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TIME: 11 a.m.
JAN 14 2015
Donna Little
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 15:060. Coverage provisions and requirements regarding targeted case
6 management for individuals with a severe mental illness and children with a severe
7 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), 42 U.S.C.
10 1396n(g).
11 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
12 Services, Department for Medicaid Services, has a responsibility to administer the Med-
13 icaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to
14 comply with any requirement that may be imposed or opportunity presented by federal
15 law to qualify for federal Medicaid funds. This administrative regulation establishes the
16 coverage provisions and requirements regarding Medicaid Program targeted case man-
17 agement services for individuals with a severe mental illness and children who have a
18 severe emotional disability.
19 Section 1. General Coverage Requirements. For the department to reimburse for a
20 service covered under this administrative regulation, the service shall be:
21 (1) Medically necessary; and

1 (2) Provided:

2 (a) To a recipient; and

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

4 Section 3 of this administrative regulation.

5 Section 2. Eligibility Criteria. (1) To be eligible for targeted case management ser-

6 vices under this administrative regulation, a recipient shall:

7 (a)1. Have a severe mental illness; or

8 2. Be a child with a severe emotional disability as defined in KRS 200.503(3);

9 (b) Not be:

10 1. Over the age of twenty-one (21) years and under the age of sixty-four (64) years

11 while receiving services in an institution for mental diseases; or

12 2. An inmate of a public institution; and

13 (c)1. Need assistance with access to:

14 a. Housing; or

15 b. Vocational, medical, social, educational, or other community services or supports;

16 2. Have been involved with at least one (1) child welfare agency or criminal justice

17 agency; or

18 3. Be:

19 a. In the custody of the Department for Community Based Services;

20 b. At risk of an out-of-home placement; or

21 c. At risk of inpatient mental health treatment.

22 (2)(a) A severe mental illness shall be a diagnosis of a major mental disorder as in-

23 cluded in the current edition of the American Psychiatric Association Diagnostic and

Statistical Manual of Mental Disorders™ under:

1. Schizophrenia spectrum and other psychiatric disorders;

2. Bipolar and related disorders;

3. Depressive disorders; **or**

4. Post-traumatic stress disorders (under trauma and stressor related disorders)[~~; and~~

~~5. Personality disorders~~].

(b) A recipient's information and history, for the purpose of determining if the recipient has a severe mental illness, shall indicate that the recipient exhibits persistent disability and significant impairment in major areas of community living.

(c) In addition to the requirements established in paragraph (a) and (b) of this subsection, to qualify as having a severe mental illness, a recipient shall:

1. Have clinically significant symptoms which have persisted for a continuous period of at least two (2) years; or

2.a. Have been hospitalized for mental illness more than once within the past two (2) years; and

b. Be significantly impaired in the ability to function socially or occupationally or both.

Section 3. Provider Requirements. (1)**(a)** To be eligible to provide services under this administrative regulation, an individual, entity, or organization shall:

1.[~~(a)~~] Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2.[~~(b)~~] Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

1 **3.**[~~(c)~~] Be:

2 **a.**[~~1.~~] A community mental health center authorized to provide services pursuant to

3 907 KAR 1:044;

4 **b.**[~~2.~~] An individual or provider group authorized to provide behavioral health services

5 pursuant to 907 KAR 15:010; or

6 **c.**[~~3.~~] A behavioral health services organization authorized to provide behavioral

7 health services pursuant to 907 KAR 15:020;

8 **4.**[~~(d)~~] Have:

9 **a.**[~~1.~~] For each service it provides, the capacity to provide the full range of the service

10 as established in this administrative regulation;

11 **b. Documented**[~~2. Demonstrated~~] experience in serving the population of individu-

12 als with behavioral health disorders relevant to the particular services provided;

13 **c.**[~~3.~~] The administrative capacity to ensure quality of services;

14 **d.**[~~4.~~] A financial management system that provides documentation of services and

15 costs;

16 **e.**[~~5.~~] The capacity to document and maintain individual case records;

17 **f. Documented**[~~6. Demonstrated~~] programmatic and administrative experience in

18 providing comprehensive case management services; and

19 **g. Documented**[~~7. Demonstrated~~] referral systems and linkages and referral ability

20 with essential social and health services agencies.

21 **(b) The documentation referenced in paragraph (a)4.b., f., and g. of this subsec-**

22 **tion shall be subject to audit by:**

23 **1. The department;**

1 **2. The Department for Behavioral Health, Developmental and Intellectual Disa-**
2 **bilities;**
3 **3. The Cabinet for Health and Family Services, Office of Inspector General;**
4 **4. A managed care organization, if a targeted case manager provider is enrolled**
5 **in its network;**
6 **5. The Centers for Medicare and Medicaid Services;**
7 **6. The Kentucky Office of the Auditor of Public Accounts; or**
8 **7. The United States Department of Health and Human Services, Office of the**
9 **Inspector General.**
10 (2) In accordance with 907 KAR 17:015, Section 3(3), a targeted case management
11 services provider which provides a service to an enrollee shall not be required to be cur-
12 rently participating in the fee-for-service Medicaid Program.
13 (3) A targeted case management services provider shall:
14 (a) Agree to provide services in compliance with federal and state laws regardless of
15 age, sex, race, creed, religion, national origin, handicap, or disability; and
16 (b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and
17 any amendments to the act.
18 Section 4. Case Manager Requirements. (1) A case manager shall:
19 (a)**1.** Have at least a bachelor of arts or **science**[~~sciences~~] degree in a behavioral
20 science including:
21 **a.**[~~1.~~] Psychology;
22 **b.**[~~2.~~] Sociology;
23 **c.**[~~3.~~] Social work;

1 **d.**[~~4.~~] Family studies;

2 **e.**[~~5.~~] Human services;

3 **f.**[~~6.~~] Counseling;

4 **g.**[~~7.~~] Nursing;

5 **h. Behavioral analysis;**

6 **i. Public health;**

7 **j. Special education;**

8 **k. Gerontology;**

9 **l. Recreational therapy;**

10 **m. Education;**

11 **n. Occupational therapy;**

12 **o. Physical therapy;**

13 **p. Speech-language pathology;**

14 **q. Rehabilitation counseling; or**

15 **r. Faith-based education;** or

16 **2. Be a certified alcohol and drug counselor who has a bachelor of arts or sci-**

17 **ence degree**[~~8. Another human service degree program approved by the depart-~~

18 ~~ment~~];

19 (b) Have successfully completed case management training **pursuant to 908 KAR**

20 **2:260**[~~approved by the Department for Behavioral Health, Developmental and In-~~

21 ~~tellectual Disabilities (DBHDID) within six (6) months of employment~~]; and

(c) Successfully **complete continuing education requirements pursuant to 908 KAR 2:260**[~~completed recertification requirements approved by DBHDID every three (3) years~~].

(2)(a) Supervision by a behavioral health professional who has completed case management training approved by DBHDID shall occur at least twice per month.

(b) At least one (1) of these supervisory contacts shall be on an individual basis and face-to-face.

(3)(a) Except as established in paragraph (b) of this subsection, a case manager for a:

1. Recipient with a severe mental illness shall have at least one (1) year of full-time employment experience working directly with adults in a human service setting after completing the educational requirements **established in subsection (1)(a) of this section**; or

2. Child with a severe emotional disability shall have at least one (1) year of full-time employment experience working directly with individuals under the age of twenty-one (21) years in a human service setting after completing the educational requirements.

(b) A master's degree in one (1) of the following behavioral science disciplines may substitute for the one (1) year of experience:

1. Psychology;

2. Sociology;

3. Social work;

4. Family studies;

5. Human services;

1 6. Counseling;

2 7. Nursing; [~~or~~]

3 8. **Behavioral analysis;**

4 **9. Public health;**

5 **10. Special education;**

6 **11. Gerontology;**

7 **12. Recreational therapy;**

8 **13. Education;**

9 **14. Occupational therapy;**

10 **15. Physical therapy;**

11 **16. Speech-language pathology;**

12 **17. Rehabilitation counseling; or**

13 **18. Faith-based education**[~~Another human service degree program approved~~

14 ~~by the department~~].

15 (4) A behavioral health professional shall be:

16 (a) An advanced practice registered nurse;

17 (b) A licensed clinical social worker;

18 (c) A licensed marriage and family therapist;

19 (d) A licensed professional clinical counselor;

20 (e) A licensed psychological practitioner;

21 (f) A licensed psychologist;

22 (g) A licensed professional art therapist;

23 (h) A physician;

(i) A psychiatrist;

(j) A behavioral health practitioner under supervision except for a certified alcohol and drug counselor;

(k) A registered nurse working under the supervision of a physician or advanced practice registered nurse; or

(l) An individual with a bachelor's degree **stated in subsection (1)(a)1. of this section**[~~ in a behavioral science program or other human service degree program approved by the department~~] who:

1. Is working under the supervision of a billing supervisor; and

2. Has at least five (5) years of documented full-time experience providing specialized case management services for the target population.

Section 5. Freedom of Choice of Provider. (1) A recipient shall have the freedom to choose from which:

(a) Case manager to receive services within the recipient's geographic area identified in the recipient's care plan; and

(b) Provider of non-targeted case management Medicaid covered services to receive services.

(2) A case manager shall not have the authority to authorize or deny the provision of non-targeted case management Medicaid covered services to a recipient.

(3) A recipient shall not be required to receive targeted case management services as a condition of receiving non-targeted case management Medicaid-covered services.

Section 6. Covered Services. (1) Targeted case management services covered under this administrative regulation shall:

1 (a) Be services furnished to assist a recipient in gaining access to needed medical,
2 social, educational, or other services; and
3 (b) Include:
4 1. A comprehensive assessment and periodic reassessments of the recipient's needs
5 to determine the need for any medical, educational, social, or other services;
6 2. The development and periodic revision of a specific care plan for the recipient;
7 3. A referral or related activities to help the recipient obtain needed services;
8 4. Monitoring or follow-up activities; or
9 5. Contacts with non-recipients who are directly related to help with identifying the re-
10 cipient's needs and care for the purpose of:
11 a. Helping the recipient access services;
12 b. Identifying supports necessary to enable the recipient to obtain services;
13 c. Providing a case manager with useful input regarding the recipient's past or current
14 functioning, symptoms, adherence to treatment, or other information relevant to the re-
15 cipient's behavioral health condition; or
16 d. Alerting a case manager to a change in the recipient's needs.
17 (2)(a) An assessment or reassessment shall include:
18 1. Taking the recipient's history;
19 2. Identifying the recipient's strengths and needs and completing related documenta-
20 tion; and
21 3. Gathering information from other sources to form a complete assessment of the
22 recipient including:
23 a. Family members;

1 b. Medical providers;

2 c. Social workers; or

3 d. Educators.

4 (b) A face-to-face assessment or reassessment shall be completed:

5 1. At least annually; or

6 2. More often if needed based on changes in the recipient's condition.

7 (3) The development and periodic revision of the recipient's care plan shall:

8 (a) Specify the goals and actions to address the medical, social, educational, or other

9 services needed by the recipient;

10 (b) Include ensuring the active participation of the recipient and working with the re-

11 cipient, the recipient's authorized health care decision maker, or others to develop the

12 goals; **and**[~~or~~]

13 (c) Identify a course of action to respond to the assessed needs of the recipient.

14 (4) A referral or related activities shall include activities that help link the recipient with

15 medical providers, social providers, educational providers, or other programs and ser-

16 vices that are capable of providing needed services to:

17 (a) Address the identified needs; and

18 (b) Achieve goals specified in the care plan.

19 (5)(a) Monitoring and follow-up activities shall:

20 1. Be activities and contacts that:

21 a. Are necessary to ensure that the recipient's care plan is implemented;

22 b. Adequately address the recipient's strengths and needs; and

23 c. May be with:

1 (i) The recipient;

2 (ii) The recipient's family members;

3 (iii) The recipient's service providers; or

4 (iv) Other entities or recipients;

5 2. Be conducted as frequently as necessary; and

6 3. Include making necessary adjustments in the recipient's care plan and service ar-

7 rangements with providers.

8 (b) Monitoring shall:

9 1. Occur at least once every three (3) months;

10 2. Be face-to-face; and

11 3. Determine if:

12 a. The services are being furnished in accordance with the recipient's care plan;

13 b. The services in the recipient's care plan are adequate to meet the recipient's

14 needs; and

15 c. Changes in the needs or status of the recipient are reflected in the care plan.

16 Section 7. No Duplication of Service. (1) The department shall not pay for targeted

17 case management services which duplicate services provided by another public agency

18 or a private entity.

19 (2)(a) The department shall not reimburse for a service provided to a recipient by

20 more than one (1) provider of any program in which the **same** service is covered during

21 the same time period.

22 (b) For example, if a recipient is receiving targeted case management service from

23 an independent behavioral health provider, the department shall not reimburse for tar-

geted case management services provided to the same recipient during the same time period by a behavioral health services organization.

Section 8. Exclusions and Limits. (1) Targeted case management services shall not include services defined in 42 C.F.R. 440.169 if the activities:

(a) Are an integral and inseparable component of another covered Medicaid service; or

(b) Constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible recipient has been referred, including:

1. Foster care programs;

2. Research gathering and completing documentation required by the foster care program;

3. Assessing adoption placements;

4. Recruiting or interviewing potential foster care parents;

5. Serving legal papers;

6. Home investigations;

7. Providing transportation;

8. Administering foster care subsidies; or

9. Making placement arrangements.

(2) A recipient who is receiving case management services under a 1915(c) home and community based waiver program shall not be eligible to receive targeted case management services under this administrative regulation.

(3) An individual who provides targeted case management to a recipient shall not provide any other Medicaid covered service to any recipient.

1 **(4) The maximum number of recipients to whom a targeted case manager shall**
2 **provide targeted case management services at any given time shall be as estab-**
3 **lished in 908 KAR 2:260.**
4 Section 9. Records Maintenance, Documentation, Protection, and Security. (1) A tar-
5 geted case management services provider shall maintain a current case record for each
6 recipient.
7 (2)(a) A case record shall document each service provided to the recipient including
8 the date of the service and the signature of the individual who provided the service.
9 (b) The individual who provided the service shall date and sign the case record **with-**
10 **in forty-eight (48) hours from**[~~on~~]-the date that the individual provided the service.
11 (3) A case record shall:
12 (a) Include:
13 1. The recipient's name;
14 2. The time and date corresponding to each occasion in which a service was provid-
15 ed to the recipient;
16 3. The name of the targeted case management services:
17 a. Provider agency, if an agency; and
18 b. Practitioner who provided the targeted case management services;
19 4. The nature, content, and **contacts that occurred regarding**[~~units of~~] the target-
20 ed case management services provided;
21 5. Whether goals in the recipient's care plan have been achieved;
22 6. Whether the recipient has declined to receive any services in the recipient's care
23 plan;

1 7. A timeline for obtaining needed services; and

2 8. A timeline for reevaluating the recipient's care plan; and

3 (b) Be:

4 1. Maintained in an organized and secure central file;

5 2. Furnished upon request:

6 a. To the Cabinet for Health and Family Services; or

7 b. For an enrollee, to the managed care organization in which the recipient is en-

8 rolled;

9 3. Made available for inspection and copying by:

10 a. Cabinet for Health and Family Services' personnel; or

11 b. Personnel of the managed care organization in which the recipient is enrolled **or**

12 **has been enrolled in the past,** if applicable;

13 4. Readily accessible; and

14 5. Adequate for the purpose of establishing the current treatment modality and pro-

15 gress of the recipient.

16 (4)(a) A discharge summary shall:

17 1. Be required, **at the time a decision is made that services are terminated**[~~upon~~

18 ~~termination of services~~], for each recipient who received at least three (3) service vis-

19 its; and

20 2. Contain a summary of the significant findings and events during the course of

21 treatment including the:

22 a. Final assessment regarding the progress of the recipient toward reaching goals

23 and objectives established in the recipient's care plan; and

1 b. Recipient's condition upon termination and disposition.

2 (b) A case record relating to a recipient who was terminated from receiving services

3 shall be fully completed within ten (10) business days following termination.

4 (5) If a recipient's case is reopened within ninety (90) calendar days of terminating

5 services for the same or related issue, a reference to the prior case history with a note

6 regarding the interval period shall be acceptable.

7 (6) If a recipient is transferred or referred to a health care facility or other provider for

8 care or treatment, the transferring targeted case management services provider shall,

9 within ten (10) business days of **awareness of** the transfer or referral, transfer the recip-

10 ient's records in a manner that complies with the records' use and disclosure require-

11 ments as established in or required by:

12 (a)1. The Health Insurance Portability and Accountability Act;

13 2. 42 U.S.C. 1320d-2 to 1320d-8; and

14 3. 45 C.F.R. Parts 160 and 164; or

15 (b)1. 42 U.S.C. 290ee-3; and

16 2. 42 C.F.R. Part 2.

17 (7)(a) If a targeted case management services provider's Medicaid Program partici-

18 pation status changes as a result of voluntarily terminating from the Medicaid Program,

19 involuntarily terminating from the Medicaid Program, a licensure suspension, or death of

20 an owner or deaths of owners, the case records of the targeted case management ser-

21 vices provider shall:

22 1. Remain the property of the targeted case management services provider; and

23 2. Be subject to the retention requirements established in subsection (8) of this sec-

1 tion.

2 (b) A targeted case management services provider shall have a written plan address-

3 ing how to maintain case records in the event of an owner's death or owners' deaths.

4 (8)(a) Except as established in paragraph (b) or (c) of this subsection, a targeted

5 case management services provider shall maintain a case record regarding a recipient

6 for at least six (6) years from the **last** date of the service or until any audit dispute or is-

7 sue is resolved beyond six (6) years.

8 (b) After a recipient's death or discharge from services, a provider shall maintain the

9 recipient's record for the longest of the following periods:

10 1. Six (6) years unless the recipient is a minor; or

11 2. If the recipient is a minor, three (3) years after the recipient reaches the age of ma-

12 jority under state law.

13 (c) If the Secretary of the United States Department of Health and Human Services

14 requires a longer document retention period than the period referenced in paragraph (a)

15 of this subsection, pursuant to 42 C.F.R. 431.17 the period established by the secretary

16 shall be the required period.

17 (9)(a) A targeted case management services provider shall comply with 45 C.F.R.

18 Part 164.

19 (b) All information contained in a case record shall:

20 1. Be treated as confidential;

21 2. Not be disclosed to an unauthorized individual; and

22 3. Be disclosed to an authorized representative of the:

23 a. Department; **[~~or~~]**

1 b. Federal government**; or**

2 **c. For an enrollee, managed care organization in which the enrollee is enrolled**.

3 (c)1. Upon request, a targeted case management service provider shall provide to an

4 authorized representative of the department**,** [~~or~~] federal government**, or managed**

5 **care organization if applicable,** information requested to substantiate:

6 a. Staff notes detailing a service that was rendered;

7 b. The professional who rendered a service; and

8 c. The type of service rendered and any other requested information necessary to de-

9 termine, on an individual basis, whether the service is reimbursable by the department.

10 2. Failure to provide information referenced in subparagraph 1 of this paragraph shall

11 result in denial of payment for any service associated with the requested information.

12 Section 10. Medicaid Program Participation Compliance. (1) A targeted case man-

13 agement services provider shall comply with:

14 (a) 907 KAR 1:671;

15 (b) 907 KAR 1:672; and

16 (c) All applicable state and federal laws.

17 (2)(a) If a targeted case management services provider receives any duplicate pay-

18 ment or overpayment from the department, regardless of reason, the targeted case

19 management services provider shall return the payment to the department.

20 (b) Failure to return a payment to the department in accordance with paragraph (a) of

21 this subsection may be:

22 1. Interpreted to be fraud or abuse; and

23 2. Prosecuted in accordance with applicable federal or state law.

1 (3)(a) When the department makes payment for a covered service and the targeted
2 case management services provider accepts the payment:
3 1. The payment shall be considered payment in full;
4 2. A bill for the same service shall not be given to the recipient; and
5 3. Payment from the recipient for the same service shall not be accepted by the pro-
6 vider.
7 (b)1. A targeted case management services provider may bill a recipient for a service
8 that is not covered by the Kentucky Medicaid Program if the:
9 a. Recipient requests the service; and
10 b. Targeted case management services provider makes the recipient aware in ad-
11 vance of providing the service that the:
12 (i) Recipient is liable for the payment; and
13 (ii) Department is not covering the service.
14 2. If a recipient makes payment for a service in accordance with subparagraph 1 of
15 this paragraph, the:
16 a. Targeted case management services provider shall not bill the department for the
17 service; and
18 b. Department shall not:
19 (i) Be liable for any part of the payment associated with the service; and
20 (ii) Make any payment to the targeted case management services provider regarding
21 the service.
22 (4)(a) A targeted case management services provider attests by the targeted case
23 management services provider signature that any claim associated with a service is val-

1 id and submitted in good faith.

2 (b) Any claim and substantiating record associated with a service shall be subject to

3 audit by the:

4 1. Department or its designee;

5 2. Cabinet for Health and Family Services, Office of Inspector General or its design-

6 ee;

7 3. Kentucky Office of Attorney General or its designee;

8 4. Kentucky Office of the Auditor for Public Accounts or its designee; [~~or~~]

9 5. United States General Accounting Office or its designee**; or**

10 **6. For an enrollee, managed care organization in which the enrollee is enrolled**.

11 (c) If a targeted case management services provider receives a request from the**:**

12 **1.** Department to provide a claim, related information, related documentation, or rec-

13 ord for auditing purposes, the targeted case management services provider shall pro-

14 vide the requested information to the department within the timeframe requested by the

15 department**; or**

16 **2. Managed care organization in which an enrollee is enrolled to provide a**

17 **claim, related information, related documentation, or record for auditing purpos-**

18 **es, the targeted case management services provider shall provide the requested**

19 **information to the managed care organization within the timeframe requested by**

20 **the managed care organization**.

21 (d)1. All services provided shall be subject to review for recipient or provider abuse.

22 2. Willful abuse by a targeted case management services provider shall result in the

23 suspension or termination of the targeted case management services provider from

1 Medicaid Program participation.

2 Section 11. Third Party Liability. (1) A targeted case management services provider

3 shall comply with KRS 205.622.

4 (2) If a third party is liable to pay for targeted case management services, the de-

5 partment shall not pay for the services.

6 Section 12. Use of Electronic Signatures. (1) The creation, transmission, storage, and

7 other use of electronic signatures and documents shall comply with the requirements

8 established in KRS 369.101 to 369.120.

9 (2) A targeted case management services provider that chooses to use electronic

10 signatures shall:

11 (a) Develop and implement a written security policy that shall:

12 1. Be adhered to by each of the targeted case management services provider's em-

13 ployees, officers, agents, or contractors;

14 2. Identify each electronic signature for which an individual has access; and

15 3. Ensure that each electronic signature is created, transmitted, and stored in a se-

16 cure fashion;

17 (b) Develop a consent form that shall:

18 1. Be completed and executed by each individual using an electronic signature;

19 2. Attest to the signature's authenticity; and

20 3. Include a statement indicating that the individual has been notified of his or her re-

21 sponsibility in allowing the use of the electronic signature; and

22 (c) Provide the department, immediately upon request, with:

23 1. A copy of the targeted case management services provider's electronic signature

1 policy;

2 2. The signed consent form; and

3 3. The original filed signature.

4 Section 13. Auditing Authority. The department **or the managed care organization**

5 **in which an enrollee is enrolled** shall have the authority to audit any:

6 (1) Claim;

7 (2) Medical record; or

8 (3) Documentation associated with any claim or medical record.

9 Section 14. Federal Approval and Federal Financial Participation. The department's

10 coverage of services pursuant to this administrative regulation shall be contingent upon:

11 (1) Receipt of federal financial participation for the coverage; and

12 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

13 Section 15. Appeals. (1) An appeal of an adverse action by the department regarding

14 a service and a recipient who is not enrolled with a managed care organization shall be

15 in accordance with 907 KAR 1:563.

16 (2) An appeal of an adverse action by a managed care organization regarding a ser-

17 vice and an enrollee shall be in accordance with 907 KAR 17:010.

907 KAR 15:060

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 15:060
Contact: 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 or children with a severe emotional disability. This administrative regulation is being promulgated in conjunction with 907 KAR 15:065E (Reimbursement 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 recipient's need for services by taking the recipient's history, identifying the recipient'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 recipient; referring the recipient or related activities to help the recipient obtain needed services; and monitoring activities to ensure that the recipient's care plan is implemented effectively and adequately addresses the recipient's needs.

(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 recipient's services/care, facilitating access to services/care, and monitoring recipient's progress or difficulties while receiving services/care. Targeted case management helps ensure that the recipient 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 with a severe emotional disability and individuals with 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 with a severe emotional disability and individuals with 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 removes personality disorders from the disorders from the disorders that qualify as a severe mental illness; replaces the option for providers to

submit a request to the department to authorize a given human service degree as satisfying the educational requirement for a targeted case manager with an expanded list of such degrees; clarifies that documentation of qualifications are subject to audit by various parties; replaces targeted case management training requirements with a reference to the Department for Behavioral Health, Developmental and Intellectual Disability (DBHDID) administrative regulation which establishes such requirements; revises section 6(3) by replacing the conjunction "or" with "and" to establish all of the components comprising the development and revision of a recipient's plan of care; relaxes the requirement for a note regarding a service that has been delivered from being signed and dated by the practitioner on the date of service to within forty-eight (48) hours from the date of service; establishes that the maximum number of recipients to whom a targeted case manager shall provide services at any given time shall be as established in 908 KAR 2:260 (a DBHDID administrative regulation which establishes targeted case manager requirements); contains miscellaneous other clarifications; and contains language or formatting revisions to comply with KRS 13A language and formatting standards.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to clarify provisions.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments will conform to the content of the authorizing statutes by clarifying provisions.

(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 clarifying provisions.

(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 en-

rollment regulation [complete and application and submit it to the Department for Medicaid Services (DMS)] and sign agreements with managed care organizations if the individual 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.

(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 ($1.35 million state funds/$12.04 million federal funds) initially.

(b) On a continuing basis: DMS estimates that implementing the administrative regulation will cost approximately $2.32 million state funds/$20.64 million federal funds for the second year of implementation. The federal funding will decrease somewhat when the federal matching percent for recipients 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 15:060
Contact: 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), and 42 U.S.C. 1396a(a)(23).

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. Targeted case management services are not federally mandated however, 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 targeted case management service provider base to include targeted case management for children with a severe emotional disability or individuals with a severe mental illness will help ensure Medicaid recipient access to these services.

4. Will this administrative regulation impose stricter requirements, or additional or different 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 15:060
Contact: 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: