CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amended After Comments)

907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

RELATES TO: KRS 205.510, 205.520, 205.622, 205.8451, 309.080, 309.0831, 309.130, 311.840, 314.011, 319.010, 319.050, 319.053, 319C.010, 335.080, 335.100, 335.300, 335.500, 369.101 to 369.120, 42 C.F.R. 400.203, 42 C.F.R. 405.2401(b), 405.2412-405.2417, 405.2450, 405.2452, 405.2468, 431.17, 438.2, 440.20, 42 C.F.R. 491.1-491.11, 45 C.F.R. Part 164, 20 U.S.C. 1400, 21 U.S.C. 823, 29 U.S.C. 701, 42 U.S.C. 1395x(aa) and (hh)

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 Medicaid program coverage provisions and requirements relating to rural health clinic services.

Section 1. Definitions. (1) "Adult peer support specialist" means an individual who meets the requirements for an adult peer support specialist established in 908 KAR 2:220.

(2) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(3) "Approved behavioral health practitioner" means an independently licensed practitioner

who is:

(a) A physician;

(b) A psychiatrist;

(c) An advanced practice registered nurse;

(d) A physician assistant;

(e) A licensed psychologist;

(f) A licensed psychological practitioner;

(g) A certified psychologist with autonomous functioning;

(h) A licensed clinical social worker;

(i) A licensed professional clinical counselor;

(j) A licensed marriage and family therapist;

(k) A licensed professional art therapist;

(l) A licensed clinical alcohol and drug counselor; or

(m) A licensed behavior analyst.

(4) "Approved behavioral health practitioner under supervision" means an individual under billing supervision of an approved behavioral health practitioner who is:

(a)1. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

2. A certified psychologist working under the supervision of a board-approved licensed psychologist;

3. A marriage and family therapy associate;

4. A certified social worker;

5. A licensed professional counselor associate;

6. A licensed professional art therapist associate;

7. A licensed clinical alcohol and drug counselor associate;

8. A certified alcohol and drug counselor; or

9. A licensed assistant behavior analyst; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(5) "ASAM Criteria" means the most recent edition of "The ASAM Criteria, Treatment Criteria for Addictive, Substance-Related, and Co-occurring Conditions" published by the American Society of Addiction Medicine.

(6) "Certified alcohol and drug counselor" is defined by KRS 309.080(4).

(7)[~~(2)~~] "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

(8)[~~(3)~~] "Community support associate" means a paraprofessional[~~an individual~~] who[~~:~~

~~(a)~~] meets the community support associate requirements established in 908 KAR 2:250[~~; and~~

~~(b) Has been certified by the Department for Behavioral Health, Intellectual and Developmental Disabilities as a community support associate~~].

(9) "Co-occurring disorder" means a mental health and substance use disorder.

(10)[~~(4)~~] "Department" means the Department for Medicaid Services or its designee.

(11)[~~(5)~~] "Enrollee" means a recipient who is enrolled with a managed care organization.

[~~(6) "Face-to-face" means occurring:~~

~~(a) in person; or~~

~~(b) Via a real-time, electronic communication that involves two (2) way interactive video and audio communication.~~]

(12) "Family peer support specialist" means an individual who meets the requirements for a Ken-

tucky family peer support specialist established in 908 KAR 2:230.

(13)[~~(7)~~] "Federal financial participation" is defined in 42 C.F.R. 400.203.

(14)[~~(8)~~] "Homebound recipient" is defined by 42 C.F.R. 440.20(b)(4)(iv).

(15) "In-person" means a healthcare encounter occurring:

(a) Via direct **consultation**[~~**contact**~~] and interaction between the individual and healthcare provider;

(b) At the same location, and

(c) Not via telehealth.

(16)[~~(9)~~] "Intermittent nursing care" is defined by 42 C.F.R. 405.2401(b).

(17)[~~(10)~~] "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

(18)[~~(11)~~] "Licensed behavior analyst" is defined by KRS 319C.010(6).

(19) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(7).

(20) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(9).

(21)[~~(12)~~] "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

(22)[~~(13)~~] "Licensed marriage and family therapist" is defined by KRS 335.300(2).

(23)[~~(14)~~] "Licensed professional art therapist" is defined by KRS 309.130(2).

(24)[~~(15)~~] "Licensed professional art therapist associate" is defined by KRS 309.130(3).

(25)[~~(16)~~] "Licensed professional clinical counselor" is defined by KRS 335.500(3).

(26)[~~(17)~~] "Licensed professional counselor associate" is defined by KRS 335.500(4)[~~(3)~~].

(27)[~~(18)~~] "Licensed psychological associate" means:

(a) An individual who:

1. Currently possesses a licensed psychological associate license in accordance with KRS

319.010(6); and

2. Meets the licensed psychological associate requirements established in 201 KAR Chapter 26; or

(b) A certified psychologist.

(28)[~~(19)~~] "Licensed psychological practitioner" means:

(a) An individual who meets the requirements established in KRS 319.053; or

(b) A certified psychologist with autonomous functioning.

(29)[~~(20)~~] "Licensed psychologist" means an individual who:

(a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and

(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

(30)[~~(21)~~] "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(31)[~~(22)~~] "Marriage and family therapy associate" is defined by KRS 335.300(3).

(32)[~~(23)~~] "Medically necessary" means that a covered benefit or service is necessary in accordance with 907 KAR 3:130.

(33) "Medication assisted treatment" means the treatment of a substance use disorder with approved medications in combination with counseling, behavior therapies, and other supports.

(34)[~~(24)~~] "Other ambulatory services" is defined by 42 C.F.R. 440.20(c).

(35)[~~(25)~~] "Part-time nursing care" is defined by 42 C.F.R. 405.2401(b).

(36)[~~(26)~~] "Physician" is defined by KRS 205.510(12)[~~(11) and 42 C.F.R. 405.2401(b)~~].

(37)[~~(27)~~] "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R. 405.2401(b).

(38)[~~(28)~~] "Recipient" is defined by KRS 205.8451(9).

(39) "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(12).

(40) "Registered behavior technician" means an individual who meets the following requirements by the Behavior Analyst Certification Board:

(a) Be at least eighteen (18) years of age;

(b) Have a high school diploma or its equivalent; and

(c) Within six (6) months of hire for a new employee or within six (6) months of the effective date of this administrative regulation for an existing employee:

1. Complete a training program that is:

a. Approved by the Behavior Analyst Certification Board;

b. Based on the current edition of the RBT Task List endorsed by the Behavior Analyst Certification Board; and

c. Conducted by Behavior Analyst Certification Board certificants;

2. Pass the Registered Behavior Technician Competency Assessment administered by a Behavior Analyst Certification Board certificant; and

3. Pass the Registered Behavior Technician exam provided by an assistant assessor overseen by a Behavior Analyst Certification Board certificant.

(41)[~~(29)~~] "Rural health clinic" or "RHC" is defined by 42 C.F.R. 405.2401(b).

(42)[~~(30)~~] "State plan" is defined by 42 C.F.R. 400.203.

(43)[~~(31)~~] "Visiting nurse services" is defined by 42 C.F.R. 405.2401(b).

(44) "Withdrawal management" means a set of interventions aimed at managing acute intoxication and withdrawal based on the severity of the illness and co-occurring conditions identified through a comprehensive biopsychosocial assessment with linkage to addiction management services, and incorporated into a recipient's care as needed throughout the appropriate levels of care.

(45) "Youth peer support specialist" means an individual who meets the requirements established

for a Kentucky youth peer support specialist established in 908 KAR 2:240.

Section 2. Covered Services Other Than Behavioral Health Services. The department shall cover the following medically necessary rural health clinic services furnished by a[~~an~~] RHC that has been certified in accordance with 42 C.F.R. 491.1 through 491.11:

(1) Services pursuant to 42 U.S.C. 1395x(aa);

(2) Services provided by a physician if the physician:

(a) Complies with the physician responsibility requirements established by 42 C.F.R. 491.8(b); and

(b)1. Performs the services in a[~~an~~] RHC; or

2. Is compensated under an agreement with a[~~an~~] RHC for providing services furnished to a Medicaid eligible RHC patient in a location other than the RHC;

(3) Services provided by a physician assistant or advanced practice registered nurse who is employed by or receives compensation from the RHC if the services:

(a) Are furnished by a member of the RHC's staff who complies with the responsibility requirements established by 42 C.F.R. 491.8(c);

(b) Are furnished under the medical supervision of a physician except for services furnished by an APRN as these services shall not be required to be furnished under the medical supervision of a physician;

(c) Are furnished in accordance with a medical order for the care and treatment of a patient as prepared by a physician or an advanced practice registered nurse;

(d) Are within the provider's legally-authorized scope of practice; and

(e) Would be covered if furnished by a physician;

(4) Services or supplies furnished as incidental to services provided by a physician, physician as-

sistant, or advanced practice registered nurse if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or 42 C.F.R. 405.2415;

(5) Part-time or intermittent visiting nurse care and related supplies, except for drugs or biologicals, if:

(a) The RHC is located in an area where a determination has been made that there is a shortage of home health agencies pursuant to 42 C.F.R. 405.2417;

(b) The services are provided by a registered nurse or licensed practical nurse who is employed by or compensated for the services by the RHC; and

(c) The services are furnished to a homebound recipient under a written plan of treatment that is:

1. Established and reviewed at least every sixty (60) days by a supervising physician of the RHC; or

2. Established by a physician, physician assistant, or advanced practice registered nurse and reviewed and approved at least every sixty (60) days by a supervising physician of the RHC; or

(6) Other ambulatory services as established in the state plan.

Section 3. Behavioral Health Services. (1) Except as specified in the requirements stated for a given service, the services covered may be provided for:

(a) A mental health disorder;

(b) A substance use disorder; or

(c) Co-occurring mental health and substance use disorders.

(2) The department shall cover, and a rural health clinic may provide, the following services:

(a) Behavioral health services provided by a licensed psychologist, licensed clinical social worker, or advanced practice registered nurse within the provider's legally authorized scope of service; or

(b) Services or supplies incidental to a licensed psychologist's or licensed clinical social worker's

behavioral health services if the service or supply meets the criteria established in 42 C.F.R. 405.2452.

(3) In addition to the services referenced in subsection (2) of this section, the following behavioral health services provided by a rural health clinic shall be covered under this administrative regulation in accordance with the corresponding following requirements:

(a) [~~A screening provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed~~

~~professional art therapist;~~

~~(b) An assessment provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(c) Psychological testing provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed psychological practitioner; or~~

~~3. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~(d) Crisis intervention provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(e) Service planning provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(f) Individual outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(g) Family outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(h) Group outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(i) Collateral outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(j) A screening, brief intervention, and referral to treatment for a substance use disorder provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(k) Day treatment provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed pro-~~

~~fessional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(l) Comprehensive community support services provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst;~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst; or~~

~~18. A community support associate;~~

~~(m) Intensive outpatient program provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate; or~~

~~(n) Therapeutic rehabilitation program services provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist.~~

~~(4)(a)~~] A screening shall:

1. Determine[~~Be the determination of~~] the likelihood that an individual has a mental health disorder, a substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder; [~~and~~]

3. Establish the need for an in-depth assessment;

4. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the provider to:

a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;

b. Determine the individual's readiness for change;

c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the individual to develop a treatment and service plan; [~~and~~]

4. Not include a psychological or psychiatric evaluation or assessment;

5. If being made for the treatment of a substance use disorder, utilize a multidimensional assessment that complies with the most current edition of the ASAM Criteria to determine the most appropriate level of care; and

6. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(c) Psychological testing shall [~~include~~]:

1. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities; [~~and~~]

2. Include an interpretation and a written report of testing results;

3. Be provided by a licensed:

a. Psychologist;

b. Psychological practitioner; or

c. Psychological associate working under the supervision of a licensed psychologist; and

4. Be in-person or via telehealth as appropriate pursuant to 907 KAR 3:170.

(d) Crisis intervention:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:

a. The recipient; or

b. Another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for an individual with a behavioral health disorder;

3. Shall be provided:

a. On-site at a rural health clinic;

b. As an immediate relief to the presenting problem or threat; and

c. In a one (1) on one (1)[~~face-to-face, one-on-one~~] encounter between the provider and the recipi-

ent, which is delivered either in-person or via telehealth if appropriate pursuant to 907 KAR 3:170;

4. May include:

a. Verbal de-escalation, risk assessment, or cognitive therapy; or

b. Further service planning including:

(i) Lethal means reduction for suicide; or

(ii) Substance use disorder or relapse prevention;[~~and~~]

5. Shall be followed by a referral to non-crisis services if applicable; and

6. Shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(e)1. Service planning shall:

a. Be provided in-person or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;

b. Involve[~~consist of~~] assisting a recipient in creating an individualized plan for services needed for maximum reduction of an intellectual disability and to restore the individual to his or her best possible functional level;

c. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

d. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed and signed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c.[~~b.~~] May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

(f) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; and[~~or~~]

b. Restoration of a recipient to the recipient's best possible functional level from a substance use disorder or a co-occurring disorder[~~Recovery from a substance use disorder, mental health disorder, or co-occurring related disorders~~];

2. Consist of:

a. An in-person or via telehealth as appropriate pursuant to 907 KAR 3:170, [~~A face-to-face,~~] one-on-one encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functionality; [~~and~~]

4. Not exceed three (3) hours per day; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(g)1. Family outpatient therapy shall consist of an in-person, or via telehealth as appropriate pur-

suant to 907 KAR 3:170,[~~a face-to-face~~] behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals, including multiple members from one (1) family, who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

4. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(h)1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; and[~~or~~]

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder

or co-occurring disorder[~~Recovery from a substance use disorder, mental health disorder, or co-occurring related disorders~~];

c.[~~b.~~] Consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170,[~~a face-to-face~~] behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

d.[~~c.~~] Be provided to a recipient in a group setting:

(i) Of nonrelated individuals; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f.[~~d.~~] Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g.[~~e.~~] Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h.[~~f.~~] Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. A family outpatient therapy[~~The~~] group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of a group receiving group outpatient therapy shall be related to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(i)1. Collateral outpatient therapy shall:

a. Consist of an in-person or appropriate telehealth, provided pursuant to 907 KAR 3:170,[~~a face-to-face~~] behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's treatment plan; [~~and~~]

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age; and

c. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. Written consent by a parent or custodial guardian[~~Consent~~] to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(j)1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

a.[~~1.~~] Be an evidence-based early intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; [~~and~~]

b.[~~2.~~] Consist of:

(i)[~~a.~~] Using a standardized screening tool to assess an individual for risky substance use behavior;

(ii)[~~b.~~] Engaging a recipient who demonstrates risky substance use behavior in a short conversation and providing feedback and advice; and

(iii)[~~c.~~] Referring a recipient to additional substance use disorder or co-occurring disorder services if the recipient is determined to need[~~:~~

~~(i) Therapy; or~~

~~(ii) Other~~] additional services to address substance use if the recipient is determined to need other additional services;

c. Be provided in-person or via telehealth as appropriate according to 907 KAR 3:170;

d. Be provided by:

(i) An approved behavioral health practitioner; or

(ii) An approved behavioral health practitioner under supervision.

2. A screening and brief intervention that does not meet criteria for referral to treatment may be subject to coverage by the department.

(k) 1. Day treatment shall be a nonresidential, intensive treatment program designed for a child under the age of twenty-one (21) years who has:

a. An emotional disability, [~~or~~] neurobiological disorder, or substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment services shall:

a. Consist of an organized, behavioral health program of treatment and rehabilitative services (substance use disorder, mental health disorder, or co-occurring [~~mental health and substance use~~]

disorders);

b. Have unified policies and procedures that:

(i) Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and

(ii) Have been approved by the recipient's local education authority and the day treatment provider;

c. Include:

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social skill training;

(iii) Independent living skills that correlate to the age and development stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled breaks;

(iii) In coordination with the recipient's individualized education program[~~individual educational plan~~] if the recipient has an individualized education program[~~individual educational plan~~];

(iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under clinical supervision; and

(v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, a[~~an~~] RHC shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with subparagraph 2. of this subsection [~~(3)(k) of this section~~] and to coordinate the provision of services among team members;

b. The capacity to provide the full range of services as stated in subparagraphs 1 and 2 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders, mental health disorders, and co-occurring disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs;

f. The capacity to document and maintain individual case records; and

g. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education program[~~plan~~].

(l)1. Comprehensive community support services shall:

a. Be activities necessary to allow an individual to live with maximum independence in community-integrated housing;

b. Be intended to ensure successful community living through the utilization of skills training, cueing, or supervision as identified in the recipient's treatment plan;

c. Include:

(i) Reminding a recipient to take medications and monitoring symptoms and side effects of medications; or

(ii) Teaching parenting skills, teaching community resource access and utilization, teaching emo-

tional regulation skills, teaching crisis coping skills, teaching how to shop, teaching about transportation, teaching financial management, or developing and enhancing interpersonal skills; and

d. Meet the requirements for comprehensive community support services established in 908 KAR 2:250.

2. To provide comprehensive community support services, a[~~an~~] RHC shall have:

a. The capacity to employ staff authorized to provide comprehensive community support services in accordance with subsection (3)(l) of this section and to coordinate the provision of services among team members;

b. The capacity to provide the full range of comprehensive community support services as stated in subparagraph 1 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs; and

f. The capacity to document and maintain individual case records.

3. Comprehensive community support services shall be provided by:

a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug counselor; or

b. An approved behavioral health practitioner under supervision, except for a:

(i) Certified alcohol and drug counselor; or

(ii) Licensed clinical alcohol and drug counselor associate.

4. Support services for comprehensive community support services conducted by a behavioral health multi-specialty group or a behavioral health provider group by an individual working under the supervision of an approved behavioral health practitioner may be provided by a:

a. Community support associate; or

b. Registered behavioral technician under the supervision of a licensed behavioral analyst.

(m)1. Intensive outpatient program services shall:

a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health disorder, substance use disorder, or co-occurring disorders;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. Meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of The ASAM Criteria for intensive outpatient level of care services;

d. Be provided at least three (3) hours per day at least three (3) days per week;

e. Be provided at least six (6) hours per week for adolescents; and

f.[~~d.~~] Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education related to identified goals in the recipient's treatment plan.

2. During psycho-education, the recipient or family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program treatment plan shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, a[~~an~~] RHC shall have:

a. Access to a board-certified or board-eligible psychiatrist for consultation;

b. Access to a psychiatrist, other physician, physician's assistant, or advanced practiced registered nurse for medication prescribing and monitoring;

c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) to one (1);

d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;

e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with subparagraph 4.[~~subsection (3)(m)~~] of this paragraph[~~section~~] and to coordinate the provision of services among team members;

f. The capacity to provide the full range of intensive outpatient program services as stated in this paragraph;

g. Demonstrated experience in serving individuals with behavioral health disorders;

h. The administrative capacity to ensure quality of services;

i. A financial management system that provides documentation of services and costs; and

j. The capacity to document and maintain individual case records.

4. Intensive outpatient program services shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(n)1. Therapeutic rehabilitation program services shall:

a. Occur at the provider's site or in the community;

b. Be provided to an adult with a severe and persistent mental illness or to a child (under the age of twenty-one (21) years) who has a serious emotional disability;

c. Be designed to maximize the reduction of an intellectual disability and the restoration of the individual's functional level to the individual's best possible functional level; and

d. Not be a residential program.

2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilitation goals within the person-centered service plan.

3. A therapeutic rehabilitation program shall:

a. Be delivered using a variety of psychiatric rehabilitation techniques;

b. Focus on:

(i) Improving daily living skills;

(ii) Self-monitoring of symptoms and side effects;

(iii) Emotional regulation skills;

(iv) Crisis coping skill; and

(v) Interpersonal skills; [~~and~~]

c. Be delivered individually or in a group; and

d. Include:

(i) An individualized plan of care identifying measurable goals and objectives including discharge and relapse prevention planning;

(ii) Coordination of services the individual may be receiving; and

(iii) Referral to other necessary service supports as needed.

4. To provide therapeutic rehabilitation program services, a[~~an~~] RHC shall:

a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation program ser-

vices in accordance with subsection (3)(n) of this section and to coordinate the provision of services among team members;

b. Have the capacity to provide the full range of therapeutic rehabilitation program services as stated in this paragraph;

c. Have demonstrated experience in serving individuals with mental health disorders;

d. Have the administrative capacity to ensure quality of services;

e. Have a financial management system that provides documentation of services and costs; and

f. Have the capacity to document and maintain individual case records.

5. Program staffing for a therapeutic rehabilitation program shall include:

a. Licensed clinical supervision, consultation, and support to direct care staff; and

b. Direct care staff to provide scheduled therapeutic activities, training, and support.

6. Therapeutic rehabilitation services shall be provided by:

a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug counselor; or

b. An approved behavioral health practitioner under supervision, except for a:

(i) Certified alcohol and drug counselor; or

(ii) Licensed clinical alcohol and drug counselor associate.

7. If not provided by an allowed practitioner pursuant to clause 6. of this subparagraph, support services for therapeutic rehabilitation services shall be conducted by a provider:

a. Working under the supervision of an approved behavioral health practitioner; and

b. Who is:

(i) An adult peer support specialist;

(ii) A family peer support specialist; or

(iii) A youth peer support specialist.

(o)1. Peer support services shall:

a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a substance use disorder to a recipient by sharing a similar substance use disorder in order to bring about a desired social or personal change;

(ii) A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a substance use disorder to a parent or family member of a child sharing a similar substance use disorder in order to bring about a desired social or personal change;

(iii) An individual who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing a substance use disorder; or

(iv) A registered alcohol and drug peer support specialist who has been trained and certified in accordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services who provides emotional support to others with substance use disorder to achieve a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

e. Except for the engagement into substance use disorder treatment through an emergency department bridge clinic, be coordinated within the context of a comprehensive, individualized plan of

care developed through a person-centered planning process;

f. Be identified in each recipient's plan of care; and

g. Be designed to contribute directly to the recipient's individualized goals as specified in the recipient's plan of care.

2. To provide peer support services, a chemical dependency treatment center shall:

a. Have demonstrated:

(i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, 908 KAR 2:240, or KRS 309.0831;

c. Use an approved behavioral health practitioner to supervise peer support specialists;

d. Have the capacity to coordinate the provision of services among team members;

e. Have the capacity to provide ongoing continuing education and technical assistance to peer support specialists;

f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

g. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(p)1. Partial hospitalization services shall be:

a. Short-term with an average of four (4) to six (6) weeks,

b. Less than twenty-four (24) hours each day;

c. An intensive treatment program for an individual who is experiencing significant impairment to

daily functioning due to a substance use disorder or co-occurring disorders; and

d. Provided in-person or via telehealth as appropriate pursuant to the most recent version of The ASAM Criteria and 907 KAR 3:170.

2. Partial hospitalization may be provided to an adult or a minor.

3. Admission criteria for partial hospitalization shall be based on an inability of community-based therapies or intensive outpatient services to adequately treat the recipient.

4. A partial hospitalization program shall meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of The ASAM Criteria for partial hospitalization level of care services.

5. A partial hospitalization program shall consist of:

a. Individual outpatient therapy;

b. Group outpatient therapy;

c. Family outpatient therapy; or

d. Medication management.

6. The department shall not reimburse for educational, vocational, or job training services provided as part of partial hospitalization.

7.a. A rural health clinic's partial hospitalization program shall have an agreement with the local educational authority to come into the program to provide all educational components and instruction that are not Medicaid billable or reimbursable.

b. Services in a Medicaid eligible child's individualized education program shall be coverable under Medicaid.

8. Partial hospitalization shall be:

a. Provided for at least four (4) hours per day; and

b. Focused on one (1) primary presenting problem.

9. A partial hospitalization program operated by a rural health clinic shall:

a. Include the following personnel for the purpose of providing medical care:

(i) An advanced practice registered nurse, a physician assistant, or a physician available on site; and

(ii) A board-certified or board-eligible psychiatrist available for consultation; and

b. Have the capacity to:

(i) Provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;

(ii) Employ required practitioners and coordinate service provision among rendering practitioners; and

(iii) Provide the full range of services included in the scope of partial hospitalization established in this paragraph.

(q)1. Withdrawal management services provided by a rural health clinic shall:

a. Be provided in-person or via telehealth as consistent with 907 KAR 3:170 for recipients with a substance use disorder or co-occurring disorder and incorporated into a recipient's care along the continuum of care as needed;

b. Meet service criteria in accordance with the most current version of the ASAM Criteria for withdrawal management levels in an outpatient setting; and

c. If provided in an outpatient setting, comply with 908 KAR 1:374, Section 2.

2. A recipient who is receiving withdrawal management services shall meet the most current edition of diagnostic criteria for substance withdrawal management as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

3. Withdrawal management services in an outpatient setting shall be provided by:

a. A physician;

b. A psychiatrist;

c. A physician assistant;

d. An advanced practice registered nurse; or

e. An approved behavioral health practitioner or behavioral health practitioner under supervision with oversight by a physician, advanced practice registered nurse, or physician assistant.

(r)1. Medication assisted treatment services shall be provided by an authorized prescribing provider who:

a. Is:

(i) A physician;

(ii) An advanced practice registered nurse;

(iii) A physician assistant; or

(iv) A psychiatrist;

b. Meets standards established pursuant to 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products including any waiving or expansion of buprenorphine prescribing authority by the federal government; and

d. Has experience and knowledge in addiction medicine.

2. Medication assisted treatment supporting behavioral health services shall:

a. Be co-located within the same practicing site as the practitioner who maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products or via telehealth as appropriate pursuant to 907 KAR 3:170; or

b. Have agreements in place for linkage to appropriate behavioral health treatment providers who specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alcohol and other substance use disorders, such as:

(i) A licensed behavioral health services organization;

(ii) A multi-specialty group;

(iii) A provider group; or

(iv) An individual behavioral health practitioner.

3. Medication assisted treatment may be provided in a provider group or multi-specialty group operating in accordance with 908 KAR 1:374, Section 7.

4. A medication assisted treatment program shall:

a. Assess the need for treatment including:

(i) A full patient history to determine the severity of the patient's substance use disorder; and

(ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as necessary;

b. Educate the patient about how the medication works, including:

(i) The associated risks and benefits; and

(ii) Overdose prevention;

c. Evaluate the need for medically managed withdrawal from substances;

d. Refer patients for higher levels of care if necessary; and

e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.

(s)1. Applied behavior analysis services shall produce socially significant improvement in human behavior via the:

a. Design, implementation, and evaluation of environmental modifications;

b. Use of behavioral stimuli and consequences; or

c. Use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

2. Applied behavior analysis shall be based on scientific research and the direct observation and measurement of behavior and environment, which utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to assist recipients in:

a. Developing new behaviors;

b. Increasing or decreasing existing behaviors; and

c. Eliciting behaviors under specific environmental conditions.

3. Applied behavior analysis services may include principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis, including applications of those principles, methods, and procedures to:

a. Design, implement, evaluate, and modify treatment programs to change the behavior of individuals;

b. Design, implement, evaluate, and modify treatment programs to change the behavior of individuals that interact with a recipient;

c. Design, implement, evaluate, and modify treatment programs to change the behavior of a group or groups that interact with a recipient; or

d. Consult with individuals and organizations.

4.a. Applied behavior analysis services shall be provided by:

(i) A licensed behavior analyst;

(ii) A licensed assistant behavior analyst;

(iii) An approved behavioral health practitioner with documented training in applied behavior

analysis; or

(iv) An approved behavioral health practitioner under supervision with documented training in applied behavior analysis.

b. A registered behavior technician under the supervision of an appropriate practitioner pursuant to clause a. of this subparagraph may provide support services under this paragraph.

(4)(a) Laboratory services shall be reimbursable in accordance with 907 KAR 1:028 if provided by a RHC if:

1. The RHC has the appropriate Clinical Laboratory Improvement Amendments (CLIA) certificate to perform laboratory testing pursuant to 907 KAR 1:028; and

2. The services are prescribed by a physician, advanced practice registered nurse, or physician assistant who has a contractual relationship with the RHC.

(b) Laboratory services may be administered, as appropriate, by:

1. An approved behavioral health practitioner; or

2. An approved behavioral health practitioner under supervision.

(5)(a) The requirements established in 908 KAR 1:370 shall apply to any provider of a service to a recipient for a substance use disorder or co-occurring mental health and substance use disorders.

(b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a provider of a detoxification service.

(6) The extent and type of assessment performed shall depend upon the problem of the individual seeking or being referred for services.

(7) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

(8)(a) Direct **consultation**[~~**contact**~~] between a provider or practitioner and a recipient shall be required for each service except for a collateral service for a child under the age of twenty-one (21) years if the collateral service is in the child's plan of care.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(9) A billable unit of service shall be actual time spent delivering a service in an[~~a face-to-face~~] encounter.

(10) A service shall be:

(a) Stated in the recipient's treatment plan;

(b) Provided in accordance with the recipient's treatment plan;

(c) Provided on a regularly scheduled basis except for a screening or assessment; and

(d) Made available on a nonscheduled basis if necessary during a crisis or time of increased stress for the recipient.

(11) The following services or activities shall not be covered under this administrative regulation:

(a) A behavioral health service provided to:

1. A resident of:

a. A nursing facility; or

b. An intermediate care facility for individuals with an intellectual disability;

2. An inmate of a federal, local, or state:

a. Jail;

b. Detention center; or

c. Prison; or

3. An individual with an intellectual disability without documentation of an additional psychiatric

diagnosis;

(b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the independent provider;

(c) A consultation or educational service provided to a recipient or to others;

(d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

(e) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of telehealth established pursuant to KRS 205.510(16) and implemented pursuant to 907 KAR 3:170[~~face-to-face~~];

(f) Travel time;

(g) A field trip;

(h) A recreational activity;

(i) A social activity; or

(j) A physical exercise activity group.

(12) A third party contract shall not be covered under this administrative regulation.

Section 4. Provision of Services. A[~~An~~] RHC shall comply with the service provision requirements established by 42 C.F.R. 491.9.

Section 5. Immunizations. A[~~An~~] RHC shall provide, upon request from a recipient, the following covered immunizations:

(1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);

(2) Measles, mumps, and rubella virus vaccine live (MMR);

(3) Poliovirus vaccine, live, oral (any type(s)) (OPV); [~~or~~]

(4) Hemophilus B conjugate vaccine (HBCV);

(5) Hepatitis A;

(6) Meningococcal vaccines; **[~~or~~]**

(7) Meningococcal ACWY vaccine (MenACWY); **or**

(8) Any other vaccine that is recommended by the Advisory Committee on Immunization Practice (ACIP) vaccines.

Section 6. Medical Necessity Requirement. To be covered pursuant to this administrative regulation, a service shall be:

(1) Medically necessary for the recipient; and

(2) Provided to a recipient.

Section 7. Noncovered Services. (1) The following services shall not be covered as rural health clinic services:

(a) Services provided in a hospital as defined in 42 U.S.C. 1395x(e);

(b) Institutional services;

(c) Housekeeping, babysitting, or other similar homemaker services;

(d) Services which are not provided in accordance with restrictions imposed by law or administrative regulation.

(2) A third party contract shall not be covered under this administrative regulation.

Section 8. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a service from an independent behavioral health service provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a rural health clinic.

Section 9. Protection, Security, and Records Maintenance Requirements for All Services. (1)(a) A provider shall maintain a current health record for each recipient.

(b)1. A health record shall document each service provided to the recipient including the date of [~~the~~] service and [~~the~~] signature of the individual who provided the service.

2. The individual who provided the service shall date and sign the health record within seventy-two (72) hours of[~~on~~] the date that the individual provided the service.

(2)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(3)(a) A provider shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;

2. Not be disclosed to an unauthorized individual; and

3. If requested, be disclosed to an authorized representative of:

a. The department; or

b. Federal government.

(c)1. Upon request, a provider shall provide to an authorized representative of the department or federal government information requested to substantiate:

a. Staff notes detailing a service that was rendered;

b. The professional who rendered a service; and

c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department.

2. Failure to provide information referenced in subparagraph 1. of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 10. Documentation and Records Maintenance Requirements for Behavioral Health Services. (1) The requirements in this section shall apply to health records associated with behavioral health services.

(2) A health record shall:

(a) Include:

1. An identification and intake record including:

a. Name;

b. Social Security number;

c. Date of intake;

d. Home (legal) address;

e. Health insurance or Medicaid information;

f. Referral source and address of referral source;

g. Primary care physician and address;

h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider; and

j.[~~k.~~] The name of the informant and any other information deemed necessary by the independent

provider to comply with the requirements of:

(i) This administrative regulation;

(ii) The provider's licensure board;

(iii) State law; or

(iv) Federal law;

2. Documentation of the:

a. Screening;

b. Assessment;

c. Disposition; and

d. Six (6) month review of a recipient's treatment plan each time a six (6) month review occurs;

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;

2. Furnished to the Cabinet for Health and Family Services upon request;

3. Made available for inspection and copying by Cabinet for Health and Family Services' personnel;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(3) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(4)(a) A provider's notes regarding a recipient shall:

1. Be made within seventy-two (72)[~~forty-eight (48)~~] hours of the reconciliation of the record of each service visit; and

2. Describe the:

a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

b. Therapist's intervention;

c. Changes in the treatment plan if changes are made; and

d. Need for continued treatment if continued treatment is needed.

(b)1. Any edit to notes shall:

a. Clearly display the changes; and

b. Be initialed and dated.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by the supervising professional providing the service.

2. If services are provided by a practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervising professional reflecting consultations with the practitioner working under supervision concerning the:

a. Case; and

b. Supervising professional's evaluation of the services being provided to the recipient.

(5) Immediately following a screening of a recipient, the provider shall perform a disposition related to:

(a) An appropriate diagnosis;

(b) A referral for further consultation and disposition, if applicable; and

(c)1. Termination of services and referral to an outside source for further services; or

2. Termination of services without a referral to further services.

(6)(a) A recipient's treatment plan shall be reviewed at least once every six (6) months.

(b) Any change to a recipient's treatment plan shall be documented, signed, and dated by the rendering provider.

(7)(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;

2. Dated;

3. Titled to indicate the service rendered;

4. State a starting and ending time for the service; and

5. Be recorded and signed by the rendering provider and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other nonreimbursable contacts shall:

1. Be recorded in the notes; and

2. Not be reimbursable.

(8)(a) A termination summary shall:

1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and

2. Contain a summary of the significant findings and events during the course of treatment includ-

ing the:

a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's treatment plan;

b. Final diagnosis of clinical impression; and

c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who terminated from receiving services shall be fully completed within ten (10) days following termination.

(9) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(10) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring provider shall, if the recipient gives the provider written consent to do so, forward a copy or summary of the recipient's health record to the health care facility or other provider who is receiving the recipient.

(11)(a) If a provider's Medicaid program participation status changes as a result of voluntarily terminating from the Medicaid program, involuntarily terminating from the Medicaid program, a licensure suspension, or death of the provider, the health records of the provider shall:

1. Remain the property of the provider; and

2. Be subject to the retention requirements established in Section 9(2) of this administrative regulation.

(b) A provider shall have a written plan addressing how to maintain health records in the event of the provider's death.

Section 11. Medicaid Program Participation Requirements. (1)(a) A participating RHC shall be

currently:

1. Enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672; and

2. Except as established in paragraph (b) of this subsection, participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(2)(a) To be initially enrolled with the department, a[~~an~~] RHC shall:

1. Enroll in accordance with 907 KAR 1:672; and

2. Submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as a[~~an~~] RHC.

(b) To remain enrolled and participating in the Kentucky Medicaid program, a[~~an~~] RHC shall:

1. Comply with the enrollment requirements established in 907 KAR 1:672;

2. Comply with the participation requirements established in 907 KAR 1:671; and

3. Annually submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as a[~~an~~] RHC to the department.

(3) A[~~An~~] RHC that has been terminated from federal participation shall be terminated from Kentucky Medicaid program participation.

(4) A participating RHC and its staff shall comply with all applicable federal laws and regulations, state laws and administrative regulations, and local laws and regulations regarding the administration and operation of a[~~an~~] RHC.

(5)(a) If a[~~an~~] RHC receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsec-

tion may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

Section 12. Third Party Liability. A provider shall comply with KRS 205.622.

Section 13. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 14. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 15. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

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

Section 16. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

907 KAR 1:082
REVIEWED:

9/6/2022
Date

DocuSigned by:
Lisa Lee
7CB973D215D941E...
Lisa D. Lee, Commissioner
Department for Medicaid Services

APPROVED:

9/6/2022
Date

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 1:082
Cabinet for Health and Family Services
Department for Medicaid Services
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 coverage provisions and requirements regarding Medicaid program rural health clinic (RHC) services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid program RHC services.

(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 the coverage provisions and requirements regarding Medicaid program RHC services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid program RHC services.

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

(a) How the amendment will change this existing administrative regulation: The amendments to the regulation define new terms "adult peer support specialist", "approved behavioral health practitioner", "approved behavioral health practitioner under supervision", "ASAM Criteria", "certified alcohol and drug counselor", "co-occurring disorder", "family peer support specialist", "in-person", "licensed clinical alcohol and drug counselor", "licensed clinical alcohol and drug counselor associate", "medication assisted treatment", "registered alcohol and drug peer support specialist", "registered behavior technician", "withdrawal management", and "youth peer support specialist". The regulation is further amended to combine the service description with the providers who can perform the service. This is consistent with recent changes made to the service descriptions in 907 KAR Chapter 15. The regulation is also amended to require compliance with the appropriate level of care of the ASAM Criteria when treating substance use disorder for several types of services. The regulation is also amended to allow for telehealth in several additional services, if the telehealth service is appropriate pursuant to 907 KAR 3:170. Services such as comprehensive community support services and therapeutic rehabilitation programs are expanded. New services of peer support, partial hospitalization, withdrawal management, medication assisted treatment, and applied behavior analysis are introduced and are now reimbursable when performed within rural health clinics. In addition, laboratory services are now allowed to be reimbursable if the RHC has the appropriate certifi-

cate. Finally, the documentation requirement for providers is being increased to within 72 hours of the date that the individual provided the service instead of on the same day that the service was provided.

The Amended After Comments version of the administrative regulation modifies the concept of "direct contact" to require "direct consultation". In addition, all Advisory Committee on Immunization Practice (ACIP) vaccines can now be requested by recipients.

(b) The necessity of the amendment to this administrative regulation: The amendments serve to synchronize and expand behavioral health services that can be provided by RHCs consistent with recent changes to 907 KAR Chapter 15.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing recent changes and service expansions to an additional population of behavioral health practitioners.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with an approved Section 1115 waiver to implement the ASAM Criteria as well as implementing recent changes and service expansions for an additional population of behavioral health practitioners.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Approximately 295 rural health clinics will be affected by this amendment. Additionally, certain behavioral health professionals and practitioners will be impacted by this amendment. Finally, Medicaid recipients who qualify for substance use disorder services or the enhanced scope of behavioral health services will be affected by this amendment.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. The expanded services are voluntary so no new actions are required. To provide the additional and enhanced behavioral health services permitted in this administrative regulation, some new provider types or licensure and certification requirements may be needed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is anticipated as expanding the scope of services is voluntary.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). RHCs will benefit by being authorized to provide more services. The expanded types of behavioral health practitioners/professionals will benefit by having more employment opportunities in which to provide services. Medicaid recipients will benefit by having enhanced access to behavioral health services including substance use disorder services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: DMS does not anticipate additional costs in implementing this administrative

regulation on an initial basis.

(b) On a continuing basis: On a continuing basis, DMS does not anticipate additional costs 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: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX, and matching funds of agency and general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is 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 is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 1:082
Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act.

2. State compliance standards. KRS 205.520(3) states:

"Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. 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. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The 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 administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 1:082
Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

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 will be affected by the amendment to this administrative regulation as will any RHC owned by a local government agency.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act.

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 will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS does not anticipate that this administrative regulation will generate revenue for the state or local government in the first year of implementation.
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS does not anticipate that this administrative regulation will generate revenue for the state or local government in subsequent years of implementation.
(c) How much will it cost to administer this program for the first year? DMS does not anticipate that this administrative regulation will generate costs in the first year of implementation.
(d) How much will it cost to administer this program for subsequent years? DMS does not anticipate that this administrative regulation will generate costs in subsequent years of implementation.

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:
Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.
(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in subsequent years.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings(+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS does anticipate that this amendment will result in additional practice opportunities for certain behavioral health providers.

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 1:082.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy

Amended After Comments

I. A public hearing on 907 KAR 1:082 was held on July 25, 2022. In addition, written comments were received during the public comment period.

II. The following individuals submitted comments during the public comment period:

Name and Title	Agency/Organization/Entity/Other
Nancy Galvagni, President and CEO	Kentucky Hospital Association
Chase Coffey, Senior Policy Advisor	Kentucky Primary Care Association
Jill Martin, Director of Behavioral Health	Kentucky Primary Care Association
Teresa Cooper, Director of Government Affairs	Kentucky Primary Care Association
Rebecca Randall, Senior Director of Operations	WellCare Health Plans of Kentucky
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services

III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 1:082

Name and Title	Agency/Organization/Entity/Other
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office

Leslie Hoffman, Chief Behavioral Health Officer	Department for Medicaid Services, Commissioner's Office
Justin Dearinger, Assistant Director	Department for Medicaid Services, Division of Policy and Operations
Eddie Newsome, Branch Manager	Department for Medicaid Services, Division of Policy and Operations
Ann Hollen, Senior Behavioral Health Policy Advisor	Department for Medicaid Services, Division of Policy and Operations
Angela Sparrow, Behavioral Health Specialist	Department for Medicaid Services, Division of Policy and Operations
Sherri Staley, Behavioral Health Specialist	Department for Medicaid Services, Division of Policy and Operations
Leigh Ann Fitzpatrick, Behavioral Health Specialist	Department for Medicaid Services, Division of Policy and Operations
Jodi Allen, Behavioral Health Specialist	Department for Medicaid Services, Division of Policy and Operations
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services, Commissioner's Office

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: End availability of partial hospitalization for this provider type
(a) Comment: Nancy Galvagni, President and CEO, Kentucky Hospital Association, submitted comments indicating that partial hospitalization should not be provided by Rural Health Clinics (RHCs), Federally Qualified Health Care Centers (FQHCs), FQHC look-alikes, Behavioral Health Services Organizations (BHSOs), Residential Crisis Stabilization Units (RCSUs), Chemical Dependency Treatment Centers (CDTCs), and Behavioral Health Multi-Specialty Groups (MSGs).
(b) Response: The department is not prepared to retract available behavioral health services at this time. During the design and implementation of the SUD 1115 Waiver, partial hospitalization

was identified as a gap in Kentucky's continuum of services. In order to continue meeting our requirements under that federal authorization, and to better serve vulnerable Medicaid members, this important service should remain available to complying RHCs. Furthermore, only licensed organizations who meet the negotiated state plan definition to provide the service are permitted to provide partial hospitalization. The department will not be amending the administrative regulation in response to the comment.

(2) Subject: Relationship between clinical and billing supervisor
(a) Comment: Chase Coffey, Senior Policy Advisor; Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that the clinical supervisor and the billing supervisor be allowed to be the same person or for both supervisors to be employed by or under contract with the same entity.
(b) Response: The department only regulates with respect to billing supervision. In order to ensure payment and meet federal requirements, the agency is required to ensure the billing supervisor for Medicaid meets the administrative regulation's standards. Within Medicaid, the billing supervisor would sign off on notes for approved behavioral health practitioners under supervision. Clinical supervision is a specific and specialized process required by some licensure boards to obtain the next licensure level. As an example, a licensed clinical social worker (LCSW) would supervise a certified social worker (CSW) who is working towards becoming a LCSW. That licensure-board related process is beyond the scope of Medicaid. Therefore, the department does not have the ability to regulate that the two types of supervision be identical. The individual RHC may seek to employ billing supervisors who can also function as clinical supervisors, however, the department is not prepared to mandate that level of staffing decision-making for facilities. The department will not be amending the administrative regulation in response to the comment.

(3) Subject: Provision of screenings
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that the way that a screening is provided be modified. The request is that screening forms be allowed to be filled out and scored at any time by any patient or clinic staff. The requirement should be that the screening is interpreted by an approved behavioral health practitioner or practitioner under supervision.
(b) Response: In order to comply with all state and federal requirements, it is important for a screening to be conducted by a behavioral health practitioner or a behavioral health practitioner under supervision. The department will not be amending the administrative regulation in response to the comment.

(4) Subject: Reimbursement for collateral outpatient therapy
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments applauding the introduction of collateral outpatient therapy. In addition, a request was made that the new therapy be billed as an encounter and be paid at the prospective payment system rate for the facility.
(b) Response: The department appreciates this comment and will take this comment under ad-

visement as reimbursement decisions are made relating to the implementation of this new service. The department will not be amending the administrative regulation in response to the comment.

(5) Subject: Provision of comprehensive community support services
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that comprehensive community support service requirements be provided in accordance with 908 KAR 2:250 and that current language regarding providers be deleted.
(b) Response: The certification regulation established in 908 KAR 2:250 establishes a minimum threshold for a community support associate to become certified to provide services. There are times when the department's negotiated state plan version of a service will establish a more restrictive reimbursement requirement that supersedes the more minimal licensure standards. In other circumstances, DMS remains accountable to the federal government for the results and quality of services rendered. To this end, a higher level of quality or practitioner may be required by the DMS administrative regulation. The department will not be amending the administrative regulation in response to the comment.

(6) Subject: Direct contact requirement and telehealth
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that a requirement relating to direct contact between recipients and practitioners be removed. The rationale for the change would be to allow greater telehealth service expansion.
(b) Response: The direct contact requirement does not relate to telehealth. However, given the pandemic and the way that the public understanding of "direct contact" has changed, it is appropriate to change this term to "direct consultation". The concept that is attempting to be portrayed through this term when it is found in our behavioral health administrative regulations is that the provider must be present – physically or virtually – with the recipient for the encounter to be eligible for reimbursement. Direct contact is still achieved when both the provider and the recipient participate in a synchronous or asynchronous telehealth encounter. DMS will change the term to "direct consultation" in this administrative regulation and will amend other administrative regulations to conform as they are amended in the regular course of DMS operations.

(7) Subject: Authority to provide additional vaccinations
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, and Jonathan Scott, Regulatory and Legislative Advisor, Department for Medicaid Services, submitted comments requesting that Section 5 of the administrative regulation relating to immunizations be clarified.
(b) Response: As written, the administrative regulation appears to restrict the immunizations that can be offered by RHCs. The administrative regulation currently contains a list of vaccines that must be offered by the RHC if requested by a recipient. It is also appropriate to clarify this section and further expand this list of vaccines. The administrative regulation will be amended to add a requirement that all Advisory Committee on Immunization Practices (ACIP) vaccines be

available.

(8) Subject: Inclusion of Physical Therapy, Occupational Therapy, and Speech Language Pathology
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that these services be included within the services offered by a rural health clinic and reimbursed by Medicaid.
(b) Response: Implementation of physical therapy, occupational therapy, and speech language pathology into Rural Health Clinics would require additional steps by the department. In particular, DMS would need to seek a state plan amendment and seek further input from this provider community. DMS is interested in pursuing this requirement, but it should be taken in a more measured fashion with input from this provider community and with a full analysis into how it might impact RHC prospective payment system rates. The department will not be amending the administrative regulation in response to the comment.

(9) Subject: Inclusion of standalone mobile rural health clinics
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that standalone mobile rural health clinics be allowed in accordance with the 1977 Rural Health Clinic Services Act.
(b) Response: The department is not prepared to implement an expanded mobile rural health clinic presence at this time. RHCs retain the ability to utilize telehealth, including audio-only telehealth, to reach recipients in more remote areas. Furthermore, implementation of this concept would require a state plan amendment and a more extensive negotiation with the federal government. The department will not be amending the administrative regulation in response to the comment.

(10) Subject: Inclusion of Targeted Case Management
(a) Comment: Chase Coffey, Senior Policy Advisor, Teresa Cooper, Director of Government Affairs, and Jill Martin, Director of Behavioral Health, Kentucky Primary Care Association, submitted comments requesting that targeted case management be added in accordance with 908 KAR 2:260. This would encourage holistic treatment of the patient and, hopefully, result in overall improved healthcare costs.
(b) Response: The department's targeted case management administrative regulations are located in 907 KAR Chapter 15. It is the department's position that providers of targeted case management should be allowed and permitted to offer targeted case management via those administrative regulations. At this time, implementation of targeted case management into Rural Health Clinics would require additional steps by the department. DMS would need to seek a state plan amendment and conduct a full analysis into how it might impact RHC prospective payment system rates. In the event that this service is included for RHCs, the department would amend the Chapter 15 targeted case management administrative regulations. The department will not be amending the administrative regulation in response to the comment.

V. SUMMARY OF STATEMENT OF CONSIDERATION AND ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 1:082. This administrative regulation is being amended after comments. DMS is amending the administrative regulation as follows:

Page 4
Section 1(15)(a)
Line 5
After "Via direct" insert "consultation".
Delete "contact"

Page 44
Section 3(8)(a)
Line 1
After "Direct" insert "consultation".
Delete "contact".

Page 46
Section 5(6)
Line 1
Delete "or".

Page 46
Section 5(7)
Line 2
After "vaccine (MenACWY)" insert "; or".

Page 46
Section 4 (8)
Line 3
After Line 2, insert the following:
(8) Any other vaccine that is recommended by the Advisory Committee on Immunization Practice (ACIP) vaccines