

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Health Policy

(Amended After Comments)

907 KAR 3:310. Community Health Worker services and reimbursement.

RELATES TO: KRS 309.460, 309.462, 309.464

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.648

NECESSITY, FUNCTION, AND CONFORMITY: In accordance with KRS 194A.030(2), 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 to qualify for federal Medicaid funds. KRS 205.648 requires DMS to seek a state plan amendment and implement covered services on behalf of community health workers. This administrative regulation establishes community health worker services and reimbursement.

Section 1. Definitions.

- (1) "Certified community health worker" has the same meaning as in KRS 309.460(2).
- (2) "Department" means the Department for Medicaid Services or its designee.
- (3)
 - (a) "Medical intervention" means a treatment, procedure or other action taken to prevent or treat disease, or improve health in other ways.
 - (b) "Medical intervention" includes, but does not require the direct application of medical care.
- (4) "Ordering provider" means a provider that is employed by or contracted with a sponsoring provider and who is:
 - (a) A physician;
 - (b) A physician assistant;
 - (c) An advanced practice registered nurse, including a certified nurse midwife~~;~~ ~~or~~;
 - (d) A dentist;
 - (e) An optometrist; or**
 - (f) Any other clinician type included by the department.**
- (5) "Sponsoring provider" means a provider listed or permitted to employ a certified community health worker pursuant to 205.648(2).

Section 2. Certified Community Health Worker Qualifications. In order to be eligible for reimbursement, a certified community health worker shall:

- (1) Be a legal United States resident;
- (2) Be employed as a certified community health worker in the state of Kentucky;
- (3) Be at least eighteen (18) years of age; and
- (4) Meet and maintain the certification or recertification requirements of 902 KAR 21:040.
- (5) Provide services as approved by an ordering provider who is associated with a sponsoring provider.
- (6)
 - (a) Provide services on behalf of a sponsoring provider.
 - (b) For the purposes of this administrative regulation, a sponsoring provider of a certified community health worker shall include:
 - 1. A behavioral health multi-specialty group; or**

2. Any other provider or facility that has been approved pursuant to KRS 205.648(2)(b)10.

Section 3. Community Health Worker Services.

- (1) A community health worker service shall be related to a medical intervention that is outlined in the individual's care plan.
- (2) Community health worker services shall include all services established within KRS 205.648(3)(a)-(d).
- (3) Consistent with federal approval, the following services may be conducted by a certified community health worker. Any services provided shall be consistent with established or recognized healthcare standards:
 - (a) Health system navigation and resource coordination, which may include:
 1. Helping a recipient find Medicaid providers to receive a covered service;
 2. Helping a recipient make an appointment for a Medicaid covered service;
 3. Arranging transportation to a medical appointment;
 4. Attending an appointment with the recipient for a covered service; or
 5. Helping a recipient find other relevant community resources such as support groups.
 - (b) Health promotion and coaching, which may include providing information or training to recipients that make positive contributions to their health status, such as:
 1. Cessation of tobacco use;
 2. Reduction in the misuse of alcohol or drugs;
 3. Improvement in nutrition;
 4. Improvement of physical fitness;
 5. Family planning;
 6. Control of stress; or
 7. Pregnancy and infant care, including prevention of fetal alcohol syndrome.
 - (c) . Health education and training to train or promote to recipients methods and measures that have been proven effective in avoiding illness or lessening its effects, including:
 1. Immunizations;
 2. Control of high blood pressure;
 3. Control of sexually transmittable disease;
 4. Prevention and control of diabetes;
 5. Control of toxic agents;
 6. Occupational safety and health; or
 7. Accident prevention.

Section 4. Ordering and Delivery of Community Health Worker Services. Community health worker services shall be:

- (1) Ordered or approved by an ordering provider; and
- (2) Delivered according to a care plan approved by the ordering provider.

Section 5. Documentation of Community Health Worker Services. Community health worker services shall be:

- (1) Signed and documented by the certified community health worker;
- (2) Approved by the **ordering provider**~~{billing supervisor}~~ of the **sponsoring**~~{connected}~~ provider; and
- (3) Recorded and kept in the patient medical record.

Section 6. Reimbursement for Community Health Worker Services. Reimbursement for community health worker services shall be **via appropriate codes that comply with relevant existing rate methodologies utilized by the department and established by state and federal law. As appropriate, billing and reimbursement information shall be**

included in the Medicaid Physician Fee Schedule established in 907 KAR 3:010~~as established on the Community Health Worker Reimbursement Table~~, available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

Section 7. There shall be no reimbursement under this administrative regulation available for a certified community health worker ~~that is directly~~:

- (1) **When performing a specific service that is** funded by a federal grant, **and only for that specific federally grant-funded service**; or
- (2) **That is directly** employed by a managed care organization.

Section 8. A community health worker service, by itself, shall not generate a wrap payment, including wrap payments for the following provider types:

- (1) Federally qualified health center (FQHC);
- (2) Rural health clinic (RHC); or
- (3) Certified community behavioral health clinic (CCBHC).

Section 9. Use of Electronic Signatures. The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

Section 10. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The coverage provisions and requirements established in this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval of the coverage.

Section 12. Appeal Rights. An appeal of a department decision or adverse action regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 9, 2023

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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 Department for Medicaid Services (DMS) policies relating to the provision and reimbursement of community health worker services.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish, clarify, and enhance DMS policies relating to certified community health worker 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 implementing a statutory requirement and federal approval to provide community health worker services.

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

The administrative regulation implements a federal approval required to be sought by recent state legislation.

(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 Amended After Comments version of this administrative regulation amends the administrative regulation to allow optometrists to function as an ordering provider. In addition, the criteria for being an ordering or sponsoring provider is expanded to potentially allow for additional types of clinicians or facilities to order or request reimbursement for community health worker (CHW) services. Language is also added to clarify when a federally funded CHW is not allowed to bill for Medicaid services.

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

This is a new administrative regulation.

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

This is a new administrative regulation.

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

This is a new administrative regulation.

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

The Department for Medicaid Services, managed care organizations (MCOs), individuals who may seek to become certified community health workers, providers employing community health workers, and Medicaid recipients.

(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:

Providers and community health workers will need to comply with existing law and this administrative regulation in order to be eligible for reimbursement.

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

DMS does not anticipate providers will incur costs.

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

Certified community health worker services will be eligible for reimbursement.

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

(a) Initially:

The department anticipates that it will incur no additional expenses in the implementation of this administrative regulation.

(b) On a continuing basis:

The department anticipates that it will incur no additional expenses in implementing this administrative regulation on a continuing basis.

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

The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund 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:

Neither an increase in fees nor funding will be 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 is not applied within this administrative regulation as all individuals are eligible for community health worker services.

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?

The Department for Medicaid Services (DMS) will be affected by the amendment to 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), 205.648

(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?

DMS does not expect this administrative regulation 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?

DMS does not expect this administrative regulation 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 additional costs in administering this program in the first year.

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

DMS does not anticipate additional costs in administering this program 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 does not anticipate that cost savings will be generated for regulated entities as a result of this administrative regulation in the first year.

(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 this administrative regulation in subsequent years.

(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 administrative regulation 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 administrative regulation 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.