



1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Quality and Population Health

4 (New Administrative Regulation)

5 907 KAR 16:010. 1915(i) RISE Initiative Home and Community-Based Services (HCBS): Participant
6 Eligibility.

7 RELATES TO: KRS 205.520

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

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services,
10 Department for Medicaid Services, has responsibility to administer the Medicaid program. KRS
11 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may
12 be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This
13 administrative regulation establishes the policies and operational requirements to provide expanded
14 services to individuals who have a primary diagnosis of serious mental illness or substance use disorder.

15 Section 1. 1915(i) RISE Initiative HCBS Participant Eligibility.

16 (1) To be eligible to receive a service in the 1915(i) RISE Initiative HCBS, an individual or an individual's
17 representative shall:

18 (a) Apply for 1915(i) RISE Initiative home and community-based services via the department approved
19 system;

20 (b) Complete application in the department approved system;

21 (c) Meet Medicaid eligibility requirements established in 907 KAR 20:010; and

22 (d) Meet participant eligibility requirements:

- 1 1. Be 18 years or older;
- 2 2. Have a primary diagnosis of Severe Mental Illness (SMI) or co-occurring SMI and Substance Use
- 3 Disorder (SUD); and
- 4 3. Meet criteria per the InterRAI CMH functional assessment tool.

5 (2) To maintain eligibility as a participant, the participant shall:

6 (a) Maintain Medicaid eligibility requirements established in 907 KAR 20:010.

7 (b) Be reassessed annually utilizing the InterRAI CMH functional assessment tool and meet eligibility

8 requirements.

9 (3) 1915(i) HCBS services shall not be provided to an individual who is:

10 (a) Receiving a service in a 1915(c) Home and Community-Based program.

11 (b) Receiving a duplicate service provided through another funding source; or

12 (c) An inpatient of a hospital or other facility.

13 (4) Involuntary termination and loss of a 1915(i) RISE Initiative HCBS service shall be:

14 (a) In accordance with 907 KAR 1:563; and

15 (b) 1. Initiated when an applicant moves to a residence outside of the Commonwealth of Kentucky; or

16 2. If initiated by a 1915(i) RISE Initiative provider:

17 a. The 1915(i) Rise Initiative provider shall simultaneously notify electronically or in

18 writing the participant or the participant's guardian, the participant's case manager, the

19 department and DBHDID at least thirty (30) days prior to the effective date of the

20 termination; and

21 b. The participant's case manager, in conjunction with the 1915(i) RISE Initiative provider,

22 shall immediately act to:

- 1 (i) Provide the participant or participant's guardian with the name, address,
2 and telephone number of each current 1915(i) RISE Initiative provider in
3 Kentucky;
- 4 (ii) Provide assistance to the participant or participant's guardian in making
5 contact with another 1915(i) RISE Initiative provider;
- 6 (iii) Arrange or provide transportation for a requested visit to a 1915(i) RISE
7 Initiative provider site;
- 8 (iv) Provide a copy of pertinent information to the participant or participant's
9 guardian;
- 10 (v) Ensure the health, safety, and welfare of the participant until an
11 appropriate placement is secured;
- 12 (vi) Continue to provide supports until alternative services or another
13 placement is secured; and
- 14 (vii) Provide assistance to ensure a safe and effective service transition.

15 c. The notice referenced in paragraph (c) 1. of this subsection shall include:

- 16 (i) A statement of the intended action;
- 17 (ii) The basis for the intended action;
- 18 (iii) The authority by which the intended action is taken; and
- 19 (iv) The participant's right to appeal the intended action through the provider's appeal or
20 grievance process.

21 (5) Voluntary termination and loss of a 1915(i) RISE Initiative HCBS service:

1 (a) DBHDID shall initiate an intent to discontinue a participant's participation in the 1915(i) RISE
2 Initiative HBCS services if the participant or participant's guardian submits a written notice of intent
3 to discontinue services to:

- 4 1. The 1915(i) RISE Initiative HCBS provider; and
- 5 2. DBHDID.

6 (b) An action to terminate 1915(i) RISE Initiative HCBS participation shall not be initiated until
7 thirty (30) calendar days from the date of the notice referenced in paragraph (a) of this subsection.

8 (c) A participant or guardian may reconsider and revoke the notice referenced in paragraph (a) of
9 this subsection in writing during the thirty (30) calendar day period.

10 Section 2. 1915(i) RISE Initiative HCBS Participant Appeal Rights

11 (1) An appeal of a department decision regarding a Medicaid beneficiary based upon an application of
12 this administrative regulation shall be in accordance with 907 KAR 1:563.

13 (2) An appeal of a department decision regarding Medicaid eligibility of an individual based upon an
14 application of this administrative regulation shall be in accordance with 907 KAR 1:560.

15 Section 3. Federal Approval and Federal Financial Participation. The department's reimbursement for
16 services pursuant to this administrative regulation shall be contingent upon:

- 17 (1) Receipt of federal financial participation for the reimbursement; and
- 18 (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

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907 KAR 16:010
REVIEWED:

1/24/2025

Date

DocuSigned by:

Lisa Lee

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Lisa D. Lee, Commissioner
Department for Medicaid Services

APPROVED:

1/27/2025

Date

DocuSigned by:

Eric Friedlander

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Eric C. Friedlander, Secretary
Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on April 21, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by April 14, 2025, 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. This hearing is open to the public. Any person who attends virtually 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 be heard at the public hearing, you may submit written comments on this proposed administrative regulation until April 30, 2025. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 907 KAR 16:010
Agency Contact: Jonathan Scott
Phone Number: (502) 564-4321, ext. 2015
Email: jonathant.scott@ky.gov

Contact Person: Krista Quarles
Phone Number: (502) 564-7476
Email: CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes participation and eligibility for the 1915(i) RISE Initiative.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the program policies, participation, and eligibility criteria pursuant to the 1915(i) RISE Initiative.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing participation and eligibility criteria related to the 1915(i) RISE Initiative.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing clear participation and eligibility criteria requirements related to the 1915(i) RISE initiative.

(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 governments affected by this administrative regulation: Medicaid providers participating in the RISE Initiative. DMS estimates up to 5,000 participants may access 1915(i) RISE Initiative services.

(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: Providers will be required to bill under the 1915(i) specific fee schedule.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): DMS does not anticipate additional costs with participating as a 1915(i) RISE Initiative provider.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Providers will benefit from receiving reimbursement for the services delivered to Medicaid members.

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

administrative regulation:

(a) Initially: The department anticipates no additional costs, beyond those detailed in HB 6, in implementing this administrative regulation.

(b) On a continuing basis: The department anticipates no additional costs, beyond those detailed in HB 6, in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency 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: Neither an increase in fees nor funding will be necessary to implement the amendments.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

907 KAR 16:010

Contact Person: Jonathan Scott

Phone: (502) 564-4321, ext. 2015

Email: jonathant.scott@ky.gov

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(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520, 194A.030(2), 194A.050(1), 205.520(3).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department for Medicaid Services is the promulgating agency, the Department for Behavioral Health, Developmental and Intellectual Disabilities is administering the 1915(i) RISE Initiative.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures beyond those allocated to the department pursuant to 2024 House Bill 6.

Revenues: The department does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect a change to expenditures, revenues, or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): DMS does not expect that local entities will be impacted by this regulation.

(a) Estimate the following for the first year:

Expenditures: HB 6 from 2024 funds this program with \$99 million in total expenditures estimated for the first year.

Revenues: n/a The department does not anticipate additional revenues.

Cost Savings: n/a The department does not anticipate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? As provider capacity and services ramp up in subsequent years, utilization and thus expenditures may increase over time.

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: n/a The department does not anticipate additional expenditures for regulated entities.

Revenues: n/a The department does not anticipate additional revenues for regulated entities.

Cost Savings: The department does not anticipate cost savings for the providers who are billing.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect expenditures, revenues, or cost savings for other entities as a result of this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: HB 6 from 2024 funds this program with \$99 million total funding for state fiscal year 2026. The program is anticipated to have a fiscal impact of \$169 million total funding for state fiscal year 2027.

(b) Methodology and resources used to determine the fiscal impact: Estimated utilization of the services based on MMIS claims data were multiplied by anticipated fee schedule rates.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate): The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

(b) The methodology and resources used to reach this conclusion: The policies contained in the administrative regulation allow for providers to request additional reimbursement and provide new services to a specific population.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 907 KAR 16:010

Agency Contact: Jonathan Scott

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1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. Ch. 7 Sec. 1396n
2. State compliance standards. KRS 194A.030(2) requires the Department for Medicaid Services to “serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act.”
3. Minimum or uniform standards contained in the federal mandate. A state plan amendment must be negotiated and finalized with the federal government.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment will not impose stricter than federal requirements.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendment will not impose stricter than federal requirements.