CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Quality Living
(Amended at ARRS Committee)

910 KAR 1:180. Homecare program for the elderly.

RELATES TO: KRS 13B.010-13B.170, 194A.700(1), (7), 205.010(6), 205.201, 205.203, 205.455-465, 209.030(2), (3), 42 U.S.C. Chapter 35

STATUTORY AUTHORITY: KRS 194A.050(1), 205.204(2)

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. Chapter 35 authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194A.050(1) authorizes the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds. KRS 205.204 designates the cabinet as the state agency to administer 42 U.S.C. Chapter 35 in Kentucky and promulgate administrative regulations for this purpose. This administrative regulation establishes the standards of operation for a homecare program for elderly persons in Kentucky.

Section 1. Definitions.

(1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Area plan" means the plan that:

(a) Is submitted by a district for the approval of the department; and

(b) Releases funds under contract for the delivery of services within the planning and service area.

(3) "Assessment" means the collection and evaluation of information about a person's situation and functioning to determine the applicant's or recipient's service level and development of a plan of care utilizing a holistic, person-[]centered approach by a qualified case manager.

(4) "Case management" means a process, coordinated by a case manager, for linking a client to appropriate, comprehensive, and timely home or community based services as identified in the plan of care by:

(a) Planning;

(b) Referring;

(c) Monitoring;

(d) Advocating; and

(e) Following the timeline of the assessment agency to obtain:

1. Service level; and

2. Development of the plan of care.

(5) "Case management supervisor" means an individual:

(a) Meeting the requirements of Section 5(1)(a) of this administrative regulation; and

(b) Who has four (4) years or more experience as a case manager.

(6) "Case manager" means the individual employee responsible for:

(a) Coordinating services and supports from all agencies involved in providing services required by the plan of care;

(b) Completing the initial assessment, plan of care, and annual reassessment;

(c) Ensuring all service providers have a working knowledge of the plan of care; and

(d) Ensuring services are delivered as required.

(7) "Case record" means the collection of information, documents, demographics, and required information maintained in the Aging Services tracking data system.

(8) "Department" means the Department for Aging and Independent Living.

(9) "District" is defined by KRS 205.455(4).

(10) "Extraordinary out-of-pocket expenses" means medical expenses not covered by insurance including:

(a) Copays;

(b) Deductibles;

(c) Prescriptions;

(d) Premiums for medical insurance; or

(e) Other medical, dental, or vision cost incurred as a result of medically necessary treatments or procedures.

(11) "Homecare services" means services that:

(a) Are:

1. Provided to an eligible individual who is a "functionally impaired elderly person" as defined by KRS 205.455(7); and

2. Directed to the individual established in subparagraph 1 of this paragraph toward:

a. Prevention of unnecessary institutionalization; and

b. Maintenance in the least restrictive environment, excluding residential facilities; and

(b) Include:

1. "Chore services" as defined by KRS 205.455(1);

2. "Core services" as defined by KRS 205.455(2);

3. "Escort services" as defined by KRS 205.455(5);

4. "Home-delivered meals" as defined by KRS 205.455(8);

5. "Home-health aide services" as defined by KRS 205.455(9);

6. "Homemaker services" as defined by KRS 205.455(10);

7. "Home repair services" as defined by KRS 205.455(11);

8. "Personal care services" as defined by subsection (16) of this section; and

9. "Respite services" as defined by KRS 205.455(12).

(12) "Informal supports" means any care provided to an individual that is not provided as part of a public or private formal service program.

(13) "Instrumental activities of daily living" is defined by KRS 194A.700(7).

(14) "Natural Supports" means a non-paid person or community resource who can provide, or has historically provided, assistance to the consumer or, due to the familial relationship, would be expected to provide assistance if capable.

(15) "Personal care services" means assistance with activities of daily living.

(16) "Person-centered planning" means a process:

(a) For selecting and organizing the services and supports that an older adult or person with a disability might need to live in the community and is directed by the person who receives the support; and

(b) That is directed by the person who receives the support.

(17) "Reassessment" means reevaluation of the situation and functioning of a client.

(18) "Service level" means the minimum contact required through face-to-face visits and telephone calls by the case manager or social service assistant.

(19) "Social service assistant" means an individual who:

(a) Has at least a high school diploma or equivalent;

(b) Works under the direction of the case manager supervisor;

(c) Assists the case manager with record keeping, filing, data entry, and phone calls;

(d) Helps determine what type of assistance their clients need;

(e) Assists the client in getting services to carry out the plan of care;

(f) Coordinates services provided to the client;

(g) Assists clients in applying for other services or benefits for which they may qualify; and

(h) Monitors clients to ensure services are provided appropriately.

Section 2. Service Provider Responsibilities. A service provider contracting with a district to provide homecare services supported in whole or in part from funds received from the cabinet shall:

(1) Assure the provision of homecare services throughout the geographic area covered under its plan or proposal;

(2) Review the provision of homecare services to assure safety and consistency;

(3) Treat the client in a respectful and dignified manner and involve the client and caregiver in the delivery of homecare services;

(4) Allow staff of the cabinet and the district to monitor and evaluate homecare services provided;

(5) Assure that each paid or voluntary staff member meets qualification and training standards established for each specific service by the department;

(6) Maintain a written job description for each paid staff and volunteer position involved in direct service delivery;

(7) Develop and maintain written personnel policies and a wage scale for each job classification; and

(8) Designate a supervisor to assure that staff providing homecare services are provided supervision.

Section 3. Homecare Plan. For program approval, a district shall submit to the cabinet a proposal within its area plan to include at least:

(1) An assurance of access for the department to records of the district pertaining to its contract for delivery of homecare services; and

(2) A plan for the delivery of homecare services in the area to be served by the district containing:

(a) Identification of services currently provided in the district; and

(b) The following assurances:

1. A justification of a decision not to fund a homecare service, including an assurance of adequate availability from another funding source;

2. A policy and procedure for assuring a client's:

a. Eligibility in accordance with Section 4 of this administrative regulation; and

b. Implementation of case management;

3. A policy and procedure for a client's referral for service to other appropriate programs and services as established in paragraph (a) of this subsection;

4. A policy and procedure for volunteer programs to be utilized;

5. Identification of a service provider for each specific service;

6. A policy and procedure for the periodic monitoring of a client for the appropriateness of homecare services and to assure safety and consistency by:

a. In home visits; and

b. Review of records on site and electronically;

7. A number of proposed clients for homecare services to be provided directly or by contract;

8. A unit cost per service to be used as a basis for determining an applicable percentage for the fee schedule as established in Section 9(2) of this administrative regulation;

9. A policy and procedure for the acceptance of a voluntary contribution and assurance the contribution shall be used to maintain or increase the level of service;

10. A policy and procedure for the reporting of abuse, neglect, and exploitation consistent with KRS 209.030(2) and (3);

11. A policy and procedure for the manner in which delivery of homecare services shall be provided to an eligible individual;

12. A policy and procedure for monitoring a subcontract for delivery of direct homecare services;

13. A policy and procedure assuring that assessments and client information, as established in Section 5(4) of this administrative regulation, shall include the following information submitted electronically to the department in the formats prescribed by the Aging Services Tracking System:

a. Demographic information, including family income;

b. Physical health;

c. Activities of daily living and instrumental activities of daily living;

d. Physical environment;

e. Mental and emotional status;

f. Assistive devices, sensory impairment, and communication abilities;

g. Formal and informal resources; and

h. Summary and judgment;

14. A policy and procedure assuring that training shall be provided or requested for issues found during sub-provider monitoring;

15. A policy and procedure for placing clients on hold including:

a. Reasons the individual is a client;

b. How contact will be made while client is on hold;

c. Any exceptions to the hold policy; and

d. Length of time a client may be on hold; and

16. A policy and procedure for termination or reduction of services.

Section 4. Eligibility.

(1) A prospective client for homecare services shall:

(a) Verify that the prospective client is a person sixty (60) years of age or older;

(b) Not be eligible for the same or similar services through Medicaid unless the individual is:

1. Considered inappropriate for person directed services due to:

a. An inability to manage the individual's own services; and

b. A lack of availability of a person to act as the individual's representative; or

2. Unable to access the Home and Community Based Waiver through a traditional provider; and

(c) Meet one (1) of the following criteria:

1. Be functionally impaired in the performance of:

a. Two (2) activities of daily living;

b. Three (3) instrumental activities of daily living; or

c. A combination of one (1) activity of daily living and two (2) instrumental activities of daily living;

2. Have a stable medical condition requiring skilled health services; or

3. Be:

a. Currently residing in:

(i) A skilled nursing facility;

(ii) An intermediate care facility; or

(iii) A personal care facility; and

b. Able to be maintained at home if appropriate living arrangements and support systems are established.

(2) Eligibility shall be determined by a case manager who shall be qualified in accordance with Section 5(2) of this administrative regulation.

(3) If a client meets eligibility requirements of subsection (1) of this section for homecare services, the client or caregiver shall be informed that the client shall be eligible for services.

(4) The case manager shall determine a prospective client's eligibility for:

(a)

1. In-home services; or
2. Respite for the unpaid primary caregiver; and

(b) Service level of case management as determined on the DAIL-HC-01, Scoring Service Level.

(5)

(a) The homecare program shall not supplant or replace services provided by the client's natural support system.

(b) Except as established in paragraph (c) of this subsection, if needs are being met by the natural support system, the client shall be deemed ineligible.

(c) An applicant who needs respite services shall not be deemed ineligible as a result of this subsection.

(6) An applicant who is eligible for services and for whom funding is not available shall be placed on a waiting list for services.

Section 5. Case Management Requirements.

(1) A district shall employ a case manager to assess the eligibility and needs for each client and provide case management.

(2) A case manager shall:

(a) Meet one (1) of the following qualifications:

1. Possess a minimum of a bachelor's degree in at least one (1) of the following:
   a. Social work;
   b. Gerontology;
   c. Psychology;
   d. Sociology; or
   e. A field related to geriatrics;
2. Possess a bachelor's degree in nursing with a current Kentucky nursing license;
3. Possess:
   a. A bachelor's degree in a field not related to geriatrics with two (2) years of experience working with the elderly; or
   b. A master's degree in a human services field, which shall substitute for the required experience;
4. Possess an associate's degree in a health or family services field and two (2) years of experience working with the elderly, which shall substitute for a bachelor's degree;
5. Be a Kentucky-registered nurse with a current Kentucky license and two (2) years of experience working with the elderly; or
6. Be a licensed practical nurse with a current Kentucky license and three (3) years of experience working with the elderly. and

(b) Be supervised by a case management supervisor.

(3) Each client shall be assigned a case manager.

(4) The case manager shall assess the eligibility and needs of individuals:

(a) Initially; and

(b) At least annually thereafter.

(c) If the client is ineligible, the case manager shall close the case, document the reason in the case record, provide a list of potential resources, and notify the client or caregiver by mail.

(5) Case management services shall not be provided to individuals on a waiting list for homecare.

(6) The case manager shall:

(a) Be responsible for coordinating, arranging, and documenting those services provided by:

1. Any funding source;
2. A volunteer; or
3. Formal or informal supports;

(b)

1. Make a reasonable effort to secure and utilize informal supports for each client; and
2. Document the reasonable effort in the client's case record;

(c) Monitor each client by conducting a home visit according to the assessed service level and through a telephone contact between home visits. Clients shall be contacted at a minimum as follows:

1. Level 1, a home visit shall be conducted every other month;
2. Level 2, a home visit shall be conducted every four (4) months; and
3. Level 3, a home visit shall be conducted every six (6) months;

(d) Document in the case record each contact made with a client, as established in paragraph (c) of this subsection, or on behalf of the client.

(e) Practice cultural humility with awareness and respect for diversity and inclusion; and

(f) Provide a copy of the Rights and Responsibilities form to the client, in his or her preferred language; and

1. Explain the rights and responsibilities to the client; and
2. Document receipt of form in the client record.

(7) A social service assistant may be assigned to Level 3 clients to assist with meeting the assessed needs.

Section 6. Service Planning.

(1) The client shall participate in the assessment and development of a person-centered plan of care with the case manager, natural supports, and other formal or informal service providers as available.

(2) Upon the receipt of a referral the case manager shall:

(a) Contact the client or client's representative and schedule the initial assessment;

(b) Perform the assessment through:

1. Interviews with the client, existing care givers, and natural supports;
2. Direct observation of the client's abilities and deficits; and
3. Discovery of the client's cultural preferences, practices, and beliefs;

(c) Determine the client's eligibility;

(d) Document all activities and determinations in the case record;

(e) Meet with the person-centered planning team and identify:

1. The assessed needs of the client;
2. The services that will address the identified needs; and
3. Goals that support the client's needs and preferences; and

(f) Compose the plan of care.

(3) The plan of care shall:

(a) Relate to an assessed problem;

(b) Identify a goal to be achieved;

(c) Identify a scope, duration, and unit of service required;

(d) Identify a source of service;

(e) Include a plan for reassessment; and

(f) Be signed by the client or client's representative and case manager, with a copy provided to the client.

(4) The client shall be reassessed at least annually, and more frequently if there is a documented change in status that indicates a need for adjustment to the service level or plan of care.

Section 7. Quality Service. If a client is determined eligible for homecare services, the case manager shall:

(1) Read, or have read and explained to the client, the purpose of the DAIL-HC- 02, Quality Service Agreement;

(2) Document the client's acknowledgement of receipt in the case record;

(3) Maintain the original document in the client's case record;

(4) Provide a copy of the completed agreement to the client. The copy shall contain the name, address, and telephone number of:

(a) The current case manager;

(b) A designated representative of the district; and

(c) A representative of the department;

(5) Inform the client of his or her right to file a complaint regarding services and provide assistance as requested;

(6) Ensure that a copy of a DAIL – HC- 03, Report of Complaint or Concern containing written complaints and detailed reports of telephoned or verbal complaints, concerns or homecare service suggestions is maintained in the client's case record and documented in a centralized log;

(7) Keep the identity of a complainant confidential; and

(8) Document investigation and efforts at resolution or service improvement that shall be available for monitoring by the district and department staff.

Section 8. Appeals. A client may request an informal dispute resolution or an appeal.

(1) An informal dispute resolution shall be limited to the denial, reduction, or termination of services.

(2) An informal dispute resolution shall not be accepted if services are unavailable due to:

(a) The program not having funding to provide the services; or

(b) The individual [does]not meeting the eligibility requirements pursuant to Section 4 of this administrative regulation.

(3) A request for an informal dispute resolution shall:

(a) Be submitted to the department's homecare program coordinator within thirty (30) days following the notification of an adverse decision; and

(b) Contain the:

1. Name, address, and telephone number of the client;
2. Decision being disputed;
3. Justification for the dispute;
4. Documentation supporting the dispute; and
5. Signature of person requesting the dispute resolution.

(4) The dispute resolution shall be heard by three (3) employees of the departments Division of Quality Living. One (1) of whom shall be the division director or the division director's designee.

(5) The complainant shall be provided an opportunity to appear before the dispute resolution team to present facts or concerns about the denial, reduction, or termination of services.

(6) The dispute resolution team shall inform the complainant, in writing, of the decision resulting from the dispute resolution within ten (10) business days of the review.

(7) A complainant may request an appeal for an administrative hearing conducted in accordance with KRS Chapter 13B:

(a) Within thirty (30) calendar days of the notice regarding the results of the dispute resolution;

(b) Within thirty (30) calendar days of the notice regarding the adverse action by the cabinet; or

(c) By submitting a written request for appeal to the Office of the Ombudsman and Administrative Review, Quality Advancement Branch, 275 E. Main St, 2 E-O, Frankfort, Kentucky 40621.

Section 9. Fees and Contributions.

(1) The case manager shall be responsible for determining fee paying status, using the criteria established in this subsection.

(a) A fee shall not be assessed for the provision of assessment, case management services, or home-delivered meals.

(b) The case manager shall:

1. Consider extraordinary out-of-pocket expenses to determine a client's ability to pay; and

2. Document in a case record a waiver or reduction of fee due to the extraordinary out-of-pocket expenses.

(c) A fee shall not be assessed to an eligible individual who meets the definition of "needy aged" as defined by KRS 205.010(6).

(d)

1. SSI income or a food stamp allotment shall not be deemed available to other family members.

2. The applicant receiving SSI benefits or a food stamp allotment shall be considered a family of one (1) for the purpose of fee determination.

(2) An eligible person shall be charged a fee determined by the cost of the service unit multiplied by the applicable percentage rate based upon income and size of family using 130 percent the official poverty income guidelines published annually in the Federal Register by the United States Department of Health and Human Services. Service unit cost shall be determined by the state agency or contracting entity in accordance with its contract. The copayment amount shall be based on the household's percentage of poverty, as follows:

Percentage of Poverty	1 Person	2 Person	3 Person or More
0 – 129%	0%	0%	0%
130% - 149%	20%	0%	0%
150% - 169%	40%	20%	0%
170%-189%	60%	40%	20%
190%-209%	80%	60%	40%
210%-229%	100%	80%	60%
230%-249%	100%	100%	80%
250% and above	100%	100%	100%

(3)

(a) A contribution from an individual or family with a zero percent copay shall be encouraged.

(b) Suggested contribution or donation rates may be established, without pressure shall not be placed upon the client to donate or contribute.

(c) Homecare services shall not be withheld from an otherwise eligible individual based upon the individual's failure to voluntarily contribute to support services.

(4) The district shall review and approve or deny, based on the contracted agency's district policies, the procedure implemented by a service provider for the collecting,

accounting, spending, and auditing of fees and donations.

Section 10. Allocation Formula. The homecare program funding formula shall consist of a $40,000 base for each district, with the remaining amount of funds distributed in proportion to the district's elderly (sixty (60) plus) population in the state.

Section 11. Termination or Reduction of Homecare Services.

(1)

(a) A case manager or client may terminate or reduce homecare services.

(b) Homecare services shall be terminated if:

1. The program can no longer safely meet the client's needs;

2. The client does not pay the copay for services as established in Section 9(2) of this administrative regulation;

3. The client refuses to follow the plan of care; or

4.

a. The client or family member has exhibited abusive, intimidating, or threatening behavior; and

b. The client or representative is unable or unwilling to comply with the corrective action plan.

(2) Homecare services may be reduced if:

(a) The client's condition or support system improves;

(b) Program funding has been reduced; or

(c) The client refuses to follow the plan of care for a particular service.

(3) If homecare services are terminated or reduced, the case manager shall:

(a) Inform the client of the right to file a complaint;

(b) Notify the client or caregiver of the action taken; and

(c) Assist the client and family in making referrals to another agency if applicable.

(4) If homecare services are terminated or reduced due to reasons unrelated to the client's needs or condition, the designated district representative in conjunction with the case manager shall determine reduction or termination on a case-by-case basis based on the requirements established in this administrative regulation.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DAIL-HC 01, Scoring Service Level", 4/2014;

(b) "DAIL –HC- 02, Quality Service Agreement", 4/2014;

(c) "DAIL –HC- 03, Report of Complaint or Concern", 4/2014; and

(d) "Rights and Responsibilities", 1/2023.

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(18 Ky.R. 1748; Am. 2278; eff. 1-10-1992; Am. 23 Ky.R. 4000; 24 Ky.R. 110; eff. 6-18-1997; Recodified from 905 KAR 8:180, 10-30-1998; Recodified from 923 KAR 1:180, 7-8-1999; 32 Ky.R. 420; 686; eff. 10-19-2005; 41 Ky.R. 200; 527; eff. 10-15-2014; 49 Ky.R. 1841, 2309; eff. 6-21-2023.)

FILED WITH LRC: May 9, 2023

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