895 KAR 1:055. Designation or determination of medically frail status or accommodation due to temporary vulnerability in the Kentucky HEALTH program.

RELATES TO: KRS 205.520, 42 C.F.R. Part 447, 42 U.S.C. 1315

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 in accordance with Title XIX of the Social Security Act. 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 for the provision of medical assistance to Kentucky's indigent citizenry. Pursuant to state and federal law, including 42 U.S.C. 1315, the Kentucky HEALTH demonstration waiver has been approved and it shall, on a continuing basis, determine and establish how the commonwealth provides Medicaid services and supports for certain Medicaid members. This administrative regulation establishes those beneficiaries who shall qualify as medically frail or temporarily vulnerable and establishes the requirements for determination of that status.

Section 1. Designation as Medically Frail at Time of Application. A beneficiary shall be designated as medically frail at the time of application if the beneficiary is:
(1) A beneficiary with HIV or AIDS as identified by the Ryan White Program, 42 U.S.C. 300ee et seq.;
(2) Receiving retirement, survivors, and disability insurance (RSDI) income based on disability; or
(3) Chronically homeless.

Section 2. Medically Frail Screenings. (1) A beneficiary who is not designated as medically frail at the time of application shall be reviewed for medically frail status at any of the following times:
(a) Upon beneficiary request;
(b) During the benefit year if documentation demonstrates that the beneficiary may have a medically frail condition; or
(c) If claims history or provider documentation demonstrates that the beneficiary may no longer have a medically frail condition.
(2) A medically frail beneficiary shall be reviewed at least annually by the managed care organization to determine if the beneficiary is eligible for continued designation as medically frail.
(3) In order to verify a beneficiary's medically frail condition, the managed care organization shall consider:
(a) The beneficiary's medical records;
(b) The beneficiary's medical claim data;
(c) Any other information relevant to the beneficiary’s health condition; or
(d) Physician attestation of medically frail status.

Section 3. Accommodation due to Temporary Vulnerability. (1) A beneficiary shall be designated as temporarily vulnerable by the department if the beneficiary is:
(a) A refugee, as defined by KRS 186.010(13)(c), during the first twelve (12) months after the refugee entered the United States; or
(b) A victim of domestic violence and abuse.
(2) An individual who is designated as temporarily vulnerable shall:
(a) Pay premiums for access to a MyRewards account; and
(b) Be exempt from the following Kentucky HEALTH requirements:
1. Payment of premiums for medical services;
2. Copays for medical services; and
3. Completion of the PATH requirement during the entire period of temporary vulnerability.

Section 4. Auditing Authority. The department or MCO in which a beneficiary is enrolled may audit any:
   (1) Claim;
   (2) Health record; or
   (3) Documentation associated with any claim or health record, including any activity related to a beneficiary’s use of a MyRewards account.

Section 5. 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 6. Appeal Rights. (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 and 895 KAR 1:045.
   (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 and 895 KAR 1:045. (45 Ky.R. 591, 1621; eff. 1-4-2019.)