

## STATEMENT OF EMERGENCY

907 KAR 1:631E

(1) This emergency administrative regulation is being promulgated to enhance vision service reimbursement and reduce provider administrative burden in order to ensure an adequate pool of vision providers.

(2) This action must be taken on an emergency basis to protect the health, safety and welfare of recipients by ensuring an adequate pool of providers and, thus, adequate recipient access to necessary care.

(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.

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Ernie Fletcher  
Governor

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

1 CABINET FOR HEALTH SERVICES

2 Department for Medicaid Services

3 Division of Physicians and Specialty Services

4 (Emergency Amendment)

5 907 KAR 1:631E. Reimbursement of Vision Program services.

6 RELATES TO: KRS 205.520, 42 CFR 440.40, 440.60, 447 Subpart B, 42 USC 1396a-d

7 STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050, 2000 Ky. Acts ch. 549, Part IX,  
8 22., d.

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services,  
10 Department for Medicaid Services has responsibility to administer the Medicaid Program.  
11 KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any  
12 requirement that may be imposed, or opportunity presented, by federal law for the  
13 provision of medical assistance to Kentucky's indigent citizenry. This administrative  
14 regulation establishes ~~[the method for determining a]~~ reimbursement provisions for vision  
15 services [for a Vision Program service].

16 Section 1. Definitions.

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

18 (2) "Global Insight Index" means an indication of changes in health care costs from  
19 year to year developed by Global Insight.

20 (3) "Medically necessary" or "medical necessity" means that a covered benefit is  
21 determined to be needed in accordance with 907 KAR 3:130.

1       (4) "Ophthalmic dispenser" means a physician, optician, or optometrist, who is licensed  
2 to prepare and dispense lenses and eyeglasses in accordance with an original, written  
3 prescription.

4       (5)[(3)] "Resource-based relative value scale unit" or "RBRVS unit" means a value  
5 based on the service which takes into consideration the practitioners' work, practice  
6 expenses, liability insurance, and a geographic factor based on the prices of staffing and  
7 other resources required to provide the service in an area relative to national average  
8 price.

9       Section 2. Reimbursement for Covered Procedures and Materials for Optometrists.

10       (1) With the exception of materials or a laboratory service, reimbursement for a  
11 covered service, within the optometrist's scope of licensure, shall be based on the  
12 optometrist's usual and customary actual billed charges up to the fixed upper limit per  
13 procedure established by the department using the Kentucky Medicaid fee schedule,  
14 specified in 907 KAR 3:010, Section 2(2)[2(4)], developed from a resource-based relative  
15 value scale (RBRVS) on parity with physicians.

16       (2) If an RBRVS based fee has not been established, the department shall set a  
17 reasonable fixed upper limit for the procedure. The upper limit shall be determined  
18 following a review of rates paid for the service by three (3) other sources. The average  
19 of these rates shall be compared with similar procedures paid by the department to set  
20 the upper limit for the procedure.

21       (3) With the exception of the following dispensing services, the department shall use  
22 the Kentucky conversion factor for "all other services" as established in 907 KAR 3:010,  
23 Section 3(2)(b)[2(2)]:

- 1 (a) Fitting of spectacles;  
 2 (b) Special spectacles fitting; and  
 3 (c) Repair and adjustment of spectacles.  
 4 (4) Reimbursement for a dispensing service fee or a repair service fee shall be as  
 5 follows:

Procedure	Upper Limit
92340 (Fitting of spectacles)	\$33
92341 (Fitting of spectacles)	\$38
92352 (Special spectacles fitting)	\$33
92353 (Special spectacles fitting)	\$39
92370 (Repair & adjust spectacles)	\$29

- 6 (5) The department shall:  
 7 (a) Reimburse for:  
 8 1. A single vision lens at twenty-eight (28) dollars per lens;  
 9 2. A bifocal lens at forty-three (43) dollars per lens; and  
 10 3. A multi-focal lens at fifty-six (56) dollars per lens; and  
 11 (b) Annually adjust the rates established in paragraph (a) of this subsection by the  
 12 Global Insight Index.  
 13 (6)(a) The department shall reimburse for frames or a part of frames (not lenses)  
 14 ~~[Reimbursement for eyeglasses or a part of eyeglasses shall be made]~~ at the optical  
 15 laboratory cost of the materials not to exceed the upper limit for materials as established

1 by the department.

2 (b) The upper payment limit for frames shall be fifty (50) dollars.

3 (c) An optical laboratory invoice, or proof of actual acquisition cost of materials, shall be  
4 maintained in the recipient's medical records for postpayment review.

5 (7)(a)[(6)] Reimbursement for a covered clinical laboratory service shall be based on  
6 the Medicare allowable payment rates.

7 (b) For a laboratory service with no established allowable payment rate, the payment  
8 shall be sixty-five (65) percent of the usual and customary actual billed charges.

9 Section 3. Maximum Reimbursement for Covered Procedures and Materials for  
10 Ophthalmic Dispensers. Reimbursement for a covered service within the ophthalmic  
11 dispenser's scope of licensure shall be in accordance with Section 2 of this administrative  
12 regulation.

13 Section 4. Reimbursement Limitations.

14 (1) A telephone consultation shall be excluded from payment.

15 (2) Contact lenses shall be excluded from payment.

16 (3) Safety glasses shall be covered if proof of medical necessity is documented.

17 (4) A prism, if medically necessary, shall be added within the cost of the lenses.

18 (5) A press-on prism shall be excluded from payment.

19 Section 5. Third Party Liability. Nonduplication of payments and third-party liability shall  
20 be in accordance with 907 KAR 1:005.

21 Section 6. Appeal Rights.

22 (1) An appeal of a negative action taken by the department regarding a Medicaid  
23 beneficiary shall be in accordance with 907 KAR 1:563.

1 (2) An appeal of a negative action taken by the department regarding Medicaid  
2 eligibility of an individual shall be in accordance with 907 KAR 1:560.

3 (3) An appeal of a negative action taken by the department regarding a Medicaid  
4 provider shall be in accordance with 907 KAR 1:671.

907 KAR 1:631E

Reviewed:

\_\_\_\_\_  
Date

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Shawn M. Crouch, Commissioner  
Department for Medicaid Services

APPROVED:

\_\_\_\_\_  
Date

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

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:631E

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 vision service reimbursement.
  - (b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with federal and state laws that require provision of vision 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 vision 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 establishes flat rate reimbursement for lenses as follows: twenty-eight (28) dollars per lens for a single lens; forty-three (43) dollars per lens for a bifocal lens and fifty-six (56) dollars per lens for a multi-focal lens and abolishes the prior requirement that a provider submit documentation of acquisition cost for reimbursement purposes.
  - (b) The necessity of the amendment to this administrative regulation: The amendment is necessary to reduce vision provider administrative burden and consequently encourage provider participation; thus, enhancing recipient access to care.
  - (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by reducing vision provider administrative burden and consequently encourage provider participation; thus, enhancing recipient access to care.
  - (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 reducing vision provider administrative burden and consequently encourage provider participation; thus, enhancing recipient access to care.
  
- (3) List the type and number of individuals, businesses, organizations, or state and

local government affected by this administrative regulation: This amendment will affect vision service 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): Vision service providers will benefit by the reduction of their administrative burden which in turn should encourage provider participation and benefit recipients via increased 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) anticipates the amendments to the administrative regulation to cost DMS approximately \$489,000 (\$340,000 federal funds and \$149,000 state funds) annually.
  - (b) On a continuing basis: DMS anticipates the amendments to the administrative regulation to cost DMS approximately \$489,000 (\$340,000 federal funds and \$149,000 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? Lenses are reimbursed differently due to the varied complexity of lens development (a single lens is not as complex as a bifocal lens which is not as complex as a multi-focal lens).

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Reg NO: 907 KAR 1:631E 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 441.30, 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 (DMS) anticipates the amendments to the administrative regulation to cost DMS approximately \$489,000 (\$340,000 federal funds and \$149,000 state funds) annually.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates the amendments to the administrative regulation to cost DMS approximately \$489,000 (\$340,000 federal funds and \$149,000 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.