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Donna Little
REGULATIONS COMPILER

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 15:045

Department for Medicaid Services
Amended After Comments

(1) A public hearing regarding 907 KAR 15:045 was not requested and; therefore, not held.

(2) The following individual submitted written comments regarding 907 KAR 15:045:

Name and Title	Organization/Agency/Other Entity
Kathy Adams, Director of Public Policy	The Children's Alliance
Sharon Perkins, Director of Health Policy	Kentucky Hospital Association
Steve Shannon, Executive Director	Kentucky Association Regional Programs, Inc. (KARP)

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 15:045:

Name and Title	Organization/Agency/Other Entity
Stuart Owen, Regulation Coordinator	Department for Medicaid Services (DMS)
Michele Blevins, MS, LMFT Assistant Director	Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID); Division of Behavioral Health
Lynne Flynn	DMS

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Reimbursement

(a) Comment: Sharon Perkins, Director of Health Policy, Kentucky Hospital Association stated the following:

"In the New Administrative Regulations, 907 KAR 15:045 and 907 KAR 15:065 Sections 2. Reimbursement. (1) the department shall reimburse a monthly rate of $334 in total for all targeted case management services provided to a recipient during the month. According to the New Administrative Regulation, the targeted case management shall provide at least four (4) targeted case management services, two (2) face-to-face

contacts and two (2) additional contacts. If a provider offers the minimum of four (4) services the per-visit rate is $83.50.

In the New Administrative Regulation, 907 KAR 15:55, Section 2. Reimbursement. (1) The department shall reimburse a monthly rate of $541 in total for all targeted case management services provided to a recipient during the month. According to the New Administrative Regulation, the targeted case management shall provide at least five (5) targeted case management services, three (3) face-to-face contacts and two (2) additional contacts. If a provider offers the minimum of five (5) services the per-visit rate is $108.20.

KHA is requesting clarification on these regulations as to why the difference in fees for targeted case management services. We believe all services should be equal in value at the $108.20 rate per visit. Please provide clarification on this issue."

(b) Response: The reason for the higher rate for targeted case management provided to an individual with a substance use disorder or mental health disorder and a chronic/complex physical health issue is that the qualifications and expertise required to provide the latter type of targeted case management are higher. Knowledge regarding behavioral health as well as physical health is required for this type of targeted case management and there is a smaller pool of individuals qualified to provide the service.

(2) Subject: Face-to-Face Contacts

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"Page 2, line 11-16 Section 2(2)(b) requires two face-to-face contacts with the recipient. When the recipient is a child, request that at least one of the face-to-face contacts be allowed to be with the child's parent/guardian. Request that this provision be re-written to allow face-to-face contacts with the child's parent or guardian as provided for in 907 KAR 15:055."

Steve Shannon, Executive Director of the Kentucky Association Regional Programs stated the following:

"This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program targeted case management services for individuals with a substance use disorder who are not enrolled with a managed care organization.

Section 2. Reimbursement. (1) The department shall reimburse a monthly rate of $334 in total for all targeted case management services provided to a recipient during the month.
(2) To qualify for the reimbursement referenced in subsection (1) of this section, a targeted case management services provider shall provide services to a recipient

consisting of:
(b) At least four (4) targeted case management service contacts including:
1. At least two (2) face-to-face contacts with the recipient; and
2. At least two (2) additional contacts which shall be:
a.(i) By telephone; or
(ii) Face-to-face; and
b. With the recipient or with another individual or agency on behalf of the recipient

Comment:

It is recommended that language be added to clarify if the recipient is under the age of twenty-one (21) at least one face-to-face contact should be with the recipient and one (1) with the parent or guardian.

Should the recipient age be changed to eighteen (18) as opposed to twenty-one (21)?"

(b) Response: Via an "amended after comments" administrative regulation, the Department for Medicaid Services (DMS) is revising the language to require, for an individual under eighteen (18) of age, at least one (1) of the contacts to be with the recipient and at least one (1) with the recipient's parent or legal guardian if the recipient has a parent or legal guardian. For those who are at least eighteen (18) but under twenty-one (21) DMS is establishing an option for one of the aforementioned face-to-face contacts to be with the individual's parent or legal guardian.

(3) Subject: No Duplication of Service

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"Page 2, line 19 Section 3(1) – Request that (1) be amended to state:
(1)The department will not reimburse for a service provided to a recipient by more than one provider of any program in which the same service is covered during the same time period."

(b) Response: DMS is revising the language as requested via an "amended after comments" administrative regulation.

(4) Subject: Regulatory Impact Analysis

(a) Comment Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"Regulatory Impact Analysis(1)(a) Recommend that the last sentence be clarified to indicate that the $334 monthly rate is specific to all targeted case management (TCM) services received in a given month. A recipient can still receive other Medicaid services and is not limited to only receiving TCM services. Recommend the last sentence be

amended to read: For these services the DMS will pay a monthly rate (encompassing all targeted case management services provided to a recipient in a given month) of $334."

(b) Response: DMS will elaborate on the explanation in the "amended after comments" version of the administrative regulation DMS is filing.

(c) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"(1)(d) The Children's Alliance requests that this sentence be amended to add that the regulation will help ensure that TCM providers are reimbursed for their services."

(d) Response: DMS will state in the "amended after comments" administrative regulation that providers of targeted case management services will benefit by being able to be reimbursed for the services.

(e) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"(3) Request that the number of individuals, businesses, organizations or state and local governments affected by this administrative regulation be specified."

(f) Response: The exact number of the individuals or entities is indeterminable as DMS is experiencing a continued enrollment of new providers of various behavioral health services and cannot predict how many will continue to enroll as behavioral health providers and, of that number, how many will elect to provide targeted case management services. DMS anticipates a continued growing enrollment over the next year but is unable to forecast a precise number. DMS will address this in the "amended after comments" version of the administrative regulation DMS is filing.

(g) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"(4)(b) The Children's Alliance would like this paragraph amended to indicate that providers of TCM services will experience additional personnel costs to meet the supervision and training requirements included in this regulation."

(h) Response: DMS will address this as recommended in the "amended after comments" version of the administrative regulation DMS is filing.

(i) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"(4)(c) Request that this paragraph be amended to specify that the Medicaid recipients in need of TCM services are limited to Medicaid recipients with a substance use disorder."

(j) Response: DMS will clarify the affected population in the "amended after comments" version of the administrative regulation that DMS is filing.

(5) Subject: Fiscal Note on State or Local Government

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"The Children's Alliance believes that 3.(a) and (b) should indicate that this administrative regulation should generate an undetermined amount of additional revenue for state and local governments in areas where new providers of TCM services are located or in areas where TCM services are expanded. New providers of TCM services will generate new revenue for state and local governments due to employee taxes."

(b) Response: DMS will include such or similar language in the "amended after comments" version of the administrative regulation that DMS is filing.

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 15:045 and is amending the administrative regulation as follows:

Page 2
Section 2(2)
Line 8
After "(2)", insert the following:
Except as established in subsection (3) or (4) of this section,

Page 2
Section 3, Title
Line 17
Before "Section 3.", insert the following and then insert a return:
(3) For a recipient who is under the age of eighteen (18) years, the contacts that a targeted case management services provider shall have shall include at least:
(a)1. One (1) face-to-face contact with the recipient; and
2. One (1) face-to-face contact with the recipient's parent or legal guardian; and
(b) Two (2) additional contacts which shall be:
1.a. By telephone; or

b. Face-to-face; and
2. With the recipient or with another individual or agency on behalf of the recipient.
(4) For a recipient who is at least eighteen (18) years of age but under the age of twenty-one (21) years, the contacts that a targeted case management services provider shall have shall include:
(a)1. At least two (2) face-to-face contacts with the recipient; and
2. At least two (2) additional contacts which shall be:
a.(i) By telephone; or
(ii). Face-to-face; and
b. With the recipient or with another individual or agency on behalf of the recipient; or
(b)1.a. At least one (1) face-to-face contact with the recipient; and
b. One (1) face-to-face contact with the recipient's parent or legal guardian; and
2. At least two (2) additional contacts which shall be:
a.(i) By telephone; or
(ii). Face-to-face; and
b. With the recipient or with another individual or agency on behalf of the recipient.

Page 2
Section 3(1)
Line 19
Before "service", insert "same".