



Commonwealth of Kentucky
Medicaid Oversight Advisory Committee

July 18, 2018

Kentucky HEALTH Update

Legal Challenge Update

Information presented at
June 20, 2018 MOAC meeting

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- Oral Arguments 6/15 in Washington D.C.
 - Judge signaled ruling likely prior to 7/1/18
 - Adverse ruling could impact various components of the 1115, and/or the 1115 program as a whole
 - Adverse ruling could have the following consequences:
 - Technology changes/costs
 - Communication changes (could cause significant confusion among recipients, providers, MCOs, etc.)
 - Immediate benefits cuts (dental, vision, likely pharmacy removed for low-income adult eligibility groups)
 - Expansion eligibility group at risk (immediate evaluation of rolling back expansion)
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Status of Kentucky HEALTH Implementation

- Based on the June 29th legal decision, changes to Medicaid under Kentucky HEALTH **did not** begin on July 1, 2018 as planned.
- The court ruling gave the Cabinet for Health and Family Services (CHFS) a matter of hours to undo a year and a half of meticulous planning between a large number of community partners, Cabinets, and agencies.
- The Kentucky HEALTH team was given just 30 hours to identify how the court ruling affected systems integration, types of healthcare coverage, and planned communications with stakeholders.
- The court ruling has prevented the Commonwealth from using the My Rewards program as the legal mechanism to pay for dental and vision coverages for those beneficiaries in the alternative benefit plan.

What does this mean for implementation?

- The judge's order **did not** rule any of the Kentucky HEALTH components to be unlawful.
- The judge's order **did not** stop community engagement (which has been referred to in the media as a "work requirement").
- The judge's order **did** remove Kentucky's 1115 approval on a narrow basis, and sent it back to Secretary of the Health & Human Services Cabinet to reconsider based on what the judge interpreted as missing from specific consideration in the approval decision:
 - Provision of medical assistance and, more specifically, its impact on coverage.

Next steps for implementation

- The Kentucky HEALTH team is working with the Governor's office, CMS, HHS, and DOJ toward a re-approval.
- No decision has been made as to seeking an appeal of the judge's ruling.
- MCOs, Workforce Boards/Kentucky Career Centers, DCBS, Foundation for a Healthy Kentucky, and other partners have remained engaged, and continue to partner on technology, communications, and policy questions during this transition period.

Vision and Dental Benefits

- Individuals in the Alternative Benefits Plan currently **do not** have routine dental and vision coverage that would have been paid for by My Rewards program
- They **do** still have access to covered medical procedures that would not have been paid for with My Rewards dollars.
- Individuals on the Medicaid State Plan still have routine and medical dental and vision benefits, with no changes:
 - Pregnant women
 - Children
 - Medically Frail individuals
 - Former Foster Youth (up to age 26)

Overview of State Plan Amendment (SPA) Actions

When the court ruling sent Kentucky HEALTH back to the U.S. Department of *Health and Human Services (HHS)*, the My Rewards Program that was designed to pay for routine preventive vision and dental services for the Alternative Benefit Plan (ABP) was stopped. The State Plan Amendment (SPA 18-001) submitted in April included language that outlined this ABP Adult Group's benefits. This included removal of routine preventive vision and dental services for the Adult Group that began coverage with the 2014 Alternative Benefits Plan.

Per the normal SPA process, a state is able to submit and implement a State Plan Amendment to CMS before it is approved. The Commonwealth provided the public with advance notice of the amendment on April 23, 2018 when it posted public notice on the Department for Medicaid Services (DMS) website. The revision to the 2013/2014 State Plan Amendment that created the new Adult Group for the Expansion of Medicaid was submitted on May 9, 2018.

This May 9 submission restarted the 90-day clock with CMS. During these 90 days, CMS can ask many informal questions (via email or calls), and the state may submit clarification or changes. If CMS and the state can get the SPA in approval format, CMS will approve the SPA during the initial 90-day period.

Through discussions with Centers for Medicare & Medicaid Services (CMS,) the Commonwealth has received assurances that the SPA 18-001 is on course for approval. The Commonwealth was advised that it could move forward with Kentucky HEALTH implementation beginning on July 1.

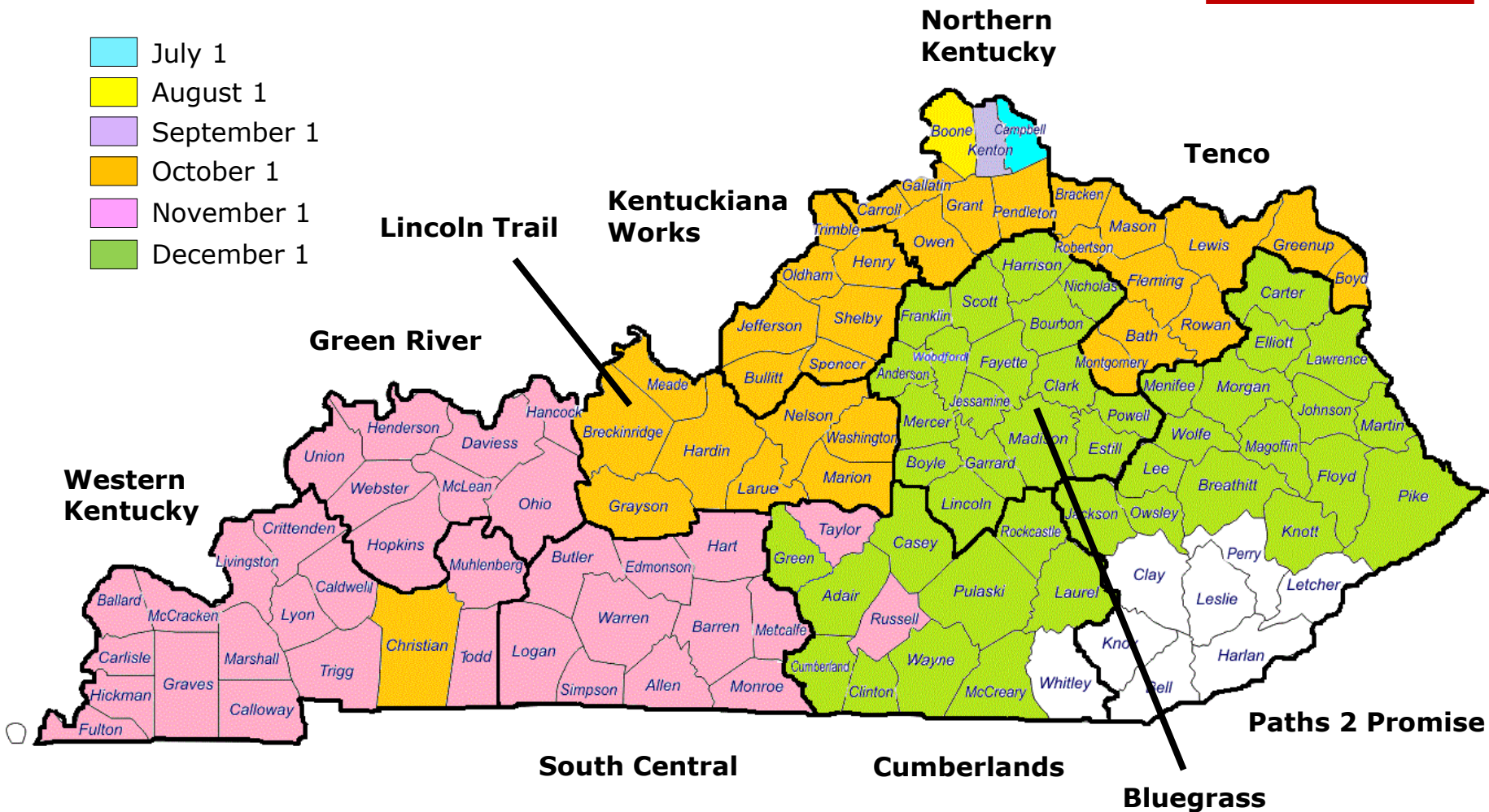
Frequently Asked Questions about the State Amendment Process

Question	Answer
How did you give public notice?	Public notice regarding SPA 18-001 was published prominently on DMS homepage on and available upon request at every DCBS office in each county in the state. See screen shot of the homepage and copy of the public notice.
Was the SPA on the website when the court ruling came down?	It was posted on the DMS website on April 23, 2018 (see screenshot). On June 28, 2018, CMS advised that the original links provided for the Public Notice did not work. This error was due to the changeover to the new CHFS web platform. Upon receipt of this information, the original Public Notice was reposted on the new website on June 30, 2018.
Did you provide adequate opportunity to comment?	Yes. It was on the website and available upon request at every DCBS office in each county in the state.
What authority / precedent are you following to implement without approval?	See attached for examples of precedent, which include: <ul style="list-style-type: none"> • SPA 13-021 – changed all the benefits offered to non-expansion Medicaid beneficiaries was implemented on January 1, 2014 and approval was received on January 10 for January 1, 2014 effective date. • SPA 13-023 - the Commonwealth's SPA increasing cost sharing was implemented on Jan 1, 2014. Approval was received on January 3, 2014 for a January 1, 2014 effective date. • SPA 14-007 – SPA regarding prescription drug costs for state owned and operated VA nursing facilities was implemented on August 1, 2014. It was approved on February 10, 2015 and effective on August 1, 2014.

PATH Community Engagement Rollout: Potential Changes

DRAFT

- July 1
- August 1
- September 1
- October 1
- November 1
- December 1



*The counties labeled white are Paths 2 Promise counties. These counties are exempt from the PATH requirement through 2018. Additional information on requirements for these counties will be provided at a later date.

Stakeholder Advisory Forums

When



March 8th
1:00 PM EST



KY Transportation Cabinet Auditorium
200 Metro St, Frankfort, KY 40601



April 5th
1:00 PM EST



Kentucky Career Center
600 West Cedar St. Room 111, Louisville, KY 40202



May 3rd
1:00 PM EST



KY Transportation Cabinet Auditorium
200 Metro St, Frankfort, KY 40601



June 7th
1:00 PM EST



Kentucky Career Center
1324 Madison Ave., Covington, KY 41011



July 12th
1:00 PM EST

POSTPONED



Ashland Community & Technical College
LRC Building Room L275, Ashland, KY 41101



August 2nd
1:00 PM CST



Green River ADD
300 Gradd Way, Owensboro, KY 42301



September 6th
1:00 PM EST



KY Transportation Cabinet Auditorium
200 Metro St, Frankfort, KY 40601



October 4th
1:00 PM EST



Center for Rural Dev. Ballroom
2292 US-27 #300, Somerset, KY 42501



November 1st
1:00 PM EST



KY Transportation Cabinet Auditorium
200 Metro St, Frankfort, KY 40601



December 6th
1:00 PM EST



KY Transportation Cabinet Auditorium
200 Metro St, Frankfort, KY 40601

Kentucky HEALTH Website Updates

The Kentucky HEALTH website and social media pages have been updated regularly with information about how the legal ruling has affected beneficiaries, providers, and stakeholders.

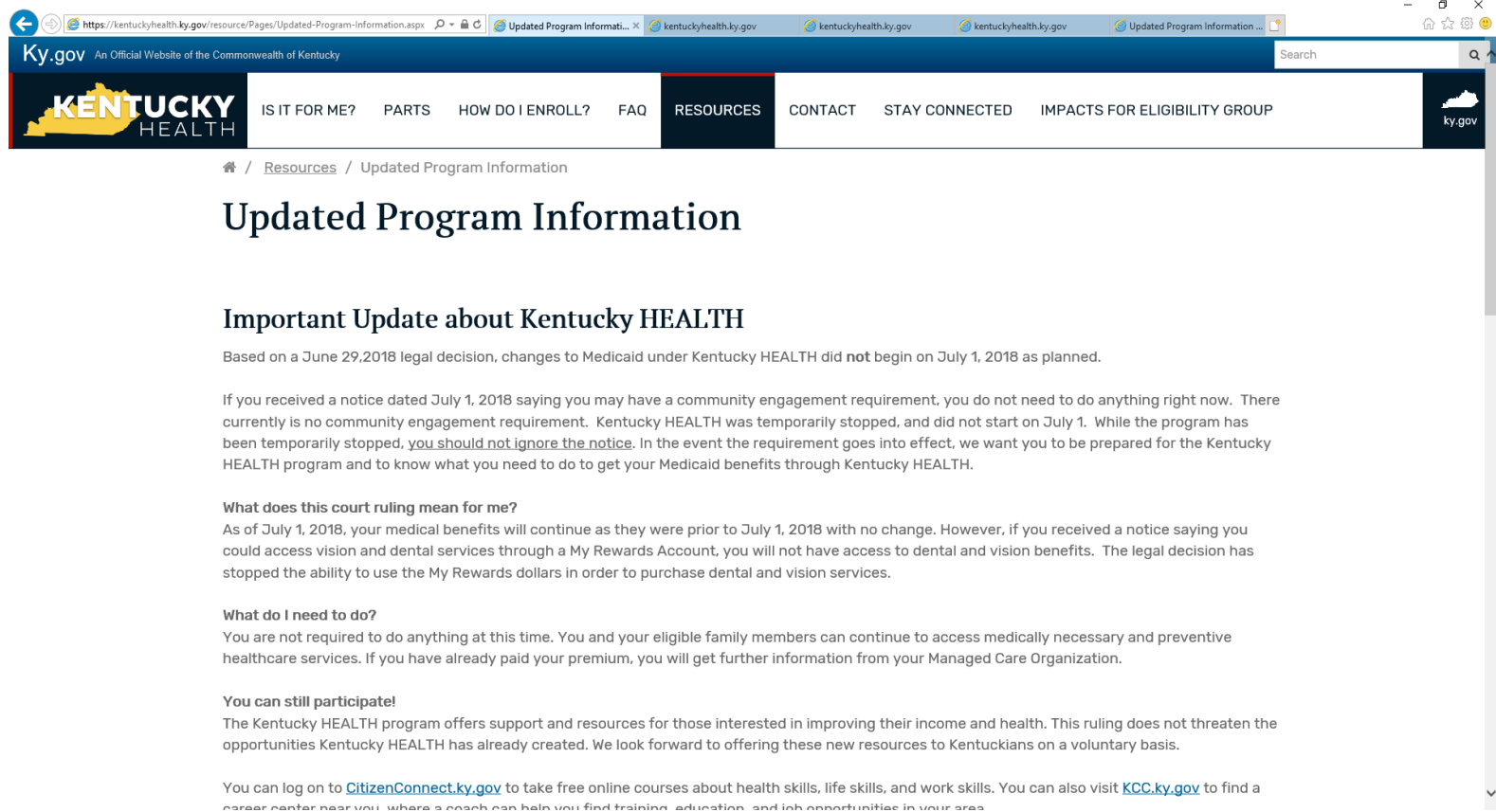
Kentucky HEALTH Website: www.KentuckyHEALTH.ky.gov

The screenshot shows the homepage of the Kentucky HEALTH website. At the top, there is a navigation bar with four tabs: "Is Kentucky HEALTH For Me?", "How Do I Enroll?", "Stay Connected", and "Get In-Person Help". Below the navigation bar, there are two main content areas. On the left, there is a yellow and blue graphic with the text "Find important Kentucky HEALTH updates and resources here!" and the Kentucky HEALTH logo. On the right, there is a video player with the title "Important Message from CHFS Deputy Secretary Kristi..." and the Kentucky HEALTH logo. Below these, there are two sections of text. The first section is titled "Important Update about Kentucky HEALTH" and contains the following text: "Based on a June 29, 2018 legal decision, changes to Medicaid under Kentucky HEALTH did not begin on July 1, 2018 as planned. Please click [here](#) for more resources and information about how this impacts Medicaid in Kentucky." The second section is titled "Actualización importante sobre Kentucky HEALTH" and contains the following text: "En base a la decisión legal emitida el 29 de junio de 2018, los cambios a Medicaid bajo el nombre Kentucky HEALTH no comenzaron el 1 de julio de 2018 como se había planeado. Por favor [haga clic](#) aquí para más recursos e información sobre cómo esto afecta al programa Medicaid en Kentucky." At the bottom right, there is a dark blue subscription form with the text "Subscribe to Kentucky HEALTH updates", a text input field for "Enter your email address", a yellow "SUBSCRIBE" button, and two links: "No Thanks" and "Remind Me Later".

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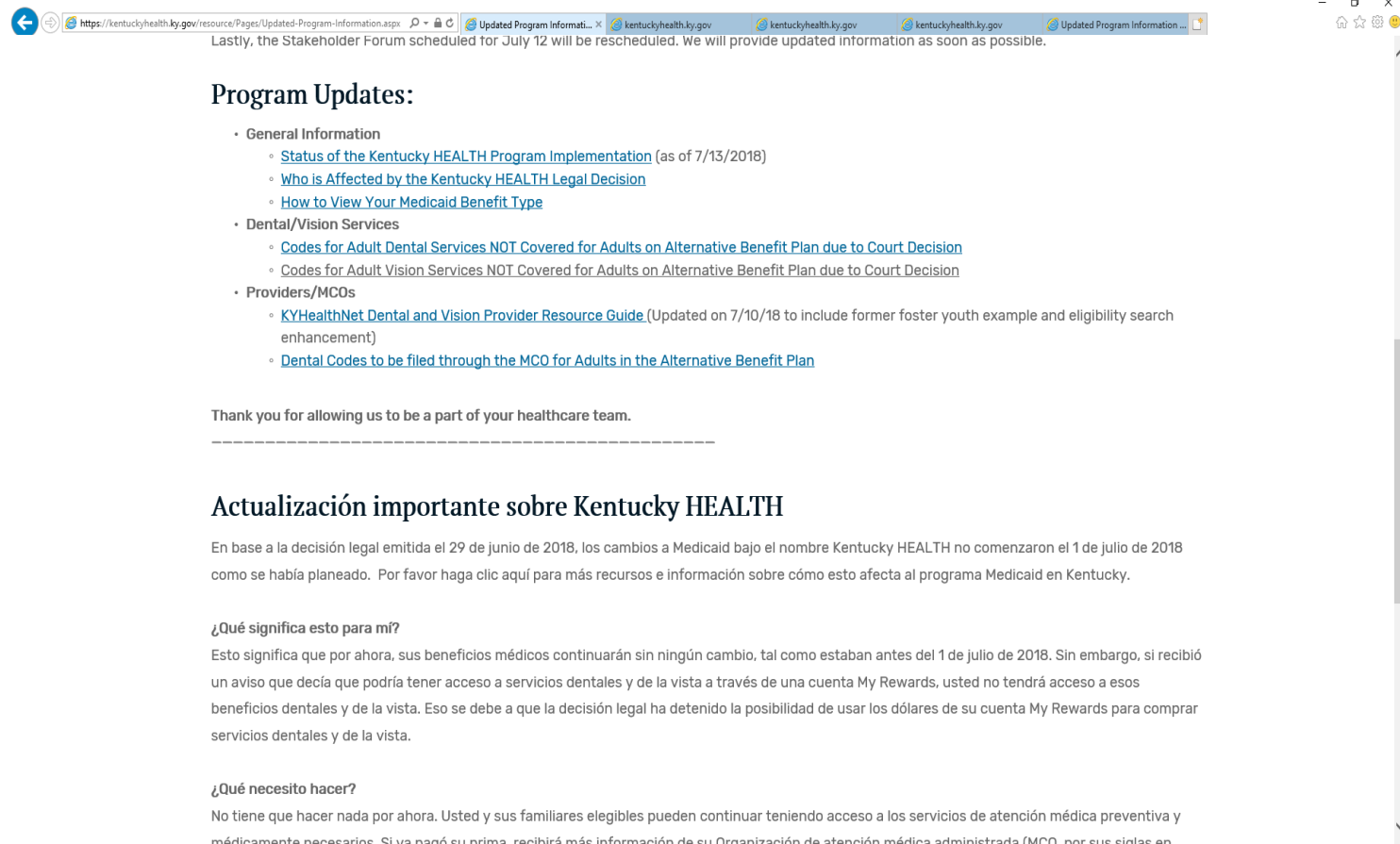


The screenshot shows a web browser window displaying the Kentucky HEALTH website. The address bar shows the URL <https://kentuckyhealth.ky.gov/resource/Pages/Updated-Program-Information.aspx>. The website header includes the 'Ky.gov' logo and navigation links: 'IS IT FOR ME?', 'PARTS', 'HOW DO I ENROLL?', 'FAQ', 'RESOURCES', 'CONTACT', 'STAY CONNECTED', and 'IMPACTS FOR ELIGIBILITY GROUP'. The 'RESOURCES' link is highlighted. Below the header, the breadcrumb trail reads 'Home / Resources / Updated Program Information'. The main heading is 'Updated Program Information'. The content area features a sub-heading 'Important Update about Kentucky HEALTH' followed by a paragraph: 'Based on a June 29, 2018 legal decision, changes to Medicaid under Kentucky HEALTH did not begin on July 1, 2018 as planned.' Below this is a detailed paragraph explaining the impact of the legal decision on community engagement requirements and the temporary suspension of the program. Further down, there are sections titled 'What does this court ruling mean for me?' and 'What do I need to do?' with corresponding text. The 'What do I need to do?' section states that users are not required to do anything at this time and can continue to access healthcare services. The 'What does this court ruling mean for me?' section explains that medical benefits will continue as of July 1, 2018, but vision and dental services through My Rewards Accounts will be affected. A 'You can still participate!' section notes that the Kentucky HEALTH program offers support and resources on a voluntary basis. At the bottom, there is a link to CitizenConnect.ky.gov for online courses and a link to KCC.ky.gov for finding a career center.

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Browser address bar: <https://kentuckyhealth.ky.gov/resource/Pages/Updated-Program-Information.aspx>

Text: Lastly, the Stakeholder Forum scheduled for July 12 will be rescheduled. We will provide updated information as soon as possible.

Program Updates:

- General Information
 - [Status of the Kentucky HEALTH Program Implementation](#) (as of 7/13/2018)
 - [Who is Affected by the Kentucky HEALTH Legal Decision](#)
 - [How to View Your Medicaid Benefit Type](#)
- Dental/Vision Services
 - [Codes for Adult Dental Services NOT Covered for Adults on Alternative Benefit Plan due to Court Decision](#)
 - [Codes for Adult Vision Services NOT Covered for Adults on Alternative Benefit Plan due to Court Decision](#)
- Providers/MCOs
 - [KYHealthNet Dental and Vision Provider Resource Guide](#) (Updated on 7/10/18 to include former foster youth example and eligibility search enhancement)
 - [Dental Codes to be filed through the MCO for Adults in the Alternative Benefit Plan](#)

Thank you for allowing us to be a part of your healthcare team.

Actualización importante sobre Kentucky HEALTH

En base a la decisión legal emitida el 29 de junio de 2018, los cambios a Medicaid bajo el nombre Kentucky HEALTH no comenzaron el 1 de julio de 2018 como se había planeado. Por favor haga clic aquí para más recursos e información sobre cómo esto afecta al programa Medicaid en Kentucky.

¿Qué significa esto para mí?

Esto significa que por ahora, sus beneficios médicos continuarán sin ningún cambio, tal como estaban antes del 1 de julio de 2018. Sin embargo, si recibió un aviso que decía que podría tener acceso a servicios dentales y de la vista a través de una cuenta My Rewards, usted no tendrá acceso a esos beneficios dentales y de la vista. Eso se debe a que la decisión legal ha detenido la posibilidad de usar los dólares de su cuenta My Rewards para comprar servicios dentales y de la vista.

¿Qué necesito hacer?

No tiene que hacer nada por ahora. Usted y sus familiares elegibles pueden continuar teniendo acceso a los servicios de atención médica preventiva y medicamentos necesarios. Si ya pagó su prima, recibirá más información de su Organización de atención médica administrada (MCO) por sus siglas en

Medicaid Populations **NOT** included in Kentucky HEALTH

Traditional Medicaid (Aged, Blind & Disabled)

Home and Community Based Waiver - 1915(c) No Change	Model Waiver II – 1915(c) No Change
Michelle P Waiver – 1915(c) No Change	Supports for Community Living – 1915(c) No Change
Acquired Brain Injury – 1915(c) No Change	Acquired Brain Injury, Long Term Care – 1915(c) No Change
Nursing Facility and ICF/MR Residents No Change	Qualified Medicare Beneficiaries No Change

Medicaid Populations **INCLUDED** in Kentucky HEALTH

Non-Disabled Adults & Children
(Individuals covered before expansion, pregnant women, children, former foster youth up to age 26 & adult expansion population)

Income-Eligible Parents/Guardians <ul style="list-style-type: none"> • Premiums or Copays • No Change in Benefits (continue to get vision and dental through MCO) • Community Engagement required, unless primary caretaker of dependent 	Income-Eligible Adults <ul style="list-style-type: none"> • Premiums or Copays • Vision and Dental available through My Rewards Account • Community Engagement required, unless primary caretaker of dependent
Pregnant Women & Children (Traditional Medicaid and KCHIP) <ul style="list-style-type: none"> • No Premiums • No Change in Benefits • Community Engagement initiative not required 	Medically Frail Adults & Former Foster Youth up to age 26 <ul style="list-style-type: none"> • Optional Premiums (for access to My Rewards) • No Change in Benefits • Community Engagement initiative not required

Kentucky HEALTH Eligibility



Categories of Eligibility					
Children	Pregnant Women	Former Foster Youth (up to age 26)	Medically Frail	Income-Eligible Caretaker of a Child	Income-Eligible Adults

*If paying premiums

Parts of Kentucky HEALTH	State Plan (benefits)	✓	✓	✓	✓	✓	Alternative Benefit Plan	
	My Rewards Account (MRA)		✓	✓ *	✓ *	✓ *	✓ *	
	Deductible Account		Yes, but inactive until 60 days postpartum	✓	✓	✓	✓	✓
	Cost Sharing: Premiums			Optional (gives access to MRA)	Optional (gives access to MRA)	✓	✓	✓
	PATH Community Engagement					✓	✓	✓
	Premium Assistance (does not start until 2019)		Optional	Optional	Optional	✓	✓	✓

Benefit Type by Population

Kentucky HEALTH Alternative Benefit Plan

- Benefits and limitations similar to the Kentucky State Plan
- Non-medical vision/dental services covered through Kentucky HEALTH My Rewards Account

Kentucky HEALTH Medicaid State Plan/CHIP

- No change in benefits
- All vision/dental services covered by **MCOs**

Population	Benefit Package
Income-Eligible Adults	● Kentucky HEALTH Alternative Benefit Plan
Medically Frail Adults	● Medicaid State Plan (No change in benefits)
Former Foster Youth to age 26	● Medicaid State Plan (No change in benefits)
Income-Eligible Parents/Guardians & Transitional Medical Assistance (TMA)	● Medicaid State Plan (No change in benefits)
Pregnant Women	● Medicaid State Plan (No change in benefits)
Children	Medicaid State Plan (No change in benefits)

Note: Someone is considered a parent/caretaker until a dependent child is age 18.

Additional Q&A