

## **CABINET FOR HEALTH AND FAMILY SERVICES**

### **Department for Medicaid Services**

#### **Division of Fiscal Management**

**(Amended at ARRS Committee)**

#### **907 KAR 1:008. Ambulatory surgical center services and reimbursement.**

RELATES TO: KRS 205.520(3), 205.560(2), 42 C.F.R. 416.164, 416.166, 416.172, 416.173, Part 441 Subpart E, F, 447.271

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program pursuant to KRS 194A.030(2). 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 coverage provisions and method for establishing payment for an ambulatory surgical center.

Section 1. Scope of Coverage. The Medicaid Program shall cover medically necessary, medically appropriate services rendered by a participating ambulatory surgical center (ASC) licensed by its respective state and certified for Medicare participation.

#### Section 2. Basis for Reimbursement.

(1) Beginning with the effective date of this administrative regulation, the Department for Medicaid Services shall determine the ASC rates by:

(a) Utilizing the most recent January 1 ASC Fee Schedule as published by the Centers for Medicare and Medicaid Services (CMS) at [https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/11\\_Addenda\\_Updates.html](https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/11_Addenda_Updates.html) in accordance with 42 C.F.R. 416.173; and

(b) Adjusting them as follows:

1. Reimbursement for a procedure shall be the rate specific to that procedure as assigned by CMS, adjusted by the wage index utilized by CMS for the Cincinnati, OH, Core-Based Statistical Area, or its equivalent, in accordance with 42 C.F.R. 416.172(c).

2. Procedure codes that are considered a packaged service by CMS with a Medicare rate of \$0 shall be reimbursed at a rate of \$0.

3. Medicaid covered procedures not included on the Medicare fee schedule shall be reimbursed at forty-five (45) percent of billed charges.

4. Bilateral procedures shall be reimbursed at one hundred and fifty (150) percent of the rate established in subparagraphs 1 and 2 of this paragraph.

5.

a. Reimbursement shall follow applicable Medicare rules for multiple endoscopy discounting and multiple procedure discounting as established in:

(i) 42 C.F.R. Part 416; and

(ii) The Medicare Claims Processing Manual, Chapter 14, as published by the Centers for Medicare and Medicaid Services (CMS) at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs> in accordance with 42 C.F.R. 416.173.

b. If both discounts apply to a single claim, the multiple endoscopy discount shall be applied first.

- (2) Ambulatory surgical center coverage provisions shall be as established in 42 C.F.R. Part 416, Subpart F, including 42 C.F.R. 416.164 and 416.166.
- (3) Reimbursements shall be limited to the lesser of billed charges or the amount established pursuant to subsection (1) of this section.

### Section 3. Reproductive Services.

- (1) A reproductive service shall be reimbursable if performed in compliance with this administrative regulation and 42 C.F.R. Part 441, Subpart E or F, as relevant.
- (2) The appropriate certification form or forms shall be completed and signed by the physician, MAP-235, MAP-250, or MAP-251. A copy of the completed form and an operative report shall accompany each claim submitted for payment.
- (3) If a sterilization is performed in conjunction with another surgical procedure and federal requirements governing payment for the sterilization in 42 C.F.R. Part 441, Subpart F have not been met, the department shall only make payment for the covered non-sterilization procedure.
- (4) Claims for unilateral or laparoscopic surgical procedures that could result in sterilization shall be submitted with documentation verifying that the recipient was not sterilized as a result of the performed procedure.

### Section 4. Documentation Requirements.

- (1) All services reimbursed by the department shall be:
  - (a) Medically necessary;
  - (b) Medically appropriate; and
  - (c) Related to the diagnosis or treatment of:
    1. Illness;
    2. Injury;
    3. Impairment; or
    4. Maternity care.
- (2) Documentation in recipient medical records shall support necessity and substantiate the level of service billed.
- (3) Medical necessity shall be determined in accordance with 907 KAR 3:130.
- (4) The department shall have the authority to audit any:
  - (a) Claim;
  - (b) Medical record; or
  - (c) Documentation associated with any claim or medical record.

### Section 5. 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.

### Section 6. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to this administrative regulation.

### Section 7. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "Certification Form for Induced Abortion or Induced Miscarriage", MAP-235, February 2000;
  - (b) "Consent for Sterilization", MAP-250, April 2022; and
  - (c) "Hysterectomy Consent Form", MAP-251, October 2010.

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

(3) This material may also be obtained at <https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/ascs.aspx>.

(8 Ky.R. 138; eff. 9-2-1981; Recodified from 904 KAR 1:008, 5-2-1986; 15 Ky.R. 670; eff. 9-21-1988; 23 Ky.R. 3440; 3839; 4162; eff. 6-16-1997; 29 Ky.R. 2146; eff. 4-11-2003; Cert eff. 12-6-2019; 49 Ky.R. 133, 1114, 1272; eff. 1-12-2023.)

FILED WITH LRC: November 9, 2022

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