

## **907 KAR 1:340. Reimbursement for hospice services.**

RELATES TO: 42 C.F.R. 418.302, 418.306, 42 U.S.C. 1396a, 1396b, 1396c, 1396d

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. 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 requirements for reimbursements for hospice services.

### **Section 1. Definitions.**

- (1) "Department" means the Department for Medicaid Services or its designee.
- (2) "Home" means:
  - (a) A primary residence that is based on a recipient's county of Medicaid eligibility; or
  - (b) A nursing facility licensed in accordance with 902 KAR 20:300.
- (3) "Hospice provider" means an agency that is:
  - (a) Licensed in accordance with 902 KAR 20:140; and
  - (b) Medicare- and Medicaid-certified.
- (4) "Hospice recipient" means an individual who:
  - (a) Is eligible for Medicaid;
  - (b) Is certified by a physician as terminally ill with a medical prognosis that life expectancy is six (6) months or less in accordance with 907 KAR 1:330; and
  - (c) Elects to receive hospice services.

**Section 2. Coverage.** The department shall reimburse a participating hospice provider for a service rendered to a hospice recipient in accordance with 907 KAR 1:330.

### **Section 3. Reimbursement Rates for a Covered Hospice Service.**

- (1) The reimbursement rate for a hospice service shall:
  - (a) Be annually established in accordance with 42 C.F.R. 418.306; and
  - (b)
    1. For routine home care or continuous home care, be based on the geographic location of the hospice recipient's home; or
    2. For general inpatient care or inpatient respite care, be based on the geographic location of where the service is provided.
- (2) If a hospice recipient resides in a nursing facility participating in the Medicaid program and occupies a bed that is Medicaid-certified, the department shall reimburse an amount equal to at least ninety-five (95) percent of the nursing facility's per diem to the hospice provider to cover expenses for room and board provided by the nursing facility.
- (3) Reimbursement for bed reservation days shall:
  - (a) Be made by the department if the hospice recipient is residing in a nursing facility and has been in Medicaid reimbursement status for at least one (1) midnight census;
  - (b) Be limited per hospice recipient as follows:
    1. To fourteen (14) consecutive days and a total of forty-five (45) days per lifetime for the purpose of inpatient hospitalization; and
    2. To fifteen (15) days per lifetime for the purpose of therapeutic home visits;
  - (c) Not be made after the date of death of a hospice recipient if the hospice recipient dies while in the hospital or on a home visit; and
  - (d) Be at the rate established in subsection (2) of this section.
- (4) Reimbursement for general inpatient and inpatient respite care shall be:
  - (a) Limited to twenty (20) percent of the aggregate total number of days hospice care is provided to all Medicaid recipients during a twelve (12) month period, beginning

November 1 of each year and ending October 31 of the following year in accordance with 42 C.F.R. 418.302(f); and

(b) Subject to recoupment by the department if in excess of paragraph (a) of this subsection.

#### Section 4. Limitations on Reimbursement of Covered Hospice Services.

(1) A routine home care service unit shall be a day during which a hospice recipient receives routine home care.

(2) Continuous home care shall be:

(a) Reimbursed at an hourly rate, which shall be calculated by dividing the rate established pursuant to Section 3(1) of this administrative regulation by twenty-four (24);

(b) Provided a minimum of eight (8) hours per day;

(c) Reimbursed per unit, which shall equal one (1) hour; and

(d) Predominately nursing care provided by a registered nurse or a licensed practical nurse.

(3) General inpatient care shall be equal to twenty four (24) hours per (1) unit.

(4) Inpatient respite care shall:

(a) Be limited to five (5) consecutive days; and

(b) Not be provided to a hospice recipient who is residing in a nursing facility.

(5) Except for the day on which a hospice recipient is discharged, the inpatient rate, either general or respite, shall be paid for the date of admission and for all subsequent inpatient days.

(6) On the day a hospice recipient is discharged from inpatient care, either general or respite, a hospice provider shall be reimbursed:

(a) Depending on the care needs of the hospice recipient, either the routine home care rate or the continuous home care rate; or

(b) The inpatient rate, either general or respite, if the hospice recipient is discharged deceased.

#### Section 5. Copayments.

(1) The department shall pay a hospice recipient's Medicare copayment if the individual qualifies for and has elected to receive Medicaid hospice benefits as established in 907 KAR 1:330.

(2) A copayment shall not be applied to a Medicaid reimbursement rate for a hospice service.

#### Section 6. Coverage of Drugs.

(1) A reimbursement rate established in Section 3(1) of this administrative regulation shall include reimbursement for any drug related to the terminal illness of a hospice recipient.

(2) If a drug is not related to the terminal illness of a hospice recipient:

(a) A hospice provider shall complete and submit one (1) copy of the MAP-384 form to the department; and

(b) The department shall:

1. Update the MAP-384 to indicate the maximum amount allowable for reimbursement, as determined in accordance with 907 KAR 23:020;

2. Return the updated MAP-384 to the hospice provider; and

3. Reimburse the hospice provider the lesser of 100 percent of the cost of the drug or the maximum amount allowable, as determined in accordance with 907 KAR 23:020.

Section 7. Appeal Rights. A hospice provider may appeal a department decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 8. Incorporation by Reference.

(1) "MAP-384, Hospice Drug Form", 1/18, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(13 Ky.R. 1017; eff. 12-2-1986; Am. 16 Ky.R. 2607; eff. 6-27-1990; 18 Ky.R. 547; eff. 10-6-1991; 28 Ky.R. 2457; 29 Ky.R. 135; eff. 7-15-2002; 30 Ky.R. 122; 658; 886; eff. 10-31-2003; TAm eff. 10-6-2017; 45 Ky.R. 2793; eff 8-2-2019.)