CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Quality and Population Health

(New Administrative Regulation)

907 KAR 16:015. Recovery, Independence, Support & Engagement (RISE) Initiative 1915(i) Home and Community-Based Services (HCBS); Provider Participation and Enrollment.

RELATES TO: KRS 205.520, 273.182, 45 C.F.R. Parts 160, 162, and 164

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

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 any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the policies and operational requirements to provide expanded services to individuals who have serious mental illness.

Section 1. General Requirement.

(1) A 1915(i) RISE Initiative provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672;

(c) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164;

(d) 42 U.S.C. 1320d to 1320d-8; and

(e) Local laws and ordinances governing smoke-free environments, as relevant.

(2) In order to provide a 1915(i) RISE Initiative service in accordance with 907 KAR 16:020, a 1915(i) RISE Initiative provider shall:

(a) Be certified by the department prior to the initiation of a service;

(b) Be recertified at least biennially by the department;

(c) In accordance with KRS 273.182, maintain a registered agent and a registered office in Kentucky with the Office of the Secretary of State and file appropriate statement of change documentation with the filing fee with the Office of Secretary of State if the registered office or agent changes;

(d) Be in good standing with the Office of the Secretary of State of the Commonwealth of Kentucky pursuant to 30 KAR 1:010 and 30 KAR 1:020;

(e) Abide by the laws that govern the chosen business or tax structure of the 1915(i) RISE Initiative provider;

(f) Maintain policy that complies with this administrative regulation concerning the operation of the 1915(i) RISE Initiative provider and the health, safety, and welfare of all people supported or served by the 1915(i) RISE Initiative provider;

(g) Maintain administrative oversight, which shall include management by a director with at least a bachelor's degree in a human service field and two (2) years of documented experience with the target population, and two (2) years of management experience, the director shall assume authority and responsibility for the management of the affairs of the 1915(i) RISE Initiative provider in accordance with written policy and procedures that comply with this administrative regulation; and

(h) Participate in all department directed survey initiatives.

(3) A 1915(i) RISE Initiative provider:

(a) Shall ensure that 1915(i) RISE Initiative services are not provided to a participant by a staff person of the 1915(i) RISE Initiative provider who is a guardian, legally responsible individual, or immediate family member of the participant.

(b) Shall not enroll a participant whose needs the 1915(i) RISE Initiative provider is unable to meet;

(c) Shall have and follow written criteria that comply with this administrative regulation for determining the appropriateness of a participant for admission to services;

(d) Shall document:

1. Each denial by the provider for a service requested or necessary for the 1915(i) RISE Initiative participant; and

2. The reason for the denial;

(e) Shall maintain documentation of its operations including:

1. A written description of available 1915(i) RISE Initiative services;

2. A current table of organizational structure;

3. Any memorandum of understanding between a participant's case management agency and the participant's service providers;

4. Information regarding participants' satisfaction with services and the utilization of that information;

5. A quality improvement plan that:

a. Includes updated findings and corrective actions as a result of department and case management quality assurance monitoring; and

b. Addresses how the provider shall accomplish the following goals:

(i) Ensure that the participant receives person-centered 1915(i) RISE Initiative services;

(ii) Enable the participant to be safe, healthy, and respected in the participant's chosen community;

(iii) Enable the participant to live in the community with effective, individualized assistance; and

(iv) Enable the participant to enjoy living and working in the participant's community;

6. A written plan of how the 1915(i) RISE Initiative provider shall participate in the human rights committee in the area the 1915(i) RISE Initiative provider is located;

(f) Shall maintain accurate fiscal information including documentation of revenues and expenses;

(g) Shall meet the following requirements, if responsible, for the management of a participant's funds:

1. Separate accounting shall be maintained for each participant or for the participant's interest in a common trust or special account;

2. Account balance and records of transactions shall be provided to the participant or the participant's guardian on a quarterly basis; and

3. The participant or the participant's guardian shall be notified if a balance is accrued that may affect Medicaid eligibility;

(h) Shall have a written statement of its mission and values, related to the 1915(i) RISE Initiative which shall include:

1. Support participant empowerment and informed decision-making;

2. Support and assist participants to form and remain connected to natural support networks;

3. Promote participant dignity and self-worth;

4. Support team meetings that help ensure and promote the participant's right to choice, inclusion, employment, growth, and privacy;

5. Foster a restraint-free environment where the use of physical restraints, seclusion, chemical restraints, or aversive techniques shall be prohibited; and

6. Support the 1915(i) RISE Initiative goal that all participants:

a. Receive person-centered 1915(i) HCBS services;

b. Are safe, healthy, and respected in the participant's community;

c. Live in the community with effective, individualized assistance, and

d. Enjoy living and working in the participant's community.

(i) Shall have written policy and procedures for communication and interaction with a participant, family, or participant's guardian, which shall include:

1. A response within seventy-two (72) hours of an inquiry;

2. The opportunity for interaction by direct support professionals;

3. Prompt notification of any unusual occurrence;

4. Visitation with the participant at any reasonable time, without prior notice, and with due regard for the participant's right to privacy;

5. Involvement in decision making regarding the selection and direction of the person-centered service provided; and

6. Consideration of the cultural, educational, language, and socioeconomic characteristics of the participant and family being supported.

(j) Shall ensure the rights of a participant by:

1. Providing conflict-free services and supports that are person-centered;

2. Making available a description of the rights and means by which the rights may be exercised and supported including the right to:

a. Live and work in an integrated setting;

b. Time, space, and opportunity for personal privacy;

c. Communicate, associate, and meet privately with the person of choice;

d. Send and receive unopened mail;

e. Retain and use personal possessions including clothing and personal articles;

f. Private, accessible use of a telephone or cell phone;

g. Access accurate and easy-to-read information;

h. Be treated with dignity and respect and to maintain one's dignity and individuality;

i. Voice grievances and complaints regarding services and supports that are furnished without fear of retaliation, discrimination, coercion, or reprisal;

j. Choose among service providers;

k. Accept or refuse services;

l. Be informed of and participate in preparing the PCSP and any changes in the PCSP;

m. Be advised in advance of the:

(i) Provider or providers who will furnish services; and

(ii) Frequency and duration of services;

n. Confidential treatment of all information, including information in the participant's records;

o. Receive services in accordance with the current PCSP;

p. Be informed of the name, business, telephone number, and business address of the person supervising the services and how to contact the person;

q. Have the participant's property and residence treated with respect;

r. Be fully informed of any cost sharing liability and the consequences if any cost sharing is not paid;

s. Review the participant's records upon request;

t. Receive adequate and appropriate services without discrimination;

u. Be free from and educated on mental, verbal, sexual, and physical abuse, neglect, exploitation, isolation, and corporal or unusual punishment, including interference with daily functions of living; and

v. Be free from mechanical, chemical, or physical restraints.

3. Having a grievance and appeals system that includes an external mechanism for review of complaints;

4. Ensuring access to participation in the local human rights committee in accordance with the human rights committee requirements established in Section 5 of this administrative regulation; and

(k) Shall maintain, as applicable, fiscal records, service records, investigations, medication error logs, and incident reports for five (5) years from the date of final payment for services.

(l) Shall make available all records, internal investigations, and incident reports:

1. To the:

a. Department;

b. DBHDID;

c. Office of Inspector General or its designee;

d. Office of the State Budget Director or its designee;

e. Office of the Auditor of Public Accounts or its designee;

f. Office of the Attorney General or its designee;

g. Department for Community Based Services (DCBS);

h. Centers for Medicare and Medicaid Services; or

2. Pertaining to a participant to:

a. The participant, the participant's guardian, or the participant's case manager upon request; or

b. Protection and Advocacy upon written request;

(m) Shall cooperate with monitoring visits from monitoring agents;

(n) Shall maintain a record in the department approved system or provider health record system for each participant served that shall:

1. Contain all information necessary to support person-centered practices;

2. Be cumulative;

3. Be readily available;

4. Contain documentation that meets the requirements of 907 KAR 16:020;

5. Contain the following:

a. The participant's name, Social Security number, and Medicaid identification number;

b. The results of a department approved functional assessment;

c. The current PCSP;

d. The goals and objectives identified by the participant and the participant's person-centered team that facilitates achievement of the participant's chosen outcomes as identified in the participant's PCSP;

e. A list containing emergency contact telephone numbers;

f. The participant's history of allergies with appropriate allergy alerts;

g. The participant's medication record, including a copy of the signed or authorized current prescription or medical orders and the medication administration record if medication is administered at the service site;

h. A recognizable photograph of the participant;

i. Legally adequate consent, updated annually, and a copy of which is located at each service site for the provision of services or other treatment requiring emergency attention;

l. The prior authorization notifications; and

m. Incident reports, if any exist;

6. Be maintained by the provider in a manner that:

a. Ensures the confidentiality of the participant's record and other personal information; and

b. Allows the participant or guardian to determine when to share the information in accordance with law; and

7. Be safe from loss, destruction, or use by an unauthorized person;

(o) Shall ensure that an employee or volunteer:

1. Behaves in a legal and ethical manner in providing a service;

2. Has a valid Social Security number or valid work permit if not a citizen of the United States of America; and

3. If responsible for driving a participant during a service delivery, has a valid driver's license with proof of current mandatory liability insurance for the vehicle used to transport the participant;

(p) Shall ensure that an employee or volunteer:

1. Completes a tuberculosis (TB) risk assessment performed by a licensed medical professional and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider within thirty (30) days of the date of hire or date the individual began serving as a volunteer; or

2. Who tests positive for TB or has a history of positive TB skin tests:

a. Shall be assessed annually by a licensed medical professional for signs or symptoms of active disease; and

b. If it is determined that signs or symptoms of active disease are present, in order for the person to be allowed to work or volunteer, is administered follow-up testing by his or her physician with the testing indicating the person does not have active TB disease;

(q) Shall maintain documentation:

1. Of an annual TB risk assessment or negative TB test for each employee who performs direct support or a supervisory function; or

2. Annually for each employee with a positive TB test that ensures no active disease symptoms are present;

(r) Shall provide a written job description for each staff person that describes the required qualifications, duties, and responsibilities for the person's job;

(s) Shall maintain an employee record for each employee that includes:

1. The employee's experience;

2. The employee's training;

3. Documented competency of the employee;

4. Evidence of the employee's current licensure or registration if required by law; and

5. An annual evaluation of the employee's performance;

(t) Shall require a background check:

1. And drug testing for each employee who is paid with funds administered by the department and who:

a. Provides support to a participant who utilizes 1915(i) RISE Initiative services; or

b. Manages funds or services on behalf of a participant who utilizes 1915(i) HCBS services; or

2. For a volunteer recruited and placed by an agency or provider who has the potential to interact with a participant;

(u) 1. Shall for a potential employee or volunteer obtain:

a. The results of a criminal record check from the Kentucky Administrative Office of the Courts and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;

b. The results of a nurse aide abuse registry check as described in 906 KAR 1:100 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;

c. The results of the Kentucky Adult Caregiver Misconduct Registry check as described in 922 KAR 5:120 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; and

d. Within thirty (30) days of the date of hire or initial date of volunteerism, the results of a central registry check as described in 922 KAR 1:470 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; or

2. May use Kentucky's Applicant Registry and Employment Screening program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this paragraph;

(w) Shall for each potential employee obtain negative results of drug testing for illicit or prohibited drugs;

(x) Shall on an annual basis:

1. Randomly select and perform criminal history background checks, nurse aide abuse registry checks, central registry checks, and caregiver misconduct registry checks of at least twenty-five (25) percent of employees; and

2. Conduct drug testing of at least five (5) percent of employees;

(y) Shall not use an employee or volunteer to provide 1915(i) RISE Initiative services if the employee or volunteer:

1. Has a prior conviction of an offense delineated in KRS 17.165(1) through (3);

2. Has a prior felony conviction or diversion program that has not been completed;

3. Has a drug related conviction within the past two (2) years;

4. Has a positive drug test conducted by the employer within the previous six (6) months for prohibited drugs;

5. Has a conviction of abuse, neglect, or exploitation;

6. Has a Cabinet for Health and Family Services finding of:

a. Child abuse or neglect pursuant to the central registry; or

b. Adult abuse, neglect, or exploitation pursuant to the Caregiver Misconduct Registry; or

7. Is listed on the nurse aide abuse registry;

(z) Shall not permit an employee to transport a participant if the employee has a driving under the influence conviction, amended plea bargain, or diversion during the past year;

(aa) Shall maintain adequate staffing and supervision to implement services being billed;

(bb) Shall establish written guidelines that address and ensure the health, safety, and welfare of a participant, which shall include:

1. A basic infection control plan that includes:

a. Universal precautions;

b. Hand washing;

c. Proper disposal of biohazards and sharp instruments; and

d. Management of common illness likely to be emergent in the particular service setting;

2. Effective cleaning and maintenance procedures sufficient to maintain a sanitary and comfortable environment that prevents the development and transmission of infection;

3. Ensuring that each site operated by the provider is equipped with:

a. An operational smoke detector placed in all bedrooms and other strategic locations; and

b. At least two (2) correctly charged fire extinguishers placed in strategic locations, at least one (1) of which shall be capable of extinguishing a grease fire and have a rating of 1A10BC;

4. For a site operated by a provider, ensuring the availability of an ample supply of hot and cold running water with the water temperature complying with the safety limits established in the participant's PCSP;

5. Establishing written procedures concerning the presence of deadly weapons as defined in KRS 500.080, which shall ensure:

a. Safe storage and use; and

b. That firearms and ammunition are permitted:

(i) Only in non-provider owned or leased residences; and

(ii) Only if stored separately and under double lock;

6. Establishing written procedures concerning the safe storage of common household items;

7. Ensuring that the nutritional needs of a participant are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

8. Ensuring that an adequate and nutritious food supply is maintained as needed by the participant;

9. Ensuring a smoke-free environment for any participant who chooses a smoke-free environment, including settings in which the participant is expected to spend any amount of time, including home, a day training site, a meeting site, or any other location;

10. Ensuring that:

a. Every case manager and any employee who will be administering medication, unless the employee is a currently licensed or registered nurse, has:

(i) Specific training provided by a registered nurse per a DBHDID medication administration approved curriculum; and

(ii) Documented competency on medication administration, medication cause and effect, and proper administration and storage of medication; and

b. An individual administering medication documents all medication administered, including self-administered and over-the-counter drugs, on a medication administration record, with the date, time, and initials of the person who administered the medication and ensure that the medication shall:

(i) Be kept in a locked container;

(ii) If a controlled substance, be kept under double lock with a documented medication count performed every shift;

(iii) Be carried in a proper container labeled with medication and dosage pursuant to KRS 315.010(8) and 217.182(6);

(iv) Accompany and be administered to a participant at a program site other than the participant's residence if necessary; and

(v) Be documented on a medication administration record and properly disposed of, if discontinued; and

11. Adhering to policies and procedures for ongoing monitoring of medication administration;

(cc) Shall establish and follow written guidelines for handling an emergency or a disaster, which shall:

1. Be readily accessible on site;

2. Include instruction for notification procedures and the use of alarm and signal systems to alert a participant according to the participant's disability;

3. Include documentation of training and competency of staff and training of participants on emergency disaster drills;

4. Include an evacuation drill to be conducted in three (3) minutes or less, documented at least quarterly and, for a participant who receives residential support services, is scheduled to include a time when the participant is asleep; and

5. Mandate that the result of an evacuation drill be evaluated and if not successfully completed within three (3) minutes shall modify staffing support as necessary and repeat the evacuation drill within seven (7) days;

(dd) Shall provide orientation for each new employee, which shall include the mission, goals, organization, and practices, policies, and procedures of the agency;

(ee) Shall require documentation of all face-to-face training, which shall include:

1. The type of training provided:

2. The name and title of the trainer;

3. The training objectives;

4. The length of the training;

5. The date of completion;

6. The signature of the trainee verifying completion; and

7. Verification of competency of the trainee as demonstrated by post-training assessments, competency checklists, or post-training observations and evaluations;

(ff) Shall require documentation of web-based training, which shall include transcripts verifying successful completion of training objectives;

(gg) Shall ensure that each case manager or employee prior to independent functioning and no later than six (6) months from the date of employment successfully completes training that shall include:

1. First aid and cardiopulmonary resuscitation certification by a nationally accredited entity;

2. Situational de-escalation;

3. Abuse, neglect, and exploitation;

4. Incident reporting;

5. Medication administration;

6. Professional boundaries;

7. Trauma-informed care;

8. Person-centered principles; and

9. Any additional trainings required by the state behavioral health authority.

(4) A 1915(i) RISE Initiative provider, employee, or volunteer shall:

(a) Not manufacture, distribute, dispense, be under the influence of, purchase, possess, use, or attempt to purchase or obtain, sell, or transfer any of the following in the workplace or while performing work duties:

1. An alcoholic beverage;

2. A controlled substance except a 1915(i) HCBS provider, employee, or volunteer may use or possess a medically necessary and legally prescribed controlled substance;

3. An illicit drug;

4. A prohibited drug or prohibited substance;

5. Drug paraphernalia; or

6. A substance that resembles a controlled substance, if there is evidence that the individual intended to pass off the item as a controlled substance; and

(b) Not possess a prescription drug for the purpose of selling or distributing it.

Section 2. Case Management.

(1) An 1915(i) HCBS RISE Initiative Case Manager provider shall comply with the following personnel requirements of having or attaining experience or licensure as;

(a) A bachelor's degree in behavioral health or human services;

(b) A bachelor's degree in any field not closely related and one (1) year of human services related experience;

(c) An associate degree in a behavioral science, social science, or a closely related field of study and two (2) years human services related experience;

(d) Three (3) years of human services related experience;

(e) A registered nurse; or

(f) A behavioral health professional.

(2) A case manager shall:

(a) Communicate in a way that ensures the best interest of the participant;

(b) Be able to identify and meet the needs of the participant through coordination of Medicaid and non-Medicaid services within the participant's home and community to align with the participant's goals as identified in the functional assessment and documented in the PCSP;

(c) Be competent in the participant's language either through possessing linguistic proficiency, fluency of the language, or through interpretation; and

(d) Demonstrate a heightened awareness of the unique way in which the participant interacts with the world around the participant;

(e) Ensure that:

1. The participant is educated in a way that addresses the participant's:

a. Need for knowledge of the case management process;

b. Personal rights; and

c. Risks and responsibilities as well as awareness of available services; and

2. All individuals involved in implementing the participant's PCSP are informed of changes in the scope of work related to the PCSP as applicable;

3. The participant is educated on how case management services support 1915(i) HCBS;

4. Case management services are available to a participant by phone or in person:

a. Twenty-four (24) hours per day, seven (7) days per week;

b. To assist the participant in obtaining community resources as needed to:

(i) Comply with applicable federal and state laws and requirements;

(ii) Continually monitor a participant's health, safety, and welfare; and

(iii) Complete or revise a PCSP;

(f) Have a code of ethics to guide the case manager in providing case management, which shall address:

1. Advocating for standards that promote outcomes of quality;

2. Ensuring that no harm is done;

3. Respecting the rights of others to make their own decisions;

4. Treating others fairly; and

5. Being faithful and following through on promises and commitments;

(g) Assist the participant to lead the person-centered service planning team to;

1. Take charge of coordinating services through team meetings with representatives of all agencies involved in implementing a participant's PCSP;

2. Include the participant's participation and legal guardian participation, if applicable, in the case management process; and

3. Make the participant's preferences and participation in decision making a priority;

(h) Document a participant's:

1. Interactions and communications with other agencies involved in implementing the participant's PCSP; and

2. Personal observations;

(i) Advocate for a participant with service providers to ensure that services are delivered as established in the participant's PCSP;

(j) Be accountable to:

1. A participant to whom the case manager provides case management in ensuring that the participant's needs are met;

2. A participant's PCSP team and provide leadership to the team and follow through on commitments made; and

3. The case manager's employer by following the employer's policies and procedures;

(k) Stay current regarding the practice of case management and case management research;

(l) Assess the quality of services, safety of services, and cost effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and done so in a way that is efficient regarding the participant's financial assets and benefits;

1. Utilize department approved system to fulfill case management responsibilities, including:

a. Documenting that the participant's health, safety, and welfare are not at risk;

b. Gathering data regarding the participant's satisfaction with the services for use in guiding the person-centered planning process;

c. Recording how the person-centered team will address the following:

(m) Expanding and deepening the participant's relationships;

(ii) Increasing the participant's presence in local community life; and

(iii) Helping the participant have more choice and control; and

(iv) Record using the inability to access services functionality when a person is unable to access 1915(i) RISE Initiative services and when the person returns to services or is not going to return to services.

(n) Present to or engage with a human rights committee on the participant's behalf as needed;

(o) Review and approve each PCSP with human rights restrictions at a minimum of every six (6) months.

(3) Case management for any participant who begins receiving 1915(i) RISE Initiative services after the effective date of this administrative regulation shall be conflict free except as allowed in paragraph (b) of this subsection.

(a) Conflict free case management shall be a scenario in which a provider, including any subsidiary, partnership, not-for-profit, or for-profit business entity that has a business interest in the provider who renders case management to a participant, shall not also provide another 1915(i) HCBS service to that same participant unless the provider is the only willing and qualified 1915(i) RISE Initiative provider within thirty (30) miles of the participant's residence.

(b) An exemption to the conflict free case management requirement shall be granted if:

1. The participant's case manager provides documentation of evidence to the department or its designee that there is a lack of a qualified case manager within thirty (30) miles of the participant's residence;

2. The participant or participant's representative and case manager signs a completed MAP – 531 Conflict-Free Case Management Exemption; and

3. The participant, participant's representative, or case manager uploads the completed MAP – 531 Conflict-Free Case Management Exemption into the department approved system.

(c) If a case management service is approved to be provided despite not being conflict free, the case management provider shall document conflict of interest protections, separating case management and service provision functions within the provider entity, and demonstrate that the participant is provided with a clear and accessible alternative dispute resolution process.

(d) An exemption to the conflict free case management requirement shall be requested upon re-evaluation or at least annually.

(4) A case management agency providing case management to a 1915(i) RISE Initiative participant shall not make a referral to any 1915(i) RISE Initiative services provider to provide services for the same participant if the provider agency has an individual with an ownership interest who is an immediate family member of an individual with an ownership interest in the referring case management agency.

(5) Case management shall:

(a) Assist a participant in the identification, coordination, arrangement, and facilitation of the person-centered team and person-centered team meetings;

(b) Assist a participant and the person-centered team to develop an individualized PCSP and update it as necessary based on changes in the participant's medical condition and supports;

(c) Assist a participant to gain access to and maintain employment, membership in community clubs and groups, activities, and opportunities at the times, frequencies, and with the people the participant chooses;

(d) Include coordinating and monitoring of the delivery of services and the effectiveness of the PCSP, which shall:

1. Be initially developed with the participant and legal representative (i.e., parent, guardian, legally responsible individual) if appointed prior to the level of care determination;

2. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

3. Include the PCSP being sent to the department or its designee prior to the implementation of the effective date the change occurs with the participant;

(e) Be provided by a case manager who:

1. Meets the requirements of subsection (1) of this section;

2. Shall provide a participant and legal representative with a listing of each available 1915(i) RISE Initiative provider in the service area;

3. Shall maintain documentation signed by a participant or legal representative of informed choice of a 1915(i) RISE Initiative provider and of any change to the selection of a Rise Initiative provider and the reason for the change;

4. Shall provide a distribution of the crisis prevention and response plan, transition plan, PCSP, and other documents within the first thirty (30) days of the service to the chosen 1915(i) RISE Initiative service provider and as information is updated;

5. Shall provide twenty-four (24) hour telephone access to a participant and chosen 1915(i) RISE Initiative provider;

6. Shall work in conjunction with a 1915(i) RISE Initiative provider selected by a participant to develop a crisis prevention and response plan, which shall be:

a. Individual-specific and person-centered; and

b. Updated as a change occurs; and

c. Reviewed and updated as necessary at each recertification;

7. Shall assist a participant in planning resource use and assuring protection of resources;

8. Shall conduct an in-person meeting at minimum every other month with a participant occurring either at a covered service site or the participant's residence. However, one (1) visit every three (3) months shall be conducted at the participant's residence; and

9. Shall conduct meetings at a location where the participant is engaged in services.

a. For a participant receiving supervised residential care, shall conduct at least one quarterly visit at the participant's supervised residential care provider site;

b. Telehealth is allowed in all other instances outside of the minimum face-to-face requirements established in subparagraph 8. of this paragraph according to 907 KAR 3:170;

10. Shall ensure twenty-four (24) hour availability of services; and

11. Shall ensure that the participant's health, welfare, and safety needs are met; and

(f) Assist a participant in obtaining a needed service outside those available by 1915(i) HCBS.

Section 3. Person Centered Service Planning Process.

(1) After an initial functional assessment is performed, a participant shall choose a case manager.

(2) The case manager shall assist the participant and the participant's legal guardian, if applicable in developing the PCSP.

(3) Upon acceptance of a new participant, the case manager shall conduct an initial home visit to begin the person-centered planning process no later than forty-five (45) days from the case manager's acceptance.

(4) The person-centered service plan shall:

(a) Be created by using a person-centered team composed of a team of individuals designated by the participant, including any family member, friends, and other paid or unpaid caregivers. The participant and the participant's legal guardian, if applicable, may remove any individuals at their discretion;

(b) Be created by a case manager who shall document the individuals included in the person-centered team on the department approved form and upload it to the department approved system;

(c) Be updated when a support is disinvited or removed from the person-centered planning team;

(d) Require participation of the full person-centered planning team established in paragraph (a) of this subsection;

(e) Be redetermined annually;

(f) Require final approval by the participant and the participant's guardian or authorized representative, if applicable, as to whether there is satisfactory team participation to conduct the PCSP annual review meeting; and

(g) Require documentation by the case manager:

1. Relating to how information about the meeting was provided to absent members; and

2. Of a written attestation by members of the person-centered planning team who do not attend the annual review meeting, or who attend by phone, that they understand the contents of the PCSP and can support the participant's service needs at the requested amount, frequency, duration.

(5) The person-centered service planning team shall:

(a) Collectively review the findings of the participant's functional assessment, including documenting any non-Medicaid paid or unpaid supports including information on the access and limitations of these supports and Medicaid State Plan services.

(b) Work collectively under the leadership of the participant or the participant's legal guardian, if applicable, to complete an additional review of the participant's person-centered planning needs and wishes to establish goals and objectives that enhance:

1. Health;

2. Safety;

3. Welfare;

4. Community-based independence,

5. Community participation; and

6. Quality of life.

(c) Not require that all goals and objectives be accomplished using 1915(i) RISE Initiative funded services.

(6) Goals and objectives as communicated by the person-centered team and PCSP shall include education and team support for the participant and the participant's legal guardian, if applicable.

(7) Goals and objectives for all services on the PCSP shall utilize the SMART format.

(8) The case manager shall provide detailed information to participants about available non-1915(i) RISE Initiative services that may assist in reaching their goals and objectives;

(9)(a) Goals and objectives placed in a PCSP shall be documented, along with an inventory of:

1. A participant's personal preferences;

2. Individualized considerations for service delivery; and

3. Information about the participant's needs, wants, and future aspirations;

(b) The results of the inventory shall be:

1. Included in the PCSP and housed in a department approved system;

2. Signed by the participant and the participant's legal guardian, if applicable, the case manager, and all other individuals responsible for the implementation of services.

(10) The case manager shall provide counseling and education on available service options to meet a participant's person-centered goals and objectives.

(11) After a participant and the participant's legal guardian, if applicable, selects providers to deliver services pursuant to the frequency and amount, the case manager shall facilitate the referral process including attaining providers' signatures on the PCSP.

(12) The case manager shall be responsible to ensure that the scope, frequency, amount and duration of services falls within the allowable utilization criteria and limitations set by the department and shall clearly document any planned changes in utilization anticipated over the course of the year.

(13) The case manager shall maintain documentation showing that all needs identified through the functional assessment are addressed via unpaid supports or paid supports – such as Medicaid state plan

services - and that all paid services are appropriate in amount, duration, frequency as identified by the functional assessment.

(14)(a) Once signatures have been secured from all required person-centered team members, including the participant and the participant's legal guardian, if applicable, the case manager, and all 1915(i) RISE Initiative funded service providers delivering PCSP included services, services may be initiated.

(b) The signatures shall not be obtained until the person-centered planning process and the PCSP are complete.

(15) A service rendered prior to the completed signed attestation of understanding of the contents of the PCSP by these parties shall not be reimbursed.

(16) The participant's signature serves only as acknowledgement and understanding of the PCSP's contents, and signing the PCSP does not preclude the participant from grievance or appeal.

(17) A participant's PCSP shall be recertified on an annual basis. Prior to the reviewing and modifying of the PCSP, the following activities shall occur:

(a) An annual functional assessment;

(b)1. The case manager shall review the annual functional assessment; and

2. The case manager is encouraged to co-attend the performance of the functional assessment. If a case manager chooses to attend the functional assessment, the following requirements shall apply:

a. The case manager shall support the participant in answering questions and not answer questions on the participant's behalf;

b. The case manager shall not influence the participant's response or lack of response; and

c. The functional assessor shall not use information provided by a case manager that directly conflicts with assessment feedback provided by the participant.

(18) The person-centered service planning shall begin forty-five (45) calendar days prior to the end of the current period.

(19) The PCSP shall be completed and uploaded to department approved system seven (7) calendar days prior to the end of the period spanning 364 calendar days from the date a participant is enrolled in the department approved system.

Section 4. Ongoing management and use of the PCSP.

(1) A participant and a participant's legal guardian, if applicable, may request a modification to their PCSP due to changes in their condition or service needs at any time.

(2) Throughout the course of plan monitoring, the case manager shall address instances when a modification to the PCSP may be appropriate.

(3)(a) The case manager shall not initiate any modification to the PCSP without the consent of the participant and the participant's legal guardian if applicable.

(b) The service providers affected by an event-based modification to the PCSP shall be involved in the modification process as well.

(4) Certain modifications or event-based circumstances may require the completion of an updated functional assessment of the participant's needs and make necessary adjustments to the participant's PCSP. The following are examples, but not an exhaustive list, of circumstances that could merit completion of a functional assessment outside of the annual assessment cycle:

(a) Inpatient admission to an institutional care setting with changes at discharge in functional ability from previous assessment;

(b) Change in care setting that increases the participant's level of care, including transitions between community-based settings such as moving from a participant's own home to a residential setting;

(c) Long-term change in access to or ability of an unpaid caregiver;

(d) Observed or reported changes that result in the inability of the participant to meet goals and objectives based on the current PCSP;

(5) If an event-based assessment is initiated pursuant to subsection (4) of this section, the case manager shall:

(a) Initiate in the department approved system;

(b) Review the updated assessment and share information about the assessment outcomes with the participant and the participant's legal guardian, if applicable.

(c) Work with the participant, and any members of the participant's person-centered team as requested by the participant, to modify the PCSP to address any requested or necessary modifications.

(6) An updated PCSP shall be signed by the participant and the participant's legal guardian, if applicable, the case manager, and any new service providers or providers for whom the scope, amount, or duration of service has been adjusted from what was previously consented to or for whom services have been impacted. The signatures shall not be obtained until the person-centered planning process and the PCSP are complete.

(7) The modified PCSP shall remain in effect until the end of the participant's original enrollment year.

(8) An event-based functional assessment shall not eliminate the need for a participant's annual PCSP redetermination.

(9) All providers delivering services shall be:

(a) Notified via the department approved system when a participant's PCSP has changed; and

(b) Responsible for reviewing changes and working with the participant's case manager and person-centered team to make any adjustments or deploy mitigation strategies to ensure continuity of care.

(10) A case manager shall not maintain a case load of more than thirty (30) participants during any monthly period.

Section 5. Documentation Requirements for 1915(i) RISE Initiative Providers.

(1) Documentation shall be maintained in the participant's record for all services provided.

(2) (a) A note shall be entered for each service provided within seventy -two (72) hours from the date of the service being rendered.

(b) Each service shall be documented in the department approved system by a detailed staff note, which shall include:

1. The participant's health, safety, and welfare;

2. Progress toward outcomes identified in the approved PCSP;

3. The date of the service;

4. The beginning and ending times of service provision; and

5. The signature and title of the individual providing the service.

(3) Documentation shall be person centered and reflect the support provided to the participant, including:

(a) The goal from the PCSP addressed by the service;

(b) The activity completed to meet the goal and the outcome;

(c) How the participant responded to the service; and

(d) Any progress or lack thereof toward the goals and objectives reflected on the PCSP.

(4) All service notes shall also include:

(a) The participant's name;

(b) The date of service;

(c) The time of service, including the beginning and end times;

(d) Type of service;

(e) Mode of contact, for example whether the service was in-person, via telephone, or telehealth;

(f) Location of service;

(g) Narrative summary of the service provided and relating what was provided to the goal and objectives on the PCSP; and

(h) Signature, date, and title of the person providing the service.

(5) Each note entered pursuant to this section shall be unique and not duplicative of other notes

(6) Supported Employment shall have these additional documentation requirements:

(a) Documentation that states when Office of Vocational Rehabilitation funding has been exhausted;

(b) A Person-Centered Employment Plan (PCEP) that is executed and implemented when a participant enters into supported employment;

(c) A long-term employment support plan (LTSEP) shall be developed and documented through the PCSP;

(d) The PCEP and LTESP shall include service notes completed each time that a supported employment specialist meets with or conducts an action on behalf of the participant.

(7) Residential Services shall have the following additional documentation requirements:

(a) A daily note describing relevant services and activities in which the participant participated;

(b) Relevant services and activities shall include:

1. Skills training, including adaptive skill development;

2. Assistance with ADLs;

3. Community inclusion;

4. Social and leisure development;

5. Protective oversight or supervision;

6. Transportation;

7. Personal assistance provided; and

8. The provision of medical or health care services.

(8) Case management shall have these additional documentation requirements:

(a) Case management notes shall reflect the monitoring of the services;

(b) Documentation of all contacts and communication conducted with or on behalf of the participants on their caseload;

(c) The documentation shall include, at minimum, one contact with the client conducted in-person or via telehealth;

(d) The monthly contact shall document how the monitoring of services for the participant's PCSP is occurring. For example, whether a phone call with the provider occurred, or if a face-to-face visit occurred during the conduct of a service; and

(e) If the participant has a guardian, regular check-ins with the guardian to determine if the guardian has any relevant information or concerns to share;

(9) The case manager shall have these additional PCSP monitoring requirements:

(a) All service documentation shall be reviewed by the case manager to assist with monitoring services for each participant.

(b) A case manager shall address concerns with the quality of services or documentation with a provider as part of managing the PCSP.

(c) A case manager shall ensure that documentation thoroughly addresses:

1. The current status of the client;

2. The services utilized to address specific goals established in the PCSP; and

3. Resolution of any concern expressed by the client or provider.

(d) As services are provided to a participant, all indirect and direct contacts shall be documented, including, as appropriate, contacts with:

(a) Members of the participant's person-centered team;

(b) Primary care providers;

(c) Additional service providers;

(d) The participant's caregiver or guardian, as relevant.

Section 6. Human Rights Committee.

(1) A human rights committee shall meet on a routine, scheduled basis, no less than quarterly to ensure that the rights of participants utilizing 1915(i) RISE Initiative services are respected and protected through due process.

(2) A human rights committee shall include at least:

(a) One (1) self-advocate;

(b) One (1) member from the community at large with experience in human rights issues or in the field of SMI or co-occurring SMI and SUD;

(c) One (1) appointed guardian or family member of a 1915(i) RISE Initiative participant;

(d) One (1) professional in the medical field; and

(e) One (1) professional with:

1. A bachelor's degree from an accredited college or university; and

2. Three (3) years of experience in the field of behavioral health.

(3) Each 1915(i) RISE Initiative provider shall:

(a) Actively participate in the human rights committee process of the local human rights committee; and

(b) Provide the necessary documentation to the local human rights committee for review and approval prior to implementation of any rights restrictions or positive behavior support plans involving rights restrictions.

(4) A human rights committee meeting shall have a quorum of at least three (3) members, including at least one (1) self-advocate and one (1) community at large member.

(5) A human rights committee shall:

(a) Maintain a record of each meeting; and

(b) Send a summary of each PCSP reviewed to the:

1. Relevant participant; or

2. Participant's guardian and case manager.

(6) Each member of a human rights committee shall:

(a) Complete an orientation approved by DBHDID;

(b) Sign a confidentiality agreement; and

(c) Function in accordance with the Health Insurance Portability and Accountability Act codified as 45 C.F.R. Parts 160, 162, and 164.

(7)(a) A human rights committee shall ensure that any restriction imposed on a participant is:

1. Temporary in nature;

2. Defined with specific criteria outlining how the restriction is to be imposed;

3. Paired with learning or training components to assist the participant in eventual reduction or elimination of the restriction;

4. Removed upon reaching clearly defined objectives; and

5. Reviewed by the human rights committee at least once every six (6) months if the restriction remains in place for at least six (6) months.

(b) In an emergency where there is imminent danger or potential harm to a participant or other individuals, the participant's 1915(i) RISE Initiative service provider, in consultation with the case manager and participant's guardian, as appropriate, may limit or restrict the participant's rights for a maximum of one (1) week.

(c) If a participant is under the care of a psychologist, counselor, psychiatrist, or behavior support specialist, a restriction plan:

1. Shall be developed with the input of the psychologist, counselor, psychiatrist, or behavior support specialist; and

2. May be implemented for up to two (2) weeks.

(d) A proposed continuation of a restriction shall be immediately reviewed and approved by three (3) members of the local human rights committee while alternative strategies are being developed.

(e) If a rights restriction needs to be continued and addressed in the participant's PCSP, the restriction shall be submitted to the local human rights committee at the next regularly scheduled meeting.

Section 7. Other Assurances Required by Provider.

(1) For each participant to whom it provides services, a 1915(i) RISE Initiative provider shall ensure:

(a) The participant's:

1. Right to privacy, dignity, and respect; and

2. Freedom from coercion or restraint;

(b) The participant's freedom of choice as defined by the experience of independence, individual initiative, or autonomy in making life choices in all matters;

(c) That the participant or participant's representative chooses services, providers, and any service settings;

(d) That the participant is provided with a choice of where to live with as much independence as possible and in the most community-integrated environment; and

(e) That the service setting options are:

1. Identified and documented in the participant's PCSP; and

2. Based on the participant's needs and preferences.

(2) A 1915(i) RISE Initiative provider shall not use an aversive technique with a participant.

(3) Any right restriction imposed by a 1915(i) RISE Initiative provider shall:

(a) Be bi-annually reviewed by a human rights committee;

(b) Be subject to approval by a human rights committee; and

(c) Include a plan to restore the participant's rights.

Section 8. Incident Reporting Process.

(1) The incident reporting process shall follow the processes outlined in the "Incident Reporting Instructional Guide for 1915(c) HCBS Waiver Services". Available at: https://www.chfs.ky.gov/agencies/dms/dca/Documents/irinstructionalguide.pdf.

(2) The department or its designee shall continually monitor incident trends and patterns and may require additional incident types beyond those listed above as needed.

(3) A provider shall identify individuals and entities that are required to report critical events and incidents, including:

(a) That any individual who witnesses or discovers a critical or non-critical incident is responsible to report it; and

(b) All persons as defined in KRS 209.030(2) and KRS 620.030.

(4) A provider shall notify all pertinent entities including but not limited to case manager or service advisor, law enforcement, and protective services; and

(a) Ensure that any employee or agent who witnesses or discovers a critical incident shall immediately take steps to ensure the participant's health, safety, and welfare, and notify the necessary authorities, including calling law enforcement and reporting any suspected abuse, neglect, or exploitation;

(b) Comply with existing requirements for reporting of critical and non-critical incidents;

(c) Contact all pertinent entities including, as appropriate, the case manager or service advisor, law enforcement, and protective services.

(5) The department or its designee shall regularly review critical and non-critical incident summary data generated by the department approved system to identify systemic issues and conduct follow-up activities as warranted.

Section 9. Use of Electronic Signatures. The creation, transmission, storage, or other use of electronic signatures and documents shall comply with:

(1) The requirements established in KRS 369.101 to 369.120; and

(2) All applicable state and federal statutes and regulations.

Section 10. Employee Policies and Requirements Apply to Subcontractors. Any policy or requirement established in this administrative regulation regarding an employee shall apply to a subcontractor.

Section 11. Appeal Rights.

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

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

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

Section 12. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services approval for the reimbursement.

907 KAR 16:015
REVIEWED:

1/24/2025
Date

DocuSigned by:
Lisa Lee
7CB973D215D944E...
Lisa D. Lee, Commissioner
Department for Medicaid Services

APPROVED:

1/27/2025
Date

DocuSigned by:
Eric Friedlander
0AEA1D6C15D6431...
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 16:015
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 provider participation and enrollment criteria for the 1915(i) RISE Initiative.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the provider participation and enrollment requirements 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 provider participation and enrollment 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 provider participation and enrollment 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 1915(i) 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) RISE Initiative 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 program 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 16:015
Contact Person: Jonathan Scott
Phone: (502) 564-4321, ext. 2015
Email: jonathant.scott@ky.gov

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

(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 16:015
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. 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.