

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Department for Medicaid Services**

**Division of Health Care Policy**

**(Amendment)**

**907 KAR 1:023. Review and approval of selected therapies as ancillary services in nursing facilities.**

RELATES TO: 42 C.F.R. Parts 430, 447, 455, 456, 482, 42 U.S.C. 1396a, b, d, c, r

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

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance to Kentucky's indigent citizenry. This administration regulation establishes the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.

Section 1. Definitions.

- (1) "Ancillary service" means a direct therapy service pursuant to Section 2 of this administrative regulation.
- (2) "Department" means the Department for Medicaid Services or its designee.
- (3) "Nursing facility" or "NF" means:
  - (a) A facility:
    1. To which the state survey agency has granted an NF license;
    2. For which the state survey agency has recommended to the department certification as a Medicaid provider; and
    3. To which the department has granted certification for Medicaid participation; or
  - (b) A hospital swing bed that provides services in accordance with 42 U.S.C. 1395tt and 1396l, if the swing bed is certified to the department as meeting requirements for the provision of swing bed services in accordance with 42 U.S.C. 1396r(b), (c), (d), 42 C.F.R. 447.280 and 482.66.

Section 2. Covered Ancillary Services.

- (1) Oxygen therapy shall be a covered ancillary service if the therapy is medically necessary.
- (2) The following therapies shall be covered ancillary services if medically necessary:
  - (a) Physical therapy;
  - (b) Occupational therapy; or
  - (c) Speech and language therapy.

(907 KAR 001:023. 20 Ky.R. 3395; eff. 8-17-1994; 26 Ky.R. 1245; 1684; 1951; eff. 5-10-2000; 30 Ky.R. 1628; 1938; eff. 2-16-2004; Crt eff. 12-6-2019; 52 Ky.R. 632; eff. 1-22-2026.) COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

*LISA D. LEE, Commissioner*

*STEVEN J. STACK, MD, MBA, Secretary*

APPROVED BY AGENCY: August 1, 2025

FILED WITH LRC: September 9, 2025 at 10:09 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on November 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 November 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 through November 30, 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.

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