

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office for Children with Special Health Care Needs

3 (New Administrative Regulation)

4 911 KAR 1:090. Appeals.

5 RELATES TO: KRS Chapter 13B, Chapters 311, 319, 334A, 42 U.S.C. 9902, 42 C.F.R.

6 435.603, KRS 194A.030, 200.460 - 200.499, 205.520(3), 205.5606(1), 200.654(13),

7 205.6317, 211.645, 211.647, 213.046(16), 216.2970, 334A.020(5)

8 STATUTORY AUTHORITY: KRS Chapter 13B, and 194A.050(1)

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabi-
10 net for Health and Family Services to promulgate administrative regulations necessary to oper-
11 ate the programs and fulfill the responsibilities vested in the cabinet, to implement programs
12 mandated by federal law, or to qualify for federal funds. This administrative regulation estab-
13 lishes appeal rights for eligibility, procedures for application, assignment of pay category, mini-
14 mum monthly payments, fees, and reporting requirements for OCSHCN patients and diagnostic
15 centers.

16 Section 1. Appeal Rights. An individual, provider, or entity who is affected by an adverse action
17 in KAR Chapter 911, except those actions heard according to 911 KAR 1:060, may request an ad-
18 ministrative hearing with the Cabinet for Health and Family Services Office of the Ombudsman
19 and Administrative Review. A request for

1 an administrative hearing shall be:

2 (1)(a) Mailed to the Office of the Ombudsman and Administrative Review, Quality Advance-

3 ment Branch, 275 E. Main Street, 2 E-O, Frankfort, KY 40621,

4 (b) Emailed to CHFS Listens Inbox at CHFS.Listens@ky.gov, or

5 (c) FAXED to (502) 564-9523, and

6 (2) Received within thirty (30) calendar days from the date of the written notice of the adverse

7 action.

8 (3) The administrative hearing will be conducted in accordance with KRS Chapter 13B.

907 KAR 1:090

REVIEWED:

11/1/2022

Date

DocuSigned by:

Ivanora B. Alexander

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Ivanora Alexander, Executive Director
Office for Children with Special Health Care Needs

APPROVED:

11/1/2022

Date

DocuSigned by:

Eric Friedlander

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Eric C. Friedlander, Secretary
Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on January 23, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by January 16, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until January 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation: 911 KAR 1:090.

Agency Contact: Emily Allen

Phone Number: 502-564-3568

Email: Emily.allen@ky.gov

Contact Person: Krista Quarles

Phone Number: (502) 564-6746

Email: CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes additional directions relating to the Office for Children with Special Health Care Needs appeals hearings.

(b) The necessity of this administrative regulation:

This administrative regulation is needed to ensure that the administrative appeals process is clarified.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation amendment uses KRS Chapter 13B as a base to build the guidance provided in this regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides the exact directions as to how to file an administrative appeal.

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

(a) How the amendment will change this existing administrative regulation:

This is a new regulation.

(b) The necessity of the amendment to this administrative regulation:

This is a new regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

This is a new regulation.

(d) How the amendment will assist in the effective administration of the statutes:

This is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Kentucky Office for Children with Special Health Care Needs; children enrolled in the program and their families; and audiological diagnostic centers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The applicants will know the exact administrative appeals process, without further review.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

This is a new regulation, and no cost will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This new regulation will impact the above in a positive way by identifying the means of appeal.

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

(a) Initially:

None. Services are currently in place and there is no additional cost.

(b) On a continuing basis:

None. Services are currently in place and there is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Maternal and Child Health grant, and State funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There will not be a need for an increase of funding requests to implement these proposed changes.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

No fees will be increased based on this amended regulation.

(9) TIERING: Is tiering applied? (Explain why or why not)

There is no tiering for this program as there are no fees related to this program or regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 911 KAR 1:090 Appeals.

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Phone Number: 502-564-3568

Email: Emily.allen@ky.gov

Contact Person: Krista Quarles

Phone Number: (502) 564-6746

Email: CHFSregs@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Kentucky Office for Children with Special Health Care Needs.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 200.460, KRS 313.035

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

This new regulation will not affect expenditures and revenue. Services are currently in place and there is no additional cost.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This new regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This new regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year?

This new regulation will not require additional costs.

(d) How much will it cost to administer this program for subsequent years?

This new regulation will not require additional costs.

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

Revenues (+/-): 0

Expenditures (+/-): 0

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not generate any cost savings in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not generate any cost savings in subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will not cost regulated entities in the first year.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will not cost regulated entities in subsequent year.

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

Cost Savings(+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]

This administrative regulation will not have a major economic impact.