



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 1:040. Deductible accounts within the Kentucky HEALTH program.

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

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, including 42 U.S.C. 1315, the Kentucky HEALTH
14 demonstration waiver has been approved and it shall, on a continuing basis, determine and
15 establish how the commonwealth provides Medicaid services and supports for certain Medicaid
16 members. This administrative regulation establishes requirements for the use of deductible
17 accounts for adult Kentucky HEALTH beneficiaries.

18 Section 1. Establishment of Deductible Account. (1) An adult beneficiary shall begin each
19 benefit year with a deductible account with a dollar value equivalent to \$1,000 as a mechanism to

1 track the first \$1,000 of non-preventive covered services utilized by the beneficiary in the benefit
2 year.

3 (2) This section shall not apply to an adult beneficiary who is a pregnant woman.

4 (3) As necessary, the department shall:

5 (a) Freeze deductible accounts to accommodate adult beneficiaries who become pregnant; or

6 (b) Pro-rate deductible accounts to accommodate an adult beneficiary who enrolls in Kentucky
7 HEALTH for a partial benefit year.

8 Section 2. Purpose and Use of Deductible Account. (1) The deductible account shall cover the
9 Kentucky HEALTH deductible, which shall be applicable to all non-preventive care services.

10 (2) Preventive care services as established in 895 KAR 1:045 shall not be:

11 (a) Subject to the \$1,000 Kentucky HEALTH deductible; and

12 (b) Deducted from the deductible account.

13 Section 3. Continued Access to Service and Monthly Statement. (1) An adult beneficiary who
14 receives more than \$1,000 worth of non-preventive services in the benefit year shall retain access
15 to all covered services despite having exhausted the deductible account.

16 (2) Each adult beneficiary shall receive a monthly deductible account statement, which shall
17 include:

18 (a) The cost of non-preventive care services that the adult beneficiary has utilized during the
19 statement period; and

20 (b) The deductible account balance that the adult beneficiary has remaining.

21 Section 4. Deductible Account Balance Transfer and Calculation. (1) An adult beneficiary
22 with funds remaining in a deductible account at the end of the benefit year may transfer up to
23 fifty (50) percent of the remaining deductible account balance to the beneficiary's MyRewards

1 account established in 895 KAR 1:030.

2 (2) For a beneficiary who was not an active member of Kentucky HEALTH for the entire
3 benefit year, the deductible account balance that is eligible to be transferred to an adult
4 beneficiary's MyRewards account shall be calculated on a prorated basis based on the
5 beneficiary's active months during the benefit year.

6 Section 5. Federal Approval and Federal Financial Participation. The department's coverage
7 of services pursuant to this administrative regulation shall be contingent upon:

8 (1) Receipt of federal financial participation for the coverage; and

9 (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 1:040

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 requirements for the use of deductible accounts for Kentucky HEALTH beneficiaries.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish and implement requirements and processes for individual beneficiaries to track how they utilize services via a deductible account for non-preventive covered services.

(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 use of deductible accounts to allow for individual beneficiaries to track their use of non-preventive covered services to allow for beneficiaries to more fully participate in the Kentucky HEALTH 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 requirements and procedures for the use of deductible accounts, which will allow individual beneficiaries to track and receive data relating to their use of non-preventive covered services and more fully participate in the Kentucky HEALTH program.

(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 track and send a monthly deductible account statement to beneficiaries. Beneficiaries may transfer 50% of amounts remaining in a deductible account to the beneficiary's MyRewards account at the end of the benefit year.

(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.

(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 track use of their deductible account in order to better understand the use of healthcare funds and potentially transfer the amount remaining in the deductible account to the beneficiary's MyRewards account.

(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 is applied in the sense that deductible accounts are used only by adult beneficiaries, and pregnant women are not required to utilize a deductible account.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 895 KAR 1:040

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 1:040

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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: