

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Department for Medicaid Services**

**Division of Fiscal Management**

**(Amended After Comments)**

**907 KAR 1:008. Ambulatory surgical center services and reimbursement.**

RELATES TO: KRS 205.520(3), 205.560(2), 42 C.F.R. 416.164 and 416.166, 447.271, Part 441 Subpart E or F

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

NECESSITY, FUNCTION, AND CONFORMITY: 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 a 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 coverage provisions and method for establishing payment for an ambulatory surgical center.

Section 1. Scope of Coverage. The Medicaid Program shall cover medically necessary, medically appropriate services rendered by a participating ambulatory surgical center (ASC) licensed by its respective state and certified for Medicare participation.

Section 2. Basis for Reimbursement.

(1) Beginning with the effective date of this regulation, the Department for Medicaid Services shall utilize the January 1, 2022, ASC fee schedule published by the Centers for Medicare and Medicaid Services (CMS) to determine the ASC rates, subject to the following adjustments and updating procedures:

(a) Reimbursement for a procedure shall be the rate specific to that procedure as assigned by CMS, adjusted by the wage index utilized by CMS for the Cincinnati, OH, Core-Based Statistical Area, or its equivalent.

(b) Procedure codes that are considered a packaged service by CMS with a Medicare rate of \$0 shall be reimbursed at a rate of \$0.

(c) Medicaid covered procedures not included on the Medicare fee schedule shall be reimbursed at forty-five (45) percent of billed charges.

(d) Bilateral procedures shall be reimbursed at one hundred and fifty (150) percent of billed charges.

(e) Reimbursement shall follow applicable Medicare rules for multiple endoscopy discounting and multiple procedure discounting. In the event that both discounts apply to a single claim, the multiple endoscopy discount shall be applied first.

(f) Effective January 1, 2023, and each January 1 thereafter, the ASC fee schedule utilized for payment purposes shall be updated to reflect the latest January 1 Medicare ASC fee schedule published by CMS, inclusive of any applicable correction notices.

(2) Ambulatory surgical center coverage provisions shall be as established in 42 C.F.R. 416 Subpart F, including 42 C.F.R. 416.164 and 416.166.

Section 3. Reproductive Services.

(1) A reproductive service shall be reimbursable when performed in compliance with this administrative regulation and 42 C.F.R. Part 441 Subpart E or F, as relevant:

(2) The appropriate certification form or forms shall be completed and signed by the physician. A copy of the completed form and an operative report shall accompany each

claim submitted for payment.

(3) If a sterilization is performed in conjunction with another surgical procedure and federal regulations governing payment for the sterilization have not been met, the department shall only make payment for the covered non-sterilization procedure.

(4) Claims for unilateral or laparoscopic surgical procedures that could result in sterilization shall be submitted with documentation verifying that the recipient was not sterilized as a result of the performed procedure.

#### Section 4. Documentation Requirements.

(1) All services reimbursed by the department shall be:

- (a) Medically necessary;
- (b) Medically appropriate; and
- (c) Related to the diagnosis or treatment of:
  - 1. Illness;
  - 2. Injury;
  - 3. Impairment; or
  - 4. Maternity care.

(2) Documentation in recipient medical records shall support necessity and substantiate the level of service billed.

(3) Medical necessity shall be determined in accordance with 907 KAR 3:130.

(4) The department shall have the authority to audit any:

- (a) Claim;
- (b) Medical record; or
- (c) Documentation associated with any claim or medical record.

Section 5. Federal Approval and Federal Financial Participation. The cabinet's coverage and reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage and reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval of the coverage and reimbursement, as relevant.

Section 6. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to this administrative regulation.

*LISA D. LEE, Commissioner*

*ERIC C. FRIEDLANDER, Secretary*

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