

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Long Term Care and Community Alternatives

4 (Amended after Comments)

5 907 KAR 1:044. Community mental health center services.

6 RELATES TO: RELATES TO: KRS 194A.060, 205.520(3), 205.8451(9), 422.317,

7 434.840-434.860, 42 C.F.R. 415.208, 431.52, 431 Subpart F

8 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 210.450, 42

9 U.S.C. 1396a-d,

10 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family

11 Services has responsibility to administer the Medicaid Program. KRS 205.520(3)

12 authorizes the cabinet, by administrative regulation, to comply with any requirement that

13 may be imposed or opportunity presented by federal law for the provision of medical

14 assistance to Kentucky's indigent citizenry. This administrative regulation establishes

15 the provisions for community mental health center (CMHC) services.

16 Section 1. Definitions. (1) "Community mental health center" or "CMHC" means a

17 facility which meets the community mental health center requirements established in

18 902 KAR 20:091, Facilities specifications, operation and services; community mental

19 health center.

20 (2) "Department" means the Department for Medicaid Services or its designee.

1 Section 2. Requirements for a Psychiatric Nurse. [~~(1) Except as provided in~~
2 ~~subsection (2) of this section, for the purpose of providing Medicaid Program~~
3 ~~reimbursable services,]~~ A registered nurse employed by a participating community
4 mental health center shall be considered a psychiatric or mental health nurse if he or
5 she:

6 (1) Possesses a master of science in nursing with a specialty in psychiatric or mental
7 health nursing;

8 (2) Is a graduate of a four (4) year nursing educational program with:

9 (a) A bachelor of science in nursing; and

10 (b) Possesses at least one (1) year of experience in a mental health setting;

11 (3) Is a graduate of a three (3) year nursing educational program and possesses at
12 least two (2) years of experience in a mental health setting;

13 (4) Is a graduate of a two (2) year nursing educational program with:

14 (a) An associate degree in nursing; and

15 (b) At least three (3) years of experience in a mental health setting; or

16 (5) Possesses any level of education with American Nursing Association certification
17 as a psychiatric and mental health nurse. [~~the nurse meets any of the following criteria:~~

18 ~~(a) Master of Science in Nursing (MSN) with specialty in psychiatric/mental health~~
19 ~~nursing, with additional experience not required;~~

20 ~~(b) Graduate of a four (4) year nursing educational program, with a Bachelor of~~
21 ~~Science in Nursing (BSN) and with a minimum of one (1) year of experience in a mental~~
22 ~~health setting;~~

23 ~~(c) Graduate of a three (3) year nursing educational program (diploma graduate), and~~

1 with a minimum of two (2) years of experience in a mental health setting;
2 (d) Graduate of a two (2) year nursing educational program, with an Associate
3 Degree in Nursing (ADN) and with a minimum of three (3) years of experience in a
4 mental health setting; or
5 (e) Any level of education with American Nursing Association (ANA) certification as a
6 psychiatric and mental health nurse.
7 (2) A registered nurse employed by a participating mental health center in Kentucky
8 on June 30, 1981 shall be considered a psychiatric nurse if their employment with the
9 center continues, for the purpose of providing Medicaid Program reimbursable
10 services.]

11 Section 3.[2.] Community Mental Health **Center Services** Manual. The Community
12 Mental Health **Center Services** Manual specifies [shall specify] the conditions for
13 participation, services covered, and limitations for the community mental health center
14 services component of the Medicaid Program.

15 Section 4.[3.] Covered Services. Inpatient services, outpatient services, therapeutic
16 rehabilitation services, emergency services and personal care home services shall be
17 covered if:

18 (1) Provided by a community mental health center;

19 (2) Provided in accordance with this administrative regulation and the Community
20 Mental Health **Center Services** Manual; and

21 (3) They meet all applicable departmental requirements. [The following services
22 provided by a participating community mental health center shall be covered, if
23 provided in accordance with this administrative regulation and the Community Mental

1 ~~Health Manual, and if they meet all applicable departmental requirements:~~

2 ~~(1) Inpatient services;~~

3 ~~(2) Outpatient services;~~

4 ~~(3) Therapeutic rehabilitation services;~~

5 ~~(4) Emergency services; and~~

6 ~~(5) Personal care home services.]~~

7 Section 5.~~[4.]~~ Electronic Documents and Signatures. (1) The creation, transmission,
8 storage, or other use of electronic signatures and documents shall comply with
9 requirements established in KRS 369.101 to 369.120 and all applicable state and
10 federal laws and regulations.

11 (2) A CMHC ~~[provider]~~ choosing to utilize electronic signatures shall:

12 (a) Develop and implement a written security policy which shall:

13 1. Be complied with by each of the provider's employees, officers, agents, and
14 contractors; and

15 2. Stipulate which individuals have access to which electronic signatures and
16 password authorization:

17 (b) Ensure that electronic signatures are created, transmitted and stored securely;

18 and

19 (c) Develop a consent form which shall:

20 1. Be completed and executed by each individual utilizing an electronic signature;

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

22 3. Include a statement indicating that the individual has been notified of his or her

23 ~~[their]~~ responsibility in allowing the use of the electronic signature.

1 Section ~~6.~~^{5.} Appeal Rights. (1) An appeal of a department decision regarding a
2 Medicaid recipient [~~member~~] based upon an application of this administrative regulation
3 shall be in accordance with 907 KAR 1:563.

4 (2) An appeal of a department decision regarding a Medicaid recipient [~~member~~]
5 based upon an application of this administrative regulation shall be in accordance with
6 907 KAR 1:563.

7 (3) An appeal of a department decision regarding a Medicaid provider based upon an
8 application of this administrative regulation shall be in accordance with 907 KAR 1:671.

9 Section ~~7.~~^{6.} Incorporation by Reference. (1) The “Community Mental Health Center
10 Services Manual”, January 2008 [~~June 2007,~~] [~~April 2006~~] edition[“], is incorporated
11 by reference.

12 (2) This material may be inspected, copied, or obtained, subject to applicable
13 copyright law, at the Department for Medicaid Services, 275 East Main Street, 6th Floor
14 West, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

15 (Recodified from 904 KAR 1:044, 5-2-86; Am. 15 Ky.R. 2461; eff. 8-5-89; 18 Ky.R. 915;
16 eff. 10-16-91; 20 Ky.R. 663; eff. 10-21-93; 32 Ky.R. 1801; 2039; 2276; eff. 7-7-2006.)

907 KAR 1:044
Amended after Comments

REVIEWED:

Date

Elizabeth A. Johnson, Commissioner
Department for Medicaid Services

APPROVED:

Date

Janie Miller, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:044

Cabinet for Health and Family Services

Department for Medicaid Services

Agency Contact Person: Stuart Owen (502) 564-6204 or Shelley Adams (502) 564-5560

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes provisions related to community mental health center services.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish provisions related to community mental health center services.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 210.450 and other authorizing statutes by establishing provisions related to community mental health services.
 - (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 KRS 210.450 and other authorizing statutes by establishing provisions related to community mental health services

- (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 amendment eliminates the requirement, via revision to the Community Mental Health Center Services Manual, that a psychiatrist sign every recipient treatment plan. The material incorporated by reference is amended after comments to reinsert material inadvertently omitted previously.
 - (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to enable psychiatrists to spend more time providing direct face-to-face therapy with recipients rather than being sidetracked by having to sign every treatment plan. The necessity of the amendment remains the same in the amended after comment regulation.
 - (c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by enabling psychiatrists to focus more on care rather than administration. The amended after comments regulation is unchanged regarding how the regulation conforms to the content of the authorizing statutes.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the authorizing statutes by enabling psychiatrists to focus more on care rather than administration. The amended after comment regulation will continue the same in this area.

- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This administrative regulation will affect community mental health center service recipients and all fourteen (14) community mental health centers. The amended after comment regulation will affect community mental health center service recipients and all fourteen (14) community mental health centers.
- (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 eliminates the requirement that a psychiatrist sign every treatment plan; thus reducing psychiatrists' administrative burden and enabling them to spend more time providing direct face-to-face therapy with recipients. The amended after comment regulation does not change.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). This amendment imposes no cost on the regulated entities. The amended after comment regulation imposes no cost on the regulated entities.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). As a result of the amendment, psychiatrists will be enabled to spend more time providing direct therapy with recipients which in turn should benefit recipients. The amended after comments regulation will remain unchanged regarding benefits provided to recipients.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: The Department for Medicaid Services (DMS) anticipates no cost as a result of the amendment. Likewise, DMS anticipates no cost as a result of the amended after comments regulation.
 - (b) On a continuing basis: DMS anticipates no cost as a result of the amendment. DMS anticipates no cost as a result of the amended after comments regulation.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching funds from general fund appropriations. The sources of revenue remain unchanged in the amended after comments 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: Neither an increase in fees nor funding is necessary as a result of the amendment. Neither an increase in fees nor funding is necessary as a result of the amended after comments regulation.

- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment neither establishes nor increases any fee. The amended after comment regulation neither establishes nor increases any fee.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used)
Tiering is not applied. Tiering is not applied in the amended after comments regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Reg NO: 907 KAR 1:044

Contact Person: Stuart Owen (502) 564-6204 or
Shelley Adams (502) 564-5560

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 amendment will affect community mental health centers. The amended after comments regulation will affect community mental health centers.
3. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This amendment is authorized by 194A.030(2), 194A.050(1), 205.520(3), 210.450 and 42 U.S.C. 1396a-d. The amended after comments regulation does not change this authority.
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? DMS anticipates no revenue will be generated by the amendment. DMS anticipates no revenue will be generated by the amended after comments regulation.

(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. DMS anticipates no revenue will be generated by the amendment. DMS anticipates no revenue will be generated by the amended after comments regulation.

(c) How much will it cost to administer this program for the first year? DMS anticipates no cost as a result of the amendment. DMS anticipates no cost as a result of the amended after comments regulation.

(d) How much will it cost to administer this program for subsequent years? DMS

anticipates no cost as a result of the amendment. Likewise, DMS anticipates no cost as a result of the amended after comments regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): .

Expenditures (+/-):

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

907 KAR 1:044, Community Mental Health Center Services
Amended After Comments

Summary of Material Incorporated by Reference

The Community Mental Health Center Services Manual, January 2008 edition, replaces the June 2006 edition. The manual contains a total of fifty-nine (59) pages. The amendments to the manual include the following:

- (1) The title “Community Mental Health Manual” is changed to “Community Mental Health Center Services Manual”.
- (2) Section III, D. is changed to include:
 - (3) Certified Psychologist or Psychological Associate
 - (5) Licensed Marriage and Family Therapist
 - (6) Licensed Professional Clinical Counselor
 - (7) Licensed Professional Counselor Associate
 - (8) Advanced Registered Nurse Practitioner
 - (9) Psychiatric Resident Doctor
 - (10) Licensed Clinical Social Worker
- (3) Each reference to “Health Care Finance Administration (HCFA)” is changed to “Centers for Medicare and Medicaid Services (CMS)”.
- (4) Each reference to “Peer Review Organization (PRO)” is changed to “Quality Improvement Organization (QIO)”.
- (5) The contact information for EDS is updated.
- (6) Section III (3), Page 3.9 is changed to eliminate the requirement for a psychiatrist to sign each recipient’s treatment plan to indicate staff required to sign the treatment plan.
- (7) Section III F (4)(B) Page 3.11 is changed to include Advanced Registered Nurse Practitioner.
- (8) Section IV B is changed to include Advanced Registered Nurse Practitioner.
- (9) Section IV C, is changed to now include seven (7) recognized mental health professionals.

- (10) Section V, Reimbursement is amended to include current contact information for verification of Medicaid recipient eligibility and claims submission due to the removal of billing information.
- (11) Section VI, "Completion of Invoice Form" is deleted.
- (12) Section VII, "Remittance Statement" is deleted.
- (13) Section VIII, "General Information – EDS" is deleted.
- (14) Appendix I, Page 4, includes the updated "CMHC Covered Services" form for Professional Equivalent.
- (15) Appendix II, "Eligibility Information" is deleted.
- (16) Appendix II, Page 9, "Alternative Intermediate Services for the Mentally Retarded" is changed to "Support for Community Living".
- (17) Appendix III, "Community Mental Health Procedure Codes" is deleted.
- (18) Appendix V, "Commonwealth of Kentucky Cabinet for Human Resources Department for Medicaid Services Provider Agreement" is deleted.
- (19) Appendix VI, "Kentucky Medicaid Program Provider Information" is deleted.
- (20) Appendix VII, "Cash Refund Documentation" is deleted.
- (21) Appendix VIII, "Third Party Liability Lead Form" is deleted.
- (22) Appendix IX, "Kentucky Medical Assistance Title XIX Remittance Statement" is deleted.
- (23) Appendix X, "Provider Inquiry Form" is deleted.
- (24) Appendix XI, "Adjustment Request Form" is deleted.
- (25) Appendix XII, "Health Insurance Claim Form" is deleted.