

A Report on Senate Joint Resolution 54



Submitted by:

Kentucky Department for
Medicaid Services

Submitted to:

Kentucky Legislative
Research Commission

SJR 54

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**– Report Section I –
Introduction**

Senate Joint Resolution 54 (SJR 54) was passed in the 2023 regular session of the Kentucky General Assembly. SJR 54 instructs the Department for Medicaid Services (DMS) to examine Kentucky’s system of Medicaid reimbursements to better address the needs of Kentucky’s Medicaid beneficiaries. In particular, Section 3 of SJR 54 directs DMS to examine the current reimbursement rates paid to outpatient pediatric therapy providers (including providers of pediatric audiology services, behavioral therapy services, occupational therapy services, physical therapy services, and speech therapy services) and to develop a proposal for increasing those reimbursement rates. Section 3 of SJR 54 also mandates a report containing the examination findings and the proposal for rate increases to the Interim Joint Committees on Appropriations and Revenue and Health, Welfare, and Family Services no later than July 15, 2023. This report is submitted on behalf of DMS to satisfy that provision of Section 3.

Medicaid billing is a complicated matter. Services described by Section 3 may be performed by various provider types among Kentucky’s healthcare workforce, and those services seek to address an array of conditions among Kentucky Medicaid beneficiaries. For example, psychologists, social workers, nurses, and several other healthcare professionals can provide behavioral health services. Medicaid also reimburses providers differently based on whether services were provided within a healthcare facility (i.e., “facility” vs. “non-facility”). As such, billing rules surrounding the utilization of various types of services provide important context for understanding how providers and Medicaid beneficiaries utilize the services. Some of those rules are provided in the following list.

Audiology:

- Covered services must be medically necessary, are limited to one complete hearing evaluation per calendar year and may include three follow-up visits.
- Reimbursement amount must be the lesser of the provider’s usual and customary charge or the rate established on Kentucky’s Medicaid fee schedule for audiology services.

Behavioral Health:

- Includes treatment for behavioral health, substance use disorder, or co-occurring mental health and substance use disorder.
- The reimbursement rates for covered services are calculated as a percentage of the rate on the Kentucky-specific Medicare Physician Fee Schedule. This percentage varies based on the type of provider that delivers the service (e.g., physician, nurse practitioner, etc.).

Occupational Therapy, Physical Therapy, and Speech Therapy:

- Annual limit of twenty (20) visits per member per calendar year, which may be exceeded if determined to be medically necessary.
- The reimbursement rates for covered services are calculated as a percentage of the Kentucky-specific Medicare Physician Fee Schedule rate. This percentage varies based on the type of provider that delivers the service, and the rate varies based on the location in which the service is provided (facility or non-facility).

– Report Section II –
Kentucky’s Fee Schedule, Comparisons to Other States, and Amounts Paid to Providers

Recent research has found that Medicaid reimbursement rates for behavioral health services are notably lower in Kentucky than in the majority of other states.¹ Table 1 describes the median reimbursement rates for the top ten most commonly billed procedure codes in Kentucky in 2022 by each of the service types described in SJR 54.

Table 1 suggests that Kentucky’s fees for occupational therapy, physical therapy, and speech therapy services may also tend to be lower than a set of comparison states (specifically Indiana, Texas, Alabama and North Carolina). It is worth noting, however, that there are many services (i.e., procedure codes) which Kentucky Medicaid covers that other state programs do not.

For audiology services, Kentucky’s median fee was more than all comparison states except Indiana. Across all comparison states, Kentucky had the highest reimbursement rate across the most common behavioral health procedure codes. This trend contrasts with that of all three therapy service categories (occupational therapy, physical therapy, and speech therapy) where Kentucky maintains the lowest reimbursement rate for common services among these classifications. At first glance, the behavioral health finding may appear to be inconsistent with the earlier statement that Kentucky’s behavioral health fees are lower than most other states. However, the study cited earlier also observed that Indiana, Texas, Alabama, and North Carolina are also below the national median fee schedule for behavioral health services.

Table 1.

Median State Fees for Medicaid-Covered Therapy Services (presented in dollars paid per unit)

	Non-Facility					Facility					
	KY	IN	TX	AL	NC		KY	IN	TX	AL	NC
Audiology	32.59	47.81	27.80	23.00	25.01	Audiology	32.59	47.81	41.81	23.00	29.48
Behavioral Health	63.53	40.80	16.68	44.60	59.89	Behavioral Health	63.53	40.80	16.68	44.60	56.72
OT	22.11	47.81	29.70	22.24	35.44	OT	21.28	47.81	65.52	22.24	26.23
PT	22.11	47.81	29.70	22.24	25.02	PT	21.28	47.81	27.13	22.24	23.83
Speech Therapy	25.25	47.81	30.61	53.86	25.01	Speech Therapy	22.99	47.81	31.22	53.86	29.48

OT = Occupational Therapy
PT = Physical Therapy

The following tables will describe a set of analyses of claims and encounters data from Kentucky’s Medicaid Management Information System (MMIS). These analyses contain data from services billed on behalf of pediatric Medicaid beneficiaries during calendar year 2022. For the purposes of these analyses, a beneficiary was defined as “pediatric” until their 22nd birthday. For each provider type, a set of two tables is provided. The first table in each subsection describes the top ten most commonly billed procedure codes within that category and provides the number of claims billed for that code and the total amount spent on it in 2022. The second table within each subsection describes how many procedure codes are contained within each of the respective fee schedules, how many of those total codes were actually billed by providers, and comparisons between average amounts paid per code against the listed fee schedule values.

¹Zhu JM, Renfro S, Watson K, Deshmukh A, McConnell KJ. Medicaid Reimbursement For Psychiatric Services: Comparisons Across States And With Medicare. *Health Aff (Millwood)*. 2023;42(4):556-565. doi:10.1377/hlthaff.2022.00805

Audiology

Table 2 reports the quantity of claims billed and total amount paid for each of the top ten audiology procedure codes that were billed in Kentucky for pediatric beneficiaries.

Table 2.

Top 10 Billed Audiology Procedure Codes by Quantity Billed Among 2022 Pediatric Claims in Kentucky

Procedure Code & Description	Quantity Billed	Total Amount Paid
92551 - Pure Tone Hearing Test Air	32,089	\$427,606.75
92567 - Tympanometry	17,747	\$259,867.65
92552 - Pure Tone Audiometry Air	14,664	\$199,242.12
92587 - Evoked Auditory Test Limited	8,210	\$345,935.67
92579 - Visual Audiometry (Vra)	4,864	\$122,776.23
92557 - Comprehensive Hearing Test	3,686	\$131,078.46
92583 - Select Picture Audiometry	3,390	\$84,269.30
92555 - Speech Threshold Audiometry	3,000	\$32,171.54
92588 - Evoked Auditory Tst Complete	1,756	\$85,152.11
92582 - Conditioning Play Audiometry	1,172	\$60,733.93

Table 3 provides an overall description of claims billed for audiology services in Kentucky as well as a breakdown of those claims based on whether they were billed to a managed care organization (MCO) or fee-for-service (FFS) program. This table indicates that \$2.07 million was spent on this set of audiology services in Kentucky in 2022.

Table 3.

2023 Audiology Fee Schedule Comparison Among 2022 Pediatric Claims

	Overall	FFS Only	MCO Only
Distinct Procedure Codes in KY Schedule	112		
Distinct Procedure Codes in KY Schedule that Were Actively Billed	65	35	65
Total Quantity Procedure Codes Billed (Percentage of Overall)	97,200 (100%)	2,483 (2.6%)	94,717 (97.4%)
Total Amount Paid (Percentage of Overall)	\$2,068,928 (100%)	\$166,235 (8.0%)	\$1,902,694 (82.0%)
Average Total Amount Paid per Unit Quantity	\$21.29	\$66.95	\$20.09
Count of Procedure Codes with Average Total Amount Paid per Unit Quantity Above KY Schedule (Percentage of Actively Billed CPT Codes)	29 (44.6%)	12 (34.3%)	28 (43.1%)
Weighted Average % Difference of Average Total Amount Paid Compared to KY Schedule	+ 19.8%	+ 494.9%	+ 7.4%

Note: FFS = Fee For Service and MCO = Managed Care Organization

Behavioral Health

Table 4 describes the top ten behavioral health procedure codes that were billed in Kentucky for pediatric beneficiaries, as well as the quantity of claims billed for each of the codes and the total amount paid for each code. This is the list of codes that informed the analysis for behavioral health services for Table 1 in Report Section 1.

Table 4.

Top 10 Billed Behavioral Health Procedure Codes by Quantity Billed Among 2022 Pediatric Claims in Kentucky

Procedure Code & Description	Quantity Billed	Total Amount Paid
99213 - Office O/P Est Low 20-29 Min	2,245,395	\$136,931,200.06
97153 - Adaptive Behavior Tx By Tech	2,077,544	\$22,490,506.30
H0004 - Alcohol And/Or Drug Services	906,742	\$30,057,789.01
H2015 - Comp Comm Supp Svc, 15 Min	719,683	\$7,996,647.39
99214 - Office O/P Est Mod 30-39 Min	598,664	\$37,101,324.24
90837 - Psytch W Pt 60 Minutes	587,520	\$50,433,106.09
H0038 - Self-Help/Peer Svc Per 15min	468,595	\$3,698,014.75
97155 - Adapt Behavior Tx Phys/Qhp	296,782	\$5,717,297.51
90832 - Psytch W Pt 30 Minutes	253,433	\$15,915,102.81
90887 - Consultation With Family	167,495	\$11,771,687.05

Table 5 provides a description of claims billed for behavioral health services in Kentucky. Claims are presented based on whether they were billed to an MCO or billed to the FFS program, and also presents an overall description of the amount billed for these services. Table 5 describes billing for all procedure codes on the behavioral health fee schedule that do not vary by provider type. The results indicate that \$333.28 million was spent on this set of behavioral health services in Kentucky in 2022.

Table 5.

2023 Behavioral Health Fee Schedule (Non-variable Rates[†]) Comparison Among 2022 Pediatric Claims

	Overall	FFS Only	MCO Only
Distinct Procedure Codes in KY Schedule	87		
Distinct Procedure Codes in KY Schedule that Were Actively Billed	83	70	83
Total Quantity Procedure Codes Billed (Percentage of Overall)	5,208,420 (100%)	968,085 (18.6%)	4,240,335 (81.4%)
Total Amount Paid (Percentage of Overall)	\$333,278,303 (100%)	\$106,139,635 (31.8%)	\$227,138,669 (68.2%)
Average Total Amount Paid per Unit Quantity	\$63.99	\$109.64	\$53.57
Count of Procedure Codes with Average Total Amount Paid per Unit Quantity Above KY Schedule (Percentage of Actively Billed CPT Codes)	32 (38.6%)	29 (41.4%)	29 (34.9%)
Weighted Average % Difference of Average Total Amount Paid Compared to KY Schedule	+ 18.5%	+ 95.3%	+ 1.0%

Additional Note(s): [†] Table only summarizes 2022 Kentucky Medicaid claims where procedure codes modifiers are identified as using non-variable rates from 2023 Kentucky Behavioral Health Fee Schedule

Occupational Therapy

Table 6 describes the top ten occupational therapy procedure codes that were billed in Kentucky for pediatric beneficiaries, as well as the quantity of claims billed for each of the codes and the total amount paid for each code.

Table 6.

Top 10 Billed Occupational Therapy Procedure Codes by Quantity Billed Among 2022 Pediatric Claims in Kentucky

Procedure Code & Description	Quantity Billed	Total Amount Paid
97535 - Self Care Management Training	21,763,248	\$107,054,503.56
97110 - Therapeutic Exercises	744,052	\$16,086,125.96
97530 - Therapeutic Activities	672,950	\$14,331,357.47
97150 - Group Therapeutic Procedures	86,396	\$408,508.43
97112 - Neuromuscular Reeducation	68,697	\$1,426,758.12
96110 - Developmental Screen W/Score	61,219	\$2,577,025.27
97140 - Manual Therapy 1/> Regions	44,111	\$761,333.26
97533 - Sensory Integration	43,948	\$1,528,353.34
97014 - Electric Stimulation Therapy	28,501	\$276,842.89
92526 - Oral Function Therapy	14,388	\$752,913.41

Table 7 describes claims that were billed for occupational therapy services in Kentucky. Claims are presented based on whether they were billed to an MCO or billed to the FFS program and presents an overall description of the amount billed for these services. Table 7 describes billing for all procedure codes on the occupational therapy fee schedule (non-facility, non-assistant). Table 7 indicates that \$141.88 million was spent on this set of occupational therapy services in Kentucky in 2022.

Table 7.

2023 Occupational Therapy (Non-Facility, Non-Assistant) Fee Schedule Comparison Among 2022 Pediatric Claims

	Overall	FFS Only	MCO Only
Distinct Procedure Codes in KY Schedule	63		
Distinct Procedure Codes in KY Schedule that Were Actively Billed	51	41	51
Total Quantity Procedure Codes Billed (Percentage of Overall)	23,384,778 (100%)	22,539,242 (96.4%)	845,536 (3.6%)
Total Amount Paid (Percentage of Overall)	\$141,884,097 (100%)	\$122,338,477 (86.2%)	\$19,545,621 (13.8%)
Average Total Amount Paid per Unit Quantity	\$6.07	\$5.43	\$23.12
Count of Procedure Codes with Average Total Amount Paid per Unit Quantity Above KY Schedule (Percentage of Actively Billed CPT Codes)	18 (35.3%)	15 (36.6%)	18 (35.3%)
Weighted Average % Difference of Average Total Amount Paid Compared to KY Schedule	- 68.9%	- 72.2%	+ 27.0%

Physical Therapy

Table 8 describes the top ten physical therapy procedure codes that were billed in Kentucky for pediatric beneficiaries, as well as the quantity of claims billed for each of the codes and the total amount paid for each code.

Table 8.

Top 10 Billed Physical Therapy Procedure Codes by Quantity Billed Among 2022 Pediatric Claims in Kentucky

Procedure Code & Description	Quantity Billed	Total Amount Paid
97535 - Self Care Management Training	21,763,248	\$107,054,503.56
97110 - Therapeutic Exercises	744,052	\$16,086,125.96
97530 - Therapeutic Activities	672,950	\$14,331,357.47
97150 - Group Therapeutic Procedures	86,396	\$408,508.43
97112 - Neuromuscular Reeducation	68,697	\$1,426,758.12
96110 - Developmental Screen W/Score	61,219	\$2,577,025.27
97140 - Manual Therapy 1/> Regions	44,111	\$761,333.26
97533 - Sensory Integration	43,948	\$1,528,353.34
97012 - Mechanical Traction Therapy	30,892	\$347,924.64
97014 - Electric Stimulation Therapy	28,501	\$276,842.89

Table 9 describes claims that were billed for physical therapy services in Kentucky. Claims are presented based on whether they were billed to a MCO or billed to the FFS program and presents an overall description of the amount billed for these services. Table 9 describes billing for all procedure codes on the physical therapy fee schedule (non-facility, non-assistant). Table 9 indicates that \$140.67 million was spent on this set of physical therapy services in Kentucky in 2022.

Table 9.

2023 Physical Therapy (Non-Facility, Non-Assistant) Fee Schedule Comparison Among 2022 Pediatric Claims

	Overall	FFS Only	MCO Only
Distinct Procedure Codes in KY Schedule	88		
Distinct Procedure Codes in KY Schedule Actively Billed	70	48	70
Total Quantity Procedure Codes Billed (Percentage of Overall)	23,397,934 (100%)	22,529,414 (96.3%)	868,520 (3.7%)
Total Amount Paid (Percentage of Overall)	\$140,673,871 (100%)	\$121,388,854 (86.3%)	\$19,285,017 (13.7%)
Average Total Amount Paid per Unit Quantity	\$6.01	\$5.39	\$22.20
Count of Procedure Codes with Average Total Amount Paid per Unit Quantity Above KY Schedule (Percentage of Actively Billed CPT Codes)	25 (35.7%)	20 (41.7%)	25 (35.7%)
Weighted Average % Difference of Average Total Amount Paid Compared to KY Schedule	- 68.9%	- 72.3%	+ 26.4%

Speech Therapy

Table 10 describes the top ten speech therapy procedure codes that were billed in Kentucky for pediatric beneficiaries, as well as the quantity of claims billed for each of the codes and the total amount paid for each code.

Table 10. *Top 10 Billed Speech Therapy Procedure Codes by Quantity Billed Among 2022 Pediatric Claims (Kentucky Only)*

Procedure Code & Description	Quantity Billed	Total Amount Paid
97535 - Self Care Management Training	21,763,247	\$107,054,485.45
92508 - Speech/Hearing Therapy	757,639	\$2,929,012.09
92507 - Speech/Hearing Therapy	415,752	\$13,326,277.33
96110 - Developmental Screen W/Score	61,219	\$2,577,025.27
97533 - Sensory Integration	43,948	\$1,528,353.34
92567 - Tympanometry	17,747	\$259,867.65
92523 - Speech Sound Lang Comprehen	15,749	\$1,056,564.55
92552 - Pure Tone Audiometry Air	14,664	\$199,242.12
92526 - Oral Function Therapy	14,388	\$752,913.41
99441 - Phone E/M Phys/Qhp 5-10 Min	14,048	\$1,014,279.34

Table 11 describes claims that were billed for speech therapy services in Kentucky. Claims are presented based on whether they were billed to a MCO or billed to the FFS program and presents an overall description of the amount billed for these services. Table 11 describes billing for all procedure codes on the occupational therapy fee schedule (non-facility). Table 11 indicates that \$128.92 million was spent on this set of speech therapy services in Kentucky in 2022.

Table 11. *2023 Speech Therapy (Non-Facility) Fee Schedule Comparison Among 2022 Pediatric Claims*

	Overall	FFS Only	MCO Only
Distinct Procedure Codes in KY Schedule	96		
Distinct Procedure Codes in KY Schedule Actively Billed	67	47	67
Total Quantity Procedure Codes Billed (Percentage of Overall)	23,103,819 (100%)	22,742,470 (98.4%)	361,349 (1.6%)
Total Amount Paid (Percentage of Overall)	\$128,919,270 (100%)	\$114,202,954 (88.6%)	\$14,716,315 (11.4%)
Average Total Amount Paid per Unit Quantity	\$5.58	\$5.02	\$40.73
Count of Procedure Codes with Average Total Amount Paid per Unit Quantity Above KY Schedule (Percentage of Actively Billed CPT Codes)	29 (43.3%)	19 (40.4%)	29 (43.3%)
Weighted Average % Difference of Average Total Amount Paid Compared to KY Schedule	- 73.9%	- 75.8%	+ 57.3%

Proposal for Increasing Reimbursement Rates and Conclusion

Key Considerations

It is important to consider contextual factors related to how outpatient pediatric therapy providers are compensated by Kentucky's Medicaid program. There are points of overlap between the services outlined in SJR 54 and those provided via the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program. A thoughtful approach to rate changes should consider how to align therapy rates across provider types, including EPSDT which pays a flat rate of \$85.05 per visit, to prevent rate disparities among provider types and disincentivize providers gravitating to one program strictly for reimbursement. Another consideration is that significant changes to Kentucky Medicaid policy often require a state plan amendment (SPA) with the Centers for Medicare and Medicaid Services (CMS). This is a deliberative process between state Medicaid programs and CMS to outline the terms of the policy change and ensure that the state will adhere to federal laws and regulations as they adjust state Medicaid policy. It is also common for this process to require state regulatory adjustments to facilitate major changes to the Medicaid state plan.

Proposals

The Department for Medicaid Services advises against making drastic or sweeping rate increases for pediatric therapy services. This is inadvisable because it could result in unpredictable budgetary consequences for the Medicaid program, such as dramatic increases in net annual spend. What would be preferable to that approach would be a more targeted and strategic review of rate increases for specific billing codes; possibly including the top ten codes that have been presented in this report. This could allow for a more balanced effect, whereby providers realize appreciable increases in their revenues (and thus improving the financial stability of their practices) without raising net Medicaid program spending above a sustainable threshold.

In the interest of keeping net cost growth below an acceptable level, policymakers are encouraged to be particularly careful when it comes to rate increases for pediatric behavioral health services. This category of services accounts for a considerable proportion of utilization and spending. According to analyses presented in this report, among Kentucky Medicaid beneficiaries, pediatric behavioral health services accounted for over \$333 million in 2022.

In the short term, the Department for Medicaid Services recommends identifying key procedure codes amongst the suite of services outlined in SJR 54 for rate increases. When selecting these codes and considering the new rates to pay, the following list of questions may be helpful in guiding the decision-making process:

1. Among the list of providers outlined in SJR 54, which codes are most commonly billed?
2. Where do Kentucky's rates fall in comparison to peer states in the United States?

Conclusion

It is also germane to this proposal that Kentucky uses MCOs to deliver most Medicaid services. Under the regulatory provisions of the Affordable Care Act, specifically 42 CFR § 438.4, the Medicaid program is required to set actuarially sound terms within these MCO contracts. Altering fee rates without detailed actuarial analysis may affect Kentucky's compliance with 42 CFR § 438.4 and result in unanticipated budgetary consequences. Therefore, the Department for Medicaid Services recommends contracting with an independent third-party actuarial firm to complete an exhaustive analysis of Kentucky's rates for the providers contained within SJR 54. Furthermore, with regard to the question of whether increased rates would entice more providers to participate in the Medicaid program, the General Assembly is encouraged to consider empirical research that suggests mixed findings on the impact of raising rates and increased provider participation.^{1,2} The quote below illustrates a conclusion written by Zhu and colleagues (2023) in their analysis of psychiatric services that was published in *Health Affairs*.¹

Although correlation does not equal causation, this finding supports a body of evidence suggesting that higher reimbursement rates do not necessarily lead to higher physician participation in Medicaid. The magnitude of a rate hike may matter; evidence from the Affordable Care Act's primary care fee bump in Medicaid suggests differential effects across states,³² with greater increases in appointment availability in states with greater relative increases in reimbursement. In this vein, it is unclear the extent to which simply anchoring Medicaid payments to those of Medicare—which not only have failed to keep up with inflation but also are facing additional cuts in 2023—sufficiently incentivizes mental health professionals to participate in insurance networks when more lucrative private or cash payment is an alternative.³³ Finally, other factors influencing physicians' acceptance of insurance, including organizational and regional differences in administrative burdens, incomplete or delayed payments, and ancillary support for care coordination and management, could be as important as reimbursement alone, if not more so.^{34–36}

The process of securing a contract with a firm, establishing the expectations for work products, and giving the firm an adequate amount of time to complete the project will take time. The Department for Medicaid Services strongly recommends proceeding with a third-party contractor to adequately address the provisions outlined within SJR 54.