

STATEMENT OF CONSIDERATION RELATING TO
907 KAR: 3:090

Department for Medicaid Services
Amended After Comments

(1) A public hearing regarding 907 KAR 3:090 was not requested and; therefore, not held:

(2) The following individuals submitted written comments regarding 907 KAR 3:090:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Lisa A. (Chaplin) Wise, B.S. Special Edu., Assistant Director	Communicare
Darlene Eakin, Executive Director	Kentucky Optometric Association

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 3:090:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Dana McKenna, Manager	Department for Medicaid Services, Acquired Brain Injury Branch
Leslie Hoffmann, Director	Department for Medicaid Services, Division of Community Alternatives,
Stuart Owen, Regulation Coordinator	Department for Medicaid Services, Commissioner's Office

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Transition Plan

(a) Comment: Lisa A. (Chaplin) Wise, BS Special Edu, Assistant Director Communicare made the following comment:

"Section 4: Person Centered Service Plan Requirements; Will the transition plan be a service utilized within the MWMA portal as MWMA is not referenced in this section regarding transition plans."

(b) Response: The transition plan will be entered into the MWMA portal.

(2) Subject: Add Optometrists to Definition of Licensed Medical Professionals

(a) Comment: Darlene Eakin, Executive Director, Kentucky Optometric Association made the following comment:

“Add optometrists to the definition of licensed medical professionals.”

(b) Response: There are no current services in this waiver program that an optometrist would provide.

(3) Subject: Vision and Neuro Visual Rehabilitation Services

(a) Comment: Darlene Eakin, Executive Director, Kentucky Optometric Association made the following comment:

“Add “vision and neuro visual rehabilitation services” as covered services along with the following requirements:

“Vision-and neuro visual rehab services, which shall be:

1. An optometric or physician-ordered evaluation of a participant with a vision, sensory or visual motor development disorder;
2. A optometric or physician-ordered habilitative service in a specified amount and duration to assist a participant with a vision, sensory or visual motor disability in obtaining the highest possible level of functioning;
3. Exclusive of maintenance or the prevention of regression;
4. Provided by a vision therapy optometrist;
5. Spectacles with such power or prism as to aid in the rehabilitation process;
6. Documented by a detailed staff note, which shall include:
 - a. Progress toward goals and objectives identified in the approved person-centered service plan;
 - b. The date of the service;
 - c. The beginning and ending time; and
 - d. The signature and title of the individual providing the service;”

(b) Response: The recommended services are available to Medicaid recipients via the “state plan” – i.e. as a “regular” Medicaid benefit. This year the Centers for Medicare and Medicaid Services (CMS) has adamantly communicated to the Department for Medicaid Services that 1915(c) home and community based waiver services cannot duplicate services that are available to Medicaid recipients via the state plan. CMS has informed DMS that it must eliminate any such duplication. As the recommended services are available as state plan services DMS cannot add them to the acquired brain injury (ABI) waiver program as a waiver program benefit.

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

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 3:090 and is amending the administrative regulation as follows:

Page 2
Section 1(7)(b)
Line 21

After “MWMA”, delete “portal”.

Page 5
Section 1(24)
Line 15

After “MWMA”, delete “portal”.

Page 24
Section 3(1)(b)1.
Line 18

After “MWMA”, delete “portal”.

Page 24
Section 3(1)(b)2.
Line 20

After “MWMA”, delete “portal”.

Page 24
Section 3(1)(c)
Line 23

After “MWMA”, delete “portal”.

Page 25
Section 3(1)(c)*, (d), and (e)
Lines 11, 13, and 15

Renumber these three paragraphs by inserting “(d)”, “(e)”, and “(f)”, respectively, and by deleting “(c)”, “(d)”, and “(e)”, respectively.

*NOTE: this is referring to the 2nd “(c)” in this subsection.

Page 26
Section 3(1)(f)
Line 1

Renumber this paragraph by inserting “(g)” and by deleting “(f)”.

Page 34
Section 4(4)(a)1.
Line 3

After “MWMA”, delete “portal”.

Page 34
Section 4(4)(a)2.

Line 4
After “MWMA”, delete “portal”.

Page 34
Section 4(4)(b)

Line 6
After “MWMA”, delete “portal”.

Line 7
After “MWMA”, delete “portal”.

Page 37
Section 5(2)(m)

Line 5
After “MWMA”, delete “portal”.

Page 37
Section 5(2)(n)

Line 14
After “MWMA”, delete “portal”.

Page 40
Section 5(4)(b)2.d.

Line 2
After “MWMA”, delete “portal”.

Page 43
Section 5(5)(g)9.a.

Line 4
After “site”, delete the following:
no more than fourteen (14) days apart,

Page 43
Section 5(5)(h)

Line 11
After “documented”, insert “in the MWMA”.

Page 49
Section 6(2)(b)7.

Line 11
After “documented”, insert “in the MWMA”.

Page 50
Section 6(2)(c)6.
Line 2

After “documentation”, insert “in the MWMA”.

Page 53
Section 6(2)(d)11.
Line 11

After “documented”, insert “in the MWMA”.

Page 64
Section 6(2)(g)10.
Line 6

After “documented”, insert “in the MWMA”.

Page 64
Section 6(2)(h)5.
Line 22

After “documented”, insert “in the MWMA”.

Page 65
Section 6(2)(i)4.
Line 20

After “documented”, insert “in the MWMA”.

Page 67
Section 6(2)(j)7.
Line 1

After “documented”, insert “in the MWMA”.

Page 67
Section 6(2)(k)5.
Line 15

After “documented”, insert “in the MWMA”.

Page 69
Section 6(2)(l)12.
Line 22

After “documented”, insert “in the MWMA”.

Page 70
Section 6(2)(m)8.
Line 23

After “documented”, insert “in the MWMA”.

Page 71

Section 6(2)(n)3.

Line 12

After “MWMA”, delete “portal”.

Page 72

Section 6(2)(o)2.c.

Line 5

After “MWMA”, delete “portal”.

Page 75

Section 8(4)(a)1.

Line 19

After “MWMA”, delete “portal”.

Page 76

Section 8(5)(b)1.

Line 14

After “MWMA”, delete “portal”.

Page 76

Section 8(5)(b)2.

Line 17

After “MWMA”, delete “portal”.

Page 76

Section 8(5)(c)2.

Line 22

After “MWMA”, delete “portal”.

Page 77

Section 8(6)

Line 12

After “MWMA”, delete “portal”.

Page 77

Section 8(7)(a)

Line 15

After “MWMA”, delete “portal”.

Page 79

Section 8(8)(a)

Line 3

After “MWMA”, delete “portal”.

Page 81

Section 9(2)(a)

Line 17

Delete “portal”.

Page 81

Section 9(2)(b)

Line 18

After “MWMA”, delete “portal”.

Page 81

Section 9(2)(c)

Line 20

After “MWMA”, delete “portal”.

Page 82

Section 9(3)(a)

Line 3

After “MWMA”, delete “portal”.

Page 82

Section 9(7)

Line 19

After “MWMA”, delete “portal”.

Page 83

Section 9(10)

Line 11

After “MWMA”, delete “portal”.

Page 93

Section 10(19)

Line 8

After “(19)”, insert “(a)”.

Page 93

Section 10(19)(a), (b), (c), (d), and (e)

Lines 9, 11, 14, 15, and 16

Reorder these five paragraphs by inserting “1.”, “2.”, “3.”, “4.”, and “5.”, respectively, and by deleting “(a)”, “(b)”, “(c)”, “(d)”, and “(e)”, respectively.

Page 93

Section 10(19)(b)1. and 2.

Lines 12 and 13

Reorder these two subparagraphs by inserting “a.” and “b.”, respectively, and by deleting “1.” and “2.”, respectively.

Page 93
Section 10(20)
Line 19

Before “(20)”, insert “(b)”.
Delete “(20)”.

Page 93
Section 10(21)
Line 21

Before “(21)”, insert the following:
(c) Services provided by a supporter broker shall meet the conflict free requirements established for case management in Section 5(4) of this administrative regulation.
(20)
Delete “(21)”.

Page 96
Section 13(1)(d)
Line 8

After “Exemption’”, insert “October”.
Delete “May”.