

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Community Alternatives

4 (Amendment)

5 907 KAR 15:010. Coverage provisions and requirements regarding behavioral health
6 services provided by individual behavioral health [independent] providers, behavioral
7 health provider groups, and behavioral health multi-specialty groups.

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), 205.6311

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 coverage provisions and requirements regarding Medicaid Program behavioral health
16 services provided by certain licensed individual behavioral health professionals who are
17 independently enrolled in the Medicaid Program, [or] practitioners working for or under
18 the supervision of the individual behavioral health [independent] providers, individual
19 behavioral health professionals, and practitioners under supervision working in behav-
20 ioral health provider groups or in behavioral health multi-specialty groups.

21 Section 1. General Coverage Requirements. (1) For the department to reimburse for

1 a service covered under this administrative regulation, the service shall ~~[be]~~:

2 (a) Be medically necessary;

3 (b) Meet the coverage requirements established in Section 3 of this administrative
4 regulation;

5 (c) Be provided to a recipient by:

6 1. An individual behavioral health provider who:

7 a. Is enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

8 b. Except as established in Section 2(1) of this administrative regulation, currently
9 participates in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; and

10 c. Is:

11 (i) A physician;

12 (ii) A psychiatrist;

13 (iii) An advanced practice registered nurse;

14 (iv) A physician assistant;

15 (v) A licensed psychologist;

16 (vi) A licensed psychological practitioner;

17 (vii) A certified psychologist with autonomous functioning;

18 (viii) A licensed clinical social worker;

19 (ix) A licensed professional clinical counselor;

20 (x) A licensed marriage and family therapist;

21 (xi) A licensed professional art therapist; or

22 (xii) A licensed clinical alcohol and drug counselor;

23 2. Any of the individual behavioral health professionals listed in paragraph (c)1.c. of

1 this subsection who is working for:

2 a. A behavioral health provider group that is:

3 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR

4 1:672; and

5 (ii) Except as established in Section 2(1) of this administrative regulation, currently
6 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

7 b. A behavioral health multi-specialty group that is:

8 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR

9 1:672; and

10 (ii) Except as established in Section 2(1) of this administrative regulation, currently
11 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

12 3. A behavioral health practitioner under supervision working for:

13 a. An individual behavioral health professional listed in paragraph (c)1.c. of this sub-
14 section who is:

15 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR

16 1:672; and

17 (ii) Except as established in Section 2(1) of this administrative regulation, currently
18 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

19 b. A behavioral health provider group that is:

20 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR

21 1:672; and

22 (ii) Except as established in Section 2(1) of this administrative regulation, currently
23 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

1 c. A behavioral health multi-specialty group that is:

2 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR

3 1:672; and

4 (ii) Except as established in Section 2(1) of this administrative regulation, currently
5 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

6 4. A certified psychologist working under the supervision of a board-approved li-
7 censed psychologist who is:

8 a.(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907
9 KAR 1:672; and

10 (ii) Except as established in Section 2(1) of this administrative regulation, currently
11 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

12 b. Working for a behavioral health provider group that is:

13 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR
14 1:672; and

15 (ii) Except as established in Section 2(1) of this administrative regulation, currently
16 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

17 c. Working for a behavioral health multi-specialty group that is:

18 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR
19 1:672; and

20 (ii) Except as established in Section 2(1) of this administrative regulation, currently
21 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

22 5. An adult peer support specialist, family peer support specialist, youth peer support
23 specialist, or registered alcohol and drug peer support specialist working for:

1 a. Any of the individual behavioral health professionals listed in paragraph (c)1.c. of
2 this subsection who is:

3 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR
4 1:672; and

5 (ii) Except as established in Section 2(1) of this administrative regulation, currently
6 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

7 b. A behavioral health provider group that is:

8 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR
9 1:672; and

10 (ii) Except as established in Section 2(1) of this administrative regulation, currently
11 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

12 c. A behavioral health multi-specialty group that is:

13 (i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR
14 1:672; and

15 (ii) Except as established in Section 2(1) of this administrative regulation, currently
16 participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671 [(b)

17 Provided:

18 1. To a recipient; and

19 2. By a:

20 a. Provider who meets the provider participation requirements established in Section
21 2 of this administrative regulation; or

22 b. Practitioner working under the supervision of a provider who meets the provider
23 participation requirements established in Section 2 of this administrative regulation]; and

1 (d) Be ~~[(e)]~~ billed to the department by the:

2 1. Individual [Billing] provider who provided the service or under whose supervision
3 the service was rendered [~~provided by an authorized practitioner~~] in accordance with
4 Section 3 of this administrative regulation;

5 2. Behavioral health provider group on behalf of which the service was rendered in
6 accordance with Section 3 of this administrative regulation; or

7 3. Behavioral health multi-specialty group on behalf of which the service was ren-
8 dered in accordance with Section 3 of this administrative regulation.

9 (2)(a) Face-to-face [Direct] contact between a provider or practitioner and a recipient
10 shall be required for each service except for:

11 1. Collateral outpatient therapy for a child under the age of twenty-one (21) years if
12 the collateral outpatient therapy is in the child's plan of care;

13 2. A family outpatient therapy service in which the corresponding current procedural
14 terminology code establishes that the recipient is not present;

15 3. A psychological testing service comprised of interpreting or explaining results of an
16 examination or data to family members or others in which corresponding current proce-
17 dural terminology code establishes that the recipient is not present; or

18 4. A service planning activity in which the corresponding current procedural terminol-
19 ogy code establishes that the recipient is not present [~~a collateral service for a child un-~~
20 ~~der the age of twenty-one (21) years if the collateral service is in the child's plan of~~
21 ~~care].~~

22 (b) A service that does not meet the requirement in paragraph (a) of this subsection
23 shall not be covered.

1 (3) A billable unit of service shall be actual time spent delivering a service in a face-
2 to-face encounter.

3 (4) A service shall be:

4 (a) Stated in a recipient's ~~[treatment]~~ plan of care; and

5 (b) Provided in accordance with a recipient's ~~[treatment]~~ plan of care ~~[-; and~~

6 ~~(c) Provided on a regularly scheduled basis except for a screening, assessment, or~~
7 ~~crisis intervention].~~

8 (5) A provider shall establish a plan of care for each recipient receiving services from
9 the provider.

10 Section 2. Provider Participation. (1) ~~[To be eligible to provide services under this~~
11 ~~administrative regulation, a provider shall:~~

12 ~~(a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907~~
13 ~~KAR 1:672; and~~

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

16 ~~(2)]~~ In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an
17 enrollee shall not be required to be currently participating in the fee-for-service Medicaid
18 Program.

19 ~~(2)~~~~(3)]~~ A provider shall:

20 (a) Agree to provide services in compliance with federal and state laws regardless of
21 age, sex, race, creed, religion, national origin, handicap, or disability; and

22 (b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and
23 any amendments to the Act.

1 Section 3. Covered Services. (1) Except as specified in the requirements stated for a
2 given service, the services covered may be provided for a:

- 3 (a) Mental health disorder;
- 4 (b) Substance use disorder; or
- 5 (c) Co-occurring mental health and substance use disorders.

6 (2) The following services shall be covered under this administrative regulation in ac-
7 cordance with the [~~corresponding following~~] requirements established in this section of
8 this administrative regulation:

9 (a) A screening provided by:

- 10 1. A licensed psychologist;
- 11 2. A licensed professional clinical counselor;
- 12 3. A licensed clinical social worker;
- 13 4. A licensed marriage and family therapist;
- 14 5. A physician;
- 15 6. A psychiatrist;
- 16 7. An advanced practice registered nurse;
- 17 8. A licensed psychological practitioner;
- 18 9. A certified psychologist with autonomous functioning;
- 19 10. A licensed clinical and alcohol drug counselor; or
- 20 11. A behavioral health practitioner under supervision except for a licensed assistant
21 behavior analyst [~~licensed psychological associate working under the supervision of a~~
22 ~~licensed psychologist if the licensed psychologist is the billing provider for the service;~~
23 ~~10. A licensed professional counselor associate working under the supervision of a~~

1 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
2 ~~the billing provider for the service;~~

3 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
4 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

5 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
6 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
7 ~~billing provider for the service;~~

8 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
9 ~~cian is the billing provider for the service;~~

10 ~~14. A licensed professional art therapist; or~~

11 ~~15. A licensed professional art therapist associate working under the supervision of a~~
12 ~~licensed professional art therapist if the licensed professional art therapist is the billing~~
13 ~~provider for the service];~~

14 (b) An assessment provided by:

15 1. A licensed psychologist;

16 2. A licensed professional clinical counselor;

17 3. A licensed clinical social worker;

18 4. A licensed marriage and family therapist;

19 5. A physician;

20 6. A psychiatrist;

21 7. An advanced practice registered nurse;

22 8. A licensed psychological practitioner;

23 9. A certified psychologist with autonomous functioning [~~licensed psychological asso-~~

1 ~~ciate working under the supervision of a licensed psychologist if the licensed psycholo-~~
2 ~~gist is the billing provider for the service];~~

3 10. A licensed ~~[professional counselor associate working under the supervision of a~~
4 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
5 ~~the billing provider for the service;~~

6 11. A ~~certified social worker working under the supervision of a licensed clinical social~~
7 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

8 12. A ~~marriage and family therapy associate working under the supervision of a li-~~
9 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
10 ~~billing provider for the service;~~

11 13. A ~~physician assistant working under the supervision of a physician if the physi-~~
12 ~~cian is the billing provider for the service;~~

13 14. A ~~licensed professional art therapist;~~

14 15. A ~~licensed professional art therapist associate working under the supervision of a~~
15 ~~licensed professional art therapist if the licensed professional art therapist is the billing~~
16 ~~provider for the service;~~

17 16. A ~~licensed] behavior analyst; [or]~~

18 11. [17.] A licensed clinical alcohol and drug counselor; or

19 12. A behavioral health practitioner under [licensed assistant behavior analyst work-
20 ing under the] supervision [of a licensed behavior analyst if the licensed behavior ana-
21 lyst is the billing provider for the service];

22 (c) Psychological testing provided by:

23 1. A licensed psychologist;

1 2. A licensed psychological practitioner; [or]
2 3. A licensed psychological associate working under the supervision of a board-
3 approved licensed psychologist who is a [~~if the licensed psychologist is the~~] billing su-
4 ervisor [~~provider for the service~~];

5 4. A certified psychologist with autonomous functioning; or

6 5. A certified psychologist working under the supervision of a board-approved li-
7 censed psychologist who is a billing supervisor;

8 (d) [~~Crisis intervention provided by:~~

9 ~~1. A licensed psychologist;~~

10 ~~2. A licensed professional clinical counselor;~~

11 ~~3. A licensed clinical social worker;~~

12 ~~4. A licensed marriage and family therapist;~~

13 ~~5. A physician;~~

14 ~~6. A psychiatrist;~~

15 ~~7. An advanced practice registered nurse;~~

16 ~~8. A licensed psychological practitioner;~~

17 ~~9. A licensed psychological associate working under the supervision of a licensed~~
18 ~~psychologist if the licensed psychologist is the billing provider for the service;~~

19 ~~10. A licensed professional counselor associate working under the supervision of a~~
20 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
21 ~~the billing provider for the service;~~

22 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
23 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

1 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
2 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
3 ~~billing provider for the service;~~

4 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
5 ~~cian is the billing provider for the service;~~

6 ~~14. A licensed professional art therapist; or~~

7 ~~15. A licensed professional art therapist associate working under the supervision of a~~
8 ~~licensed professional art therapist if the licensed professional art therapist is the billing~~
9 ~~provider for the service;~~

10 (e)] Service planning provided by:

11 1. A licensed psychologist;

12 2. A licensed professional clinical counselor;

13 3. A licensed clinical social worker;

14 4. A licensed marriage and family therapist;

15 5. A physician;

16 6. A psychiatrist;

17 7. An advanced practice registered nurse;

18 8. A licensed psychological practitioner;

19 9. A certified psychologist with autonomous functioning;

20 10. A licensed [psychological associate working under the supervision of a licensed
21 psychologist if the licensed psychologist is the billing provider for the service;

22 ~~10. A licensed professional counselor associate working under the supervision of a~~
23 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~

1 ~~the billing provider for the service;~~

2 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
3 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

4 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
5 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
6 ~~billing provider for the service;~~

7 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
8 ~~cian is the billing provider for the service;~~

9 ~~14. A licensed] professional art therapist;~~

10 ~~11. [15. A licensed professional art therapist associate working under the supervision~~
11 ~~of a licensed professional art therapist if the licensed professional art therapist is the bill-~~
12 ~~ing provider for the service;~~

13 ~~16.] A licensed behavior analyst; or~~

14 ~~12. A behavioral health practitioner [17. A licensed assistant behavior analyst working~~
15 ~~under [the] supervision except for a:~~

16 ~~a. Certified alcohol and drug counselor; or~~

17 ~~b. Licensed clinical alcohol and drug counselor associate [of a licensed behavior ana-~~
18 ~~lyst if the licensed behavior analyst is the billing provider for the service];~~

19 ~~(e)[(f)] Individual outpatient therapy, group outpatient therapy, collateral outpatient~~
20 ~~therapy, or crisis intervention services provided by:~~

21 ~~1. A licensed psychologist;~~

22 ~~2. A licensed professional clinical counselor;~~

23 ~~3. A licensed clinical social worker;~~

- 1 4. A licensed marriage and family therapist;
- 2 5. A physician;
- 3 6. A psychiatrist;
- 4 7. An advanced practice registered nurse;
- 5 8. A licensed psychological practitioner;
- 6 9. A certified psychologist with autonomous functioning [~~licensed psychological asso-~~
- 7 ~~ciate working under the supervision of a licensed psychologist if the licensed psycholo-~~
- 8 ~~gist is the billing provider for the service];~~
- 9 10. A licensed [~~professional counselor associate working under the supervision of a~~
- 10 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
- 11 ~~the billing provider for the service];~~
- 12 11. A ~~certified social worker working under the supervision of a licensed clinical social~~
- 13 ~~worker if the licensed clinical social worker is the billing provider for the service;~~
- 14 12. A ~~marriage and family therapy associate working under the supervision of a li-~~
- 15 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
- 16 ~~billing provider for the service;~~
- 17 13. A ~~physician assistant working under the supervision of a physician if the physi-~~
- 18 ~~cian is the billing provider for the service;~~
- 19 14. A licensed] professional art therapist;
- 20 11.[15.] A licensed [~~professional art therapist associate working under the supervision~~
- 21 ~~of a licensed professional art therapist if the licensed professional art therapist is the bill-~~
- 22 ~~ing provider for the service;~~
- 23 16. A licensed] behavior analyst;

1 12. A licensed clinical alcohol and drug counselor; or

2 13. A behavioral health practitioner [~~17. A licensed assistant behavior analyst work-~~
3 ~~ing] under [the] supervision [of a licensed behavior analyst if the licensed behavior ana-~~
4 ~~lyst is the billing provider for the service];~~

5 ~~(f)~~~~(g)~~ Family outpatient therapy provided by:

6 1. A licensed psychologist;

7 2. A licensed professional clinical counselor;

8 3. A licensed clinical social worker;

9 4. A licensed marriage and family therapist;

10 5. A physician;

11 6. A psychiatrist;

12 7. An advanced practice registered nurse;

13 8. A licensed psychological practitioner;

14 9. A certified psychologist with autonomous functioning; [~~licensed psychological as-~~
15 ~~sociate working under the supervision of a licensed psychologist if the licensed psy-~~
16 ~~chologist is the billing provider for the service;]~~

17 10. A licensed professional [~~counselor associate working under the supervision of a~~
18 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
19 ~~the billing provider for the service;~~

20 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
21 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

22 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
23 ~~icensed marriage and family therapist if the licensed marriage and family therapist is the~~

1 ~~billing provider for the service;~~

2 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
3 ~~cian is the billing provider for the service;~~

4 ~~14. A licensed professional] art therapist; or~~

5 ~~11.[or 15.] A behavioral health practitioner[licensed professional art therapist associ-~~
6 ~~ate working] under [the] supervision except for a licensed assistant behavior analyst[of a~~
7 ~~licensed professional art therapist if the licensed professional art therapist is the billing~~
8 ~~provider for the service];~~

9 ~~(g)[(h) Group outpatient therapy provided by:~~

10 ~~1. A licensed psychologist;~~

11 ~~2. A licensed professional clinical counselor;~~

12 ~~3. A licensed clinical social worker;~~

13 ~~4. A licensed marriage and family therapist;~~

14 ~~5. A physician;~~

15 ~~6. A psychiatrist;~~

16 ~~7. An advanced practice registered nurse;~~

17 ~~8. A licensed psychological practitioner;~~

18 ~~9. A licensed psychological associate working under the supervision of a licensed~~
19 ~~psychologist if the licensed psychologist is the billing provider for the service;~~

20 ~~10. A licensed professional counselor associate working under the supervision of a~~
21 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
22 ~~the billing provider for the service;~~

23 ~~11. A certified social worker working under the supervision of a licensed clinical social~~

- 1 worker if the licensed clinical social worker is the billing provider for the service;
- 2 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
3 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
4 ~~billing provider for the service;~~
- 5 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
6 ~~cian is the billing provider for the service;~~
- 7 ~~14. A licensed professional art therapist;~~
- 8 ~~15. A licensed professional art therapist associate working under the supervision of a~~
9 ~~licensed professional art therapist if the licensed professional art therapist is the billing~~
10 ~~provider for the service;~~
- 11 ~~16. A licensed behavior analyst; or~~
- 12 ~~17. A licensed assistant behavior analyst working under the supervision of a licensed~~
13 ~~behavior analyst if the licensed behavior analyst is the billing provider for the service;~~
- 14 ~~(i) Collateral outpatient therapy provided by:~~
- 15 ~~1. A licensed psychologist;~~
- 16 ~~2. A licensed professional clinical counselor;~~
- 17 ~~3. A licensed clinical social worker;~~
- 18 ~~4. A licensed marriage and family therapist;~~
- 19 ~~5. A physician;~~
- 20 ~~6. A psychiatrist;~~
- 21 ~~7. An advanced practice registered nurse;~~
- 22 ~~8. A licensed psychological practitioner;~~
- 23 ~~9. A licensed psychological associate working under the supervision of a licensed~~

- 1 ~~psychologist if the licensed psychologist is the billing provider for the service;~~
- 2 ~~10. A licensed professional counselor associate working under the supervision of a~~
- 3 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
- 4 ~~the billing provider for the service;~~
- 5 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
- 6 ~~worker if the licensed clinical social worker is the billing provider for the service;~~
- 7 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
- 8 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
- 9 ~~billing provider for the service;~~
- 10 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
- 11 ~~cian is the billing provider for the service;~~
- 12 ~~14. A licensed professional art therapist;~~
- 13 ~~15. A licensed professional art therapist associate working under the supervision of a~~
- 14 ~~licensed professional art therapist if the licensed professional art therapist is the billing~~
- 15 ~~provider for the service;~~
- 16 ~~16. A licensed behavior analyst; or~~
- 17 ~~17. A licensed assistant behavior analyst working under the supervision of a licensed~~
- 18 ~~behavior analyst if the licensed behavior analyst is the billing provider for the service;~~
- 19 ~~(j)] A screening, brief intervention, and referral to treatment for a substance use dis-~~
- 20 ~~order or SBIRT provided by:~~
- 21 ~~1. A licensed psychologist;~~
- 22 ~~2. A licensed professional clinical counselor;~~
- 23 ~~3. A licensed clinical social worker;~~

- 1 4. A licensed marriage and family therapist;
- 2 5. A physician;
- 3 6. A psychiatrist;
- 4 7. An advanced practice registered nurse;
- 5 8. A licensed psychological practitioner;
- 6 9. A certified psychologist with autonomous functioning; ~~[A licensed psychological~~
7 ~~associate working under the supervision of a licensed psychologist if the licensed psy-~~
8 ~~chologist is the billing provider for the service;]~~
- 9 10. A licensed professional ~~[counselor associate working under the supervision of a~~
10 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
11 ~~the billing provider for the service;~~
- 12 11. ~~A certified social worker working under the supervision of a licensed clinical social~~
13 ~~worker if the licensed clinical social worker is the billing provider for the service;~~
- 14 12. ~~A marriage and family therapy associate working under the supervision of a li-~~
15 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
16 ~~billing provider for the service;~~
- 17 13. ~~A physician assistant working under the supervision of a physician if the physi-~~
18 ~~cian is the billing provider for the service;~~
- 19 14. ~~A licensed professional] art therapist;~~
- 20 11. A licensed clinical alcohol and drug counselor; or
- 21 12. A behavioral health practitioner ~~[or 15. A licensed professional art therapist asso-~~
22 ~~ciate working] under [the] supervision except for [of] a licensed assistant behavior ana-~~
23 ~~lyst [licensed professional art therapist if the licensed professional art therapist is the~~

1 ~~billing provider for the service];~~

2 (h)~~(k)~~ Day treatment provided by:

3 1. A licensed psychologist;

4 2. A licensed professional clinical counselor;

5 3. A licensed clinical social worker;

6 4. A licensed marriage and family therapist;

7 5. A physician;

8 6. A psychiatrist;

9 7. An advanced practice registered nurse;

10 8. A licensed psychological practitioner;

11 9. A certified psychologist with autonomous functioning; ~~[licensed psychological as-~~

12 ~~sociate working under the supervision of a licensed psychologist if the licensed psy-~~

13 ~~chologist is the billing provider for the service;]~~

14 10. A licensed professional ~~[counselor associate working under the supervision of a~~

15 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~

16 ~~the billing provider for the service;~~

17 11. A certified social worker working under the supervision of a licensed clinical social

18 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

19 12. A marriage and family therapy associate working under the supervision of a li-

20 ~~icensed marriage and family therapist if the licensed marriage and family therapist is the~~

21 ~~billing provider for the service;~~

22 13. A physician assistant working under the supervision of a physician if the physi-

23 ~~cian is the billing provider for the service;~~

1 ~~14. A licensed professional] art therapist;~~

2 11. A licensed behavior analyst;

3 12. A behavioral health practitioner [or

4 ~~15. A licensed professional art therapist associate working]~~ under [the] supervision [of
5 a licensed professional art therapist if the licensed professional art therapist is the billing
6 provider for the service];

7 13. An adult peer support specialist, family peer support specialist, or youth peer
8 support specialist working under the supervision of an approved behavioral health ser-
9 vices provider; or

10 14. A registered alcohol and drug peer support specialist working under the supervi-
11 sion of an approved behavioral health services provider; or

12 (i)[(4)] Comprehensive community support services provided by:

13 1. A licensed psychologist;

14 2. A licensed professional clinical counselor;

15 3. A licensed clinical social worker;

16 4. A licensed marriage and family therapist;

17 5. A physician;

18 6. A psychiatrist;

19 7. An advanced practice registered nurse;

20 8. A licensed psychological practitioner;

21 9. A certified psychologist with autonomous functioning; [licensed psychological as-
22 sociate working under the supervision of a licensed psychologist if the licensed psy-
23 chologist is the billing provider for the service;

1 10. A licensed professional [~~counselor associate working under the supervision of a~~
2 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
3 ~~the billing provider for the service;~~

4 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
5 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

6 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
7 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
8 ~~billing provider for the service;~~

9 ~~13. A physician assistant working under the supervision of a physician if the physi-~~
10 ~~cian is the billing provider for the service;~~

11 ~~14. A licensed professional] art therapist;~~

12 ~~11. [15. A licensed professional art therapist associate working under the supervision~~
13 ~~of a licensed professional art therapist if the licensed professional art therapist is the bill-~~
14 ~~ing provider for the service;~~

15 ~~16.] A licensed behavior analyst;~~

16 ~~12. [or~~

17 ~~17.] A behavioral health practitioner[~~licensed assistant behavior analyst working~~] un-~~
18 ~~der [the] supervision except for [of] a:~~

19 ~~a. Certified alcohol and drug counselor [~~licensed behavior analyst if the licensed be-~~~~
20 ~~havior analyst is the billing provider for the service]; or~~

21 ~~b. Licensed clinical alcohol and drug counselor associate; or~~

22 ~~13. A community support associate;~~

23 ~~(j)[(m)] Peer support, except as established in subsection (3)(a) of this section, pro-~~

1 vided by:

2 1. An adult [A] peer support specialist working under the supervision of an approved
3 behavioral health service provider; [or]

4 2. A youth peer support specialist working under the supervision of an approved be-
5 havioral health service provider;

6 3. A family peer support specialist working under the supervision of an approved be-
7 havioral health services provider; or

8 4. A registered alcohol and drug peer support specialist working under the supervi-
9 sion of an approved behavioral health services provider; or

10 ~~(k)[(n) Parent or family peer support provided by a family peer support specialist~~
11 ~~working under the supervision of an approved behavioral health service provider;~~

12 ~~(e)] Intensive outpatient program services, except as established in subsection (3)(b)~~
13 ~~of this section, provided by:~~

14 1. A licensed psychologist;

15 2. A licensed professional clinical counselor;

16 3. A licensed clinical social worker;

17 4. A licensed marriage and family therapist;

18 5. A physician;

19 6. A psychiatrist;

20 7. An advanced practice registered nurse;

21 8. A licensed psychological practitioner;

22 9. ~~[A licensed psychological associate working under the supervision of a licensed~~
23 ~~psychologist if the licensed psychologist is the billing provider for the service;~~

1 ~~10. A licensed professional counselor associate working under the supervision of a~~
2 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
3 ~~the billing provider for the service;~~

4 ~~11. A certified social worker working under the supervision of a licensed clinical social~~
5 ~~worker if the licensed clinical social worker is the billing provider for the service;~~

6 ~~12. A marriage and family therapy associate working under the supervision of a li-~~
7 ~~censed marriage and family therapist if the licensed marriage and family therapist is the~~
8 ~~billing provider for the service;~~

9 ~~13.] A behavioral health practitioner [physician assistant working] under [the] supervi-~~
10 ~~sion [of a physician if the physician is the billing provider for the service]; or~~

11 ~~10. [14.] A licensed professional art therapist; [or~~

12 ~~15. A licensed professional art therapist associate;] or~~

13 ~~(l)[(p)] Therapeutic rehabilitation program services provided by:~~

14 1. A licensed psychologist;

15 2. A licensed professional clinical counselor;

16 3. A licensed clinical social worker;

17 4. A licensed marriage and family therapist;

18 5. A physician;

19 6. A psychiatrist;

20 7. An advanced practice registered nurse;

21 8. A licensed psychological practitioner;

22 9. A certified psychologist with autonomous functioning [~~licensed psychological asso-~~
23 ~~ciate working under the supervision of a licensed psychologist if the licensed psycholo-~~

1 ~~gist is the billing provider for the service];~~

2 10. A licensed professional [~~counselor associate working under the supervision of a~~
3 ~~licensed professional clinical counselor if the licensed professional clinical counselor is~~
4 ~~the billing provider for the service];~~

5 11. A certified social worker working under the supervision of a licensed clinical social
6 worker if the licensed clinical social worker is the billing provider for the service;

7 12. A marriage and family therapy associate working under the supervision of a li-
8 censed marriage and family therapist if the licensed marriage and family therapist is the
9 billing provider for the service;

10 13. A physician assistant working under the supervision of a physician if the physi-
11 cian is the billing provider for the service

12 14. A licensed professional] art therapist;

13 11. [or

14 15.] A behavioral health practitioner [~~licensed professional art therapist associate~~
15 ~~working]~~ under [the] supervision except for [of] a:

16 a. Certified alcohol and drug counselor;

17 b. Licensed clinical alcohol and drug counselor associate; or

18 c. Licensed assistant behavior analyst; or

19 12. An adult peer support specialist, family peer support specialist, or youth peer
20 support specialist working under the supervision of an approved behavioral health ser-
21 vices provider [~~licensed professional art therapist if the licensed professional art thera-~~
22 ~~pist is the billing provider for the service].~~

23 (3)(a) Peer support shall only be covered if provided by a behavioral health:

1 1. Provider group; or

2 2. Multi-specialty group.

3 (b) Intensive outpatient program services shall only be covered if provided by a be-
4 havioral health:

5 1. Provider group; or

6 2. Multi-specialty group.

7 (4)(a) A screening shall:

8 1. Determine [~~Be the determination of~~] the likelihood that an individual has a mental
9 health disorder, substance use disorder, or co-occurring disorders;

10 2. Not establish the presence or specific type of disorder; and

11 3. Establish the need for an in-depth assessment.

12 (b) An assessment shall:

13 1. Include gathering information and engaging in a process with the individual that
14 enables the provider to:

15 a. Establish the presence or absence of a mental health disorder, substance use dis-
16 order, or co-occurring disorders;

17 b. Determine the individual's readiness for change;

18 c. Identify the individual's strengths or problem areas that may affect the treatment
19 and recovery processes; and

20 d. Engage the individual in developing an appropriate treatment relationship;

21 2. Establish or rule out the existence of a clinical disorder or service need;

22 3. Include working with the individual to develop a treatment and service plan; and

23 4. Not include psychological or psychiatric evaluations or assessments.

1 (c) Psychological testing shall:

2 1. Include:

3 a.[4-] A psychodiagnostic assessment of personality, psychopathology, emotionality,
4 or intellectual disabilities; and

5 b.[2-] Interpretation and a written report of testing results; and

6 2. Be performed by an individual who has met the requirements of KRS Chapter 319
7 related to the necessary credentials to perform psychological testing.

8 (d) Crisis intervention:

9 1. Shall be a therapeutic intervention for the purpose of immediately reducing or elim-
10 inating the risk of physical or emotional harm to:

11 a. The recipient; or

12 b. Another individual;

13 2. Shall consist of clinical intervention and support services necessary to provide in-
14 tegrated crisis response, crisis stabilization interventions, or crisis prevention activities
15 for individuals;

16 3. Shall be provided:

17 a. On-site at the provider's office;

18 b. As an immediate relief to the presenting problem or threat; and

19 c. In a face-to-face, one-on-one encounter between the provider and the recipient;

20 4. May include:

21 a. Further service prevention planning including:

22 (i) Lethal means reduction for suicide risk; or

23 (ii) Substance use disorder relapse prevention; or

- 1 b. Verbal de-escalation, risk assessment, or cognitive therapy; and
- 2 5. Shall be followed by a referral to noncrisis services if applicable.
- 3 (e)1. Service planning shall [~~involve~~]:
- 4 a. Involve assisting a recipient in creating an individualized plan for services needed
- 5 for maximum reduction of a mental health disorder [~~an intellectual disability~~]; [~~and~~]
- 6 b. Involve restoring a recipient's functional level to the recipient's best possible func-
- 7 tional level; and
- 8 c. Be performed using a person-centered planning process.
- 9 2. A service plan:
- 10 a. Shall be directed by the recipient; and
- 11 b. Shall include practitioners of the recipient's choosing; and
- 12 c. May include:
- 13 (i) A mental health advance directive being filed with a local hospital;
- 14 (ii) A crisis plan; or
- 15 (iii) A relapse prevention strategy or plan.
- 16 (f) Individual outpatient therapy shall:
- 17 1. Be provided to promote the:
- 18 a. Health and well-being [~~wellbeing~~] of the recipient [~~individual~~]; and [~~or~~]
- 19 b. Recipient's recovery from a substance related disorder, mental health disorder, or
- 20 co-occurring mental health and substance use disorders;
- 21 2. Consist of:
- 22 a. A face-to-face, one-on-one encounter between the provider and recipient; and
- 23 b. A behavioral health therapeutic intervention provided in accordance with the recip-

1 ient's identified ~~[treatment]~~ plan of care;

2 3. Be aimed at:

3 a. Reducing adverse symptoms;

4 b. Reducing or eliminating the presenting problem of the recipient; and

5 c. Improving functioning; and

6 4. Not exceed three (3) hours per day alone or in combination with any other outpa-
7 tient therapy per recipient unless additional time is medically necessary.

8 (g)1. Family outpatient therapy shall consist of a face-to-face behavioral health thera-
9 peutic intervention provided:

10 a. Through scheduled therapeutic visits between the therapist and the recipient and
11 at least one (1) member of the recipient's family; and

12 b. To address issues interfering with the relational functioning of the family and to im-
13 prove interpersonal relationships within the recipient's home environment.

14 2. A family outpatient therapy session shall be billed as one (1) service regardless of
15 the number of individuals (including multiple members from one (1) family) who partici-
16 pate in the session.

17 3. Family outpatient therapy shall:

18 a. Be provided to promote the:

19 (i) Health and wellbeing of the recipient ~~[individual]~~; and ~~[or]~~

20 (ii) Recipient's recovery from a substance use disorder, mental health disorder, or co-
21 occurring related disorders; and

22 b. Not exceed three (3) hours per day alone or in combination with any other outpa-
23 tient therapy per individual unless additional time is medically necessary.

1 (h)1. Group outpatient therapy shall:

2 a. Be a behavioral health therapeutic intervention provided in accordance with a re-
3 ipient's identified plan of care;

4 b. Be provided to promote the:

5 (i) Health and well-being [~~wellbeing~~] of the recipient [~~individual~~]; and [~~or~~]

6 (ii) Recipient's recovery from a substance related disorder, mental health disorder, or
7 co-occurring mental health and substance use disorders;

8 c.~~[b.]~~ Consist of a face-to-face behavioral health therapeutic intervention provided in
9 accordance with the recipient's identified [~~treatment~~] plan of care;

10 d.~~[c.]~~ Be provided to a recipient in a group setting:

11 (i) Of nonrelated individuals except for multi-family group therapy; and

12 (ii) Not to exceed twelve (12) individuals in size;

13 e. Focus on the psychological needs of the recipients as evidenced in each recipi-
14 ent's plan of care;

15 f.~~[d.]~~ Center on goals including building and maintaining healthy relationships, per-
16 sonal goals setting, and the exercise of personal judgment;

17 g.~~[e.]~~ Not include physical exercise, a recreational activity, an educational activity, or
18 a social activity; and

19 h.~~[f.]~~ Not exceed three (3) hours per day alone or in combination with any other out-
20 patient therapy per recipient unless additional time is medically necessary.

21 2. The group shall have a:

22 a. Deliberate focus; and

23 b. Defined course of treatment.

1 3. The subject of group outpatient therapy shall be related to each recipient partici-
2 pating in the group.

3 4. The provider shall keep individual notes regarding each recipient within the group
4 and within each recipient's health record.

5 (i)1. Collateral outpatient therapy shall:

6 a. Consist of a face-to-face behavioral health consultation:

7 (i) With a parent or caregiver of a recipient, household member of a recipient, legal
8 representative of a recipient, school personnel, treating professional, or other person
9 with custodial control or supervision of the recipient; and

10 (ii) That is provided in accordance with the recipient's ~~[treatment]~~ plan of care; and

11 b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21)
12 years of age [~~;~~ and

13 ~~c. Not exceed three (3) hours per day per individual unless additional time is medical-~~
14 ~~ly necessary].~~

15 2. Consent to discuss a recipient's treatment with any person other than a parent or
16 legal guardian shall be signed and filed in the recipient's health record.

17 (j) Screening, brief intervention, and referral to treatment for a substance use disorder
18 shall:

19 1. Be an evidence-based early intervention approach for an individual with non-
20 dependent substance use to provide an effective strategy for intervention prior to the
21 need for more extensive or specialized treatment; and

22 2. Consist of:

23 a. Using a standardized screening tool to assess an individual for risky substance

- 1 use behavior;
- 2 b. Engaging a recipient[7] who demonstrates risky substance use behavior[7] in a
- 3 short conversation and providing feedback and advice to the recipient; and
- 4 c. Referring a recipient to [7:
- 5 (i) ~~Therapy; or~~
- 6 (ii) ~~Other~~] additional mental health disorder, substance use disorder, or co-occurring
- 7 disorders services [to address substance use] if the recipient is determined to need oth-
- 8 er additional services to address the recipient's substance use.
- 9 (k) 1. Day treatment shall be a nonresidential, intensive treatment program designed
- 10 for a child under the age of twenty-one (21) years who has:
- 11 a. A mental health disorder, [An emotional disability or neurobiological or] substance
- 12 use disorder, or co-occurring mental health and substance use disorders; and
- 13 b. A high risk of out-of-home placement due to a behavioral health issue.
- 14 2. Day treatment [services] shall:
- 15 a. Consist of an organized, behavioral health program of treatment and rehabilitative
- 16 services [(substance use disorder, mental health, or co-occurring mental health and
- 17 substance use disorder)];
- 18 b. [Have unified policies and procedures that:
- 19 (i) ~~Address the program philosophy, admission and discharge criteria, admission and~~
- 20 ~~discharge process, staff training, and integrated case planning; and~~
- 21 (ii) ~~Have been approved by the recipient's local education authority and the day~~
- 22 ~~treatment provider;~~
- 23 e.] Include:

- 1 (i) Individual outpatient therapy, family outpatient therapy, or group outpatient thera-
2 py;
- 3 (ii) Behavior management and social skills [~~skill~~] training;
- 4 (iii) Independent living skills that correlate to the age and development stage of the
5 recipient; or
- 6 (iv) Services designed to explore and link with community resources before discharge
7 and to assist the recipient and family with transition to community services after dis-
8 charge; and

9 c. [~~d.~~] Be provided:

- 10 (i) In collaboration with the education services of the local education authority includ-
11 ing those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Educa-
12 tion Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);
- 13 (ii) On school days and during scheduled breaks;
- 14 (iii) In coordination with the recipient's individual educational plan if the recipient has
15 an individual educational plan;
- 16 (iv) Under the supervision of an approved behavioral health services provider; and
- 17 (v) With a linkage agreement with the local education authority that specifies the re-
18 sponsibilities of the local education authority and the day treatment provider.

19 3. To provide day treatment services, a provider shall have:

- 20 a. The capacity to employ staff authorized to provide day treatment services in ac-
21 cordance with this section and to coordinate the provision of services among team
22 members; and
- 23 b. Knowledge of substance use disorders.

1 4. Day treatment shall not include a therapeutic clinical service that is included in a
2 child's individualized education plan.

3 (l)1. Comprehensive community support services shall:

4 a. Be activities necessary to allow an individual to live with maximum independence
5 in the community;

6 b. Be intended to ensure successful community living through the utilization of skills
7 training~~[-, cueing, or supervision]~~ as identified in the recipient's ~~[treatment]~~ plan of care;
8 and

9 c. Consist of using a variety of psychiatric rehabilitation techniques to [include]:

10 (i) Improve ~~[Reminding a recipient to take medications and monitoring symptoms and~~
11 ~~side effects of medications;~~

12 ~~(ii) Teaching parenting skills;~~

13 ~~(iii) Teaching community resource access and utilization;~~

14 ~~(iv) Teaching]~~ emotional regulation skills;

15 (ii) Improve ~~(v) Teaching]~~ crisis coping skills;

16 (iii) Develop and enhance ~~(vi) Teaching how to shop;~~

17 ~~(vii) Teaching about transportation;~~

18 ~~(viii) Teaching financial management;~~

19 ~~(ix) Developing and enhancing]~~ interpersonal skills;

20 (iv) Improve ~~[or~~

21 ~~(x) Improving]~~ daily living skills; and

22 (v) Improve self-monitoring of symptoms and side effects.

23 2. To provide comprehensive community support services, a provider shall:

1 a. Have the capacity to employ staff authorized pursuant to 908 KAR 2:250 to pro-
2 vide comprehensive community support services in accordance with subsection (2)(i)
3 ~~[(2)(m)]~~ of this section and to coordinate the provision of services among team mem-
4 bers; and

5 b. Meet the requirements for comprehensive community support services established
6 in 908 KAR 2:250.

7 (m)1. Peer support services shall:

8 a. Be ~~[social and]~~ emotional support that is provided by:

9 (i) An individual who has been trained and certified in accordance with 908 KAR
10 2:220 [is employed by a provider group] and who is experiencing or has experienced
11 ~~[experienced]~~ a mental health disorder, substance use disorder, or co-occurring mental
12 health and substance use disorders [disorder] to a recipient by sharing a similar mental
13 health disorder, substance use disorder, or co-occurring mental health and substance
14 use disorders [disorder] in order to bring about a desired social or personal change;

15 (ii) A parent who has been trained and certified in accordance with 908 KAR 2:230 of
16 a child having or who has had a mental health disorder, substance use disorder, or co-
17 occurring mental health and substance use disorders to a parent or family member of a
18 child sharing a similar mental health disorder, substance use disorder, or co-occurring
19 mental health and substance use disorders in order to bring about a desired social or
20 personal change;

21 (iii) A family member who has been trained and certified in accordance with 908 KAR
22 2:230 of a child having or who has had a mental health disorder, substance use disor-
23 der, or co-occurring mental health and substance use disorders to a parent or family

1 member of a child sharing a similar mental health disorder, substance use disorder, or
2 co-occurring mental health and substance use disorders in order to bring about a de-
3 sired social or personal change; or

4 (iv) A registered alcohol and drug peer support specialist who is experiencing or has
5 experienced a substance use disorder to a recipient by sharing a similar substance use
6 disorder in order to bring about a desired social or personal change;

7 b. Be an evidence-based practice;

8 c. Be structured and scheduled nonclinical therapeutic activities with an individual re-
9 cipient or a group of recipients;

10 d. ~~Be provided by a self-identified consumer who has been trained and certified in~~
11 ~~accordance with 908 KAR 2:220 or 908 KAR 2:240;~~

12 ~~e.] Promote socialization, recovery, self-advocacy, preservation, and enhancement of~~
13 ~~community living skills for the recipient; [and]~~

14 e. Be coordinated within the context of a comprehensive, individualized plan of care
15 developed through a person-centered planning process;

16 f. Be identified in each recipient's ~~[treatment]~~ plan of care; and

17 g. Be designed to directly contribute to the recipient's individualized goals as speci-
18 fied in the recipient's plan of care.

19 2. To provide peer support services a provider shall:

20 a. Have demonstrated;

21 (i) The capacity to provide [the core elements of] peer support services for the behav-
22 ioral health population being served including the age range of the population being
23 served; and

1 (ii) Experience in serving individuals with behavioral health disorders;

2 b. Employ;

3 (i) Adult peer support specialists, family peer support specialists, or youth peer sup-
4 port specialists who are qualified to provide peer support services in accordance with
5 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240; or

6 (ii) Registered alcohol and drug peer support specialists; and

7 c. Use an approved behavioral health services provider to supervise adult peer sup-
8 port specialists, family peer support specialists, or youth peer support specialists.

9 (n)1. [~~Parent or family peer support services shall:~~

10 ~~a. Be emotional support that is provided by a parent or family member, who is em-~~
11 ~~ployed by a provider group, of a child who has experienced a mental health disorder,~~
12 ~~substance use disorder, or co-occurring mental health and substance use disorder to a~~
13 ~~parent or family member with a child sharing a similar mental health disorder, substance~~
14 ~~use disorder, or co-occurring mental health and substance use disorder in order to bring~~
15 ~~about a desired social or personal change;~~

16 ~~b. Be an evidence-based practice;~~

17 ~~c. Be structured and scheduled nonclinical therapeutic activities with an individual re-~~
18 ~~ipient or a group of recipients;~~

19 ~~d. Be provided by a self-identified parent or family member of a child consumer of~~
20 ~~mental health disorder services, substance use disorder services, or co-occurring men-~~
21 ~~tal health disorder services and substance use disorder services who has been trained~~
22 ~~and certified in accordance with 908 KAR 2:230;~~

23 ~~e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of~~

- 1 community living skills for the recipient; and
- 2 f. ~~Be identified in each recipient's treatment plan.~~
- 3 2. ~~To provide parent or family peer support services a provider shall:~~
- 4 a. ~~Have demonstrated the capacity to provide the core elements of parent or family~~
- 5 ~~peer support services for the behavioral health population being served including the~~
- 6 ~~age range of the population being served;~~
- 7 b. ~~Employ family peer support specialists who are qualified to provide family peer~~
- 8 ~~support services in accordance with 908 KAR 2:230; and~~
- 9 c. ~~Use an approved behavioral health services provider to supervise family peer sup-~~
- 10 ~~port specialists.~~
- 11 (e)1. Intensive outpatient program services shall:
- 12 a. Be an alternative to or transition from inpatient hospitalization or partial hospitaliza-
- 13 tion for a mental health or substance use disorder;
- 14 b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that
- 15 is significantly more intensive than individual outpatient therapy, group outpatient thera-
- 16 py, or family outpatient therapy;
- 17 c. Be provided at least three (3) hours per day at least three (3) days per week; and
- 18 d. Include:
- 19 (i) Individual outpatient therapy;
- 20 (ii) Group outpatient therapy;
- 21 (iii) Family outpatient therapy unless contraindicated;
- 22 (iv) Crisis intervention; or
- 23 (v) Psycho-education.

- 1 2. During psycho-education the recipient or recipient's family member shall be:
- 2 a. Provided with knowledge regarding the recipient's diagnosis, the causes of the
- 3 condition, and the reasons why a particular treatment might be effective for reducing
- 4 symptoms; and
- 5 b. Taught how to cope with the recipient's diagnosis or condition in a successful
- 6 manner.
- 7 3. An intensive outpatient program services treatment plan shall:
- 8 a. Be individualized; and
- 9 b. Focus on stabilization and transition to a lesser level of care.
- 10 4. To provide intensive outpatient program services, a provider shall:
- 11 a. Be employed by a provider group; and
- 12 b. Have:
- 13 (i) Access to a board-certified or board-eligible psychiatrist for consultation;
- 14 (ii) Access to a psychiatrist, other physician, or advanced practice registered nurse
- 15 for medication management;
- 16 (iii) Adequate staffing to ensure a minimum recipient-to-staff ratio of fifteen (15) recip-
- 17 ients to one (1) staff person;
- 18 (iv) The capacity to provide services utilizing a recognized intervention protocol
- 19 based on nationally accepted treatment principles;
- 20 (v) The capacity to employ staff authorized to provide intensive outpatient program
- 21 services in accordance with this section and to coordinate the provision of services
- 22 among team members;
- 23 (vi) The capacity to provide the full range of intensive outpatient program services as

1 stated in this paragraph;

2 (vii) Demonstrated experience in serving individuals with behavioral health disorders;

3 (viii) The administrative capacity to ensure quality of services;

4 (ix) A financial management system that provides documentation of services and
5 costs; and

6 (x) The capacity to document and maintain individual case records.

7 5. Intensive outpatient program services shall be provided in a setting with a mini-
8 mum recipient-to-staff ratio of ten (10) to one (1).

9 ~~(o)1.[(p)1-A]~~ Therapeutic rehabilitation program services shall be:

10 a. A rehabilitative service for an:

11 (i) Adult with a severe ~~[serious]~~ mental illness; or

12 (ii) Individual under the age of twenty-one (21) years who has a severe ~~[serious]~~
13 emotional disability; and

14 b. Designed to maximize the reduction of a mental health disorder ~~[an intellectual~~
15 ~~disability]~~ and the restoration of the individual's functional level to the individual's best
16 possible functional level.

17 2. A recipient in a therapeutic rehabilitation program shall establish the recipient's
18 own rehabilitation goals within the ~~[person-centered service]~~ plan of care.

19 3. A therapeutic rehabilitation program shall:

20 a. Be delivered using a variety of psychiatric rehabilitation techniques;

21 b. Focus on:

22 (i) Improving daily living skills;

23 (ii) Self-monitoring of symptoms and side effects;

1 (iii) Emotional regulation skills;

2 (iv) Crisis coping skills [skill]; and

3 (v) Interpersonal skills; and

4 c. Be delivered individually or in a group.

5 ~~[(4)(a) The following requirements shall apply to any provider of a service to a recipi-~~
6 ~~ent for a substance use disorder or co-occurring mental health disorder and substance~~
7 ~~use disorder:~~

8 ~~1. The licensing requirements established in 908 KAR 1:370;~~

9 ~~2. The physical plant requirements established in 908 KAR 1:370;~~

10 ~~3. The organization and administration requirements established in 908 KAR 1:370;~~

11 ~~4. The personnel policy requirements established in 908 KAR 1:370;~~

12 ~~5. The quality assurance requirements established in 908 KAR 1:370;~~

13 ~~6. The clinical staff requirements established in 908 KAR 1:370;~~

14 ~~7. The program operational requirements established in 908 KAR 1:370; and~~

15 ~~8. The outpatient program requirements established in 908 KAR 1:370.~~

16 ~~(b) The detoxification program requirements established in 908 KAR 1:370 shall ap-~~
17 ~~ply to a provider of a detoxification service.]~~

18 (5) The extent and type of a screening shall depend upon the problem of the individ-
19 ual seeking or being referred for services.

20 (6) A diagnosis or clinic impression shall be made using terminology established in
21 the most current edition of the American Psychiatric Association Diagnostic and Statisti-
22 cal Manual of Mental Disorders.

23 (7) The department shall not reimburse for a service billed by or on behalf of an entity

1 or individual who is not a billing provider.

2 ~~[(8)(a) The term “billing provider” used in this administrative regulation shall include:~~

3 ~~1. The individual provider that is referenced; or~~

4 ~~2. A provider group that includes the individual provider that is referenced.~~

5 ~~(b) As an example of paragraph (a) of this subsection, a licensed psychologist who is~~
6 ~~a billing provider shall include:~~

7 ~~1. The licensed psychologist as an individual provider; or~~

8 ~~2. A provider group of licensed psychologists that includes the licensed psychologist.~~

9 ~~(c) The services established in this administrative regulation shall be provided by a~~
10 ~~provider enrolled in the Medicaid Program as:~~

11 ~~1. An individual provider; or~~

12 ~~2. A provider group.]~~

13 Section 4. Additional Limits and Noncovered Services or Activities. (1) The following
14 services or activities shall not be covered under this administrative regulation:

15 (a) A service provided to:

16 1. A resident of:

17 a. A nursing facility; or

18 b. An intermediate care facility for individuals with an intellectual disability;

19 2. An inmate of a federal, local, or state:

20 a. Jail;

21 b. Detention center; or

22 c. Prison;

23 3. An individual with an intellectual disability without documentation of an additional

1 psychiatric diagnosis;

2 (b) Psychiatric or psychological testing for another agency, including a court or
3 school, that does not result in the individual receiving psychiatric intervention or behav-
4 ioral health therapy from the [~~independent~~] provider;

5 (c) A consultation or educational service provided to a recipient or to others;

6 (d) Collateral therapy for an individual aged twenty-one (21) years or older;

7 (e) A telephone call, an email, a text message, or other electronic contact that does
8 not meet the requirements stated in the definition of "face-to-face";

9 (f) Travel time;

10 (g) A field trip;

11 (h) A recreational activity;

12 (i) A social activity; or

13 (j) A physical exercise activity group.

14 (2)(a) A consultation by one (1) provider or professional with another shall not be
15 covered under this administrative regulation except regarding collateral outpatient ther-
16 apy as specified in Section 3(4)(i) [~~3(3)(k)~~] of this administrative regulation.

17 (b) A third party contract shall not be covered under this administrative regulation.

18 (3)(a) Except as established in paragraph (b) of this subsection, unless a diagnosis is
19 made and documented in the recipient's medical record within three (3) visits, the ser-
20 vice shall not be covered.

21 (b) The requirement established in paragraph (a) of this subsection shall not apply to:

22 1. Crisis intervention;

23 2. A screening; or

1 3. An assessment.

2 (4) The department shall not reimburse for both a screening and an SBIRT provided
3 to a recipient on the same date of service.

4 (5) A billing supervisor arrangement between a billing supervisor and a behavioral
5 health practitioner under supervision shall not:

6 (a) Violate the clinical supervision rules or policies of the respective professional li-
7 cence boards governing the billing supervisor and the behavioral health practitioner
8 under supervision; or

9 (b) Substitute for the clinical supervision rules or policies of the respective profes-
10 sional licensure boards governing the billing supervisor and the behavioral health practi-
11 tioner under supervision.

12 Section 5. No Duplication of Service. (1) The department shall not reimburse for a
13 service provided to a recipient by more than one (1) provider, of any program in which
14 the service is covered, during the same time period.

15 (2) For example, if a recipient is receiving a behavioral health service from an individ-
16 ual [~~independent~~] behavioral health provider, the department shall not reimburse for the
17 same service provided to the same recipient during the same time period by a behav-
18 ioral health services organization [~~local health department~~].

19 Section 6. Records Maintenance, Documentation, Protection, and Security. (1) An in-
20 dividual [A] provider, a behavioral health provider group, or a behavioral health multi-
21 specialty group shall maintain a current health record for each recipient.

22 (2)(a) A health record shall document each service provided to the recipient including
23 the date of the service and the signature of the individual who provided the service.

1 (b) The individual who provided the service shall date and sign the health record with-
2 in forty-eight (48) hours of [øñ] the date that the individual provided the service.

3 (3) A health record shall:

4 (a) Include:

5 1. An identification and intake record including:

6 a. Name;

7 b. Social Security number;

8 c. Date of intake;

9 d. Home (legal) address;

10 e. Health insurance information;

11 f. If applicable, the referral source's name [source] and address [~~of referral source~~];

12 g. Primary care physician's name [physician] and address;

13 h. The reason the individual is seeking help including the presenting problem and di-
14 agnosis; and

15 i. Any physical health diagnosis, if a physical health diagnosis exists for the individu-
16 al, and information regarding:

17 (i) Where the individual is receiving treatment for the physical health diagnosis; and

18 (ii) The physical health provider's name [provider];

19 k. The name of the informant and any other information deemed necessary by the
20 [~~independent~~] provider to comply with the requirements of:

21 (i) This administrative regulation;

22 (ii) The provider's licensure board, if applicable;

23 (iii) State law; or

- 1 (iv) Federal law;
- 2 2. Documentation of the:
- 3 a. Screening;
- 4 b. Assessment;
- 5 c. Disposition if a disposition was performed; and
- 6 d. Six (6) month review of a recipient's ~~[treatment]~~ plan of care each time a six (6)
- 7 month review occurs; ~~[and]~~
- 8 3. A complete history including mental status and previous treatment;
- 9 4. An identification sheet;
- 10 5. A consent for treatment sheet that is accurately signed and dated; and
- 11 6. The individual's stated purpose for seeking services; and
- 12 (b) Be:
- 13 1. Maintained in an organized central file;
- 14 2. Furnished upon request to the:
- 15 a. Cabinet for Health and Family Services ~~[upon request]~~; or
- 16 b. For an enrollee, managed care organization in which the recipient is enrolled or
- 17 has been ~~[upon request if the recipient is]~~ enrolled in the past ~~[with a managed care or-~~
- 18 ~~ganization]~~;
- 19 3. Made available for inspection and copying by:
- 20 a. Cabinet for Health and Family Services' personnel; or
- 21 b. Personnel of the managed care organization in which the recipient is enrolled if
- 22 applicable ~~[the recipient is enrolled with a managed care organization]~~;
- 23 4. Readily accessible; and

1 5. Adequate for the purpose of establishing the current treatment modality and pro-
2 gress of the recipient if the recipient received services beyond a screening.

3 (4) Documentation of a screening shall include:

4 (a) Information relative to the individual's stated request for services; and

5 (b) Other stated personal or health concerns if other concerns are stated.

6 (5)(a) A behavioral health practitioner's [~~provider's~~] notes regarding a recipient shall:

7 1. Be made within forty-eight (48) hours of each service visit;

8 2. Describe the:

9 a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

10 b. Behavioral health practitioner's [~~Therapist's~~] intervention;

11 c. Changes in the [~~treatment~~] plan of care if changes are made; and

12 d. Need for continued treatment if deemed necessary [~~continued treatment is need-~~
13 ed].

14 (b)1. Any edit to notes shall:

15 a. Clearly display the changes;

16 b. Be initialed and dated by the person who edited the notes.

17 2. Notes shall not be erased or illegibly marked out.

18 (c)1. Notes recorded by a practitioner working under supervision shall be co-signed
19 and dated by the supervising professional within thirty (30) days of each service visit.

20 2. If services are provided by a behavioral health practitioner working under supervi-
21 sion, there shall be a monthly supervisory note recorded by the supervision professional
22 reflecting consultations with the practitioner working under supervision concerning the:

23 a. Case; and

1 b. Supervising professional's evaluation of the services being provided to the recipi-
2 ent.

3 (6) Immediately following a screening of a recipient, the behavioral health practitioner
4 who performed the screening [~~provider~~] shall perform a disposition related to:

5 (a) A provisional diagnosis;

6 (b) A referral for further consultation and disposition, if applicable; or

7 (c)1. If applicable, termination of services and referral to an outside source for further
8 services; or

9 2. If applicable, termination of services without a referral to further services.

10 (7)(a) A recipient's [~~treatment~~] plan of care shall be reviewed at least once every six
11 (6) months.

12 (b) Any change to a recipient's [~~treatment~~] plan of care shall be documented, signed,
13 and dated by the rendering practitioner and by the recipient or recipient's representative
14 [~~provider~~].

15 (8)(a) Notes regarding services to a recipient shall:

16 1. Be organized in chronological order;

17 2. Be dated;

18 3. Be titled to indicate the service rendered;

19 4. State a starting and ending time for the service; and

20 5. Be recorded and signed by the rendering behavioral health practitioner [~~provider~~]
21 and include the practitioner's professional title (for example, licensed clinical social
22 worker) [~~of the provider~~].

23 (b) Initials, typed signatures, or stamped signatures shall not be accepted.

1 (c) Telephone contacts, family collateral contacts not coverable under this administra-
2 tive regulation, or other non-reimbursable contacts shall:

- 3 1. Be recorded in the notes; and
- 4 2. Not be reimbursable.

5 (9) A termination summary shall:

6 (a) Be required, upon termination of services, for each recipient who received at least
7 three (3) service visits; and

8 (b) Contain a summary of the significant findings and events during the course of
9 treatment including the:

10 1. Final assessment regarding the progress of the individual toward reaching goals
11 and objectives established in the individual's ~~treatment~~ plan of care;

12 2. Final diagnosis of clinical impression; and

13 3. Individual's condition upon termination and disposition.

14 (c) A health record relating to an individual who terminated from receiving services
15 shall be fully completed within ten (10) days following termination.

16 (10) If an individual's case is reopened within ninety (90) days of terminating services
17 for the same or related issue, a reference to the prior case history with a note regarding
18 the interval period shall be acceptable.

19 (11)~~(a) Except as established in paragraph (b) of this subsection, if a recipient is~~
20 ~~transferred or referred to a health care facility or other provider for care or treatment, the~~
21 ~~transferring provider shall, within ten (10) business days of the transfer or referral, trans-~~
22 ~~fer [if the recipient gives the provider written consent to do so, forward a copy or sum-~~
23 ~~mary of] the recipient's health record in a manner that complies with the records' use~~

1 and disclosure requirements as established in or required by:

2 1.a. The Health Insurance Portability and Accountability Act;

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

4 c. 45 C.F.R. Parts 160 and 164; or

5 2.a. 42 U.S.C. 290ee-3; and

6 b. 42 C.F.R. Part 2 ~~[to the health care facility or other provider who is receiving the~~
7 ~~recipient within ten (10) business days of the transfer or referral].~~

8 (b) If a recipient is transferred or referred to a residential crisis stabilization unit, a
9 psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, or an acute
10 care hospital for care or treatment, the transferring provider shall, within forty-eight (48)
11 hours of the transfer or referral, transfer the recipient's records in a manner that com-
12 plies with the records' use and disclosure requirements as established in or required by:

13 1.a. The Health Insurance Portability and Accountability Act;

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

15 c. 45 C.F.R. Parts 160 and 164; or

16 2.a. 42 U.S.C. 290ee-3; and

17 b. 42 C.F.R Part 2.

18 (12)(a) If an individual behavioral health [a] provider's, a behavioral health provider
19 group's, or a behavioral health multi-specialty group's Medicaid Program participation
20 status changes as a result of voluntarily terminating from the Medicaid Program, invol-
21 untarily terminating from the Medicaid Program, or a licensure suspension~~[, or death of~~
22 ~~the provider]~~, the health records of the individual behavioral health provider, behavioral
23 health provider group, or behavioral health multi-specialty group shall:

1 1. Remain the property of the individual behavioral health provider, behavioral health
2 provider group, or behavioral health multi-specialty group; and

3 2. Be subject to the retention requirements established in subsection (13) of this sec-
4 tion.

5 (b)1. If an individual behavioral health [A] provider dies, the health records main-
6 tained by the individual behavioral health provider shall remain the property of the indi-
7 vidual behavioral health provider.

8 2. An individual behavioral health provider shall have a written plan addressing how
9 to maintain health records in the event of the provider's death in a manner that complies
10 with the retention requirements established in subsection (13) of this section.

11 (13)(a) Except as established in paragraph (b) or (c) of this subsection, an individual
12 behavioral health [a] provider, a behavioral health provider group, or a behavioral health
13 specialty group shall maintain a health record regarding a recipient for at least six (6)
14 [five (5)] years from the date of the service or until any audit dispute or issue is resolved
15 beyond six (6) [five (5)] years.

16 (b) After a recipient's death or discharge from services, an individual behavioral
17 health provider, a behavioral health provider group, or a behavioral health multi-
18 specialty group shall maintain the recipient's record for the longest of the following peri-
19 ods:

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

21 2. If the recipient is a minor, three (3) years after the recipient reaches the age of ma-
22 jority under state law.

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

1 requires a longer document retention period than the period referenced in paragraph (a)
2 of this section, pursuant to 42 C.F.R. 431.17, the period established by the secretary
3 shall be the required period.

4 (14)(a) An individual behavioral health [A] provider, a behavioral health provider
5 group, or a behavioral health multi-specialty group shall comply with 45 C.F.R. Chapter
6 164.

7 (b) All information contained in a health record shall:

8 1. Be treated as confidential;

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

10 3. Be disclosed to an authorized representative of:

11 a. The department; [øf]

12 b. Federal government; or

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

14 (c)1. Upon request, an individual behavioral health [a] provider, a behavioral health
15 provider group, or a behavioral health multi-specialty group shall provide to an author-
16 ized representative of the department, [øf] federal government, or managed care organ-
17 ization if applicable, information requested to substantiate:

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

19 b. The professional who rendered a service;

20 c. The type of service rendered and any other requested information necessary to de-
21 termine, on an individual basis, whether the service is reimbursable by the department
22 or the managed care organization, if applicable.

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

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

2 Section 7. Medicaid Program Participation Compliance. (1) An individual behavioral
3 health [A] provider, a behavioral provider group, or a behavioral health multi-specialty
4 group shall comply with:

5 (a) 907 KAR 1:671;

6 (b) 907 KAR 1:672; and

7 (c) All applicable state and federal laws.

8 (2)(a) If an individual behavioral health [a] provider, a behavioral health provider
9 group, or a behavioral health multi-specialty group receives any duplicate payment or
10 overpayment from the department, regardless of reason, the individual behavioral
11 health provider, behavioral health provider group, or behavioral health multi-specialty
12 group shall return the payment to the department.

13 (b) Failure to return a payment to the department in accordance with paragraph (a) of
14 this section may be:

15 1. Interpreted to be fraud or abuse; and

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

17 (3)(a) When the department makes payment for a covered service and the individual
18 behavioral health provider, behavioral health provider group, or behavioral health multi-
19 specialty group accepts the payment:

20 1. The payment shall be considered payment in full;

21 2. A [No] bill for the same service shall not be given to the recipient; and

22 3. [No] Payment from the recipient for the same service shall not be accepted by the
23 individual behavioral health provider, behavioral health provider group, or behavioral

1 health multi-specialty group.

2 (b)1. An individual behavioral health [A] provider, behavioral health provider group, or
3 behavioral health multi-specialty group may bill a recipient for a service that is not cov-
4 ered by the Kentucky Medicaid Program if the:

5 a. Recipient requests the service; and

6 b. Individual behavioral health provider, behavioral health provider group, or behav-
7 ioral health multi-specialty group makes the recipient aware in advance of providing the
8 service that the:

9 (i) Recipient is liable for the payment; and

10 (ii) Department is not covering the service.

11 2. If a recipient makes payment for a service in accordance with subparagraph 1 of
12 this paragraph, the:

13 a. Individual behavioral health provider, behavioral health provider group, or behav-
14 ioral health multi-specialty group shall not bill the department for the service; and

15 b. Department shall not:

16 (i) Be liable for any part of the payment associated with the service; and

17 (ii) Make any payment to the individual behavioral health provider, behavioral health
18 provider group, or behavioral health multi-specialty group regarding the service.

19 (4)(a) An individual behavioral health [A] provider, behavioral health provider group,
20 or behavioral health multi-specialty group shall attest [~~attests~~] by the individual behav-
21 ioral health provider's signature or signature of an individual on behalf of a behavioral
22 health provider group or behavioral health multi-specialty group that any claim associat-
23 ed with a service is valid and submitted in good faith.

1 (b) Any claim and substantiating record associated with a service shall be subject to
2 audit by the:

3 1. Department or its designee;

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

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

7 4. Kentucky Office of the Auditor for Public Accounts or its designee;

8 5. United States General Accounting Office or its designee;

9 (c) If an individual behavioral health [a] provider, behavioral health provider group, or
10 behavioral health multi-specialty group receives a request from the department to pro-
11 vide a claim, [ø] related information, [ø] related documentation, or record for auditing
12 purposes, the individual behavioral health provider, behavioral health provider group, or
13 behavioral health multi-specialty group shall provide the requested information to the
14 department within the timeframe requested by the department.

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

16 2. Willful abuse by an individual behavioral health [a] provider, behavioral health pro-
17 vider group, or behavioral health multi-specialty group shall result in the suspension or
18 termination of the individual behavioral health provider, behavioral health provider
19 group, or behavioral health multi-specialty group from Medicaid Program participation.

20 (5)(a) If an individual behavioral health provider, behavioral health provider group, or
21 behavioral health multi-specialty group renders a Medicaid-covered service to a recipi-
22 ent, regardless of if the service is billed through the individual behavioral health provid-
23 er's, behavioral health provider group's, or behavioral health multi-specialty group's

1 Medicaid provider number or any other entity or individual including a non-Medicaid
2 provider, the recipient shall not be charged or billed for the service.

3 (b) The department shall terminate from Medicaid Program participation an individual
4 behavioral health provider, behavioral health provider group, or behavioral health multi-
5 specialty group that:

6 1. Charges or bills a recipient for a Medicaid-covered service; or

7 2. Participates in an arrangement in which an entity or individual bills a recipient for a
8 Medicaid-covered service rendered by the individual behavioral health provider, behav-
9 ioral health provider group, or behavioral health multi-specialty group.

10 Section 8. Third Party Liability. An individual behavioral health [A] provider, behavior-
11 al health provider group, or behavioral health multi-specialty group shall comply with
12 KRS 205.622.

13 Section 9. Use of Electronic Signatures. (1) The creation, transmission, storage, and
14 other use of electronic signatures and documents shall comply with the requirements
15 established in KRS 369.101 to 369.120.

16 (2) An individual behavioral health [A] provider, behavioral health provider group, or
17 behavioral health multi-specialty group that chooses to use electronic signatures shall:

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

19 1. Be adhered to by each of the provider's employees, officers, agents, or contrac-
20 tors;

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

22 3. Ensure that each electronic signature is created, transmitted, and stored in a se-
23 cure fashion;

1 (b) Develop a consent form that shall:

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

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

4 3. Include a statement indicating that the individual has been notified of his responsi-
5 bility in allowing the use of the electronic signature; and

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

7 1. A copy of the individual behavioral health provider's, behavioral health provider
8 group's, or behavioral health multi-specialty group's electronic signature policy;

9 2. The signed consent form; and

10 3. The original filed signature [~~immediately upon request~~].

11 Section 10. Auditing Authority. The department shall have the authority to audit any:

12 (1) Claim;

13 (2) Medical record; or

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

15 Section 11. Federal Approval and Federal Financial Participation. The department's
16 coverage of services pursuant to this administrative regulation shall be contingent upon:

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

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

19 Section 12. Appeals. (1) An appeal of an adverse action by the department regarding
20 a service and a recipient who is not enrolled with a managed care organization shall be
21 in accordance with 907 KAR 1:563.

22 (2) An appeal of an adverse action by a managed care organization regarding a ser-
23 vice and an enrollee shall be in accordance with 907 KAR 17:010.

907 KAR 15:010

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 15:010

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 15:010

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 coverage provisions and requirements regarding Medicaid Program behavioral health services provided by individual behavioral health providers, behavioral health provider groups, and behavioral health multi-specialty groups.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to establish the requirements for Medicaid Program behavioral health services provided by individual behavioral health providers, behavioral health provider groups, and behavioral health multi-specialty groups. These providers are a critical component of Medicaid Program substance use disorder and mental health disorder treatment.

(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 providing Medicaid recipients access to mental health disorder and substance use disorder treatment from individual behavioral health professional practices.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by providing Medicaid recipients access to mental health disorder and substance use disorder treatment from individual behavioral health professional practices.

(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 expands the Medicaid behavioral health practitioner base to include licensed clinical alcohol and drug counselors (LCADCs), licensed clinical and alcohol drug counselor associates (LCADCAs) working under supervision, and certified alcohol and drug counselors (CADCs) working under supervision; adds registered alcohol and drug peer support specialists to individuals authorized to provide services; clarifies that the administrative regulation applies to individual behavioral health providers, behavioral health provider groups, and behavioral health multi-specialty groups; contains miscellaneous other clarifications; and consolidates requirements where possible.

(b) The necessity of the amendment to this administrative regulation: Adding LCADCs and LCADCAs to the authorized practitioners is necessary to comply with a charge in KRS 205.6311 to “expand the behavioral health network to allow providers to provide services within their licensure category; also to respond to 2015 legislation that created these new practitioner types; similarly, adding registered alcohol and drug peer support specialists is necessary in response to 2015 legislation (codified into KRS 309.080-089); consolidating requirements is necessary to shorten the administrative regulation by reducing duplicative language; miscellaneous clarifications are necessary

for clarity and to synchronize requirements with related behavioral health administrative regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by adding practitioners (LCADCs, LCADCAs, and registered alcohol and drug peer support specialists) that were created by 2015 legislation (codified into KRS 309.080-089) in order to enhance Medicaid recipient access to behavioral health services.

(d) How the amendment will assist in the effective administration of the statutes: The amendment after comments assists in the effective administration of the authorizing statutes by adding practitioners (LCADCs, LCADCAs, and registered alcohol and drug peer support specialists) that were created by 2015 legislation (codified into KRS 309.080-089) in order to enhance Medicaid recipient access to behavioral health services.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Licensed psychologists, advanced practice registered nurses, licensed professional clinical counselors, licensed clinical social workers, licensed marriage and family therapists, licensed psychological practitioners, licensed professional art therapists, licensed behavior analysts, and licensed clinical alcohol and drug counselors (who wish to enroll in the Medicaid Program as independent providers/group practices) will be affected by this administrative regulation. Behavioral health providers groups and behavioral health multi-specialty groups will also be affected by this administrative regulation. Licensed psychological associates, certified social workers, licensed professional counselor associates, marriage and family therapy associates, licensed professional art therapy associates, licensed assistant behavior analysts, licensed clinical alcohol and drug counselor associates, certified alcohol and drug counselors, and registered alcohol and drug peer support specialists who wish to provide behavioral health services while working for one (1) of the aforementioned independent providers or groups will also be affected by this administrative regulation. Medicaid recipients who qualify for behavioral health services will be affected by this administrative regulation. There are approximately 2,170 individual behavioral health providers, behavioral health provider groups, and behavioral health multi-specialty groups 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. The amendment expands the authorized behavioral health professional base to include licensed clinical and alcohol drug counselors (LCADCs), licensed clinical alcohol and drug counselor associates (LCADCAs) working under supervision, certified alcohol and drug counselors (CADCs), and registered alcohol and drug peer support specialists working under supervision. LCADCs who wish to provide 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 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. LCADCAs, CADCs, and registered alcohol and drug peer support specialists who wish to provide services will need to find an individual provider under whose supervision they would work.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). Individual behavioral health providers, behavioral health provider groups, or behavioral health multi-specialty groups who wish to provide behavioral health services to Medicaid recipients per this administrative regulation could experience administrative costs associated with enrolling with the Medicaid Program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). As a result of the amendment LCADCs will be able to enroll in the Medicaid Program and be reimbursed for services provided to Medicaid recipients. LCADCAs, CADCs, and registered alcohol and drug peer support specialists who work under supervision will be able to provide services to Medicaid recipients (but not be directly reimbursed by the Medicaid program as they are not authorized by Kentucky law to practice independently.)

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

(a) Initially: DMS does not anticipate a substantial increase in costs as a result of adding licensed clinical alcohol and drug counselors, licensed clinical alcohol and drug counselor associates, and registered alcohol and drug peer support specialists to the array of Medicaid-recognized behavioral health professionals.

(b) On a continuing basis: The response to question (a) also applies here.

(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 requirements apply to all providers.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation Number: 907 KAR 15:010

Contact Person: Sharley Hughes (502) 564-4321, extension 2010;
sharleyj.hughes@ky.gov or Tricia Orme (502) 564-7905; tricia.orme@ky.gov.

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B) 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."

KRS 205.6311 requires the Department for Medicaid Services to "promulgate administrative regulations . . . to expand the behavioral health network to allow providers to provide services within their licensure category."

3. Minimum or uniform standards contained in the federal mandate. 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. Medicaid reimbursement for services is required to be consistent with efficiency, economy and quality of care and be sufficient to attract enough providers to assure access to services. 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 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 15:010

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 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.010(1), 194A.030(2), 194A.050(1), 205.520(3), 205.6311, 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(30)(A).

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 is not expected to generate revenue for state or local government.

(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.

(c) How much will it cost to administer this program for the first year? DMS is unable to accurately estimate the costs of expanding the behavioral health provider base due to the variables involved as DMS cannot estimate how many individual LCADCs will enroll in the Medicaid Program nor the utilization of these services versus the realm of currently authorized providers (other individual behavioral health providers, provider groups, community mental health centers, federally-qualified health centers, rural health clinics, primary care centers, or physician offices.)

(d) How much will it cost to administer this program for subsequent years? The response to question (a) also applies here.

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: