

907 KAR 3:035. Criteria for certification for out-of-state residential services for Medicaid-eligible children under twenty-one (21).

RELATES TO: KRS 199.680, 205.634

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 199.680, 205.520(3), 205.634, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services. KRS 199.680(3) and 205.634(4) require the department to promulgate an administrative regulation establishing the requirements for a determination of the availability of providers of residential care within Kentucky. KRS 199.680(1) and 205.634(2) prohibit the reimbursement of an out-of-state provider of residential care for children whose care is paid by state general funds or state administered federal funds unless a determination has been made that a provider in Kentucky is not capable or willing to provide comparable services to the child. This administrative regulation establishes uniform conditions and requirements for certification for out-of-state residential services for Medicaid-eligible children under age twenty-one (21), and for determining the availability of providers of residential care within the Commonwealth.

Section 1. Definitions.

- (1) "Comparable cost per child" means total payments made by the department per child to an out-of-state facility are comparable to total payments made by the department per child to an in-state facility for comparable residential care.
- (2) "Comparable services" mean services provided by an in-state residential provider equal to or surpassing services provided by an out-of-state residential provider.
- (3) "Department" means the Department for Medicaid Services or its designated agent.
- (4) "Participating provider" means a provider who receives reimbursement from the Department for Medicaid Services for services provided to a Medicaid-eligible child under age twenty-one (21).
- (5) "Residential care" means behavioral health services provided twenty-four (24) hours a day by a participating provider in a structured setting with an organized program of care.

Section 2. Exceptions and Exclusions.

- (1) The department shall not preauthorize or reimburse an out-of-state provider for a Medicaid-eligible child except as provided by KRS 199.680 and 205.634.
- (2) An incidental acute physical health care or routine preventive care payment made by the department during the residential episode of care shall be excluded from the calculation of comparable cost per child.
- (3) A participating in-state or out-of-state provider shall meet the provider qualification criteria established in 907 KAR 11:034 or 907 KAR 3:030.

Section 3. Procedures for Placement.

- (1) The following actions shall occur before an out-of-state placement:
 - (a) The department or its designated agent shall document that there is no in-state provider with comparable services and costs capable of and willing to serve a specific child.
 - (b) The department or its designated agent shall obtain all necessary information, both demographic and medical, about each child who presents for review and services.
 - (c) The information shall include, at a minimum:
 1. Child's demographics;
 2. Child's parent or legal guardian's name and address;
 3. Child's clinical history, placements and diagnoses;

4. Child's proposed treatment plan, including the estimated date of discharge and a proposed transition plan to the home and community; and

5. Other pertinent information regarding the child's case, including special medical needs.

(d) A participating in-state provider shall fax, call, or otherwise transmit to the department, a weekly report of the availability of residential care, which shall be reviewed by the department prior to approval of an out-of-state placement.

(e) The department shall create a database of participating in-state and out-of-state providers containing each participating provider's identifying information, clinical program descriptions, staff credentials, staffing models, quality improvement plan, utilization management, protocols and opportunity for family interaction, discharge and outcome management, services, costs, licensure status, and negotiated payment rates by the department. The department shall utilize this database to determine comparable costs and services among providers and shall update the database not less than annually.

(2) For a child approved for out-of-state residential care, the department shall maintain records documenting diagnoses, specific treatment needs, demographics, and the specific reason for an exception, meeting the criteria established in KRS 199.680(1) and 205.634(2). The department shall transmit this data to a participating provider who requests it.

(25 Ky.R. 2732; 26 Ky.R. 407; 619; eff. 9-15-1999; TAm eff. 4-28-2011; Crt eff. 12-6-2019.)