

**216.712 Certification of personal services agency required -- Criminal background check -- Administrative regulations -- Fees.**

- (1) No personal services agency shall be operated, maintained, or advertised without obtaining a certificate as provided in this section. Entities that operate personal services agencies, as defined in KRS 216.710, in Kentucky on June 25, 2009, shall have until December 31, 2009, to file an application for certification pursuant to this section. All other agencies shall be required to obtain certification prior to providing personal services. A parent personal services agency with one (1) or more branch offices in Kentucky shall not be required to obtain separate certificates for each of its branch offices.
- (2) Each personal services agency providing direct services to clients as defined in KRS 216.710 shall perform a criminal background check on any applicant for employment prior to employing the applicant. Each application provided by the personal services agency to the applicant for initial employment shall state in a conspicuous manner on the application "For This Type of Employment State Law Requires a Criminal Background Check as Condition of Employment."
- (3) No personal services agency shall employ a person in a position which involves providing direct services to a client if the employee has been convicted of a crime as defined by KRS 216.710.
- (4) The secretary shall promulgate administrative regulations to implement this section and KRS 216.714 and 216.716. The administrative regulations at a minimum shall establish:
  - (a) An initial and annual certification review process for personal services agencies that does not require an on-site visit;
  - (b) Procedures related to applying for, reviewing, approving, denying, and revoking certification;
  - (c) Fees for application and reapplication in an amount sufficient to offset the cost to administer KRS 216.712 and 216.714;
  - (d) Procedures for complaint investigations;
  - (e) Procedures for the imposition and collection of fines as provided by KRS 216.714;
  - (f) Policies and procedures for the personal services agencies;
  - (g) Procedures for criminal background checks;
  - (h) Procedures to ensure the competency of the individuals providing personal services, the requirements of written service agreements between the personal services agencies and clients or designated representatives, and the requirements of personal service plans for the clients; and
  - (i) Procedures to be utilized in the conduct of hearings upon appeals in accordance with KRS Chapter 13B.
- (5) Only those personal services agencies meeting the standards prescribed for certification shall be granted a certificate.

- (6) All fees collected under the provisions of this section shall be paid into the State Treasury and credited to the Kentucky personal services agency fund created by KRS 216.716.
- (7) Each personal services agency providing direct care to clients shall have a policy that addresses the acceptance of personal gifts, gratuities, or loans from a client by the agency and by any employee, agent, or contractor of the personal services agency. The policy shall not be required to apply to personal gifts, gratuities, or loans to the agency made by family members or friends of the client. The policy shall, at a minimum:
  - (a) Prohibit the solicitation of personal gifts, gratuities, or loans from a client; and
  - (b) Specify the conditions under which gifts, gratuities, or loans from a client may be accepted by the agency and by any employee, agent, or contractor of the personal services agency.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 110, sec. 1, effective July 15, 2010. -- Created 2009 Ky. Acts ch. 83, sec. 2, effective June 25, 2009.

**Legislative Research Commission Note (7/15/2010).** 2010 Ky. Acts ch. 110, sec. 7, provides: "Section 1 of this Act shall be known and may be cited as, "The Kentucky Adult Protection Act" in honor of the disabled veterans who revealed the need for this legislation."