

**907 KAR 1:054. Coverage provisions and requirements regarding federally-qualified health center services, federally-qualified health center look-alike services, and primary care center services.**

RELATES TO: KRS 205.520, 310.005, 314.011, 335.100, 42 C.F.R. 400.203, 405.2401, 2412-2416, 2446, 2448, 2450, 2452, 441 Subpart E and F, 447.53, 42 U.S.C. 1395x(aa), 42 U.S.C. 1396d

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 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 Medicaid Program coverage provisions and requirements relating to primary care center, federally-qualified health center services, and federally-qualified health center look-alike.

Section 1. Definitions.

- (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).
- (2) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.
- (3) "Clinical pharmacist" means a licensed pharmacist whose scope of service includes taking medication histories, monitoring drug use, contributing to drug therapy, drug selection, patient counseling, administering drug programs, or surveillance for adverse reactions and drug interactions.
- (4) "Community support associate" means an individual who:
  - (a) Meets the community support associate requirements established in 908 KAR 2:250; and
  - (b) Has been certified by the Department for Behavioral Health, Intellectual and Developmental Disabilities as a community support associate.
- (5) "Department" means the Department for Medicaid Services or its designee.
- (6) "Emergency condition" means a condition or situation requiring an emergency service pursuant to 42 C.F.R. 447.53.
- (7) "Enrollee" means a recipient who is enrolled with a managed care organization.
- (8) "Face-to-face" means occurring:
  - (a) In person; or
  - (b) Via a real-time, electronic communication that involves two (2) way interactive video and audio communication.
- (9) "Federal financial participation" is defined in 42 C.F.R. 400.203.
- (10) "Federally-qualified health center" or "FQHC" is defined by 42 U.S.C. 1396d(l)(2) (B).
- (11) "Federally-qualified health center look-alike" or "FQHC look-alike" means an entity that is currently approved by the United States Department of Health and Human Services, Health Resources and Services Administration, and the Centers for Medicare and Medicaid Services to be a federally-qualified health center look-alike.
- (12) "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).
- (13) "Licensed behavior analyst" is defined by KRS 319C.010(6).
- (14) "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.
- (15) "Licensed marriage and family therapist" is defined by KRS 335.300(2).
- (16) "Licensed professional art therapist" is defined by KRS 309.130(2).
- (17) "Licensed professional art therapist associate" is defined by KRS 309.130(3).
- (18) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

- (19) "Licensed professional counselor associate" is defined by KRS 335.500(3).
- (20) "Licensed psychological associate" means:
- (a) An individual who:
    - 1. Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and
    - 2. Meets the licensed psychological associate requirements established in 201 KAR Chapter 26; or
  - (b) A certified psychologist.
- (21) "Licensed psychological practitioner" means:
- (a) An individual who meets the requirements established in KRS 319.053; or
  - (b) A certified psychologist with autonomous functioning.
- (22) "Licensed psychologist" means an individual who:
- (a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and
  - (b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.
- (23) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.
- (24) "Marriage and family therapy associate" is defined by KRS 335.300(3).
- (25) "Medically necessary" means that a covered benefit or service is necessary in accordance with 907 KAR 3:130.
- (26) "Nurse-midwife" is defined by 42 C.F.R. 405.2401(b).
- (27) "Nutritionist" is defined by KRS 310.005(4).
- (28) "Physician" is defined by KRS 205.510(11) and 42 C.F.R. 405.2401(b).
- (29) "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R. 405.2401(b).
- (30) "Primary care center" or "PCC" means an entity meeting the primary care center requirements established in 902 KAR 20:058.
- (31) "Recipient" is defined by KRS 205.8451(9).
- (32) "State plan" is defined by 42 C.F.R. 400.203.

## Section 2. Primary Care Center Covered Services Other Than Behavioral Health Services.

- (1) The department shall cover, and a primary care center shall provide, the following services:
- (a) Medical diagnostic or treatment services provided by a physician, advanced practice registered nurse, or a physician assistant if licensed under state authority;
  - (b) Treatment of injuries or minor trauma;
  - (c) Prenatal or postnatal care;
  - (d) Preventive health services including well-baby care, well-child care, immunization, or other preventive care;
  - (e) Referral services designed to ensure the referral to and acceptance by an appropriate medical resource if services necessary to the health of the patient are not provided directly by the center; and
  - (f) Health education, including distribution of written material, provided by appropriate personnel to local school systems, civic organizations, or other concerned local groups.
- (2) The department shall cover the following services, and a primary care center shall provide at least two (2) of the following services:
- (a) Dental services;
  - (b) Optometric services;
  - (c) Family planning services listed and as limited in 907 KAR 1:048;
  - (d) Home health services listed and as limited in 907 KAR 1:030;
  - (e) Social services counseling;

(f) Pharmacy services which shall meet the coverage criteria established in 907 KAR 23:010;

(g) Nutritional services provided by a nutritionist, including individual counseling relating to nutritional problems or nutritional education or group nutritional services; or

(h) Nurse midwifery services which shall be provided:

1. As a program including prenatal services to expectant mothers, delivery or postnatal services; and
2. By a nurse midwife.

(3) The department shall cover the following services, and a primary care center may provide the following services:

- (a) Excluding institutional care, other state plan services;
- (b) Holding or observation accommodations;
- (c) Outreach services provided as a package structured to identify health care needs in the service area;
- (d) Clinical pharmacist services; or
- (e) Services or supplies furnished as incidental to services provided by a physician, physician assistant, advanced practice registered nurse, or nurse midwife if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or 42 C.F.R. 405.2415.

Section 3. Federally-Qualified Health Center and Federally-Qualified Health Center Look-Alike Covered Services Other Than Behavioral Health Services. A federally-qualified health center or a federally-qualified health center look-alike shall provide:

- (1) Federally-qualified health center services pursuant to 42 U.S.C. 1395x(aa)(3);
- (2) Federally-qualified health center services pursuant to 42 U.S.C. 1396d(l)(2)(A);
- (3) Other Medicaid-covered ambulatory outpatient services established in the state plan; or
- (4) Any combination of the services described in subsections (1), (2), and (3) of this section.

Section 4. Primary Care Center, Federally-Qualified Health Center, and Federally-Qualified Health Center Look-Alike Covered Behavioral Health Services.

(1) Except as specified in the requirements stated for a given service, the services covered may be provided for:

- (a) A mental health disorder;
- (b) A substance use disorder; or
- (c) Co-occurring mental health and substance use disorders.

(2) The department shall cover, and a primary care center, federally-qualified health center, or federally-qualified health center look-alike may provide, the following services:

- (a) Behavioral health services provided by a licensed psychologist, licensed clinical social worker, or advanced practice registered nurse within the provider's legally authorized scope of service; or
- (b) Services or supplies incidental to a licensed psychologist's or licensed clinical social worker's behavioral health services if the service or supply meets the criteria established in 42 C.F.R. 405.2452.

(3) In addition to the services referenced in subsection (2) of this section, the following behavioral health services provided by a primary care center, federally-qualified health center, or federally-qualified health center look-alike shall be covered under this administrative regulation in accordance with the corresponding following requirements:

- (a) A screening provided by:
  1. A licensed psychologist;
  2. A licensed professional clinical counselor;
  3. A licensed clinical social worker;

4. A licensed marriage and family therapist;
  5. A physician;
  6. A psychiatrist;
  7. An advanced practice registered nurse;
  8. A licensed psychological practitioner;
  9. A licensed psychological associate working under the supervision of a licensed psychologist;
  10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
  11. A certified social worker working under the supervision of a licensed clinical social worker;
  12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
  13. A physician assistant working under the supervision of a physician;
  14. A licensed professional art therapist; or
  15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
- (b) An assessment provided by:
1. A licensed psychologist;
  2. A licensed professional clinical counselor;
  3. A licensed clinical social worker;
  4. A licensed marriage and family therapist;
  5. A physician;
  6. A psychiatrist;
  7. An advanced practice registered nurse;
  8. A licensed psychological practitioner;
  9. A licensed psychological associate working under the supervision of a licensed psychologist;
  10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
  11. A certified social worker working under the supervision of a licensed clinical social worker;
  12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
  13. A physician assistant working under the supervision of a physician;
  14. A licensed professional art therapist;
  15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
  16. A licensed behavior analyst; or
  17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;
- (c) Psychological testing provided by:
1. A licensed psychologist;
  2. A licensed psychological practitioner; or
  3. A licensed psychological associate working under the supervision of a licensed psychologist;
- (d) Crisis intervention provided by:
1. A licensed psychologist;
  2. A licensed professional clinical counselor;
  3. A licensed clinical social worker;
  4. A licensed marriage and family therapist;
  5. A physician;

6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(e) Service planning provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist;
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
16. A licensed behavior analyst; or
17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

(f) Individual outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;

11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist;
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
16. A licensed behavior analyst; or
17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

(g) Family outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(h) Group outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist;

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
16. A licensed behavior analyst; or
17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

(i) Collateral outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist;
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
16. A licensed behavior analyst; or
17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

(j) A screening, brief intervention, and referral to treatment for a substance use disorder provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(k) Day treatment provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(l) Comprehensive community support services provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist;
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
16. A licensed behavior analyst;
17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst; or
18. A community support associate;

(m) Intensive outpatient program provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;

7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate; or

(n) Therapeutic rehabilitation program services provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist.

(4)

(a) A screening shall:

1. Be the determination of the likelihood that an individual has a mental health disorder, substance use disorder, or co-occurring disorders;
2. Not establish the presence or specific type of disorder; and
3. Establish the need for an in-depth assessment.

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

- (c) Psychological testing shall include:
  - 1. A psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities; and
  - 2. Interpretation and a written report of testing results.
- (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 an individual with a behavioral health disorder;
  - 3. Shall be provided:
    - a. On-site at an FQHC, FQHC look-alike, or PCC;
    - b. As an immediate relief to the presenting problem or threat; and
    - c. In a face-to-face, one-on-one encounter between the provider and the recipient;
  - 4. May include verbal de-escalation, risk assessment, or cognitive therapy; and
  - 5. Shall be followed by a referral to noncrisis services if applicable.
- (e)
  - 1. Service planning shall consist of assisting a recipient in creating an individualized plan for services needed for maximum reduction of an intellectual disability and to restore the individual to his or her best possible functional level.
  - 2. A service plan:
    - a. Shall be directed by the recipient; and
    - b. 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.
- (f) Individual outpatient therapy shall:
  - 1. Be provided to promote the:
    - a. Health and wellbeing of the individual; or
    - b. Recovery from a substance use disorder, mental health disorder, or co-occurring related disorders;
  - 2. Consist of:
    - a. A face-to-face, 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; and
  - 4. Not exceed three (3) hours per day.
- (g)
  - 1. Family outpatient therapy shall consist of a face-to-face 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.

- (h)
  - 1. Group outpatient therapy shall:
    - a. Be provided to promote the:
      - (i) Health and wellbeing of the individual; or
      - (ii) Recovery from a substance use disorder, mental health disorder, or co-occurring related disorders;
    - b. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;
    - c. Be provided to a recipient in a group setting:
      - (i) Of nonrelated individuals; and
      - (ii) Not to exceed twelve (12) individuals in size;
    - d. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
    - e. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and
    - f. Not exceed three (3) hours per day.
  - 2. The 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.
- (i)
  - 1. Collateral outpatient therapy shall:
    - a. Consist of a face-to-face 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 be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age.
  - 2. Consent 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.
- (j) Screening, brief intervention, and referral to treatment for a substance use disorder shall:
  - 1. 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
  - 2. Consist of:
    - a. Using a standardized screening tool to assess an individual for risky substance use behavior;
    - b. Engaging a recipient, who demonstrates risky substance use behavior, in a short conversation and providing feedback and advice; and
    - c. Referring a recipient to:
      - (i) Therapy; or
      - (ii) Other additional services to address substance use if the recipient is determined to need other additional services.
- (k)
  - 1. Day treatment shall be a nonresidential, intensive treatment program designed for a child under the age of twenty-one (21) years who has:
    - a. An emotional disability or neurobiological or substance use disorder; and

- b. A high risk of out-of-home placement due to a behavioral health issue.
2. Day treatment services shall:
- a. Consist of an organized, behavioral health program of treatment and rehabilitative services (substance use disorder, mental health disorder, or co-occurring mental health and substance use disorders);
  - b. Have unified policies and procedures that:
    - (i) Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and
    - (ii) Have been approved by the recipient's local education authority and the day treatment provider;
  - c. Include:
    - (i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;
    - (ii) Behavior management and social skill training;
    - (iii) Independent living skills that correlate to the age and development 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 breaks;
    - (iii) In coordination with the recipient's individualized educational plan if the recipient has an individualized educational plan;
    - (iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under clinical supervision; and
    - (v) 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, an FQHC, an FQHC look-alike, or a PCC shall have:
- a. The capacity to employ staff authorized to provide day treatment services in accordance with subsection (3)(k) of this section and to coordinate the provision of services among team members;
  - b. The capacity to provide the full range of services as stated in subparagraphs 1 and 2 of this paragraph;
  - c. Demonstrated experience in serving individuals with behavioral health disorders;
  - d. The administrative capacity to ensure quality of services;
  - e. A financial management system that provides documentation of services and costs;
  - f. The capacity to document and maintain individual case records; and
  - g. Knowledge of substance use disorders.
4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education plan.
- (1)
- 1. Comprehensive community support services shall:

- a. Be activities necessary to allow an individual to live with maximum independence in community-integrated housing;
  - b. Be intended to ensure successful community living through the utilization of skills training, cueing, or supervision as identified in the recipient's treatment plan;
  - c. Include:
    - (i) Reminding a recipient to take medications and monitoring symptoms and side effects of medications; or
    - (ii) Teaching parenting skills, teaching community resource access and utilization, teaching emotional regulation skills, teaching crisis coping skills, teaching how to shop, teaching about transportation, teaching financial management, or developing and enhancing interpersonal skills; and
  - d. Meet the requirements for comprehensive community support services established in 908 KAR 2:250.
2. To provide comprehensive community support services, an FQHC, an FQHC look-alike, or a PCC shall have:
- a. The capacity to employ staff authorized to provide comprehensive community support services in accordance with subsection (3)(1) of this section and to coordinate the provision of services among team members;
  - b. The capacity to provide the full range of comprehensive community support services as stated in subparagraph 1 of this paragraph;
  - c. Demonstrated experience in serving individuals with behavioral health disorders;
  - d. The administrative capacity to ensure quality of services;
  - e. A financial management system that provides documentation of services and costs; and
  - f. The capacity to document and maintain individual case records.
- (m)
1. Intensive outpatient program services shall:
    - a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health disorder, substance use disorder, or 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. Be provided at least three (3) hours per day at least three (3) days per week; and
    - d. Include:
      - (i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;
      - (ii) Crisis intervention; or
      - (iii) Psycho-education.
  2. During psycho-education, the recipient or 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 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, an FQHC, an FQHC look-alike, or a PCC shall have:

- a. Access to a board-certified or board-eligible psychiatrist for consultation;
- b. Access to a psychiatrist, other 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) to one (1);
- d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;
- e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with subsection (3)(m) of this section and to coordinate the provision of services among team members;
- f. The capacity to provide the full range of intensive outpatient program services as stated in this paragraph;
- g. Demonstrated experience in serving individuals with behavioral health disorders;
- h. The administrative capacity to ensure quality of services;
- i. A financial management system that provides documentation of services and costs; and
- j. The capacity to document and maintain individual case records.

(n)

1. Therapeutic rehabilitation program services shall:
  - a. Occur at the provider's site or in the community;
  - b. Be provided to an adult with a severe mental illness or to a child (under the age of twenty-one (21) years) who has a serious emotional disability;
  - c. Be designed to maximize the reduction of an intellectual disability and the restoration of the individual's functional level to the individual's best possible functional level; and
  - d. Not be a residential program.
2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilitation goals within the person-centered service plan.
3. A therapeutic rehabilitation program shall:
  - a. Be delivered using a variety of psychiatric rehabilitation techniques;
  - b. Focus on:
    - (i) Improving daily living skills;
    - (ii) Self-monitoring of symptoms and side effects;
    - (iii) Emotional regulation skills;
    - (iv) Crisis coping skill; and
    - (v) Interpersonal skills; and
  - c. Be delivered individually or in a group.
4. To provide therapeutic rehabilitation program services, an FQHC, an FQHC look-alike, or a PCC shall:
  - a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation program services in accordance with subsection (3)(n) of this section and to coordinate the provision of services among team members;
  - b. Have the capacity to provide the full range of therapeutic rehabilitation program services as stated in this paragraph;
  - c. Have demonstrated experience in serving individuals with mental health disorders;
  - d. Have the administrative capacity to ensure quality of services;
  - e. Have a financial management system that provides documentation of services and costs; and
  - f. Have the capacity to document and maintain individual case records.

(5)

- (a) The requirements established in 908 KAR 1:370 shall apply to any provider of a service to a recipient for a substance use disorder or co-occurring mental health and substance use disorders.
- (b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a provider of a detoxification service.
- (6) The extent and type of assessment performed shall depend upon the problem of the individual seeking or being referred for services.
- (7) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.
- (8)
  - (a) Direct contact between a provider or practitioner and a recipient shall be required for each service except for a collateral service for a child under the age of twenty-one (21) years if the collateral service is in the child's plan of care.
  - (b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.
- (9) A billable unit of service shall be actual time spent delivering a service in a face-to-face encounter.
- (10) A service shall be:
  - (a) Stated in the recipient's treatment plan;
  - (b) Provided in accordance with the recipient's treatment plan;
  - (c) Provided on a regularly scheduled basis except for a screening or assessment; and
  - (d) Made available on a nonscheduled basis if necessary during a crisis or time of increased stress for the recipient.
- (11) The following services or activities shall not be covered under this administrative regulation:
  - (a) A behavioral health 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) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the independent provider;
  - (c) A consultation or educational service provided to a recipient or to others;
  - (d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;
  - (e) 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;
  - (f) Travel time;
  - (g) A field trip;
  - (h) A recreational activity;
  - (i) A social activity; or
  - (j) A physical exercise activity group.
- (12) A third party contract shall not be covered under this administrative regulation.

Section 5. Drugs for Specified Immunizations. The Cabinet for Health and Family Services shall provide free, upon request, drugs necessary for the following immunizations:

- (1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);
- (2) Measles, mumps, and rubella virus vaccine live (MMR);
- (3) Poliovirus vaccine, live, oral, any type (OPV); or
- (4) Hemophilus B conjugate vaccine (HBCV).

#### Section 6. Coverage Limits.

- (1)
  - (a) Except as established in subsection (2) of this section, pharmacy service coverage shall be limited to drugs covered pursuant to 907 KAR 23:010.
  - (b) A drug or biological not covered through the department's pharmacy program shall be covered if necessary for treatment of an emergency condition.
- (2) Laboratory service coverage shall be limited to:
  - (a) Services provided directly by a PCC, an FQHC, or an FQHC look-alike; or
  - (b) If purchased, other laboratory services covered pursuant to 907 KAR 1:028.
- (3) Dental service coverage shall be limited to dental service coverage pursuant to 907 KAR 1:026.
- (4) Vision service coverage shall be limited to vision service coverage pursuant to 907 KAR 1:038.
- (5) Audiology service coverage shall be limited to hearing service coverage pursuant to 907 KAR 1:038.
- (6) An abortion or sterilization service shall be:
  - (a) Allowed in accordance with:
    1. 42 C.F.R. 441, Subpart E or Subpart F; and
    2. KRS 205.010(3), 205.510(5), and 212.275(3); and
  - (b) Covered within the scope and limitations of federal law, federal regulations, and state law.
- (7) Durable medical good and prosthetic coverage shall be limited to durable medical good or prosthetic coverage pursuant to 907 KAR 1:479 or 907 KAR 1:030.
- (8) A holding or observation accommodation shall be covered:
  - (a) For no more than twenty-four (24) hours; and
  - (b) If:
    1. The recipient's medical record:
      - a. Documents the appropriateness of the holding or observation accommodation; and
      - b. Contains a statement of conditions observed and treatment rendered during the holding time;
    2. A physician:
      - a. Determines that the holding or observation accommodation is necessary; and
      - b. Is on call at all times when a recipient is held beyond the regularly scheduled hours of the center; and
    3. A licensed nurse is on duty during the time the recipient patient remains beyond regularly-scheduled hours.
- (9) A radiology procedure shall be covered if provided by a licensed practitioner of the healing arts or by an individual holding a valid certificate to operate sources of radiation.

#### Section 7. Noncovered Services.

- (1) The following services shall not be covered as PCC, FQHC, or FQHC look-alike services:
  - (a) Services provided in a hospital as defined in 42 U.S.C. 1395x(e);
  - (b) Institutional services;
  - (c) Housekeeping, babysitting, or other similar homemaker services;
  - (d) Services which are not provided in accordance with restrictions imposed by law or administrative regulation.

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

Section 8. Medical Necessity Requirement. To be covered pursuant to this administrative regulation, a service shall be:

- (1) Medically necessary for the recipient; and
- (2) Provided to a recipient.

Section 9. 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 service is covered during the same time period.

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

Section 10. Protection, Security and Records Maintenance Requirements for All Services.

(1)

(a) A provider shall maintain a current health record for each recipient.

(b)

1. 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.
2. The individual who provided the service shall date and sign the health record on the date that the individual provided the service.

(2)

(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years.

(b) 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.

(3)

(a) A provider 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. If requested, be disclosed to an authorized representative of:
  - a. The department; or
  - b. Federal government.

(c)

1. Upon request, a provider shall provide to an authorized representative of the department or federal government 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.

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 11. Documentation and Records Maintenance Requirements for Behavioral Health Services.

(1) The requirements in this section shall apply to health records associated with behavioral health services.

(2) 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 information;
- f. Referral source and address of referral source;
- g. Primary care physician 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; and
- j. The name of the informant and any other information deemed necessary by the independent provider to comply with the requirements of:
  - (i) This administrative regulation;
  - (ii) The provider's licensure board;
  - (iii) State law; or
  - (iv) Federal law;

2. Documentation of the:

- a. Screening;
- b. Assessment;
- c. Disposition; and
- d. Six (6) month review of a recipient's treatment plan each time a six (6) month review occurs;

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 to the Cabinet for Health and Family Services upon request;

3. Made available for inspection and copying by Cabinet for Health and Family Services' personnel;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(3) 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.

(4)

(a) A provider's notes regarding a recipient shall:

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

2. Describe the:

- a. Recipient's symptoms or behavior, reaction to treatment, and attitude;
- b. Therapist's intervention;

- c. Changes in the treatment plan if changes are made; and
  - d. Need for continued treatment if continued treatment is needed.
- (b)
  - 1. Any edit to notes shall:
    - a. Clearly display the changes; and
    - b. Be initialed and dated.
  - 2. Notes shall not be erased or illegibly marked out.
- (c)
  - 1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by the supervising professional providing the service.
  - 2. If services are provided by a practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervising professional reflecting consultations with the practitioner working under supervision concerning the:
    - a. Case; and
    - b. Supervising professional's evaluation of the services being provided to the recipient.
- (5) Immediately following a screening of a recipient, the provider shall perform a disposition related to:
  - (a) An appropriate diagnosis;
  - (b) A referral for further consultation and disposition, if applicable; and
  - (c)
    - 1. Termination of services and referral to an outside source for further services; or
    - 2. Termination of services without a referral to further services.
- (6)
  - (a) A recipient's treatment plan shall be reviewed at least once every six (6) months.
  - (b) Any change to a recipient's treatment plan shall be documented, signed, and dated by the rendering provider.
- (7)
  - (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 provider 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 nonreimbursable contacts shall:
    - 1. Be recorded in the notes; and
    - 2. Not be reimbursable.
- (8) A termination summary shall:
  - (a) Be required, upon termination of services, for each recipient who received at least three (3) service visits; and
  - (b) Contain a summary of the significant findings and events during the course of treatment including the:
    - 1. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's treatment plan;
    - 2. Final diagnosis of clinical impression; and
    - 3. Individual's condition upon termination and disposition.
  - (c) A health record relating to an individual who terminated from receiving services shall be fully completed within ten (10) days following termination.

(9) 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.

(10) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring provider shall, if the recipient gives the provider written consent to do so, forward a copy or summary of the recipient's health record to the health care facility or other provider who is receiving the recipient.

(11)

(a) If a provider'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 the provider, the health records of the provider shall:

1. Remain the property of the provider; and
2. Be subject to the retention requirements established in Section 10(2) of this administrative regulation.

(b) A provider shall have a written plan addressing how to maintain health records in the event of the provider's death.

## Section 12. Medicaid Program Participation Requirements.

(1)

(a) A participating FQHC, FQHC look-alike, or PCC shall be currently:

1. Enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and
2. Except as established in paragraph (c) of this subsection, participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671.

(b) A satellite facility of an FQHC, an FQHC look-alike, or a PCC shall:

1. Be currently listed on the parent facility's license in accordance with 902 KAR 20:058;
2. Comply with the requirements regarding extensions established in 902 KAR 20:058; and
3. Comply with 907 KAR 1:671.

(c) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)

(a) To be initially enrolled with the department, an FQHC or FQHC look-alike shall:

1. Enroll in accordance with 907 KAR 1:672; and
2. Submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as an FQHC or FQHC look-alike.

(b) To remain enrolled and participating in the Kentucky Medicaid Program, an FQHC or FQHC look-alike shall:

1. Comply with the enrollment requirements established in 907 KAR 1:672;
2. Comply with the participation requirements established in 907 KAR 1:671; and
3. Annually submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as an FQHC or FQHC look-alike to the department.

(c) The requirements established in paragraphs (a) and (b) of this subsection shall apply to a satellite facility of an FQHC or FQHC look-alike.

(3) An FQHC, an FQHC look-alike, or a PCC that operates multiple satellite facilities shall:

- (a) List each satellite facility on the parent facility's license in accordance with 902 KAR 20:058; and
  - (b) Consolidate claims and cost report data of its satellite facilities with the parent facility.
- (4) An FQHC, an FQHC look-alike, or a PCC that has been terminated from federal participation shall be terminated from Kentucky Medicaid Program participation.
- (5)
- (a) A participating FQHC and its staff shall comply with all applicable federal laws and regulations, state laws and administrative regulations, and local laws and regulations regarding the administration and operation of an FQHC.
  - (b) A participating FQHC look-alike and its staff shall comply with all applicable federal laws and regulations, state laws and administrative regulations, and local laws and regulations regarding the administration and operation of an FQHC look-alike.
  - (c) A participating PCC and its staff shall comply with all applicable federal laws and regulations, state laws and administrative regulations, and local laws and regulations regarding the administration and operation of a PPC.
- (6) An FQHC, an FQHC look-alike, or a PCC performing laboratory services shall meet the requirements established in 907 KAR 1:028 and 907 KAR 1:575.
- (7)
- (a) If an FQHC, an FQHC look-alike, or a PCC receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.
  - (b) Failure to return a payment to the department 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.
- (8) An FQHC, an FQHC look-alike, or a PCC 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.

Section 13. Third Party Liability. A provider shall comply with KRS 205.622.

Section 14. 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 provider 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 provider'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 provider's electronic signature policy;
    2. The signed consent form; and
    3. The original filed signature.

Section 15. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 16. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 17. 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.

(3 Ky.R. 206; eff. 9-1-1976; 5 Ky.R. 65; eff. 9-6-1978; 8 Ky.R. 30; eff. 8-5-1981; 10 Ky.R. 355; eff. 10-5-1983; Recodified from 904 KAR 1:054, 5-2-1986; 15 Ky.R. 1324; eff. 12-13-1988; 16 Ky.R. 85; 369; eff. 8-16-1989; 2599; eff. 6-27-1990; 34 Ky.R. 1827; 2113; eff. 4-4-2008; 40 Ky.R. 1962; 2495; 2722; eff. 7-7-2014; TAm eff. 10-6-2017; Cert eff. 12-6-2019; TAm eff. 3-20-2020.)