

**205.5606 Kentucky Independence Plus Through Consumer-Directed Services Program -- Consumer participation -- Responsibilities of cabinet and fiscal intermediary -- Background screening -- Regulations.**

- (1) The Cabinet for Health and Family Services shall establish the Kentucky Independence Plus Through Consumer-Directed Services Program that shall provide an option within each of the home and community-based services waivers. The option within each of the waiver programs shall be based on the principles of consumer choice and control and that shall be implemented upon federal approval, if required. The program shall allow enrolled persons to assist with the design of their programs and choose their providers of services and to direct the delivery of services to meet their needs.
- (2) The cabinet shall establish interagency cooperative agreements with any state agency as needed to implement and administer the program.
- (3) A person who is enrolled in a Medicaid home and community-based waiver program may choose to participate in the consumer-directed services program.
- (4) A consumer shall be allocated a monthly budget allowance based on the results of his or her assessed functional needs, his or her person-centered plan, and the financial resources of the program. The budget allowance shall be disbursed directly from a cabinet-approved fiscal intermediary on behalf of the consumer. The cabinet shall develop purchasing guidelines to assist each consumer in using the budget allowance to purchase needed, cost-effective services.
- (5) A consumer shall use the budget allowance to pay for nonresidential and nonmedical home and community-based services and supports that meet the consumer's needs and that constitute a cost-effective use of funds.
- (6) A consumer shall be allowed to choose providers of services, including but not limited to when and how the services are provided. A provider may include a person otherwise known to the consumer, unless prohibited by federal law.
- (7) If the consumer is the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:
  - (a) Developing a job description;
  - (b) Selecting providers and submitting information for any required background screening;
  - (c) With assistance of the cabinet or its agents, developing a person-centered plan and communicating needs, preferences, and expectations about services being purchased;
  - (d) Providing the fiscal intermediary with all information necessary for provider payments and tax requirements; and
  - (e) Ending the employment of an unsatisfactory provider.
- (8) If a consumer is not the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:
  - (a) With assistance of the cabinet or its agents, developing a person-centered plan and communicating needs, preferences, and expectations about services being

- purchased;
- (b) Ending the services of an unsatisfactory provider; and
  - (c) Providing the fiscal agent with all information necessary for provider payments and tax requirements.
- (9) The roles and responsibilities of the cabinet or its agents shall include but not be limited to the following:
- (a) Assessing each consumer's functional needs, helping with the development of a person-centered plan, and providing ongoing assistance with the plan;
  - (b) Offering the services of service advisors who shall provide training, technical assistance, and support to the consumer as prescribed through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A;
  - (c) Approving fiscal intermediaries; and
  - (d) Establishing the minimum qualifications for all providers and being the final arbiter of the fitness of any individual to be a provider.
- (10) The fiscal intermediary's roles and responsibilities shall include but not be limited to the following:
- (a) Providing recordkeeping services, including but not limited to maintaining financial records as required through administrative regulation promulgated in accordance with KRS Chapter 13A by the Cabinet for Health and Family Services; and
  - (b) Retaining the consumer-directed funds, processing employment and tax information, if any, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks.
- (11) (a) Each person who provides services or supports under this section shall comply on an annual basis with any required background screening. A person shall be excluded from employment upon failure to meet the background screening requirements unless otherwise exempted through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.
- (b) The service advisor shall, as appropriate, complete background screening as required by this section.
- (12) For purposes of this section, a person who has undergone screening, is qualified for employment under this section, and has not been unemployed for more than one hundred eighty (180) days following the screening shall not be required to be rescreened. Such person must attest under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening.
- (13) To implement this section:
- (a) The cabinet shall be authorized to promulgate necessary administrative regulations in accordance with KRS Chapter 13A; and
  - (b) The cabinet shall take all necessary action to ensure state compliance with federal regulations. The cabinet shall apply for any necessary federal waivers or federal waiver amendments to implement the program within three (3)

months following July 13, 2004, pending availability of funding.

- (14) The cabinet, with consumer input, shall review and assess the implementation of the consumer-directed program. By January 15 of each year, the cabinet shall submit a written report to the General Assembly that includes the review of the program and recommendations for improvements to the program.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 99, sec. 235, effective June 20, 2005. -- Created 2004 Ky. Acts ch. 60, sec. 2, effective July 13, 2004.