

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Fiscal Management

(Amendment)

907 KAR 1:061. Payments for ambulance transportation.

RELATES TO: KRS 205.520, 205.8451, 42 C.F.R. 440.170, 447.200 -447.205, 42 U.S.C. 1396, 2005 Acts ch. 173 Parts I., A.22.(i), I., H.3.b.(19)

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

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 for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining amounts payable by the Department for Medicaid Services for ambulance transportation services.

Section 1. Definitions.

(1) "Advanced life support (ALS) emergency ambulance transportation" means an ambulance service meeting the standards for advanced life support services established in accordance with 202 KAR 7:501.

(2) "Advanced Life Support (ALS) Medical First Response Provider" means an emergency medical professional licensed in accordance with 202 KAR 7:501 to provide ALS care.

(3) "Air ambulance provider" means an air ambulance service licensed in accordance with 202 KAR 7:510.

(4) "Appropriate medical facility or provider" means a local medical provider other than an emergency room of a hospital who can provide necessary emergency care if a hospital emergency room is not located within a recipient's county of residence or a contiguous county.

(5) "Basic life support (BLS) emergency ambulance transportation" means an ambulance service which meets the standards for basic life support services established in 202 KAR 7:501.

(6) "Department" means the Department for Medicaid Services or its designated agent.

(7) "Membership or subscription fee" means a payment collected from a recipient by a provider which entitles the recipient to free or discounted ambulance transportation services.

(8) "Recipient" is defined in KRS 205.8451(9).

(9) "Upper limit" means the maximum reimbursement rate the department shall pay an ambulance transportation provider for the service provided.

Section 2. Reimbursement for Licensed Ambulance Services.

(1) The department shall reimburse an ambulance service at the lesser of:

(a) The provider's usual and customary charge for the service; or

(b) An upper limit established in this section for the service plus, if applicable, a rate for oxygen and reimbursement for disposable medical supplies utilized during an ambulance transportation service.

(2) Except for an air ambulance transportation service, the upper limit for an ambulance service shall be calculated by adding a base rate, mileage allowance, and flat rate fees as follows:

(a) For ALS emergency ambulance transportation to the emergency room of a hospital:

1. A base rate of 110 dollars;
 2. A mileage allowance of four (4) dollars per mile; and
 3. If transported concurrently, a flat rate of twenty-five (25) dollars for an additional recipient;
- (b) For BLS emergency ambulance transportation to the emergency room of a hospital:
1. A base rate of eighty-two (82) dollars and fifty (50) cents;
 2. A mileage allowance of three (3) dollars per mile; and
 3. If transported concurrently, a flat rate of twenty (20) dollars for an additional recipient;
- (c) For ALS or BLS emergency ambulance transportation to an appropriate medical facility or provider:
1. A base rate of sixty (60) dollars;
 2. A mileage allowance of two (2) dollars and fifty (50) cents per mile; and
 3. If transported concurrently, a flat rate of fifteen (15) dollars for an additional recipient;
- (d) For BLS emergency ambulance transportation to the emergency room of a hospital during which the services of an ALS Medical First Response provider ~~are~~^{is} required to stabilize the recipient:
1. A base rate of 110 dollars;
 2. A mileage allowance of four (4) dollars per mile; and
 3. If transported concurrently, a flat rate of twenty-five (25) dollars for an additional recipient;
- (e) For BLS emergency ambulance transportation to an appropriate medical facility or provider during which the services of an ALS Medical First Response provider are required:
1. A base rate of sixty (60) dollars;
 2. A mileage allowance of two (2) dollars and fifty (50) cents per mile; and
 3. If transported concurrently, a flat rate of fifteen (15) dollars for an additional recipient;~~and~~
- (f) For non emergency ambulance transportation during which the recipient requires no medical care during transport:
1. A base rate of fifty-five (55) dollars; and
 2. A mileage allowance of two (2) dollars per mile;
- (g) For a treatment in place encounter during which the recipient receives care but is not transported to a medical facility:
1. A base rate of at least eighty-two (82) dollars and fifty (50) cents and as consistent with Healthcare Common Procedure Coding System (HCPCS) code A0998 at the Kentucky Medicaid Transportation Fee Schedule rate for code A0249 (BLS base, hospital); and
 2. Mileage shall not be billable; and
- (h) For a treatment, triage, and transport service during which the recipient receives care, is assessed as not needing emergent treatment, and is transported to an appropriate medical facility that is not a hospital emergency department:
1. A base rate of at least eighty-two (82) dollars and fifty (50) cents and as consistent with Healthcare Common Procedure Coding System (HCPCS) code A0998 at the Kentucky Medicaid Transportation Fee Schedule rate for code A0249 (BLS base, hospital); and
 2. A mileage allowance of two (2) dollars and fifty (50) cents per mile.
- (3) In addition to the rates specified in subsection (2) of this section, the department shall reimburse for:
- (a) The administration of oxygen during an ambulance transportation service at a flat rate of ten (10) dollars per one (1) way trip if medically necessary; and

- (b) The cost of disposable supplies actually utilized during an ambulance transportation service if the provider lists the supplies used during the service on an invoice. The department shall not reimburse for a supply item that is not disposable or is not actually used during the ambulance transportation service.
- (4) Reimbursement for air ambulance transportation shall be an all inclusive rate which shall be the lesser of:
- (a) The provider's usual and customary charge; or
 - (b) An upper limit of \$3,500 per one (1) way trip.
- (5) Payment for a service identified in subsections (2) through (4) of this section shall be contingent upon a statement of medical necessity, which:
- (a) Shall be maintained in accordance with 907 KAR 1:060, Section 5(2); and
 - (b) May be requested by the department for post-payment review.
- (6) If a recipient has paid a membership or subscription fee to a transportation provider, the provider shall not be eligible for Medicaid reimbursement for service provided to the recipient.

Section 3. Appeal Rights.

- (1) An appeal of a negative action regarding a Medicaid recipient shall be in accordance with 907 KAR 1:563.
- (2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.
- (3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 4. 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.

LISA D. LEE, Commissioner

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: October 25, 2023

FILED WITH LRC: November 13, 2023 at 1:25 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2024, 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 January 12, 2024, 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 January 31, 2024. 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 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the method for determining amounts payable by the Department for Medicaid Services for ambulance transportation services.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the method for determining amounts payable by the Department for Medicaid Services for ambulance transportation services.

(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 methods for determining amounts payable by the Department for Medicaid Services for ambulance transportation services.

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

This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the method for determining amounts payable by the Department for Medicaid Services for ambulance transportation services.

(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 amendments introduce two (2) new services that can be provided by ambulance transportation providers. A new service and payment rate of treatment in place and a new service, payment rate, and mileage rate of treatment, triage, and transport to a medical facility other than a hospital emergency department when emergent treatment is not needed are established.

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

These amendments are necessary to establish the base rate for treatment in place and establish the base rate and the mileage rate for treatment, triage, and transport services to a medical facility other than a hospital emergency department when emergent treatment is not needed.

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

The amendments conform to the content of the authorizing statutes by establishing the base rate for treatment in place and establishing the base rate and the mileage rate for treatment, triage, and transport services to a medical facility other than a hospital emergency department when emergent treatment is not needed.

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

The amendments will assist in the effective administration of the authorizing statutes by establishing the base rate for treatment in place and establishing the base rate and the mileage rate for treatment, triage, and transport services to a medical facility other than a hospital emergency department when emergent treatment is not needed.

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

The following Medicaid-enrolled providers will be affected by this administrative regulation: Licensed ambulance service providers will be affected, there are currently at least 212 providers.

(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:

As appropriate, providers may need to refer to this administrative regulation to determine the amounts payable by the Department for Medicaid Services for ambulance services.

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

Providers and provider groups will not incur additional costs as a result of the changes to this administrative regulation.

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

Providers and provider groups will benefit due to the availability of treatment in place and triage and transport services to defray costs associated these types of ambulance services.

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

(a) Initially:

DMS does not anticipate any additional costs in implementing this amendment on an initial basis.

(b) On a continuing basis:

DMS does not anticipate any additional costs in implementing this amendment on a continuing basis.

(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 for the implementation and enforcement of this administrative regulation 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:

At this time, DMS does not assess that an increase in fees or funding is necessary to implement this administrative regulation.

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

This administrative regulation neither establishes nor increases 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.

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 and any local government that operates an ambulance service 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)

(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?

DMS does not anticipate any additional costs in implementing this amendment on an initial basis.

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

DMS does not anticipate any additional costs in implementing 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.

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 anticipates the cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the first year due to the availability of new services types that will address all types of ambulance runs.

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

DMS anticipates the cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the subsequent years due to the availability of new services types that will address all types of ambulance runs.

(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 (+/-):

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. 440.170

(2) State compliance standards.

KRS 194A.030(2) states, "The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act."

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

Requires state Medicaid agencies to provide transportation by ambulance.

(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.