

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Program Integrity
(Amendment)

907 KAR 1:005. Nonduplication of payments.

RELATES TO: KRS 205.624, 205.6312, 42 U.S.C. 1396a, 42 U.S.C. 1396k, 42 C.F.R. Parts 431, 433, 447

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.622

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) empowers 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. This administrative regulation establishes the Medicaid program policies relating to nonduplication of payment and treatment of third-party liability.

Section 1. Nonduplication of Payment.

(1) In accordance with 42 C.F.R. 447.15, a payment to a provider for a service provided to a recipient shall be payment in full to the provider for the service.

(2)

(a) A provider shall not seek payment from a recipient for a covered service provided to the recipient.

(b) A recipient shall not be financially liable to a provider for a covered service provided by the provider to the recipient.

Section 2. Third-party Liability.

(1) The department shall comply with 42 C.F.R. Part 433, Subpart D, and consider any third-party liability as a resource.

(2) A recipient shall cooperate with the department for third-party liability purposes in accordance with 42 U.S.C. 1396k, 42 C.F.R. 433.138, and 42 C.F.R. 433.145.

(3) If payment for a covered service is due and payable from a third-party source such as Medicare, an insurance plan, or some other third-party with a legal obligation to pay, the amount payable by the cabinet shall be reduced by the amount of the third-party obligation.

(2 Ky.R. 100; 9-10-1975; Recodified from 904 KAR 1:005, 5-2-1986; 17 Ky.R. 148; eff. 9-13-1990; 45 Ky.R. 1439; eff. 2-1-2019; 48 Ky.R. 1409; eff. 3-10-2022.)

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 28, 2021

FILED WITH LRC: September 8, 2021 at 8:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 22, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 15, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually 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 November 30, 2021. 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: Krista Quarles, Policy Analyst, 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.