

## **806 KAR 17:300. Provider agreement and risk-sharing agreement filing requirements.**

RELATES TO: KRS 304.17A-150, 304.17A-235, 304.17A-500, 304.17A-527, 304.17A-530, 304.17A-532, 304.17A-560, 304.17A-575, 304.17A-578, 304.17A-728, 304.17C-060, 304.17C-070, 304.99

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-527(1), 304.17C-060(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the executive director to promulgate reasonable administrative regulations necessary to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17A-527(1) and KRS 304.17C-060(1) require the Department to promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements. This administrative regulation establishes the filing requirements of provider agreements, subcontract agreements, and risk sharing arrangements.

### **Section 1. Definitions.**

- (1) "Provider agreement" means a contract between an insurer offering a managed care plan and a provider for the provision of health care services.
- (2) "Subcontract agreement" means a contract for the provision of health care services to:
  - (a) An enrollee, which is negotiated between a participating health care provider with a managed care plan and a nonparticipating provider with a managed care plan; or
  - (b) A covered person, which is negotiated between a risk sharing entity as identified in KRS 304.17A-500(13) and a provider.

### **Section 2. Filing Requirements.**

- (1) An insurer, managed care plan, and limited health service benefit plan shall file a sample copy of the following with the commissioner at least sixty (60) days before its use:
  - (a) Provider agreement;
  - (b) Risk sharing arrangement; and
  - (c) Subcontract agreement.
- (2) A filing pursuant to subsection (1) of this section shall:
  - (a) Include:
    1. A compensation arrangement, including a description of the:
      - a. Payment methodology; and
      - b. Payor as defined in the agreement;
    2. Any attachment, exhibit, or addendum to the items listed in subsection (1) of this section;
    3. A completed and signed Face Sheet and Verification Form HIPMC-F1, incorporated by reference in 806 KAR 17:005; and
    4. A filing fee, including:
      - a. Twenty-five (25) dollars for a provider agreement or subcontract agreement filing; or
      - b. Fifty (50) dollars for a risk sharing arrangement filing; and
  - (b)
    1. Not be considered complete until the information required by paragraph (a) of this subsection is received by the department; and
    2. Be disapproved if a complete filing is not received within sixty (60) days of the date of filing.
- (3) If a managed care plan, insurer, or limited health service benefit plan amends an existing provider agreement, subcontract agreement, or risk sharing agreement that was previously filed with the commissioner, affecting any requirements of this administrative regulation, the managed care plan shall submit:
  - (a) An amended filing at least sixty (60) days before its use; and

- (b) A letter that identifies and explains each amendment.
- (4) The failure of a managed care plan, insurer, or limited health service benefit plan to file a sample copy of a provider agreement, subcontract agreement, or risk sharing agreement may result in imposition of a civil penalty in accordance with KRS 304.99.
- (5) An insurer issuing, delivering, or renewing a limited health service benefit plan shall complete and attach Form HIPMC-F37, Limited Health Service Benefit Plan Summary Sheet - Form Filings (07/02), to each limited health service benefit plan filed with the commissioner.

#### Section 3. Provider Agreement Requirements.

- (1) The sample copy of a provider agreement for an insurer or managed care plan filed with the commissioner shall:
  - (a) Comply with the requirements of KRS 304.17A-527(1);
  - (b) Comply with the requirements of KRS 304.17A-728; and
  - (c) Not include a:
    - 1. Most-favored nation provision in accordance with KRS 304.17A-560;
    - 2. Limitation on disclosure provision in accordance with KRS 304.17A-530;
    - 3. Condition of participation provision in accordance with KRS 304.17A-150(4); and
    - 4. Mandatory use of hospitalist provision in accordance with KRS 304.17A-532(2).
- (2) The sample copy of a provider agreement for a limited health service benefit plan filed with the commissioner shall:
  - (a) Comply with the requirements of KRS 304.17C-060(1);
  - (b) Be governed by Kentucky law; and
  - (c) Not include a limitation on disclosure provision in accordance with KRS 304.17C-070.

#### Section 4. Subcontract Agreement Requirements. A sample copy of a subcontract agreement that is part of a provider agreement or risk sharing arrangement shall:

- (1) Be filed with the commissioner by the managed care plan, limited health service benefit plan, or insurer in conjunction with the provider agreement or risk sharing arrangement;
- (2) Meet applicable requirements of Section 3 of this administrative regulation; and
- (3) Meet the requirements of KRS 304.17A-527(2) or 304.17C-060(3), as applicable.

#### Section 5. Risk Sharing Arrangement Requirements.

- (1) The sample copy of a risk sharing arrangement filed with the commissioner shall:
  - (a) Meet the requirements of Section 3 of this administrative regulation;
  - (b) Include a Risk Sharing Arrangement Information Sheet HIPMC-R1, incorporated by reference in 806 KAR 17:005; and
  - (c) Meet the requirements of KRS 304.17A-527(2) or 304.17C-060(3), as applicable.
- (2) On or before September 1 of each calendar year, an insurer, managed care plan, or limited health services benefit plan shall file with the commissioner the HIPMC-R1, incorporated by reference in 806 KAR 17:005, for each risk sharing arrangement currently effective.

#### Section 6. Incorporation by Reference.

- (1) "Limited Health Service Benefit Plan Summary Sheet - Form Filings HIPMC-F37", 07/18, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's Web site at <http://insurance.ky.gov>.

(27 Ky.R. 1706; 2191; 2455; eff. 3-19-2001; 31 Ky.R. 443; 711; eff. 11-5-2004; TAm eff. 8-9-2007; 35 Ky.R. 1314; eff. 2-6-2009; 45 Ky.R. 437; eff. 11-2-2018.)