

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(Amendment)

902 KAR 30:200. Coverage and payment for services.

RELATES TO: KRS ~~[200.654,]~~200.672, 34 C.F.R. 303.120-122, 303.220-226, 303.500, 303.520, 303.521~~[, 20 U.S.C. 1438, 1440]~~

STATUTORY AUTHORITY: KRS 194A.050, 200.654, 200.660(3), (7), (8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds. KRS 200.660 requires the Cabinet for Health and Family Services to administer funds appropriated to implement the provisions of KRS 200.650 to 200.676, to enter into contracts with early intervention service providers, and to promulgate administrative regulations necessary to implement KRS 200.650 to 200.676. This administrative regulation establishes the provisions relating to early intervention services for which payment shall be made on behalf of eligible recipients.

Section 1. Participation Requirements. An approved Kentucky Early Intervention System (KEIS) early intervention service provider or agency shall~~[that requests to participate as an approved First Steps provider shall comply with the following]~~:

- (1) Submit to an ongoing review by the Department for Public Health, or its agent, for compliance with 902 KAR Chapter 30;
- (2)
 - (a) Meet the qualifications for a professional or paraprofessional established in 902 KAR 30:150; or
 - (b) Employ or contract with a professional or paraprofessional who meets the qualifications established in 902 KAR 30:150;
- (3) Ensure that a professional or paraprofessional employed by the provider who provides a service in the KEIS~~[First Steps]~~ program shall complete training on KEIS~~[First Steps]~~ philosophy, practices, and procedures provided by Department for Public Health~~[First Steps]~~ representatives before~~[prior to]~~ providing ~~[First Steps]~~ services;
- (4) Agree to provide KEIS~~[First Steps]~~ services as authorized by an Individualized Family Service Plan (IFSP) as required by 902 KAR 30:130;
- (5) Agree to maintain and ~~[to]~~submit, as requested by the Department for Public Health, required information, records, and reports to ensure compliance with 902 KAR Chapter 30;
- (6) Establish a contractual arrangement directly with the Cabinet for Health and Family Services for the provision of KEIS~~[First Steps]~~ services; and
- (7) Agree to provide upon request information necessary for reimbursement for services by the Cabinet for Health and Family Services in accordance with this administrative regulation~~[, which shall include the tax identification number and usual and customary charges]~~.

Section 2. Reimbursement.

- (1) The Department for Public Health shall reimburse a participating KEIS~~[First Steps]~~ provider or agency:
 - (a) The lower of the actual billed charge for the service; or
 - (b) The fixed upper limit established in this section for the service being provided.

(2) ~~{(1)}~~ A charge submitted to the Department for Public Health shall be the provider's usual and customary charge for the same service.

(3) ~~{(2)}~~ The fixed upper limit for services shall be as established in this subsection.

(a) Initial evaluation. The developmental component of the initial evaluation for an infant or toddler~~[a child]~~ without an established risk condition shall be provided by face-to-face contact with the infant or toddler~~[child]~~ and parent. Payment

~~{1.} [In the office or center-based site, the fee] shall be \$311 for a completed evaluation as a single unit of service.~~~~[270 per service event.]~~

~~{2.} [In the home or community site, the fee shall be \$270 per service event].~~

(b) Five (5) Area Assessment. The developmental component of the initial evaluation for an infant or toddler~~[the child]~~ with an established risk condition shall be provided by face-to-face contact with the infant or toddler~~[child]~~ and parent. Payment

~~{1.} [In the office or center-based site, the fee] shall be \$201 for a completed assessment as a single unit of service.~~~~[175 per service event.]~~

~~{2.} [In the home or community-based site, the fee shall be \$175 per service event].~~

(c) Annual or exit assessment. The annual or exit assessment shall be provided by face-to-face contact with the infant or toddler~~[child]~~ and parent. Payment

~~{1.} [In the office or center-based site, the fee] shall be \$201 for a completed assessment as a single unit of service.~~~~[175 per service event.]~~

~~{2.} [In the home or community-based site, the fee shall be \$175 per service event].~~

(d) Discipline-specific ~~[Discipline-specific]~~ assessment. The discipline-specific~~[discipline-specific]~~ assessment conducted by an early intervention~~[a direct]~~ service provider shall be provided by face-to-face contact with the infant or toddler~~[child]~~ and parent. Payment

~~{1.} [In the office or center-based site, the fee] shall be \$201 for a completed assessment as a single unit of service.~~~~[175 per service event.]~~

~~{2.} [In the home or community-based site, the fee shall be \$175 per service event].~~

(e) Record review. A record review shall be provided by a Department for Public Health approved team and paid at the contracted amount.

(f) Intensive clinic evaluation. The intensive level evaluation shall be provided by a Department for Public Health approved team and shall include face-to-face contact with the infant or toddler~~[child]~~ and parent. A board-certified physician shall be included on the team. Payment

~~{1.} [In the office or center-based site, which involves a board-certified physician, the fee] shall be \$1,100 for a completed evaluation as a single unit of service. An individual provider shall not be reimbursed for participation on the intensive evaluation team.~~~~[per service event.]~~

~~{2.} [In the community site, which involves a board-certified physician, the fee shall be \$1,100 per service event].~~

(g) Early intervention or collateral services in accordance with Section ~~4[3]~~(1), (2), (4) and (5) of this administrative regulation shall be~~[have]~~ the fixed upper limits established in this paragraph.

1. The fee for collateral service or an early intervention service, including cotreatment, shall be:

a. Seventy-two (72) dollars per hour of service in an office, clinic, or center-based site;

b. \$102 per hour of service in a home or community-based site, including childcare settings; or

c. Eighty-nine (89) dollars per hour for a tele-intervention service, when the service is provided by:

(i) An audiologist;

(ii) A certified social worker;

- (iii) Cued language transliterator;
- (iv) A developmental interventionist;
- (v) A dietitian;
- (vi) A licensed clinical social worker;
- (vii) A licensed marriage and family therapist;
- (viii) A licensed psychologist, licensed psychological practitioner, licensed professional clinical counselor, or a certified psychologist with autonomous functioning;
- (ix) An occupational therapist;
- (x) An orientation and mobility specialist;
- (xi) A physical therapist;
- (xii) A registered nurse;
- (xiii) A sign language specialist;
- (xiv) A speech therapist;
- (xv) A teacher of the deaf and hard of hearing; or
- (xvi) A teacher of the visually impaired.

2.

- a. Early intervention service providers listed in subparagraph 1. of paragraph (g) of this subsection shall be eligible for a one-time payment of \$500 once they obtain initial fidelity in the KEIS coaching program; and
- b. An additional payment of \$102 shall be made to eligible early intervention service providers for the submission of a required video for fidelity authentication that successfully demonstrates fidelity.

3. The fee for collateral service or an early intervention service, including cotreatment, shall be:

- a. Seventy (70) dollars per hour of service in an office, clinic, or center-based site;
- b. Ninety-three (93) dollars per hour of service in a home or community-based site, including childcare settings; or
- c. Eighty-one (81) dollars per hour for a tele-intervention service, when the service is provided by:
 - (i) An assistive technology specialist;
 - (ii) A cued language transliterator paraprofessional;
 - (iii) A licensed psychological associate or a certified psychologist; or
 - (iv) A sign language and cued language paraprofessional.

4. The fee for collateral service or an early intervention service, including cotreatment, shall be:

- a. Fifty-three (53) dollars per hour of service in an office, clinic, or center-based site;
- b. Eighty-one (81) dollars per hour of service in a home or community-based site, including childcare settings; or
- c. Seventy (70) dollars per hour of service for tele-intervention service, when the service is provided by:
 - (i) An occupational therapy assistant; or
 - (ii) A physical therapy assistant.

5. The fee for collateral service shall be eighty-seven (87) dollars per hour of service in an office, clinic, or center-based site, when the service is provided by:

- a. A nurse practitioner;
- b. An ophthalmologist;
- c. An optometrist; or
- d. A physician

[1.] [For an audiologist:]

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{2.} [For a marriage and family therapist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) per hour of service.]~~

~~{3.} [For a licensed psychologist, a licensed psychological practitioner, a licensed professional clinical counselor, or certified psychologist with autonomous functioning:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{4.} [For a licensed psychological associate or a certified psychologist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-one (61) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-one (81) dollars per hour of service.]~~

~~{5.} [For a developmental interventionist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{6.} [For a registered nurse:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{7.} [For a dietitian:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{8.} [For an occupational therapist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{9.} [For an occupational therapy assistant:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be forty-six (46) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be seventy (70) dollars per hour of service.]~~

~~{10.} [For an orientation and mobility specialist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{11.} [For a physical therapist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{12.} [For a physical therapist assistant:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be forty-six (46) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be seventy (70) dollars per hour of service.]~~

~~{13.} [For a speech therapist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~{14.} [For a social worker:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-one (61) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-one (81) dollars per hour of service.]~~

~~{15.} [For a teacher of the deaf and hard of hearing:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~[16.] [For a teacher of the visually impaired:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~[17.] [For a physician or a nurse practitioner providing a collateral service in the office or center based site, the fee shall be seventy-six (76) dollars per hour of service. A physician or a nurse practitioner shall not receive reimbursement for early intervention.]~~

~~[18.] [For an assistive technology specialist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-one (61) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-one (81) dollars per hour of service.]~~

~~[19.] [For a sign language and cued language specialist:]~~

~~{a.} [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]~~

~~{b.} [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]~~

~~[20.] [For an optometrist or ophthalmologist providing collateral service in an office or center based site, the fee shall be sixty three (63) dollars per hour of service. An optometrist or ophthalmologist shall not receive reimbursement for early intervention].~~

(h) Respite shall be nine (9)~~[seven (7)]~~ dollars ~~[and sixty (60) cents]~~per hour.

~~(4) (3)~~

(a) For early intervention or collateral services, hours shall be determined using the beginning and ending time for a service.

1. The hours shall be computed as follows:

- a. Fifteen (15) to twenty-nine (29) minutes shall equal 0.25 hours;
- b. Thirty (30) to forty-four (44) minutes shall equal 0.50 hours;
- c. Forty-five (45) to fifty-nine (59) minutes shall equal 0.75 hours; and
- d. Sixty (60) to seventy-four (74) minutes shall equal one (1) hour.

2. Services shall be documented in the KEIS~~[First Steps]~~ data management system and shall include:

- a. A service note describing the intervention provided during the session;
- b. A list of participants present during the early intervention session;
- c. The caregiver's report of ~~[the child's]~~progress since the last session, including any modifications to the suggested intervention or barriers to implementing the intervention;
- d. The parent's and child's response to intervention that describes the skill level of the parent and child and if the skill has increased, decreased, or stayed the same and the method used to measure progress; and

- e. The plan for the next visit, based on the family's and child's response to intervention and the IFSP outcome.
- (b) Service documentation shall be entered within ten (10) calendar days of the service delivery date. Documentation entered after ten (10) calendar days from the date of service shall be immediately disapproved for payment.
- (c) Once the provider has entered a corrected service log, a payment adjustment shall be made. Payment shall be prorated on the following scale:
1. Correction entered within one (1) to five (5) calendar days, claim paid at a ten (10)~~three (3)~~ dollar reduction;
 2. Correction entered within six (6) to ten (10) calendar days, claim paid at a fifteen (15)~~an eight (8)~~ dollar reduction;
 3. Correction entered within eleven (11) to fifteen (15) calendar days, claim paid at a twenty-five (25) dollar reduction;
 4. Correction entered within sixteen (16) to thirty (30) calendar days, claim paid at one half the maximum KEIS payment; and
 5. Correction entered after thirty (30) calendar days or beyond shall be disapproved and not adjusted for payment.
- (d) For service coordination services, hours shall be determined using the beginning and ending time for a service documented in staff notes in accordance with 902 KAR 30:110, Section 2(10).
1. The hours shall be computed as follows:
 - a. One (1) to twenty-two (22) minutes shall equal 0.25 hours;
 - b. Twenty-three (23) to thirty-seven (37) minutes shall equal 0.50 hours;
 - c. Thirty-eight (38) to fifty-two (52) minutes shall equal 0.75 hours; and
 - d. Fifty-three (53) to sixty-seven (67) minutes shall equal one (1) hour.
 2. Service coordination minutes spent over the course of a day for an individual infant, toddler,~~on a child~~ or family shall be accumulated at the end of the day in order to determine the total number of hours spent.
- ~~(5) [(4)] [A payment for a discipline specific assessment, five (5) area assessment, annual or exit assessment, initial or intensive evaluation listed in subsection (2) of this section shall be based on a complete evaluation as a single unit of service. An individual provider shall not be reimbursed for participation on the intensive evaluation team.]~~
- ~~[(5)]~~ Payment for assistive technology devices shall be made in accordance with 902 KAR 30:130, Section ~~4~~~~3~~.
- (a) The total rental cost of an assistive technology device shall not exceed the purchase price of that device. The length of rental shall be based on the purchase price of the device and shall not exceed ten (10) months in length.
- (b) The total purchase cost of an assistive technology device shall include the actual cost of the item being purchased, all related shipping charges, and an administrative fee not to exceed ten (10) percent.
- (6) Transportation costs may be reimbursed when the service is necessary to enable an eligible infant or toddler to receive early intervention services. Reimbursement and related cost of travel ~~[Payment for transportation]~~ shall be the lesser of the billed charge or:
- (a) For a commercial transportation carrier, an amount derived by multiplying one (1) dollar by the actual number of loaded miles using the most direct route;
 - (b) For a private automobile carrier, an amount equal to twenty-five (25) cents per loaded mile transported; or
 - (c) For a noncommercial group carrier, an amount equal to fifty (50) cents per eligible infant or toddler~~child~~ per mile transported.
- (7) ~~[A]~~ Payment for a group intervention service shall be thirty-two (32) dollars per infant or toddler~~child~~ per hour of direct contact service for each infant or toddler~~child~~ in the

group with a limit of three (3) eligible children per professional or paraprofessional who can practice without direct supervision.

Section 3. Tele-intervention Services.

(1) Tele-intervention services shall be:

(a) Documented and authorized on the IFSP; and

(b) Provided with the same processes and standards as face-to-face services.

(2) The written informed consent for tele-intervention services signed by the parent may include electronic signatures and transmission.

(3) Tele-intervention shall be based on:

(a) A shortage of a provider discipline needed to address the needs of the infant or toddler; or

(b) The unique needs of the infant or toddler and their family.

Section 4. Limitations.

(1) Service Assessments.

(a) Payment for a discipline specific assessment shall be limited to three (3) assessments per discipline per infant or toddler~~[child]~~, unless additional hours are necessary based on the reasons listed in paragraph (b) and documented in accordance with 902 KAR 30:130, Section 1(7) ~~[from birth to the age of three (3)]~~ unless preauthorized by the Department for Public Health in accordance with Section ~~5~~4 of this administrative regulation.

(b)

1. A service assessment payment shall not be made for the provision of routine early intervention services by a discipline in the general practice of that discipline.

2. Payment for a service assessment shall be restricted to the need for additional testing due to new concerns or significant change in the infant's or toddler's~~[child's]~~ status that impacts the early intervention services authorized on the IFSP.

3. Routine activity of assessing progress and outcomes shall be billed as early intervention.

(2) ~~[For early intervention,]~~ Unless prior authorized by the Department for Public Health in accordance with Section ~~5~~4 of this administrative regulation, limitations for payment of early intervention services shall be as established in this subsection.

(a) For office, center, or home and community-based sites:

1. Payment shall be limited to no more than one (1) hour per day per infant or toddler~~[child]~~ per discipline by a:

a. Professional meeting the qualifications established in 902 KAR 30:150; or

b. Paraprofessional meeting the qualifications established in 902 KAR 30:150.

2. Payment shall be limited to no more than twenty-four (24) hours for a single discipline and thirty-six (36) hours for more than one (1) discipline during a six (6) month period and for group shall be limited to an additional forty-eight (48) hours during a six (6) month period.

(b) Group intervention shall include the provision of early intervention services by KEIS qualified personnel, with two (2) or more eligible infants or toddlers, at an early intervention professional's office, center, or other community-based setting where infants and toddlers typically spend their time:

1. The group may also include infants and toddlers without disabilities as long as a three (3) to one (1) ratio of children to staff is maintained; and

2. Infants and toddlers ~~[For group:]~~

~~[1.]~~ ~~[Children]~~ shall not be eligible for both group and individual early intervention services by the same discipline concurrently on the IFSP~~[Individualized Family Services Plan.]~~

~~[2.] [Group service shall be provided by enrolled First Steps providers in accordance with 902 KAR 30:150, Section 1(11). The ratio of staff to children in group early intervention shall be limited to a maximum of three (3) children per professional and paraprofessional per group.]~~

(c) Payment for siblings seen at the same time shall be calculated by dividing the total time spent by the number of siblings to get the amount of time to bill per infant or toddler~~[child]~~.

(d) Payment for a service shall be limited to a service that is authorized by the IFSP team in accordance with 902 KAR 30:130, Section 3(3).

(e)

1. Except as provided in subparagraph 2. of this paragraph, payment shall be limited to a service provided as a face-to-face contact or tele-intervention with the infant or toddler~~[child]~~ and either the ~~[child's]~~ parent or caregiver.

2. Early intervention family services authorized by KRS 200.654(7) may be provided without the infant or toddler~~[child]~~ present if the reason the infant's or toddler's~~[child's]~~ presence is clinically contraindicated is documented in the session note.

(3) Respite shall be a service provided to the family of an eligible infant or toddler for the purpose of providing relief from the care of the infant or toddler in order to strengthen the family's ability to attend to the child's developmental needs. ~~[For respite,]~~ Payment shall:

(a) Be limited to no more than eight (8) hours of respite per month, per eligible infant or toddler~~[child]~~;

(b) Not be allowed to accumulate beyond each month; and

(c) Be limited to families in crisis, or strong potential for crisis without the provision of respite.

(4) ~~[For collateral services,]~~ Payment for collateral services shall be a billable service for the enrolled KEIS~~[First Steps]~~ providers~~[,]~~ who are providing early intervention services for the eligible infant or toddler~~[child]~~ through an IFSP and paid by KEIS~~[the First Steps system]~~.

(a) Payment for attending the ~~[The length of an]~~ IFSP meeting shall be limited to no more than one (1) hour.

(b) Payment for attendance at one (1) Admissions and Release Committee (ARC) meeting held prior to a toddler's~~[child's]~~ third birthday shall be limited to the service coordinator and primary coach~~[service]~~ provider selected by the IFSP team.

(c) Participation at an initial IFSP meeting by an initial evaluator shall be limited to an evaluator who conducted the initial evaluation in accordance with 902 KAR 30:120, Section 2(5)(a). Payment shall be at the collateral services rate for the discipline that the evaluator represents.

(5)

(a) Cotreatment shall occur if more than one (1) provider is present and providing early intervention services at the same time. Each provider's service log shall document:

1. Why the cotreatment approach was used; and

2. A description of the intervention strategies and coaching suggestions.

(b) ~~[For cotreatment,]~~ Payment shall be limited to three (3) disciplines providing services concurrently.

(6) Unless prior authorized by the Department for Public Health due to a shortage of direct service providers, an initial evaluator shall not be eligible to provide early intervention to an infant or toddler~~[a child]~~ whom the evaluator evaluated and that~~[which]~~ resulted in the infant or toddler~~[child]~~ becoming eligible.

Section 5. ~~[Section 4.]~~ Prior Authorization Process.

- (1) Authorization for payment for early intervention services beyond the limits established in Section ~~4[3]~~ of this administrative regulation shall be submitted to the cabinet or its designee, as determined by the Department for Public Health, ~~and~~ approved prior to the service being delivered, and shall include ~~the following~~:
 - (a) A service exception request completed in the KEIS~~[First Steps]~~ data management system; and
 - (b) ~~The Record Review~~ Supporting documentation.
- (2) The record review team shall issue a written recommendation for the IFSP team to consider within ten (10) calendar days of receipt of the request.
- (3) If the IFSP team is not in agreement with the recommendation of the record review team:
 - (a) A request for further review shall be submitted to the Department for Public Health; and
 - (b) A three (3) person team from the Department for Public Health, Division of Maternal and Child Health, including the division director, shall render a recommendation.
- (4) If the IFSP team is not in agreement with the three (3) person team recommendation established in subsection (3)(b) of this section:
 - (a) The infant's or toddler's~~[child's]~~ IFSP team shall be asked to reconvene for an IFSP meeting with a representative from the record review team and a representative from the three (3) member team; and
 - (b) If the IFSP team concludes at that IFSP meeting that the services are still needed, payment for the service shall be authorized for the duration of the current IFSP.

Section 6. ~~Section 5.~~ System of Payment and Fees.

- (1) All families enrolling in KEIS~~[the First Steps system]~~ shall be assessed for the family's ability to pay a participation fee for early intervention services in accordance with KRS 200.654 (7)(f) to (m). Families with private or public insurance shall not be charged disproportionately more than families without insurance.
- (2) A charge to the family shall not be made for~~the following functions~~:
 - (a) Child find activities;
 - (b) Evaluation and assessment of the infant, toddler,~~[child]~~ and family;
 - (c) Service coordination;
 - (d) Administrative ~~[and coordinative]~~ activities supporting the~~[including]~~ development, review, and evaluation of individualized family service plans; and
 - (e) The implementation of procedural safeguards.
- (3) Families shall be notified of the KEIS system of payments~~[receive a copy of the First Steps System of Payment notice]~~ during the intake meeting, at the initial IFSP meeting, and at each subsequent IFSP meeting.
- (4) Payment of fees shall be for the purpose of~~[-]~~
 - ~~[(a)]~~ maximizing available sources of funding for early intervention services~~[-; and]~~
 - ~~[(b)]~~ ~~[Giving families an opportunity to assist with the cost of services if there is a means to do so, in a family share approach].~~
- (5) The family share payment shall:
 - (a) Be based on a sliding fee scale;
 - (b) Be explained to the family by the point of entry~~[POE]~~ staff; and
 - (c) Begin with the provision of an early intervention service, and continue for the duration of participation in early intervention services.
- (6) The ability to pay shall:
 - (a) Be based on the level of the family gross income identified on the last Federal Internal Revenue Service statement or check stubs from the four (4) most recent consecutive pay periods, as reported by the family; and

(b) The level of income matched with the level of poverty, utilizing the federal poverty guidelines as published annually by the Federal Department of Health and Human Services, based on the following scale:

1. Below 249 percent of poverty, there shall be no payment;
2. From 250 percent of poverty to 299 percent, the payment shall be five (5) dollars per month of participation;
3. From 300 percent of poverty to 349 percent, the payment shall be ten (10) dollars per month of participation;
4. From 350 percent of poverty to 399 percent, the payment shall be twenty-five (25) dollars per month of participation;
5. From 400 percent of poverty to 449 percent, the payment shall be seventy-five (75) dollars per month of participation;
6. From 450 percent of poverty to 499 percent, the payment shall be \$150 per month of participation;
7. From 500 percent of poverty to 549 percent, the payment shall be \$200 per month of participation;
8. From 550 percent of poverty to 599 percent, the payment shall be \$300 per month of participation; and
9. At ~~From~~ 600 percent of poverty and above, the payment shall be \$400 per month of participation.

(7) The family share participation fee shall not:

- (a) Exceed the cost of the actual monthly Part C service;
- (b) Apply to a family whose infant or toddler~~child~~ is covered by public insurance benefits (Medicaid); or
- (c) Prevent or delay an infant or toddler~~a child~~ from receiving services.

(8) The family may request a reduction or waiver of the family share fee if the family shows to the satisfaction of the Department for Public Health an inability to pay, in accordance with the following:

- (a) The service coordinator shall submit the request to the Department for Public Health, ~~KEIS~~~~First Steps~~ Family Share Administrator, on behalf of the family, ~~— a Family Share Extraordinary Expenses Worksheet (FS-24)~~ to have the amount of the family share payment reduced or eliminated for a period not to exceed three (3) calendar months. A request shall not be submitted for a retroactive period unless extenuating circumstances, such as an unexpected hospitalization, occurs; and
- (b) The family shall undergo a financial review by the Department for Public Health that may:

1. Adjust the gross household income by subtracting extraordinary expenses; and
2.
 - a. Result in a calculation of a new family share payment amount based on the family's adjusted income compared to the percentage of the poverty level established in subsection (6)(b) of this section. If a recalculation is completed, the Department for Public Health shall conduct a review at least quarterly; or
 - b. Suspend or reduce the family share payment, based on a verified financial crisis that would be exacerbated by their obligated family share payment. The Department for Public Health shall conduct a review at least quarterly.

(9) In accordance with 902 KAR 30:180, the family may contest the imposition of a fee or the determination of their ability to pay by filing:

- (a) A request for mediation;
- (b) A request for a due process hearing;
- (c) A written state ~~An administrative~~ complaint; or
- (d) An appeal to the Part C Coordinator for final resolution.

(10) Income shall be verified during the intake process and at six (6) month intervals, and more often if changes in household income will result in a change in the amount of the obligated family share payment.

(11) A family that refuses to have its income verified shall be assessed a family share payment of \$400 per month of participation.

(12) If multiple children in a family receive early intervention services, the family share payment shall be the same as if there were one (1) child receiving services.

~~[(13)]~~

~~[(a)] [If a family has the ability to pay the family share but refuses to do so for three (3) consecutive months, the family shall receive service coordination, IFSP development, procedural safeguards, and assessment services only until discharged from the program or the family share balance is paid in full, whichever occurs first.]~~

~~[(b)] [The service coordinator shall provide the family a financial notice of action at thirty (30) calendar days prior to the suspension of ongoing IFSP services.]~~

Section 7. ~~[Section 6.]~~ Use of Insurance.

(1) Public Insurance.

(a) The state lead agency shall be the enrolled Medicaid provider for early intervention services. A contracted provider or agency shall not bill Medicaid directly for early intervention services provided in accordance with the IFSP.

(b) Written notification in accordance with 34 C.F.R. 303.520 (a)(3)(i)-(iv) shall be provided to the infant's or toddler's~~[child's]~~ parent or guardian before the use of public benefits or insurance to pay for early intervention services.

(c) A parent or guardian shall not be required to sign up for or enroll in public benefits or insurance programs as a condition of receiving early intervention services.

(2) Private Insurance.

(a) Parent or guardian written consent shall be obtained:

1. For the use of private insurance to pay for the initial provision of an early intervention service on the IFSP; and

2. Each time written consent for services is required due to an increase in the frequency, length, duration, or intensity in the provision of service in the child's IFSP.

(b) A family who chooses to use private insurance for payment of KEIS~~[a First Steps]~~ service shall not be responsible for payment of insurance deductibles or copayments related to this service.

(c) The fee paid to the early intervention provider by KEIS shall be the full reimbursement from KEIS and the provider shall not charge the family any co-pay or deductible associated with the services.

(d) Families shall be responsible for payment of their insurance premiums.

(e) Federal Part C funds may be used to pay the cost of insurance premiums when obtaining insurance for the infant or toddler~~[child]~~ is the most cost-effective~~[cost effective]~~ method for KEIS to pay for early intervention services.~~[;]~~

(f) A family who has the ability to pay and gives consent for the use of private insurance may waive the family share fee. If the consent to bill private insurance is revoked by the family, the family shall be assessed the corresponding family share fee.~~[;]~~

(g) A family who has the ability to pay and does not give consent for the use of private insurance shall be assessed a family share fee as described in Section ~~6[5]~~(6)(b) of this administrative regulation.

(h) If a family is assessed as having an inability to pay and does not give consent for the use of private insurance, this lack of consent shall not prevent or delay an infant or toddler~~[a child]~~ from receiving services.

(i) If a family receives payment from insurance, these funds shall be surrendered to the early intervention provider for services rendered. Failure to surrender the payment shall result in the amount of the insurance payment being added to the family share balance due.

(j) A provider shall bill a third-party insurance for an early intervention service prior to billing ~~KEIS[First Steps]~~. Documentation regarding the billing, the third-party insurance representative's response, and payment, if any, shall be maintained in the early intervention[child's] record and submitted through the ~~KEIS[First Steps]~~ data management system.

Section 8. ~~[Section 7.]~~ Use of funds.

(1) Consistent with 34 C.F.R. 303.120 through 303.122 and 303.220 through 303.226, the state lead agency may use the federal Part C funds for activities or expenses that are reasonable and necessary for implementing the ~~KEIS[Kentucky Early Intervention System]~~ program for infants and toddlers with disabilities including:

- (a) ~~[(1)]~~ For direct early intervention services for infants and toddlers with disabilities and their families that are not otherwise funded through other public or private sources;
- (b) ~~[(2)]~~ To expand and improve services for infants and toddlers with disabilities and their families; and
- (c) ~~[(3)]~~ To strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, service, and personnel for the purposes of:
 1. ~~[(a)]~~ Identifying and evaluating at-risk infants and toddlers;
 2. ~~[(b)]~~ Making referrals for the infants and toddlers identified and evaluated under subparagraph 1.~~[paragraph (a)]~~ of this subsection; and
 3. ~~[(c)]~~ Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to eligibility ~~[of the infant or toddler]~~ for services.

(2) In accordance with 34 C.F.R. 303.500, Part C funds shall be the payor of last resort.

~~[Section 8.] [Incorporation by Reference.]~~

~~[(1)] [The following material is incorporated by reference:]~~

~~[(a)] ["Record Review Supporting Documentation", July 2012;]~~

~~[(b)] ["System of Payment Notice", April 2014; and]~~

~~[(c)] ["Family Share Extraordinary Expenses Worksheet", December 2013.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

STEVEN J. STACK, MD, MBA, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: July 9, 2024

FILED WITH LRC: July 11, 2024 at 11:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on September 23, 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 September 16, 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 September 30, 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: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the requirements for coverage and payment for early intervention services, including the early intervention provider reimbursement rate, the family share costs, and the requirements for the use of federal funds.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to ensure coverage and payment for early intervention services.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 194A.050 authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs required by federal law and to receive federal funds. KRS 200.660(2) requires the cabinet to identify and coordinate all available financial resources for early intervention services. Available financial resources include federal and state funds, and private sources. KRS 200.660(3) authorizes the cabinet to establish a sliding fee scale for families, and to include the circumstances when no fee is required.

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

This administrative regulation ensures all early intervention providers are aware of the payment requirements and service limitations, and ensures families are aware of family share participation fee.

(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 amendment to this administrative regulation provides a fifteen (15) percent increase in the reimbursement rate for providers, excluding the reimbursement for an intensive level evaluation and group intervention service, adds the requirements for tele-intervention service delivery, establishes that part C funds are the payor of last resort, and makes other technical changes to comply with KRS Chapter 13A.

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

The early intervention reimbursement rate has not been amended since 2003. The amendment in 2003 lowered the early intervention provider reimbursement to the current rate. The increase in reimbursement will provide the early intervention service providers with a much-needed increase in reimbursement and may potentially attract new providers. The addition of requirements for tele-intervention services is necessary to provide a more modern method of providing early intervention services in hard to service areas where there may be a lack of available providers. The assurance that federal part C funds will be considered the payor of last resort is necessary to comply with federal statute.

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

KRS 200.660(2) requires the cabinet to identify and coordinate all available financial resources for early intervention services. Available financial resources

include federal and state funds, and private sources. 34 C.F.R. 303.500 requires the state to have written policies for the use of federal part C funds, to establish a system of payments for early intervention services including a schedule of sliding fees, and to ensure part C funds are utilized as the payor of last resort.

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

The amendment to this administrative regulation will ensure early intervention providers receive timely reimbursement for services provided to eligible infants and toddlers and their families, including when providing services through tele-intervention methods, and will ensure state written policies are consistent with federal requirements.

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

There are currently 694 enrolled early intervention service 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:

Early intervention providers will need to be aware of the requirements for reimbursement for services, including the limitations for providing services through tele-intervention methods.

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

Early intervention providers will incur no additional business costs to comply with this administrative regulation.

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

Early intervention providers receive a fifteen (15) percent increase in their reimbursement rate.

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

(a) Initially:

The amendment to this administrative regulation will initially cost the administrative body approximately \$256,202 per month.

(b) On a continuing basis:

The ongoing cost to the administrative body to implement the amendment to this administrative regulation will be approximately \$256,202 per month. This amount could increase if the increased reimbursement rate attracts new early intervention providers which would require additional provider enrollment team staff.

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

The implementation and enforcement of this administrative regulation is funded through a mix of federal dollars, state general fund dollars, Medicaid reimbursement, and family share cost participation fees.

(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:

An increase in fees or funding is not needed to implement this administrative regulation at this time.

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

This administrative regulation does contain the family share cost participation fee structure. The amendment to this administrative regulation does not propose to change this fee structure.

(9) TIERING: Is tiering applied?

Tiering is not applied. While there are separate reimbursement rates based on the professional's level of qualifications as well as the location of the service, the requirements of this administrative regulation are equally applied to all enrolled early intervention providers.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.050, 200.654, and 200.660(3), (7), (8).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Kentucky Early Intervention System in the Division of Maternal and Child Health, Department for Public Health is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures:The amendment to this administrative regulation may result in an increase of \$3,074,424 in the initial year.

Revenues:The Kentucky Early Intervention System receives between \$50,000 to \$60,000 annually in revenue from family share cost participation fees.

Cost Savings:This administrative regulation does not generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The changes to expenditures or revenues in subsequent years will be dependent on the number of early intervention services provided and the total number of children and families enrolled each year. There will be no change in cost savings.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

This administrative regulation does not impact any affected local entities.

(a) Estimate the following for the first year:

Expenditures:No applicable.

Revenues:Not applicable.

Cost Savings:Not applicable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Additional regulated entities include the current 694 contracted early intervention providers.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation will not impact the expenditures for contracted early intervention providers.

Revenues:The amendment to this administrative regulation will result in a fifteen (15) percent increase in revenue for contracted early intervention providers.

Cost Savings:This administrative regulation will not result in cost savings for the contracted early intervention providers.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

There will be no change in expenditures, revenues, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation will increase the expenditures of the department by an estimated \$3,074,424 per year.

(b) Methodology and resources used to determine the fiscal impact:

The current estimated provider payment is \$1,708,012 per month. The fifteen (15) percent increase in the reimbursement rate will increase the monthly payment by an estimated \$256,202 per month. $\$256,202 \times 12 = \$3,074,424$.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This administrative regulation will have a major economic impact to the Kentucky Early Intervention System program.

(b) The methodology and resources used to reach this conclusion:

While the increase in provider reimbursement by fifteen (15) percent of their current rate will not exceed \$500,000 per month it will exceed that amount per year. $\$256,202 \times 12 = \$3,074,424$.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

34 C.F.R. 303.1(b), 303.2(b), 303.22, and 303.102.

(2) State compliance standards.

KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 200.660 requires the Cabinet for Health and Family Services to administer funds appropriated to implement the provisions of KRS 200.650 to 200.676, to enter into contracts with early intervention service providers, and to promulgate administrative regulations necessary to implement KRS 200.650 to 200.676.

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

34 C.F.R. 303.1(b) establishes that the purpose of part C of the Act is to facilitate the coordination of payment for early intervention services (EIS) from Federal, State, local, and private sources (including public and private insurance coverage). 34 C.F.R. 303.2(b) establishes that the provisions of part C of the Act apply to the State lead agency and any EIS provider that is part of the statewide system of early intervention, regardless of whether the EIS provider receives funds under part C of the Act. 34 C.F.R. 303.22 defines a lead agency as the agency designated by the State's Governor to receive funds and administer the State's responsibilities under part C of the Act. 34 C.F.R. 303.102 requires each state that receives funds under part C of the Act to ensure state regulations conform to the purposes and requirements of part C.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No, this administrative regulation does not impose stricter requirements, or additional, or different responsibilities or requirements, than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

Not applicable.