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Statement on House Bill 7 to Implement Public Assistance Reforms

LOUISVILLE, KY – As is the case in most omnibus pieces of legislation, [House Bill 7](#) is a mixed bag. There are good elements for Kentucky kids, and there are also elements that are truly problematic for Kentucky families.

[Safety net programs](#), including Medicaid and the Children's Health Insurance Program (CHIP), Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and Kentucky Transitional Assistance Program (K-TAP), play a critical role in making sure families struggling to make ends meet can have food to eat, cover basic family needs, and access critical supports and services needed to be healthy and thrive. This is especially important as new evidence emerges about the critical role of economic and concrete supports in preventing child maltreatment, including lowering chances of a substantiated abuse or neglect report for children who participate in SNAP or WIC and a decrease in child maltreatment investigations when children have continuous Medicaid or CHIP coverage. And for many families, recovering financially from the pandemic will extend well beyond the public health crisis, necessitating continued assistance.

We were glad to see several revisions to previous versions of this legislation that show a willingness by House Speaker David Osborne and Speaker Pro Tem David Meade to listen to feedback from stakeholders and prioritize Kentucky's kids, former foster youth, and kinship caregivers especially. We are glad to see the following provisions included:

- Kentucky families will retain their ability to withdraw cash with their EBT cards so they can use it for basic needs such as food, clothing, housing, utilities, child care, transportation, medicine, and medical supplies.
- Makes a number of improvements to SNAP, such as implementing a transitional benefit and allowing recipients to recertify eligibility online.
- Efforts to exempt adoptive and kinship caregivers from additional requirements, primary caregivers from Medicaid community engagement requirements, and victims of abuse from requirements around child support enforcement.
- Language clarifying that dependent children will not be impacted by any of these provisions is well appreciated, as are provisions directing unutilized funds to prevention services for families at risk of entering the child welfare system.
- Provisions that support Kentuckians who are working toward recovery, including expanding Medicaid coverage to incarcerated individuals in substance use recovery.



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While those positive elements of this bill should be recognized, there are several ways this bill must continue to be strengthened in order to maximize the benefits and reduce unintended impacts for children, families, and the state budget.

- **Section 3** requires the use of a single EBT card for each beneficiary of cash assistance programs, except for foster care, kinship care, fictive kin care, or relative placements made by the Cabinet. We are supportive of these exemptions for children who aren't being raised by their biological parents. We understand that the intent is for child care assistance, which is reimbursed directly to providers rather than paid to recipients, to also be exempt. This should be clarified to ensure the General Assembly's intent.

Recommendation: Include child care assistance in the exemptions listed in subsection 2.

- **Section 3** outlines that funds may only be used for food, clothing, housing, utilities, child care, transportation, medicines, medical supplies, or other goods and services necessary for the welfare of the family. It also directs the Cabinet to monitor the use of EBT cards for cash withdrawals and investigate cases in which it believes those funds may have been misused. First-time violations will result in loss of benefits for one month. In recognition of the reality that parents or caregivers are the ones who determine what goods and services are necessary for the well-being of the children in their care, families could unintentionally violate this rule. In order to reduce this risk, the Cabinet must ensure impacted individuals/families understand how to meet their obligations by offering help in person, by phone, and online and offer help after regular business hours so that parents who work during the day can get help in the evening. We know from experience that this type of communication by the Cabinet is challenging to implement and for this reason, we think the severity for misuse for a first violation should be reduced.

Recommendation: We recommend that the first violation is a written warning from the Cabinet for Health and Family Services. This warning should include information on what goods and services are deemed necessary for the welfare of the family.

- **Section 4** asks that recipients of the Supplemental Nutrition Assistance Program (SNAP) use at least 75% of their monthly benefit to purchase healthy foods, with an emphasis on utilizing the Double Dollars program to purchase produce from local farmers markets. We agree with the legislatures' belief that SNAP should ideally be utilized to purchase healthy food and recognize the value of the Double Dollars program. However, not all Kentuckians have access to healthy, locally grown foods. 101 Kentucky counties, or 84 percent of all counties, have areas where kids are more than 10 miles from a grocery store. Farmers' markets can help bridge this gap, but last year the Double Dollars program only operated in 49 farmers' markets across Kentucky.

Recommendations: We recommend that the legislature supports efforts to expand the reach of the Double Dollars, SNAP Education (SNAP-Ed) programs, and increase accessibility to grocery stores in underserved areas.

- **Section 5** instructs the Cabinet to request a waiver for the Able Bodied Adults Without Dependents (ABAWD) time limit exception for adults residing in the same house as someone younger than 18. We know that Kentucky families make a variety of arrangements to ensure children are well taken care of, such as informal kinship, which includes having outside adults move into or stay in the home to assist with caretaking. Older siblings, grandparents, and

cousins may be unemployed in order to dedicate themselves to taking care of the child, allowing the child's parents to participate in school, work, or substance use treatment.

Recommendation: Allow the Cabinet to continue allowing exceptions for ABAWD's who live in the same household as someone younger than 18, if they can prove that they are responsible for the caretaking of a child or other loved one.

- **Section 6** instructs the Cabinet for Health and Family Services to implement a community engagement requirement for the expanded Medicaid population once 50 percent of the general fund budget request for Medicaid is needed to provide the state match required for expanded Medicaid.

Recommendation: Federal appeals court rules against other states - such as Arkansas - community/work requirements lead us to believe that this section will result in a lawsuit, which will cost the state money to contest. Along with concerns about the validity of certain standards or thresholds, we have questions about the Cabinet's capacity to execute these provisions and the return on investment. For these reasons, we recommend deleting Section 6.

- **Section 10** removes the Cabinet's ability to determine Presumptive Eligibility and gives only a hospital the opportunity to determine Presumptive Eligibility. Currently, a family or general practitioner; a pediatrician; an internist; an obstetrician or gynecologist; a physician assistant; a certified nurse-midwife; an advanced practice registered nurse; a federally-qualified health care center; a primary care center; a rural health clinic; or a local health department can provide presumptive eligibility. Limiting Presumptive Eligibility determination to only hospitals would significantly drive up the cost of care for both the state and families.

Recommendation: As pregnant women and children are more likely to utilize Presumptive Eligibility than any other population, we recommend allowing Presumptive Eligibility determinations to be made by medical practitioners and practices.

- **Section 15** instructs the Cabinet to regularly compare public benefits recipients with the Administrative Office of the Court roles at least monthly and verify the income of recipients with the Department of Revenue on a quarterly basis.

Recommendation: Due to the increased administrative burden this will put onto the Cabinet for Health and Family Services, we recommend that a fiscal note is attached.

- **Section 17** removes the Cabinet's ability to make individuals categorically eligible for public benefits programs. This would remove the Cabinet's ability to provide public benefits to kinship caregivers and child care assistance to teen parents, students enrolled in post-secondary education and training, and families with an open case with Child Protective Services (CPS). The current policy allows for households enrolled in SNAP to be categorically eligible for free school meals, meaning children would no longer be automatically eligible for free school meals.

Additionally, Categorical Eligibility allows Kentucky to raise the asset limit for SNAP recipients. This allows low-income families to build assets and save for emergencies without their benefits being affected, helping families avoid the cliff effect and setting them up for a smooth transition off of public benefits.

Recommendations: Due to the benefits that Categorical Eligibility provides for parents, students, and kinship families, we recommend removing this provision from Section 17.

Section 17 outlines the consequences for trafficking, selling, distributing, giving, or otherwise transferring an electronic benefits card as six months loss of all benefits for a first offense and potentially permanently eligible for subsequent offenses. There is a clear difference between a single parent sending someone to the store with their card to pick up the formula and someone intentionally abusing their benefits for financial or other gains. The current language does not differentiate these two scenarios. Additionally, many fraud determinations for SNAP are determined by USDA and Deloitte algorithms, and individuals can be flagged for fraud for things like swiping their card multiple times a day or entering the wrong PIN. Families flagged for fraud are not afforded the right to due process, and families who do decide to appeal a fraud charge are not guaranteed a right to legal representation.

Recommendation: We recommend that the first violation for fraud is a written warning from the Cabinet for Health and Family Services and that subsequent violations do not result in a lifetime ban. Additionally, we recommend improving the appeals process so families have the opportunity to prove their innocence before being charged with fraud, such as by requiring notices to be sent on Kynect and clearly writing out the appeals process on the fraud notice. Finally, in cases where a fraud determination is made because of an error made by the Cabinet, we recommend allowing Kentucky families to repay overpayments through installments.

- **Section 20** instructs the Cabinet to disqualify both individuals who are behind on child support payments and custodial parents who do not help the Cabinet in child support enforcement. Individuals who are behind on child support are already facing financial troubles. Additionally, paying child support does not mean that a parent is absent in the child's life. Many parents who pay child support are still actively involved in the everyday lives and caretaking of their children, despite not being the primary guardian.

Recommendation: We recommend allowing noncustodial parents who are behind on child support the ability to prove their involvement in their child's life. Delete the section that requires custodial parents to comply with child support enforcement.

In addition to these recommendations, we have several questions related to the bill, including but not limited to: What counts as community engagement? How will mandated community engagement be monitored and will there be a fiscal note attached? Are pregnant women and former foster youth excluded from community engagement programs? Will these provisions apply to the Child Care Assistance Program (CCAP) and WIC programs?

Kentucky will be strongest when all children have their best chance to thrive as we continue to build an equitable pandemic recovery. We call on House leadership to consider these recommendations and questions as HB 7 progresses through the legislative process.