
 - 18 (j) Names and contact information for all staff members who provided direct care to
19 the participant during the last thirty (30) days of the participant's life;
 - 20 (k) Emergency medical services notes regarding the participant if available;
 - 21 (l) The police report if available;
 - 22 (m) A copy of:
 - 23 1. The participant's advance directive, living will, or health care directive if applicable;

1 2. Any functional assessment of behavior or positive behavior support plan regarding
2 the participant that has been in place over any part of the past twelve (12) months; and

3 3. The cardiopulmonary resuscitation and first aid card for any SCL provider's staff
4 member who was present at the time of the incident which resulted in the participant's
5 death;

6 (n) A record of all medical appointments or emergency room visits by the participant
7 within the past twelve (12) months; and

8 (o) A record of any crisis training for any staff member present at the time of the inci-
9 dent which resulted in the participant's death.

10 (7)(a) An SCL provider shall report a medication error to DBHDID by the fifteenth of
11 the month following the error by completing the Medication Error Report Form.

12 (b) An SCL provider shall document all medication error details on a medication error
13 log retained on file at the SCL provider site.

14 Section 7. SCL Waiting List. (1)~~(a)c~~~~[An individual applying for SCL waiver ser-~~
15 ~~vices shall be placed on a statewide waiting list which shall be maintained by~~
16 ~~DBHDID.~~

17 ~~(2) An individual shall be placed on the SCL waiting list based upon the indi-~~
18 ~~vidual's region of origin in accordance with KRS 205.6317(3) and (4).~~

19 ~~(3)(a)~~ In order to be placed on the SCL waiting list, an individual shall submit to
20 DBHDID a completed MAP-620, Application for I/DD Services, which shall include:

21 1. A signature from a physician or an SCL developmental disability professional indi-
22 cating medical necessity;

23 2. A current and valid intellectual or development disability diagnosis, including sup-

1 porting documentation to validate the diagnosis and age of onset; and

2 3. Completion of the Axis I, II, and III diagnoses list.

3 (b) Supporting documentation to validate a diagnosis and age of onset shall include:

4 1. A psychological or psycho-educational report of the assessment results of at least
5 an individual test of intelligence resulting in an intelligence quotient (IQ) score; and

6 2. The results of an assessment of adaptive behavior abilities which has been signed
7 by the licensed psychologist, licensed psychological associate, certified psychologist
8 with autonomous functioning, or certified school psychologist who prepared the report.

9 (c) The IQ test referenced in paragraph (a)2. of this subsection shall:

10 1. Have been conducted before the age of eighteen (18) years for a diagnosis of in-
11 tellectual disability or before the eight of twenty-two (22) years for a diagnosis of a de-
12 velopmental disability; or

13 2. If a record of an IQ score prior to the age of eighteen (18) years for an applicant
14 with an intellectual disability or prior to the age of twenty-two (22) years for an applicant
15 with a developmental disability cannot be obtained, the following shall qualify as sup-
16 porting documentation to validate a diagnosis and age of onset:

17 a. Individual education program documentation which contains an IQ score and a re-
18 port or description of adaptive behavior skills;

19 b. The results of a psychological assessment submitted during the course of guardi-
20 anship proceedings; or

21 c. The results of a current psychological assessment **which** shall:

22 (i) Include evidence of onset prior to the age of eighteen (18) years for an intellectual
23 disability or the age of twenty-two (22) years for a developmental disability obtained

1 through a comprehensive developmental history; and

2 (ii) Provide documentation ruling out factors or conditions which may contribute to
3 diminished cognitive and adaptive functioning, including severe mental illness, chronic
4 substance abuse, or medical conditions.

5 (4) DBHDID shall validate a MAP-620 application information.

6 (5) An individual's order of placement on the SCL waiting list shall be determined by
7 the chronological date of receipt of a completed MAP-620 and by category of need of
8 the individual as established in paragraphs (a) through (c) of this subsection.

9 (a) An individual's category of need shall be the emergency category if an immediate
10 service is needed as determined by any of the following if all other service options have
11 been explored and exhausted:

12 1. Abuse, neglect, or exploitation of the individual as substantiated by DCBS;

13 2. The death of the individual's primary caregiver and lack of alternative primary
14 caregiver;

15 3. The lack of appropriate placement for the individual due to:

16 a. Loss of housing; ~~or~~

17 b. Loss of funding; or

18 c. Imminent discharge from a temporary placement;

19 4. Jeopardy to the health and safety of the individual due to the primary caregiver's
20 physical or mental health status; or

21 5. Imminent or current institutionalization.

22 (b) An individual's category of need shall be the urgent category if an SCL service is
23 needed within one (1) year; and

1 1. There is a threatened loss of the individual's existing funding source for supports
2 within the year due to the individual's age or eligibility;

3 2. The individual is residing in a temporary or inappropriate placement but the indi-
4 vidual's health and safety is assured;

5 3. The individual's primary caregiver has a diminished capacity due to physical or
6 mental status and no alternative primary caregiver exists; or

7 4. The individual exhibits an intermittent behavior or action that requires hospitaliza-
8 tion or police intervention.

9 (c) An individual's category of need shall be classified as future planning if an SCL
10 service is needed in more than one (1) year; and

11 1. The individual is currently receiving a service through another funding source that
12 meets the individual's needs;

13 2. The individual is not currently receiving a service and does not currently need the
14 service; or

15 3. The individual is in the custody of DCBS.

16 (6) A written notification of original placement on the SCL waiting list and any change
17 due to a reconsideration shall be mailed to an individual or the individual's **guardia-**
18 **n[designated representative]** and case management provider if identified.

19 (7) In determining chronological status, the original date of receipt of a MAP- 620
20 shall be maintained and shall not change when an individual is moved from one (1) cat-
21 egory of need to another.

22 (8) If multiple applications are received on the same arrival date, a lottery shall be
23 held to determine placement on the SCL waiting list within each category of need.

1 (9) Maintenance of the SCL waiting list shall occur as follows:

2 (a) The department shall, at a minimum, annually update the waiting list during the
3 birth month of an individual.

4 (b) The individual or individual's guardian~~[designated representative]~~ and case
5 management provider, if identified, shall be contacted in writing to verify the accuracy of
6 the information on the SCL waiting list and the individual's or individual's guardi-
7 an's~~[designated representative's]~~ continued desire to pursue placement in the SCL
8 program.

9 (c) If a discrepancy in diagnostic information is noted at the time of the annual up-
10 date, the department may request a current diagnosis of intellectual or developmental
11 disability signed by a physician or SCL DDP, including documentation supporting the
12 diagnosis.

13 (d) The information referenced in paragraph (c) of this subsection shall be received
14 by the department within thirty (30) days from the date of the written request in order to
15 be considered timely.

16 (10) A reassignment of an individual's category of need shall be completed based on
17 updated information and the validation process.

18 (11) An individual or individual's guardian~~[designated representative]~~ may submit
19 a written request for consideration of movement from one (1) category of need to an-
20 other if there is a change in status of the individual.

21 (12)(a) The criteria for removal from the SCL waiting list shall be:

22 1. After a documented attempt, the department is unable to locate the individual or
23 the individual's guardian~~[designated representative]~~;

1 2. The individual is deceased;

2 3. A review of documentation reveals that the individual does not have an intellectual
3 or a developmental disability diagnosis;

4 4. A notification of potential SCL funding is made and the individual or the individual's
5 **guardian**~~[designated representative]~~ declines the potential funding and does not re-
6 quest to be maintained on the SCL waiting list; or

7 5. Notification of potential SCL funding is made and the individual or the individual's
8 **guardian**~~[designated representative]~~ does not complete the enrollment process with
9 DBHDID nor notify DBHDID of the need for an extension within sixty (60) days of the
10 potential funding notice date.

11 (b)1. A notification of need for an extension for good cause shall consist of a state-
12 ment signed by the individual or the individual's **guardian**~~[designated representative]~~
13 explaining the reason for the delay in accessing services, steps being taken to access
14 services, and expected date to begin utilizing services.

15 2. Upon receipt of documentation, the department shall grant, in writing, one (1) sixty
16 (60) day extension.

17 (13) If a notification of potential SCL funding is made and an individual or the individ-
18 ual's **guardian**~~[designated representative]~~ declines the potential funding but requests
19 to be maintained on the SCL waiting list:

20 (a) The individual shall be placed in the appropriate category on the SCL waiting list;
21 and

22 (b) The chronological date shall remain the same.

23 (14) If an individual is removed from the SCL waiting list, DBHDID shall mail written

1 notification to the:

2 (a) Individual or the individual's **guardian[representative]**; and

3 (b) Individual's case management provider.

4 (15) The removal of an individual from the SCL waiting list shall not prevent the sub-
5 mission of a new application at a later date.

6 (16) An individual shall be allocated potential funding based upon:

7 (a) Category of need;

8 (b) Chronological date of placement on the SCL waiting list; and

9 (c) Region of origin in accordance with KRS 205.6318(3) and (4).

10 (17) To be allocated potential funding, an individual residing in an institution shall
11 meet the following criteria in addition to the criteria established in this section.

12 (a) The individual's treatment professionals determine that an SCL placement is ap-
13 propriate for the individual; and

14 (b) The SCL placement is not opposed by the individual or the individual's **guardia-
15 n[designated representative]**.

16 Section 8. Use of Electronic Signatures. (1) The creation, transmission, storage, or
17 other use of electronic signatures and documents shall comply with:

18 (a) The requirements established in KRS 369.101 to 369.120; and

19 (b) All applicable state and federal statutes and regulations.

20 (2) An SCL service provider choosing to utilize electronic signatures shall:

21 (a) Develop and implement a written security policy which shall:

22 1. Be adhered to by all of the provider's employees, officers, agents, or contractors;

23 2. Stipulate which individuals have access to each electronic signature and password

1 authorization; and

2 3. Ensure that an electronic signature is created, transmitted, and stored in a secure
3 fashion;

4 (b) Develop a consent form which shall:

5 1. Be completed and executed by each individual utilizing an electronic signature;

6 2. Attest to the signature's authenticity; and

7 3. Include a statement indicating that the individual has been notified of his or her re-
8 sponsibility in allowing the use of the electronic signature; and

9 (c) Produce to the department a copy of the agency's electronic signature policy, the
10 signed consent form, and the original filed signature immediately upon request.

11 (3) A participant or participant's **guardian~~designated representative~~** may choose
12 to use an electronic signature and, if choosing to use an electronic signature, shall exe-
13 cute a consent form which shall:

14 1. Be completed and executed by each individual utilizing an electronic signature;

15 2. Attest to the signature's authenticity; and

16 3. Include a statement indicating that the individual has been notified of his or her re-
17 sponsibility in allowing the use of the electronic signature.

18 Section 9. **Employee Policies and Requirements Apply to Subcontractors. Any**
19 **policy or requirement established in this administrative regulation regarding an**
20 **employee shall apply to a subcontractor.**

21 **Section 10.** Appeal Rights. (1) An appeal of a department decision regarding a Med-
22 icaid beneficiary based upon an application of this administrative regulation shall be in
23 accordance with 907 KAR 1:563.

1 (2) An appeal of a department decision regarding Medicaid eligibility of an individual
2 based upon an application of this administrative regulation shall be in accordance with
3 907 KAR 1:560.

4 (3) An appeal of a department decision regarding a provider based upon an applica-
5 tion of this administrative regulation shall be in accordance with 907 KAR 1:671.

6 (4) The department shall not grant an appeal regarding a category of need determi-
7 nation made pursuant to Section 7 of this administrative regulation.

8 Section **11.[10.]** Incorporation by Reference. (1) The following material is incorpo-
9 rated by reference:

10 (a) The "Supports for Community Living Policy Manual", **November[July]** 2012 edi-
11 tion;

12 (b) The "Person Centered Plan of Care", **November[July]** 2012 edition;

13 (c) The "Supported Employment Long-Term Support Plan", December 2011 edition;

14 (d) The "Critical Incident Report", **November 2012[August 13, 2012]** edition;

15 (e) The "Incident Report", **November 2012[August 13, 2012]** edition;

16 (f) The "Person Centered Employment Plan", March 2012 edition;

17 (g) The "Person Centered Employment Plan Activity Note", July 2012 edition; and

18 (h) The "Medication Error Report Form", August 2012 edition.

19 (2) This material may be inspected, copied, or obtained, subject to applicable copy-
20 right law, at the Department for Medicaid Services, 275 East Main Street, Frankfort,
21 Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the depart-
22 ment's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

23

1 LAWRENCE KISSNER, Commissioner

2 AUDREY TAYSE HAYNES, Secretary

3 APPROVED BY AGENCY: November 14, 2012

4 FILED WITH LRC: November 14, 2012 at 3 p.m.

5 CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-
6 B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

7
8 REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
9

10 Contact Person: Claudia Johnson (502) 564-7702, Dr. Stephen Hall (502) 564-4527 or
11 Stuart Owen (502) 564-4321

12 (1) Provide a brief summary of:

13 (a) What this administrative regulation does: This administrative regulation establish-
14 es the service and coverage policies for the Medicaid Supports for Community Living
15 (SCL) waiver program. The SCL program enables individuals with an intellectual or de-
16 velopmental disability to live, and receive services, in a community rather than in an in-
17 stitution.

18 (b) The necessity of this administrative regulation: The administrative regulation is
19 necessary to establish reimbursement policies for the Medicaid SCL waiver program.

20 (c) How this administrative regulation conforms to the content of the authorizing stat-
21 utes: The administrative regulation conforms to the content of the authorizing statutes
22 by establishing Medicaid SCL waiver program reimbursement policies.

23 (d) How this administrative regulation currently assists or will assist in the effective
24 administration of the statutes: This administrative regulation assists in the effective ad-
25 ministration of the authorizing statutes by establishing Medicaid SCL waiver program re-
26 imbursement policies.

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

29 (a) How the amendment will change this existing administrative regulation: This is a
30 new administrative regulation; however, it's implementing a new version of an existing
31 program – the Medicaid SCL waiver program. Current SCL waiver participants will tran-
32 sition from the current SCL waiver to the new version during their annual person cen-
33 tered planning meeting which occurs during the month of the participant's next birthday.
34 No participant will lose services due to this transition.

35 All services provided under the current SCL waiver program regulation(907 KAR
36 1:145) will be available in some form in this new administrative regulation except that
37 fiscal management will be an administrative function rather than a service provided by
38 an SCL waiver provider. Several of the current services have been renamed. 907 KAR
39 1:145 offers three similar services called adult day training on site, adult day training off
40 site, and children's day habilitation. These services will be deleted and replaced, under
41 this administrative regulation, with day training which encompasses all three previous
42 services. 907 KAR 1:145 offers a service called community living supports which in-
43 cludes training or assistance to an individual who does not receive residential supports
44 and can include a variety of activities designed to increase independence both in the
45 home and in the community. This administrative regulation replaces this one service
46 with two services - personal assistance and community access. Personal assistance is

1 designed to enable SCL waiver program participants to accomplish tasks that they nor-
2 mally would do for themselves if they did not have a disability. Community access is de-
3 signed to support the participant in meaningful routines, events, and organizations in the
4 community. These services are designed to result in increased ability to access com-
5 munity resources by natural or unpaid supports. 907 KAR 1:145 includes residential
6 supports which take place in four settings, staffed residence, group home, family home
7 provider, and adult foster care. This administrative regulation replaces this service with
8 two residential supports - level I and II and each has two levels of supervision. Level I
9 residential supports will be in a provider owned residence and level II will be in a non-
10 provider owned residence. Level II supports will also give the option of residential sup-
11 ports in the recipient's own home. A third residential support, technology assisted resi-
12 dential supports will also be offered to anyone currently in a staffed residence as a less
13 restrictive alternative. This administrative regulation introduces a new service for partici-
14 pants living in their own home called shared living which will also be offered as another
15 option to increase independence and choice. The support broker service in the current
16 regulation will be replaced with a community guide service which will be optional for an-
17 yone choosing to self direct any or all of their services. Fiscal management will no long-
18 er be a covered service, but will provided through a contract with a single entity that will
19 provide it for all participants who choose to direct any of their services. 907 KAR 1:145
20 includes behavior supports which is being replaced with three (3) distinct services - pos-
21 itive behavior supports, consultative clinical and therapeutic services, and person cen-
22 tered coaching. Positive behavior supports is designed to assist the individual with sig-
23 nificant, intensive challenges that interfere with activities of daily living, social interac-
24 tion, work or volunteer situations. These services provide for the analysis of data col-
25 lected during the functional assessment of behavior which is the basis for development
26 of a positive behavior support plan for the acquisition or maintenance of skills for com-
27 munity living and behavioral intervention for the reduction of maladaptive behaviors.
28 Consultative clinical and therapeutic service provides expertise, training and technical
29 assistance to improve the ability of paid and unpaid caregivers to carry out therapeutic
30 interventions. Through this service, a professional may complete an assessment of the
31 individual, their environment and system of supports; provide recommendations; and
32 participate in development/revision of components of a participant's person-centered
33 plan. Individuals may need this service to coordinate program wide support addressing
34 assessed needs, conditions or symptoms affecting their ability to fully participate in their
35 community. Person centered coaching is an individualized service of monitoring, train-
36 ing, and assessing effectiveness of person centered planning. These services provide
37 for modeling, monitoring, assessing and implementing the person centered plan. The
38 person centered coach is responsible for training the individual, family, guardian, natural
39 and paid supports as well as other team members who are recognized as an integral
40 part of person centered planning when barriers challenge the success of the individual
41 in achieving their goals. The remaining services - respite, supported employment, occu-
42 pational therapy, speech therapy, physical therapy, specialized medical equipment,
43 goods and services - remain in the new regulation with some revision. New services es-
44 tablished in this administrative regulation include community transition, transportation,
45 environmental accessibility, vehicle adaptation, and natural support training. The term
46 "consumer direction" is being replaced with "participant direction" with no change in

1 function. Participant direction is the term utilized by the Centers for Medicare and Medi-
2 caid Services (CMS) who approved the 1915(c) home and community based waiver
3 which federally authorizes this program.

4 Amendments after comments include: deleting the terms "certified social worker" and
5 "licensed social worker" as "licensed clinical social worker" is the only appropriate term;
6 deleting "designated representative" as "guardian" is the appropriate term; removing the
7 term "subcontractor" from the definition of "employee" (in response to public comments)
8 as the two are not identical; clarifying that an extended family member cannot be a
9 shared living caregiver; redefining "National Core Indicators" in response to public
10 comment; establishing that a person centered coach "monitors", rather than "assesses",
11 the effectiveness of a participant's person centered plan of care (in response to public
12 comment); eliminated the eligibility requirement that an individual must be placed on the
13 SCL waiting list (in response to public comment); stated that a Support Intensity Scale
14 assessment must be done once every twenty-four (24) months rather than once every
15 twelve (12) months in order to correct the policy (this assessment will be performed by
16 the department rather than a service provider); deleted the statement that "(4) The de-
17 partment may exclude from receiving an SCL waiver service an applicant for whom the
18 aggregate cost of SCL waiver services would reasonably be expected to exceed the
19 cost of ICF-IID services" (in response to public comment) as the statement is incon-
20 sistent with the waiver approved by CMS; clarifying that an individual who provides a
21 transportation service to an SCL participant must have a driver's license rather than a
22 Kentucky driver's license; removed the requirement that a case manager must be the
23 staff who provides training on the individualized needs of a participant (in response to
24 public comment); removed the requirement for a community access specialist to meet
25 the SCL personnel and training requirements (in response to public comments); re-
26 moved licensed practical nurses from being eligible providers of consultative clinical and
27 therapeutic services (in response to public comment as it was erroneously included as a
28 provider type); removed the monthly summary requirement for consultative clinical and
29 therapeutic services (in response to public comments); revised the policies and descrip-
30 tion of a day training service to include "pre-vocational" activity as an allowable day
31 training activity (in response to public comments) and deleted the statement that a day
32 training activity shall not be reimbursable "if the participant is earning less than the cus-
33 tomary wage and level of benefits paid by an employer for the same or similar work per-
34 formed by individuals without disabilities" (in response to public comments); removed
35 the requirement that natural supports training must be provided by someone who meets
36 the SCL waiver personnel and training requirements (in response to public comment);
37 removed the monthly summary requirement for occupational therapy, physical therapy
38 and speech therapy (in response to public comments); no longer require a positive be-
39 havior support specialist to supervise a person centered coach but rather establish that
40 a person centered coach must work under the direction of a positive behavior support
41 specialist or other licensed professional (in response to public comments); establish that
42 a person centered coach must do a summary of services provided rather than an analy-
43 sis of the efficacy of services provided (in response to public comment); clarified that a
44 transportation service to be provided by an immediate family member, guardian, or le-
45 gally responsible individual of a participant; adding "loss of funding" as a criteria which
46 would qualify an individual to be in the emergency category of the SCL waiting list (in

1 response to public comment); revised the conflict free case management policy from
2 being that an exemption to conflict of interest would be granted if no independent case
3 manager is located within thirty (30) miles [rather than (thirty (30) minutes] OR (rather
4 than and) the participant's relationship with the case manager has lasted at least one
5 (1) year; and allowing immediate family members or guardians of participants to provide
6 support to participant directed services if no qualified provider is located within thirty
7 (30) miles [rather than thirty (30) minutes] of the participant.

8 (b) The necessity of the amendment to this administrative regulation: This is a new
9 administrative regulation which amends an existing SCL waiver program. The SCL
10 waiver program amendments result from recommendations from a coalition including
11 advocates, various other stakeholders, the Department for Behavioral Health and Intel-
12 lectual Disabilities (DBHDID) and the Department for Medicaid Services (DMS). The in-
13 tent of the new SCL waiver program is to offer a greater opportunity for program partici-
14 pants to realize individual goals; to ensure that participants in the program are healthy,
15 safe and respectful in their community; that participants are able to live in their respec-
16 tive communities with effective and individualized assistance; and that participants enjoy
17 living and working in their respective communities. The coalition identified new services
18 or service modifications, program changes and system changes that will lead to better
19 identification of individual's needs which will assist in developing person-centered plans
20 for the individuals. Additionally, enhanced education and training requirements (of pro-
21 viders) will improve provider competency and continuity of care resulting in positive
22 supports for participants that are important to and for the participants.

23 Many of the amendments after comments are being made in response to public
24 comments or are clarifications (to eliminate confusion or calm fears or concerns about
25 individuals having choice in the services they can receive in the new version of the SCL
26 waiver) or are corrections of statements that were in the initial version of the administra-
27 tive regulation. Several amendments lessen the administrative burden on providers and
28 several provide participants or providers with more flexibility.

29 (c) How the amendment conforms to the content of the authorizing statutes: This is a
30 new administrative regulation which will conform to the content of the authorizing stat-
31 utes by implementing a new version of the SCL waiver program which has been ap-
32 proved by the Centers for Medicare and Medicaid Services (CMS.) The amendments af-
33 ter comments will conform to the content of the authorizing statutes by eliminating con-
34 fusion, lessening the administrative burden on providers, and inserting more flexibility
35 into the program.

36 (d) How the amendment will assist in the effective administration of the statutes: This
37 is a new administrative regulation which will assist in the effective administration of the
38 authorizing statutes by implementing a new version of the SCL waiver program which
39 has been approved by the Centers for Medicare and Medicaid Services (CMS.) The
40 amendments after comments will assist in the effective administration of the authorizing
41 statutes by eliminating confusion, lessening the administrative burden on providers, and
42 inserting more flexibility into the program.

43 (3) List the type and number of individuals, businesses, organizations, or state and
44 local government affected by this administrative regulation: Providers and recipients of
45 SCL waiver services will be affected by the amendment. Currently, there are 202 SCL
46 waiver service providers and as of November 1, 2012 there were 3,696 individuals re-

1 ceiving services via the SCL waiver program.

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

5 (a) List the actions that each of the regulated entities identified in question (3) will
6 have to take to comply with this administrative regulation or amendment. SCL waiver
7 service providers will have to comply with provider requirements including that staff
8 meet the required education and training requirements, that services are delivered in
9 the manner required and protecting SCL waiver participants' healthy, safety and wel-
10 fare.

11 (b) In complying with this administrative regulation or amendment, how much will it
12 cost each of the entities identified in question (3). No cost is imposed on providers. Enti-
13 ties becoming providers for the first time may incur new business start-up costs.

14 (c) As a result of compliance, what benefits will accrue to the entities identified in
15 question (3). The new administrative regulation offers individualized, community based-
16 services to divert individuals who have an intellectual disability and otherwise need insti-
17 tutional services (from an intermediate care facility for individuals with an intellectual
18 disability or development disability – ICF/IID) and to support individuals who transition
19 from an ICF/IID to the community. The services are designed to ensure that individuals
20 are safe in their communities and are afforded choices, to create a positive culture that
21 promotes person-centered thinking.

22 (5) Provide an estimate of how much it will cost to implement this administrative regu-
23 lation:

24 (a) Initially: The cost of the SCL waiver program to DMS for the state fiscal year that
25 ended June 30, 2012, was \$264,720,472.60 (state and federal funds combined.) The
26 biennium budget enacted during the 2012 session of the general assembly allocated
27 \$2,200,000 in state funds (to be matched with \$5,311,100 in federal funds) for the state
28 fiscal year beginning July 1, 2012 and ending June 30, 2013 in order to fund 300 more
29 slots in the SCL waiver program.

30 (b) On a continuing basis: The biennium budget allocated \$7,650,100 in state funds
31 to be matched with \$18,326,300 in federal funds for the state fiscal year beginning July
32 1, 2013 and ending June 30, 2014 to fund an additional 300 slots for that state fiscal
33 year.

34 (6) What is the source of the funding to be used for the implementation and enforce-
35 ment of this administrative regulation: Federal funds authorized under the Social Securi-
36 ty Act, Title XIX and state matching funds from general fund and restricted fund appro-
37 priations are utilized to fund the this administrative regulation

38 (7) Provide an assessment of whether an increase in fees or funding will be neces-
39 sary to implement this administrative regulation, if new, or by the change if it is an
40 amendment. Neither an increase in fees nor funding is necessary to implement the
41 amendment.

42 (8) State whether or not this administrative regulation establishes any fees or directly
43 or indirectly increases any fees: The amendment neither establishes nor increases any
44 fees.

45 (9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to
46 the regulated entities and individuals.

1
2 FISCAL NOTE ON STATE OR LOCAL GOVERNMENT
3

4 1. What units, parts or divisions of state or local government (including cities, coun-
5 ties, fire departments, or school districts) will be impacted by this administrative regula-
6 tion? The Department for Medicaid Services will be affected by the amendment to this
7 administrative regulation.

8 2. Identify each state or federal regulation that requires or authorizes the action taken
9 by the administrative regulation. This administrative regulation authorizes the action
10 taken by this administrative regulation.

11 3. Estimate the effect of this administrative regulation on the expenditures and reve-
12 nues of a state or local government agency (including cities, counties, fire departments,
13 or school districts) for the first full year the administrative regulation is to be in effect.

14 (a) How much revenue will this administrative regulation generate for the state or lo-
15 cal government (including cities, counties, fire departments, or school districts) for the
16 first year? The amendment is not expected to generate revenue for state or local gov-
17 ernment.

18 (b) How much revenue will this administrative regulation generate for the state or lo-
19 cal government (including cities, counties, fire departments, or school districts) for sub-
20 sequent years? The amendment is not expected to generate revenue for state or local
21 government.

22 (c) How much will it cost to administer this program for the first year? The cost of the
23 SCL waiver program to DMS for the state fiscal year that ended June 30, 2012, was
24 \$264,720,472.60 (state and federal funds combined.) The biennium budget enacted
25 during the 2012 session of the general assembly allocated \$2,200,000 in state funds (to
26 be matched with \$5,311,100 in federal funds) for the state fiscal year beginning July 1,
27 2012 and ending June 30, 2013 in order to fund 300 more slots in the SCL waiver pro-
28 gram.

29 (d) How much will it cost to administer this program for subsequent years? The bien-
30 nium budget allocated \$7,650,100 in state funds to be matched with \$18,326,300 in
31 federal funds for the state fiscal year beginning July 1, 2013 and ending June 30, 2014
32 to fund an additional 300 slots for that state fiscal year.

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

35 Revenues (+/-):

36 Expenditures (+/-):

37 Other Explanation: