

907 KAR 1:715. School-based health services.

RELATES TO: KRS 156.070, 205.520, 605.115, 314.470, 20 U.S.C. 33, 34 C.F.R. 300.320, 300.321, 300.324, 42 C.F.R. 440.110

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. 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 Medicaid services to Kentucky's indigent citizenry. This administrative regulation establishes the provisions relating to school-based health services (SBHS) for which payment shall be made by the Medicaid Program on behalf of Medicaid recipients who are eligible for school-based health services under 20 U.S.C. Chapter 33.

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "ARC" means an admissions and release committee which meets the:

(a) ARC requirements established in 707 KAR 1:320; and

(b) IEP team requirements established in 34 C.F.R. 300.321.

(3) "Assistive technology device" means an item, piece of equipment, or product system that is:

(a) Used to increase, maintain, or improve the functional capabilities of a child with a disability;

and

(b) Medically necessary to implement the health services in the child's individualized education program.

(4) "Board Certified Assistant Behavior Analyst" or "BCABA" means an individual who:

(a) Has met all of the BCABA requirements established by the Behavior Analyst Certification Board®, Inc.; and

(b) Is currently recognized by the Behavior Analyst Certification Board®, Inc. as a BCABA.

(5) "Board Certified Behavior Analyst" or "BCBA" means an individual who:

(a) Has met all of the BCABA requirements established by the Behavior Analyst Certification Board®, Inc.; and

(b) Is currently recognized by the Behavior Analyst Certification Board®, Inc. as a BCBA.

(6) "Certified psychologist" means an individual who holds the title of certified psychologist pursuant to KRS 319.056.

(7) "Certified psychologist with autonomous functioning" means an individual who holds the title of certified psychologist with autonomous functioning pursuant to KRS 319.056.

(8) "Certified social worker" means an individual with a certified social worker license pursuant to KRS 335.080.

(9) "Department of Education" means the Commonwealth of Kentucky, Department of Education.

(10) "Federal financial participation" is defined in 42 C.F.R. 400.203.

(11) "IEP team" is defined by 34 C.F.R. 300.321.

(12) "Incidental interpreter services" means the interpreter services that are necessary to allow the child to benefit from other covered school-based health services.

(13) "Individualized Education Program" or "IEP" is defined by 34 C.F.R. 300.320.

(14) "Licensed clinical social worker" means an individual possessing a current licensed clinical social worker license pursuant to KRS 335.100.

(15) "Licensed practical nurse" is defined by KRS 314.011(9).

(16) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

(17) "Licensed professional counselor associate" is defined by KRS 335.500(4).

(18) "Licensed psychological associate" means an individual holding the title of licensed psychological associate pursuant to KRS 319.064.

(19) "Licensed psychological practitioner" means an individual who meets the licensed psychological practitioner requirements established in KRS 319.053.

(20) "Licensed psychologist" means a psychologist who holds a licensed psychologist license pursuant to KRS 319.010(6).

(21) "Licensed social worker" means an individual possessing a current licensed social worker license pursuant to KRS 335.090.

(22) "Occupational therapist" is defined by KRS 319A.010(3).

(23) "Occupational therapy assistant" is defined by KRS 319A.010(4).

(24) "Physical therapist" is defined by KRS 327.010(2).

(25) "Physical therapist assistant" means an individual:

(a) With a current credential from the Kentucky Board of Physical Therapy; and

(b) Working under the supervision of a physical therapist.

(26) "Psychologist" is defined by KRS 319.010(9).

(27) "Recipient" is defined by KRS 205.8451(9).

(28) "Registered nurse" is defined by KRS 314.011(5).

(29) "Respiratory care practitioner" is defined by KRS 314A.010(3).

(30) "SBHS" or "School-based health services" means medically-necessary health services:

(a) Provided for in 907 KAR 11:034; and

(b) Specified in an individualized education program for a child determined to be eligible under the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. Chapter 33, and 707 KAR Chapter 1.

(31) "SBHS recipient" means a recipient who:

(a) Is under the age of twenty-one (21) years; and

(b) Receives school-based health services.

(32) "Special transportation" means a special arrangement, special equipment, or a special vehicle:

(a) Which is appropriate for the child's disability; and

(b) The need for which is described in the child's individualized education plan.

Section 2. Provider Requirements. (1) A school district that requests to participate as a school-based health care provider shall not be qualified to provide school-based health services:

(a) Until it has enrolled as a Medicaid provider pursuant to 907 KAR 1:672;

(b) Until it has been certified by the Department of Education to provide school-based health services; and

(c) Unless it is currently compliant with the Medicaid provider participation requirements established in 907 KAR 1:671.

(2) The Department of Education shall grant certification to a district that agrees to:

(a) Provide services as:

1. Required by 20 U.S.C. Chapter 33; and

2. Specified in an approved individualized education program developed by an ARC that includes a multidisciplinary team of professionals acting within their scope of practice;

(b) Comply with the service provision requirements mandated by 20 U.S.C. Chapter 33 and in accordance with 707 KAR 1:320;

(c) Employ or contract with health care professionals who meet the qualifications specified in Section 4 of this administrative regulation;

(d) Provide the Department of Education with a proposed quality assurance outline;

(e) Maintain and submit to the Department of Education all required records and reports to en-

sure compliance with 20 U.S.C. Chapter 33; and

(f) Provide the Department of Education with a list of school-based health services that the school district provides. This list shall contain the following information for employees and contractors providing the services:

1. Name; and
2. Credentials.

(3) The Department for Medicaid Services shall grant Medicaid enrollment to a provider who:

(a) Meets the criteria established in subsections (1) and (2) of this section;

(b) Works within his or her scope of practice as established in Kentucky law; and

(c) Is recommended by the Department of Education for certification and enrollment in the Kentucky Medicaid Program as a provider of school-based health services.

(4) A Medicaid school-based health services provider shall:

(a) Submit to an annual review by the Department of Education to ensure compliance with the standards for continued participation as a Medicaid provider;

(b) Have an on-site survey completed by the Department of Education as necessary to determine compliance with the Medicaid Program;

(c) Take action as specified by the Department of Education to correct a deficiency if found to be in noncompliance with the provision of services outlined in 707 KAR 1:320 or this administrative regulation;

(d) Agree to implement a quality assurance program approved by the Department of Education for the provision of Medicaid-covered services within one (1) year from the date the Department of Education recommends enrollment to the Medicaid Program;

(e) Maintain a current list of school-based health services that the school district provides. The list shall contain the information listed in subsection (2)(f) of this section for an employee or contractor providing the services;

(f) Maintain records on each SBHS recipient who receives services reimbursed by Medicaid. The records shall:

1. Identify the child, services performed, and quantity or units of service;

2. Be signed and dated by the professional who provided or supervised the service;

3. Be legible with statements written in an objective manner;

4. Indicate progress being made, any change in treatment, and response to the treatment; and

5. Be retained for a minimum of five (5) years plus any additional time required by law; and

(g) Comply with 907 KAR 1:671 and 1:672.

Section 3. Covered Services. (1) A school-based health service that is included in an IEP authorized by an IEP team or ARC and provided in accordance with this administrative regulation shall:

(a) Be considered medically necessary; and

(b) Not be subject to additional Medicaid prior-authorization requirements.

(2) The following services shall be covered if provided to address a medical or mental disability and to assist an individual in benefiting from special education programming which is included, authorized, and provided in accordance with the individualized education program:

(a) Nursing;

(b) Audiology;

(c) Speech and language;

(d) Occupational therapy;

(e) Physical therapy;

(f) Behavioral health services;

(g) Incidental interpreter services provided in conjunction with another covered service;

- (h) Orientation and mobility services;
- (i) Respiratory therapy;
- (j) Assistive technology devices and appropriate related evaluations if the devices purchased by the Medicaid Program become the property of the SBHS recipient; and
- (k) Special transportation with the following limitations:
 1. A special transportation service shall be limited to transporting an SBHS recipient to receive a Medicaid-covered service at:
 - a. A site other than the school building in which the child is enrolled for general education purposes;
 - b. The child's home if the child is a home-bound student and receives general education services at home; or
 - c. The school building where the child receives the Medicaid-covered service. Special transportation to the school building from the child's home or other site and return special transportation from the school building to the child's home or other site shall be covered for the day the Medicaid-covered service is provided at the school building;
 2. A special transportation service shall be provided using a type of vehicle which:
 - a. Meets the specifications established by KRS 156.153, 702 KAR 5:060, and 702 KAR 5:130; and
 - b. Is appropriate for the child's disability as determined by the ARC in accordance with 702 KAR 5:100; and
 3. A special transportation service provided by a member of an SBHS recipient's household to the SBHS recipient shall not be covered unless the SBHS recipient's household member is an employee of the school district.
- (3) A covered school-based health service:
 - (a) Shall not be limited by site of service;
 - (b) Shall be provided in:
 1. A group of no more than six (6); or
 2. In a one-on-one situation; and
 - (c) May include:
 1. An assessment or evaluation if the assessment or evaluation is stated in the SBHS recipient's IEP, except as allowed in subsection (4) of this section; or
 2. A treatment component if the treatment component is stated in the SBHS recipient's IEP.
- (4) An assessment or evaluation conducted prior to the establishment of an individualized education program shall be covered if the individualized education program is subsequently developed and implemented as a result of the assessment or evaluation.

Section 4. Staffing Requirements. School-based health services shall be reimbursable if provided by a professional acting within his or her scope of practice as defined by state law and as provided in this section.

- (1) A nursing service shall be provided by:
 - (a) An advanced practice registered nurse;
 - (b) A registered nurse;
 - (c) A licensed practical nurse; or
 - (d) A health aide if:
 1. The aide is under the supervision of a specific registered nurse or advanced practice registered nurse;
 2. The supervising registered nurse or advanced practice registered nurse has trained the aide for the specific SBHS nursing service for the specific recipient; and
 3. The supervising registered nurse or advanced practice registered nurse has verified in writing

that the aide has appropriate training and skills to perform the specific service in a safe, effective manner.

(2) Audiology services shall be provided by an audiologist with a current license from the Kentucky Board of Speech-Language Pathology and Audiology.

(3) Speech and language services shall be provided by a speech-language pathologist who has a current certificate of clinical competence issued by the American Speech and Hearing Association.

(4) Occupational therapy services shall be provided by:

(a) An occupational therapist;

(b) An occupational therapy assistant; or

(c) An unlicensed occupational therapy aide who:

1. Provides supportive services to occupational therapists and occupational therapy assistants;

and

2. Is under the direct supervision of an occupational therapist.

(5) Physical therapy services shall be provided by:

(a) A physical therapist;

(b) A physical therapist assistant;

(c) An individual with a temporary permit to perform physical therapy in Kentucky pursuant to KRS 327.010(5);

(d) A student of physical therapy under the supervision of a physical therapist; or

(e) Physical therapy supportive personnel under the direct on-site supervision of a:

1. Physical therapist; or

2. Physical therapist assistant in accordance with the provisions of 201 KAR 22:053.

(6) A behavioral health service shall be provided by:

(a) A licensed psychologist;

(b) A licensed psychological practitioner;

(c) A certified psychologist with autonomous functioning;

(d) A certified psychologist;

(e) A licensed psychological associate;

(f) A licensed clinical social worker;

(g) A licensed social worker;

(h) A certified social worker;

(i) An advanced practice registered nurse who has a specialty area in accordance with the American Nurses' Association's Scope and Standards of Psychiatric-Mental Health Nursing Practice in accordance with 201 KAR 20:057;

(j) A licensed professional clinical counselor;

(k) A licensed professional counselor associate;

(l) A board certified behavior analyst; or

(m) A board certified assistant behavior analyst.

(7) An incidental interpreter service shall be provided by an interpreter licensed by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing pursuant to KRS 309.312 or 309.314.

(8) Orientation and mobility services shall be provided by an orientation and mobility specialist certified by the:

(a) Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP);

or

(b) National Blindness Professional Certification Board (NBPCB).

(9) Respiratory therapy services shall be provided by a respiratory care practitioner.

Section 5. Reimbursement. (1) Reimbursement for SBHS shall be provided in accordance with

the school-based health service reimbursement provisions established in 907 KAR 11:035.

(2) A school-based health services provider shall certify the expenditure of state or local funds for school-based health services in accordance with 702 KAR 3:285.

Section 6. Individualized Education Program. An IEP shall:

(1) Be developed, reviewed, and revised in accordance with:

(a) 707 KAR 1:320; and

(b) 34 C.F.R. 300.324; and

(2) Not be considered authorized unless it has been approved by an IEP team.

Section 7. Federal financial participation. A policy established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

(1) Denies federal financial participation for the policy; or

(2) Disapproves the policy. (23 Ky.R. 1831; 2530; 2752; eff. 12-18-1996; 29 Ky.R. 2378; 2705; eff. 5-15-2003; 32 Ky.R. 1803; 2041; 2277; eff. 7-7-2006; 36 Ky.R. 694; 1289; 1491; eff. 2-5-2010; 37 Ky.R. 2298; 2886; 38 Ky.R. 25; eff. 8-5-2011; TAm eff. 5-12-2015; Crt eff. 12-6-2019.)