

STATEMENT OF EMERGENCY

908 KAR 2:300E

This emergency administrative regulation is being promulgated to implement the requirements of KRS 230.826.

This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)3. to immediately begin the process of regulating the administration of the Kentucky Problem Gambling Assistance account. This emergency administrative regulation establishes the process that eligible entities and programs must comply with to receive funds from the account and the process by which these funds may be granted. Additionally, this emergency regulation establishes standards that eligible entities must comply with regarding quality assurance measures that demonstrate the effectiveness of activities, programs, and services.

This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.



Andy Beshear, Governor

DocuSigned by:



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

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Behavioral Health, Developmental and Intellectual Disabilities

3 Division of Behavioral Health

4 (New Emergency Administrative Regulation)

5 908 KAR 2:300E. Kentucky problem gambling assistance account.

6 RELATES TO: KRS 194A.005(1), (3), KRS Chapter 210, KRS 210.410(2), 211.185,

7 309.080(2), 309.130(2), 311.571, 311.840 to 311.862, 314.042, 319.050, 319.056,

8 319.064, 319C.010(6), 335.080, 335.100, 335.300, 335.500,

9 STATUTORY AUTHORITY: KRS 230.826

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.826 requires the secretary

11 of the Cabinet for Health and Family Services to promulgate administrative regulations

12 to establish criteria for the expenditure of funds from the Kentucky problem gambling

13 assistance account to provide support to agencies, groups, organizations, and persons

14 that provide education, assistance, and counseling to persons and families experiencing

15 difficulty as a result of problem gambling, or substance use disorder. These funds may

16 also be used to promote public awareness and assistance of education and programs to

17 reduce the consequences of problem gambling and pay for the costs and expenses as-

18 sociated with treatment of and recovery from problem gambling. This administrative

19 regulation establishes the standards for the types of agencies, groups, organizations,

20 and persons eligible to receive funding, types of eligible activities, required documenta-

1 tion, and the development of performance measures and evidence of successful ex-
2 penditures of awarded funds. KRS 230.826 also requires the establishment of proce-
3 dures for the submission, evaluation, and review of applications for funding; the award-
4 ing of funds; and the cabinet's monitoring of fund expenditures.

5 Section 1. Definitions.

6 (1) "Behavioral health professional" means: (a) A psychiatrist licensed under the laws
7 of Kentucky to practice medicine or osteopathy, or a medical officer of the government
8 of the United States while engaged in the performance of official duties, who is certified
9 or eligible to apply for certification by the American Board of Psychiatry and Neurology,
10 Inc. or the American Osteopathic Board of Neurology and Psychiatry;

11 (b) A physician licensed in Kentucky to practice medicine or osteopathy in accord-
12 ance with KRS 311.571;

13 (c) A psychologist licensed and practicing in accordance with KRS 319.050;

14 (d) A certified psychologist with autonomous functioning or licensed psychological
15 practitioner practicing in accordance with KRS 319.056;

16 (e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

17 (f) An advanced practice registered nurse licensed and practicing in accordance with
18 KRS 314.042;

19 (g) A physician assistant licensed under KRS 311.840 to 311.862;

20 (h) A licensed marriage and family therapist as defined by KRS 335.300;

21 (i) A licensed professional clinical counselor as defined by KRS 335.500;

22 (j) A licensed professional art therapist as defined by KRS 309.130(2); or

23 (k) A licensed behavior analyst as defined by KRS 319C.010(6).

- 1 (2) "Behavioral health professional under clinical supervision" means a:
- 2 (a) Psychologist certified and practicing in accordance with KRS 319.056;
- 3 (b) Licensed psychological associate licensed and practicing in accordance with KRS
- 4 319.064;
- 5 (c) Marriage and family therapist associate as defined by KRS 335.300(3);
- 6 (d) Social worker certified and practicing in accordance with KRS 335.080;
- 7 (e) Licensed professional counselor associate as defined by KRS 335.500(4);
- 8 (f) Licensed professional art therapist associate as defined by KRS 309.130(3); or
- 9 (g) Registered behavior technician under the supervision of a licensed behavior ana-
- 10 lyst.
- 11 (3) "Behavioral Health Services Organization" or "BHSO" means a program licensed
- 12 in accordance with 902 KAR 20:430.
- 13 (4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).
- 14 (5) "Client" means an individual described by KRS 210.410(2).
- 15 (6) "Community mental health center" or "CMHC" or "center" means a program estab-
- 16 lished pursuant to KRS Chapter 210.
- 17 (7) "Department" means the Department for Behavioral Health, Developmental and
- 18 Intellectual Disabilities, Cabinet for Health and Family Services, 275 East Main Street,
- 19 Frankfort, KY 40621.
- 20 Section 2. Eligibility. (1) The following organizations and individuals are eligible to
- 21 apply for funding, to the extent funds are available, from the Kentucky problem gambling
- 22 assistance account:
- 23 (a) A CMHC licensed in accordance with 902 KAR 20:091;

1 (b) A BHSO licensed in accordance with 902 KAR 20:430:

2 (c) A Behavioral health professional;

3 (d) A health department established pursuant to KRS 211.185; or

4 (e) A federally designated 501(c)3 organization.

5 (2) Applications for funding must be for at least one (1) of the following activities:

6 (a) Providing support to agencies, groups, organizations, and persons that provide
7 education, assistance, and counseling to persons and families who experience difficulty
8 as a result of substance use disorder, or problem or compulsive gambling;

9 (b) Promoting public awareness of, and providing education about, problem gam-
10 bling;

11 (c) Establishing and funding programs to certify problem gambling counselors; or

12 (d) Promoting public awareness of assistance programs for those experiencing con-
13 sequences of problem gambling.

14 Section 3. Application for Funding. (1) Entities that meet the eligibility requirements
15 established in Section 2(1) of this administrative regulation shall submit a "Kentucky
16 Gambling Assistance Application" with the required supporting documentation to the
17 Department for Behavioral Health, Developmental, and Intellectual Disabilities, atten-
18 tion: Problem Gambling Assistance Account:

19 (a) In writing to 275 East Main Street, mail-stop 4W-G, Frankfort, Kentucky 40621; or

20 (b) Via electronic mail to kyproblemgamblingassistance@ky.gov.

21 Section 4. Monitoring. (1) Recipients of funds from the Kentucky problem gambling
22 assistance account shall:

23 (a) Establish and conduct evaluation measures that assess the efficacy of services

1 provided;

2 (b) Collect and report the following data:

3 1. The number of individuals served;

4 2. Types of services provided to individuals served; and

5 3. Detailed costs for the number of individuals served and the services provided dur-
6 ing the reporting period.

7 (c) Submit quarterly reports meeting the requirements established in this section of
8 the administrative regulation:

9 1. To the Department for Behavioral Health, Developmental, and Intellectual Disabili-
10 ties, attention: Problem Gambling Assistance Account, 275 East Main Street, mail-stop
11 4W-G, Frankfort, Kentucky 40621; or

12 2. Via electronic mail to kyproblemgamblingassistance@ky.gov.

13 Section 5. Treatment professional certification. (1) Qualified behavioral health
14 providers seeking certification from a cabinet-approved, nationally or internationally rec-
15 ognized certifying organization shall:

16 (a) Have at a minimum a bachelor's degree or equivalent in a behavioral health field;

17 (b) Have current Kentucky licensure in substance use disorder counseling, or mental
18 health counseling or equivalent work experience;

19 (c) Complete fifteen (15) hours of training on problematic and disordered gaming
20 prevention, assessment, and co-occurring issues for individuals and families by an ap-
21 proved trainer;

22 (d) Complete fifty (50) direct contact hours addressing the issues, prevention and
23 early intervention, co-occurring and when to refer for individuals and families with a

1 gaming disorder;

2 (e) Complete a minimum of four (4) consultation hours with an approved consultant

3 from the certifying organizations board;

4 (f) Complete all application materials, ethical statement, and directory authorization

5 forms required by the certifying organization;

6 (g) Pass any examination required by the cabinet-approved certifying organization;

7 and

8 (h) Pay fees associated for the completion of certification to the certifying organiza-

9 tion.

10 (2) To the extent funds are available, individuals may apply for reimbursement for any

11 fees paid after successful completion of certification from a cabinet-approved certifying

12 organization by submitting an application to the department for reimbursement.

13 Section 6. Department Responsibilities. (1) The department shall publish on the

14 department website:

15 (a) Certified treatment providers for individuals experiencing the consequences of

16 problem gambling; and

17 (b) Problem gambling treatment and recovery services and resources;

18 Section 7. Incorporation by reference. (1) "Kentucky Gambling Assistance Appli-

19 cation", 07/23, is incorporated by reference.

20 (2) This material may be inspected, copied, or obtained, subject to applicable copy-

21 right law, at the Department for Community Based Services, 275 East Main Street,

22 Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material

23 may also be viewed on the departments Website at

1 <https://www.chfs.ky.gov/agencies/dbhdid/Pages/default.aspx>.

908 KAR 3:200 E

REVIEWED:

DocuSigned by:
Katherine R Marks 7/13/2023
E7D4E99E127240F
Katherine R. Marks, Ph. D., Commissioner Date
Department for Community Based Services

APPROVED:

DocuSigned by:
Eric Friedlander 7/13/2023
0A2A1D6C1306431
Eric C. Friedlander, Secretary Date
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 September 25, 2023 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 September 18, 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 September 30, 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: 908 KAR 2:300E
Agency Contact: Rachael Ratliff
Phone Number: (502)782-7212
Email: Rachael.ratliff@ky.gov

Cabinet Contact: Krista Quarles
Phone Number: (502) 564-6746
Email: CHFSregs@ky.gov CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the requirements and standards for the administration of the Kentucky problem gambling assistance fund.

(b) The necessity of this administrative regulation:

The administrative regulation is needed to establish the requirements and standards for the administration of the Kentucky problem gambling assistance fund.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes through fulfilling the requirements in KRS 230.285 establishing the standards and requirements for the administration of the Kentucky problem gambling assistance fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the authorizing statutes through fulfilling the requirements in KRS. 230.826 by establishing the standards and requirements for the administration of the Kentucky problem gambling assistance fund.

(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 administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

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

According to the Kentucky Council on Problem Gambling, over 100,000 Kentucky adults exhibit problem gambling traits, and more than 45,000 Kentucky adults struggle with addiction to gambling. Currently, there are seven practicing mental health professionals certified to treat gambling disorder in Kentucky.

(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 regulated entities will need to meet the criteria established in the statute and submit the required application and supporting documentation for an opportunity to receive funding.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs associated with the application for funding opportunities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated entities will experience certification and an increased opportunity for funding for programming designed to address and treat behaviors associated with problem gambling.

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

(a) Initially: The Department for Behavioral Health, Developmental, and Intellectual Disabilities has been allocated up to \$50,000 annually from the problem gambling assistance account for the administration of the fund and associated activities. This amount would provide for approximately .5 FTE costs.

(b) On a continuing basis: The Department for Behavioral Health, Developmental, and Intellectual Disabilities has been allocated up to \$50,000 annually from the problem gambling assistance account for the administration of the fund and associated activities. This amount would provide for approximately .5 FTE costs.

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

This administrative regulation will be implemented with funds from the Kentucky problem gambling assistance account and state general 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:

The new administrative regulation may result in an increased need for funding dependent upon the request from the impacted entities. This impact is unknown at this time.

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

This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because this administrative regulation will be applied in a like manner statewide.

FISCAL NOTE

Administrative Regulation: 908 KAR 2:300E
Agency Contact: Rachael Ratliff
Phone Number: (502)782-7212
Email: Rachael.ratliff@ky.gov

Cabinet Contact: 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?

The Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.
2023 Ky. Acts ch.147, sec. 2.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The Department for Behavioral Health, Developmental, and Intellectual Disabilities has been allocated up to \$50,000 annually from the problem gambling assistance account for the administration of the fund and associated activities. This amount would provide for approximately .5 FTE costs.

(d) How much will it cost to administer this program for subsequent years? The Department for Behavioral Health, Developmental, and Intellectual Disabilities has been allocated up to \$50,000 annually from the problem gambling assistance account for the administration of the fund and associated activities. This amount would provide for approximately .5 FTE costs.

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

Revenues (+/-):

Expenditures (+/-):
Other Explanation:

(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 cost savings for the regulated entities 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 cost saving for the regulated entities in subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation should not cost regulated entities in the first year for the provision of already established services. Any other related costs through the development of programming, certification, or services would be eligible for reimbursement through the Kentucky problem gambling assistance fund.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation should not cost regulated entities in subsequent years for the provision of already established services. Any other related costs through the development of programming, certification, or services would be eligible for reimbursement through the Kentucky problem gambling assistance fund.

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 should not have a major economic impact.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR BEHAVIORAL HEALTH, INTELLECTUAL AND
DEVELOPMENTAL DISABILITIES

908 KAR 2:300 E
Kentucky Problem Gambling Assistance Fund
Summary of Material Incorporated by Reference

1. The Form "Kentucky Gambling Assistance Application", 07/23, incorporated by reference, is used to apply for funds made available in the Kentucky problem gambling assistance account. This form contains (3) pages.

The total number of pages incorporated by reference for this administrative regulation is (3) pages.