

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Physicians and Specialty Services

4 (Amendment)

5 907 KAR 1:039. Payments for hearing services.

6 RELATES TO: KRS 205.520, 334.010, 334.040, 334.200, 42 CFR 447.200, 204

7 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), KRS 205.520(3)[, 1998
8 ~~Ky. Acts ch. 615, EO 2004-726]~~

9 NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2004-726, effective July 9, 2004,~~
10 ~~reorganized the Cabinet for Health Services and placed the Department for Medicaid~~
11 ~~Services and the Medicaid Program under the Cabinet for Health and Family Services.]~~

12 The Cabinet for Health and Family Services, Department for Medicaid Services, has
13 responsibility to administer the program of Medical Assistance. KRS 205.520(3)
14 authorizes the cabinet, by administrative regulation, to comply with any requirement that
15 may be imposed, or opportunity presented, by federal law for the provision of medical
16 assistance to Kentucky's indigent citizenry. This administrative regulation establishes the
17 method for determining amounts payable by the department[~~cabinet~~] for hearing services.

18 Section 1. Definitions. (1) "Audiologist" is defined by KRS 334A.020(5).

19 (2) "Comparable aid" means an aid falling within the general classifications of fitting
20 type, for example, body, behind-the-ear, in-the-ear, or eyeglasses.

21 (3) "Department" means the Department for Medicaid Services.

1 (4) "Hearing instrument" is defined by KRS 334.010(4).

2 (5) "Specialist in hearing instruments" is defined by KRS 334.010(9).

3 Section 2. Reimbursement to an Audiologist. (1) The department~~[cabinet]~~ shall
4 reimburse a participating audiologist at usual and customary actual billed charges up to
5 the fixed upper limit per procedure established by the department~~[cabinet]~~ at sixty-five
6 (65) percent of the median billed charge using 1989 calendar year billed charges.

7 (2) If there is no median available for a procedure, or the department~~[cabinet]~~
8 determines that available data relating to the median for a procedure is unreliable, the
9 department~~[cabinet]~~ shall set a reasonable fixed upper limit for the procedure consistent
10 with the general array of upper limits for the type of service.

11 Section 3. Hearing Instrument Reimbursement. (1) If a manufacturer of a hearing
12 instrument billed to the department submits a price schedule which includes the
13 manufacturer's invoice price of the hearing instrument, the department shall reimburse the
14 participating specialist in hearing instruments at the lesser of:

15 (a) The manufacturer's invoice price plus a professional fee of \$150 for the first (one
16 ear) hearing instrument and fifty (50) dollars for the second (two ears or binaural) hearing
17 instrument if two (2) hearing instruments are dispensed on the same date;

18 (b) The actual specialist in hearing instruments' cost plus a professional fee of \$150 for
19 the first (one ear) hearing instrument and fifty (50) dollars for the second (two ears or
20 binaural) hearing instrument when two (2) hearing instruments are dispensed on the same
21 date; or

22 (c) The suggested retail price submitted by the manufacturer for the hearing
23 instrument.

1 (2) If a manufacturer of a hearing instrument billed to the department has not submitted
2 a price schedule which includes the manufacturer's invoice price for the hearing
3 instrument, the department shall reimburse the participating specialist in hearing
4 instruments at the lesser of:

5 (a) The lowest price submitted for a comparable hearing aid plus a professional fee of
6 \$150 for the first (one ear) hearing instrument and fifty (50) dollars for the second (two
7 ears or binaural) hearing instrument when two (2) hearing instruments are dispensed on
8 the same date;

9 (b) The actual specialist in hearing instruments' cost plus a professional fee of \$150 for
10 the first (one ear) hearing instrument and fifty (50) dollars for the second (two ears or
11 binaural) hearing instrument if two (2) hearing instruments are dispensed on the same
12 date; or

13 (c) The lowest suggested retail price submitted for a comparable aid.

14 Section 3. Replacement Cord Reimbursement. The department shall reimburse for a
15 replacement cord:

16 (1) At the specialist in hearing instruments' cost plus a professional fee set; and

17 (2) Not to exceed the fixed upper limit.

18 Section 4. Hearing Instrument Repair Reimbursement. The department shall reimburse
19 a specialist in hearing instruments for a hearing instrument repair:

20 (1) On the basis of the manufacturer's charge for repair or replacement of parts;

21 (2) Plus the specialist in hearing instruments' cost for postage and insurance relative to
22 the repair;

23 (3) Plus a professional fee; and

1 (4) Not to exceed the fixed upper limit.

2 Section 5. Appeals. A provider may appeal a department decision as to the application
3 of this administrative regulation in accordance with 907 KAR 1:671, Provider enrollment,
4 disclosure, and documentation for Medicaid participation.

5 ~~[(3) An audiologist shall be entitled to the same dispensing fee for a hearing aid as~~
6 ~~shown in Section 2 of this administrative regulation.~~

7 ~~(4) Fixed upper limits not determined in accordance with the principle shown in this~~
8 ~~section of the administrative regulation due to consideration of other factors (such as~~
9 ~~recipient access) shall be specified in the administrative regulation.~~

10 ~~Section 2. Hearing Aid Dealers.~~

11 ~~(1) If the manufacturer of the hearing aid billed to the program has submitted a dealer~~
12 ~~price schedule which includes that hearing aid, the cabinet shall reimburse the~~
13 ~~participating hearing aid dealer at the lesser of:~~

14 ~~(a) That dealer price in the price schedule plus a professional fee of seventy-five (75)~~
15 ~~dollars for the first aid and twenty-five (25) dollars for the second aid when two (2) hearing~~
16 ~~aids are dispensed on the same date;~~

17 ~~(b) The actual dealer cost plus a professional fee of seventy-five (75) dollars for the first~~
18 ~~aid and twenty-five (25) dollars for the second aid when two (2) hearing aids are~~
19 ~~dispensed on the same date; or~~

20 ~~(c) The suggested retail price submitted by the manufacturer for that aid.~~

21 ~~(2) If the manufacturer of the hearing aid billed to the program has not submitted a~~
22 ~~dealer price schedule which includes that hearing aid, the cabinet shall reimburse the~~
23 ~~participating hearing aid dealer at the lesser of:~~

1 (a) ~~The lowest dealer price submitted for a comparable hearing aid plus a professional~~
2 ~~fee of seventy-five (75) dollars for the first aid and twenty-five (25) dollars for the second~~
3 ~~aid when two (2) hearing aids are dispensed on the same date;~~

4 (b) ~~The actual dealer cost plus a professional fee of seventy-five (75) dollars for the first~~
5 ~~aid and twenty-five (25) dollars for the second aid when two (2) hearing aids are~~
6 ~~dispensed on the same date; or~~

7 (c) ~~The lowest suggested retail price submitted for a comparable aid. A comparable aid~~
8 ~~is defined as an aid falling within the general classifications of fitting type, i.e. body,~~
9 ~~behind the ear, in the ear, eyeglasses.~~

10 ~~Section 3. Cords. The cabinet shall make payment for a replacement cord at the~~
11 ~~dealer's cost, plus a professional fee set at the fixed upper limit.~~

12 ~~Section 4. Hearing Aid Repairs. The cabinet shall reimburse a hearing aid dealer for a~~
13 ~~hearing aid repair on the basis of the manufacturer's charge for repair or replacement of~~
14 ~~parts, plus the dealer's cost for postage and insurance relative to the repair, plus a~~
15 ~~professional fee set at the fixed upper limit. (Recodified from 904 KAR 1:039, 5-2-86; Am.~~
16 ~~17 Ky.R. 572; eff. 10-14-90; 25 Ky.R. 1255; 1661; eff. 1-19-99.)]~~

907 KAR 1:039

Reviewed:

Date

Shawn M. Crouch, Commissioner
Department for Medicaid Services

APPROVED:

Date

Mark D. Birdwhistell, Secretary
Cabinet for Health and Family Services

A public hearing on this administrative regulation shall, if requested, be held on January 21, 2008, at 9:00 a.m. in the Cabinet for Health and Family Services Health Services Board Room, Second Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 14, 2008, 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 close of business January 31, 2008. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, 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 #: 907 KAR 1:039

Cabinet for Health and Family Services

Department for Medicaid Services

Agency Contact Person: Stuart Owen (502) 564-6204 or Barry Ingram (502) 564-5969

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the provisions relating to hearing reimbursement.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with federal and state laws that require provision of hearing services to Kentucky's indigent citizenry.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation fulfills requirements implemented in KRS 194A.050(1) related to the execution of policies to establish and direct health programs mandated by federal law.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the necessary criteria and denotes the limitations established in KRS 205.560(1) for the provision of medically necessary hearing services to Medicaid recipients.

- (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 increases dispensing fees as follows: the hearing aid dispensing fee is increased for the first hearing aid (one ear) from seventy-five (75) dollars to \$150 and for the second hearing aid (two ears or binaural) from twenty-five (25) dollars to fifty (50) dollars. Additionally, the amendment contains formatting and wording changes to comply with KRS 13A.
 - (b) The necessity of the amendment to this administrative regulation: The amendment is necessary to increase provider reimbursement to encourage provider participation and in turn enhance recipient access to necessary care. Additionally, the amendment contains formatting and wording changes to comply with KRS 13A.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by increasing provider reimbursement to encourage provider participation and in turn enhance recipient access to necessary care. Additionally, the amendment contains formatting and wording changes to comply with KRS 13A.
 - (d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by increasing provider reimbursement to encourage provider

participation and in turn enhance recipient access to necessary care. Additionally, the amendment contains formatting and wording changes to comply with KRS 13A

- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This amendment will affect all hearing aid providers.
- (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: Regulated entities are not required to take any action to comply with the amendment.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is imposed on regulated entities as a result of the amendment.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Providers will benefit from increased dispensing fees which in turn should encourage more provider participation and; thus, enhance recipient access to care.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: The Department for Medicaid Services (DMS) projects that the amendments to this administrative regulation will cost approximately \$12,800 (\$8,900 federal funds and \$3,900 state funds) annually.
 - (b) On a continuing basis: DMS projects that the amendments to this administrative regulation will cost approximately \$12,800 (\$8,900 federal funds and \$3,900 state funds) annually.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of funding 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: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish

or increase any fees.

- (9) Tiering: Is tiering applied? This administrative regulation increases dispensing fees which are tiered due to the nature of the item being dispensed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Reg NO: 907 KAR 1:039 Contact Person: Stuart Owen (502) 564-6204 or Barry Ingram (502) 564-5969

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments or school districts)?

Yes X No _____

If yes, complete 2-4.

2. 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? No local government entity is affected; however, the Department for Medicaid Services is affected.
3. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. State laws authorization this action include 194A.030(2), 194A.050(1), 205.520(3). Federal regulations authorization this action include 42 CFR 447.200 and 42 CFR 447.204.
4. 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 any 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 any revenue for state or local government.
 - (c) How much will it cost to administer this program for the first year? The Department for Medicaid Services projects that the amendments to this administrative regulation will cost approximately \$12,800 (\$8,900 federal funds and \$3,900 state funds) annually.
 - (d) How much will it cost to administer this program for subsequent years? DMS projects that the amendments to this administrative regulation will cost approximately \$12,800 (\$8,900 federal funds and \$3,900 state funds) annually. 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: No additional expenditures are necessary to implement this amendment.