

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

**907 KAR 1:604. Cost-sharing prohibited within the Medicaid program.**

RELATES TO: KRS 205.560, 205.6312, 205.6485, 205.8451, 319A.010, 327.010, 334A.020, 42 C.F.R. 430.10, 431.51, 447.15, 447.20, 447.21, 447.50, 447.52, 447.54, 447.55, 447.56, 447.57, 457.224, 457.310, 457.505, 457.510, 457.515, 457.520, 457.530, 457.535, 457.570, 42 U.S.C. 1396a, 1396b, 1396c, 1396d, 1396o, 1396r-6, 1396r-8, 1396u-1, 1397aa -1397jj

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6485(1), 42 C.F.R. 431.51, 447.15, 447.50-447.90, 457.535, 457.560, 42 U.S.C. 1396r-6(b)(5)

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 to qualify for federal Medicaid funds. This administrative regulation prohibits cost-sharing within the Medicaid program, and extends the KRS 205.6312 prohibition of cost-sharing to providers as well as the department and managed care organizations.

**Section 1. Definitions.**

- (1) "Copayment" means a dollar amount representing the portion of the cost of a Medicaid benefit that a recipient is required to pay.
- (2) "Department" means the Department for Medicaid Services or its designee.
- (3) "Enrollee" means a Medicaid recipient who is enrolled with a managed care organization.
- (4) "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.
- (5) "Recipient" is defined by KRS 205.8451(9).

**Section 2. Copayment General Provisions and Exemptions.**

- (1) Pursuant to KRS 205.6312, the department or any MCO shall not utilize or require cost-sharing or copayments within any component of the Medicaid program.
- (2) A provider shall not collect a copayment from an enrollee for a service or item.

**Section 3. Freedom of Choice.**

- (1) In accordance with 42 C.F.R. 431.51, a recipient who is not an enrollee may obtain services from any qualified provider who is willing to provide services to that particular recipient.
- (2) A managed care organization may restrict an enrollee's choice of providers to the providers in the provider network of the managed care organization in which the enrollee is enrolled except as established in:
  - (a) 42 C.F.R. 438.52; or
  - (b) 42 C.F.R. 438.114(c).

**Section 4. Appeal Rights.** An appeal of a department decision regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

**Section 5. Federal Approval and Federal Financial Participation.** The department's copayment provisions and any coverage of services established in this administrative

regulation shall be contingent upon:

- (1) Receipt of federal financial participation; and
- (2) Centers for Medicare and Medicaid Services' approval.

Section 6. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on May 13, 2014.

(29 Ky.R. 1458; 2201; 2478; eff. 4-11-2003; 30 Ky.R. 1117; 1533; eff. 2-16-2004; 32 Ky.R. 417; 925; 1111; eff. 1-6-2006; 33 Ky.R. 607; 1386; 1568; eff. 1-5-2007; 34 Ky.R. 1840; 2117; eff. 4-4-2008; TAm eff. 7-16-2013; TAm eff. 8-7-2013; TAm eff. 9-30-2013; 40 Ky.R. 1991; 2524; 2749; eff. 7-7-2014; TAm eff. 10-6-2017; 46 Ky.R. 512, 937; eff. 10-4-2019; 47 Ky.R. 350; 729; eff. 11-19-2020; 48 Ky.R. 1414; eff. 1-13-2022.)

*LISA LEE, Commissioner*

*ERIC FRIEDLANDER, Secretary*

APPROVED BY AGENCY: August 23, 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.

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