



**CABINET FOR HEALTH AND FAMILY SERVICES  
DEPARTMENT FOR MEDICAID SERVICES**

**Steven L. Beshear**  
Governor

275 East Main Street, 6W-A  
Frankfort, KY 40621  
P: 502-564-4321  
F: 502-564-0509  
[www.chfs.ky.gov](http://www.chfs.ky.gov)

**Audrey Tayse Haynes**  
Secretary

**Lawrence Kissner**  
Commissioner

July 2, 2014

TO: Dr. Beth Ennis, Chair, Therapy Technical Advisory Committee

RE: Response to Therapy Technical Advisory Committee (TAC) Testimony  
Presented at 5/22/2014 MAC Meeting

Dear Dr. Ennis:

We are writing to address testimony presented at the MAC meeting on May 22, 2014. We would first like to remind the MAC that because quorum was not met at the meeting, Department for Medicaid Services (DMS) will not be issuing any formal responses. Typically if a quorum is not set by the initiating legislation, the by-laws of a committee, etc. would set the quorum. The initiating legislation for the MAC does not address the issue of quorum or voting. Per corporate law and tradition, a quorum will default to be the majority of members in absence of it being defined by Articles of Incorporation or by-laws. See e.g. KRS 271A.7-250. The quorum, by definition, is the number of persons required for a body to transact business. Because there is no quorum set in statute for the MAC, the quorum required to transact business is the majority of the MAC members. There was not a majority at the May 22, 2014 MAC meeting.

In order for the Department for Medicaid Services (DMS) to issue a formal response to recommendations brought forth by the any Technical Advisory Committee, we ask that the MAC comply with quorum requirements.

The following response is provided to answer specific questions posed by the Therapy TAC for the purpose of ensuring our members have access to care.

1) Why is there a 30 day recert on the 20 visit benefit?

Per 907 KAR 8:020E Independent physical therapy service coverage provisions and requirements, there is an annual limit of twenty (20) physical therapy visits per

recipient per calendar year except where additional visits are determined to be medically necessary by either DMS or the recipient's Managed Care Organization (MCO). Providers should not need to recertify after 30 days in order to continue providing therapy services to Medicaid recipients. We are researching the issue, but it would be helpful if providers who are experiencing this problem could submit specific cases to DMS. We can then research each incident on a case-by-case basis to determine why the problem exists. Please have providers submit these to Erin Hoben at [erin.hoben@ky.gov](mailto:erin.hoben@ky.gov).

- 2) For children on waiver, is there some way to streamline the recert process or flag with an alert, so children don't get moved to MCO? Or a work group to address this as it seems to be happening even if not in a recert timeframe.

DMS is happy to set up a meeting with representatives of providers who are experiencing this issue. DMS asks that providers be prepared with specific instances so we may be able to research each on a case-by-case basis. To set up a meeting, please contact Erin Hoben at [erin.hoben@ky.gov](mailto:erin.hoben@ky.gov).

- 3) Has the OT hospital restriction been removed from the new regulations?

Yes. Under 907 KAR 8:010. Independent occupational therapy service coverage provisions and requirements, occupational therapy visits may now be provided by independent occupational therapists currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672.

Erin Hoben  
Chief Policy Advisor  
Commissioner's Office  
Department for Medicaid Services

cc: Lawrence Kissner, Commissioner, Department for Medicaid Services  
Neville Wise, Deputy Commissioner, Department for Medicaid Services  
Lisa Lee, Deputy Commissioner, Department for Medicaid Services  
Dr. Langefeld, Medical Director, Department for Medicaid Services  
Barbara Epperson, Internal Policy Analyst IV, Department for Medicaid Services  
Dr. Beth Partin, Chair, Medicaid Advisory Committee