JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

(Emergency Amended After Comments)

501 KAR 2:080E. Reimbursement for Medical Care Provided to State Inmates Housed in County and Regional Jails.

RELATES TO: KRS 441.045

STATUTORY AUTHORITY: KRS 196.035, KRS 197.020

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.045(5)(a) requires the Department of Corrections (the "Department") to reimburse counties for the cost of "necessary medical, dental, or psychological care, beyond routine care and diagnostic services" for state inmates housed in county jails. KRS 197.020(1)(b)2. requires the Department to promulgate administrative regulations for the preservation of the health of prisoners. KRS 441.045(10) defines "necessary care." This administrative regulation adopts the statutory definition and establishes additional definitions and criteria to distinguish routine care from care beyond routine, ensuring consistent application and alignment with legislative intent.

Section 1. Definitions

(1)

(a) "Care beyond routine" means necessary care that exceeds routine care due to the complexity, intensity, or specialization and requires resources not typically available through standard correctional or local outpatient care arrangements, including:

1. Inpatient hospitalization;

2. Emergency medical care requiring immediate transport and advanced intervention;

3. Surgical procedures, including outpatient surgery, that require general anesthesia, twilight sedation, or conscious sedation, or specialized surgical facilities or providers;

4. Specialty care requiring advanced or invasive treatment by specialists, including cardiology, oncology, neurology, or specialists in similar fields;

5. Dental treatment requiring specialized or extensive restorative, surgical, or other treatment that cannot reasonably be provided through routine dental services available within the correctional facility or through standard outpatient dental care;

6. Obstetrical or gynecological care requiring treatment or monitoring by a specialist for a diagnosed maternal or fetal condition that requires specialized testing, procedures, or a level of clinical monitoring beyond routine prenatal, postpartum, or gynecological care;

7. Advanced diagnostic services, including CT scans, MRIs, or other non-routine imaging or procedures;

8. Pharmaceutical treatment that is not reasonably part of routine correctional medication management because of exceptional total treatment-course cost, the specialized nature of the therapy, or specialized administration or monitoring requirements, including biologic therapies, chemotherapy agents, and comparable specialty medications;

9. Long-term or intensive treatment, including dialysis, inpatient psychiatric care, or other services requiring sustained specialized intervention; and

10. Services that, based on professional clinical judgment, are not reasonably categorized as routine care under subsection (4) of this section.

(b) For purposes of this administrative regulation, where an inmate is not admitted into a hospital, medical care shall not be classified as care beyond routine solely because medical care was provided in an emergency department or hospital = setting ("hospital-based medical care") if, based on the clinical condition and treatment rendered, the care could have been safely and effectively provided within the jail or through standard outpatient services.

1. In determining whether hospital-based medical care that does not result in hospital admission qualifies as care beyond routine, the Department shall consider the patient's presenting condition, information reasonably available to the treating personnel when the care was sought, whether emergency evaluation or advanced intervention was reasonably required, and the nature and complexity of the services provided.

2. Hospital-based care shall not be classified as routine solely because a subsequently identified condition did not require admission or advance treatment.

(2) "Diagnostic services" means medical testing and evaluation used to identify, assess, or monitor a medical condition, including laboratory testing, imaging, and other non-invasive assessments.

(3) "Necessary care" is defined in KRS 441.045(10).

(4)

(a) "Routine care" means necessary care that:

1. Is customary, predictable, and commonly provided within a correctional facility or through standard local outpatient providers;

2. Involves non-complex evaluation or treatment that does not require specialized facilities, advanced technology, or highly specialized providers; and

3. Can be delivered through standard correctional health care delivery systems, including on-site services or routinely accessible off-site outpatient services.

(b) Routine care includes:

1. Evaluation and treatment of minor or stable conditions, including infections, minor injuries, and common illnesses;

2. Chronic care management, including ongoing treatment of conditions such as hypertension, diabetes, asthma, or mental health conditions where the treatment does not require advanced or intensive intervention;

3. Outpatient medical, dental, and behavioral health services that are commonly available in the local community;

4. Prescription medications and ordinary medication management, excluding pharmaceutical treatment that meets the criteria of subsection (1)(a)8 of this section ;

5. Basic diagnostic services, including laboratory testing and standard radiology such as X-rays; and

6. Follow-up care medically necessary based on the services described in this paragraph.

(c) Care shall not be classified as care beyond routine solely because:

1. The county or regional jail does not provide the service on site, its contracted healthcare provider does not offer the service, or the service is obtained from an outside provider; or

2. The county or regional jail's failure to timely provide routine care during the inmate's confinement resulted in the need for more extensive treatment that could reasonably have been prevented through timely provision of routine care.

Section 2. Reimbursement Criteria. For any state inmate held in the jail for which the county receives a per diem payment pursuant to KRS 532.100(7):

(1) Counties shall be responsible for the cost of routine care and diagnostic services.

(2) The Department shall reimburse counties for costs associated with necessary care beyond routine care and diagnostic services, consistent with KRS 441.045(5)(a).

(3) A county or regional jail seeking reimbursement under this administrative regulation shall submit a claim for reimbursement to the Department as follows:

(a) For reimbursement of costs associated with necessary care beyond routine and diagnostic services, a county or regional jail shall submit a Request for Authorization form as follows:

1. A county or regional jail shall submit a Request for Authorization form via email to the Department or its designated medical claims administrator at least seventy-two (72) hours before the medical service is scheduled, if feasible.

2. After receiving the Request for Authorization, the Department or its designated medical claims administrator will process and forward an appropriate claims billing form and authorization number to the county or regional jail point of contact.

a. Prior to submission for reimbursement, all claims shall be subject to repricing pursuant to KRS 441.045(14) by the Department or designated medical claims administrator.

b. No claim shall be eligible for reimbursement unless it has been repriced.

3. The county or regional jail shall be responsible for providing the Request for Authorization form to the outside provider when the patient is sent for medical services, when possible.

4. The outside provider shall deliver the approved medical services and send all qualified claims to the Department or its designated medical claims administrator for repricing. The Department or its designated medical claims administrator shall provide the repriced claim to the county or regional jail for payment to the outside provider.

(b) For reimbursement of costs associated with necessary care beyond routine care and diagnostic services, when advanced authorization is not feasible, the county or regional jail shall submit the Request for Authorization form as soon as practicable, but no later than forty-eight (48) hours after a medical provider begins providing the care for which reimbursement is sought, and the claim shall be processed pursuant to this subsection of this administrative regulation.

(c) The Department may require documentation that the county or regional jail has paid, or is legally obligated to pay, the repriced amount prior to issuing reimbursement.

(4) The Department may deny or delay reimbursement for any claim that:

(a) Has not been properly repriced;

(b) Was submitted with an incomplete Request for Authorization form or a Request for Authorization form that lacks the required information; or

(c) Does not meet the criteria established in this administrative regulation.

(5) The Department may, at its discretion, take custody of a prisoner and hold that person in a state prison facility for the purpose of treating the medical conditions as set out in KRS 441.560.

Section 3. Review and Dispute Resolution.

(1) The Department shall review each submitted claim and issue a written determination approving, denying, or modifying the requested reimbursement.

(2) A county or regional jail may request reconsideration of a determination by submitting a written request to the Department within thirty (30) calendar days of the date the determination was issued.

(a) The request shall:

1. Identify the specific claim or portion of the claim in dispute;

2. State the basis for reconsideration, including any argument that the care qualifies as care beyond routine that is medically necessary; and

3. Include any additional supporting documentation not previously submitted.

(3) The Department shall review the request for reconsideration and any additional documentation submitted.

(a) The Department may request additional information from the county or regional jail as necessary to complete its review.

(b) The Department shall issue a written reconsideration decision within forty-five (45) calendar days of receipt of a complete request.

(4) The reconsideration decision shall constitute the Department's final agency action.

Section 4. Incorporation by Reference.

(1) "Request for Authorization," revised in August 2026, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be viewed on the Justice and Public Safety Cabinet website at https://justice.ky.gov/about/pages/lrcfilings.aspx.

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.

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