907 KAR 15:080. Coverage provisions and requirements regarding chemical dependency treatment center services.

RELATES TO: KRS 205.520, 205.622, 309.0831, 369.101-369.120, 20 U.S.C. 1400, 21 U.S.C. 823(g)(2), 29 U.S.C. 701, 42 U.S.C. 290ee-3, 1320d-2-1320d-8, 1396a(a)(10)(B), 1396a(a)(23), 12101, 42 C.F.R. Part 2, 431.17, 435.1010, 45 C.F.R. 160, 164

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 coverage provisions and requirements regarding Medicaid Program outpatient and inpatient chemical dependency treatment center services.

Section 1. General Coverage Requirements.

(1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(a) Medically necessary; and

(b) Provided:

1. To a recipient; and

2. By a chemical dependency treatment center that meets the provider participation requirements established in Section 2 of this administrative regulation.

(2)

(a) Direct contact between a practitioner and a recipient shall be required for each service except for:

1. Collateral outpatient therapy for a recipient under the age of twenty-one (21) years if the collateral outpatient therapy is in the recipient's plan of care;

2. A family outpatient therapy service in which the corresponding current procedural terminology code establishes that the recipient is not present; or

3. A psychological testing service comprised of interpreting or explaining results of an examination or data to family members or others in which the corresponding current procedural terminology code establishes that the recipient is not present.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(3) A billable unit of service shall be actual time spent delivering a service in an encounter.

(4) A service shall be:

(a) Stated in the recipient's plan of care; and

(b) Provided in accordance with the recipient's plan of care.

(5)

(a) A chemical dependency treatment center shall establish a plan of care for each recipient receiving services from a chemical dependency treatment center.

(b) A plan of care shall meet the treatment plan requirements established in 902 KAR 20:160.

Section 2. Provider Participation.

(1)

(a) To be eligible to provide services under this administrative regulation, a chemical dependency treatment center shall:

1. Be currently enrolled as a provider in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2. Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3. Be licensed as a chemical dependency treatment center to provide outpatient and inpatient behavioral health services in accordance with 902 KAR 20:160; and

4. Have:

a. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

b. Documented experience in serving individuals with mental health, substance use, or co-occurring disorders;

c. The administrative capacity to ensure quality of services;

d. A financial management system that provides documentation of services and costs; and

e. The capacity to document and maintain individual health records.

(b) The documentation referenced in paragraph (a)4.b. of this subsection shall be subject to audit by:

1. The department or its designee;

2. The Cabinet for Health and Family Services, Office of Inspector General;

3. A managed care organization, if the chemical dependency treatment center is enrolled in its network;

4. The Centers for Medicare and Medicaid Services;

5. The Kentucky Office of the Auditor of Public Accounts; or

6. The United States Department of Health and Human Services, Office of the Inspector General.

(2) In accordance with 907 KAR 17:015, Section 3(3), a chemical dependency treatment center that provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A chemical dependency treatment center shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the act.

(4)

(a) Except as provided by paragraph (b) of this subsection, a chemical dependency treatment center shall possess accreditation, within one (1) year of initial enrollment, by one (1) of the following:

1. The Joint Commission;

2. The Commission on Accreditation of Rehabilitation Facilities;

3. The Council on Accreditation; or

4. A nationally recognized accreditation organization.

(b) The department shall grant a one (1) time extension to a chemical dependency treatment center that requests a one (1) time extension to complete the accreditation process, if the request is submitted at least ninety (90) days prior to expiration of provider enrollment.

Section 3. Covered Services.

(1) Reimbursement shall not be available for services performed within a chemical dependency treatment program by a:

(a) Licensed behavior analyst;

(b) Licensed assistant behavior analyst;

(c) Registered behavior technician; or

(d) Community support associate.

(2) The services covered may be provided for a substance use disorder or for co-occurring disorders.
(3) The services listed in this subsection shall be covered under this administrative regulation in accordance with the requirements established in this subsection.
(a) A screening shall:
1. Determine the likelihood that an individual has a substance use disorder;
2. Not establish the presence or specific type of disorder;
3. Establish the need for an in-depth assessment;
4. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
5. Be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or
b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
(b) An assessment shall:
1. Include gathering information and engaging in a process with the individual that enables the practitioner to:
a. Establish the presence or absence of a substance use disorder;
b. Determine the individual's readiness for change;
c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and
d. Engage the individual in developing an appropriate treatment relationship;
2. Establish or rule out the existence of a clinical disorder or service need;
3. Include working with the individual to develop a plan of care;
4. Not include psychological or psychiatric evaluations or assessments;
5. Utilize a multidimensional assessment that complies with the most current version of The ASAM Criteria to determine the most appropriate level of care;
6. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
7. Be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or
b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
(c) Psychological testing shall:
1. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities;
2. Include an interpretation and a written report of testing results;
3. Be face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
4. Be provided by:
a. A licensed psychologist;
b. A certified psychologist with autonomous functioning;
c. A licensed psychological practitioner;
d. A certified psychologist under supervision; or
e. A licensed psychological associate under supervision.
(d) Crisis intervention:
1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:
a. The recipient; or
b. Another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for individuals;
3. Shall be provided:
a. As an immediate relief to the presenting problem or threat; and
b. In a one (1) on one (1) encounter between the provider and the recipient, which is delivered either face-to-face or via telehealth if appropriate pursuant to 907 KAR 3:170;
4. Shall be followed by a referral to non-crisis services if applicable;
5. May include:
a. Further service prevention planning including:
(i) Lethal means reduction for suicide risk; or
(ii) Substance use disorder relapse prevention; or
b. Verbal de-escalation, risk assessment, or cognitive therapy; and
6. Shall be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or
b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(e) Mobile crisis services shall:
1. Be available twenty-four (24) hours per day, seven (7) days per week, every day of the year;
2. Be provided for a duration of less than twenty-four (24) hours;
3. Not be an overnight service;
4. Be a face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170, multi-disciplinary team-based intervention in a home or community setting that ensures access to substance use disorder services and supports to:
a. Reduce symptoms or harm; or
b. Safely transition an individual in an acute crisis to the appropriate least restrictive level of care;
5. Involve all services and supports necessary to provide:
a. Integrated crisis prevention;
b. Assessment and disposition;
c. Intervention;
d. Continuity of care recommendations; and
e. Follow-up services;
6. Include access to a board-certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year; and
7. Be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section;
b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section; or
c. A peer support specialist who:
(i) Is under the supervision of an approved behavioral health practitioner, as limited by subsection (1) of this section; and
(ii) Provides support services for a mobile crisis service.

(f)
1. Day treatment shall be a non-residential, intensive treatment program for an individual under the age of twenty-one (21) years who has:
a. A substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment shall:

a. Be face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;

b. Consist of an organized, behavioral health program of treatment and rehabilitative services;

c. Include:

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social skills training;

(iii) Independent living skills that correlate to the age and developmental stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled school breaks;

(iii) In coordination with the recipient's individualized educational plan or Section 504 plan if the recipient has an individualized educational plan or Section 504 plan; and

(iv) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, a chemical dependency treatment center shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with this section and to coordinate the provision of services among team members; and

b. Knowledge of substance use disorders and co-occurring disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education program or Section 504 plan.

5. Day treatment shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section;

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section; or

c. A peer support specialist who:

(i) Is under the supervision of an approved behavioral health practitioner, as limited by subsection (1) of this section; and

(ii) Provides support services for a day treatment service.

(g)

1. Peer support services shall:

a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a substance use disorder to a recipient by sharing a similar substance use disorder in order to bring about a desired social or personal change;

(ii) A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a substance use disorder to a parent or family member of a child sharing a similar substance use disorder in order to bring about a desired social or personal change;

(iii) An individual who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing a substance use disorder; or

(iv) A registered alcohol and drug peer support specialist who has been trained and certified in accordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services who provides emotional support to others with substance use disorder to achieve a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

f. Except for the engagement into substance use disorder treatment through an emergency department bridge clinic, be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

g. Be identified in each recipient's plan of care; and

h. Be designed to contribute directly to the recipient's individualized goals as specified in the recipient's plan of care.

2. To provide peer support services, a chemical dependency treatment center shall:

a. Have demonstrated:

(i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, 908 KAR 2:240, or KRS 309.0831;

c. Use an approved behavioral health practitioner to supervise peer support specialists;

d. Have the capacity to coordinate the provision of services among team members;

e. Have the capacity to provide on-going continuing education and technical assistance to peer support specialists;

f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

g. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(h)

1. Intensive outpatient program services shall:

a. Be an alternative to or transition from a higher level of care for a substance use disorder or for co-occurring disorders;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. Meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of The ASAM Criteria for intensive outpatient level of care services;

d. Be provided face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;

e. Be provided at least three (3) hours per day at least three (3) days per week for adults;

f. Be provided at least six (6) hours per week for adolescents; and

g. Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education related to identified goals in the recipient's treatment plan.

2. During psycho-education, the recipient or recipient's family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program services treatment plan shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, a chemical dependency treatment center shall have:

a. Access to a board-certified or board-eligible psychiatrist for consultation;

b. Access to a psychiatrist, physician, or advanced practice registered nurse for medication prescribing and monitoring;

c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) recipients to one (1) staff person;

d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles; and

e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with this section and to coordinate the provision of services among team members.

5. Intensive outpatient program services shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(i) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the recipient; and

b. Restoration of a recipient to his or her best possible functional level from substance use disorder or co-occurring disorders;

2. Consist of:

a. A face-to-face encounter or via telehealth as appropriate pursuant to 907 KAR 3:170 that is a one (1) on one (1) encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;

3. Be aimed at:

a. Reducing adverse symptoms;
b. Reducing or eliminating the presenting problem of the recipient; and
c. Improving functioning;

4. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary; and

5. Be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(j)

1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; and

(ii) Restoration of a recipient to his or her best possible functional level from substance use disorder or co-occurring disorders;

c. Consist of a face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170, behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;

d. Be provided to a recipient in a group setting:

(i) Of nonrelated individuals except for multi-family group therapy; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f. Center on goals, including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. The group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of group outpatient therapy shall relate to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. Group outpatient therapy shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(k)

1. Family outpatient therapy shall consist of a face-to-face or appropriate telehealth, pursuant to 907 KAR 3:170, behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals (including multiple members from one (1) family) who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and well-being of the individual; or

(ii) Restoration of a recipient to his or her best possible functional level from substance use disorder or co-occurring disorders; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

4. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(l)

1. Collateral outpatient therapy shall:

a. Consist of a face-to-face or appropriate telehealth, provided pursuant to 907 KAR 3:170, behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's plan of care;

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age; and

c. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. Written consent by a parent or custodial guardian to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(m)

1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

a. Be provided face-to-face or via telehealth as appropriate according to 907 KAR 3:170;

b. Be an evidence-based early-intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; and

c. Consist of:

(i) Using a standardized screening tool to assess an individual for risky substance use behavior;

(ii) Engaging a recipient, who demonstrates risky substance use behavior, in a short conversation and providing feedback and advice; and

(iii) Referring a recipient to additional substance use disorder services if the recipient is determined to need additional services to address substance use.

2. A screening and brief intervention that does not meet criteria for referral to treatment may be subject to coverage by the department.

3. A screening, brief intervention, and referral to treatment for a substance use disorder shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(n)

1. Service planning shall:

a. Be provided face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;

b. Involve assisting a recipient in creating an individualized plan for services and developing measurable goals and objectives needed for maximum reduction of the effects of substance use disorder or co-occurring disorders;

c. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

d. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed and signed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

3. Service planning shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(o)

1. Ambulatory withdrawal management services shall:

a. Be provided face-to-face for recipients with substance use disorder or co-occurring disorders;

b. Be incorporated into a recipient's care as appropriate according to the continuum of care described in the most current version of The ASAM Criteria; and

c. Be in accordance with the most current version of The ASAM Criteria for ambulatory withdrawal management levels in an outpatient setting.

2. A recipient who is receiving ambulatory withdrawal management services shall:

a. Meet the most current version of diagnostic criteria for substance withdrawal management found in the Diagnostic and Statistical Manual of Mental Disorders; and

b. Meet the current dimensional admissions criteria for withdrawal management level of care as found in the most current version of The ASAM Criteria.

3. Ambulatory withdrawal management services shall be provided by:

a. A physician;

b. A psychiatrist;

c. A physician assistant;

d. An advanced practice registered nurse; or

e. Any other approved behavioral health practitioner with oversight by a physician, advanced practice registered nurse, or a physician assistant, as limited by subsection (1) of this section.

(p)

1. Medication assisted treatment shall be provided by an authorized prescribing provider who:

a. Is:

(i) A physician licensed to practice medicine under KRS Chapter 311;

(ii) An advanced practice registered nurse (APRN); or

(iii) A physician assistant licensed to practice medicine under KRS Chapter 311;

b. Meets standards in accordance with 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products, including any waiving or expansion of buprenorphine prescribing authority by the federal government; and

d. Has experience and knowledge in addiction medicine.

2. Medication assisted treatment with behavioral health therapies shall:

a. Be co-located within the same practicing site as the practitioner with a waiver pursuant to subparagraph 1.b. of this paragraph or be conducted via telehealth as appropriate according to 907 KAR 3:170; or

b. Be conducted with agreements in place for linkage to appropriate behavioral health treatment providers who specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alcohol or other substance use disorder, such as:

(i) An approved behavioral health practitioner, as limited by subsection (1) of this section; or

(ii) A multi-specialty group or behavioral health provider group pursuant to 907 KAR 15:010.

3. A medication assisted treatment program shall:

a. Assess the need for treatment including:

(i) A full patient history to determine the severity of the patient's substance use disorder; and

(ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as necessary;

b. Educate the patient about how the medication works, including:

(i) The associated risks and benefits; and

(ii) Overdose prevention;

c. Evaluate the need for medically managed withdrawal from substances;

d. Refer patients for higher levels of care if necessary; and

e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.

4. Medication assisted treatment shall be provided by:

a. A physician;

b. A psychiatrist;

c. An advanced practice registered nurse; or

d. An approved behavioral health practitioner, as limited pursuant to subsection (1) of this section, or approved behavioral health practitioner under supervision, as limited pursuant to subsection (1) of this section, to provide counseling, behavioral therapies, and other support components with experience and knowledge in addiction medicine.

(q)

1. An inpatient chemical dependency treatment program shall:

a. Be a structured inpatient program to provide medical, social, diagnostic, and treatment services to individuals with substance use disorder or co-occurring disorders;

b.

(i) If being provided as an ASAM 3.7 level of care medically monitored intensive inpatient service, be provided face-to-face, twenty-four (24) hours per day, seven (7) days per week, 365 days a year with continuous nursing services and under the medical direction of a physician; or

(ii) If being provided as an ASAM 3.5 level of care clinically managed high intensity residential service, be provided face-to-face, or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170, twenty-four (24) hours per day, seven (7) days per week, and 365 days a year; and

c. Meet the service criteria for medically monitored intensive inpatient services using the most current version of The ASAM Criteria, currently described by ASAM as a 3.7 level of care; and

d. Include the following services:

(i) Screening;

(ii) Assessment;

(iii) Service planning;

(iv) Psychiatric services;

(v) Individual therapy;

(vi) Family therapy;

(vii) Group therapy;

(viii) Peer support;

(ix) Medication assisted treatment;

(x) Clinically managed high intensity residential services, as established pursuant to subparagraph 2. of this paragraph; or

(xi) Medically monitored inpatient withdrawal management, as established pursuant to subparagraph 3. of this paragraph.

2. Clinically managed high intensity residential services provided in an inpatient chemical dependency treatment center shall:

a. Meet the service criteria for clinically managed high intensity residential services using the current version of The ASAM Criteria, currently described by ASAM as a 3.5 level of care;

b. Have:

(i) A planned and structured regimen of twenty-four (24) hour professionally directed evaluation, observation, clinical management, and addiction treatment;

(ii) Twenty-four (24) hour access to nursing care;

(iii) Twenty-four (24) hour access to a psychiatrist; and

(iv) Twenty-four (24) hour access to a physician; and

c. Comply with services pursuant to the requirements of 902 KAR 20:160, 908 KAR 1:370, and 908 KAR 1:372, as applicable to the current version of the ASAM 3.5 level of care.

3. Medically monitored inpatient withdrawal management services provided in an inpatient chemical dependency treatment center shall:

a. Meet the service criteria for medically monitored inpatient withdrawal management services using the current version of The ASAM Criteria, currently described by ASAM as a 3.7 level of care; and

b. Have:

(i) A planned and structured regimen of twenty-four (24) hour professionally directed evaluation, observation, medical monitoring, and addiction treatment;

(ii) Twenty-four (24) hour nursing care;

(iii) Twenty-four (24) hour access to a psychiatrist; and

(iv) Twenty-four (24) hour access to a physician; and

c. Comply with services pursuant to the requirements of 902 KAR 20:160.

4. An inpatient chemical dependency treatment program providing both ASAM 3.5 and ASAM 3.7 level of care services in the same facility shall:

a. Provide the ASAM 3.7 services within a separate unit from the ASAM 3.5 level of care unit; and

b. Meet the requirements of subparagraph 3. of this paragraph for all ASAM 3.7 level of care services.

5. For a recipient in an inpatient chemical dependency treatment program, care coordination shall include at minimum:

a. Facilitating medication assisted treatment for recipients as necessary, per recipient choice;

b. Referral to appropriate community services;

c. Facilitation of medical and behavioral health follow ups; and

d. Linking the recipient to the appropriate level of substance use treatment within the continuum to provide ongoing supports.

6. Inpatient chemical dependency treatment services shall be provided in accordance with 902 KAR 20:160, Sections 4 and 7.

7. Length-of-stay for chemical dependency treatment services shall be person-centered and according to an individually designed plan of care that is consistent with this administrative regulation and the licensure of the facility and practitioner.

8.

a. Except as established in clause b. or c. of this subparagraph, the physical structure in which inpatient chemical dependency treatment services is provided shall:

(i) Have between nine (9) and sixteen (16) beds; and

(ii) Not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate, except as allowed pursuant to subparagraphs 2., 3., and 4. of this paragraph and by 902 KAR 20:160, as applicable.

b. If every recipient receiving services in the physical structure is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in clause a. of this subparagraph shall not apply.

c. The limit of sixteen (16) beds established in clause a. of this subparagraph shall not apply if the facility possesses the appropriate inpatient, or residential, as applicable, ASAM certification to provide chemical dependency treatment center services, with the exception that:

(i) Each currently enrolled chemical dependency treatment center shall be granted a one (1) time provisional certification that expires July 1, 2022, unless extended by the department; or

(ii) A federal waiver, or other change to controlling federal law that allows for the availability of federal financial participation, shall be available for this clause to be operational.

9. Inpatient chemical dependency treatment services shall not include:

a. Room and board;

b. Educational services;

c. Vocational services;

d. Job training services;

e. Habilitation services;

f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

g. Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;

h. Recreational activities;

i. Social activities; or

j. Services required to be covered elsewhere in the Medicaid state plan.

10. To provide inpatient chemical dependency treatment services, the program shall:
a. Have the capacity to employ staff authorized to provide services in accordance with this section and to coordinate the provision of services among team members;
b. Be licensed as a chemical dependency treatment services and facility in accordance with 902 KAR 20:160; and
c. After July 1, 2022, possess an appropriate ASAM Level of Care Certification for medically monitored intensive inpatient services in accordance with the most current version of The ASAM Criteria, and possess an appropriate ASAM Level of Care Certification for clinically managed high intensity residential services pursuant to the most current version of The ASAM Criteria if providing that level of care.
11.
a. Inpatient chemical dependency treatment shall be provided by:
(i) An approved behavioral health practitioner, except as provided pursuant to subsection (1) of this section; or
(ii) An approved behavioral health practitioner under supervision, except as provided pursuant to subsection (1) of this section.
b. Support services for inpatient chemical dependency shall be provided by a peer support specialist under the supervision of an approved behavioral health practitioner.

(4) The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.

Section 4. Additional Limits and Non-covered Services or Activities.

(1)
(a) Except as established in paragraph (b) of this subsection, unless a diagnosis is made and documented in the recipient's health record within three (3) visits, the service shall not be covered.
(b) The requirement established in paragraph (a) of this subsection shall not apply to:
1. Mobile crisis services;
2. Crisis intervention;
3. A screening; or
4. An assessment.

(2) The department shall not reimburse for both a screening and a screening, brief intervention and referral to treatment (SBIRT) provided to a recipient on the same date of service.

(3) The following services or activities shall not be covered under this administrative regulation:
(a) A service provided to:
1. A resident of:
a. A nursing facility; or
b. An intermediate care facility for individuals with an intellectual disability;
2. An inmate of a federal, local, or state:
a. Jail;
b. Detention center; or
c. Prison; or
3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;
(b) A consultation or educational service provided to a recipient or to others;
(c) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face" established in 907 KAR

15:005, Section 1(21). Contact that is not reimbursable under this paragraph may be permissible if it is conducted in the course of a telehealth service permitted pursuant to 907 KAR 3:170 or this administrative regulation, as applicable;

(d) Travel time;

(e) A field trip;

(f) A recreational activity;

(g) A social activity; or

(h) A physical exercise activity group.

(4)

(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation except as established in Section 3(3)(l)1. of this administrative regulation.

(b) A third-party contract shall not be covered under this administrative regulation.

(5) A billing supervisor arrangement between a billing supervisor and an approved behavioral health practitioner under supervision shall not:

(a) Violate the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the approved behavioral health practitioner under supervision; or

(b) Substitute for the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the approved behavioral health practitioner under supervision.

Section 5. No Duplication of Service.

(1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the same service is covered, during the same time period.

(2) For example, if a recipient is receiving a behavioral health service from an independent behavioral health provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a chemical dependency treatment center.

Section 6. Records Maintenance, Documentation, Protection, and Security.

(1) A chemical dependency treatment center shall maintain a current health record for each recipient.

(2) A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(3) A health record shall:

(a) Include:

1. An identification and intake record including:

a. Name;

b. Social Security number;

c. Date of intake;

d. Home (legal) address;

e. Health insurance or Medicaid participation information;

f. If applicable, the referral source's name and address;

g. Primary care physician's name and address;

h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider's name; and

j. The name of the informant and any other information deemed necessary by the chemical dependency treatment center in order to comply with the requirements of:

(i) This administrative regulation;

(ii) The chemical dependency treatment center's licensure board;

(iii) State law; or

(iv) Federal law;

2. Documentation of the:

a. Screening;

b. Assessment, if an assessment was performed; and

c. Disposition, if a disposition was performed;

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;

2. Furnished upon request:

a. To the Cabinet for Health and Family Services; or

b. For an enrollee, to the managed care organization in which the recipient is enrolled or has been enrolled in the past;

3. Made available for inspection and copying by:

a. Cabinet for Health and Family Services' personnel; or

b. Personnel of the managed care organization in which the recipient is enrolled if applicable;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient if the recipient received services beyond a screening.

(4) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(5)

(a) A chemical dependency treatment center's service notes regarding a recipient shall:

1. Be made within forty-eight (48) hours of each service visit;

2. Indicate if the service was provided face-to-face or via telehealth for outpatient services; and

3. Describe the:

a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

b. Behavioral health practitioner's intervention;

c. Changes in the plan of care if changes are made; and

d. Need for continued treatment if deemed necessary.

(b)

1. Any edit to notes shall:

a. Clearly display the changes; and

b. Be initialed and dated by the person who edited the notes.

2. Notes shall not be erased or illegibly marked out.

(c)

1. Notes recorded by an approved behavioral health practitioner under supervision shall be co-signed and dated by the supervising professional within thirty (30) days.

2. If services are provided by an approved behavioral health practitioner under supervision, there shall be a monthly supervisory note recorded by the supervising

professional that reflects consultations with the approved behavioral health practitioner working under supervision concerning the:

a. Case; and

b. Supervising professional's evaluation of the services being provided to the recipient.

(6) Immediately following a screening of a recipient, the practitioner shall perform a disposition related to:

(a) A provisional diagnosis;

(b) A referral for further consultation and disposition, if applicable; or

(c)

1. If applicable, termination of services and referral to an outside source for further services; or

2. If applicable, termination of services without a referral to further services.

(7) Any change to a recipient's plan of care shall be documented, signed, and dated by the rendering practitioner and by the recipient or recipient's representative.

(8)

(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;

2. Be dated;

3. Be titled to indicate the service rendered;

4. State a starting and ending time for the service; and

5. Be recorded and signed by the rendering practitioner and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other non-reimbursable contacts shall:

1. Be recorded in the notes; and

2. Not be reimbursable.

(9)

(a) A termination summary shall:

1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and

2. Contain a summary of the significant findings and events during the course of treatment including the:

a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's plan of care;

b. Final diagnosis of clinical impression; and

c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who has been terminated from receiving services shall be fully completed within ten (10) days following termination.

(10) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(11)

(a) Except as established in paragraph (b) of this subsection, if a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring chemical dependency treatment center shall, within ten (10) business days of awareness of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

1.

a. The Health Insurance Portability and Accountability Act;

b. 42 U.S.C. 1320d-2 to 1320d-8; and
c. 45 C.F.R. Parts 160 and 164; or

2.
a. 42 U.S.C. 290ee-3; and
b. 42 C.F.R. Part 2.

(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, a Level I psychiatric residential treatment facility, a Level II psychiatric residential treatment facility, or an acute care hospital for care or treatment, the transferring chemical dependency treatment center shall, within forty-eight (48) hours of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

1.
a. The Health Insurance Portability and Accountability Act;
b. 42 U.S.C. 1320d-2 to 1320d-8; and
c. 45 C.F.R. Parts 160 and 164; or

2.
a. 42 U.S.C. 290ee-3; and
b. 42 C.F.R. Part 2.

(12)

(a) If a chemical dependency treatment center's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the health records of the chemical dependency treatment center shall:

1. Remain the property of the chemical dependency treatment center; and
2. Be subject to the retention requirements established in subsection (13) of this section.

(b) A chemical dependency treatment center shall have a written plan addressing how to maintain health records in the event of death of an owner or deaths of owners.

(13)

(a) Except as established in paragraph (b) or (c) of this subsection, a chemical dependency treatment center shall maintain a health record regarding a recipient for at least six (6) years from the last date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or
2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(14)

(a) A chemical dependency treatment center shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;
2. Not be disclosed to an unauthorized individual; and
3. Be disclosed to an authorized representative of:
a. The department;
b. Federal government; or

c. For an enrollee, the managed care organization in which the enrollee is enrolled.

(c)

1. Upon request, a chemical dependency treatment center shall provide to an authorized representative of the department, federal government, or managed care organization if applicable, information requested to substantiate:

a. Staff notes detailing a service that was rendered;

b. The professional who rendered a service; and

c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department or the managed care organization, if applicable.

2. Failure to provide information referenced in subparagraph 1. of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 7. Medicaid Program Participation Compliance.

(1) A chemical dependency treatment center shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)

(a) If a chemical dependency treatment center receives any duplicate payment or overpayment from the department or a managed care organization, regardless of reason, the chemical dependency treatment center shall return the payment to the department or managed care organization in accordance with 907 KAR 1:671.

(b) Failure to return a payment to the department or managed care organization in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(3)

(a) When the department makes payment for a covered service and the chemical dependency treatment center accepts the payment:

1. The payment shall be considered payment in full;

2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the chemical dependency treatment center.

(b)

1. A chemical dependency treatment center may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

a. Recipient requests the service; and

b. Chemical dependency treatment center makes the recipient aware in writing in advance of providing the service that the:

(i) Recipient is liable for the payment; and

(ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1. of this paragraph, the:

a. Chemical dependency treatment center shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the chemical dependency treatment center regarding the service.

(4)

(a) A chemical dependency treatment center shall attest by the chemical dependency treatment center's staff's or representative's signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General, or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee;
5. United States General Accounting Office or its designee; or
6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c)

1. If a chemical dependency treatment center receives a request from the:

a. Department to provide a claim, related information, related documentation, or record for auditing purposes, the chemical dependency treatment center shall provide the requested information to the department within the timeframe requested by the department; or

b. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the chemical dependency treatment center shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

2.

a. The timeframe requested by the department or managed care organization for a chemical dependency treatment center to provide requested information shall be:

(i) A reasonable amount of time given the nature of the request and the circumstances surrounding the request; and

(ii) A minimum of one (1) business day.

b. A chemical dependency treatment center may request a longer timeframe to provide information to the department or a managed care organization if the chemical dependency treatment center justifies the need for a longer timeframe.

(d)

1. All services provided shall be subject to review for recipient or provider fraud or abuse, and compliance with this administrative regulation and state and federal law.
2. Willful abuse by a chemical dependency treatment center shall result in the suspension or termination of the chemical dependency treatment center from Medicaid Program participation in accordance with 907 KAR 1:671.

Section 8. Third Party Liability. A chemical dependency treatment center shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A chemical dependency treatment center that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the chemical dependency treatment center's employees, officers, agents, or contractors;
2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;
2. Attest to the signature's authenticity; and
3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the chemical dependency treatment center's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 10. Auditing Authority. The department or managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(1) Claim;
(2) Health record; or
(3) Documentation associated with any claim or health record.

Section 11. Federal Approval and Federal Financial Participation.

(1) The department's reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(a) Receipt of federal financial participation for the coverage; and
(b) Centers for Medicare and Medicaid Services' approval for the coverage.

(2) The reimbursement of services provided by a licensed clinical alcohol and drug counselor or licensed clinical alcohol and drug counselor associate shall be contingent and effective upon approval by the Centers for Medicare and Medicaid Services.

Section 12. Appeals.

(1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.907 KAR 15:080

(41 Ky.R. 2507; 42 Ky.R. 436; 756; eff. 10-2-2015; TAm eff. 3-20-2020; 47 Ky.R. 1127, 1776, 2001; eff. 6-16-2021.)