

### **65.7631 Apportionment of money in CMRS fund.**

The moneys in the CMRS fund shall be apportioned among the approved uses of the fund as specified in this section. The board shall make individual disbursements from the fund upon such terms and conditions necessary in view of the amount of revenues on deposit at the time each request for disbursement is reviewed and approved.

- (1) Not more than two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board, including the compensation of the administrator and expenses incurred pursuant to KRS 65.7629(10), (11), (13), (16), (17), and (18). An additional sum, not to exceed two hundred fifty thousand dollars (\$250,000), shall be available to the board from the fund to implement the wireless workload formula under subsection (3)(b) of this section.
- (2)
  - (a) Not more than ten percent (10%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to provide direct grants or matching money:
    1. For the establishment and improvement of E911 services in the Commonwealth;
    2. For incentives to create more efficient delivery of E911 services by local governments receiving funding under subsection (3) of this section;
    3. For improvement of 911 infrastructure by wireless carriers receiving funding under subsection (4) of this section; and
    4. For consolidation reimbursement of one hundred thousand dollars (\$100,000) per PSAP, not to exceed two hundred thousand dollars (\$200,000) per county, to any PSAP that consolidates with a CMRS-certified PSAP, or creates a newly consolidated Phase II compliant PSAP. Funds shall be applied toward the cost of consolidating. If a PSAP consolidates and receives reimbursement, the CMRS Board shall not certify a new PSAP within the same county for a period of ten (10) years.
  - (b) When the balance of money collected under paragraph (a) of this subsection and not yet disbursed for direct grants or matching moneys exceeds two million dollars (\$2,000,000), the excess amount shall be allocated under the provisions of subsections (3) and (4) of this section.
- (3) From the balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsections (1) and (2) of this section have been subtracted, eighty percent (80%) shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (5) of this section who actually request disbursement, as follows:
  - (a) Forty percent (40%) shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (5) of this section. Any PSAPs certified

before January 1, 2004, or for more than three (3) years, that choose to consolidate their operations shall continue to receive pro-rata shares as if they remained separate and distinct entities. The consolidated entity must be certified to receive funds under subsection (5) of this section; and

- (b) Forty percent (40%) shall be distributed according to a method chosen by the board and based on the wireless workload of the PSAP. Methods to be considered may be based on the number of wireless 911 calls answered by each PSAP, the number of wireless phone users served by each PSAP, or any other method deemed by the board to be reasonable and equitable. The method chosen shall be promulgated as a regulation under KRS 65.7633.

All amounts distributed to PSAPs under this subsection shall be used by the PSAPs solely for the purposes of answering, routing, and properly disposing of CMRS 911 calls, training PSAP staff, public education concerning appropriate use of 911, and of complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission pursuant to the FCC order, including the payment of costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service.

- (4) The balance of the total monthly revenues deposited into the CMRS fund which remains after the disbursements or disbursement reservations prescribed by subsections (1), (2), and (3) of this section have been made shall be distributed to CMRS providers licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including but not limited to costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service. Sworn invoices shall be presented to the board in connection with any request for reimbursement under this subsection, and approval by a majority vote of the board shall be required prior to any disbursement, which approval shall not be withheld unreasonably. No payment shall be made to any provider who is not in compliance with all requirements of this chapter and the FCC order. In no event shall any invoice for reimbursement be approved for payment of costs that are not related to compliance with requirements established by the FCC order. If the total amount of invoices submitted to the CMRS Board and approved for payment exceeds the amount in the CMRS fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the fund available that month, based on approved invoices, and the balance of the payments shall be carried over to the following months until all of the approved payments are made.

- (5) Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (3) of this section unless and until the PSAP:
- (a) Is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board;
  - (b) Demonstrates that the PSAP is providing E911 services to a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or has established other means of funding wireline 911 emergency telephone service;
  - (c) Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;
  - (d) Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year if requested by the board; and
  - (e) Demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 12, sec. 35, effective June 25, 2009. -- Amended 2006 Ky. Acts ch. 219, sec. 5, effective July 12, 2006. -- Amended 2001 Ky. Acts ch. 42, sec. 2, effective June 21, 2001. -- Created 1998 Ky. Acts ch. 535, sec. 6, effective July 15, 1998.