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

907 KAR 3:066. Nonemergency medical transportation waiver services and payments.

RELATES TO: KRS 96A.095, 205.520, 281.010, 281.605(9), 281.635(5), 281.872, 281.875, 42 C.F.R. 431.53, 440.170, 42 U.S.C. 1396n(b)

STATUTORY AUTHORITY: KRS 194A.050(1), 205.520(3), 42 C.F.R. 431.53, 42 U.S.C. 1396a

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 to qualify for federal Medicaid funds. This administrative regulation establishes the coverage and payment requirements for nonemergency medical transportation services, excluding ambulance stretcher services, provided pursuant to 42 U.S.C. 1396n(b) and approved by the Centers for Medicare and Medicaid Services to waive Medicaid requirements related to nonemergency medical transportation of Medicaid requirements.

Section 1. Definitions.

(1) "Capitated rate" means one (1) amount paid each month:
  (a) For each Medicaid recipient covered under authority of the waiver; and
  (b) That is:
    1. Not a statewide rate; and
    2. Set individually for each human service transportation delivery region as established in 603 KAR 7:080.
(2) "Department" means the Department for Medicaid Services or its designee.
(3) "Human service transportation" means provision of mass transportation and taxi services to transport an individual who is eligible to receive Medicaid transportation services.
(4) "Nonemergency medical transportation" or "NEMT" means medical transportation not of an emergency nature, excluding ambulance stretcher services, provided to an eligible Medicaid recipient by the Transportation Cabinet pursuant to an agreement between the Transportation Cabinet and the department.
(5) "Waiver authority" means the provisions contained in 42 U.S.C. 1396n(b).

Section 2. Interagency Agreement. Pursuant to waiver authority granted by the Centers for Medicare and Medicaid Services, the Department for Medicaid Services may enter into an agreement with the Transportation Cabinet for the provision of nonemergency medical transportation to a Medicaid recipient.

Section 3. Coverage.

(1) The coverage provisions established in 603 KAR 7:080 shall comply with this administrative regulation.
(2)
  (a) A Medicaid-eligible recipient may receive nonemergency medical transportation services if the recipient meets the following conditions:
    1. The recipient is traveling to or from a Medicaid-covered service;
    2. The service is determined to be of medical necessity; and
    3.
      a. The recipient does not own a vehicle; or

b. The recipient owns a vehicle, but a clinician, employer, school, mechanic, or transportation authority issues a note that is submitted by the recipient that states the vehicle is not:

(i) Operable; or

(ii) Usable for the recipient.

(b) A recipient who is under the age of eighteen (18) shall have the same vehicle ownership status as the custodial parent or legal guardian.

(c) A parent or guardian may request a two (2) week exemption to paragraph (b) of this subsection in order to allow a child recipient to attend medically necessary services.

(3)

(a) A transportation provider shall not self-refer or solicit a recipient or a recipient's parent or guardian to use NEMT if the recipient or recipient's parent or guardian owns or has access to appropriate transportation pursuant to this section.

(b) A transportation provider that self-refers or solicits a recipient or a recipient's parent or guardian pursuant to paragraph (a) of this subsection may be excluded from offering NEMT on a permanent or temporary basis.

Section 4. Reimbursement.

(1) The Transportation Cabinet shall be reimbursed at a monthly capitated rate set by the department for each Medicaid recipient receiving services pursuant to this administrative regulation.

(2) The capitated rate shall not exceed the Medicaid Program's usual aggregate cost on a projected statewide basis of providing nonemergency medical transportation services to the covered group of recipients.

Section 5. 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 6. Implementation. The provisions of this administrative regulation shall be applicable for nonemergency transportation waiver services provided in accordance with KRS Chapter 45A and Section 2 of this administrative regulation.

Section 7. Federal Approval and Federal Financial Participation. The department'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.

(27 Ky.R. 648; Am. 994; eff. 10-16-2000; 44 Ky.R.152; eff. 10-6-2017; 50 Ky.R. 1417; eff. 6-18-2024.)

FILED WITH LRC: April 9, 2024

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