**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Medicaid Services**
**Division of Policy and Operations**
**(Amendment)**

**907 KAR 3:160. Specialized children's services clinics.**

RELATES TO: KRS 205.560, 205.557(1)(c), 314.011(14), 620.020(4), 620.050
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)[, EO 2004-726]
NECESSITY, FUNCTION, AND CONFORMITY: [EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.] 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 a requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the requirements for providers and reimbursement by the Medicaid program for services provided by a specialized children's services clinic.

Section 1. Definitions.

(1) "Affiliation agreement" means a written agreement between a provider and a children's advocacy center to perform a child [sexual abuse ]medical evaluation[examination].

(2) "Approved behavioral health practitioner" means an independently licensed practitioner who is:

(a) A physician;

(b) A psychiatrist;

(c) An advanced practice registered nurse;

(d) A physician assistant;

(e) A licensed psychologist;

(f) A licensed psychological practitioner;

(g) A certified psychologist with autonomous functioning;

(h) A licensed clinical social worker;

(i) A licensed professional clinical counselor;

(j) A licensed marriage and family therapist;

(k) A licensed professional art therapist;

(l) A licensed clinical alcohol and drug counselor; or

(m) A licensed behavior analyst. ["Child sexual abuse medical examination" means an examination to determine child sexual abuse that includes:]

[(a)] [A medical history taken from the child and a nonimplicated parent, guardian or primary caretaker;]

[(b)] [A physical examination with detailed attention to the anogenital area;]

[(c)] [If clinically indicated, a colposcopic examination; and]

[(d)] [A mental health screening, provided on the same day and at the same location as the physical examination, to determine the impact of the alleged abuse on the mental health status of the child and the need for mental health services.]

(3) "Approved behavioral health practitioner under supervision" means an individual under billing supervision of an approved behavioral health practitioner who is:

(a)

1. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
2. A certified psychologist working under the supervision of a board-approved licensed psychologist;
3. A marriage and family therapy associate;
4. A certified social worker;
5. A licensed professional counselor associate;
6. A licensed professional art therapist associate;
7. A licensed clinical alcohol and drug counselor associate;
8. A certified alcohol and drug counselor; or
9. A licensed assistant behavior analyst; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(4) "Child medical evaluation" is defined by KRS 205.557(1)(c).

(5) ~~[(3)]~~ "Children's advocacy center" is defined in KRS 620.020(4).

(6) ~~[(4)]~~ "Department" means the Department for Medicaid Services or its designated agent.

(7) ~~[(5)]~~ "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Sexual assault nurse examiner" or "SANE" is defined in KRS 314.011(14).

~~[(6)] ["Mental health professional" means:]~~

~~[(a)] [A psychologist as defined in KRS 319.010(8);]~~

~~[(b)] [A licensed clinical social worker in accordance with KRS 335.100;]~~

~~[(c)] [An advanced registered nurse practitioner as defined in KRS 314.011(7);]~~

~~[(d)] [A licensed marriage and family therapist as defined in KRS 335.300(2);]~~

~~[(e)] [A certified professional counselor as defined in KRS 335.500(2); or]~~

~~[(f)] [A certified professional art therapist as defined in KRS 309.130(2).]~~

(9) ~~[(7)]~~ "Specialized children's services clinic" means a clinic enrolled with the Kentucky Medicaid program that provides child ~~[sexual abuse]~~ medical evaluations~~[examinations]~~ and that meets the requirements of Section 3 of this administrative regulation.

~~[(8)] ["Usual and customary charge" means the amount a provider bills to the general public.]~~

Section 2. Covered Services.

(1) A child medical evaluation~~[child sexual abuse medical examination]~~ provided as a clinic service by a specialized children's services clinic shall be covered if medically necessary and provided to a recipient who is under the age of eighteen (18) years.

(2) Consistent with KRS 205.557(1)(c), a child medical evaluation is any combination of one (1) or more of the following services:

(a) A medical history taken from the child and a nonimplicated parent, guardian, or primary caretaker;

(b) A comprehensive physical examination;

(c) Laboratory services;

(d) Photo documentation;

(e) Follow-up evaluation;

(f) A mental health screening to determine the impact of the alleged abuse on the mental health status of the child and the need for mental health services; or

(g) An evidence-based trauma screening approved by the Children's Advocacy Centers of Kentucky, or its successor agency.

(3) A child medical evaluation~~[child sexual abuse medical examination]~~ shall be performed by:

(a) A licensed physician, advance practice registered nurse, physician assistant, or sexual assault nurse examiner who:

1. Completes the medical history and physical examination;

2. Is employed by, under contract with, or has an affiliation agreement with a specialized children's services clinic;

3. Has received specialized training in the medical examination of sexually-abused children; and

4. ~~[Has received specialized training in the use of a colposcope and has access to a colposcope in the specialized children's services clinic; and]~~

~~[5.]~~ Shall make reports resulting from child medical evaluations~~[child sexual abuse medical examinations]~~ available for peer review and maintain confidentiality in accordance with Section 7~~[6]~~ of this administrative regulation; and

(b) As necessary, an approved behavioral health practitioner or an approved behavioral health practitioner under supervision ~~[a mental health professional]~~ who:

1. Performs a mental health screening or evidence-based trauma screening to determine the mental health status of the child and the need for further mental health services;

2. Is ~~[directly ]~~supervised by the physician, physician assistant, or advanced practice registered nurse who performs the medical examination and evaluation;

3. Is employed by, under contract with, or has an affiliation agreement with a specialized children's services clinic; and

4. Has received specialized training in the mental health screening or evidence-based trauma screening and assessment of sexually-abused children.

(4) The following mental health treatment services may be offered by a specialized children's services clinic to a person who is involved with or impacted by the subject matter of a child medical evaluation:

(a) A screening shall:

1. Determine the likelihood that an individual has a mental health disorder, a substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder;

3. Establish the need for an in-depth assessment;

4. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the provider to:

a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;

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 treatment and service plan;

4. Not include a psychological or psychiatric evaluation or assessment; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(c) 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 an individual with a behavioral health disorder;
3. Shall be provided:
a. On-site at a specialized children's clinic;
b. As an immediate relief to the presenting problem or threat; and
c. In a one-on-one encounter between the provider and the recipient, which is delivered either in-person or via telehealth if appropriate pursuant to 907 KAR 3:170;
4. May include:
a. Verbal de-escalation, risk assessment, or cognitive therapy; or
b. Further service planning including:
(i) Lethal means reduction for suicide; or
(ii) Substance use disorder or relapse prevention;
5. Shall be followed by a referral to non-crisis services if applicable; and
6. Shall be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision.

(d)
1. Intensive outpatient program services shall:
a. Be an alternative to or transition from a higher level of care for a mental health disorder;
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. Be provided at least three (3) hours per day at least three (3) days per week for adults;
d. Be provided at least six (6) hours per week for adolescents;
e. 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; and
f. Be provided in-person.
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 specialized services clinic shall have:
a. Access to a board-certified or board-eligible psychiatrist for consultation;
b. Access to a psychiatrist, physician, or advanced practiced 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, except for a licensed behavior analyst; or

b. An approved behavioral health practitioner under supervision, except for a licensed assistant behavior analyst.

(e) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; and

b. Restoration of a recipient to the recipient's best possible functional level from a mental health disorder;

2. Consist of:

a. An in-person or via telehealth as appropriate pursuant to 907 KAR 3:170, one-on-one encounter between the provider and recipient; and

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

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functionality;

4. Not exceed three (3) hours per day; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(f)

1. Family outpatient therapy shall consist of an in-person, or via telehealth as appropriate 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 wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level from a mental health disorder; 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; or

b. An approved behavioral health practitioner under supervision.

(g)

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 their best possible functional level from a mental health disorder;

c. Consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170, behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

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

(i) Of nonrelated individuals; 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. A family outpatient therapy group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of a group receiving group outpatient therapy shall be related 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. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(h)

1. Collateral outpatient therapy shall:

a. Consist of an in-person 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 treatment plan; 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.

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; or

b. An approved behavioral health practitioner under supervision.

(i)

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 mental health

disorder to a recipient by sharing a similar mental health 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 mental health disorder to a parent or family member of a child sharing a similar mental health disorder in order to bring about a desired social or personal change; or

(iii) An individual, who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing as a child or youth an emotional, social, or behavioral disorder that is defined in the current version of the Diagnostic and Statistical Manual for Mental Disorders;

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

e. Be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

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

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

h. Be provided face-to-face or via telehealth, as established pursuant to 907 KAR 3:170.

2. To provide peer support services, a specialized children's services clinic 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, or 908 KAR 2:240;

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 ongoing 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 not exceeding eight (8) individuals within any group at a time.

(5) Ongoing mental health treatment services shall be provided by:

(a)

1. An approved behavioral health practitioner; or

2. An approved behavioral health practitioner under supervision; and

(b)

1. A provider who is an employee of the specialized children's services clinic; or

2. A provider who has a contractual relationship with the specialized children's services clinic and who does not duplicate the provided behavioral health services to the recipient for another Medicaid provider.

Section 3. Provider Requirements.

(1) A provider shall be enrolled with the department as a specialized children's services clinic.

(2) A specialized children's services clinic shall be a children's advocacy center whose providers are employed by, under contract with, or have a signed affiliation agreement with the clinic.

(3) A SANE who is a registered nurse, but not an APRN, shall be under the supervision of a physician, APRN, or physician assistant who is employed or contractually associated with the specialized children's services clinic for billing purposes.

Section 4. Billing for Services.

(1) A child medical evaluation~~[child sexual abuse medical examination]~~ shall be billed by a specialized children's services clinic as a comprehensive clinic service which shall include:

(a) The services of the:

1. Physician;

2. Advanced practice registered nurse;

3. Physician assistant; or

4. SANE.

(b) Mental health screening services provided by an approved behavioral health practitioner or an approved behavioral health practitioner under supervision~~[a mental health professional]~~;

(c) Services and supplies furnished as an incidental part of the ~~[physician's ]~~professional services performed by a provider listed in paragraph (a) of this subsection in the course of diagnosis and treatment; or~~[and]~~

(d) Medical services provided by other clinic employees under the direct supervision of the physician, advanced practice registered nurse, physician assistant, or SANE; or

(e) Follow-up services provided by the physician, advanced practice registered nurse, physician assistant, SANE, approved behavioral health practitioner, or approved behavioral health practitioner under supervision.

(2) Child medical evaluation services provided by a physician, advanced practice registered nurse, physician assistant, SANE, or an approved behavioral health practitioner or an approved behavioral health practitioner under supervision~~[mental health professional]~~ employed by, under contract with, or having a signed affiliation agreement with a specialized children's services clinic shall be billed under the clinic's provider number using a single reimbursement code designated by the department.

(3) Mental health treatment by an approved behavioral health practitioner or approved behavioral health practitioner under supervision shall be billed per encounter by the specialized children's services clinic as consistent with the Outpatient Behavioral Health Fee Schedule, or its successor fee schedule, and Section 2 of this administrative regulation.

(4)

(a) A specialized children's services clinic may provide laboratory services directly if:

1. The clinic has the appropriate CLIA certificate to perform laboratory testing pursuant to 907 KAR 1:028; and

2. The services are prescribed by a physician, advanced practice registered nurse, physician assistant, or SANE who has a contractual relationship with the clinic.

(b) If a specialized children's services clinic does not have the appropriate CLIA certificate to perform necessary laboratory testing, it shall establish a contractual relationship with a laboratory or facility with the appropriate CLIA certificate in order to perform any laboratory service required pursuant to this administrative regulation. The contracted laboratory shall not separately bill for any services provided for a

specialized children's services clinic that are also submitted for reimbursement pursuant to this administrative regulation.

(c) Laboratory services may be administered, as appropriate, by:

1. A physician;
2. An APRN;
3. A physician assistant;
4. A SANE;
5. An approved behavioral health practitioner; or
6. An approved behavioral health practitioner under supervision.

Section 5. Reimbursement.

(1) The department shall establish a prospective payment~~[a statewide reimbursement]~~ rate or rates for each specialized children's services clinic based on an annual cost report or survey~~[a review of cost data and a consideration of rates paid to providers for similar services]~~.

(a) The prospective payment rate will reflect a true and actual cost for a specialized children's services clinic as established by expenses from the previous year.

(b) The prospective reimbursement rate shall incorporate additional expected expenses for the next year, including expected inflation for the next year.

(2)

(a) A managed care organization shall accept the surveys submitted by the department and the department's determination of a prospective reimbursement rate for each and any specialized children's services clinic.

(b) A managed care organization shall not require separate submission of a cost report by a specialized children's services clinic to the managed care organization. ~~[The initial rate of reimbursement for a child sexual abuse medical examination shall be the lesser of:]~~

~~[(a)] [An all-inclusive statewide rate of $538 per examination; or]~~

~~[(b)] [The provider's usual and customary charge for the service.]~~

~~[(3)] [The department shall determine the statewide rate using updated cost data submitted on an annual cost report from the center.]~~

(3)

(a) The department shall utilize the rates established pursuant to subsection (1) of this section to inform the prospective reimbursement rate.

(b)

1. A cost report shall be submitted by each center annually or upon request by the department.
2. A specialized children's clinic may submit a cost report to the department at any time that there is an increase of five (5) percent in cost during the year.

(4)

(a) An ongoing mental health treatment service shall be billed consistent with Section 4(3) of this administrative regulation.

(b) The department and each managed care organization shall reimburse at least at the minimum of the rates published on the Outpatient Behavioral Health Fee Schedule, or its successor fee schedule, for services related to ongoing mental health treatment.

Section 6. Reimbursement Prior to Implementation of a Prospective Payment Rate. The department and each managed care organization (MCO) shall reimburse pursuant to this subsection until a prospective payment rate is established pursuant to Section 5. At that time, this section shall become nonoperational.

(1)

(a) The department and each managed care organization shall reimburse at least twenty-five (25) percent greater than the Physician's Fee Schedule established pursuant

to 907 KAR 3:010 for each service related to a child medical evaluation.

(b) The department may establish and publish a "Specialized Children's Clinic Fee Schedule" for use by specialized children's clinics.

(c) The department shall establish any additional procedure codes needed to perform services pursuant to this administrative regulation.

(2) The department and each managed care organization shall reimburse at least at the minimum of the rate for a specialized children's services clinic established pursuant to subsections (1) or (3) of this section.

(3) In the alternative, a specialized children's services clinic may bill a comprehensive rate for services rendered during the time that this section is operational, not including a follow-up evaluation:

(a) The initial rate shall be no less than $894, and shall be updated, if necessary, for inflation.

(b) The department may collaborate with designated representatives of the children's advocacy centers to establish a comprehensive rate that is based on any increases in fees or rates established pursuant to subsection (1) of this section.

(c) A separate bill may be submitted by a specialized children's clinic for a follow-up evaluation.

(4)

(a) An ongoing mental health treatment service shall be billed consistent with Section 4(3) of this administrative regulation.

(b) The department and each managed care organization shall reimburse at least at the minimum of the rates published on the Outpatient Behavioral Health Fee Schedule, or its successor fee schedule, for services related to ongoing mental health treatment.

Section 7. ~~[Section 6.]~~ Medical Records and Confidentiality.

(1) Except to the department, duly authorized representatives of federal or state agencies, multidisciplinary team members acting pursuant to KRS 620.050 or a physician, physician assistant, APRN, SANE, or an approved behavioral health practitioner participating in a peer review of a specific child sexual or physical abuse or neglect case, a specialized children's services clinic shall not disclose any information concerning an eligible recipient without:

(a) Written consent of:

1. The recipient; or

2. If the recipient is a minor, the recipient's parent, legal guardian, or attorney; or

(b) A subpoena from a court of appropriate jurisdiction.

(2) A specialized children's services clinic shall:

(a) Maintain a recipient's medical records in accordance with 907 KAR 1:672;

(b) Maintain up-to-date recipient medical records at the site where the medical services are provided;

(c) Ensure that a recipient's medical record shall be readily retrievable, complete, organized, and legible and shall reflect sound medical recordkeeping practices; and

(d) Safeguard medical records against loss, destruction, and unauthorized use.

Section 8. ~~[Section 7.]~~ Appeal Rights.

(1) An appeal of a negative action taken by the department regarding a Medicaid recipient shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 9. The department may administer any benefits or services related to a specialized children's services clinic outside of the managed care benefit.

Section 10. Federal Approval and Federal Financial Participation. The cabinet's coverage and reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage and reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval of the coverage and reimbursement, as relevant.

*LISA D. LEE, Commissioner*
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: September 26, 2022

FILED WITH LRC: September 30, 2022 at 9:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on December 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by December 14, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until December 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

# REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person:s: Jonathan Scott and Krista Quarles**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**
This administrative regulation establishes the requirements for providers and reimbursement by the Medicaid program for services provided by a specialized childrenâ€™s services clinic.

**(b) The necessity of this administrative regulation:**
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.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**
This administrative regulation conforms to the content of the authorizing statutes by establishing reimbursement provisions and requirements regarding services provided by specialized childrenâ€™s services clinics.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**
This administrative regulation assists in the effective administration of the authorizing statutes by establishing reimbursement provisions and requirements regarding services provided by specialized childrenâ€™s services clinics.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**
The amendment changes the administrative regulation to incorporate changes made by the 2022 Regular Sessionâ€™s SB 8. The changes include defining new terms to modernize behavioral health treatment and behavioral health treatment providers within this administrative regulation. In addition, the previous term of a â€œchild sex abuse medical examinationâ€ is being removed in favor of the broader concept of a â€œchild medical evaluationâ€ as found in the 2022 Regular Sessionâ€™s SB 8. The new term will also allow for investigation of physical abuse and neglect by the childrenâ€™s advocacy centers. In addition, new provider types of physician assistants, advanced practice registered nurses, and sexual assault nurse examiners are allowed to provide services within these facilities. This concept of a child medical evaluation is further being expanded to include a Childrenâ€™s Advocacy Centers of Kentucky approved evidence-based trauma screening. The department is also introducing nine (9) ongoing outpatient behavioral health services and a modernized listing of approved behavioral health practitioners and practitioners under supervision. The new services include screening, assessment, crisis intervention, intensive outpatient program, individual outpatient therapy, group therapy, family therapy, collateral therapy, and peer support services. The services may be provided by any of 13 behavioral health practitioner types or nine behavioral health practitioner types under supervision. The payment methodology of a child medical evaluation is being expanded to meet SB 8â€™s requirement of paying the â€œtrue and actual costâ€ of the child advocacy centers/specialized childrenâ€™s services clinics. On an initial basis, two reimbursement sections will be included. As

the bill is implemented, an enhanced fee schedule will be utilized. In the alternative, and at the option of the child advocacy center, during the implementation phase an updated comprehensive rate could be billed. As cost surveys are developed and prepared, a prospective payment system rate (PPS) reimbursement will be implemented. The managed care organizations (MCOs) will be required to utilize the cost reports and cost surveys developed and implemented by DMS in consultation with the child advocacy centers. In both reimbursement sections, the new behavioral health services will be conducted outside of the enhanced fee schedule or PPS rate. DMS and the MCOs will be required to reimburse mental health services at least at 100% of the established rates on the Outpatient Behavioral Health Fee Schedule. In addition, additional requirements and standards for laboratory services are being included. The department is also reserving the ability to completely remove this benefit and provider type from managed care in order to lessen administrative burden. Finally, a federal financial participation clause is being included to further modernize the administrative regulation.

**(b) The necessity of the amendment to this administrative regulation:**
The amendment is necessary to expand reimbursement for services provided within childrenâ€™s advocacy centers as required by SB 8. In addition, three new providers will be able to provide and participate in a child medical evaluation. In addition, several new behavioral health services will be able to be provided by these facilities.

**(c) How the amendment conforms to the content of the authorizing statutes:**
This administrative regulation conforms to the content of the authorizing statutes by incorporating changes made by 2022 RS SB 8.

**(d) How the amendment will assist in the effective administration of the statutes:**
This amendment will assist in the effective administration of the statutes by implementing reimbursement changes made by 2022 RS SB 8.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**
The administrative regulation affects approximately 15 childrenâ€™s advocacy centers and satellite facilities providing services within each of Kentuckyâ€™s Area Development Districts.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**
They will need to follow any new reimbursement provisions and covered service policy requirements established in the administrative regulation.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**
There will be no additional costs.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**
Regulated entities will receive a â€œtrue and actual costâ€ reimbursement driven by the payment of an enhanced fee schedule and a prospective payment rate. In addition, expanded behavioral health services will be available. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

DMS will absorb any costs to implement this administrative regulation on an initial basis consistent with requirements established in the state executive branch budget pursuant to HB 1 of the 2022 Regular Session.

**(b) On a continuing basis:**

DMS will absorb any costs to implement this administrative regulation on a continuing basis consistent with requirements established in the state executive branch budget pursuant to HB 1 of the 2022 Regular Session.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

Neither an increase in fees nor funding is necessary to implement this administrative regulation.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This administrative regulation does not establish or increase any fees.

**(9) TIERING: Is tiering applied?**

Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all individuals and entities regulated by it.

**FISCAL NOTE**

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Department for Medicaid Services

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 194A.030(2), 194A.050(1), 205.520(3), 205.557

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

The amendment is not expected to generate revenue for state or local government.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

The amendment is not expected to generate revenue for state or local government.

**(c) How much will it cost to administer this program for the first year?**

DMS will absorb any costs to implement this administrative regulation on an initial basis consistent with requirements established in the state executive branch budget pursuant to HB 1 of the 2022 Regular Session.

**(d) How much will it cost to administer this program for subsequent years?**

DMS will absorb any costs to implement this administrative regulation on an initial basis consistent with requirements established in the state executive branch budget pursuant to HB 1 of the 2022 Regular Session.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the first year. This administrative regulation will result in higher reimbursement for regulated entities.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in subsequent years. This administrative regulation will result in higher reimbursement for regulated entities.

**(c) How much will it cost the regulated entities for the first year?**

DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

**(d) How much will it cost the regulated entities for subsequent years?**

DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact â€“ as defined by KRS 13A.010 â€“ on regulated entities.