



Medicaid Oversight and Advisory Committee Regulations Promulgated During COVID-19 Pandemic

Kentucky Department for Medicaid Services

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Administrative Regulations in Response to COVID-19

Medicaid Administrative Regulations in Response to COVID-19

DMS has promulgated 2 administrative regulations to directly respond to the COVID-19 crisis:

- **907 KAR 3:300 & E**
 - (This regulation was not amended after comments)
- **907 KAR 1:604 & E**
 - (E regulation and Amended after Comments Versions)

Medicaid Administrative Regulations in Response to COVID-19

907 KAR 3:300 & E

This regulation was prepared to provide clarity to the department's response to a declared emergency.

- Allows DMS to quickly respond to local, state, and federal public health emergencies
- Allows DMS to quickly communicate with Medicaid members and providers about responses to a declared emergency
- Allows DMS to target emergency response to the characteristics of the population and public health emergency

Medicaid Administrative Regulations in Response to COVID-19

907 KAR 3:300 & E

- Expanded synchronous (live video link between patient and provider) telehealth and asynchronous (reading of a transmitted digital image or test that is necessary for treatment) telehealth to include additional services that were typically provided face-to-face to ensure access to care and prevent in-person spread of the virus
- Expanded presumptive eligibility to newly uninsured individuals
- Temporarily enrolled some providers to meet anticipated need
- Clarified and implemented this document via provider letters and a continually updated FAQ document on the DMS website

Medicaid Administrative Regulations in Response to COVID-19

907 KAR 1:604 & E

- 2 versions of this administrative regulation have been utilized during the COVID-19 emergency:
 - 907 KAR 1:604E was filed in March and removed copayment requirements for Fee-for-Service Medicaid
 - Allows DMS to waive all Medicaid copays if necessary during a declared emergency (CMS rules state all copays must be waived if a state wants to waive copays for COVID related testing and treatment)
 - Establishes a process to allow additional copay suspensions
 - Allows MCOs to reduce or eliminate copays for enrollees

Medicaid Administrative Regulations in Response to COVID-19

907 KAR 1:604 Amended After Comments

- The comment process highlighted several serious ongoing issues with co-pays and how they are impacting the DMS member population.
 - Some populations not subject to copays are being charged copays, such as pregnant women and individuals with SUD
- As a result of this comment process, DMS will further modify Medicaid cost-sharing.

Medicaid Administrative Regulations in Response to COVID-19

907 KAR 1:604 Additional Information

- Small percent of Medicaid individuals subject to copayments. Populations exempt from copays per federal law include:
 - Children
 - Pregnant women
 - Disabled
 - Individuals with chronic conditions
 - Individuals with SUD
- Provider administrative burdens
- Reduction in provider reimbursement – regardless of ability to collect copayments
- Reduced federal funding
- Administrative burden related to tracking
- Not nominal to those with complex needs

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Future Amendments:

DMS continues to evaluate the successes of telehealth and may amend 907 KAR 3:170 to further expand telehealth. Telehealth availability was already very broad within Medicaid, and is contingent on licensing boards allowing services and providers to perform telehealth services.

