

1 CABINET FOR HEALTH SERVICES

2 Commission for Children with Special Health Care Needs

3 (New Administrative Regulation)

4 902 KAR 4:085E. Newborn Hearing Screening Equipment Grant Award

5 RELATES TO: KRS 200.460 to 200.490

6 STATUTORY AUTHORITY: KRS 194A.030(13), 194A.050, 211.647, HB 706

7 NECESSITY, FUNCTION, AND CONFORMITY: HB 706 authorizes the
8 Commission for Children with Special Health Care Needs to conduct necessary
9 activities to identify infants at risk for hearing loss. In order to assist hospitals in
10 complying with the provisions of Chapter 11 of HB 706, the Commission for Children
11 with Special Health Care Needs shall provide necessary funding for the hospitals to
12 obtain the equipment needed. This administrative regulation establishes the eligibility
13 criteria, application process, services, reporting requirements and appeal rights for
14 hospitals interested in receiving funding for newborn auditory screening equipment.

15 Section 1. Definitions.

16 (1) "Audiologist" means a person licensed by the Commonwealth of KY to
17 provide audiological services.

18 (2) "Auditory Brainstem Response (ABR)" means an objective electrophysiologic
19 measurement of the brainstem's response to the ear when hearing click sounds or tone
20 bursts.

21 (3) "Automated Auditory Brainstem Response (AABR)" means an automatic

1 ABR resulting in a pass/refer outcome.

2 (4) "Kentucky Infants' Sound Start Hearing Screening Report" means an auditory
3 screening report used for reporting pass or refer and 'at risk' information to CSHCN.

4 (5) "Commission (CSHCN)" means the Commission for Children with Special
5 Health Care Needs.

6 (6) "Discharge" means a release from a hospital to the biological parent,
7 stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

8 (7) "Equipment" means an AABR, ABR or OAE unit used for a newborn hearing
9 screening in a hospital prior to discharge.

10 (8) "Hospital" means a hospital in Kentucky with forty (40) or more births a year.

11 (9) "Kentucky Infants' Sound Start (Kiss)" means a program operated by
12 CSHCN for the purpose of tracking infants referred from hospital based UNHS
13 programs through the use of information about the infant's newborn hearing screening
14 to ensure timely, appropriate and complete services through referral, diagnostic and
15 intervention services.

16 (10) "Manufacturer" means a company that produces and markets ABR, AABR
17 or OAE equipment.

18 (11) "Newborn" means an infant in the hospital prior to his initial discharge.

19 (12) "Otoacoustic Emissions (OAE)" means an objective physiological test
20 method for hearing that elicits a response from the cochlea.

21 (13) "Physiological screening" means a testing of a newborn using AABR, ABR
22 or OAE equipment.

23 (14) "Universal Newborn Hearing Screening (UNHS)" means a hospital-based

1 physiologic hearing screening program that tests at least ninety (90) percent of
2 newborns prior to discharge.

3 Section 2. Hospital eligibility criteria. In order to be eligible for Newborn Hearing
4 Screening Equipment Grant Funds, a hospital located in Kentucky shall be:

- 5 (1) The location of at least 40 or more births annually; and
- 6 (2) A hospital lacking hearing screening equipment for initiation of a UNHS
7 Program; or
- 8 (3) A hospital in need of hearing screening equipment for expansion of an
9 existing UNHS program.

10 Section 3. Application Process.

11 (1) In order to be eligible for Newborn Hearing Screening Equipment Grant
12 Funds, a hospital shall provide to CCSHCN:

13 (a) A completed grant application form with supporting documentation, which
14 shall include:

- 15 1. A Narrative providing justification for the funding request;
- 16 2. Proof of completion of the May 2000 survey previously provided by the
17 UNHS-CCSHCN by inclusion of:

- 18 a. The survey; or
- 19 b. A letter from UNHS-CCSHCN indicating their receipt of the survey;
- 20 (b) A manufacturer or vendor equipment price quote for the requested
21 equipment;

22 (c) Proof of the hospital's accreditation by the Joint Commission on Accreditation
23 of Healthcare Organizations;

1 (d) The hospital UNHS Contact;

2 (e) Required letters of support, including a letter from:

3 1. The local or regional audiologist;

4 2. The hospital's Chief Executive Office or President;

5 3. The hearing screening coordinator.

6 4. An attending primary care provider from the respective hospital; and

7 5. The community's point of entry staff person with Kentucky's Early Intervention
8 network system established pursuant to 908 KAR 2:210.

9 (2) Completed applications with supporting documentation shall be received by
10 September 15, 2000 at 4:30 PM EST at the Universal Newborn Hearing Screening
11 Program, C/O Commission for Children with Special Health Care Needs, 982 Eastern
12 Parkway, Louisville, KY 40217. Faxed applications shall not be considered.

13 (3) Incomplete applications or one not completed in accordance with provided
14 instructions may not be considered for funding.

15 Section 4. Participation requirements. A hospital meeting the criteria in Sections
16 2 and 3 of this administrative regulation shall be awarded funding if the following
17 provisions are met:

18 (1) Equipment shall be purchased within thirty (30) days of receipt of funding;

19 (2) Hospital hearing screening personnel shall receive training within thirty (30)
20 days of receipt of funding and annual training from that point on.

21 (3) Screenings shall begin within sixty (60) days of receipt of the funding;

22 (4) The hospital shall provide documentation that a screening shall be completed
23 on at least ninety (90) percent of newborns in the hospital prior to their discharge.

1 (5) The hospital shall demonstrate its ability to:

2 (a) Report completed screenings by June 30th of each year; and

3 (b) Collaborate with UNHS-CCSHCN in program development or expansion, and
4 implementation;

5 (6) A hospital not attaining at least a ninety (90) percent newborn screening rate
6 as evidenced by quarterly statistics provided to the UNHS-CCSHCN database shall
7 receive technical assistance from CCSHCN in order to assist the hospital in attaining
8 the ninety (90) percent rate; and

9 (7) Reporting requirements established in Section 6 shall be met.

10 Section 5. Grant Award.

11 (1) Grants shall be ranked based on review of the application by selected
12 CCSHCN employees and the CCSHCN Board of Commissioners.

13 (2) Award amounts shall be determined by rank order and funding available.

14 (3) No later than September 29, 2000:

15 (a) Successful applicants shall be notified by mail; and

16 (b) Applicants not awarded a grant shall be notified in writing using the U.S.
17 Postal Services, registered receipt, returned mail.

18 (4) A contract shall be awarded in accordance with KRS 45A.

19 (5) Grant awards shall range from \$2,000.00 to \$10,000.00

20 (6) A hospital awarded a grant shall at least match the grant amount on a dollar
21 for dollar basis.

22 Section 7. Reporting Requirements.

23 (1) A hospital shall report information to UNHS-CCSHCN pursuant to KRS

1 211.647.

2 (2) Information to be reported to UNHS-CCSHCN for a new birth who has failed

3 the hearing test shall include the newborn's:

4 (a) Last name;

5 (b) First name;

6 (c) Middle name;

7 (d) Date of birth;

8 (e) Gender;

9 (f) Mother's last name;

10 (g) Mother's first name;

11 (h) Middle initial;

12 (i) Mother's maiden name;

13 (j) Mother's social security number.

14 (k) Address where the child shall be residing after discharge;

15 (l) Birth hospital's name;

16 (m) Tester's last name;

17 (n) Tester's first name;

18 (o) Tester's middle initial;

19 (p) Date of testing; and

20 (q) Test results.

21 (3) Information to be reported to UNHS-CCSHCN for a new birth who has

22 passed the physiological and risk factor hearing test shall not include identifying

23 information, but shall include the:

- 1 (a) Date the test was administered;
- 2 (b) Test results;
- 3 (c) Name of the county of residence for the newborn; and
- 4 (d) Name of the hospital where the test was administered.
- 5 (4) Reporting shall be completed on a Kentucky Infants' Sound Start Hearing
- 6 Screening Report form.
- 7 (5) A hospital unable to provide a physiological screening for more than forty
- 8 eight (48) hours because of an equipment malfunction shall contact UNHS-CCSHCN by
- 9 phone or fax as soon as staff are aware of the delay.
- 10 (6) Equipment purchases shall be registered with UNHS-CCSHCN within thirty
- 11 (30) days of purchase.
- 12 (7) A hospital shall submit to UNHS-CCSHCN, proof that the equipment is
- 13 calibrated to the manufacturer's specifications.
- 14 (8) Equipment not working shall be reported immediately to the manufacturer.
- 15 Section 8. Appeal Rights.
- 16 (1) If a hospital which has not received a grant wishes to appeal, within thirty
- 17 (30) days of denial of the grant, the applicant shall notify CCSHCN to an administrative
- 18 hearing.
- 19 (2) Notice of an administrative hearing shall be provided to the hospital in
- 20 accordance with KRS 13B. 050.
- 21 (3) The administrative hearing process shall be conducted in accordance with
- 22 KRS 13B.080 through 13B.160.
- 23 Section 10. Incorporation by Reference.

1 (1) The following material is incorporated by reference:

2 (a) Universal Newborn Hearing Screening – Hospital Survey, 2000 edition,

3 Commission for Children with Special Health Care Needs;

4 (b) Universal Newborn Hearing Screening Report; , 2000 edition, Commission

5 for Children with Special Health Care Needs;

6 (c) Newborn Hearing Screening Equipment grant Application and Instructions.

7 (2) This material may be inspected, copied, or obtained, subject to applicable

8 copyright law, at the Department for Public Health, first floor, Health Services Building,

9 275 East Main Street, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to

10 4:30 p.m.

11

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Regulation No.: 902 KAR 4:085E

Cabinet for Health Services

Commission for Children with Special Health Care Needs

Agency Contact Person: Michelle King (502) 595-4459

(1) Provide a brief summary of:

(a) What this administrative regulation does: this administrative regulation establishes the grant award eligibility requirements and the process involved for awarding grants to hospitals so that they may conduct newborn hearing screenings in accordance with HB706.

(b) The necessity of this administrative regulation: this administrative regulation is necessary in order to award grants to eligible hospitals so that they may conduct the newborn hearing screenings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: this administrative regulation establishes the grant award process for newborn hearing screenings in accordance with HB706. The Cabinet's authority to promulgate regulations regarding this topic falls within the jurisdiction of KRS 194A.030, KRS 194A.050, and 211.647 which grant the Commission for Children with Special Health Care Needs and the Cabinet for Health Services the authority promulgate administrative regulations.

(d) How this administrative regulation currently exists or will assist in the effective administration of the statutes: this administrative regulation will, in accordance with the authorizing statutes, establish a grant award process for hospitals so that they may conduct newborn hearing screenings, as authorized by statute.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All Kentucky hospitals which have at least 40 births per year may be affected by this grant award.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: All hospitals with 40 or more births per year will be able to comply with HB706 and perform newborn hearing screenings, as they will be provided with the equipment to do so.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

- (a) Initially: It is estimated that the costs for equipment, personnel costs, outreach and program administration will be approximately \$1.2 million in FY 2001.
- (b) On a continuing basis: The above-mentioned elements are estimated to cost approximately \$730,200 in FY2002.

(5) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: federal funds authorized under the Kentucky Infant Sound Start Program Grant and State Tobacco Settlement funding appropriations are the funding sources to be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change of it is an amendment: there will be no increase in fees or funding to implement these amendments to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: this administrative regulation does not implement any fee or indirectly increase any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used)

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.