



1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (New Administrative Regulation)

5 895 KAR 1:030. Establishment and use of the MyRewards program.

6 RELATES TO: KRS 205.520, 42 U.S.C. 1315, 42 C.F.R. 489.24

7 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

8 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family

9 Services, Department for Medicaid Services has responsibility to administer the Medicaid

10 Program in accordance with Title XIX of the Social Security Act. KRS 205.520(3) authorizes the

11 cabinet, by administrative regulation, to comply with any requirement that may be imposed or

12 opportunity presented by federal law for the provision of medical assistance to Kentucky's

13 indigent citizenry. Pursuant to state and federal law, including 42 U.S.C. 1315, the Kentucky

14 HEALTH demonstration waiver has been approved and it shall, on a continuing basis, determine

15 and establish how the commonwealth provides Medicaid services and supports for certain

16 Medicaid members. This administrative regulation establishes the MyRewards account

17 requirements for the Kentucky HEALTH program.

18

19 Section 1. Purpose of MyRewards Account. (1) The MyRewards account shall be a

20 Kentucky HEALTH incentive in which a beneficiary with an active account may use it to access

1 items and services pursuant to subsection (2) of this section that are not covered in the
2 beneficiary's benefit package, as established in 895 KAR 1:035.

3 (2) Except as provided by subsections (3) and (4) of this section, items and services
4 available through the MyRewards account shall include:

5 (a) Vision services; and

6 (b) Dental services.

7 (3) The department shall:

8 1. Review additional items and services for availability to users of a MyRewards account;

9 and

10 2. Prominently post any approved items or services to its Web site.

11 (4) Services available in subsection (2) of this section through the beneficiary's
12 MyRewards account shall be limited in scope to services that would be covered under the
13 Kentucky Medicaid state plan if the beneficiary was not receiving the Kentucky HEALTH
14 alternative benefit plan benefit package.

15
16 Section 2. Requirements for Maintaining an Active MyRewards Account. (1)(a) To
17 maintain an active MyRewards account, a beneficiary shall make monthly premium payments.

18 (b) The requirement to make a monthly premium payment to maintain an active
19 MyRewards account shall include each beneficiary who is:

20 1. A former foster youth;

21 2. An individual determined to be medically frail or temporarily vulnerable; or

22 3. A beneficiary who has met the five (5) percent cost sharing limit established in 895

23 KAR 1:015.

1 (c) The requirement to make a monthly premium payment to maintain an active
2 MyRewards account shall not apply to a beneficiary who is a pregnant woman.

3 (2) Only a beneficiary with an active, non-suspended MyRewards account shall be able to
4 utilize the account to access services established in Section 1 of this administrative regulation.

5
6 Section 3. Accruals Within a MyRewards account. (1)(a) A MyRewards account shall not
7 be subject to any annual limit.

8 (b) A beneficiary shall continuously accrue balances for completion of activities listed in
9 subsection (2) of this section if:

- 10 1. The account remains active; and
11 2. The beneficiary is not otherwise suspended or disenrolled.

12 (2) A beneficiary shall have the opportunity to accrue balances in the MyRewards
13 account in the following circumstances:

- 14 (a) If the beneficiary completes a healthy behavior activity;
15 (b) If an individual in the household accesses preventive services, except that preventive
16 services for children shall be accrued differently for the child and the household;
17 (c) At the end of a benefit year in which a beneficiary did not make any non-emergent
18 visits to an emergency department;
19 (d) If the beneficiary completes and reports department approved community engagement
20 activities in excess of the hours required of the beneficiary pursuant to the PATH requirement
21 established in 895 KAR 1:020; or
22 (e) If the beneficiary completes a department approved education course.

23 (3) A beneficiary who has a suspended MyRewards account shall accrue balances for

1 completion of an activity listed in subsection (2) of this section if the MyRewards account is
2 unsuspending within sixty (60) calendar days of completing the approved activity.

3 (4) A beneficiary may accrue funds in the MyRewards account through deductible
4 account rollover as established in 895 KAR 1:040.

5
6 Section 4. Deductions. A beneficiary with an active MyRewards account shall have the
7 account balance reduced, up to a maximum negative balance of \$150 for:

8 (1) Failure to make a required premium payment within sixty (60) days of the date of
9 invoice, resulting in a non-payment penalty as established in 895 KAR 1:015; or

10 (2) A non-emergent use of the emergency department. Non-emergent use of the
11 emergency department shall exist if:

12 (a) The beneficiary did not need emergency services;

13 (b) A medical screening conducted pursuant to 42 CFR 489.24 was completed by the
14 emergency department, and

15 (c) The beneficiary failed to contact the nurse hotline operated by the MCO with which
16 the beneficiary is enrolled within twenty-four (24) hours prior to utilizing the emergency
17 department.

18
19 Section 5. Payout of Account. (1) A former beneficiary who disenrolls from Kentucky
20 HEALTH by obtaining commercial insurance and who remains commercially insured for a
21 minimum of eighteen (18) months may apply to receive a payout of up to half of that
22 beneficiary's remaining MyRewards account balance up to \$500, subject to the following
23 requirements:

- 1 (a) The former beneficiary shall provide attestation of commercial insurance; and
- 2 (b) The former beneficiary shall be without any type of Medicaid assistance in the
- 3 commonwealth for at least eighteen (18) consecutive months following the date of disenrollment
- 4 from Kentucky HEALTH.

5 (2) A MyRewards account shall be closed after the payout requested by a former
6 beneficiary under this section.

7

8 Section 6. Establishment of Early Reentry or Early Reactivation Opportunity. (1) A
9 beneficiary who is subject to a six (6) month penalty period under 895 KAR 1:010 or 895 KAR
10 1:015 shall be given the opportunity to re-enter Kentucky HEALTH or reactivate the
11 beneficiary's MyRewards account, as applicable, prior to the expiration of the six (6) month
12 penalty period.

13 (2) The opportunity to re-enter Kentucky HEALTH or reactivate the beneficiary's
14 MyRewards account, as applicable, prior to the expiration of the six (6) month penalty period
15 shall only be available to an individual one (1) time per benefit year per penalty reason type.
16

17 Section 7. Requirements for re-entry. A beneficiary seeking to re-enter Kentucky
18 HEALTH or reactivate the beneficiary's MyRewards account set forth in this administrative
19 regulation, as applicable, prior to the expiration of the six (6)-month penalty period shall:

- 20 (1) Complete a re-entry course;
- 21 (2) Pay any premium payment required for the first month of coverage to restart benefits;
- 22 and
- 23 (3) Pay any past due premiums owed for each month in which the individual received

1 healthcare coverage through Kentucky HEALTH during the sixty (60) day payment period prior
2 to the effective date of the applicable six (6) month penalty period.

3
4 Section 8. Federal approval and federal financial participation. The department's
5 coverage of services pursuant to this administrative regulation shall be contingent upon:

- 6 (1) Receipt of federal financial participation for the coverage; and
7 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

REVIEWED:

6/22/2018

Date

Jill R. Hunter

Jill R. Hunter, Acting Commissioner

Department for Medicaid Services

APPROVED:

6.27.18

Date

Adam Meier

Adam M. Meier, Secretary

Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on August 27, 2018, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing by August 20, 2018, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until August 31, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621, Phone: 502-564-6746, Fax: 502-564-7091; Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation #: 895 KAR 1:030

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Laura Begin, (502) 564-6746, laura.begin@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the MyRewards account requirements, including for accruals, deductions, account payout, early re-entry and re-activation following a suspension, and general account re-entry and reactivation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish and implement the MyRewards program and account for individual beneficiaries that are participating in the Kentucky HEALTH program or who otherwise elect to utilize a MyRewards program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing requirements and processes relating to the MyRewards program, which will enhance and allow for full participation in the Kentucky HEALTH program by individual beneficiaries and those who otherwise elect to utilize a MyRewards program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the MyRewards program and its requirements and processes, which will allow for individual beneficiaries and those who otherwise elect to participate in the MyRewards program to fully participate in the Kentucky HEALTH program pursuant to an approved federal 1115 waiver.

(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.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: 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: The Department for Medicaid Services, any contracted Medicaid managed care organization that delivers services to individuals eligible

for Medicaid through the Kentucky HEALTH program, any enrolled provider that delivers services to individuals eligible for Medicaid through the Kentucky HEALTH program, and any beneficiary whose eligibility for Medicaid will be governed by the Kentucky HEALTH program. Currently, more than 1.2 million individuals in Kentucky receive Medicaid.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Beneficiaries will need to comply with any relevant premium payment, PATH requirement, or any cost sharing limits to participate in the MyRewards program.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Beneficiaries should experience no additional costs as a result of compliance with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, beneficiaries will be able to use a MyRewards account for purchase of items and services such as vision services, dental services, and additional state approved services. Qualifying beneficiaries may also eventually receive a MyRewards account payout if certain conditions are met.

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

(a) Initially: The department anticipates no additional costs in the implementation of this administrative regulation.

(b) On a continuing basis: The department anticipates no additional costs in the continuing operation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX and state matching funds from general fund and restricted fund appropriations are utilized to fund 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 if it is an amendment: Neither an increase in fees or funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This new administrative regulation neither establishes or increases any fees.

(9) Tiering: Is tiering applied? Tiering was only applied in the sense that a beneficiary who is a pregnant woman is not required to make a monthly premium payment to maintain an active MyRewards account.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 895 KAR 1:030

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; or Laura Begin, (502) 564-6746, laura.begin@ky.gov.

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1315; 42 U.S.C. 1396n(b) and 42 C.F.R. Part 438

2. State compliance standards. KRS 194A.010(1), 194A.025(3), 194A.030(2), 194A.050(1), 205.520(3), and 205.560

KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1315 establishes the 1115 waiver authority. 42 U.S.C. 1396n(b) and 42 C.F.R. Part 438 establish requirements relating to managed care.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements..

A federal demonstration waiver has been approved pursuant to 42 U.S.C. 1315 and on an ongoing basis it shall determine and establish how Medicaid services are provided to Medicaid members who are eligible pursuant to this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 895 KAR 1:030

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; or Laura Begin, (502) 564-6746, laura.begin@ky.gov.

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Cabinet for Health and Family Services, Department for Medicaid Services

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 205.560.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Pursuant to the budget neutrality analysis in the application for the approved federal 1115 waiver, Kentucky HEALTH is projected to save taxpayers over \$2.2 billion dollars in state and federal funding over the five year waiver period.

(d) How much will it cost to administer this program for subsequent years? Pursuant to the budget neutrality analysis in the application for the approved federal 1115 waiver, Kentucky HEALTH is projected to save taxpayers over \$2.2 billion dollars in state and federal funding over the five year waiver period.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: