

**142.363 Tax on gross revenues received by providers for services to mentally retarded and the Supports for Community Living Waiver Program -- Disposition of revenues -- Administrative regulations -- Application for waiver -- Section void if approval not received from Centers for Medicare and Medicaid Services.**

- (1) In addition to the tax imposed by KRS 142.307 on intermediate care facility services for the mentally retarded, an additional assessment is hereby imposed at a uniform rate of five and one-half percent (5.5%) on gross revenues received by each provider after July 1, 2004, for the provision of intermediate care facility services for the mentally retarded and the provision of services through, or identical to those provided under, the Supports for Community Living Waiver Program.
- (2) All revenues collected pursuant to subsection (1) of this section shall be deposited in the Medical Assistance Revolving Trust Fund (MART) and transferred on a quarterly basis to the Department for Medicaid Services.
- (3) The Department for Medicaid Services shall promulgate regulations to ensure that a portion of the revenues generated from the assessment levied under this section and federal matching funds shall be used for rate increases for intermediate care facility services for the mentally retarded and providers of services through, or identical to those provided under, the Supports for Community Living Waiver Program to recognize cost increases including current wage and benefit levels in the industry.
- (4) The remaining revenue generated from the assessment levied under this section and federal matching funds shall be used to supplement the medical assistance related General Fund appropriations of the Department for Medicaid Services. Notwithstanding KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.
- (5) On or before the July 1, 2004, the Cabinet for Health and Family Services, Department for Medicaid Services shall submit an application to the Centers for Medicare and Medicaid Services to request a waiver of the uniformity requirement pursuant to 42 C.F.R. sec. 433.68(e)(2).
- (6) If an application to the Centers for Medicare and Medicaid Services for a waiver of the uniformity requirements is denied, the Department for Medicaid Services may resubmit the application with appropriate changes to receive an approved waiver.
- (7) The assessment imposed pursuant to this section shall begin on July 1, 2004, but is not due and payable until rates are increased pursuant to this provision.
- (8) The provisions of this section shall be considered null and void if the uniformity waiver or plan amendment to increase rates is not approved by the Centers for Medicare and Medicaid Services.

**Effective:** April 21, 2004

**History:** Created 2004 Ky. Acts ch. 142, sec. 2, effective April 21, 2004.

**Legislative Research Commission Note** (4/21/2004). Subsection (5) of this statute refers to "the Cabinet for Health and Family Services, Department for Medicaid Services." Under KRS 12.020, the Department for Medicaid Services is part of the Cabinet for Health Services, not part of the Cabinet for Health and Family Services.

The creation of the Cabinet for Health and Family Services under Executive Order 2003-064 was not confirmed by the 2004 General Assembly.