

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amendment)

907 KAR 4:030. Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act.

RELATES TO: KRS 205.6481 – 205.6497, 211.461 – 211.466, 281.010(25), 304.5-040, 304.17A-005(8), (14), 42 C.F.R. 435.403, 440.230, Part 457, 42 U.S.C. 1396, 1397aa

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6481-205.6497, 42 U.S.C. 1397aa

NECESSITY, FUNCTION, AND CONFORMITY: KRS 205.6485 authorizes the cabinet, by administrative regulations, to establish the Kentucky Children's Health Insurance Program (KCHIP) to provide health care coverage and other coordinated health care services to participant children of the Commonwealth who are uninsured and otherwise not eligible for health insurance coverage. This administrative regulation establishes the KCHIP Phase III eligibility criteria, quality assurance and utilization review, covered services, the approval process, grievance and appeal rights, and the requirements for delivery of health services for providers who wish to participate with the Commonwealth to provide health care coverage for KCHIP Phase III members through the provision of a separate health insurance program under Title XXI.

Section 1. Definitions.

- (1) "Cabinet" means the Kentucky Cabinet for Health and Family Services or its designee.
- (2) "Creditable coverage" is defined by KRS 304.17A-005(8)(a)1-3 and 5-10.
- (3) "Department" means the Department for Medicaid Services or its designee.
- (4) "Excepted benefits" is defined by KRS 304.17A-005(14).
- (5) "Health insurance" is defined by KRS 304.5-040.
- (6) "KCHIP" means the Kentucky Children's Health Insurance Program in accordance with 42 U.S.C. 1397aa through 42 U.S.C. 1397jj.

Section 2. Eligibility Criteria.

- (1) An individual shall be eligible for KCHIP Phase III if the individual is a pregnant person who:
 - (a) Is a resident of Kentucky meeting the conditions for determining state residency under 42 C.F.R. 435.403;
 - (b) Is an immigrant who is lawfully present;
 - (c) Is not an inmate of a public institution or a patient in an institution for mental diseases;
 - (d) Is not eligible for Medicaid pursuant to 907 KAR 20:005 or 907 KAR 20:100;
 - (e)
 1. Has family income that does not exceed 213 percent of the federal poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. 9902(2), a five (5) percent income disregard is available consistent with the following:
 - a. If an eligibility determination indicates that an individual's income exceeds 213 percent of the federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2), the department shall apply an additional cushion of five (5) percent of the federal

poverty level toward the eligibility determination for the individual as described pursuant to 42 U.S.C. 1396a(e)(14)(I)(i); and

b. If after the five (5) percent adjustment, the individual's income is under the adjusted income threshold, the individual shall meet the modified adjusted gross income standard;

2. Does not have creditable coverage and may be covered by excepted benefits;

3. Provides to the department the information required in Section 4(4) of this administrative regulation; and

4. Meets the continuing eligibility requirements established in 907 KAR 20:010, Section 2; and

(f) A pregnant person's federal poverty level calculation pursuant to 42 U.S.C. 9902(2) shall be at least two (2) and shall include the pregnant person and any unborn children of the pregnant person. Other members of the household shall be calculated and included consistent with KAR Title 907.

(2)

(a) Eligibility for KCHIP Phase III shall be determined by the department.

(b) Upon receipt of the eligibility information established in subsection (1) of this section, the department shall determine if a participant is eligible for benefits pursuant to 42 U.S.C. 1396 or 1397bb.

Section 3. Covered Services.

(1) Health services shall be considered as medically necessary in accordance with:

(a) 907 KAR 3:130; and

(b) 42 C.F.R. 440.230.

(2) The amount and duration of benefits covered by KCHIP Phase III shall be as established in Title 907 KAR excluding the services identified in subsection (2) of this section.

(3) A medical service shall be covered through KCHIP Phase III if the individual is determined eligible for KCHIP benefits in accordance with Section 2 of this administrative regulation.

(4) Preventive and remedial public health services shall be provided to KCHIP Phase III members in accordance with 907 KAR 1:360.

(5) KCHIP Phase III shall be the payor of last resort.

Section 4. KCHIP Phase III Approval Process. The following information shall be required from a participant or responsible party for KCHIP Phase III enrollment:

(1) A participant's demographics that shall include:

(a) Name;

(b) Address;

(c) Sex;

(d) Date of birth;

(e) Race; and

(f) Social Security number;

(2) Monthly gross earned income, if any, of a parent and a participant, for whom information is being submitted, an employer type and address, if any, and frequency of income;

(3) The name and address of a health insurance provider who currently provides creditable coverage;

(4) The creditable coverage policy number, policy holder's name, Social Security number, and individuals covered by the plan;

(5) Unearned income, if any, received weekly, biweekly, bimonthly, quarterly, or annually;

- (6) The name and age of a participant or disabled adult for whom care is purchased in order for a parent or responsible person to work; and
- (7) The signature, date, and telephone number of the person submitting the information for a participant.

Section 5. Provider Participation Requirements. A provider's enrollment, disclosure, and documentation for participation in KCHIP Phase III shall meet the requirements established in:

- (1) 907 KAR 1:671; and
- (2) 907 KAR 1:672.

Section 6. Complaint, Grievance and Appeal Rights.

(1) If dissatisfied with an action taken by the cabinet, the participant, the participant's parent, or the participant's guardian shall be entitled to a complaint, grievance, or appeal with the cabinet to be conducted in accordance with:

- (a) 907 KAR 1:560; or
- (b) 907 KAR 1:563.

(2) If a service is provided by a managed care organization, a dispute resolution between a provider and a participant, the participant's parent, or the participant's guardian shall be in accordance with:

- (a) KRS 211.461 through 211.466; and
- (b) 907 KAR 17:010.

(3) A KCHIP Phase III eligible participant or a responsible party shall be informed in writing of the right to and procedures for due process by the cabinet:

- (a) At the time information to obtain KCHIP Phase III approval is submitted;
- (b) If there is a change in eligibility status; or
- (c) As required by federal and state laws.

Section 7. Quality Assurance and Utilization Review. The department shall evaluate the following on a continuing basis:

- (1) Access to services;
- (2) Continuity of care;
- (3) Health outcomes; and
- (4) Services arranged or provided as established in 907 KAR Chapter 17.

LISA D. LEE, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: July 11, 2022

FILED WITH LRC: July 19, 2022 at noon

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 24, 2022, 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 October 17, 2022, 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 October 31, 2022. 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 Specialist, 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.