



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 1:001. Definitions for 895 KAR Chapter 1.

6 RELATES TO: KRS 205.520, 205.8451, 29 U.S.C. 701, 42 U.S.C. 1315, 1395dd, 1396a,  
7 1396d, 9902, 12101, 18001, 20 C.F.R. Part 418, 42 CFR Parts 435, 438, 440

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

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family  
10 Services, Department for Medicaid Services has responsibility to administer the Medicaid Program  
11 in accordance with Title XIX of the Social Security Act. KRS 205.520(3) authorizes the cabinet,  
12 by administrative regulation, to comply with any requirement that may be imposed or opportunity  
13 presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry.  
14 Pursuant to state and federal law, including 42 U.S.C. 1315, the Kentucky HEALTH  
15 demonstration waiver has been approved and it shall, on a continuing basis, determine and  
16 establish how the commonwealth provides Medicaid services and supports for certain Medicaid  
17 members. This administrative regulation establishes definitions for 895 KAR Chapter 1.

18 Section 1. Definitions.

19 (1) "ACA" means the Patient Protection and Affordable Care Act, 42 U.S.C. 18001 *et seq.*

1 (2) “ACA expansion adult” means a Kentucky HEALTH beneficiary who meets the  
2 requirements established by 42 C.F.R. 435.119.

3 (3) “Active months” means the number of months in which a Kentucky HEALTH  
4 beneficiary is not disenrolled or in a suspension status during a benefit period.

5 (4) “Alternative benefit plan” or “ABP” means the benefit package developed by the  
6 department and approved by the Centers for Medicare and Medicaid Services in accordance with  
7 42 C.F.R. Part 440, Subpart C (440.300-440.395 and provided to ACA expansion adults.

8 (5) “Applicant” means an individual for which coverage under Kentucky HEALTH is  
9 requested.

10 (6) “Beneficiary” means an individual who is enrolled in one of the following eligibility  
11 groups and subject to Kentucky HEALTH provisions under Title 895 KAR:

- 12 (a) ACA expansion adult;
- 13 (b) Parent and caretaker relative;
- 14 (c) Transitional medical assistance;
- 15 (d) Pregnant women; or
- 16 (e) Former foster youth.

17 (7) “Benefit year” means the time period:

- 18 (a) January 1 through December 31 of each calendar year; or
- 19 (b) From the date of enrollment in Kentucky HEALTH through December 31 of that same  
20 calendar year.

21 (8) “Community engagement activities” means department approved activities to support  
22 community engagement and employment of Kentucky HEALTH beneficiaries, including:

- 23 (a) Employment;

- 1 (b) Education;
- 2 (c) Job skills training;
- 3 (d) Community service; or
- 4 (e) Substance use disorder treatment.

5 (9) "Conditionally eligible beneficiary" means an ACA expansion adult or a parent and  
6 caretaker relative who:

- 7 (a) Has been determined to meet all Kentucky HEALTH eligibility criteria;
- 8 (b) Has not made an initial premium payment; and
- 9 (c) Is not currently eligible to receive Kentucky HEALTH benefits.

10 (10) "Copay plan" means the cost sharing plan whereby beneficiaries:

- 11 (a) Are charged a copayment according to the schedule of copays established in 907 KAR  
12 1:604 and the Kentucky Medicaid state plan for every Kentucky HEALTH covered benefit  
13 received; and
- 14 (b) Do not have access to a MyRewards account.

15 (11) "Debt" means any unpaid premium amounts that MCOs may collect from a beneficiary,  
16 and which is neither a condition of eligibility nor required to cure a non-payment penalty.

17 (12) "Declared disaster" means a flood, storm, earthquake, catastrophic event, declared  
18 emergency by the governor, or any other event or series of events designated by the governor as  
19 a disaster or natural disaster.

20 (13) "Deductible account" means a state-funded account that:

21 (a) Functions as an administrative tracking mechanism designed to expose beneficiaries to  
22 healthcare costs.:

23 (b) Tracks the first \$1,000 of non-preventive care services received within a benefit year by a

1 beneficiary; and

2 (c) Includes a monthly statement sent to the beneficiary.

3 (14) "Dental services" means services:

4 (a)I. That are purchased by a beneficiary from an enrolled Medicaid provider via a  
5 MyRewards account; and

6 2. Include cleanings, fillings, and root canal therapy; and

7 (b) That do not include medical dental services including but not limited to the removal of  
8 benign and malignant lesions, removal of foreign bodies, wound suturing, or anesthesia related to  
9 medical dental services, which shall continue to be reimbursed pursuant to title 907 KAR.

10 (15) "Department" means the Department for Medicaid Services or its designee.

11 (16) "Domestic violence" has the same meaning as in KRS 403.720.

12 (17) "Early and Periodic Screening, Diagnostic, and Treatment Services" or "EPSDT" means  
13 those services defined in 42 U.S.C. 1396d(r).

14 (18) "Emergency medical condition" means a medical condition as established by 42 U.S.C.  
15 1395dd.

16 (19) "Emergency services" means covered services that are needed to evaluate or stabilize an  
17 emergency medical condition.

18 (20) "Fast-track payment" means an advance premium dollar amount calculated by the  
19 department that an applicant may opt to pay to expedite coverage to the first day of the month in  
20 which the payment is made, which may be as early as the first day of the month of application.

21 (21) "Federal poverty level" or "FPL" means the poverty guidelines updated periodically in  
22 the Federal Register by the U.S. Department of Health and Human Services under the authority  
23 of 42 U.S.C. 9902(2).

1 (22) "Former foster youth" means a beneficiary who:

2 (a) Is at least nineteen (19) years of age, but no more than twenty-six (26) years of age; and

3 (b) Was in foster care under the responsibility of the state or a Tribe within Kentucky or  
4 another state; and

5 (c) Was enrolled in Medicaid on the date of attaining age eighteen (18) or a higher age as  
6 elected by the state.

7 (23) "Full-time employment" means employment that is at least 120 hours per calendar  
8 month.

9 (24) "Healthy behavior activity" means an activity that is:

10 (a) Documented by a beneficiary;

11 (b) Reported as designated by the department;

12 (c) Approved by the department; and

13 (d) When completed allows for a beneficiary to accrue a balance in the beneficiary's  
14 MyRewards account.

15 (25) "Household" means the composition and family size of a household as established by 42  
16 C.F.R. 435.603(f).

17 (26) "Household income" means the application of the MAGI of every individual included in  
18 the individual's household as set forth at 42 C.F.R. 435.603.

19 (27) "Institutionalized" means:

20 (a) Residing in:

21 1. A nursing facility;

22 2. An intermediate care facility for an individual with an intellectual disability; or

23 3. A medical institution;

1 (b) Receiving hospice services; or

2 (c) Receiving 1915(c) home and community based services.

3 (28) "KCHIP" means the Commonwealth's Children's Health Insurance Program.

4 (29) "Kentucky HEALTH" means the commonwealth's Section 1115 waiver demonstration  
5 program approved by the U.S. Department of Health and Human Services, Centers for Medicare  
6 and Medicaid Services as authorized by 42 U.S.C. 1315.

7 (30) "Life-changing event" means the marriage of a beneficiary living in the household, a  
8 birth, a death of a member of the household, the end of a marriage of a beneficiary in the  
9 household through divorce or annulment, or other type of major life-changing event as defined  
10 by 20 C.F.R. 1205.

11 (31) "Managed care organization" or "MCO" means an entity for which the department has  
12 contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.

13 (32) "Medically frail" means a determination has been made that an ACA expansion adult,  
14 parent and caretaker relative or TMA beneficiary, in accordance with both 42 C.F.R. 440.315(f)  
15 and department developed criteria, has a:

16 (a) Disabling mental disorder;

17 (b) Serious mental illness;

18 (c) Chronic substance use disorder;

19 (d) Chronic homelessness;

20 (e) Serious and complex medical condition; or

21 (f) Physical, intellectual or developmental disability that significantly impairs the  
22 beneficiary's ability to perform one (1) or more activities of daily living as defined by KRS  
23 194A.700.

1 (33) "Medically necessary" means a covered service that is determined to be needed in  
2 accordance with 907 KAR 3:130.

3 (34) "Modified Adjusted Gross Income" or "MAGI" means MAGI-based income as  
4 calculated in accordance with 42 C.F.R. 435.603(e).

5 (35) "MyRewards account" or "MRA" means the account available to beneficiaries that can  
6 be utilized to purchase department approved services not covered by a beneficiary's benefit  
7 package and otherwise permitted in the special terms and conditions to be covered by the  
8 account.

9 (36) "Nonemergency medical transportation" or "NEMT" means transportation services  
10 provided pursuant to 907 KAR 3:066 that are unrelated to an emergency medical condition.

11 (37) "Non-payment penalty" means the six (6) month non-eligibility penalty period applied  
12 to beneficiaries to whom cost sharing requirements apply but who fail to make timely premium  
13 payments.

14 (38) "Parent and caretaker relative" means a beneficiary who meets the requirements  
15 established by 42 C.F.R. 435.110.

16 (39) "Past due premiums" means the total amount that:

17 (a) A beneficiary is required to pay to either avoid a non-payment penalty or to end a non-  
18 payment penalty prior to the expiration of the six (6) month penalty period; and

19 (b) Does not include debt.

20 (40) "PATH" means the community engagement component of Kentucky HEALTH and  
21 stands for "Partnering to Advance Training and Health".

22 (41) "PATH requirement" means the requirement that a beneficiary complete eighty (80)  
23 hours of community engagement activities each month to maintain eligibility in the Kentucky

1 HEALTH program, unless the beneficiary meets an exceptions established in 895 KAR 1:020.

2 (42) "Pregnant women" means beneficiaries who meet the requirements established by 42  
3 C.F.R. 435.116.

4 (43) "Premium assistance" means the Kentucky HEALTH benefit plan that:

5 (a) Subsidizes an individual's employer sponsored insurance plan minus their Kentucky  
6 HEALTH premium amount; and

7 (b) A beneficiary is required to participate in if the beneficiary is

8 1. Enrolled in Kentucky HEALTH for more than twelve (12) months;

9 2. Has been continuously employed by their employer for twelve (12) months, and

10 3. Has access to employer sponsored insurance.

11 (44) "Premium plan" means the cost sharing plan whereby beneficiaries make required  
12 monthly premium payments.

13 (45) "Protected disability" means a legally defined disability protected pursuant to 42 U.S.C.  
14 12101, 29 U.S.C. 701 et. seq., or 42 U.S.C. 18116.

15 (46) "Provider" is defined by KRS 205.8451(7).

16 (47) "Random control group" means beneficiaries who are otherwise eligible for Kentucky  
17 HEALTH but are allocated, at random, to a control group through which they do not have the  
18 requirements of Kentucky HEALTH applied.

19 (48) "Re-entry course" means an education class designated by the department to enable a  
20 beneficiary in a suspension status or penalty period to meet the education requirement for early  
21 re-entry into Kentucky HEALTH or early reactivation of a MyRewards account.

22 (49) "Special terms and conditions" or "STCs" means the agreement between the Centers for  
23 Medicare and Medicaid Services and the commonwealth regarding the rules and requirements



1 that govern the operation of Kentucky HEALTH.

2 (50) “State” or “Commonwealth” means the Commonwealth of Kentucky.

3 (51) “Transitional medical assistance” or “TMA” means a beneficiary who meets the  
4 requirements established by 42 U.S.C. 1396r.

5 (52) “Vision services”:

6 (a)1. Means services purchased by a beneficiary via a MyRewards account from an enrolled  
7 Medicaid provider; and

8 2. Includes routine or preventative eye exams; and

9 (b) Does not include medical vision services including the removal of benign and malignant  
10 lesions or tumors, removal of foreign bodies, wound suturing, and anesthesia related to medical  
11 vision services.

REVIEWED:

6/22/18  
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](mailto:Laura.Begin@ky.gov).

REGULATORY IMPACT ANALYSIS  
AND TIERING STATEMENT

Administrative Regulation #: 895 KAR 1:001

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

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the definitions for administrative regulations located in Chapter 1 of Title 895 of the Kentucky Administrative Regulations. Chapter 1 establishes and implements the Kentucky HEALTH program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions for administrative regulations located in Chapter 1 of Title 895.

(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 the definitions for administrative regulations located in 895 KAR chapter 1.

(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 definitions for administrative regulations located in 895 KAR Chapter 1.

(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 for the Kentucky HEALTH program, any enrolled provider that delivers services to individuals

eligible for 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: No action is required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The administrative regulation establishes definitions for the Kentucky HEALTH program. Beneficiaries will benefit due to the clarity of terms being defined in this administrative regulation

(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 not appropriate in this administrative regulation because the definitions are standard throughout the Kentucky HEALTH program.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 895 KAR 1:001

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