

Bill Draft Summary
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Amend KRS 205.556, 205.618, and 205.6312 to permit the Department for Medicaid Services and managed care organizations contracted by the department for the delivery of Medicaid services to impose cost-sharing requirements when required under federal law; require the Cabinet for Health and Family Services or the Department for Medicaid Services to seek federal approval if it is determined that such approval is necessary; provide authorization from the General Assembly to make changes in the Medicaid program as required under KRS 205.5372(1).

1 AN ACT relating to cost-sharing requirements in the Medicaid program.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔ Section 1. KRS 205.556 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Breast pump kit" means a collection of tubing, valves, flanges, bottles, and
6 other parts required to extract human milk using a breast pump;

7 (b) "In-home program" means a program offered by a health care facility or
8 health care professional for the treatment of substance use disorder which the
9 insured accesses through telehealth or digital health service;

10 (c) "Lactation consultation" means the clinical application of scientific principles
11 and a multidisciplinary body of evidence for evaluation, problem
12 identification, treatment, education, and consultation to families regarding the
13 course of lactation and feeding by a qualified clinical lactation care
14 practitioner, including but not be limited to:

15 1. Clinical maternal, child, and feeding history and assessment related to
16 breastfeeding and human lactation through the systematic collection of
17 subjective and objective information;

18 2. Analysis of data;

19 3. Development of a lactation management and child feeding plan with
20 demonstration and instruction to parents;

21 4. Provision of lactation and feeding education;

22 5. The recommendation and use of assistive devices;

23 6. Communication to the primary health care practitioner or practitioners
24 and referral to other health care practitioners, as needed;

25 7. Appropriate follow-up with evaluation of outcomes; and

26 8. Documentation of the encounter in a patient record;

27 (d) "Qualified clinical lactation care practitioner" means a licensed health care

1 practitioner wherein lactation consultation is within their legal scope of
 2 practice; and

3 (e) "Telehealth" or "digital health" has the same meaning as in KRS 211.332.

4 (2) The Department for Medicaid Services and any managed care organization with
 5 which the department contracts for the delivery of Medicaid services shall provide
 6 coverage:

7 (a) For lactation consultation;

8 (b) For breastfeeding equipment;

9 (c) To pregnant and postpartum women for an in-home program; and

10 (d) For telehealth or digital health services that are related to maternity care
 11 associated with pregnancy, childbirth, and postpartum care.

12 (3) The coverage required by this section shall:

13 (a) Not be subject to:

14 1. Any cost-sharing requirements, including but not limited to copayments,
 15 unless otherwise required under federal law, including but not limited
 16 to 42 U.S.C. sec. 1396o(k); or

17 2. Utilization management requirements, including but not limited to prior
 18 authorization, prescription, or referral, except as permitted in paragraph
 19 (d) of this subsection;

20 (b) Be provided in conjunction with each birth for the duration of breastfeeding,
 21 as defined by the beneficiary;

22 (c) For lactation consultation, include:

23 1. In-person, one-on-one consultation, including home visits, regardless of
 24 location of service provision;

25 2. The delivery of consultation via telehealth, as defined in KRS 205.510,
 26 if the beneficiary requests telehealth consultation in lieu of in-person,
 27 one-on-one consultation; or

1 3. Group consultation, if the beneficiary requests group consultation in lieu
2 of in-person, one-on-one consultation; and

3 (d) For breastfeeding equipment, include:

4 1. Purchase of a single-user, double electric breast pump, or a manual
5 pump in lieu of a double electric breast pump, if requested by the
6 beneficiary;

7 2. Rental of a multi-user breast pump on the recommendation of a licensed
8 health care provider; and

9 3. Two (2) breast pump kits as well as appropriately sized breast pump
10 flanges and other lactation accessories recommended by a health care
11 provider.

12 (4) (a) The breastfeeding equipment described in subsection (3)(d) of this section
13 shall be furnished within forty-eight (48) hours of notification of need, if
14 requested after the birth of the child, or by the later of two (2) weeks before
15 the beneficiary's expected due date or seventy-two (72) hours after
16 notification of need, if requested prior to the birth of the child.

17 (b) If the department cannot ensure delivery of breastfeeding equipment in
18 accordance with paragraph (a) of this subsection, an individual may purchase
19 equipment and the department or a managed care organization with whom the
20 department contracts for the delivery of Medicaid services shall reimburse the
21 individual for all out-of-pocket expenses incurred by the individual, including
22 any balance billing amounts.

23 ➔Section 2. KRS 205.618 is amended to read as follows:

24 (1) Notwithstanding any provision of law to the contrary, the Department for Medicaid
25 Services or a managed care organization contracted to provide Medicaid services
26 shall, at a minimum, provide coverage for all United States Food and Drug
27 Administration-approved tobacco cessation medications, all forms of tobacco

1 cessation services recommended by the United States Preventive Services Task
2 Force, including but not limited to individual, group, and telephone counseling, and
3 any combination thereof.

4 (2) The following conditions shall not be imposed on any tobacco cessation services
5 provided pursuant to this section:

- 6 (a) Counseling requirements for medication;
- 7 (b) Limits on the duration of services, including but not limited to annual or
8 lifetime limits on the number of covered attempts to quit; or
- 9 (c) Copayments or other out-of-pocket cost sharing, including deductibles, unless
10 otherwise required under federal law, including but not limited to 42 U.S.C.
11 sec. 1396o(k).

12 (3) Utilization management requirements, including prior authorization and step
13 therapy, shall not be imposed on any tobacco cessation services provided pursuant
14 to this section, except in the following circumstances where prior authorization may
15 be required:

- 16 (a) For a treatment that exceeds the duration recommended by the most recently
17 published United States Public Health Service clinical practice guidelines on
18 treating tobacco use and dependence; or
- 19 (b) For services associated with more than two (2) attempts to quit within a
20 twelve (12) month period.

21 (4) Nothing in this section shall be construed to prohibit the Department for Medicaid
22 Services or a managed care organization contracted to provide Medicaid services
23 from providing coverage for tobacco cessation services in addition to those
24 recommended or to deny coverage for services that are not recommended by the
25 United States Preventive Services Task Force.

26 ➡Section 3. KRS 205.6312 is amended to read as follows:

27 Notwithstanding any state law to the contrary, the cabinet or a managed care organization

1 contracted by the cabinet to provide Medicaid services pursuant to this chapter shall not
 2 institute copayments, cost sharing, or similar charges unless otherwise required under
 3 federal law, including but not limited to 42 U.S.C. sec. 1396o(k). to be paid by any
 4 medical assistance recipients, their spouses, or parents[,] for any assistance provided
 5 pursuant to this chapter, federal law, or any federal Medicaid waiver.

6 ➔Section 4. If the Cabinet for Health and Family Services or the Department for
 7 Medicaid Services determines that a state plan amendment, waiver, or any other form of
 8 authorization or approval from any federal agency to implement Sections 1, 2, and 3 of
 9 this Act is necessary to prevent the loss of federal funds or to comply with federal law,
 10 the cabinet or department:

11 (1) Shall, within 90 days after the effective date of this section, request the
 12 necessary federal authorization or approval to implement Sections 1, 2, and 3 of this Act;
 13 and

14 (2) May only delay implementation of the provisions of Sections 1, 2, and 3 of
 15 this Act for which federal authorization or approval was deemed necessary until the
 16 federal authorization or approval is granted.

17 ➔Section 5. Sections 1, 2, 3, and 4 of this Act shall constitute the specific
 18 authorization required under KRS 205.5372(1).