CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy
(Amended at ARRS Committee)

907 KAR 20:050. Presumptive eligibility.

RELATES TO: KRS 205.520(3), 205.5375, 205.592, 45 C.F.R. 164, 42 U.S.C. 1396a(a)(47), r-1, 42 U.S.C. 9902

STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1), 205.520(3), 205.5375(7)

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 secretary to promulgate administrative regulations necessary to qualify for federal funds by compliance with any requirement that may be imposed or opportunity that may be presented by federal law. KRS 205.5375(7) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to administer this statute, including a thorough presumptive eligibility application form to be used by qualified hospitals when making presumptive eligibility determinations using information provided and attested to by an individual. This administrative regulation establishes requirements for the determination of presumptive eligibility and the provision of services to individuals deemed presumptively eligible for Medicaid-covered services.

Section 1. Providers Eligible to Grant Presumptive Eligibility.

(1) A determination of presumptive eligibility regarding:

(a) A pregnant woman shall be made by a qualified provider who is:

1. A family or general practitioner;
2. A pediatrician;
3. An internist;
4. An obstetrician or gynecologist;
5. A physician assistant;
6. A certified nurse midwife;
7. An advanced practice registered nurse;
8. A federally-qualified health care center;
9. A primary care center;
10. A rural health clinic; or
11. A local health department; or

(b) An individual whose income standard for Medicaid eligibility purposes is a modified adjusted gross income shall be made by an inpatient hospital participating in the Medicaid Program.

(2) An individual whose Medicaid eligibility is determined using the modified adjusted gross income as an income standard shall be an individual identified in 907 KAR 20:100 as having a modified adjusted gross income as the Medicaid income eligibility standard.

Section 2. Provider Responsibilities.

(1) A qualified provider who determines that an individual is presumptively eligible for Medicaid based on criteria established in Section 3 of this administrative regulation shall:

(a) Complete the paper or electronic application approved by the department pursuant to Section 8 of this administrative regulation;

(b) Enter the data into the department's Integrated Eligibility and Enrollment System (IEES) self-service portal for a real-time eligibility determination;

(c)

1. Inform the individual at the time the determination is made that the individual is required to make an application for Medicaid benefits through the individual's local DCBS office or via the IEES self-service portal; and

2. Inform the individual of any other requirements pursuant to KRS 205.5375(2)(b);

(d) Inform the individual of the location of the individual's local DCBS office;

(e) Issue presumptive eligibility identification to the presumed eligible individual;

(f) Maintain a record of the presumptive eligibility screening for each applicant for at least five (5) years; and

(g) Complete and securely submit the form described in Section 8(3) of this administrative regulation to the department or the department's designee.

(2) If an individual is determined not to be presumptively eligible, the qualified provider shall inform the individual of the following in writing:

(a) The reason for the determination;

(b) That the individual may file an application for Medicaid if the individual wishes to have a formal determination made; and

(c) The location of the individual's local DCBS office.

(3) A qualified provider shall, as appropriate, assist the patient with a full Medicaid application pursuant to KRS 205.5375(2)(e).

Section 3. Eligibility Criteria. Presumptive eligibility shall be granted to:

(1) A woman if she:

(a) Is pregnant;

(b) Is a Kentucky resident;

(c) Does not have income exceeding 218 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) and as consistent with 907 KAR 4:030;

(d) Does not currently have a pending Medicaid application on file with the DCBS;

(e) Is not currently enrolled in Medicaid;

(f) Has not been previously granted presumptive eligibility for the current pregnancy; and

(g) Is not an inmate of a public institution, except as established in 907 KAR 20:005, Section 7(2); or

(2) An individual whose Medicaid income eligibility standard is a modified adjusted gross income if the individual:

(a) Is a Kentucky resident;

(b) Does not have income exceeding:

1. 133 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); or

2. 218 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), if the individual is a targeted low-income child, as consistent with 907 KAR 4:020;

(c) Does not currently have a pending Medicaid application on file with the DCBS;

(d) Is not currently enrolled in Medicaid; and

(e) Is not an inmate of a public institution except as established in 907 KAR 20:005, Section 7(2).

Section 4. Presumptive Eligibility Period.

(1) Presumptive eligibility for an individual shall begin on the date on which a qualified providerdetermines that the individual is presumptively eligible based on the criteria specified in Section 3 of this administrative regulation.

(2) The presumptive eligibility period shall end on:

(a) The day preceding the date the presumptively-eligible individual is granted full eligibility in the Medicaid Program by the DCBS; or

(b) The last day of the month following the month in which a qualified provider made the presumptive eligibility determination if the presumed eligible individual:

1. Does not apply for the full Medicaid benefit package; or
2. Applies for and is found ineligible for the full Medicaid benefit package.

(3) To illustrate the presumptive eligibility period, if an individual became presumptively eligible on July 7, 2014, the individual shall remain presumptively eligible through August 31, 2014.

(4) For a woman who gains presumptive eligibility by being pregnant, only one (1) presumptive eligibility period shall be granted for each episode of pregnancy.

Section 5. Covered Services.

(1)

(a) Payment for a covered service provided to a presumptively-eligible individual shall be in accordance with the current Medicaid reimbursement policy for the service unless the service is provided to an individual who is enrolled with a managed care organization.

(b) A managed care organization:

1. Shall not be required to reimburse in the same manner or amount as the department reimburses for a Medicaid-covered service provided to a presumptively eligible individual; or
2. May elect to reimburse in the same manner or amount as the department reimburses for a Medicaid-covered service provided to a presumptively eligible individual.

(2) Covered services for a presumptively-eligible:

(a) Pregnant woman shall be limited to ambulatory prenatal care services delivered in an outpatient setting and shall include:

1. Services furnished by a primary care provider, including:
   a. A family or general practitioner;
   b. A pediatrician;
   c. An internist;
   d. An obstetrician or gynecologist;
   e. A physician assistant;
   f. A certified nurse midwife; or
   g. An advanced practice registered nurse;
2. Laboratory services provided in accordance with 907 KAR 10:014 and 907 KAR 1:028;
3. Radiological services provided in accordance with 907 KAR 10:014 and 907 KAR 1:028;
4. Dental services provided in accordance with 907 KAR 1:026;
5. Emergency room services provided in accordance with 907 KAR 10:014;
6. Emergency and nonemergency transportation provided in accordance with 907 KAR 1:060;
7. Pharmacy services provided in accordance with 907 KAR 23:010;
8. Services delivered by rural health clinics provided in accordance with 907 KAR 1:082;
9. Services delivered by primary care centers, federally-qualified health centers, and federally-qualified health center look-alikes provided in accordance with 907 KAR 1:054; or
10. Primary care services delivered by local health departments provided in accordance with 907 KAR 1:360; or

(b) Individual who is not a pregnant woman shall include:

1. Services furnished by a primary care provider, including:
   a. A family or general practitioner;

b. A pediatrician;
c. An internist;
d. An obstetrician or gynecologist;
e. A physician assistant;
f. A certified nurse midwife; or
g. An advanced practice registered nurse;

2. Laboratory services provided in accordance with 907 KAR 10:014 and 907 KAR 1:028;

3. Radiological services provided in accordance with 907 KAR 10:014 and 907 KAR 1:028;

4. Dental services provided in accordance with 907 KAR 1:026;

5. Emergency room services provided in accordance with 907 KAR 10:014;

6. Emergency and nonemergency transportation provided in accordance with 907 KAR 1:060;

7. Pharmacy services provided in accordance with 907 KAR 23:010;

8. Services delivered by rural health clinics provided in accordance with 907 KAR 1:082;

9. Services delivered by primary care centers, federally-qualified health centers, and federally-qualified health center look-alikes provided in accordance with 907 KAR 1:054;

10. Primary care services delivered by local health departments provided in accordance with 907 KAR 1:360; or

11. Inpatient or outpatient hospital services provided by a hospital.

Section 6. Appeal Rights.

(1) The appeal rights of the Medicaid Program shall not apply if an individual is:

(a) Determined not to be presumptively eligible; or

(b) Determined to be presumptively eligible but fails to file an application for Medicaid with the DCBS before the individual's presumptive eligibility ends and therefore loses presumptive eligibility at the end of the presumptive eligibility period.

(2) The appeal rights of the Medicaid Program shall apply if an individual is:

(a) Determined to be presumptively eligible; and

(b) Files an application with the DCBS but is determined ineligible for Medicaid benefits.

(3) Except as specified in subsection (1) of this section, an appeal of a negative action taken by the department regarding a Medicaid recipient shall be in accordance with:

(a) 907 KAR 1:563 if the individual is:

1. Not enrolled with a managed care organization; or

2. Enrolled with a managed care organization and the individual has exhausted the MCO internal appeal process in accordance with 907 KAR 17:010 and requests an appeal of an adverse decision by the MCO; or

(b) 907 KAR 17:010 if the individual is enrolled with a managed care organization.

(4) Except as specified in subsection (1) of this section, an appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(5) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 7. Quality Assurance and Utilization Review.

(1) The cabinet shall evaluate, on a continuing basis, access, continuity of care, health outcomes, and services arranged or provided by a Medicaid provider to a presumptively eligible individual in accordance with accepted standards of practice for medical service.

(2) A hospital's determination that an individual does not meet criteria for presumptive eligibility shall be consistent with KRS 205.5375 and Section 2 of this administrative regulation.

Section 8. Department Established Training and Presumptive Eligibility Form.

(1)

(a) As required by KRS 205.5375, and in collaboration with the Kentucky Hospital Association and each academic medical center, the department shall institute and conduct a training at least once every twelve (12) months that addresses current state and federal laws related to presumptive eligibility for all qualified hospitals.

(b) The training may include a component that demonstrates and clarifies use of the most current presumptive eligibility application form that is designated by the department for use by the qualified hospitals.

(c)

1. The training required pursuant to this subsection shall be available in an on-demand format for review by all interested qualified hospital staff.

2. At the request of the department, the Kentucky Hospital Association, or any of the academic medical centers the training may also be conducted virtually or in-person.

3. The most current on-demand version of the training shall be hosted on the department's Web site at:

a. https://chfs.ky.gov/agencies/dms/Pages/training.aspx; or

b. http://www.kymmis.com/kymmis/provider%20relations/PresumptiveEligibility.aspx.

(2) The department, in consultation with the Kentucky Hospital Association and any academic medical center, shall establish a comprehensive and thorough presumptive eligibility application form for use by each qualified hospital when making presumptive eligibility determinations.

(a) The form shall be:

1. Updated within thirty (30) days of a relevant or substantial change in applicable state and federal law relating to presumptive eligibility;

2. A current and comprehensive document that assists a hospital contractor, employee, or volunteer in completing and making an accurate determination relating to the presumptive eligibility status of an individual; and

3. Available on the department's Web site at:

a. https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/hospital.aspx; or

b. http://www.kymmis.com/kymmis/provider%20relations/PresumptiveEligibility.aspx

(b) The form may be utilized by a qualified hospital as a paper application or within an eligibility application as allowable pursuant to current state and federal law.

(3)

(a) In accordance with KRS 205.5375(2)(a), the department, in consultation with the Kentucky Hospital Association and any academic medical center, shall establish a notification form for a qualified hospital to use to notify the department, or designee, of a determination that an individual is presumptively eligible for Medicaid.

(b) The form shall be:

1. Updated within thirty (30) days of a relevant or substantial change in applicable state and federal law relating to notifications of presumptive eligibility; and

2. Available on the department's Web site at: https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/hospital.aspx

(4) The department and a qualified hospital shall observe appropriate privacy and confidentiality standards of state and federal law, including 45 C.F.R. Part 164, in transmitting a completed form that is determined to contain protected health information. This may include:

(a) Use of encrypted email;

(b) Use of other encrypted electronic file transfer systems; or

(c) Any other department approved secure method of sharing personally identifiable health information that is allowable pursuant to state and federal law.

Section 9. Incorporation by Reference.

(1) "Presumptive Eligibility Hospital Patient Information Form", February 2023, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or at www.chfs.ky.gov/agencies/dms/Pages/default.aspx.

(28 Ky.R. 2133; 2355; eff. 4-30-2002; TAm eff. 5-3-11; Recodified from 907 KAR 1:810, 9-30-2013; 40 Ky.R. 1189; 1793; 2174; eff. 4-4-2014; TAm eff. 10-6-2017; Cert eff. 12-6-2019; 49 Ky.R. 1194, 1784; eff. 3-9-2023.)

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