907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

RELATES TO: KRS 205.520, 42 C.F.R. 441, Subpart G, 447.272, 42 U.S.C. 1396a, b, d, n

STATUTORY AUTHORITY: KRS 142.363, 194A.030(3), 194A.050(1), 205.520(3), 205.6317

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, is required 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 reimbursement policies for SCL waiver services provided to individuals pursuant to the new Supports for Community Living (SCL) waiver program established by 907 KAR 12:010.

Section 1. Definitions.

(1) "DBHDID" means the Department for Behavioral Health, Developmental and Intellectual Disabilities.

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

(3) "Developmental disability" means a disability that:

(a) Is manifested prior to the age of twenty-two (22);

(b) Constitutes a substantial disability to the affected individual; and

(c) Is attributable either to an intellectual disability or a condition related to an intellectual disability that:

1. Results in an impairment of general intellectual functioning and adaptive behavior similar to that of a person with an intellectual disability; and

2. Is a direct result of, or is influenced by, the person's cognitive deficits.

(4) "Exceptional support" means a service:

(a) Requested by a participant and the participant's team; and

(b) That due to an extraordinary circumstance related to a participant's physical health, psychiatric issue, or behavioral health issue is necessary to:

1. Be provided in excess of the upper payment limit for the service for a specified amount of time; and

2. Meet the assessed needs of the participant.

(5) "Immediate family member" is defined by KRS 205.8451(3).

(6) "Intellectual disability" or "ID" means:

(a) A demonstration:

1. Of significantly sub-average intellectual functioning and an intelligence quotient (IQ) of seventy (70) plus or minus five (5); and

2. Of concurrent deficits or impairments in present adaptive functioning in at least two (2) of the following areas:

a. Communication;

b. Self-care;

c. Home living;

d. Social or interpersonal skills;

e. Use of community resources;

f. Self-direction;

g. Functional academic skills;

h. Work;

i. Leisure; or

j. Health and safety; and

(b) An intellectual disability that had an onset before eighteen (18) years of age.

(7) "Legally responsible individual" means an individual who has a duty under state law to care for another person and includes:
(a) A parent (biological, adoptive, or foster) who provides care to the parent's minor child;
(b) A guardian who provides care to the guardian's minor child; or
(c) A spouse of a participant.
(8) "Participant" means a Medicaid recipient who:
(a) Meets patient status criteria for an intermediate care facility for individuals with intellectual disabilities as established in 907 KAR 1:022;
(b) Is authorized by the department to receive SCL waiver services; and
(c) Utilizes SCL waiver services and supports in accordance with a person-centered service plan.
(9) "Participant-directed service" means an option established by KRS 205.5606 within the 1915(c) home and community based service waiver programs that allows recipients to receive non-medical services in which the individual:
(a) Assists with the design of the program;
(b) Chooses the providers of services; and
(c) Directs the delivery of services to meet his or her needs.
(10) "State plan" is defined by 42 C.F.R. 430.10.
(11) "Supports for community living services" or "SCL services" means community-based waiver services for a participant who has an intellectual or developmental disability.

Section 2. Coverage.
(1) The department shall reimburse a participating SCL provider for a covered service provided to a participant.
(2) In order to be reimbursable by the department, a service shall be:
(a) Provided in accordance with the terms and conditions specified in 907 KAR 12:010; and
(b) Prior authorized by the department.
(3) Funding for the SCL waiver program shall be associated with and generated through SCL waiver program participants rather than SCL waiver service providers.

Section 3. SCL Reimbursement and Limits.
(1) Except as established in Section 4 of this administrative regulation, the department shall reimburse for an SCL service provided in accordance with 907 KAR 12:010 to a participant an amount:
(a) Equal to the charge billed by the provider; and
(b) Not to exceed the fixed upper payment limit for the service.
(2) The unit amounts and fixed upper payment limits listed in the following table shall apply:

Service	Unit of Service	Upper Payment Limit
Case Management	1 month	$320.00
Community Access-Individual	15 minutes	$8.00
Community Access-Group	15 minutes	$4.00
Community Guide	15 minutes	$8.00
Consultative, Clinical and Therapeutic	15 minutes	$22.50
Day Training	15 minutes	$2.20

Day Training (Licensed Adult Day Health Center)	15 minutes	$3.00
Person Centered Coach	15 minutes	$5.75
Personal Assistance	15 minutes	$5.54
Positive Behavior Support	1 positive behavior support plan	$665.00
Residential Level I (4 to 8 residents)	24 hours	$130.35
Residential Level I (3 or less residents)	24 hours	$172.46
Residential -Technology Assisted	24 hours	$79.00
Residential Level II -12 or more hours of supervision	24 hours	$141.69
Residential Level II-fewer than 12 hours of supervision	24 hours	$79.00
Respite	15 minutes	$2.77
Supported Employment	15 minutes	$10.25

(3) Any combination of day training, community access, personal assistance, or any hours of paid community employment or on-site supported employment service shall not exceed sixteen (16) hours per day.
(4) Community access services shall not exceed 160 units per week.
(5) Community guide services shall not exceed 576 units per one (1) year authorized person-centered service plan period.
(6) Community transition shall be based on prior authorized cost not to exceed $2,000 per approved transition.
(7) Consultative clinical and therapeutic services shall not exceed 160 units per one (1) year authorized person-centered service plan period.
(8) Day training alone or in combination with any hours of paid community employment or on-site supported employment service shall not exceed 160 units per week.
(9) An environmental accessibility adaptation service shall be:
(a) Based on a prior authorized, estimated cost; and
(b) Limited to an $8,000 lifetime maximum.
(10) Goods and services shall not exceed $1,800 per one (1) year authorized person-centered service plan period.
(11) Natural support training shall be based on a prior authorized, estimated cost not to exceed $1,000 per one (1) year authorized person-centered service plan period.
(12) Person centered coaching shall not exceed 1,320 units per year.
(13) Respite shall be limited to 3,320 units (830 hours) per one (1) year authorized person-centered service plan period.
(14) Shared living shall be based on a prior authorized amount not to exceed $600 per month.
(15) A vehicle adaptation shall be limited to $6,000 per five (5) years per participant.
(16) Transportation shall be reimbursed:
(a)
1. If provided as a participant directed service:
a. Based on the mileage; and
b. At two thirds of the rate established in 200 KAR 2:006, Section 8(2)(d), if provided by an individual. The rate shall be adjusted quarterly in accordance with 200 KAR 2:006, Section 8(2)(d); or

2. If provided by a public transportation service provider, at the cost per trip as documented by the receipt for the specific trip; and

(b) A maximum of $265 per calendar month.

(17) An estimate for a supply item requested under specialized medical equipment or goods and services shall be based on the actual price to be charged to the provider, participant, or individual by a retailer or manufacturer.

(18) Specialized medical equipment or goods and services shall not include equipment and supplies covered under the Kentucky Medicaid program's state plan including:

(a) Durable medical equipment;

(b) Early and Periodic Screening, Diagnosis, and Treatment Services;

(c) Orthotics and prosthetics; or

(d) Hearing services.

(19) A participant shall not receive multiple SCL services during the same segment of time except in the case of the following collateral services that shall be allowed to overlap other SCL services:

(a) Community guide services;

(b) Consultative clinical and therapeutic services; or

(c) Person centered coaching.

Section 4. Exceptional Supports.

(1) A service listed in subsection (2) or (3) of this section, regardless of delivery method, shall qualify as an exceptional support:

(a) Based on the needs of the participant for whom the exceptional support is requested;

(b) For a limited period of time not to exceed a full person-centered service plan year;

(c) If the service meets the requirements for an exceptional support in accordance with the Kentucky Exceptional Supports Protocol; and

(d) If approved by DBHDID to be an exceptional support.

(2)

(a) The following shall qualify as an exceptional support and be reimbursed at a rate higher than the upper payment limit established in Section 3 of this administrative regulation if meeting the criteria established in subsection (1) of this section:

1. Community access services;

2. Day training that is not provided in an adult day health care center;

3. Personal assistance;

4. Respite;

5. Residential Level I – three (3) or fewer residents;

6. Residential Level I - four (4) to eight (8) residents; or

7. Residential Level II – twelve (12) or more hours.

(b) A rate increase for a service authorized as an exceptional support shall:

1. Be based on the actual cost of providing the service; and

2. Not exceed twice the upper payment limit established for the service in Section 3 of this administrative regulation.

(3) The following shall qualify as an exceptional support and be provided in excess of the unit limits established in Section 3 of this administrative regulation if meeting the criteria established in subsection (1) of this section:

(a) Consultative clinical and therapeutic services;

(b) Person centered coaching;

(c) Personal assistance; or

(d) Respite.

(4) A service that qualifies as an exceptional support shall:

(a) Either:

1. Be authorized to be reimbursed at a rate higher than the upper payment limit established for the service in Section 3 of this administrative regulation; or

2. Be authorized to be provided in excess of the unit limit established for the service in Section 3 of this administrative regulation; and

(b) Not be authorized to be reimbursed at both a higher rate than the upper payment limit and in excess of the service limit established for the service in Section 3 of this administrative regulation.

Section 5. Participant Directed Services.

(1) A reimbursement rate for a participant directed service shall:

(a) Not exceed the upper payment limit established for the service in Section 3 of this administrative regulation unless the service qualifies as an exceptional support in accordance with Section 4(2)(a) of this administrative regulation; and

(b) Include:

1. All applicable local, state, and federal withholdings; and

2. Any applicable employment related administrative costs, which shall be the responsibility of the participant who is directing the service.

(2) An employee who provides a participant directed service shall not be approved to provide more than forty (40) hours of service per week unless authorized to do so by the department.

(3) A legally responsible individual or immediate family member shall not be authorized to be reimbursed for more than forty (40) hours of participant directed services per week.

Section 6. Auditing and Reporting. An SCL provider shall maintain fiscal records and incident reports in accordance with the requirements established in 907 KAR 12:010.

Section 7. Appeal Rights. A provider may appeal a department decision regarding the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 8. Federal Approval and Federal Financial Participation. The department's reimbursement of 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. Incorporation by Reference.

(1) The "Kentucky Exceptional Supports Protocol", April 2016, 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 a.m. to 4:30 p.m.

(39 Ky.R. 716; 1266; 1457; eff. 2-1-2013; 42 Ky.R.1063, 2791; eff. 6-3-2016; Cert eff. 5-9-2023.)