

## 907 KAR 20:060. Medicaid adverse action and conditions for recipients.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 431.210, 431.211, 431.213, 431.214, 42 U.S.C. 1396a, b, d

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the conditions under which an application is denied or medical assistance is decreased or discontinued and establishes the advance notice requirements.

Section 1. Reasons for Adverse Action. (1) For an individual:

(a) Whose eligibility standard is not a modified adjusted gross income or who is not a former foster care individual, an application for Medicaid eligibility shall be denied if:

1. The individual's income exceeds the standards as established in 907 KAR 20:020;
2. The individual's resources exceed the standards established in 907 KAR 20:025;
3. The applicant does not meet technical eligibility criteria or fails to comply with a technical requirement as established in 907 KAR 20:005;
4. Despite receipt of written notice detailing the additional information needed for a determination, the applicant fails to provide sufficient information or clarify conflicting information necessary for a determination of eligibility;
5. The applicant fails to keep the appointment for an interview without good cause;
6. The applicant requests, in writing, voluntary withdrawal of the application without good cause;
7. Staff are unable to locate the applicant; or
8. The applicant is no longer domiciled in Kentucky;

(b) Whose eligibility standard is a modified adjusted gross income pursuant to 907 KAR 20:100, the application for Medicaid eligibility shall be denied if:

1. Income exceeds the standards as established in 907 KAR 20:100;
2. The applicant does not meet the citizenship, residency, and other technical requirements established in 907 KAR 20:100;
3. Despite receipt of written notice detailing the additional information needed for a determination, the applicant fails to provide sufficient information or clarify conflicting information necessary for a determination of eligibility;
4. The applicant fails to keep the appointment for an interview without good cause;
5. The applicant requests, in writing, voluntary withdrawal of the application without good cause;
6. Staff are unable to locate the applicant; or
7. The applicant is no longer domiciled in Kentucky; or

(c) Who is a former foster care individual between the age of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage, an application for Medicaid shall be denied if:

1. The applicant does not meet the citizenship, residency, and other technical requirements established in 907 KAR 20:075;
2. Despite receipt of written notice detailing the additional information needed for a determination, the applicant fails to provide sufficient information or clarify conflicting information necessary for a determination of eligibility;
3. The applicant fails to keep the appointment for an interview without good cause;

4. The applicant requests, in writing, voluntary withdrawal of the application without good cause;

5. Staff are unable to locate the applicant; or

6. The applicant is no longer domiciled in Kentucky.

(2) Medicaid eligibility shall be discontinued:

(a) For a recipient whose Medicaid eligibility income standard is not a modified adjusted gross income if:

1. Income of the recipient exceeds the standards established in 907 KAR 20:020;

2. Resources of the recipient exceed the standards established in 907 KAR 20:025;

3. Deductions decrease resulting in income exceeding the standards established in 907 KAR 20:020;

4. The recipient does not meet technical eligibility criteria or fails to comply with a technical requirement as established in 907 KAR 20:005;

5. Despite receipt of written notice detailing the additional information needed for a redetermination, the recipient fails to provide sufficient information or clarify conflicting information necessary for a redetermination of eligibility;

6. The recipient fails to keep the appointment for an interview;

7. Staff are unable to locate the recipient;

8. The recipient is no longer domiciled in Kentucky; or

9. A change in program policy that adversely affects the recipient has occurred;

(b) For a recipient whose Medicaid eligibility income standard is a modified adjusted gross income if:

1. Income of the recipient exceeds the standards established in 907 KAR 20:100;

2. The applicant does not meet the citizenship, residency, and other technical requirements established in 907 KAR 20:100;

3. Despite receipt of written notice detailing the additional information needed for a redetermination, the recipient fails to provide sufficient information or clarify conflicting information necessary for a redetermination of eligibility;

4. The recipient fails to keep the appointment for an interview;

5. Staff are unable to locate the recipient;

6. The recipient is no longer domiciled in Kentucky; or

7. A change in program policy that adversely affects the recipient has occurred; or

(c) For a former foster care individual between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage if:

1. The applicant does not meet the citizenship, residency, and other technical requirements established in 907 KAR 20:075;

2. Despite receipt of written notice detailing the additional information needed for a redetermination, the recipient fails to provide sufficient information or clarify conflicting information necessary for a redetermination of eligibility;

3. The recipient fails to keep the appointment for an interview;

4. Staff are unable to locate the recipient;

5. The recipient is no longer domiciled in Kentucky; or

6. A change in program policy that adversely affects the recipient has occurred.

(3) Patient liability shall be increased if:

(a) Income of the recipient increases; or

(b) Deductions decrease.

(4) Medicaid eligibility may be redetermined in another category resulting in a reduction of Medicaid coverage for an individual whose income eligibility standard is:

(a) Not a modified adjusted gross income, if:

1. Income exceeds the standards established in 907 KAR 20:020; or
  2. The individual does not meet technical eligibility requirements established in 907 KAR 20:005; or
- (b) A modified adjusted gross income, if:
1. Income exceeds the standards established in 907 KAR 20:100; or
  2. The individual does not meet the citizenship, residency, and other technical eligibility requirements established in 907 KAR 20:100.
- (5) Medicaid coverage may be reduced due to a change in Medicaid coverage policy.

Section 2. Notification of Denial of Applications. If a Medicaid application is denied, the applicant shall be given written notification of the denial which shall include:

- (1) The reason for the denial;
- (2) The cites of the applicable state administrative regulation; and
- (3) The right to an administrative hearing as established in 907 KAR 20:065.

Section 3. Advance Notice of a Discontinuance, Increase in Patient Liability, or a Reduction of Medicaid Coverage. (1) A recipient shall be given ten (10) days advance notice of the proposed action if a change in circumstances indicates:

- (a) A discontinuance of Medicaid coverage;
- (b) An increase in patient liability; or
- (c) A reduction of Medicaid coverage.

(2) A recipient shall be given five (5) days advance notice of the proposed action if a change in circumstance indicates:

- (a) Facts that action should be taken because of probable fraud by the recipient; and
  - (b) The facts have been verified through secondary sources.
- (3) The advance notice of proposed action shall:

- (a) Be in writing;
- (b) Explain the reason for the proposed action;
- (c) Cite the applicable state administrative regulation;
- (d) Explain the individual's right to request an administrative hearing;
- (e) Provide an explanation of the circumstances under which Medicaid is continued if an administrative hearing is requested; and

(f) Include that the applicant or recipient may be represented by an attorney or other party if the applicant or recipient so desires.

(4) An administrative hearing request received during the advance notice period may result in a delay of the discontinuance of Medicaid coverage, a delay in an increase in patient liability, or delay of a reduction of Medicaid coverage pending the hearing officer's decision, as established in 907 KAR 20:065.

Section 4. Exceptions to the Advance Notice Requirement. An advance notice of proposed action shall not be required, but written notice of action taken shall be given, if discontinuance of Medicaid coverage or an increase in patient liability resulted from:

- (1) Information reported by the recipient if the recipient signed a waiver of the notice requirement indicating that the recipient understood the consequences;
- (2) A clear written statement, signed by the recipient, that the recipient no longer wishes to receive Medicaid;
- (3) The receipt of factual information indicating that the recipient has died;
- (4) The whereabouts of the recipient being unknown and mail addressed to the recipient being returned indicating no known forwarding address;

- (5) Establishment by the agency that Medicaid has been accepted in another state;
- (6) The recipient entering:
  - (a) A penal institution; or
  - (b) If between twenty-one (21) and sixty-five (65) years of age, a mental hospital or an institution for mental disease (IMD); or
- (7) A change in the level of medical care being prescribed by the recipient's physician.

Section 5. Expiration of Hospital or Psychiatric Residential Treatment Facility Stay. Expiration of an approved time-limited hospital or psychiatric residential treatment facility stay shall not constitute a termination, suspension, or reduction of benefits.

Section 6. Individuals Whose Income Eligibility Standard is a Modified Adjusted Gross Income. An individual whose Medicaid eligibility is determined using a modified adjusted gross income as the eligibility standard shall be as established in 907 KAR 20:100. (21 Ky.R. 2878; 22 Ky.R. 293; eff. 6-21-1995; Recodified from 907 KAR 1:600, 9-30-2013; 40 Ky.R. 1193; 1797; 2176; eff. 4-4-2014; Crt eff. 12-6-2019.)