

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Community Alternatives

4 (Amendment)

5 907 KAR 15:005. Definitions for 907 KAR Chapter 15.

6 RELATES TO: KRS 194A.025(3)

7 STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1),

8 205.520(3), 205.6311, 42 U.S.C. 1396a

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
10 Services, Department for Medicaid Services, has responsibility to administer the Medi-
11 caid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to
12 comply with a requirement that may be imposed or opportunity presented by federal law
13 to qualify for federal Medicaid funds. This administrative regulation establishes the defi-
14 nitions for 907 KAR Chapter 15.

15 Section 1. Definitions. (1) "Adult peer support specialist" means an individual who
16 meets the requirements for an adult peer support specialist established in 908 KAR
17 2:220.

18 (2) "Advanced practice registered nurse" or "APRN" is defined by KRS 314.011(7).

19 (3)~~(2)~~ "Approved behavioral health services provider" means a practitioner who

20 ~~[provider that]~~ is:

21 (a) A physician;

- 1 (b) A psychiatrist;
- 2 (c) An advanced practice registered nurse;
- 3 (d) A physician assistant;
- 4 (e) A licensed psychologist
- 5 (f) A licensed psychological practitioner;
- 6 (g) A certified psychologist with autonomous functioning;
- 7 (h) A licensed clinical social worker;
- 8 (i)~~(h)~~ A licensed professional clinical counselor;
- 9 (j)~~(i)~~ A licensed marriage and family therapist;
- 10 (k)~~(j)~~ A licensed psychological associate working under the supervision of a board-
- 11 approved licensed psychologist who is a billing supervisor;
- 12 (l) A certified psychologist working under the supervision of a board-approved li-
- 13 censed psychologist who is a billing supervisor;
- 14 (m)~~(k)~~ A marriage and family therapy associate working under the supervision of a
- 15 billing supervisor;
- 16 (n)~~(l)~~ A certified social worker working under the supervision of a billing supervisor;
- 17 (o)~~(m)~~ A licensed professional counselor associate working under the supervision of
- 18 a billing supervisor;
- 19 (p)~~(n)~~ A licensed professional art therapist; ~~[o]~~
- 20 (q)~~(o)~~ A licensed professional art therapist associate working under the supervision
- 21 of a billing supervisor;
- 22 (r) A licensed clinical alcohol and drug counselor;
- 23 (s) A licensed clinical alcohol and drug counselor associate working under the super-

1 vision of a billing supervisor; or

2 (t) A certified alcohol and drug counselor working under the supervision of a billing
3 supervisor.

4 (4)[(3)] "Behavioral health multi-specialty group [practitioner]" means a group of more
5 than one (1) individually licensed behavioral health practitioners of varying practitioner
6 types who form a business entity to:

7 (a) Render health services; and

8 (b) Bill the Medicaid Program for services rendered to Medicaid recipients [An ap-
9 proved behavioral health services provider; or

10 (b) A certified alcohol and drug counselor].

11 (5)[(4)] "Behavioral health practitioner under supervision" means an individual who is:

12 (a)1. A licensed psychological associate working under the supervision of a board-
13 approved licensed psychologist who is a billing supervisor;

14 2. A licensed professional counselor associate;

15 3. A licensed clinical alcohol and drug counselor associate;

16 4. A certified social worker;

17 5.[4.] A marriage and family therapy associate;

18 6.[5.] A licensed professional art therapist associate;

19 7.[6.] A licensed assistant behavior analyst;

20 8.[7.] A physician assistant; [or]

21 9. A certified psychologist working under the supervision of a board-approved
22 licensed psychologist who is a billing supervisor; or

23 10. [8.] A certified alcohol and drug counselor; and

1 (b) Employed by or under contract with the same billing provider as the billing super-
2 visor.

3 (6) "Behavioral health provider group" means a group of more than one (1) individual-
4 ly licensed behavioral health practitioners of the same practitioner type who form a
5 business entity to:

6 (a) Render health services; and

7 (b) Bill the Medicaid Program for services rendered to Medicaid recipients.

8 (7)[(5)] "Behavioral health services organization" means an entity that is licensed as a
9 behavioral health services organization pursuant to 902 KAR 20:430.

10 (8)[(6)] "Billing provider" means the individual who, group of individual providers that,
11 or organization that:

12 (a) Is authorized to bill the department or a managed care organization for a service;
13 and

14 (b) Is eligible to be reimbursed by the department or a managed care organization for
15 a service.

16 (9)[(7)] "Billing supervisor" means an individual who is:

17 (a)1. A physician;

18 2. A psychiatrist;

19 3. An advanced practice registered nurse;

20 4. A licensed clinical alcohol and drug counselor;

21 5. A licensed psychologist;

22 6.[5.] A licensed clinical social worker;

23 7.[6.] A licensed professional clinical counselor;

1 8.[7:] A licensed psychological practitioner;

2 9. A certified psychologist with autonomous functioning;

3 10.[8:] A licensed marriage and family therapist;

4 11.[9:] A licensed professional art therapist; or

5 12.[10:] A licensed behavior analyst; and

6 (b) Employed by or under contract with the same billing provider as the behavioral
7 health practitioner under supervision who renders services under the supervision of the
8 billing supervisor.

9 (8) "Certified alcohol and drug counselor" is defined by KRS 309.080(2) ~~[means an~~
10 ~~individual who meets the requirements established in KRS 309.083].~~

11 (10) "Certified prevention specialist" means an individual who is currently certified as
12 a certified prevention specialist by the Kentucky Certification Board for Prevention Pro-
13 fessionals.

14 (11) "Certified psychologist" means an individual who is a certified psychologist pur-
15 suant to KRS 319.056.

16 (12) "Certified psychologist with autonomous functioning" means an individual who is
17 a certified psychologist with autonomous functioning pursuant to KRS 319.056.

18 (13)[(9)] "Certified social worker" means an individual who meets the requirements
19 established in KRS 335.080.

20 (14) "Chemical dependency treatment center" means an entity that is licensed as a
21 chemical dependency treatment center pursuant to 902 KAR 10:160.

22 (15)[(10)] "Community support associate" means a paraprofessional who meets the
23 application, training, and supervision requirements of 908 KAR 2:250.

1 ~~(16)~~~~(41)~~ "Department" means the Department for Medicaid Services or its designee.

2 ~~(17)~~~~(42)~~ "Electronic signature" is defined by KRS 369.102(8).

3 ~~(18)~~~~(43)~~ "Enrollee" means a recipient who is enrolled with a managed care organi-
4 zation.

5 ~~(19)~~~~(44)~~ "Face-to-face" means occurring:

6 (a) In person; or

7 (b) If authorized by 907 KAR 3:170, via a real-time, electronic communication that in-
8 volves two (2) way interactive video and audio communication.

9 ~~(20)~~~~(45)~~ "Family peer support specialist" means an individual who meets the re-
10 quirements for a Kentucky family peer support specialist established in 908 KAR 2:230.

11 ~~(21)~~~~(46)~~ "Federal financial participation" is defined by 42 C.F.R. 400.203.

12 ~~(22)~~~~(47)~~ "Healthcare common procedure coding system" or "HCPCS" means a col-
13 lection of codes acknowledged by the Centers for Medicare and Medicaid Services
14 (CMS) that represents procedures or items.

15 ~~(23)~~ "Level I psychiatric residential treatment facility" means an entity that is licensed
16 as a Level I psychiatric residential treatment facility pursuant to 902 KAR 20:320.

17 ~~(24)~~ "Level II psychiatric residential treatment facility" means an entity that is licensed
18 as a Level II psychiatric residential treatment facility pursuant to 902 KAR 20:320.

19 ~~(25)~~~~(48)~~ "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

20 ~~(26)~~~~(49)~~ "Licensed behavior analyst" is defined by KRS 319C.010(6).

21 ~~(27)~~ "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

22 ~~(28)~~ "Licensed clinical alcohol and drug counselor associate" is defined by KRS
23 309.080(5).

1 ~~(29)~~~~(20)~~ "Licensed clinical social worker" means an individual who meets the li-
2 censed clinical social worker requirements established in KRS 335.100.

3 ~~(30)~~~~(21)~~ "Licensed marriage and family therapist" is defined by KRS 335.300(2).

4 ~~(31)~~~~(22)~~ "Licensed professional art therapist" is defined by KRS 309.130(2).

5 ~~(32)~~~~(23)~~ "Licensed professional art therapist associate" is defined by KRS
6 309.130(3).

7 ~~(33)~~~~(24)~~ "Licensed professional clinical counselor" is defined by KRS 335.500(3).

8 ~~(34)~~~~(25)~~ "Licensed professional counselor associate" is defined by KRS 335.500(4).

9 ~~(35)~~~~(26)~~ "Licensed psychological associate" means an individual who:

10 (a)1. Currently possesses a licensed psychological associate license in accordance
11 with KRS 319.010(6); and

12 2. Meets the licensed psychological associate requirements established in 201 KAR
13 Chapter 26; or

14 (b) Is a certified psychologist.

15 ~~(36)~~~~(27)~~ "Licensed psychological practitioner" means an individual who[-

16 ~~(a)]~~ meets the requirements established in KRS 319.053[- or

17 ~~(b) Is a certified psychologist with autonomous functioning].~~

18 ~~(37)~~~~(28)~~ "Licensed psychologist" means an individual who:

19 (a) Currently possesses a licensed psychologist license in accordance with KRS
20 319.010(6); and

21 (b) Meets the licensed psychologist requirements established in 201 KAR Chapter
22 26.

23 ~~(38)~~~~(29)~~ "Managed care organization" means an entity for which the Department for

1 Medicaid Services has contracted to serve as a managed care organization as defined
2 by ~~[in]~~ 42 C.F.R. 438.2.

3 ~~(39)~~~~(30)~~ "Marriage and family therapy associate" is defined by KRS 335.300(3).

4 (40) "Medicaid-covered service" means a service covered by the department as es-
5 tablished in Title 907 of the Kentucky Administrative Regulations.

6 ~~(41)~~~~(31)~~ "Medically necessary" or "medical necessity" means that a covered benefit
7 is determined to be needed in accordance with 907 KAR 3:130.

8 ~~(42)~~~~(32)~~ "Peer support specialist" means an individual who meets the peer support
9 specialist qualifications established in 908 KAR 2:220.

10 ~~(33)~~ "Person-centered service plan" means a plan of services for a recipient that
11 meets the requirements established in 42 C.F.R. 441.540.

12 ~~(43)~~~~(34)~~ "Physician" is defined by KRS 205.510(11).

13 ~~(44)~~~~(35)~~ "Physician assistant" is defined by KRS 311.840(3).

14 ~~(45)~~~~(36)~~ "Provider" is defined by KRS 205.8451(7).

15 ~~(46)~~~~(37)~~ "Provider abuse" is defined by KRS 205.8451(8).

16 (47) "Psychiatric hospital" means an entity licensed as a psychiatric hospital pursuant
17 to 902 KAR 20:180.

18 ~~(48)~~~~(38)~~ "Provider group" means a group of more than one ~~(1)~~ individually licensed
19 practitioners who form a business entity to:

20 ~~(a) Render health services; and~~

21 ~~(b) Bill the Medicaid Program for services rendered to Medicaid recipients.~~

22 ~~(39)~~ "Recipient" is defined by KRS 205.8451(9).

23 ~~(49)~~~~(40)~~ "Recipient abuse" is defined by KRS 205.8451(10).

24 (50) "Recipient's representative" means:

25 (a) For a recipient who is authorized by Kentucky law to provide written consent, an

1 individual acting on behalf of, and with written consent from, the recipient; or

2 (b) A legal guardian.

3 (51) "Registered alcohol and drug peer support specialist" is defined by KRS

4 309.080(8).

5 (52)[(41)] "Registered nurse" is defined by KRS 314.011(5).

6 (53)[(42)] "Residential crisis stabilization unit" means an entity that is licensed as a

7 residential crisis stabilization unit pursuant to 902 KAR 20:440.

8 (54)[(43)] "Section 504 plan" means a plan developed;

9 (a) Under the auspices of Section 504 of the Rehabilitation Act of 1973, as amended,

10 29 U.S.C. 794 (Section 504); and

11 (b) To ensure that a child who has a disability identified under the law and is attend-
12 ing an elementary or secondary educational institution receives accommodations to en-
13 sure the child's academic success and access to the learning environment.

14 (55)[(44)] "Youth peer support specialist" means an individual who meets the re-
15 quirements established for a Kentucky youth peer support specialist established in 908
16 KAR 2:240.

907 KAR 15:005

REVIEWED:

Date

Stephen P. Miller, Commissioner
Department for Medicaid Services

APPROVED:

Date

Vickie Yates Brown Glisson, Secretary
Cabinet for Health and Family Services

907 KAR 15:005

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on December 21, 2016, at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing December 14, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until December 31, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, (502) 564-7905, Fax: (502) 564-7573

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 15:005

Contact Person: Sharley Hughes (502) 564-4321, extension 2010;

sharleyj.hughes@ky.gov or Tricia Orme (502) 564-7905; tricia.orme@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the definitions for administrative regulations located in 907 KAR Chapter 15. Chapter 15 contains Medicaid administrative regulations regarding behavioral health services (treatment of mental health disorders as well as of substance use disorders) provided by independently enrolled behavioral health professionals, behavioral health service organizations, behavioral health provider groups, behavioral health multi-specialty groups, chemical dependency treatment centers, and residential crisis stabilization units.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions for administrative regulations located in 907 KAR Chapter 15. Chapter 15 contains Medicaid administrative regulations regarding behavioral health services (treatment of mental health disorders as well as of substance use disorders) provided by independently enrolled behavioral health professionals, behavioral health service organizations, behavioral health provider groups, behavioral health multi-specialty groups, chemical dependency treatment centers, and residential crisis stabilization units. Medicaid programs are federally-mandated to cover behavioral health services.

(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 the definitions for administrative regulations located in 907 KAR Chapter 15.

(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 the definitions for administrative regulations located in 907 KAR Chapter 15.

(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 adds the following definitions; "certified psychologist", "certified psychologist with autonomous functioning", "chemical dependency treatment center", "Level I psychiatric residential treatment facility", "Level II psychiatric residential treatment facility", "licensed assistant behavior analyst", "licensed behavior analyst, licensed clinical alcohol and drug counselor", "licensed clinical and alcohol and drug counselor associate", "psychiatric hospital", and "recipient's representative". The amendment also adds "certified psychologist with autonomous functioning", "licensed professional clinical counselor", "certified psychologist", "licensed clinical alcohol and drug counselor", "licensed clinical alcohol and drug counselor associate" and "certified alcohol and drug counselor" to the definition of "an approved behavioral health service provider," Further, the amendment adds "certified psychologist with autonomous functioning" to the list of "bill-

ing supervisors”. Finally, the amendment revises the definitions of “licensed psychological practitioner” and “peer support specialist”.

(b) The necessity of the amendment to this administrative regulation: Inserting the new definitions is necessary to update terminology used in recently promulgated administrative regulations subsequent to the adoption of 907 KAR 15:005. The amendments are also necessary to comport with legislation that created two new licensed practitioners - “licensed clinical alcohol drug counselors” and “licensed clinical alcohol drug counselor associates”.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments will conform to the content of the authorizing statutes by defining terms utilized in Medicaid program behavioral health administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effective administration of the authorizing statutes by defining terms utilized in behavioral health administrative regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The following Medicaid-enrolled providers will be affected by this administrative regulation: individual Medicaid-behavioral health providers, behavioral health provider groups and multi-specialty groups, behavioral health services organizations, chemical dependency treatment centers, and residential crisis stabilization units. There are currently over 2,200 such individuals or entities enrolled in the Medicaid program.

(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 by this administrative regulation as it only contains definitions.

(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). Individuals will benefit due to terms being defined.

(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? Tiering is neither applied nor necessary as the administrative regulation establishes definitions for Medicaid independent behavioral health services (including substance use disorder services) and reimbursement.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 907 KAR 15:005

Contact Person: Sharley Hughes (502) 564-4321, extension 2010;

sharleyj.hughes@ky.gov or Tricia Orme (502) 564-7905; tricia.orme@ky.gov.

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 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.010(1), 194A.030(2), 194A.050(1), 205.520(3), 205.6311, 42 U.S.C. 1396a.

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: