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REGULATIONS COMPILER

1 CABINET FOR HEALTH AND FAMILY SERVICES
2 Department for Medicaid Services
3 Division of Policy and Operations
4 (Amended After Comments)
5 907 KAR 15:065. Reimbursement provisions and requirements regarding targeted
6 case management for individuals with a severe mental illness and children with a se-
7 vere emotional disability.
8 RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)
9 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)
10 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
11 Services, Department for Medicaid Services, has a responsibility to administer the Med-
12 icaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to
13 comply with any requirement that may be imposed or opportunity presented by federal
14 law to qualify for federal Medicaid funds. This administrative regulation establishes the
15 reimbursement provisions and requirements regarding Medicaid Program targeted case
16 management services for individuals with a severe mental illness and children with a
17 severe emotional disability who are not enrolled with a managed care organization.
18 Section 1. General Requirements. For the department to reimburse for a service cov-
19 ered under this administrative regulation, the service shall be:
20 (1) Medically necessary;
21 (2) Provided:

1 (a) To a recipient;

2 (b) By a provider that meets the provider participation requirements established in

3 907 KAR 15:060; and

4 (c) In accordance with the requirements established in 907 KAR 15:060; and

5 (3) Covered in accordance with 907 KAR 15:060.

6 Section 2. Reimbursement. (1) The department shall reimburse a monthly rate of

7 $334 in total for all targeted case management services provided to a recipient during

8 the month.

9 (2) **Except as established in subsection (3) or (4) of this section,** to qualify for the

10 reimbursement referenced in subsection (1) of this section, a targeted case manage-

11 ment services provider shall provide services to a recipient consisting of at least four (4)

12 targeted case management service contacts including:

13 (a) At least two (2) face-to-face contacts with the recipient; and

14 (b) At least two (2) additional contacts which shall be:

15 1.a. By telephone; or

16 b. Face-to-face; and

17 2. With the recipient or with another individual on behalf of the recipient.

18 **(3) For a recipient who is under the age of eighteen (18) years, the contacts that**

19 **a targeted case management services provider shall have shall include at least:**

20 **(a)1. One (1) face-to-face contact with the recipient; and**

21 **2. One (1) face-to-face contact with the recipient's parent or legal guardian; and**

22 **(b) Two (2) additional contacts which shall be:**

23 **1.a. By telephone; or**

1 **b. Face-to-face; and**

2 **2. With the recipient or with another individual or agency on behalf of the recip-**

3 **ient.**

4 **(4) For a recipient who is at least eighteen (18) years of age but under the age**

5 **of twenty-one (21) years, the contacts that a targeted case management services**

6 **provider shall have shall include:**

7 **(a)1. At least two (2) face-to-face contacts with the recipient; and**

8 **2. At least two (2) additional contacts which shall be:**

9 **a.(i) By telephone; or**

10 **(ii). Face-to-face; and**

11 **b. With the recipient or with another individual or agency on behalf of the recip-**

12 **ient; or**

13 **(b)1.a. At least one (1) face-to-face contact with the recipient; and**

14 **b. One (1) face-to-face contact with the recipient's parent or legal guardian; and**

15 **2. At least two (2) additional contacts which shall be:**

16 **a.(i) By telephone; or**

17 **(ii). Face-to-face; and**

18 **b. With the recipient or with another individual or agency on behalf of the recip-**

19 **ient.**

20 Section 3. No Duplication of Service. (1) The department shall not reimburse for a

21 service provided to a recipient by more than one (1) provider of any program in which

22 the **same** service is covered during the same time period.

23 (2) For example, if a recipient is receiving targeted case management services from

1 an independent behavioral health provider, the department shall not reimburse for the
2 targeted case management services provided to the same recipient during the same
3 time period by a behavioral health services organization.
4 Section 4. Not Applicable to Managed Care Organizations. A managed care organi-
5 zation shall not be required to reimburse in accordance with this administrative regula-
6 tion for a service covered pursuant to:
7 (1) 907 KAR 15:060; and
8 (2) This administrative regulation.
9 Section 5. Federal Approval and Federal Financial Participation. The department's
10 reimbursement for services pursuant to this administrative regulation shall be contingent
11 upon:
12 (1) Receipt of federal financial participation for the reimbursement; and
13 (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

907 KAR 15:065

REVIEWED:

30 DEC 14
Date

Lawrence Kissner, Commissioner
Department for Medicaid Services

APPROVED:

01-09-15
Date

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 15:065
Contact person: Stuart Owen (502) 564-4321

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program targeted case management services for individuals with a severe mental illness and children with a severe emotional disability. This administrative regulation is being promulgated in conjunction with 907 KAR 15:060E (Coverage provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.) Targeted case management services are services that assist Medicaid recipients in accessing needed medical, social, educational, and other services. The components of targeted case management include assessing the individual's need for services by taking the individual's history, identifying the individual's needs, and gathering information from other sources (family members, medical providers, social workers, and educators) to form a complete assessment; developing a customized care plan for the individual; referring the individual or related activities to help the individual obtain needed services; and monitoring activities to ensure that the individual's care plan is implemented effectively and adequately addresses the individual's needs. The Department for Medicaid Services (DMS) will pay an all-inclusive monthly rate of $334 for all targeted case management services (covered under this administrative regulation) provided to a recipient during a given month. A Medicaid recipient who receives targeted case management services may also receive other Medicaid-covered services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to help ensure that children who have a severe emotional disability or individuals who have a severe mental illness receive necessary services and care. The targeted case manager provider is the individual or entity responding for coordinating the individual's services/care, facilitating access to services/care, and monitoring individual's progress or difficulties while receiving services/care. Targeted case management helps ensure that the individual receives the appropriate and necessary services and care they need rather than randomly receive services/care or fail to receive any services/care at all.

(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 helping ensure that children who have a severe emotional disability and individuals who have a severe mental illness receive necessary services and care.

(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 helping ensure that children who have a severe emotional disability and individuals who have a severe mental illness receive necessary services and care.

(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: The amendment after comments alters the face-to-face contact requirements to require at least one (1) monthly face-to-face contact to be with a parent or legal guardian of a recipient if the recipient is under the age of eighteen (18) years and to establish the option of at least one (1) contact being with a parent or legal guardian of a recipient if the recipient is at least eighteen (18) years of age but under twenty-one (21) years of age. The amendment also clarifies the non-duplication of service provision.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to help ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments conforms to the content of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments will assist in the effective administration of the authorizing statutes by helping to ensure that the parent(s) or legal guardian of individuals under eighteen (18) – who receive targeted case management - are involved and informed.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities eligible to provide targeted case management services (such as community mental health centers, individual behavioral health service providers/provider group, behavioral health provider groups, or behavioral health services organizations) will be affected by this administrative regulation as well as the various professionals who are authorized to provide services either independently or via the aforementioned providers. The exact number of the above 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 cannot forecast a precise number. Medicaid recipients who qualify for targeted case management services will also be affected by this administrative regulation.

(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. Entities that qualify and wish to provide targeted case management services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the indi-

vidual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program as well as additional personnel costs to meet supervision and training requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement. The professionals authorized to provide services will benefit by having more employment opportunities in Kentucky. Medicaid recipients (children with a severe emotional disability or individuals with a severe mental illness) in need of targeted case management will benefit from having the option to receive these services. Providers of targeted case management services will benefit by being able to be reimbursed for the services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: DMS estimates that implementing the administrative regulation will cost approximately $1.05 million state funds/$3.87 million federal funds initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately $1.79 million state funds/$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100 percent to 90 percent.

(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 the Social Security Act, Title XIX and matching funds of general 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 is necessary to implement this administrative regulation.

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

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation Number: 907 KAR 15:065
Contact person: Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(30)(A).

2. State compliance standards. 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. Substance use disorder services are federally mandated for Medicaid programs. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. Similarly, 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "...provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."

4. Will this administrative regulation impose stricter requirements, or additional or dif-

ferent responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 907 KAR 15:065
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 will be affected by the amendment to this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(23), and 42 U.S.C. 1396a(a)(10)(B).

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? The amendment may generate an undetermined amount of additional revenue for local or state government entities in areas where new providers of targeted case management services are located or in which targeted case management services are expanded as new/expanded providers will generate revenues in the form of employee taxes.

(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? The amendment is not expected to generate revenue for state or local government. The answer in paragraph (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS estimates that implementing the administrative regulation will cost approximately $1.05 million state funds/$3.87 million federal funds initially.

(d) How much will it cost to administer this program for subsequent years? DMS estimates that implementing the administrative regulation will cost approximately $1.79 million state funds/$6.64 million federal funds for the second year of implementation. The federal matching percent will decrease somewhat when the federal matching percent for individuals eligible under "Medicaid expansion" recedes from its current 100% to 90%.

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: