



1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Fiscal Management

4 (New Administrative Regulation)

5 907 KAR 3:060. Ambulance provider assessment program.

6 RELATES TO: KRS 45.229, 142.301, 142.318, 142.343, 142.359, 194A.030(2), 205.5601,

7 205.5602, 205.5603, 42 Part C.F.R. 413, 42 U.S.C. 1396a

8 STATUTORY AUTHORITY: KRS 194A.050(1), 205.520(3), 205.560(1), 205.5602(2)

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
10 Services, Department for Medicaid Services has responsibility to administer the Medicaid
11 Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a
12 requirement that may be imposed, or opportunity presented, by federal law to qualify for federal
13 funds. KRS 205.5602(2) requires the department to promulgate an administrative regulation to
14 implement the Ambulance Provider Assessment Program, KRS 205.5601 and 205.5603. This
15 administrative regulation establishes the requirements for implementing the Ambulance Provider
16 Assessment Program for ground ambulance providers.

17 Section 1. Definitions. (1) "Assessment" is defined by KRS 205.5602(1)(b).

18 (2) "Department" is defined by KRS 205.5602(1)(e).

19 (3) "Federal financial participation" is defined by 42 C.F.R. 400.203.

20 (4) "Ground ambulance provider" is defined by KRS 205.5602(1)(a).

1 (5) "Medicaid" is defined by KRS 142.301(14).

2 (6) "MMIS" means the Medicaid Management Information System or its successor program.

3 (7) "Program year" means the calendar year during which supplemental payments and tax
4 assessments are made.

5 Section 2. Ambulance Provider Assessment Program. (1) Prior to the program year, the
6 department shall calculate for eligible ground ambulance providers an interim uniform add-on
7 amount for:

8 (a) Emergent transports that the ground ambulance provider is eligible to receive as a
9 supplemental payment for the program year for Medicaid fee-for-service transports; and

10 (b) Non-emergent transports that the ground ambulance provider is eligible to receive as a
11 supplemental payment for the program year for Medicaid managed care transports.

12 (2) On an annual basis, the department shall calculate a lump sum monthly interim supplemental
13 payment for each eligible ground ambulance provider by:

14 (a) Utilizing the uniform add-on amounts referenced in subsection (1)(a) and (1)(b) of this
15 section;

16 (b) Utilizing MMIS fee-for-service data, MMIS managed care encounter data, and ground
17 ambulance survey data to calculate the transport volume; and

18 (c) Reducing the payment volume by a five (5) percent reserve in order to avoid overpayment
19 to ambulance providers.

20 (3) For each month in a program year, the department shall make a monthly Medicaid:

21 (a) Fee-for-service interim payment to each qualifying ground ambulance provider in
22 accordance with the methodology established by KRS 205.5602; and

1 (b) Managed care interim payment to each qualifying ground ambulance provider in accordance
2 with the methodology established by KRS 205.5602.

3 (4) Payment of the monthly Medicaid managed care interim payment shall be made by
4 distribution to each Medicaid managed care organization through a monthly supplemental
5 capitation payment.

6 (5) The department shall submit to each Medicaid managed care organization a listing of the
7 monthly Medicaid managed care supplemental payments that the Medicaid managed care
8 organization shall make to each eligible ground ambulance providers.

9 (6) Each Medicaid managed care organization shall remit to each ground ambulance provider
10 as directed by the department the monthly Medicaid managed care supplemental payment within
11 ten (10) business days of receipt of the monthly supplemental payment.

12 (7) On an annual basis, the department shall calculate the monthly tax assessment for each
13 ground ambulance provider in accordance with KRS 142.318 and KRS 205.5602.

14 (8) If a ground ambulance provider tax assessment is not received in a timely manner, the
15 requirements of this subsection shall be met.

16 (a) The department may deny or withhold future monthly supplemental payments until the
17 assessment is submitted.

18 (b) The department shall refer a provider to Kentucky Board of Emergency Medical Services
19 for potential action related to licensure.

20 (c) Additional penalties and interest may be assessed in accordance with KRS 142.343 and KRS
21 142.359.

22 Section 3. Annual Reconciliation. (1) On an annual basis following the program year, the
23 department shall make final reconciled payments to ground ambulance providers based on:

1 (a) A review of the interim emergent and non-emergent transport add-ons from Section 2(1)(a)
2 and (b) of this administrative regulation;

3 (b) Any interim add-ons that may be adjusted to account for differences between:

4 1. Expected utilization known at the time of the interim add-ons; and

5 2. Actual utilization following the program year; and

6 (c) Final add-ons that shall be applied to actual transport utilization, based on MMIS data, to
7 determine the final supplemental payment amount owed to each provider.

8 (2) Interim payments shall be subtracted from the final supplemental payment owed.

9 (a) A positive balance shall be paid to the provider.

10 (b) A negative balance shall be paid to the department.

11 Section 4. Reporting Requirements. (1) By April 1 of each program year, a ground ambulance
12 provider shall submit a completed revenue survey. An extension may be granted on a temporary
13 and case-by-case basis, not to exceed thirty (30) days, following a written request detailing the
14 exigent circumstances that prevented timely filing of the completed revenue survey.

15 (2) If a complete revenue survey is not received in a timely manner the department may deny
16 or withhold future monthly supplemental payments until a complete survey is submitted.

17 (3) A ground ambulance provider, licensed in Kentucky, operating outside of the state of
18 Kentucky shall report only revenues for transports originating in Kentucky on the revenue survey.

19 Section 5. Access to Supporting Records. Pursuant to 907 KAR 1:672, Section 2(6)(b), a ground
20 ambulance provider shall maintain and make available, upon request of the department or any
21 other auditing or investigating entity, any records and data necessary to justify and document:

22 (1) Revenue survey amounts, submitted in accordance with Section 4, of this administrative
23 regulation;

1 (2) Resolution of a supplemental payment that the ground ambulance provider suspects is in
2 error; or

3 (3) Quality metrics necessary for program reporting to the Centers for Medicare and Medicaid
4 Services.

5 Section 6. Appeal Rights. An appeal of a department decision regarding final reconciled
6 payments shall be in accordance with 907 KAR 1:671.

7 Section 7. Federal Approval and Federal Financial Participation. The department's coverage of
8 services pursuant to this administrative regulation shall be contingent upon:

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

10 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

907 KAR 3:060

REVIEWED:

4/12/21
Date



Lisa D. Lee, Commissioner
Department for Medicaid Services

APPROVED:

4/12/2021
Date

DocuSigned by:
Eric Friedlander
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Eric 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 June 28, 2021, 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 June 21, 2021, 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 June 30, 2021. 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: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 3:060

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov;
and Krista Quarles, (502) 564-6746, CHFSRegs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Department for Medicaid Services (DMS) ambulance provider assessment program. This administrative regulation serves to implement HB 8 from the 2020 Regular Session of the Kentucky General Assembly. Specifically, DMS is required to calculate annual assessment amounts, make monthly payments for Medicaid fee-for-service ambulance transports, and an annual reconciling payment. The administrative regulation also requires DMS to distribute supplemental payments to qualifying ambulance providers by means of a monthly supplemental capitation payment to managed care organizations (MCOs). The MCOs then forward the payments to the qualifying ambulance providers. The MCOs are required to remit the payment within 5 days, and failure to forward the entire payment within 5 days will result in the department assessing penalties. The administrative regulation also establishes requirements relating to the ambulance assessments, and establishes departmental actions when a payment is not received in a timely manner.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's reimbursement provisions and penalty provisions for the ambulance assessment program required by 2020 HB 8.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation implements the provisions of 2020 HB 8.

(d) How this administrative regulation currently assists or shall assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing a statutorily required ambulance assessment program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment shall 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 shall assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: There are approximately 180 licensed ground ambulance providers in Kentucky who will report revenue and participate in the ambulance provider assessment program.

(4) Provide an analysis of how the entities identified in question (3) shall 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) shall have to take to comply with this administrative regulation or amendment. Participating ambulance providers will submit required assessments and comply with reporting requirements to enable the department to calculate each monthly assessment.

(b) In complying with this administrative regulation or amendment, how much shall it cost each of the entities identified in question (3): Costs will vary by ambulance provider and reporting period for the payment of assessments, the supplemental payments disbursed will likely exceed the amount of assessments.

(c) As a result of compliance, what benefits shall accrue to the entities identified in question (3): Ambulance providers will benefit from enhanced rates available as part of this provider assessment program submitted as supplemental payments via the MCOs and as FFS reimbursement from DMS.

(5) Provide an estimate of how much it shall cost to implement this administrative regulation:

(a) Initially: DMS anticipates no additional costs to the department to implement this administrative regulation beyond the appropriation contained in 2020 HB 8.

(b) On a continuing basis: DMS anticipates no additional costs to the department to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching funds.

(7) Provide an assessment of whether an increase in fees or funding shall 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 shall be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used.) Tiering was not applied in this administrative regulation as it applies equally to all regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation Number: 907 KAR 3:060

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov;
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1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30)
2. State compliance standards. KRS 205.520(3) states, “to qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.”
3. Minimum or uniform standards contained in the federal mandate. Medicaid reimbursement for services is required to be consistent with efficiency, economy, and quality of care and be sufficient to attract enough providers to assure access to services. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to:
“ . . . provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.”
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter than federal requirements.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The policy is not stricter or different than the federal standard.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 907 KAR 3:060

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1. 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? The Department for Medicaid Services (DMS) will be impacted by this administrative regulation.
2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), 205.5602(2)(a), and 42 U.S.C. 1396a(a)(30).
3. 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 shall this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS anticipates that this administrative regulation will be revenue neutral to the department in the first year.
 - (b) How much revenue shall this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS anticipates that this administrative regulation will be revenue neutral to the department in subsequent years.
 - (c) How much shall it cost to administer this program for the first year? The costs associated with this program will be met by the appropriations contained in 2020 HB 8 in the first year of operation.
 - (d) How much shall it cost to administer this program for subsequent years? The costs associated with this program will be met by the appropriations to the department contained in 2020 HB 8 in subsequent years.

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: