

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amendment)

907 KAR 1:680. Vaccines for Children Program.

RELATES TO: KRS 205.520, 42 U.S.C. 1396s

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a, b, d, s, 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: ~~EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.~~ The Cabinet for Health and Family 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 medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions relating to vaccines provided through the Vaccines for Children Program.

Section 1. Definitions.

- (1) "Immunization" means an inoculation against a vaccine preventable disease.
- (2) "Program registered provider" means a health care provider that is:
 - (a) Licensed or otherwise authorized for administration of pediatric vaccines; and
 - (b) Enrolled in the Vaccines for Children Program.
- (3) "Recipient" means a person age eighteen (18) or under who has been determined eligible to receive benefits under the state's Title XIX or Title XXI program in accordance with Title 907 KAR ~~Chapters 1 through 4~~.
- (4) "Vaccines for Children Program" means the program for distribution of pediatric vaccines administered by the Department for Public Health and described in 42 U.S.C. 1396s.

Section 2. Obtaining Vaccines.

- (1) A program registered provider ~~may~~shall obtain a vaccine for the administration of a childhood immunization to an eligible recipient from the Vaccines for Children Program.
- (2) ~~The Medicaid Program shall not make payment to a provider for the cost of a vaccine available through the Vaccines for Children Program.~~
- ~~(3)~~ A fee for administering a vaccine obtained through the Vaccines for Children Program may be paid by the department through the appropriate provider program.

LISA D. LEE, Commissioner

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 6, 2022

FILED WITH LRC: September 12, 2022 at 12:50 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 28, 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 November 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 November 30, 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 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott, Executive Advisor

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the provisions relating to vaccines provided through the Vaccines for Children Program.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish DMS's policy and reimbursement provisions relating to the Vaccines for Children Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the content of the authorizing statutes by establishing DMS's policy and reimbursement provisions regarding the Vaccines for Children Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the authorizing statutes by establishing DMS's policy and reimbursement provisions relating to the Vaccines for Children Program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment modifies this regulation to comport with modern practice realities relating to the Vaccines for Children Program (VCF). The regulation is amended to make participation permissive and to allow for reimbursement to certain providers regardless of the provider's participation in the VCF program.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to ensure greater participation and availability of vaccines throughout the Medicaid program.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment conforms to the content of the authorizing statutes by clarifying and expanding how providers can administer vaccinations to Medicaid recipients.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment assists in effectively administering the statutes by providing needed clarification about how Medicaid providers can administer vaccines. (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Approximately 59,000 Medicaid providers and 1.6 million Medicaid recipients, including more than 600,000 children may benefit from the expanded vaccination activities that could occur under this regulatory clarification.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

No answer provided.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Some providers who are not enrolled in the VFC program may begin to increase vaccine administration to Medicaid recipients.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The department does not anticipate additional costs to providers as a result of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Providers should be able to expand vaccination efforts to more of the Medicaid population. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The department does not anticipate additional costs as a result of this administrative regulation.

(b) On a continuing basis:

The department does not anticipate additional costs as a result of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Sources of funding to be used are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The department does not anticipate any increase in fees or funding as a result of the change to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not directly or indirectly increase any fees. (9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

(9) TIERING: Is tiering applied?

Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

DMS will be affected by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year?

This administrative regulation is not expected to generate costs for DMS in the first year.

(d) How much will it cost to administer this program for subsequent years?

This administrative regulation is not expected to generate costs for DMS in subsequent years. Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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Revenues (+/-): _____

Expenditures (+/-): _____

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the first year. This administrative regulation may result in higher reimbursement for regulated entities.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in subsequent years. This administrative regulation may result in higher reimbursement for regulated entities.

(c) How much will it cost the regulated entities for the first year?

DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent years?

DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):No answer provided.

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

42 C.F.R. Subpart L.

(2) State compliance standards.

KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate.

Under the VFC program, vaccines are administered by program-registered providers.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

The administrative regulation does not impose stricter or different responsibilities than the federal requirements.