

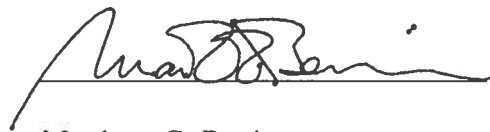
STATEMENT OF EMERGENCY

907 KAR 1:642E

This emergency administrative regulation is being promulgated to implement an approved state plan amendment that aligns the benefit plan offered to ACA expansion adults with federal requirements and clarifying that ACA expansion adults are required to remit copayments. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. and 3. to prevent a loss of federal funds and to meet a deadline for promulgation established by federal law. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

7-2-18

Date



Matthew G. Bevin
Governor

7-2-18

Date



Adam M. Meier, Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (New Emergency Administrative Regulation)

5 907 KAR 1:642E. Adult group 07-2018 benefit plan and copayments.

6 RELATES TO: KRS 205.520, 42 U.S.C. 1396a, 42 C.F.R. 435.119, 440

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 Program
10 in accordance with Title XIX of the Social Security Act. KRS 205.520(3) authorizes the cabinet,
11 by administrative regulation, to comply with any requirement that may be imposed or opportunity
12 presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry.
13 Pursuant to state and federal law, a state plan amendment has been approved that aligns the benefit
14 plan offered to Kentucky Medicaid Affordable Care Act (ACA) expansion adults with the benefits
15 required to be offered to Medicaid recipients underneath the Affordable Care Act and federal law.
16 This administrative regulation implements the state plan amendment, by aligning the benefit plan
17 offered to ACA expansion adults with federal requirements and clarifying that ACA expansion
18 adults are required to remit copayments.

19 Section 1. Definitions. (1) "Adult group 07-2018 adult" means a Medicaid member who meets
20 the requirements established by 42 C.F.R. 435.119 and who was previously eligible and designated
21 as an ACA expansion adult within Title 907 KAR.

1 (2) “Alternative benefit plan” or “ABP” means the benefit package:

2 (a) Developed by the department and approved by the Centers for Medicare and Medicaid
3 Services in accordance with 42 C.F.R. Part 440, Subpart C (440.300-440.395); and

4 (b) Provided to Adult group 07-2018 in accordance with Medicaid Alternative Benefit Plan
5 KY-18-0001, April 20, 2018 with supplementary approval on May 9, 2018.

6 (3) “Preventive dental services” means services:

7 (a)1. Performed by an enrolled Medicaid provider; and

8 2. That include cleanings, fillings, and root canal therapy and other services that are preventive
9 in nature; and

10 (b) That do not include medical dental services that are not preventive in nature including the
11 removal of benign and malignant lesions, removal of foreign bodies, wound suturing, or anesthesia
12 related to the provision of medical dental services.

13 (4) “Preventive vision services” means services:

14 (a)1. Performed by an enrolled Medicaid provider; and

15 2. That include routine or preventative eye exams and other services that are preventive in
16 nature; and

17 (b) Does not include medical vision services that are not preventive in nature including the
18 removal of benign and malignant lesions or tumors, removal of foreign bodies, wound suturing,
19 and anesthesia related to the provision of medical vision services.

20 Section 2. Alternative Benefit Plan (ABP). (1)(a) An adult group 07-2018 adult not eligible
21 under paragraph (b) of this subsection shall receive benefits:

22 1. As established in the alternative benefit plan approved by the Centers for Medicare and
23 Medicaid Services; and

1 2. In accordance with the essential health benefit requirements under 42 C.F.R. 440.347 for
2 alternative benefit plans.

3 (b) An adult group 07-2018 adult shall receive benefits in accordance with the Kentucky
4 Medicaid state plan, as established by Title 907 KAR, if the adult group 07-2018 adult:

- 5 1. Is pregnant; or
- 6 2. Is a former foster youth.

7 (2) The ABP established pursuant to this administrative regulation shall include covered
8 services in each of the following categories:

- 9 (a) Ambulatory patient services;
- 10 (b) Emergency services;
- 11 (c) Hospitalization;
- 12 (d) Maternity services;
- 13 (e) Mental health and substance abuse services;
- 14 (f) Prescription drugs;
- 15 (g) Rehabilitative and habilitative services and devices;
- 16 (h) Laboratory services;
- 17 (i) Preventive care services;
- 18 (j) Early and periodic screening, diagnostic, and treatment services for beneficiaries nineteen
19 (19) and twenty (20) years of age; and
- 20 (k) Any other services approved by the Centers for Medicare and Medicaid Services in the
21 alternative benefit plan.

22 (3) The following services shall not be covered under the alternative benefit plan:

- 23 (a) Services that are not medically necessary;

- 1 (b) Preventive dental services;
- 2 (c) Preventive vision services;
- 3 (d) Nonemergency medical transportation as established pursuant to 907 KAR 3:066; and
- 4 (e) Any other services not approved by the Centers for Medicare and Medicaid Services in the
- 5 alternative benefit plan.

6 Section 3. Copayments by adult group 07-2018. (1) Notwithstanding any provision of Title 907
7 KAR to the contrary, including 907 KAR 1:604, any copay plan requirements established pursuant
8 to this administrative regulation shall be mandatory for each Medicaid member in the adult group
9 07-2018 and shall be remitted as established pursuant to subsection (2) of this section.

10 (2)(a) An adult group 07-2018 adult participating in the Kentucky Medicaid state plan in Title
11 907 KAR shall make co-pays for all covered services equal to the copays established in the
12 Kentucky Medicaid state plan.

13 (b) Any co-payment requirements established pursuant to 907 KAR 1:604 shall not be waived
14 by an MCO or provider for the adult group 07-2018 and shall be collected by either the MCO or
15 the provider and remitted as directed by the department.

16 Section 4. Incorporation by Reference. The following material is incorporated by reference:

17 (1) “Medicaid Alternative Benefit Plan KY-18-0001, April 20, 2018 with supplementary
18 approval on May 9, 2018,” is incorporated by reference.

19 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
20 the:

21 (a) Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621,
22 Monday through Friday, 8 a.m. through 4:30 p.m.; or

23 (b) Website address of <http://www.chfs.ky.gov/dms/incorporated.htm>.

REVIEWED:

2 July 2018

Date

Jill R. Hunter

Jill R. Hunter, Acting Commissioner
Department for Medicaid Services

APPROVED:

7-2-18

Date

Adam Meier

Adam M. Meier, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:642E

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 implements a state plan amendment, by aligning the benefit plan offered to ACA expansion adults within the Adult Group 07-2018 with federal requirements and clarifying that ACA expansion adults are required to remit copayments.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement a state plan amendment in order to align the benefit plan offered to ACA expansion adults within Adult Group 07-2018 with federal requirements and clarifying that ACA expansion adults are required to remit copayments.

(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 implementing a state plan amendment in order to align the benefit plan offered to ACA expansion adults within Adult Group 07-2018 with federal requirements and clarifying that ACA expansion adults are required to remit copayments.

(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 implementing a state plan amendment and aligning a benefit plan to ACA expansion adults with federal requirements.

(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 beneficiaries, 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 as an Adult Group 07-2018 adult, any enrolled provider that delivers services to individuals eligible as an Adult Group 07-2018 adult, and any beneficiary whose eligibility for Medicaid will be governed by the Adult Group 07-2018 designation. 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: Eligible adults will need to submit copayments to access services in the benefit plan established pursuant to this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Eligible adults will pay the copayments established in 907 KAR 1:604.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Eligible adults will be able to access Medicaid benefits.

(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 applied in the sense that the requirements established pursuant to this administrative regulation apply only to adults within the Adult Group 07-2018. Tiering was further applied in that pregnant women and former foster youth are exempted from the requirements of this administrative regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 907 KAR 1:642E

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. 1396n(b) and 42 C.F.R. Part 440

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. 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?

This administrative regulation does not establish standards that are stricter than required by the federal mandate.

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

Requirements are established in response to a completed state plan amendment that aligns the benefit plan offered to the Adult Group 07-2018 with federal law.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 907 KAR 1:642E

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? The department anticipates no additional costs in the implementation of this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? The department anticipates no additional costs in the implementation of this administrative regulation.

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:

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The “Medicaid Alternative Benefit Plan KY-18-0001, April 20, 2018 with supplementary approval on May 9, 2018,” is incorporated by reference. This document shows the approved and completed federal state plan amendment that establishes the Alternative Benefit Plan for Adult Group 07-2018.

The total number of pages incorporated by reference is sixty-one (61) pages.