



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 1:025. Beneficiary Premiums.

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 Kentucky HEALTH
17 beneficiaries relating to premium payments.

18 Section 1. Required Premium Payments. (1) Except as otherwise provided in this administrative
19 regulation and 895 KAR 1:015, a beneficiary shall make monthly premium payments as required
20 by 895 KAR 1:015.

1 (2)(a) A conditionally eligible beneficiary who is not otherwise exempt from premium
2 payments shall make a first premium payment prior to the start of coverage.

3 (b) A conditionally eligible beneficiary shall have sixty (60) days from the date of the first
4 invoice from the MCO to make the first premium payment.

5 (c) The beneficiary's coverage shall become effective the first day of the month in which the
6 initial premium payment is received by the MCO.

7 (d) If a conditionally eligible beneficiary fails to make the first premium payment within the
8 initial sixty (60) day payment window, the beneficiary shall be subject to the non-payment penalty
9 provisions established at 895 KAR 1:010 and 895 KAR 1:015.

10 (3)(a) At the time of application, an applicant shall be given the option to make a one-time fast-
11 track payment in order to expedite eligibility if the applicant is subsequently determined eligible
12 for coverage.

13 (b) If an applicant makes a fast-track payment and is determined eligible for coverage, the
14 effective date shall be the first day of the month in which the fast-track payment was made.

15 (c) A fast-track payment shall meet the requirements established in this paragraph.

16 1. The fast-track payment amount shall not exceed the highest monthly premium that could be
17 required of that household.

18 2. The payment shall be fully refundable if:

19 a. The applicant is determined to be not eligible for Kentucky HEALTH; or

20 b. The applicant:

21 (i) Is determined to be a beneficiary for whom premiums are optional; and

22 (ii) Requests a refund within sixty (60) days of enrollment in Kentucky HEALTH;

23 (d) If the option to make a fast-track payment is selected on the application, the beneficiary

1 shall not change MCOs except for cause, as set forth at 895 KAR 1:010, prior to their annual open
2 enrollment opportunity.

3 (e) If the beneficiary's monthly premium payment is subsequently calculated upon eligibility
4 determination to be less than the fast-track payment, the excess fast-track payment shall be credited
5 until the full amount of the fast-track payment is exhausted against:

- 6 1. The first monthly premium due; and
- 7 2. Any additional premiums due.

8 (f) If the beneficiary's monthly premium payment is subsequently calculated upon eligibility
9 determination to be more than the fast-track payment, the beneficiary shall remain liable for any
10 balance remaining between the premium amount and fast-track amount.

11 Section 2. Effective Date for Premium Payments. (1) A beneficiary in either of the following
12 eligibility groups shall have an effective date of coverage as established in the Kentucky Medicaid
13 state plan and consistent with 42 C.F.R. 435.915:

- 14 (a) Former Foster Youth; or
- 15 (b) Pregnant Women.

16 (2) After approval, each beneficiary known to be medically frail at the time of application for
17 Kentucky HEALTH shall have coverage effective the first day of the month in which the
18 beneficiary applied for coverage.

19 (3) A beneficiary determined eligible through the presumptive eligibility process established in
20 907 KAR 20:050 shall have an effective date of coverage as established in 895 KAR 1:010.

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

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

1 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

REVIEWED:

6/27/2018

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 1:025

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 beneficiaries relating to premium payments.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish general rights and responsibilities relating to individual beneficiaries who will be submitting premium payments as a condition of their full participation in the Kentucky HEALTH 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 premium payment requirements for beneficiaries that will allow for these beneficiaries to 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 clear premium payment requirements for individual beneficiaries.

(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 follow the premium payment requirements and submit premium payments as outlined in 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): Beneficiaries will pay a varying premium payment based on income relative to the FPL.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Beneficiaries who meet premium payment requirements will be able to receive healthcare benefits via participation in the Kentucky HEALTH program as outlined in Title 895 KAR.

(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 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 as differing effective dates of coverage are established for former foster youth, pregnant women, and individuals who are determined to be medically frail or temporarily vulnerable.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 895 KAR 1:025

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?

This administrative regulation establishes effective dates for premiums.

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 1:025

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: