205.634 Payments prohibited to out-of-state health facility providing services without required certificate of need -- Nonreimbursement of out-of-state providers of residential care for children -- Exception -- Administrative regulations.

(1) No medical assistance payments shall be made under this chapter to any out-of-state health facility or health service providing services within the geographic boundaries of the Commonwealth who does not have a certificate of need if the health facility or health service would be required to obtain a certificate of need under KRS Chapter 216B if the facility or service were located within the geographic boundaries of the Commonwealth.

(2) The Department for Medicaid Services and the Department for Community Based Services shall not reimburse an out-of-state provider of residential care for children whose care is paid by state general funds or state administered federal funds, unless the Department for Medicaid Services or the Department for Community Based Services or a designated agent thereof has determined that there is no provider within the Commonwealth that is capable and willing to provide comparable services at a comparable cost per child to those that would be delivered by the out-of-state provider. An exception may be made if:

(a) The identified in-state resource is farther away from the child's parent or guardian than a similar out-of-state resource; or

(b) The services offered by the out-of-state resource is deemed by either department or a designated agent thereof to be more appropriate for the individual child than the services offered by the in-state provider.

(3) Prior to promulgating administrative regulations governing the determination of the availability of providers of residential care within the Commonwealth, the Department for Medicaid Services and the Department for Community Based Services shall establish uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth.

(4) Each department shall promulgate an administrative regulation in accordance with KRS Chapter 13A that contains the uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth established under subsection (3) of this section.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 14, sec. 35, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 527, sec. 5, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 371, sec. 35, effective July 15, 1996.