

STATEMENT OF EMERGENCY
895 KAR 1:002E

This emergency administrative regulation is being promulgated to repeal the administrative regulations relating to the Kentucky HEALTH program. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to prevent a loss of federal and state funds. This emergency administrative regulation shall not be replaced by an ordinary administrative regulation as the repeals will be effective upon the filing of this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC FRIEDLANDER, Acting Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(Emergency Repealer)

895 KAR 1:002E. Repeal of 895 KAR 1:001, 895 KAR 1:010, 895 KAR 1:015, 895 KAR 1:020, 895 KAR 1:025, 895 KAR 1:030, 895 KAR 1:035, 895 KAR 1:040, 895 KAR 1:045, 895 KAR 1:050, and 895 KAR 1:055.

RELATES TO: KRS 205.520

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. KRS 194A.050(1) authorizes the cabinet secretary to promulgate, administer, and enforce administrative regulations necessary for the proper administration of the cabinet and its programs. The Kentucky HEALTH program and related 1115 Waiver has twice been remanded to the federal department for Health and Human Services for further consideration by a federal court, and has now been rescinded by gubernatorial executive order. Therefore, this administrative regulation repeals Title 895 KAR.

Section 1. The following administrative regulations are hereby repealed:

- (1) 895 KAR 1:001, Definitions for 895 KAR Chapter 1;
- (2) 895 KAR 1:010, Eligibility for Kentucky HEALTH program;
- (3) 895 KAR 1:015, Premium payments within the Kentucky HEALTH program;
- (4) 895 KAR 1:020, PATH requirement for the Kentucky HEALTH program;
- (5) 895 KAR 1:025, Beneficiary premiums;
- (6) 895 KAR 1:030, Establishment and use of the MyRewards program;
- (7) 895 KAR 1:035, Covered services within the Kentucky HEALTH program;
- (8) 895 KAR 1:040, Deductible accounts within the Kentucky HEALTH program;
- (9) 895 KAR 1:045, Accommodations, modifications, and appeals for beneficiaries participating in the Kentucky HEALTH program;
- (10) 895 KAR 1:050, Enrollment and reimbursement for providers in the Kentucky HEALTH program; and
- (11) 895 KAR 1:055, Designation or determination of medically frail status or accommodation due to temporary vulnerability in the Kentucky HEALTH program.

STEPHANIE M. BATES, Acting Commissioner
ERIC FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: December 27, 2019

FILED WITH LRC: December 27, 2019 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by March 16, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until March 31, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Donna Little, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 895 KAR Chapter 1.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal eleven (11) existing administrative regulations due to the rescission of the federal 1115 waiver establishing the Kentucky HEALTH program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by ensuring that there is federal and state legal authority for department programs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This repealer administrative regulation will assist in the effective administration of the statutes by repealing eleven (11) nonfunctioning administrative regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a repealer administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a repealer administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a repealer administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a repealer administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local

government affected by this administrative regulation: Anyone affected by the Kentucky HEALTH program, including approximately 750,000 Medicaid recipients and 46,000 Medicaid providers, Medicaid managed care organizations, and the department.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None of the above parties will need to take any additional action to comply with this repealer administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs experienced.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The program established in the administrative regulations is not effective, and therefore this repealer administrative regulation will enhance the readability and clarity of the administrative regulations that are under the purview of the Department for Medicaid Services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no costs to this repeal.

(b) On a continuing basis: There are no costs to this repeal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no source of funding needed to implement this repeal.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement this repeal.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation simply repeals eleven (11) administrative regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Department for Medicaid Services will be impacted by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation is not expected to have any costs for its administration.

(d) How much will it cost to administer this program for subsequent years? This administra-

tive regulation is not expected to have any costs for its administration.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): _____

Expenditures (+/-): _____

Other Explanation: _____