

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Department for Medicaid Services**

**Division of Long Term Services and Supports**

**(Amended After Comments)**

**907 KAR 2:725. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Reimbursement.**

RELATES TO: KRS 205.520

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 the 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 to provide expanded services to individuals who have a primary diagnosis of Autism, Developmental Disability, Intellectual Disability, or Serious Emotional Disturbance.

Section 1. Definitions.

(1) "Assessed or Assessment" means the process that authorizes department or its designee to determine applicant service needs that can be met safely in a community-based setting and determine if the participant is eligible for 1915(c) CHILD Waiver services.

(2) "Autism Spectrum Disorder" (ASD) which is characterized by:

(a) Persistent deficits in social communication and social interaction across multiple contexts;

(b) Restricted, repetitive patterns of behavior, interests, or activities, currently or by history;

(c) Symptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life);

(d) Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning; and

(e) These disturbances are not better explained by intellectual disability (intellectual developmental disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication should be below that expected for general developmental level.

(3) "Case Manager" means an individual who meets the personnel and training requirements established in Section 5 of 907 KAR 2:720 and is responsible for facilitating person-centered planning, coordination, and oversight of **all waiver and other state plan services as well as medical, social, educational, and other services, regardless of the funding source for the services to which access is gained**~~waiver services~~.

(4) "Department" means the Kentucky Department for Medicaid Services or its designee.

(5) "Incident" means any occurrence that impacts health, safety, welfare, or lifestyle choice of a participant which can include a:

(a) Minor injury;

(b) Medication error without a serious outcome; or

(c) Behavior or situation that is not a critical incident.

(6) "Person-centered service plan" or "PCSP" means a written individualized plan of 1915(c) CHILD Waiver services developed in accordance with the participant and family's wants, assessed needs, and preferences that may include a transition plan to more intense or less intense level of services.

(7) "Serious Emotional Disability" or "SED" is consistent with KRS 200.503.

#### Section 2. Coverage.

(1) The department shall reimburse a participating 1915(c) CHILD waiver provider for a covered service provided to a participant.

(2) In order to be reimbursable by the department, a service shall be:

(a) Provided in accordance with the terms and conditions established in 907 KAR 2:720; and

(b) Prior authorized by the department.

#### Section 3. General Reimbursement Requirements.

(1) For the department to reimburse for a service or item, the requirements of 907 KAR 2:720 shall be met.

(2) The department shall reimburse a participating provider for a covered service as established pursuant to the 1915(c) Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

#### Section 4. Exceptional Supports Process.

(1) A service listed in 907 KAR 2:720 that includes benefit limitations, regardless of delivery method, shall qualify for review as an exception to the benefit limitations:

(a) Based on the needs of the participant for whom the exception is requested;

(b) For a limited period of time;

(c) If the service meets the requirements for an exception in accordance with the Kentucky 1915(c) CHILD Exceptional Supports Protocol found on the 1915(c) CHILD waiver website located at:

<https://www.chfs.ky.gov/agencies/dms/dca/Pages/default.aspx>; and

(d) If approved by the department or designee to be an exception.

(2) An exception granted pursuant to this section shall be for the sole purpose of ensuring the health, safety, and welfare of the 1915(c) CHILD Waiver participant.

(3) Each exceptional supports request shall be agreed upon by a consensus vote of the person-centered team by a person-centered team meeting.

(4) Within one (1) day of the person-centered team meeting in which an exceptional supports request is approved, the case manager shall submit the exception request through the Medicaid Waiver Management Application (MWMA), including:

(a) The name and identifying information of the participant;

(b) A description of the exceptional support being requested;

(c) Specific challenges presented by the participant and interventions provided that have resulted in the request, including dates, times, and locations of occurrences;

(d) Summary notes of the person-centered team meeting held to determine if the request for the requested exception was appropriate, including signatures of the team members and date, time, and location of the meeting;

(e) Documentation of any intervention attempted to stabilize the challenges and the resulting outcomes for any repeat exception requests; and

(f) Submission of a modified plan with the exceptional support request.

(5) The department or designee shall:

(a) Review the exception request submission within three (3) business days; and

(b) Approve, deny the request, or request additional information.

(6) An approved exception request shall be **for a limited period of time, not to exceed a full person-centered plan year**~~prior authorized for a period of up to six (6) months~~

~~or until the end of the participant's eligibility year, whichever is shorter].~~

(7) The prior authorization shall follow the participant if a transition to another provider occurs through an amendment to the prior authorization.

(8) A new exception request that will continue an existing exception shall be submitted no later than fifteen (15) days prior to the end of a prior authorization period.

Section 5. Auditing and Reporting. A CHILD provider shall maintain fiscal records and incident reports in accordance with the requirements established in 907 KAR 2:720.

Section 6. Appeal Rights. A CHILD provider may appeal a department decision regarding the application of this administrative regulation. An appeal shall be in accordance with 907 KAR 1:563.

Section 7. Federal Approval and Federal Financial Participation. The department's reimbursement of 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.

*LISA D. LEE, Commissioner*

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

APPROVED BY AGENCY: May 6, 2026

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## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

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**Subject Headings:**Children and Minors, Behavioral Health, Medicaid, Health and Medical Services

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the provider and participant provisions for the 1915(c) Community Health for Improved Lives and Development (CHILD) Waiver services.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to establish the CHILD waiver reimbursement.

**(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 provider and participant provisions for the 1915(c) CHILD waiver.

**(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 1915(c) CHILD Waiver services.

**(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 regulation to clarify the definition of "case manager" to require case managers to coordinate non-Medicaid services for which a participant may be entitled. The regulation is also amended to extend exception requests for up to the full person-centered plan year.

**(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) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, funding and a budget instruction from 2024 HB 6.**

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

Medicaid providers participating in the 1915(c) CHILD waiver. DMS estimates up to 100 participants may access 1915(c) CHILD waiver services at one time.

**(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:**

Providers will be required to bill under the 1915(c) specific fee schedule.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):**

DMS does not anticipate additional costs with participating as a CHILD waiver provider.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):**

Medicaid recipients who receive a slot for this waiver and providers who will provide services.

**(6) 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, beyond those detailed in HB 6, in implementing this administrative regulation.

**(b) On a continuing basis:**

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

**(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:**

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.

**(8) 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.

**(9) 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.

**(10) 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 205.520, 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 and administering agency.

**(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:**HB 6 from 2024 funds this program with \$14.5 million in total expenditures estimated for the first year.

**Revenues:**The department does not anticipate additional revenues.

**Cost Savings:**The department does not anticipate cost savings.

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

The department does not anticipate differences in expenses, revenues, or cost savings in subsequent years.

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

N/A

**(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:**

\$7.2 million total funding for state fiscal year 2026. The program is anticipated to have a fiscal impact of \$15 million total funding for state fiscal year 2027.

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

Estimated utilization of the services based on MMIS claims data and programmatic experience were multiplied by anticipated fee schedule rates.

**(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 amount of funding involved in this program is not enough to create a major economic impact to an entity identified in questions (2) – (4).

## FEDERAL MANDATE ANALYSIS COMPARISON

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

42 U.S.C. Ch. 7 Sec. 1396n

**(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.**

A 1915(c) waiver must be negotiated and finalized with the federal government.

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

The waiver will not impose stricter than federal requirements.

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

The waiver will not impose stricter than federal requirements.