

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Hospitals and Provider Operations

4 (New Administrative Regulation)

5 907 KAR 3:183. In-state Inpatient Hospital Special Reimbursement.

6 RELATES TO: KRS 205.639, 205.640, 42 CFR 440.10, 440.140, 447.250-447.280,
7 42 USC 1395ww(d)(4)(C)(i), 1395x(mm), 1396a, 1396b, 1396d, 2006 Ky. Acts ch. 252,
8 Part I., H.3.b.23

9 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2),
10 205.641(2), 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a, 2006 Ky. Acts ch. 252, Part
11 I., H.3.b.23

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

1 Section 1. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (a) One (1) lump sum payment referenced in subsection (3) of this Section shall be
15 based on the hospital's Medicaid patient days covering admission dates from July 1,
16 2005 through June 30, 2006.

17 (b) One (1) lump sum payment referenced in subsection (3) of this Section shall be
18 based on the hospital's Medicaid patient days covering admission dates from July 1,
19 2006 through June 30, 2007.

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

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

1 through June 30, 2006.

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

5 Section 3. Supplemental Payments to Appalachian Regional Hospital System.

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

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

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

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

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

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

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

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

907 KAR 3:183

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

A public hearing on this administrative regulation shall, if requested, be held on February 21, 2007, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 14, 2007, 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 February 28, 2007. 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, Phone: 502-564-7905, Fax: 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 3:183

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 3:183 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: