CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Commissioner's Office

(Amended After Comments)

907 KAR 20:001. Definitions for 907 KAR Chapter 20.

RELATES TO: KRS 194A.025(3)

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the definitions for administrative regulations in 907 KAR Chapter 20.

Section 1. Definitions. (1) "1915(c) home and community based waiver program" means a Kentucky Medicaid program established pursuant to, and in accordance with, 42 U.S.C. 1396n(c).

(2) "1915(c) home and community based service" means a service available or provided via a 1915(c) home and community based services waiver program.

(3) "ABD" means a person who is aged, blind, or disabled.

(4) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(5) "Adult scale" means the scale located in 907 KAR 20:020, Section 2(1), establishing Medicaid income limits by family size.

(6) "Adverse action" means:

(a) The denial or limited authorization of a requested service, including the type or level of service;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial, in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner; or

(e) The failure of a managed care organization to act within the timeframes provided in 42 C.F.R. 438.408(b).

(7) "AFDC-related case" means a Medicaid-eligible, categorically-needy individual or group based upon AFDC Program requirements effective since July 16, 1996.

(8) "After the month of separation" means the first day of the month that follows the month in which an individual ceases living in the same household of a Medicaid eligible family.

(9) "Aged" means at least sixty-five (65) years of age.

(10) “Aid and Assistance” or “A & A” means a benefit to a United States veteran:

(a) In addition to the individual’s monthly pension; and

(b) Paid by the United States Veterans Administration.

(11) “Aid to Families with Dependent Children” or “AFDC” means an assistance program:

(a) In effect from 1935 to 1996;

(b) For children whose families had low or no income; and

(c) Administered by the United States Department of Health and Human Services.

(12) “Ambulatory prenatal care” means health-related care furnished to a presumed eligible pregnant woman provided in an outpatient setting.

(13) "Appeal" means a request for review of an adverse action or a decision by an MCO related to a covered service.

(14) "Applicant" means an individual applying for Medicaid.

(15) "Authorized representative" means:

(a) For a recipient or applicant who is authorized by Kentucky law to provide written consent, an individual or entity acting on behalf of, and with written consent from, the applicant or recipient; or

(b) A legal guardian.

(16) "Baseline date" means the date the institutionalized individual was institutionalized and applied for Medicaid.

(17) “Basic maintenance” means the amount of income that may be retained by the applicant for living and personal expenses.

(18) "Blind" is defined by 42 U.S.C. 1382c(a)(2).

(19) “Blind work expense” or “BWE” means an SSI program option in which expenses a blind individual incurs in order to earn income are deducted for SSI eligibility purpose.

(20) "Cabinet" is defined by KRS 194A.005(1).

(21) “Caretaker relative” means:

(a) An individual:

1. Who is the caregiver of a child under the age of nineteen (19) years; or

2. On whose tax return the child under the age of nineteen (19) years is listed as a dependent; and

(b) **Who has one of the following relationships to the child**[~~One (1) of the following~~]:

1. A grandfather;

2. A grandmother;

3. A brother;

4. A sister;

5. An uncle;

6. An aunt;

7. A nephew;

8. A niece;

9. A first cousin;

10. A relative of the half-blood;

11. A preceding generation denoted by a prefix of:

a. Grand;

b. Great; or

c. Great-great; or

12. A stepfather, stepmother, stepbrother, or stepsister.

(22) "Categorically needy" means an individual with income below 300 percent of the supplemental security income (SSI) standard who has been receiving hospice or 1915(c) home and community based services for at least thirty (30) consecutive days.

(23) "CDC" means the federal Centers for Disease Control and Prevention.

(24) "Child" means a person who:

(a)1. Is under the age of eighteen (18) years;

2.a. Is a full-time student in a secondary school or the equivalent level of vocational or technical training; and

b. Is expected to complete the program before the age of nineteen (19) years;

3. Is not self supporting;

4. Is not a participant in any of the United States Armed Forces; and

5. If previously emancipated by marriage, has returned to the home of his or her parents or to the home of another relative;

(b) Has not attained the age of nineteen (19) years in accordance with 42 U.S.C. 1396a(l)(1)(D); or

(c) Is under the age of nineteen (19) years if the person is a KCHIP recipient.

(25) "Community spouse" means the spouse of an institutionalized spouse who:

(a) Remains at home in the community; and

(b) Is not:

1. Living in a medical institution;

2. Living in a nursing facility; or

3. Participating in a 1915(c) home and community based services waiver program.

(26) "Community spouse maintenance standard" means the income standard to which a community spouse's otherwise available income is compared for purposes of determining the amount of the allowance used in the post-eligibility calculation.

(27) "Continuous period of institutionalization" means thirty (30) or more consecutive days of institutional care in a medical institution or nursing home or both and may in-

clude thirty (30) consecutive days of receipt of a 1915(c) home and community based service or a combination of both.

(28) "Countable resources" means resources not subject to exclusion in the Medicaid Program.

(29) "Creditable coverage" is defined in KRS 304.17A-005(7).

(30) "DCBS" means the Department for Community Based Services.

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

(32) "Dependent child" means a **natural[~~couple's~~]** child, including a child gained through adoption, who:

(a) Lives with **a parent in** the community **[~~spouse~~]**; and

(b) Is claimed as a dependent by either **parent[~~spouse~~]** under the Internal Revenue Service Code.

(33) "Dependent parent" means a parent:

(a) Of either member of a couple;

(b) Who lives with the community spouse; and

(c) Is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(34) "Dependent sibling" means a brother or sister of either member of a couple, including a half-brother, half-sister, or sibling gained through adoption, who:

(a) Resides with the community spouse; and

(b) Is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(35) "Designated hearing agency" means the Department for Community Based Ser-

vices.

(36) "Disabled" is defined by 42 U.S.C. 1382c(a)(3).

(37) "Dual eligible" means an individual eligible for Medicare and Medicaid benefits.

(38) "Early and periodic screening, diagnosis and treatment" or "EPSDT" is defined by 42 C.F.R. 440.40(b).

(39) "Emergency service" means "emergency services" as defined by 42 U.S.C. 1396u-2(b)(2)(B).

(40) "Enrollee" means a recipient who is enrolled with a managed care organization for the purpose of receiving Medicaid or KCHIP covered services.

(41) "Evidence of identity" means:

(a) A current state driver's license or state identity document bearing the individual's picture;

(b) A Certificate of Degree of Indian Blood or other United States American Indian or Alaska Native tribal document; or

(c) For a child who is age sixteen (16) or younger:

1. A school identification card with a photograph;

2. A military dependent's identification card, if it contains a photograph;

3. A school record that shows the:

a. Date and place of birth; and

b. Parent or parents' name;

4. A clinic, doctor, or hospital record showing date of birth;

5. A daycare or nursery school record showing date and place of birth; or

6. An affidavit signed under penalty of perjury by a parent or guardian attesting to the

child's identity.

(42) "Excess shelter allowance" means an amount equal to the difference between the community spouse's verified shelter expenses and the minimum shelter allowance.

(43) “Fair market value” means an estimate of the value of an asset if sold at the prevailing price at the time it was actually transferred based on:

(a) The gross tax assessed value of the property as stated by the local property valuation administrator; or

(b) An independent, licensed appraiser.

(44) "Family alternatives diversion payment" means a lump sum payment made to a Kentucky Transitional Assistance Program applicant:

(a) To meet short-term emergency needs; and

(b) Pursuant to 921 KAR 2:500.

(45) **[~~"Family-related case" or "family case" means a Medicaid-eligible, medically-needy group based on deprivation and within the medically-needy income level.~~**

~~(46)~~] “Federal financial participation” is defined in 42 C.F.R. 400.203.

(46)[~~(47)~~] "Fee-for-service" means a reimbursement model in which a health insurer reimburses a provider for each service provided to a recipient.

(47)[~~(48)~~] "First month of SSI payment" means the first month for which an SSI-related Medicaid recipient is determined to be eligible for SSI payments.

(48)[~~(49)~~] "Foster care" is defined by KRS 620.020(5).

(49)[~~(50)~~] "Gross income" means non-excluded income which would be used to determine eligibility prior to income disregards.

(50)[~~(51)~~] "Homeless individual" means an individual who:

(a) Lacks a fixed, regular, or nighttime residence;

(b) Is at risk of becoming homeless in a rural or urban area because the residence is not safe, decent, sanitary, or secure;

(c) Has a primary nighttime residence at a:

1. Publicly or privately operated shelter designed to provide temporary living accommodations; or

2. Public or private place not designed as regular sleeping accommodations; or

(d) Lacks access to normal accommodations due to violence or the threat of violence from a cohabitant.

(51)[~~(52)~~] "Homestead" means property:

(a) In which an individual has an ownership interest; and

(b) Which an individual uses as the individual's principal place of residence.

(52)[~~(53)~~] "ICF IID" means intermediate care facility for individuals with an intellectual disability.

(53)[~~(54)~~] "Impairment related work expenses" or "IRWE" means an SSI program option in which the United States Social Security Administration deducts the cost of items or services an individual needs, due to an impairment, in order to work.

(54)[~~(55)~~] "Incapacity" means a condition of mind or body making a parent physically or mentally unable to provide the necessities of life for a child.

(55)[~~(56)~~] "Income" means money received from:

(a) Statutory benefits (for example, Social Security, Veterans Administration pension, black lung benefits, or railroad retirement benefits);

(b) A pension plan;

(c) Rental property;

(d) An investment; or

(e) Wages for labor or services.

(56)[~~(57)~~] "Individual development account" means an account containing funds for the purpose of continuing education, purchasing a first home, business capitalization, or other purposes allowed by federal regulations or clarifications which meets the criteria established in 921 KAR 2:016.

(57)[~~(58)~~] "Institutionalized" means:

(a) Residing in a nursing facility;

(b) Receiving hospice services; or

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

(58)[~~(59)~~] "Institutionalized individual" means an individual with respect to whom payment is based on a level of care provided in a nursing facility and who is:

(a) An inpatient in:

1. A nursing facility;

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

3. A medical institution; **[~~or~~]**

(b) Receiving 1915(c) home and community based services**; or**

(c) Receiving hospice services.

(59)[~~(60)~~] "Institutionalized spouse" means an institutionalized individual who:

(a)1. Is in a medical institution or nursing facility; or

2. Participates in a 1915(c) home and community based services waiver program;

(b) Has a spouse who is not an institutionalized individual; and

(c) Is likely to remain institutionalized for at least thirty (30) consecutive days while the community spouse remains out of a medical institution, nursing facility, or 1915(c) home and community based services waiver program.

(60)[~~(61)~~] "KCHIP" means the Kentucky Children's Health Insurance Program administered in accordance with 42 U.S.C. 1397aa to jj.

(61)[~~(62)~~] "Kentucky Transitional Assistance Program" or "K-TAP" means:

(a) Kentucky's version of TANF; and

(b) A money payment program for children who are deprived of parental support or care in accordance with 921 KAR 2:006.

(62)[~~(63)~~] "Kentucky Women's Cancer Screening Program" means the program administered by the Department for Public Health:

(a) Which provides breast and cervical cancer screening and diagnostic services to low-income, uninsured, or underinsured women; **and**

(b) Which uses:

1. State funds; and

2. Monies from the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program, including Title XV funds.

(63)[~~(64)~~] "Keogh plan" means a full-fledged pension plan for self-employed individuals in the United States of America.

(64)[~~(65)~~] "Long-term care partnership insurance" is defined by KRS 304.14-640(4).

(65)[~~(66)~~] "Long-term care partnership insurance policy" means a policy meeting the requirements established in KRS 304.14-642(2).

(66)[~~(67)~~] "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(67)[~~(68)~~] “Mandatory categorically needy eligibility groups” means:

(a) Transitional medical assistance;

(b) Extended Medicaid due to child or spousal support collections;

(c) Children **receiving or approved for[~~with~~]** Title IV-E adoption assistance, foster care, or guardianship care;

(d) Qualified pregnant women and children;

(e) Mandatory poverty level related pregnant women;

(f) Mandatory poverty level related infants;

(g) Mandatory poverty level related children aged one (1) to five (5) years;

(h) Mandatory poverty level related children aged six (6) to eighteen (18) years;

(i) Deemed newborns **in accordance with 42 C.F.R. 435.117**;

(j) Individuals receiving supplemental security income benefits;

(k) Aged, blind, and disabled individuals **residing** in Social Security Act 209(b) states;

(l) Individuals receiving mandatory state supplement payments;

(m) Individuals who are essential spouses;

(n) Institutionalized individuals continuously eligible **for Medicaid** since 1973;

(o) Blind or disabled individuals eligible **for Medicaid** in 1973;

(p) Individuals who lost eligibility for supplemental security income benefits or state supplemental payments due to an increase in old age, survivors, and disability insur-

ance benefits in 1972;

(q) Individuals who would be eligible for supplemental security income benefits or state supplement payments but for old age, survivors, and disability insurance benefits cost-of-living adjustment increases since April 1977;

(r) Disabled widows and widowers ineligible for supplemental security income benefits due to an increase in old age, survivors, and disability insurance benefits;

(s) Disabled widows and widowers ineligible for supplemental security income benefits due to early receipt of social security benefits;

(t) Working disabled under Social Security Act 1619(b);

(u) Disabled adult children;

(v) Qualified Medicare beneficiaries;

(w) Qualified disabled and working individuals;

(x) Specified low income Medicare beneficiaries; or

(y) Qualifying individuals.

(68)[~~(69)~~] “Mandatory state supplement” is defined by 42 C.F.R. 435.4.

(69)[~~(70)~~] "Maternity care" means prenatal, delivery, and postpartum care and includes care related to complications from delivery.

(70)[~~(71)~~] "Medicaid works individual" means an individual who:

(a) But for earning in excess of the income limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be receiving supplemental security income;

(b) Is a least sixteen (16), but less than sixty-five (65), years of age;

(c) Is engaged in active employment verifiable with:

1. Paycheck stubs;

2. Tax returns;

3. 1099 forms; or

4. Proof of quarterly estimated tax;

(d) Meets the income standards established in 907 KAR 20:020; and

(e) Meets the resource standards established in 907 KAR 20:025.

(71)[~~(72)~~] "Medical institution or nursing facility" means a hospital, nursing facility, or intermediate care facility for individuals with an intellectual disability.

(72)[~~(73)~~] "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(73) "Medically needy" is defined by 42 C.F.R. 435.4.

(74) "Medically-needy income level" or "MNIL" means the basic maintenance standard used in the determination of Medicaid eligibility for the medically needy.

(75) "Medical record" means a single, complete record that documents all of the treatment plans developed for, and medical services received by, an individual.

(76) "Medicare Part A" means federal health insurance that covers:

(a) Inpatient hospital or skilled nursing facility services, including blood **transfusions**;

(b) Hospice services; and

(c) Home health services.

(77) "Medicare qualified individual group 1 (QI-1)" means an eligibility category, in which pursuant to 42 U.S.C. 1396a(a)(10)(E)(iv), an individual who would be a qualified Medicaid beneficiary but for the fact that the individual's income:

(a) Exceeds the income level established in accordance with 42 U.S.C. 1396d(p)(2); and

(b) Is at least 120 percent, but less than 135 percent, of the federal poverty level for a family of the size involved and who are not otherwise eligible for Medicaid under the state plan.

(78) "Minimum shelter allowance" means an amount that is thirty (30) percent of the standard maintenance amount.

(79) "Minor" means the couple's minor child who:

(a) Is under the age of twenty-one (21) years;

(b) Lives with a community spouse; and

(c) Is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(80) "Minor parent" means a parent under the age of twenty-one (21).

(81) "Minor teenage parent" means an individual who:

(a) Has not attained eighteen (18) years of age;

(b) Is not married; and

(c) Has a minor child in his or her care.

(82) “Modified adjusted gross income” or “MAGI” is defined by 42 U.S.C. 1396a(e)(14)(G)

(83) "Month of separation" means the month in which an individual ceases living in the same household of a Medicaid eligible family.

(84) "Monthly income allowance" means an amount:

(a) Deducted in the posteligibility calculation for maintenance needs of a community spouse or other family member; and

(b) Equal to the difference between a spouse's and other family member's income

and the appropriate maintenance needs standards.

(85) “NF” means nursing facility.

(86) “Non-filer” means an individual who:

(a) Does not intend to file taxes for the benefit year;

(b) Is a child living with both parents who do not expect to jointly file a tax return;

(c) Expects to be claimed as a tax dependent by someone other than a spouse, parent, or stepparent; or

(d) Is a child under nineteen (19) years of age who is claimed as a tax dependent by a non-custodial parent.

(87) "Nonqualified alien" means a resident of the United States of America who does not meet the qualified alien requirements established in 907 KAR 20:005, Section 2.

(88) “Non-recurring lump sum income” means money received at one (1) time which is normally considered as income, including:

(a) Accumulated back payments from Social Security, unemployment insurance, or worker’s compensation;

(b) Back pay from employment;

(c) Money received from an insurance settlement, gift, inheritance, or lottery winning;

(d) Proceeds from a bankruptcy proceeding; or

(e) Money withdrawn from an IRA by an individual prior to the individual reaching the age where no penalty is imposed for withdrawing the IRA, KEOGH plan, deferred compensation, tax deferred retirement plan, or other tax deferred asset.

(89) "Nursing facility" means:

(a) A facility:

1. To which the state survey agency has granted a nursing facility license;

2. For which the state survey agency has recommended to the department certification as a Medicaid provider; and

3. To which the department has granted certification for Medicaid participation; or

(b) A hospital swing bed that provides services in accordance with 42 U.S.C. 1395tt and 1396l, if the swing bed is certified to the department as meeting requirements for the provision of swing bed services in accordance with 42 U.S.C. 1396r(b), (c), and (d) and 42 C.F.R. 447.280 and 482.66.

(90) "Official poverty income guidelines" means the poverty income guidelines which are:

(a) Updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 U.S.C. 9902(2); and

(b) The latest poverty guidelines available as of March 1 of the particular state fiscal year.

(91) “Old Age, Survivors, and Disability Insurance” or “OASDI” means the social insurance program:

(a) More commonly known as “Social Security”; and

(b) Into which participants make payroll contributions based on earnings.

(92) “Optional state supplement” is defined by 42 C.F.R. 435.4.

(93) "Other family member" means a relative of either member of a couple who is a:

(a) Minor or dependent child;

(b) Dependent parent; or

(c) Dependent sibling.

(94) "Other family member's maintenance standard" means an amount equal to one-third (1/3) of the difference between the income of the other family member and the standard maintenance amount.

(95) “Other unearned income” means:

(a) Miner’s benefits;

(b) A pension;

(c) An oil lease;

(d) Mineral rights;

(e) Trust income actually available other than from a Medicaid qualifying trust;

(f) Job Training Partnership Act income, including Eastern Kentucky Concentrated Employment Program income, paid to a specified relative or second parent;

(g) Income from income indemnity policies;

(h) Income from an IRA that is:

1. Not received as non-recurring lump sum income; and

2. Prorated over the period of time the income covers (for example monthly, quarterly, or annually);

(i) Any portion of military combat pay made available to a family Medicaid household if used to establish the household’s eligibility for Medicaid benefits; or

(j) Other income determined by the department to be other unearned income.

(96) "Otherwise available income" means income to which the community spouse has access and control, including gross income that would be used to determine eligibility under Medicaid without benefit of disregards for federal, state, and local taxes; child support payments; or other court ordered obligation.

(97) “Patient status criteria” means the patient status criteria established in 907 KAR 1:022.

(98) "Physician" is defined by KRS 311.550(12).

(99) “Plan to Achieve Self Support” or “PASS” means an SSI program option which enables a disabled individual receiving SSI benefits to:

(a) Identify a work goal;

(b) Identify training, items, or services needed to reach the work goal; and

(c) Set aside money for installment payments or a down payment for items needed to reach the work goal.

(100) "Poverty level guidelines" means the poverty income guidelines updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 U.S.C. 9902(2).

(101) "Presumptive eligibility" means Medicaid eligibility determined:

(a) By a provider authorized by 907 KAR 20:050 to make a presumptive eligibility determination; and

(b) For a pregnant woman who qualifies for presumptive eligibility pursuant to 907 KAR 20:050.

(102) "Primary care center" means an entity that meets the primary care center requirements established in 902 KAR 20:058.

(103) "Provider" means any person or entity under contract with an MCO or its contractual agent that provides covered services to enrollees.

(104) "Qualified alien" means an alien who, at the time the alien applies for or receives Medicaid, meets the requirements established in 907 KAR 20:005, Section

5(12)(a)1b or c.

(105) “Qualified disabled and working individual” is defined by 42 U.S.C. 1396d(s).

(106) “Qualified Medicare beneficiary” or “QMB” is defined by 42 U.S.C. 1396d(p)(1).

(107) **“Qualified non-citizen” is defined in 8 U.S.C. 1641(b) and (c).**

(108) "Qualified provider" means a provider who:

(a) Is currently enrolled with the department;

(b) Has been trained and certified by the department to grant presumptive eligibility to pregnant women; and

(c) Provides services of the type described in 42 U.S.C. 1396d(a)(2)(A) or (B) or 42 U.S.C. 1396d(a)(9).

(109)[~~(108)~~] "Qualifying income trust" or "QIT" means an irrevocable trust established for the benefit of an identified individual in accordance with 42 U.S.C. 1396p(d)(4)(B).

(110)[~~(109)~~] "Real property" means land or an interest in land with an improvement, permanent fixture, mineral, or appurtenance considered to be a permanent part of the land, and a building with an improvement or permanent fixture attached.

(111[~~(110)~~] "Recipient" is defined in KRS 205.8451(9).

(112)[~~(111)~~] "Resource assessment" means the assessment, at the beginning of the first continuous period of institutionalization of the institutionalized spouse upon request by either spouse, of the joint resources of a couple if a member of the couple enters a medical institution or nursing facility or becomes a participant in a 1915(c) home and community based services waiver program.

(113)[~~(112)~~] "Resources" mean cash money and other personal property or real property that:

(a) An individual:

1. Owns; and

2. Has the right, authority, or power to convert to cash; and

(b) Is not legally restricted for support and maintenance.

(114)[~~(113)~~] “Retirement, Survivors, and Disability Insurance” or “RSDI” means an insurance benefit program:

(a) Managed by the United States Social Security Administration;

(b) Also known as Social Security Disability or Social Security Disability Insurance; and

(c) Which aims to provide monthly financial support to individuals who have lost income due to retirement, disability, or death of a family provider.

(115)[~~(114)~~] "Rural health clinic" is defined by 42 C.F.R. 405.2401(b).

(116)[~~(115)~~] "Satisfactory documentary evidence of citizenship or nationality" is defined by 42 U.S.C. 1396b(x)(3)(A).

(117)[~~(116)~~] "Significant financial duress" means a member of a couple has established to the satisfaction of a hearing officer that the community spouse needs income above the level permitted by the community spouse maintenance standard to provide for medical, remedial, or other support needs of the community spouse to permit the community spouse to remain in the community.

(118)[~~(117)~~] “Social Security” means a social insurance program administered by the United States Social Security Administration.

(119)[~~(118)~~] “Social Security number” means a number issued by the United States Social Security Administration to United States citizens, permanent residents, or tempo-

rary (working) residents pursuant to 42 U.S.C. 405(c)(2).

(120)[~~(119)~~] "Special income level" means the amount which is 300 percent of the SSI standard.

(121)[~~(120)~~] “Specified low-income Medicare beneficiary” means an individual who meets the requirements established in 42 U.S.C. 1396a(a)(10)(E)(iii).

(122)[~~(121)~~] “Spend-down liability” means the amount of money in excess of the Medicaid income eligibility threshold to which incurred medical expenses are applied to result in an individual’s income being below the income eligibility threshold.

(123)[~~(122)~~] "Spousal protected resource amount" means resources deducted from a couple's combined resources for the community spouse in an eligibility determination for the institutionalized spouse.

(124)[~~(123)~~] "Spousal share" means one-half (1/2) of the amount of a couple's combined countable resources, up to a maximum of $60,000 to be increased for each calendar year in accordance with 42 U.S.C. 1396r-5(g).

(125)[~~(124)~~] "Spouse" means a person legally married to another under state law.

(126)[~~(125)~~] “SSI benefit” is defined by 20 C.F.R. 416.2101.

(127)[~~(126)~~] "SSI essential person, spouse, or nonspouse" means an individual necessary to an SSI recipient to enable the SSI recipient to be self-supporting.

(128)[~~(127)~~] "SSI general exclusion" means the twenty (20) dollars disregard from income allowed by the Social Security Administration in an SSI determination.

(129)[~~(128)~~] “SSI program” means the United States supplemental security income program.

(130)[~~(129)~~] "SSI standard" means the amount designated by the Social Security

Administration as the federal benefit rate.

(131)[~~(130)~~] "Standard maintenance amount" means one-twelfth (1/12) of the federal poverty income guideline for a family unit of two (2) members, with revisions of the official income poverty guidelines applied for Medicaid provided during and after the second calendar quarter that begins after the date of publication of the revisions, multiplied by 150 percent.

(132)[~~(131)~~] "State fair hearing" means an administrative hearing provided by the Cabinet for Health and Family Services pursuant to KRS Chapter 13B and 907 KAR 1:563.

(133)[~~(132)~~] "State-funded adoption assistance" is defined by KRS 199.555(2).

(134)[~~(133)~~] "State plan" is defined by 42 C.F.R. 400.203.

(135)[~~(134)~~] "State spousal resource standard" means the amount of a couple's combined countable resources determined necessary by the department for a community spouse to maintain himself or herself in the community.

(136)[~~(135)~~] "Support right" means the right of an institutionalized spouse to receive support from a community spouse under state law.

(137)[~~(136)~~] “Targeted low-income child” is defined by 42 C.F.R. 457.310(a).

(138)[~~(137)~~] “Tax filer” means an individual who:

(a) Expects to file income tax for the benefit year either:

1. Individually; or

2. As a married individual filing jointly; or

(b) Expects to be claimed as a dependent on another individual’s taxes during the benefit year.

(139)[~~(138)~~] “Temporary Assistance for Needy Families” or “TANF” means a block grant program which:

(a) Succeeded AFDC; and

(b) Is designed to:

1. Assist needy families so that children can be cared for in their own homes;

2. Reduce the dependency of needy parents by promoting job preparation, work, and marriage;

3. Prevent out-of-wedlock pregnancies; and

4. Encourage the formation and maintenance of two-parent families.

(140)[~~(139)~~] "Third party liability resource" means a resource available to an enrollee for the payment of expenses:

(a) Associated with the provision of covered services; and

(b) That does not include amounts exempt under Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396v.

(141)[~~(140)~~] “Title IV-E benefits” means benefits received via Social Security Act Title IV, Part 3.

(142)[~~(141)~~] “Tobacco Master Settlement Agreement” means an agreement entered into in November 1998 between certain tobacco companies and states’ attorneys general of forty-six (46) states:

(a) Which settled states’ lawsuits against the tobacco industry for recovery of tobacco-related health care costs;

(b) Which exempted the tobacco companies from private tort liability regarding harm caused by tobacco; and

(c) In which the tobacco companies agreed to make various annual payments to the states to compensate for some of the medical costs incurred in caring for individuals with smoking-related illnesses.

(143)[~~(142)~~] "Transferred resource factor" means an amount that is:

(a) Equal to the average:

1. Monthly cost of nursing facility services in the state at the time of application; and

2. Of private pay rates for semi private rooms of all Medicaid participating facilities; and

(b) Adjusted annually.

(144)[~~(143)~~] "Trust" means a legal instrument or agreement valid under Kentucky state law in which:

(a) A grantor transfers property to a trustee or trustees with the intention that it be held, managed, or administered by the trustee or trustees for the benefit of the grantor or certain designated individuals or beneficiaries; and

(b) A trustee holds a fiduciary responsibility to manage the trust's corpus and income for the benefit of the beneficiaries.

(145)[~~(144)~~] “Trusted source” means a source recognized by the federal government or department as a reliable source for verifying an individual’s information.

(146)[~~(145)~~] "Uncompensated value" means the difference between the:

(a) Fair market value at the time of transfer, less any outstanding loans, mortgages, or other encumbrances on the asset; and

(b) Amount received for the asset.

(147)[~~(146)~~] "Undue hardship" means that:

(a) Medicaid eligibility of an institutionalized spouse cannot be established on the basis of assigned support rights; and

(b) The spouse is subject to discharge from the medical institution, nursing facility, or 1915(c) home and community based services waiver program due to inability to pay.

(148)[~~(147)~~] "Urgent care" means care for a condition not likely to cause death or lasting harm but for which treatment should not wait for a normally scheduled appointment.

(149) “Valid immigrant status” is defined in:

(a) 8 U.S.C. 1101(a)(15); or

(b) 8 U.S.C. 1101(a)(17).

(150)[~~(148)~~] "Veteran" is defined in 38 U.S.C. 101(2).

(151)[~~(149)~~] "Ward" is defined in KRS 387.510(15).

(152)[~~(150)~~] "Women, Infants and Children program" means a federally-funded health and nutrition program for women, infants, and children.

907 KAR 20:001

REVIEWED:

Date	Lawrence Kissner, Commissioner Department for Medicaid Services

APPROVED:

Date	Audrey Tayse Haynes, Secretary Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 20:001
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact Person: Stuart Owen (502) 564-4321

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the definitions for administrative regulations located in Chapter 20 of Title 907 of the Kentucky Administrative Regulations. Chapter 20 contains Medicaid eligibility and eligibility-related administrative regulations.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions for administrative regulations located in Chapter 20 of Title 907 of the Kentucky Administrative Regulations. Chapter 20 contains Medicaid eligibility and eligibility-related administrative regulations.
(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 establishes the definitions for administrative regulations located in Chapter 20 of Title 907 of the Kentucky Administrative Regulations. Chapter 20 contains Medicaid eligibility and eligibility-related administrative regulations.
(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 authorizing statutes by establishing establishes the definitions for administrative regulations located in Chapter 20 of Title 907 of the Kentucky Administrative Regulations. Chapter 20 contains Medicaid eligibility and eligibility-related administrative regulations.

(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 “amended after comments” administrative regulation inserts a definition of “medically needy” in response to public comments; inserts a definition of qualified non-citizen; inserts a definition of valid immigrant status; and clarifies other definitions in response to public comments.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to clarify terms used in 907 KAR Chapter 20. The amendment after comments is necessary to insert new definitions or clarify existing definitions.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment will conform to the content of the authorizing statutes by clarifying terms used in 907 KAR Chapter 20. The amendment after comments conforms to the content of the authorizing statutes by inserting new definitions or clarifying existing definitions.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation. The amendment will conform to the content of the authorizing statutes by clarifying terms used in 907 KAR Chapter 20. The amendment after comments will assist in the effective administration of the authorizing statutes by inserting new definitions or clarifying existing definitions.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Medicaid recipients and individuals applying for Medicaid are affected by the administrative regulation. Currently, over 800,000 individuals in Kentucky received 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 managed care regulation. Individuals will benefit due to the clarity of Medicaid eligibility terms being defined in this administrative regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No cost is necessary to initially implement this administrative regulation.
(b) On a continuing basis: No continuing cost is necessary to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and state matching funds comprised of general fund and restricted fund appropriations.

(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 nor funding are necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor directly or indirectly increases any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used) Tiering is neither applied nor necessary as the administrative regulation establishes definitions for Medicaid eligibility administrative regulations.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation Number: 907 KAR 20:001
Agency Contact Person: Marchetta Carmicle (502) 564-Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate to define Medicaid terms in an administrative regulation.

2. State compliance standards. KRS 194A.030(2) states, "The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act."

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate to define Medicaid terms in an administrative regulation.

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. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 907 KAR 20:001
Agency Contact Person: Stuart Owen (502) 564-4321

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? The Department for Medicaid Services and Department for Community Based Services will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.

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? No cost is necessary to implement this administrative regulation in the first year.
   (d) How much will it cost to administer this program for subsequent years? No cost is necessary in subsequent years to implement this administrative regulation.

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: No additional expenditures are necessary to implement this amendment.