

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy
(Amendment)

907 KAR 1:039. Hearing Program reimbursement provisions and requirements.

RELATES TO: KRS 205.520, 334.010, 334.040, 334.200, 334A.020(5), 42 C.F.R. 440.110, 447.200, 204

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 to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements for covered audiology services, hearing instruments, and related items provided to a Medicaid recipient who is not enrolled with a managed care organization.

Section 1. Definitions.

- (1) "Audiologist" is defined by KRS 334A.020(2)~~[(5)]~~.
- (2) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.
- (3) "Department" means the Department for Medicaid Services or its designee.
- (4) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (5) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or time.
- (6) "Kentucky Medicaid Audiology Fee Schedule" means a list, located at <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>, that:
 - (a) Contains the current reimbursement rates for audiology services established by the department in accordance with 907 KAR 1:038 and this administrative regulation; and
 - (b) Is updated at least annually to coincide with the quarterly updates made by the Centers for Medicare and Medicaid Services as required by 42 U.S.C. 1395m and 1395w-4 and 42 C.F.R. Part 414 ~~["Hearing instrument" is defined by KRS 334.010(4)]~~.
- (7) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.
- (8) "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (9) "Participating audiologist" means an audiologist who:
 - (a) Is enrolled in the Medicaid Program pursuant to 907 KAR 1:672;
 - (b) Is currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and
 - (c) Meets the audiologist requirements established in 907 KAR 1:038.
- (10) "Participating specialist in hearing instruments" means a specialist in hearing instruments who:
 - (a) Is enrolled in the Medicaid Program pursuant to 907 KAR 1:672;
 - (b) Is currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and
 - (c) Meets the specialist in hearing instruments requirements established in 907 KAR 1:038.
- (11) "Recipient" is defined by KRS 205.8451(9).

(12) "Specialist in hearing instruments" is defined by KRS 334.010(11)~~(9)~~.

(13) "Usual and customary charge" means the uniform amount that a provider bills to the general public for a specific covered benefit.

Section 2. General Reimbursement Requirements.

(1) For the department to reimburse for a service or item, the requirements of 907 KAR 1:038, Section 2, shall be met.

(2) The department shall not reimburse for:

(a) A service with a CPT code that is not listed on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>; or

(b) An item with an HCPCS code that is not listed on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

Section 3. Audiology Service Reimbursement. The department shall reimburse a participating audiologist for an audiology service at the lesser of the:

(1) Audiologist's usual and customary charge for the service; or

(2) Reimbursement established on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the service.

Section 4. Hearing Instrument Reimbursement.

(1) The department shall reimburse a participating specialist in hearing instruments or participating audiologist for a hearing instrument at the lesser of the:

(a) Provider's usual and customary charge for the hearing instrument; or

(b) Reimbursement established on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the hearing instrument.

(2) A hearing examination of a recipient by a physician and a recommendation for a hearing instrument for the recipient by an audiologist shall:

(a) Be required for the department to cover a hearing instrument; and

(b) Occur prior to the fitting of a hearing instrument.

(3)

(a) Except for an ear mold, an invoice for a hearing instrument, related supply, or accessory shall be submitted with the corresponding claim:

1. To the department; and

2. By the participating audiologist or participating specialist in hearing instruments who supplied the hearing instrument, related supply, or accessory.

(b) The department shall not require a participating audiologist or participating specialist in hearing instruments to submit an invoice for an ear mold.

Section 5. Ear Mold Reimbursement.

(1) The department shall reimburse a participating audiologist or participating specialist in hearing instruments for an ear mold at the lesser of the:

(a) Provider's usual and customary charge for the ear mold; or

(b) Reimbursement established on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the ear mold.

(2) The department shall limit reimbursement for an ear mold as consistent with the Kentucky Medicaid Audiology Fee Schedule~~[, in conjunction with an ear examination, to:]~~

~~[(a)] [One (1) ear mold per six (6) month period for a child aged three (3) years or under; or]~~

~~[(b)] [One (1) ear mold per twelve (12) month period for a child who is at least four (4) years of age].~~

Section 6. Reimbursement for Hearing Instrument Batteries.

(1) The department shall reimburse a participating audiologist or participating specialist in hearing instruments for a hearing instrument battery at the lesser of the:

- (a) Provider's usual and customary charge for the hearing instrument battery; or
- (b) Reimbursement established on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the hearing instrument battery.

(2)

~~(a) The department shall reimburse~~~~[s reimbursement]~~ for hearing instrument batteries ~~[shall be limited to fifty-two (52) batteries per hearing instrument]~~~~[when dispensed with a:]~~

~~[(a)] [New hearing instrument; or]~~

~~[(b)] [Replacement hearing instrument].~~

(b) The department's reimbursement for hearing instrument batteries shall be consistent with manufacturer's recommendations and at regular intervals as necessary to ensure optimal functioning of the hearing instrument.

Section 7. Replacement Cord Reimbursement. The department shall reimburse a participating audiologist or participating specialist in hearing instruments for a replacement cord at the lesser of the:

(1) Provider's usual and customary charge for the replacement cord; or

(2) Reimbursement established on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the replacement cord.

Section 8. Hearing Instrument Repair Reimbursement. The department shall reimburse a participating audiologist or participating specialist in hearing instruments for hearing instrument repair at the lesser of the:

(1) Provider's usual and customary charge for the hearing instrument repair; or

(2) Reimbursement established on the Kentucky Medicaid Audiology~~[Department for Medicaid Services Hearing Program]~~ Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the hearing instrument repair.

Section 9. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse the same amount as established in this administrative regulation for a service or item covered pursuant to 907 KAR 1:038 and this administrative regulation.

Section 10. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 11. Appeals. A provider may appeal a department decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

~~[Section 12.] [Incorporation by Reference.]~~

~~[(1)] [The "Department for Medicaid Services Hearing Program Fee Schedule", December 2013, is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.]~~

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: January 2, 2025

FILED WITH LRC: January 3, 2025 at 1:25 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 24, 2025, 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 March 17, 2025, 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 March 31, 2025. 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; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the reimbursement provisions and requirements for covered audiology services, hearing instruments, and related items provided to a Medicaid recipient who is not enrolled with a managed care organization.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the reimbursement provisions and requirements for covered audiology services, hearing instruments, and related items provided to a Medicaid recipient who is not enrolled with a managed care organization.

(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 the reimbursement provisions and requirements for covered audiology services, hearing instruments, and related items provided to a Medicaid recipient who is not enrolled with a managed care organization.

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

This administrative regulation assists with the effective administration of the statutes by establishing the reimbursement provisions and requirements for covered audiology services, hearing instruments, and related items provided to a Medicaid recipient who is not enrolled with a managed care organization.

(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:

This amendment removes the annual limit to the number of hearing aid battery replacements that can be reimbursed by Medicaid. The amendment also updates the name of the relevant fee schedule to the "Kentucky Medicaid Audiology Fee Schedule".

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

This amendment is necessary to provide Medicaid recipient access to reimbursement for hearing aid battery replacements.

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

This amendment conforms to the content of the authorizing statutes by establishing the reimbursement provision for hearing instruments and related items provided to a Medicaid recipient.

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

This amendment conforms to the content of authorizing statutes by establishing the reimbursement provision for hearing instruments and related items provided to a Medicaid recipient.

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

There are 219 providers registered as audiologists within the Kentucky Medicaid program.

(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:

None.

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

N/A, this amendment does not require additional action by the provider.

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

Providers will be able to receive reimbursement for additional battery replacements for certain devices.

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

(a) Initially:

The department anticipates no additional costs in implementing this administrative regulation.

(b) On a continuing basis:

The department anticipates no additional costs in implementing this administrative regulation.

(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:

Neither an increase in fees nor funding will be necessary to implement the amendments.

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

The amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied?

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

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.030(2), 194A.050(1), 205.520(3)

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

Department for Medicaid Services is the promulgating agency, other agencies have not been identified.

(a) Estimate the following for the first year:

Expenditures:No additional expenditures beyond those allocated to the Department pursuant to 2024 House Bill 6.

Revenues:The Department does not anticipate revenues as a result of this administrative regulation.

Cost Savings:The Department does not anticipate cost savings as a result of this administrative regulation.

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

DMS does not expect a change to expenditures, revenues, or cost savings in subsequent years.

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

DMS does not expect that local entities will be impacted by this regulation.

(a) Estimate the following for the first year:

Expenditures:n/a The Department does not anticipate additional expenditures.

Revenues:n/a The Department does not anticipate additional revenues.

Cost Savings:n/a The Department does not anticipate cost savings.

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

DMS does not expect additional expenditures, revenues, or cost savings for local entities as a result of this regulation.

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

Audiologists enrolled in the Medicaid program

(a) Estimate the following for the first year:

Expenditures:n/a The Department does not anticipate additional expenditures for regulated entities.

Revenues:n/a The Department does not anticipate additional revenues for regulated entities.

Cost Savings:The Department does not anticipate cost savings for the providers who are billing.

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

DMS does not expect expenditures, revenues, or cost savings for other entities as a result of this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The administrative regulation does not contain an additional fiscal impact.

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

The policies contained in the administrative regulation allow for providers to more easily treat and manage the care of Medicaid recipients. Providers will be able to request reimbursement for additional products already used within the practice of audiology.

(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)

: The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

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

The policies contained in the administrative regulation allow for providers to request additional reimbursement.

FEDERAL MANDATE ANALYSIS COMPARISON

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

42 C.F.R. 440.110

(2) State compliance standards.

KRS 194A.030(2) requires the Department for Medicaid Services to "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.

42 C.F.R. 440.110 establishes requirements for audiology services and establishes who may serve as a qualified audiologist.

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

The amendment will not impose stricter than federal requirements.

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

The amendment will not impose stricter than federal requirements.