



**CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF INSPECTOR GENERAL**

Andy Beshear
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Eric C. Friedlander
Secretary

Adam Mather
Inspector General

December 30, 2020

Scott Logan
Social Security Administration
Office of Income Security Programs
Keys Section
2518 Robert M. Ball Building
6401 Security Boulevard
Baltimore, Maryland 21235

Dear Mr. Logan:

The State of Kentucky, Cabinet for Health and Family Services, certifies that the following provisions of the Keys Amendment, Section 1616(e) of the Social Security Act, have been met:

- In Kentucky, residential facilities in which a significant number of Supplemental Security Income (SSI) recipients reside or are likely to reside are identified as family care homes, personal care homes, psychiatric residential treatment facilities, child-caring facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities, group homes, boarding homes, and supports for community living services for individuals with an intellectual or developmental disability. Enclosed is a summary of applicable rules as of December 2020.
- The Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care is the designated authority to establish, maintain, and ensure the enforcement of regulatory standards for health facilities and services, including family care homes, personal care homes, psychiatric residential treatment facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities, and group homes. The Office of Inspector General, Division of Regulated Child Care is the designated authority to ensure the enforcement of regulatory standards for child-caring facilities. However, it is important to

note that the Cabinet's Department for Community Based Services is the designated authority to establish regulatory standards for child-caring facilities. The Cabinet's Department for Public Health is the designated authority to establish, maintain, and ensure the enforcement of regulatory standards for boarding homes. The Cabinet's Department for Behavioral Health, Developmental and Intellectual Disabilities is the designated authority with jurisdiction for the regulation of supports for community living services for individuals with an intellectual or developmental disability.

- The Cabinet's Office of Inspector General, Department for Public Health, and Department for Behavioral Health, Developmental and Intellectual Disabilities make available for public review on their respective web pages a link to the regulatory standards, including contact information for interested individuals to obtain further information about full standards, enforcement procedures, waivers from health facility physical plant standards, and violations.
- The Cabinet's Office of Inspector General, Department for Public Health, and Department for Behavioral Health, Developmental and Intellectual Disabilities have established standards appropriate to the needs of SSI recipients and other individuals residing in facilities and has established procedures for enforcing those standards.

No changes have been made within the past calendar year to the standards or enforcement of regulations with respect to family care homes, psychiatric residential treatment facilities, child-caring facilities, Intermediate Care Facilities for Individuals with Intellectual or Developmental Disabilities, group homes, boarding homes, or supports for community living services for individuals with an intellectual or developmental disability. The personal care home regulation was amended as summarized in the attachment.

If you have any questions or need additional information, please contact Kara Daniel, Deputy Inspector General, Office of Inspector General, at (502) 564-2888, or at KaraL.Daniel@ky.gov.

Sincerely,

A handwritten signature in blue ink that reads "Adam Mather" followed by a stylized monogram or initials.

Adam Mather
Inspector General

AM/kd

SUMMARY OF STANDARDS FOR FACILITIES FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS (2020-2021)

The Keys Amendment, Section 1616(e) of the Social Security Act, requires each state to publish summaries of standards for facilities or institutions in which the state has determined that a “significant number” of Supplemental Security Income (SSI) recipients reside or may reside. It also requires each state to make these summaries available annually for public review, including the name and address of each standard-setting authority from which interested individuals may obtain further information about full standards, enforcement procedures, waivers from health facility physical plant standards, and violations. The Kentucky Cabinet for Health and Family Services submits the following summaries of standards and other information in order to comply with the intent of the Keys Amendment.

1. Rules for the Licensing of Family Care Homes.

Family Care Homes must be licensed by the Cabinet for Health and Family Services, Office of Inspector General. Family Care Homes provide twenty-four (24) hour supervision and personal care services in the operator’s home for residents who because of impaired capacity for self-care elect to have or require a protective environment but do not have an illness, injury, or disability for which constant medical care or skilled nursing services are required. Residents must be ambulatory or mobile nonambulatory and able to manage most of the activities of daily living. Family Care Homes are not permitted to care for more than three (3) residents.

The administrative regulation that establishes the licensure standards for family care homes is 902 KAR 20:041, Operation and Services; Family Care Homes. A copy of 902 KAR 20:041 may be obtained from the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-2888. Additionally, 902 KAR 20:041 may be downloaded from the following website:

<https://apps.legislature.ky.gov/law/kar/902/020/041.pdf>

902 KAR 20:041 contains requirements for personnel, training, record-keeping, basic health and health-related services, personal care, dietary services, housekeeping and sanitation, accommodations, and safety.

2. Rules for the Licensing of Personal Care Homes.

Personal Care Homes must be licensed by the Cabinet for Health and Family Services, Office of Inspector General. Personal Care Homes are permanent facilities that include resident beds. Services provided include continuous supervision of residents, basic health and health-related services, personal care services, residential care services, and social and recreational activities. Residents of personal care homes must be eighteen (18) years of age or older according to KRS 216.765(2) and be ambulatory or mobile nonambulatory, and able to manage most of the activities of daily living. Persons who are nonambulatory or nonmobile are not eligible for residence in a personal care home.

The administrative regulations that establish the licensure standards for Personal Care Homes are as follows:

- 902 KAR 20:031. Facility specifications; personal care homes.
- 902 KAR 20:036. Operation and services; personal care homes.

902 KAR 20:031 contains requirements for the preparation, submission, and approval of plans and specifications; standards for compliance with building codes, ordinances, and designated state regulations; requirements for resident rooms, the dietary department, the administration department, laundry, storage and service areas, details and finishes, elevators, and construction; and mechanical, electrical, and ventilation requirements.

902 KAR 20:036 contains requirements for personnel, in-service training, patient rights, record keeping, basic health and health-related services, accommodations, housekeeping and maintenance services, safety, dietary services, personal care, and activity services.

Copies of 902 KAR 20:031 and 902 KAR 20:036 may be obtained from the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-2888. Additionally, 902 KAR 20:031 and 20:036 may be downloaded from the following websites:

902 KAR 20:031: <https://apps.legislature.ky.gov/law/kar/902/020/031.pdf>

902 KAR 20:036: <https://apps.legislature.ky.gov/law/kar/902/020/036.pdf>

Summary of changes to 902 KAR 20:036, Operation and services; personal care homes:

On April 15, 2019, the Cabinet filed a proposed amendment of 902 KAR 20:036 with Kentucky's Legislative Research Commission (LRC). On May 28, 2019, six (6) individuals testified at the public hearing and nine (9) commenters submitted written comments during the public comment period. Those comments were summarized in the Statement of Consideration and the Cabinet replied to each comment as required by KRS 13A.280. The Cabinet also made significant changes in the Amended After Comments version of 902 KAR 20:036 to Sections 1 and 4 to address the concerns raised by the Kentucky Association of Health Care Facilities during the public comment period.

The Amended After Comments version of 902 KAR 20:036 was filed with LRC on July 15, 2019, and it updates the definitions section, notably by moving language from Section 2 describing a personal care home into Section 1, as well as defining "specialized personal care home (SPCH)" as a personal care home that participates in the mental illness or intellectual disability (MI/ID) supplement program pursuant to 921 KAR 2:015, or otherwise serves residents in which thirty-five (35) percent or more of the resident population has a serious mental illness (SMI); adds a definition of "qualified mental health professional", "serious mental illness", and updates other definitions for clarity; deletes obsolete language related to the age of admission to a PCH and inserts a cross-reference to KRS 216.765(2) which states that "no person under the age of eighteen (18)

shall be admitted to a personal care home”; requires each SPCH to develop and implement written transition procedures to ensure cooperation with an individual or entity that assists with transitioning residents with an SMI to a community living arrangement; requires the administrator of an SPCH and at least one (1) direct care staff member to complete the MI/ID training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the effective date of this administrative regulation and every two (2) years thereafter; requires a PCH or SPCH to complete the SMI Screening Form for each resident at the time of admission; adds a cross-reference to 902 KAR 20:205 which establishes the tuberculosis screening requirements for employees of health facilities; requires a summary of, or a copy of the resident’s records to be provided to the resident and the resident’s guardian if the resident transitions to a community living setting; clarifies requirements related to the destruction of expired or unused controlled substances that are destroyed on-site; requires an SPCH to collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in activities of daily living (ADL) and instrumental activities of daily living (IADL) to each resident who is identified as working to transition to independent community living pursuant to 908 KAR 2:065; requires SPCHs to maintain monthly documentation of ADL and IADL skills instruction provided to, or made available to and refused by, residents who are transitioning to living independently in the community; and makes technical changes for compliance with KRS Chapter 13A to improve clarity and flow.

The Amended After Comments version of 902 KAR 20:036 was heard before the Administrative Regulation Review Subcommittee (ARRS) on September 16, 2019 and again on June 9, 2020. It was considered by the Health, Welfare, and Family Services Committee on July 29, 2020 and the amended version of the regulation became effective on that date.

3. Rules for the Licensing of Psychiatric Residential Treatment Facilities.

Level I and Level II Psychiatric Residential Treatment Facilities (PRTF) must be licensed by the Cabinet for Health and Family Services, Office of Inspector General. A Level I PRTF is a community-based and home-like facility with a maximum of nine (9) beds which provides inpatient psychiatric residential treatment to residents age six (6) to twenty-one (21) years who have an emotional disability or severe emotional disability, with an age range of no greater than five (5) years at the time of admission in a living unit. A Level II PRTF is a home-like facility that provides twenty-four (24) hour inpatient psychiatric residential treatment and habitation to persons who are ages four (4) to twenty-one (21) years, with an age range of no greater than five (5) years at the time of admission to the facility, and have a severe emotional disability in addition to severe and persistent aggressive behaviors, intellectual disability, sexually acting out behaviors, or developmental disability and do not meet the medical necessity criteria for an acute care hospital or a psychiatric hospital and whose treatment needs cannot be met in an ambulatory care setting, Level I PRTF, or other less restrictive environment.

The administrative regulations that establish the licensure standards for Level I and Level II PRTFs are as follows:

- 902 KAR 20:320. Level I and Level II psychiatric residential treatment facility operation and services.
- 902 KAR 20:330. Psychiatric residential treatment facilities.

902 KAR 20:320 contains requirements for size of the living unit, personnel, in-service training, resident rights, record keeping, quality assurance programs, admission, resident management, mental health services, physical health services, dietary services, pharmacy services, activity services, therapy services, use of emergency safety interventions, housekeeping services, infection control, and tuberculosis testing requirements.

902 KAR 20:330 contains requirements for the preparation and approval of plans and specifications for Level I or Level II PRTFs; standards for compliance with building codes, ordinances, and designated state regulations; requirements for the living unit, classrooms, kitchen area, administration area, pharmacy area, rooms designated for seclusion, storage area, details and finishes; construction requirements and electrical requirements.

Copies of 902 KAR 20:320 and 902 KAR 20:330 may be obtained from the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-2888. Additionally, 902 KAR 20:320 and 20:330 may be downloaded from the following websites:

902 KAR 20:320: <https://apps.legislature.ky.gov/law/kar/902/020/320.pdf>

902 KAR 20:330: <https://apps.legislature.ky.gov/law/kar/902/020/330.pdf>

4. Rules for the Licensing of Child-caring facilities.

Child-caring facilities must be licensed by the Cabinet for Health and Family Services, Office of Inspector General. Child-caring facilities are defined by KRS 199.011(5) as follows:

"Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization.

The administrative regulations that establish the licensure standards for child-caring facilities are as follows:

- 922 KAR 1:300. Standards for child-caring facilities.
- 922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.
- 922 KAR 1:390. Standards for residential child-caring facilities.

922 KAR 1:300 establishes the basic standards of care and services for child-caring facilities, including staff qualifications; staff-to-resident ratios; background check requirements; physical plant requirements; health, safety, and nutritional requirements; and general requirements related to the provision of services.

922 KAR 1:305 establishes requirements related to the initial licensure and annual renewal of child-caring facilities; process for corrective action plans; basis for denial, suspension, and revocation; and appeal rights.

922 KAR 1:390 establishes standards of care and services for residential child-caring facilities, including requirements for residential child-caring facilities that offer intensive treatment services, crisis intervention units, or group homes.

Copies of 922 KAR 1:300, 1:305, and 1:390 may be obtained from the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-7962. Additionally, 922 KAR 1:300, 1:305, and 1:390 may be downloaded from the following websites:

922 KAR 1:300: <https://apps.legislature.ky.gov/law/kar/922/001/300.pdf>

922 KAR 1:305: <https://apps.legislature.ky.gov/law/kar/922/001/305.pdf>

922 KAR 1:390: <https://apps.legislature.ky.gov/law/kar/922/001/390.pdf>

5. Rules for the Licensing of Intermediate Care Facilities for Individuals with Intellectual Disabilities.

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) must be licensed by the Cabinet for Health and Family Services, Office of Inspector General. ICFs/IID provide services for all age groups on a twenty-four (24) hour basis, seven (7) days a week, in an establishment with permanent facilities including resident beds for persons whose mental or physical condition requires developmental nursing services along with a planned program of active treatment.

The administrative regulation that establishes the licensure standards for ICFs/IID is 902 KAR 20:086, a copy of which may be obtained from the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-2888. Additionally, 902 KAR 20:086 may be downloaded from the following website:

<https://apps.legislature.ky.gov/law/kar/902/020/086.pdf>

902 KAR 20:086 contains requirements for personnel, patient rights, admissions,

discharge planning, transfer procedures, maintenance of medical records, program services, health services, pharmacy services, personal care services, dental services, social services, recreation services, psychological services, transportation, residential care services, and dietary services.

6. Rules for the Licensing of Group Homes.

Group homes must be licensed by the Cabinet for Health and Family Services, Office of Inspector General. Group homes provide a homelike environment and specialized services in accordance with individualized habilitation plans to not less than four (4) nor more than eight (8) persons with intellectual or developmental disabilities.

The administrative regulation that establishes the licensure standards for group homes is 902 KAR 20:078, Operations and services; group homes. A copy of 902 KAR 20:078 may be obtained from the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-2888. Additionally, 902 KAR 20:078 may be downloaded from the following website:

<https://apps.legislature.ky.gov/law/kar/902/020/078.pdf>

902 KAR 20:078 contains requirements for personnel, advisory board responsibilities, program services, medical and dental services, psychological and psychiatric services, social services, educational services for school age residents, recreation, physical plant standards, dietary services, housekeeping and sanitation, emergency procedures, and resident rights.

7. Rules for the Registration of Boarding Homes.

Boarding homes must be registered with the Cabinet for Health and Family Services, Department for Public Health. Boarding homes are defined by KRS 216B.300(4) as follows:

"Boarding home" means any home, facility, institution, lodging, or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator, or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(3).

The administrative regulation that establishes the standards for boarding homes is 902 KAR 20:350, Boarding homes. A copy of 902 KAR 20:350 may be obtained from the Cabinet for Health and Family Services, Department for Public Health, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-7181. Additionally, 902 KAR 20:350 may be downloaded from the following website:

902 KAR 20:350: <https://apps.legislature.ky.gov/law/kar/902/020/350.pdf>

902 KAR 20:350 contains standards for the operation of boarding homes, including the qualifications of the manager as well as the requirements for basic room and board services.

8. Rules for the Certification of Supports for Community Living (SCL) Services for Individuals with an Intellectual or Developmental Disability.

SCL providers must be certified with the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities. The SCL waiver program is federally authorized via a 1915(c) home and community based waiver that enables individuals with an intellectual or developmental disability to reside and receive services in a community setting rather than in an intermediate care facility for individuals with intellectual disabilities.

The administrative regulation that establishes the standards for SCL providers is 907 KAR 12:010, New supports for community living waiver service and coverage policies. A copy of 907 KAR 12:010 may be obtained from the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, Division of Developmental and Intellectual Disabilities, Supports for Community Living Waiver Branch, 275 East Main Street, Frankfort, Kentucky 40621, or call 502-564-7700. Additionally, 907 KAR 12:010 may be downloaded from the following website:

907 KAR 12:010: <https://apps.legislature.ky.gov/law/kar/907/012/010.pdf>

907 KAR 12:010 contains requirements for the operation of SCL programs, including standards for participation in the Kentucky Medicaid Program and requirements for the operation of SCL residential support services

Enforcement Procedures for Facilities for Supplemental Security Income Recipients

The Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care inspects family care homes, personal care homes, PRTFs, ICFs/IID, and group homes. The Division of Health Care also conducts complaint investigations and follow-up surveys as it deems necessary to determine compliance with quality of care and physical facility rules and regulations. If a facility is found to be out of compliance with applicable governing regulations, the Division may deny, suspend, or revoke the facility's license for a substantial regulatory violation. Additionally, a Family Care Home, Personal Care Home, or ICF/IID may be subject to monetary penalties for regulatory violations that impact the health, safety, or security of any resident.

The Cabinet for Health and Family Services, Office of Inspector General, Division of Regulated Child Care inspects child-caring facilities. The Division of Regulated Child Care also conducts complaint investigations and follow-up surveys as it deems necessary to determine compliance with applicable state regulations. If a facility is found to be out of compliance with the governing regulations in a manner that puts residents at-risk, the Division may deny, suspend, or revoke the facility's license.

The Cabinet for Health and Family Services, Department for Public Health, Food Safety Branch inspects boarding homes. The Food Safety Branch also conducts complaint investigations and follow-up surveys as it deems necessary to determine compliance with 902 KAR 20:350. If a boarding home is found to be out of compliance in a manner that puts residents at-risk, the branch may deny, suspend, or revoke the boarding home's registration.

The Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, Division of Developmental and Intellectual Disabilities, Supports for Community Living Waiver Branch inspects SCL programs to determine compliance with 907 KAR 12:010. If an SCL program is determined to be out of compliance with the governing regulation in a manner that puts residents at-risk, the Department for Medicaid Services may terminate the program's participation in the Kentucky Medicaid Program and the provider ceases operations.