STATEMENT OF EMERGENCY

907 KAR 3:183E

(1) This emergency administrative regulation is being promulgated to establish special reimbursement for in-state inpatient hospital care in accordance with 2006 Ky. Acts ch. 252, Part I., H.3.b.23 and to establish supplemental payments to the Appalachian Regional Hospital (ARH) system. This action must be implemented on an emergency basis in order to enhance the ability of safety net hospitals to provide vital health care to recipients in Eastern Kentucky.

(2) This emergency administrative regulation differs from the:

(a) Emergency administration regulation addressing the same subject that was filed with the Regulations Compiler on October 31, 2006 in that it allows the Department for Medicaid Services to provide quarterly supplemental payments, not to exceed $7.5 million per year, to the Appalachian Regional Hospital system;

(b) Emergency administration regulation addressing the same subject that was filed with the Regulations Compiler on June 30, 2006 in that it implements lump sum payments for a freestanding psychiatric hospital, freestanding rehabilitation hospital, long-term acute care hospital and state-designated rehabilitation teaching hospital that is not state owned or operated; and

(c) Emergency administration regulation addressing the same subject that was filed with the Regulations Compiler on May 4, 2006 in that it implements a lump sum payment for in-state inpatient hospital care based on each hospital's Medicaid recipient diagnosis-related group (DRG) volume already adjudicated for claims with admission dates of July 1, 2005 through June 30, 2006 and in that it continues, rather than terminates, a DRG relative weight increase.

(3) This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

(4) The ordinary administrative regulation is identical to this emergency administrative regulation.

_____
Ernie Fletcher
Governor

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

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Hospitals and Provider Operations

(New Emergency Administrative Regulation)

907 KAR 3:183E. In-state Inpatient Hospital Special Reimbursement.

RELATES TO: KRS 205.639, 205.640, 42 CFR 440.10, 440.140, 447.250-447.280, 42 USC 1395ww(d)(4)(C)(i), 1395x(mm), 1396a, 1396b, 1396d, 2006 Ky. Acts ch. 252, Part I., H.3.b.23

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), 205.641(2), 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a, 2006 Ky. Acts ch. 252, Part I., H.3.b.23

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation, as mandated by 2006 Ky Acts ch. 252, Part I, H.3.b.23, establishes special reimbursement for an in-state inpatient acute care hospital, a freestanding rehabilitation hospital, a freestanding psychiatric hospital, a long-term acute care hospital and a state-designated rehabilitation teaching hospital that is not state owned or operated.

Section 1. Definitions.

(1) "Acute care hospital" is defined by KRS 205.639(1).

(2) "Appalachian Regional Hospital system" means a private, not-for-profit hospital chain operating in a Kentucky county that receives coal severance tax proceeds.

(3) "Department" means the Department for Medicaid Services or its designated agent.

(4) "Diagnosis-related group" or "DRG" means a clinically-similar grouping of services that can be expected to consume similar amounts of hospital resources.

(5) "Relative weight" means the factor assigned to each Medicare or Medicaid DRG classification that represents the average resources required for a Medicare or Medicaid DRG classification relative to the average resources required for all relevant discharges in the nation or state.

(6) “State-designated rehabilitation teaching hospital that is not state-owned or operated” means a hospital not state-owned or operated which:

(a) Provides at least 3,000 days of rehabilitation care to Medicaid eligible recipients in a fiscal year;

(b) Provides at least seventy-five (75) percent of the statewide total of inpatient care to Medicaid eligible recipients; and

(c) Provides physical and occupational therapy services to Medicaid recipients needing inpatient rehabilitation services in order to function independently outside of an institution post-discharge.

Section 2. In-state Inpatient Hospital Reimbursement. Pursuant to 2006 Ky Acts ch. 252, Part I, H.3.b.23 the department shall:

(1) Reimburse a lump sum payment to an in-state inpatient acute care hospital based on the hospital's Medicaid recipient DRG volume already adjudicated for claims with admission dates of July 1, 2005 through June 30, 2006.

(2)(a) Increase each DRG relative weight by seventeen (17) percent subject to the availability of funds.

(b) The DRG relative weight increase established in paragraph (a) of this subsection shall be a continuation of the relative weight increase which expired at close of business June 30, 2006 established in 907 KAR 3:180E submitted to the Legislative Research Commission on May 4, 2006 and shall not be an additional increase.

(3) Reimburse two lump sum payments to an in-state freestanding psychiatric hospital, in-state freestanding rehabilitation hospital, in-state long-term acute care hospital, or an in-state state-designated rehabilitation teaching hospital that is not state-owned or operated.

(a) One (1) lump sum payment referenced in subsection (3) of this Section shall be based on the hospital's Medicaid patient days covering admission dates from July 1, 2005 through June 30, 2006.

(b) One (1) lump sum payment referenced in subsection (3) of this Section shall be based on the hospital's Medicaid patient days covering admission dates from July 1, 2006 through June 30, 2007.

(4) Reimburse two lump sum payments to an in-state state-designated rehabilitation teaching hospital that is not state-owned or operated.

(a) One (1) lump sum payment referenced in subsection (4) of this Section shall equal eighty (80) dollars per Medicaid patient day for admission dates from July 1, 2005

through June 30, 2006.

(b) One (1) lump sum payment referenced in subsection (4) of this Section shall equal eighty (80) dollars per Medicaid patient day for admission dates from July 1, 2006 through June 30, 2007.

Section 3. Supplemental Payments to Appalachian Regional Hospital System.

(1) The department shall make quarterly supplemental payments to the Appalachian Regional Hospital system in an amount:

(a) Equal to the lesser of the difference between what the department pays for inpatient services pursuant to 907 KAR 1:013 and what Medicare would pay for inpatient services to Medicaid eligible individuals; or

(b) Not to exceed $7.5 million per year in aggregate.

(2) A quarterly payment to a hospital in the Appalachian Regional Hospital system shall be based on its Medicaid claim volume in comparison to the Medicaid claim volume of each hospital within the Appalachian Regional Hospital system.

(3) A supplemental payment made in accordance with subsection (1) of this section shall be:

(a) For a service provided on or after July 1, 2005;

(b) Subject to the availability of coal severance funds that supply the state's share to be matched with federal funds; and

(c) In compliance with the limitations in 42 C.F.R. 447.272.

907 KAR 3:183E

REVIEWED:

_____	_____
Date	Glenn Jennings, Commissioner Department for Medicaid Services
_____	_____
Date	Mike Burnside, Undersecretary Administrative and Fiscal Affairs

APPROVED:

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

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 3:183E
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact Person: Stuart Owen or Stephanie Brammer-Barnes (502-564-6204)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes, in accordance with 2006 Ky. Acts ch. 252, Part I., H.3.b.23, special reimbursement for an in-state inpatient acute care hospital, an in-state freestanding psychiatric hospital, an in-state freestanding rehabilitation hospital, an in-state long-term acute care hospital, and an in-state state-designated rehabilitation teaching hospital that is not state-owned or operated. The special reimbursement encompasses an increase to diagnosis-related group (DRG) relative weights as well as lump sum payments. This administrative regulation also allows the Department to provide quarterly supplemental payments, not to exceed $7.5 million per year, to the Appalachian Regional Hospital system.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with 2006 Ky. Acts ch. 252, Part I., H.3.b.23 and to enhance the ability of safety net hospitals to provide vital health care to recipients in Eastern Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of 2006 Ky. Acts ch. 252, Part I., H.3.b.23 by establishing inpatient hospital lump sum payments, including lump sum payments to an in-state inpatient acute care hospital, an in-state freestanding psychiatric hospital, an in-state freestanding rehabilitation hospital, an in-state long-term acute care hospital, and an in-state state-designated rehabilitation teaching hospital that is not state-owned or operated. Additionally it establishes an increase in DRG relative weights and allows the Department to provide quarterly supplemental payments, not to exceed $7.5 million per year, to the Appalachian Regional Hospital system.

(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 2006 Ky. Acts ch. 252, Part I., H.3.b.23 by establishing inpatient hospital lump sum payments, including lump sum payments to an in-state inpatient acute care hospital, an in-state freestanding psychiatric hospital, an in-state freestanding rehabilitation hospital, an in-state long-term acute care hospital, and an in-state state-designated rehabilitation teaching hospital that is not state-owned or operated. Additionally it establishes an increase in DRG relative weights and allows the Department to provide quarterly supplemental payments, not to exceed $7.5 million per year, to the Appalachian Regional Hospital system.

(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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Approximately sixty-five (65) acute care hospitals, approximately ten (10) freestanding psychiatric hospitals, five (5) freestanding rehabilitation hospitals, and five (5) long term acute care hospitals, and one (1) state-designated rehabilitation teaching hospital that is not state-owned or operated will be affected by this administrative regulation. There are seven (7) hospitals under the Appalachian Regional Hospital system located in Kentucky.

(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 groups identified in the response to question (3) will receive additional reimbursement, pursuant to 2006 Ky. Acts ch. 252, Part I., H.3.b.23, as a result of this administrative regulation. Additionally, the Appalachian Regional Hospital system will receive supplemental payments that will enhance the continued ability of these safety net hospitals to provide health care services vital to rural areas in Eastern Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The groups identified in the response to question (3) will receive additional reimbursement, pursuant to 2006 Ky. Acts ch. 252, Part I., H.3.b.23, as a result of this administrative regulation. Additionally, the Appalachian Regional Hospital system will receive supplemental payments that will enhance the continued ability of these safety net hospitals to provide health care services vital to rural areas in Eastern Kentucky.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The groups identified in the response to question (3) will receive additional reimbursement, pursuant to 2006 Ky. Acts ch. 252, Part I., H.3.b.23, as a result of this administrative regulation. Additionally, the Appalachian Regional Hospital system will receive supplemental payments that will enhance the continued ability of these safety net hospitals to provide health care services vital to rural areas in Eastern Kentucky.

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

(a) Initially: To implement the provisions contained in the 2006 Ky. Acts ch. 252, Part I., H.3.b.23, the Department for Medicaid Services (DMS) anticipates the administrative regulation will cost approximately $34.0 million ($23.8 million federal funds; $10.2 million state funds) for State Fiscal Year (SFY) 2006. To implement quarterly supplemental payments to the Appalachian Regional Hospital system, DMS anticipates the administrative regulation will cost no more than approximately $7.5 million per year ($5.25 million federal funds; $2.25 million state funds).

(b) On a continuing basis: To implement the provisions contained in the 2006 Ky. Acts ch. 252, Part I., H.3.b.23, DMS anticipates the administrative regulation will cost approximately $3.0 million ($2.1 million federal funds; $0.9 million state funds) for SFY 2007; however, no continuing effect beyond SFY 2007 is anticipated. To implement quarterly supplemental payments to the Appalachian Regional Hospital system, DMS anticipates the administrative regulation will cost no more than approximately $7.5 million per year ($5.25 million federal funds; $2.25 million state funds).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under Title XIX of the Social Security Act, matching funds of general fund appropriations, and Medical Assistance Revolving Trust Funds in accordance with 2005 Ky Acts ch. 173 and HB 380 of the 2006 Session of the General Assembly will be used to fund this administrative regulation.

(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: No increase in fees or funding will be 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 does not establish or directly or indirectly increase any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used)

This administrative regulation establishes, in accordance with 2006 Ky. Acts ch. 252, Part I., H.3.b.23, a special reimbursement increase for an in-state inpatient acute care hospital, an in-state freestanding psychiatric hospital, an in-state freestanding rehabilitation hospital, an in-state long-term acute care hospital, and an in-state state-designated rehabilitation teaching hospital that is not state-owned or operated. The reimbursement increases encompass an increase to diagnosis-related group (DRG) relative weights as well as lump sum payments. Out-of-state inpatient hospitals are not included in the legislative mandates.

Additionally, this administrative regulation allows the Department to provide quarterly supplemental payments to the hospitals located in Kentucky that operate under the Appalachian Regional Hospital system. The supplemental payments to ARH hospitals are necessary to enhance their ability to provide vital health care to recipients in Eastern Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Reg NO: 907 KAR 3:183E Contact Person: Stuart Owen or Stephanie Brammer-Barnes (564-6204)

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? This administrative regulation will affect Medicaid recipients in need of inpatient hospital services and providers.

3. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. Pursuant to 42 USC 1396a et. seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et. seq. Additionally, this administrative regulation complies with 2006 Ky. Acts ch. 252, Part I., H.3.b.23 by increasing inpatient hospital service reimbursement.

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? To implement the provisions contained in the 2006 Ky. Acts ch. 252, Part I., H.3.b.23, the Department for Medicaid Services (DMS) anticipates the administrative regulation will cost DMS approximately $34.0 million ($23.8 million federal funds; $10.2 million state funds) for State Fiscal Year (SFY) 2006. To implement quarterly supplemental payments to the Appalachian Regional Hospital system, DMS anticipates the administrative regulation will cost approximately $7.5 million per year ($5.25 million federal funds; $2.25 million state funds).

   (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? To implement the provisions contained in the 2006 Ky. Acts ch. 252, Part I., H.3.b.23, DMS anticipates the administrative regulation will cost DMS approximately $3.0 million ($2.1 million federal funds; $0.9 million state

funds) for SFY 2007; however, no continuing effect beyond SFY 2007 is anticipated. To implement quarterly supplemental payments to the Appalachian Regional Hospital system, DMS anticipates the administrative regulation will cost approximately $7.5 million per year ($5.25 million federal funds; $2.25 million state funds).

(c) How much will it cost to administer this program for the first year? To implement the provisions contained in the 2006 Ky. Acts ch. 252, Part I., H.3.b.23, DMS anticipates the administrative regulation will cost DMS approximately $34.0 million ($23.8 million federal funds; $10.2 million state funds) for State Fiscal Year (SFY) 2006. To implement quarterly supplemental payments to the Appalachian Regional Hospital system, DMS anticipates the administrative regulation will cost approximately $7.5 million per year ($5.25 million federal funds; $2.25 million state funds).

(d) How much will it cost to administer this program for subsequent years? To implement the provisions contained in the 2006 Ky. Acts ch. 252, Part I., H.3.b.23, DMS anticipates the administrative regulation will cost DMS approximately $3.0 million ($2.1 million federal funds; $0.9 million state funds) for SFY 2007; however, no continuing effect beyond SFY 2007 is anticipated. To implement quarterly supplemental payments to the Appalachian Regional Hospital system, DMS anticipates the administrative regulation will cost approximately $7.5 million per year ($5.25 million federal funds; $2.25 million state funds).

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: