907 KAR 9:010. Reimbursement for non-outpatient Level I and II psychiatric residential treatment facility services.

RELATES TO: KRS 205.520, 216B.450, 216B.455, 216B.459

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.160, 42 U.S.C. 1396a-d

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) empowers 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 Medicaid reimbursement policies for non-outpatient Level I and Level II psychiatric residential treatment facility services provided to a Medicaid recipient who is not enrolled in a managed care organization.

Section 1. Definition

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

(2) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(3) "Level I PRTF" means a psychiatric residential treatment facility that meets the criteria established in KRS 216B.450(5)(a).

(4) "Level II PRTF" means a psychiatric residential treatment facility that meets the criteria established in KRS 216B.450(5)(b).

(5) "Managed care organization" means an entity for which the department has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(6) "Per diem rate" means a Level I or II PRTF's total daily reimbursement as calculated by the department.

(7) "Recipient" is defined by KRS 205.8451(9).

Section 2. Reimbursement for Level I PRTF Services and Costs.

(1) To be reimbursable under the Medicaid Program, Level I PRTF services and associated costs, respectively, shall be provided to or associated with a recipient receiving Level I PRTF services in accordance with 907 KAR 9:005.

(2) The department shall reimburse for Level I PRTF services and costs referenced in subsection (4) of this section for a recipient not enrolled in a managed care organization:

(a) At the lesser of:

1. A per diem rate of $274.01; or

2. The usual and customary charge; and

(b) An amount not to exceed the prevailing charges, in the locality where the Level I PRTF is located, for comparable services provided under comparable circumstances.

(3) The per diem rate referenced in subsection (2) of this section shall be increased each biennium by 2.22 percent.

(4) The reimbursement referenced in subsection (2) of this section shall represent the total Medicaid reimbursement for Level I PRTF services and costs:

(a) Including all care and treatment costs;

(b) Including costs for all ancillary services;

(c) Including capital costs;

(d) Including room and board costs; and

(e) Excluding the costs of drugs as drugs shall be:

1. Covered in accordance with 907 KAR 23:010; and

2. Reimbursed via the department's pharmacy program in accordance with 907 KAR 23:020.

Section 3. Reimbursement for Level II PRTF Services and Costs.

(1) To be reimbursable under the Medicaid program, Level II PRTF services and associated costs, respectively, shall be provided to or associated with a recipient receiving Level II PRTF services in accordance with 907 KAR 9:005.

(2) The department shall reimburse at the lesser of the usual and customary charge or a per diem rate as follows for Level II PRTF services and costs for a recipient not enrolled in a managed care organization:

(a) $345 for Level II PRTF services to a recipient who meets the rate group one (1) criteria established in subsection (3)(a) of this section;

(b) $365 for Level II PRTF services to a recipient who meets the rate group two (2) criteria established in subsection (3)(b) of this section;

(c) $385 for Level II PRTF services to a recipient who meets the rate group three (3) criteria established in subsection (3)(c) of this section; or

(d) $405 for Level II PRTF services to a recipient who meets the rate group four (4) criteria established in subsection (3)(d) or (e) of this section.

(3)

(a) Rate group one (1) criteria shall be for a recipient who:

1. Is twelve (12) years of age or younger; and

2.

a. Is sexually reactive; or

b.

(i) Has a severe and persistent aggressive behavior;

(ii) Does not have an intellectual or a developmental disability; and

(iii) Has an intelligence quotient higher than seventy (70).

(b) Rate group two (2) criteria shall be for a recipient who:

1. Is twelve (12) years of age or younger; and

2.

a. Is sexually reactive; and

b.

(i) Has a severe and persistent aggressive behavior;

(ii) Does not have an intellectual or a developmental disability; and

(iii) Has an intelligence quotient higher than seventy (70).

(c) Rate group three (3) criteria shall be for a recipient who:

1. Is thirteen (13) years of age or older; and

2.

a. Is sexually reactive; or

b.

(i) Has a severe and persistent aggressive behavior;

(ii) Does not have an intellectual or a developmental disability; and

(iii) Has an intelligence quotient higher than seventy (70).

(d) Rate group four (4) criteria shall be for a recipient who:

1. Is thirteen (13) years of age or older; and

2.

a. Is sexually reactive; and

b.

(i) Has a severe and persistent aggressive behavior;

(ii) Does not have an intellectual or a developmental disability; and

(iii) Has an intelligence quotient higher than seventy (70).

(e) Rate group four (4) criteria shall be for a recipient who:

1. Is under twenty-two (22) years of age; and

2.

a. Is sexually reactive; or

b.

(i) Has a severe and persistent aggressive behavior;
(ii) Has an intellectual or a developmental disability; and
(iii) Has an intelligence quotient lower than seventy (70).

(4) The per diem rates referenced in subsection (2) of this section, or the usual and customary charge if less than the per diem rate, shall represent the total Medicaid reimbursement for Level II PRTF services and costs:

(a) Including all care and treatment costs;
(b) Including costs for all ancillary services;
(c) Including capital costs;
(d) Including room and board costs; and
(e) Excluding the costs of drugs as drugs shall be:
1. Covered in accordance with 907 KAR 23:010; and
2. Reimbursed via the department's pharmacy program in accordance with 907 KAR 23:020.

(5)

(a) The department shall annually evaluate each per diem rate for Level II PRTF services and costs by reviewing the most recent, reliable claims data and cost report data to analyze treatment patterns, technology, and other factors that may alter the cost of efficiently providing Level II PRTF services.

(b) The department shall use the evaluation, review, and analysis referenced in paragraph (a) of this subsection to determine if an adjustment to the Level II PRTF reimbursement would be appropriate.

Section 4. Cost Reports and Audits.

(1)

(a) A Level I or II PRTF shall annually submit to the department, within ninety (90) days of the closing date of the facility's fiscal year end, a legible and completed Form CMS 2552-96.

(b) The department shall grant a thirty (30) day extension for submitting a legible and completed Form CMS 2552-96 to the department if an extension is requested by a Level I or II PRTF.

(2)

(a) A Form CMS 2552-96 shall be subject to review and audit by the department.

(b) The review and audit referenced in paragraph (a) of this subsection shall be to determine if the information provided is accurate.

Section 5. Access to Level I and II PRTF Fiscal and Services Records. A Level I or II PRTF shall provide, upon request, all fiscal and service records relating to services provided to a Kentucky recipient, to the:

(1) Department;
(2) Cabinet for Health and Family Services, Office of Inspector General;
(3) Commonwealth of Kentucky, Office of the Attorney General;
(4) Commonwealth of Kentucky, Auditor of Public Accounts;
(5) Secretary of the United States Department of Health and Human Services; or
(6) United States Office of the Attorney General.

Section 6. Bed Reserve and Therapeutic Pass Reimbursement.

(1) The department's reimbursement for a bed reserve day which qualifies as a bed reserve day pursuant to 907 KAR 9:005 for a recipient not enrolled in a managed care organization shall be:

(a) Seventy-five (75) percent of the rate established in Section 2 or 3 of this administrative regulation if the Level I or II PRTF's occupancy percent is at least eighty-five (85) percent; or

(b) Fifty (50) percent of the rate established in Section 2 or 3 of this administrative regulation if the Level I or II PRTF's occupancy percent is less than eighty-five (85) percent.

(2) The department's reimbursement for a therapeutic pass day which qualifies as a therapeutic pass day pursuant to 907 KAR 9:005 for a recipient not enrolled in a managed care organization shall be:

(a) 100 percent of the rate established in Section 2 or 3 of this administrative regulation if the Level I or II PRTF's occupancy percent is at least fifty (50) percent; or

(b) Fifty (50) percent of the rate established in Section 2 or 3 of this administrative regulation if the Level I or II PRTF's occupancy percent is below fifty (50) percent.

(3)

(a) A Level I or II PRTF's occupancy percent shall be based on a midnight census.

(b) An absence from a Level I or II PRTF that is due to a bed reserve day for an acute hospital admission, a state mental hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital shall count as an absence for census purposes.

(c) An absence from a Level I or II PRTF that is due to a therapeutic pass day shall not count as an absence for census purposes.

Section 7. Outpatient Services Reimbursement Established in 907 KAR 9:020. The department's reimbursement provisions and requirements regarding outpatient behavioral health services provided by a Level I or II PRTF shall be as established in 907 KAR 9:020.

Section 8. Federal Financial Participation. The department's reimbursement for 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.

Section 9. Appeals. A provider may appeal a decision by the department regarding the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 10. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

(1) This administrative regulation; or

(2) 907 KAR 9:005.

Section 11. Incorporation by Reference.

(1) "Form CMS 2552-96", August 2010 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8:00 a.m. to 4:30 p.m.

(18 Ky.R. 601; eff. 10-6-1991; Am. 22 Ky.R. 1908; eff. 6-6-1996; Recodified from 907 KAR 1:510; eff. 3-20-2012; TAm eff. 3-20-2012; 39 Ky.R. 869; 1479; 1704; eff. 3-8-2013; TAm 7-16-2013; 41 Ky.R. 2425; 42 Ky.R. 727; eff. 11-16-2015; TAm eff. 10-6-2017; Cert. eff. 10-18-2022.)