

907 KAR 3:300. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency.

RELATES TO: KRS Chapter 39A, 194A.060, 205.510(15), 205.559, 205.560

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.559(2), (7), 205.560

NECESSITY, FUNCTION, AND CONFORMITY: In accordance with KRS 194A.030(2), 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 to qualify for federal Medicaid funds. This administrative regulation establishes the requirements for enhancing or suspending certain Medicaid services and requirements if there is a declared national or state emergency.

Section 1. General Provisions Relating to a Declared Emergency.

- (1) In accordance with all applicable federal law, the department shall respond to a declared national or state emergency that is related to or rationally related to healthcare or public health by temporarily enhancing, expanding, or suspending Medicaid services and requirements as necessary to respond to the declared emergency.
- (2) The department shall provide information about specific expanded services via the use of the department's Web site, electronic provider letters, or other reliable methods of communication with members, providers, and stakeholders.
- (3) The department may target any activity undertaken pursuant to this administrative regulation to a subpopulation based on criteria that include:
 - (a) Geography;
 - (b) Age;
 - (c) Condition; or
 - (d) Disease.

Section 2. Enhanced or Expanded Medicaid Benefits. Medicaid services and requirements that may be enhanced or expanded include:

- (1) Any appropriate health service related to or rationally related to the declared emergency;
- (2) Telehealth services, which may include:
 - (a) Those services that are otherwise designated as face-to-face only throughout KAR Title 907;
 - (b) The use of equipment, such as a telephone, that would not customarily be allowable for a telehealth service pursuant to KAR Title 907; or
 - (c) Expanded use of asynchronous telehealth or store-and-forward telehealth, including:
 1. Remote patient monitoring, as appropriate; or
 2. Any other telehealth service for which an evidence base exists to justify the safety and efficacy of the service if provided as asynchronous telehealth;
- (3) The introduction or expansion of any appropriate telecommunication or electronically mediated health service as allowable pursuant to federal law; or
- (4) "Telehealth" or "telehealth service" or "telehealth consultation" as it is defined throughout KAR Title 907, which shall be equivalent to an in-person service or a service requiring physical presence.

Section 3. Eligibility. Pursuant to Section 1 of this administrative regulation, the department may:

- (1) Temporarily expand eligibility to include individuals with higher income than currently allowed pursuant to 907 KAR 20:100;
- (2) Temporarily suspend the requirement that a beneficiary eligible pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii)(V) be institutionalized for at least thirty (30) days;
- (3) Implement a simplified electronic or paper application for use by designated providers; or
- (4) Extend the availability of presumptive eligibility to additional groups than allowed pursuant to 907 KAR 20:050.

Section 4. Temporary Enhancement of Rate or Rate Methodology. The department may temporarily enhance rates or rate methodology relating to a declared national or state emergency.

Section 5. Provider Enrollment.

- (1) In response to a declared national or state emergency, the department may:
 - (a) Simplify any existing provider enrollment process to meet an existing or anticipated demand for health services; or
 - (b) Reenroll retired or previously enrolled providers.
- (2) Any enrollment or reenrollment process utilized pursuant to subsection (1) of this section shall exercise discretion when enrolling or not enrolling providers with a history of disenrollment for good cause or other negative criminal or registry record.

Section 6. Women, Infants, and Children (WIC) Program Services.

- (1) The department or any other agency of the Cabinet for Health and Family Services shall facilitate the provision of all appropriate WIC services via telehealth or as a telecommunications or other electronically mediated health service to the full extent allowable by federal or state law.
- (2) For the purposes of all WIC services administered by the Cabinet for Health and Family Services, any requirement that a service be "face-to-face", "in-person", or "physically present" shall include a synchronous telehealth or telecommunication or other electronically mediated health service.

Section 7. Federal Financial Participation. A policy established in this administrative regulation may be null and void if the Centers for Medicare and Medicaid Services:

- (1) Denies federal financial participation for the policy; or
- (2) Disapproves the policy.

Section 8. If any policy stated in another administrative regulation within KAR Title 907 contradicts a policy stated in this administrative regulation, the policy stated in this administrative regulation shall supersede the policy stated elsewhere within KAR Title 907. (46 Ky.R. 2851, 47 Ky.R. 546; eff. 12-1-2020.)